As Filed with Securities and Exchange Commission on December 16, 2021

Registration No. 333-261451

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

FORM S-1
(Amendment No. 1)
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

DIGITAL BRANDS GROUP, INC.
(Exact name of registrant as specified in its charter)

Delaware	5699	46-1942864
(State or other jurisdiction of Incorporation or organization)	(Primary Standard Industrial Classification Code Number)	(I.R.S. Employer Identification No.)

1400 Lavaca Street **Austin, TX 78701** **(209) 651-0172**	**John Hilburn Davis IV** **President and Chief Executive Officer** **1400 Lavaca Street** **Austin, TX 78701** **(209) 651-0172**
(Address and Telephone Number of Registrant's Principal Executive Offices)	(Name, Address and Telephone Number of Agent for Service)

(Copies of all communications, including communications sent to agent for service)

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Approximate date of commencement of proposed sale to the public: As soon as practicable after this registration statement becomes effective.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933 check the following box. ☒.

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, smaller reporting company, or an emerging growth company. See definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer	Accelerated filer	Non-accelerated filer	Smaller reporting company ☒ 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 7(a)(2)(B) of the Securities Act. ☐

CALCULATION OF REGISTRATION FEE

Title of Each Class of Securities To Be Registered	Amount to be Registered[1]	Proposed Maximum Offering Price Per Share[3]	Proposed Maximum Aggregate Offering Price[3]	Amount of Registration Fee[4]
Common Stock, par value $0.0001 per share	2,500,000[2]	$ 3.09	$ 7,725,000	$ 716.11

(1) Shares of common stock registered pursuant to this registration statement are shares which are to be offered by the selling stockholders named herein.

(2) Represents shares issuable upon conversion of the Company's 6.0% Senior Secured Convertible Promissory Notes (the "Convertible Notes"), which were acquired by the selling stockholders in one or more private placements, and shares that may be issuable from time to time in the event that the Company pays a portion of the interest on the Convertible Notes in kind by increasing the principal amount of the Convertible Notes, and shares of common stock issued to the selling stockholders in respect of certain waivers related to the Convertible Notes and commitments related to the Equity Purchase Agreement. The number of shares actually issued may be less than the amount registered.

(3) Estimated solely for the purpose of calculating the registration fee pursuant to Rule 457(c) under the Securities Act. The offering price per share and aggregate offering price are based upon the average of the high and low prices per share of the Company's common stock, as reported on the NasdaqCM, on November 23, 2021, a date within five business days prior to the filing of this registration statement.

(4) Previously paid.

The registrant hereby amends this registration statement on such date or dates as may be necessary to delay its effective date until the registrant shall file a further amendment which specifically states that this registration statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until the registration statement shall become effective on such date as the Securities and Exchange Commission, acting pursuant to said Section 8(a), may determine.

SUBJECT TO COMPLETION, DATED DECEMBER 16, 2021

Digital Brands Group, Inc.

2,500,000 Shares of Common Stock

This prospectus relates to the offer and sale from time to time by the selling stockholders identified in this prospectus of up to 2,500,000 shares of our common stock, par value $0.0001 per share. The shares of common stock covered by this prospectus represent shares of common stock issuable upon exercise of our 6.0% Senior Secured Convertible Promissory Note (the "Convertible Notes"), which were issued in connection with one or more private placement financings, and shares of common stock that may be issuable from time to time in the event that we pay a portion of the interest on the Convertible Notes in kind by increasing the principal amount of the Convertible Notes, and shares of common stock issued to the selling stockholders in respect of certain waivers related to the Convertible Notes and commitments related to the Equity Purchase Agreement. The number of shares actually issued may be less than the amount registered. We are registering the resale of the shares of common stock underlying the Convertible Notes as required by the Registration Rights Agreement that we initially entered into with the selling stockholders on August 27, 2021 (as amended from time to time, the "Registration Rights Agreement").

Our registration of the shares of common stock covered by this prospectus does not mean that the selling stockholders will offer or sell any of the shares. The selling stockholders may offer and sell or otherwise dispose of the shares of common stock described in this prospectus from time to time through public or private transactions at prevailing market prices, at prices related to prevailing market prices or at privately negotiated prices. See "Plan of Distribution" beginning on page 96 for more information.

We will not receive any of the proceeds from the sale by the selling stockholders of the shares of common stock offered hereby.

The selling stockholders will pay all underwriting discounts and selling commissions, if any, in connection with the sale of the shares of common stock. We have agreed to pay certain expenses in connection with this registration statement and to indemnify the selling stockholders and certain related persons against certain liabilities. As of the date of this prospectus, no underwriter or other person has been engaged to facilitate the sale of shares of common stock in this prospectus.

Our shares of common stock and warrants are traded on the NasdaqCM under the symbols "DBGI" and "DBGIW," respectively. On November 23, 2021, the closing sale prices of our common stock and warrants were $3.03 per share and $0.93 per warrant, respectively.

You should consider carefully the risks that we have described in "Risk Factors" beginning on page 9 before deciding whether to invest in our common stock.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.

The date of this prospectus is , 2021.

The information in this preliminary prospectus is not complete and may be changed. The selling stockholders may not sell these securities registration statement filed with the Securities and Exchange Commission relating to these securities is effective. This preliminary prospect an offer to sell these securities and it is not a solicitation of an offer to buy these securities in any jurisdiction where such offer, solicitation not permitted.

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You should read this prospectus carefully before you invest. It contains important information you should consider when making your investment decision. You should rely only on the information provided in this prospectus. We have not authorized anyone to provide you with different information.

The information in this document may only be accurate on the date of this document. You should assume that the information appearing in this prospectus is accurate only as of the date on the front cover of this prospectus. Our business, financial condition, results of operations and prospects may have changed since that date.

PROSPECTUS SUMMARY

This summary highlights information contained elsewhere in, or incorporated by reference into, this prospectus. As a result, it may not contain all the information that may be important to you in, or that you should consider before making a decision as to whether or not to invest in our securities, and is qualified in its entirety by the more detailed information included in and incorporated by reference into this prospectus. You should read the entire prospectus carefully, including the section entitled "Risk Factors" and the documents incorporated by reference, which are described under "Incorporation of Certain Documents By Reference" before making an investment decision.

Unless the context otherwise requires, references to "DBG" refer to Digital Brands Group, Inc. solely, and references to the "Company," "our," "we," "us" and similar terms refer to Digital Brands Group, Inc., together with our wholly-owned subsidiaries Bailey 44, LLC ("Bailey"), Harper & Jones, LLC ("H&J") and MOSBEST, LLC ("Stateside").

Our Company

We offer a wide variety of apparel through numerous brands on a both direct-to-consumer and wholesale basis. We have created a business model derived from our founding as a digitally native-first vertical brand. Digital native first brands are brands founded as e-commerce driven businesses, where online sales constitute a meaningful percentage of net sales, although they often subsequently also expand into wholesale or direct retail channels. Unlike typical e-commerce brands, as a digitally native vertical brand we control our own distribution, sourcing products directly from our third-party manufacturers and selling directly to the end consumer. We focus on owning the customer's "closet share" by leveraging their data and purchase history to create personalized targeted content and looks for that specific customer cohort. We have strategically expanded into an omnichannel brand offering these styles and content not only on-line but at selected wholesale and retail storefronts. We believe this approach allows us opportunities to successfully drive Lifetime Value ("LTV") while increasing new customer growth.

We believe that a successful apparel brand needs to sell in every revenue channel. However, each channel offers different margin structures and requires different customer acquisition and retention strategies. We were founded as a digital-first retailer that has strategically expanded into select wholesale and direct retail channels. We strive to strategically create omnichannel strategies for each of our brands that blend physical and online channels to engage consumers in the channel of their choosing. Our products are sold direct-to-consumers principally through our websites and our own showrooms, but also through our wholesale channel, primarily in specialty stores and select department stores. We currently offer products under the DSTLD, ACE Studios, Bailey 44, Harper & Jones and Stateside brands. Bailey is primarily a wholesale brand, which we have begun to transition to a digital, direct-to-consumer brand. DSTLD is primarily a digital direct-to-consumer brand, to which we recently added select wholesale retailers to create more brand awareness. Harper & Jones is primarily a direct-to-consumer brand using its own showrooms. Stateside is primarily a digital, direct-to-consumer brand. We intend to leverage all these channels (our websites, wholesale and our own stores) for all our brands. Every brand will have a different revenue mix by channel based on optimizing revenue and margin in each channel for each brand, which includes factoring in customer acquisition costs and retention rates by channel and brand.

We believe that by leveraging a physical footprint to acquire customers and increase brand awareness, we can use digital marketing to focus on retention and a very tight, disciplined high value new customer acquisition strategy, especially targeting potential customers lower in the sales funnel. Building a direct relationship with the customer as the customer transacts directly with us allows us to better understand our customer's preferences and shopping habits. Our substantial experience as a company originally founded as a digitally native-first retailer gives us the ability to strategically review and analyze the customer's data, including contact information, browsing and shopping cart data, purchase history and style preferences. This in turn has the effect of lowering our inventory risk and cash needs since we can order and replenish product based on the data from our online sales history, replenish specific inventory by size, color and SKU based on real times sales data, and control our mark-down and promotional strategies versus being told what mark downs and promotions we have to offer by the department stores and boutique retailers.

Corporate History

The Company was organized on September 17, 2012 under the laws of Delaware as a limited liability company under the name Denim.LA LLC. The Company converted to a Delaware corporation on January 30, 2013 and changed its name to Denim.LA, Inc. Effective December 31, 2020, the Company changed its name to Digital Brands Group, Inc.

On February 12, 2020, Denim.LA, Inc. entered into an Agreement and Plan of Merger with Bailey 44, LLC ("Bailey"), a Delaware limited liability company ("Merger Agreement"). On the acquisition date, Bailey became a wholly owned subsidiary of the Company.

On May 18, 2021, DBG closed its acquisition of Harper & Jones, LLC ("H&J") pursuant to its Membership Interest Stock Purchase Agreement with D. Jones Tailored Collection, Ltd. to purchase 100% of the issued and outstanding equity of H&J. On the acquisition date, H&J became a wholly owned subsidiary of the Company. In connection therewith we contributed a $500,000 cash payment that was allocated towards H&J's debt outstanding immediately prior to the closing of the Transaction and issued the seller 2,192,771 shares of our common stock. Twenty percent of the shares of DBG issued to the seller at the closing was issued into escrow to cover possible indemnification obligations of seller and post-closing adjustments under the agreement.

On August 30, 2021, we closed our acquisition of MOSBEST, LLC ("Stateside") pursuant to a Membership Interest Stock Purchase Agreement with Moise Emquies, who was then a member of our Board of Director, to purchase 100% of the issued and outstanding equity of MOSBEST, LLC. On the acquisition date, Stateside became a wholly owned subsidiary of the Company. In connection therewith we paid the seller and its designees $5.0 million cash and issued the seller and its designees 1,101,538 shares of our common stock.

Initial Public Offering

On May 13, 2021, our registration statement on Form S-1 relating to our initial public offering (the "IPO") was declared effective by the Securities and Exchange Commission ("SEC"). Further to the IPO, which closed on May 18, 2021, we issued and sold 2,409,639 shares of common stock at a public offering price of $4.15 per share. Additionally, we issued warrants to purchase 2,771,084 shares, which includes 361,445 warrants sold upon the partial exercise of the over-allotment option.

Equity Line of Credit

On August 27, 2021, we entered into what is sometimes termed an equity line of credit arrangement with Oasis Capital, LLC ("Oasis Capital"). Specifically, we entered into an equity purchase agreement (the "Equity Purchase Agreement"), pursuant to which Oasis Capital is committed to purchase up to $17,500,000 of our common stock over the 24-month term of the Equity Purchase Agreement. We are not obligated to request any portion of the $17,500,000.

In connection with the execution of the Equity Purchase Agreement, we issued Oasis Capital $350,000 of its shares of common stock, or 126,354 shares (the "Commitment Shares") at a per share price which was based on the closing sale price per share on the NasdaqCM on the trading date prior to issuance (the "Issuance Reference Date"). On the earlier of (i) the date that is nine months from the date of execution, and (ii) the date that the Equity Purchase Agreement is terminated in accordance with its terms (the "Reference Date"), if the closing sale price per share on the NasdaqCM on the trading date preceding the Reference Date is higher than the closing sale price on the Issuance Reference Date, then Oasis Capital shall return to us a portion of the Commitment Shares equal to the amount of Commitment Shares required to be issued on the execution date minus the amount of Commitment Shares that would have been required to have been issued if the closing sale price per share on the NasdaqCM on the trading date preceding the Reference Date had been used to calculate the amount of Commitment Shares issuable on the execution date.

As of the date of this prospectus, we have not drawn down any portion of this commitment, leaving the entire $17,500,000 available under the equity line of credit, and for which we have agreed, pursuant to the registration rights agreement (the "Oasis Equity RRA"), to register the shares of common stock issuable further to the equity line of credit with the SEC, before any such issuances.

During the 24-month term of the Equity Purchase Agreement, we may request a drawdown on the equity line of credit by delivering a "put notice" to Oasis Capital stating the dollar amount of shares we intend to sell to Oasis Capital. We may make either an Option 1 or Option 2 request to Oasis Capital. Under Option 1, the purchase price Oasis Capital is required to pay for the shares is the lesser of (i) the lowest traded price of our common stock on the NasdaqCM on the Clearing Date, which is the date on which Oasis Capital receives the put shares as DWAC shares in its brokerage account, or (ii) the average of the three lowest closing sale prices of our common stock on the NasdaqCM during the period of twelve (12) consecutive trading days immediately preceding the Clearing Date. The maximum amount we may request in an Option 1 request is $500,000. Under Option 2, the purchase price Oasis Capital is required to pay for the shares is the lesser of (i) 93% of the one (1) lowest traded price of our common stock on the NasdaqCM during the period of five (5) consecutive trading days immediately preceding the put date, or (ii) 93% of the VWAP on the Clearing Date, or (iii) 93% of the closing bid price of the Company's common stock on the NasdaqCM on the Clearing Date. The maximum amount we may request in an Option 2 request is $2,000,000.

We are not entitled to request a drawdown unless each of the following conditions is satisfied:

(a) a registration statement is and remains effective for the resale of securities in connection with the equity line of credit;

(b) the trading of our common stock shall not have been suspended by the SEC, the NasdaqCM or FINRA, or otherwise halted for any reason, and our common stock shall have been approved for listing or quotation on and shall not have been delisted from the NasdaqCM;

(c) we have complied with its obligations and are otherwise not in breach or default of any agreement related to the equity line of credit;

(d) no statute, regulation, order, guidance, decree, writ, ruling or injunction shall have been enacted, entered, promulgated, threatened or endorsed by any federal, state, local or foreign court or governmental authority of competent jurisdiction, including, without limitation, the SEC, which prohibits the consummation of or which would materially modify or delay any of the transactions contemplated by the equity line of credit;

(e) our common stock must be DWAC eligible and not subject to a "DTC chill";

(f) all reports, schedules, registrations, forms, statements, information and other documents required to have been filed by us with the SEC pursuant to the reporting requirements of the Exchange Act of 1934 (other than Forms 8-K) shall have been filed with the SEC within the applicable time periods prescribed for such filings;

(g) to the extent the issuance of the put shares requires shareholder approval under the listing rules of the NasdaqCM, we have or will seek such approval; and

(h) the lowest traded price of the common stock in the five (5) trading days immediately preceding the respective put date must exceed $3.00.

If any of the events described in clauses (a) through (h) above occurs after we make a drawdown request, then Oasis Capital shall have no obligation to fund that drawdown.

The equity line of credit terminates when Oasis Capital has purchased an aggregate of $17,500,000 of our common stock or August 30, 2024, whichever occurs first.

Under the terms of the Equity Purchase Agreement, Oasis Capital may not own more than 9.99% of our issued and outstanding stock at any one time.

EF Hutton, Inc., our investment bankers, will receive 6% of the gross proceeds of any drawdown under the equity line of credit, payable in cash.

Risk Factors Summary

Investing in shares of our common stock involves a high degree of risk. See "Risk Factors" beginning on page 9 of this prospectus for a discussion of factors you should carefully consider before investing in our common stock. If any of these risks actually occurs, our business, financial condition, results of operations, cash flows and prospects would likely be materially and adversely affected. As a result, the trading price of our common stock would likely decline, and you could lose all or part of your investment. Listed below is a summary of some of the principal risks related to our business:

- We have not operated as a combined company, and we may not be able to successfully integrate Bailey, H&J, and Stateside into one entity.
- Our business strategy includes growth through acquisitions. If we are unable to locate desirable companies, acquire them on commercially reasonable terms, or finance such acquisitions, or if we are unable to successfully integrate the companies we do acquire or to manage our internal growth, our operating results could be adversely affected.
- Our success depends in part on the future contributions of our executives and managers, including those who were employees of Bailey, H&J, and Stateside. The loss of the services of any of them could have an adverse effect on our business and business prospects.
- Claims may be made against Bailey, H&J, Stateside and other acquired businesses arising from their operations prior to the dates we acquired them.
- We have incurred significant net losses since our inception and we anticipate that our operating expenses will increase substantially. Accordingly, we cannot assure you that we will achieve or maintain profitable operations, obtain adequate capital funding, or improve our financial performance to continue as a going concern.
- Widespread outbreak of an illness or any other public health crisis, including the recent coronavirus (COVID-19) global pandemic, or an economic downturn in the United States could materially and adversely affect our business, financial condition and results of operations.
- Our results of operations and financial condition could be adversely affected as a result of asset impairments and increases in labor costs.
- If we fail to effectively manage our growth by implementing our operational plans and strategies, improving our business processes and infrastructure, and managing our employee base, our business, financial condition and operating results could be harmed.
- If we are unable to anticipate and respond to changing customer preferences and shifting fashion and industry trends or maintain a strong portfolio of brands, customer base, order and inventory levels or our platforms by which our customers shop with us online, our business, financial condition and operating results could be harmed.
- We operate in highly competitive markets and the size and resources of some of our competitors, including wholesalers and direct retailers of apparel, may allow them to compete more effectively than we can, resulting in a loss of our market share and a decrease in our net revenue.
- If we are unable to cost-effectively use or fully optimize social media platforms and influencers or we fail to abide by applicable laws and regulations, our reputation may be materially and adversely affected or we may be subject to fines or other penalties.
- We rely on third-party suppliers and manufacturers, and in H&J's case, a single supplier, to provide raw materials for and to produce our products. We have limited control over these suppliers and manufacturers and we may not be able to obtain quality products on a timely basis or in sufficient quantity.
- Our operations are currently dependent on a single warehouse and distribution center in Vernon, California, and the loss of, or disruption in, our warehouse and distribution center or our third-party carriers could have a material adverse effect on our business and operations.
- Our sales and gross margins may decline as a result of increasing product costs and freight costs and decreasing selling prices.

- We have an amount of debt which may be considered significant for a company of our size and we may not be able to service all of our debt.
- Security breaches and other disruptions could compromise our information and expose us to liability, which would cause our business and reputation to suffer.
- If we cannot successfully protect our intellectual property, our business could suffer.
- We face growing regulatory and compliance requirements and substantial costs associated with failing to meet regulatory requirements, combined with the risk of fallout from security breaches, could have a material adverse effect on our business and brand.
- Our business is affected by the general seasonal trends common to the retail apparel industry.

Company Information

Our corporate offices are located on an interim basis at 1400 Lavaca Street, Austin, TX 78701. Our telephone number is (209) 651-0172. Our website is www.digitalbrandsgroup.co. None of the information on our website or any other website identified herein is part of this prospectus or the registration statement of which it forms a part.

The Offering

On August 27, 2021, we entered into a Securities Purchase Agreement with Oasis Capital further to which Oasis Capital purchased a Senior Secured Convertible Promissory Note (the "Oasis Note"), with an interest rate of 6% per annum, having a face value of $5,265,000 for a total purchase price of $5,000,000, secured by an all assets of the Company. The Oasis Note, in the principal amount of $5,265,000, bears interest at 6% per annum and is due and payable 18 months from the date of issuance, unless sooner converted. The Oasis Note is convertible at the option of Oasis Capital into shares of the Company's common stock at a conversion price (the "Oasis Conversion Price") which is the lesser of (i) $3.601, and (ii) 90% of the average of the two lowest volume-weighted average prices during the five consecutive trading day period preceding the delivery of the notice of conversion. Oasis Capital is not permitted to submit conversion notices in any thirty day period having conversion amounts equaling, in the aggregate, in excess of $500,000. If the Oasis Conversion Price set forth in any conversion notice is less than $3.00 per share, the Company, at its sole option, may elect to pay the applicable conversion amount in cash rather than issue shares of its common stock. In connection with the issuance of the Oasis Note, the Company entered into a security agreement (the "Security Agreement") pursuant to which the Company agreed to grant Oasis Capital a security interest in substantially all of its assets to secure the obligations under the Oasis Note and entered into a registration rights agreement (the "RRA"). The RRA provides that the Company shall file a registration statement registering the shares of common stock issuable upon conversion of the Oasis Note no later than 60 days from the date of the Oasis Note and take commercially reasonable efforts to cause such registration statement to be effective with the SEC no later than 90 days from the date of the Oasis Note.

On October 1, 2021, we entered into an Amended and Restated Securities Purchase Agreement with FirstFire Global Opportunities Fund, LLC ("FirstFire") and Oasis Capital further to which FirstFire purchased a Senior Secured Convertible Promissory Note (the "First FirstFire Note"), with an interest rate of 6% per annum, having a face value of $1,575,000 for a total purchase price of $1,500,000, secured by an all assets of the Company. The First FirstFire Note, in the principal amount of $1,575,000, bears interest at 6% per annum and is due and payable 18 months from the date of issuance, unless sooner converted. The First FirstFire Note is convertible at the option of FirstFire into shares of the Company's common stock at a conversion price (the "First FirstFire Conversion Price") which is the lesser of (i) $3.952, and (ii) 90% of the average of the two lowest volume-weighted average prices during the five consecutive trading day period preceding the delivery of the notice of conversion. FirstFire is not permitted to submit conversion notices in any thirty day period having conversion amounts equaling, in the aggregate, in excess of $500,000. If the First FirstFire Conversion Price set forth in any conversion notice is less than $3.00 per share, the Company, at its sole option, may elect to pay the applicable conversion amount in cash rather than issue shares of its common stock. In connection with the issuance of the First FirstFire Note, the Company, Oasis Capital and FirstFire amended the Security Agreement to grant FirstFire a similar security interest in substantially all of the Company's assets to secure the obligations under the First FirstFire Note. The

Company, Oasis Capital and FirstFire also amended the RRA to join FirstFire as a party thereto and to include the shares of Company common stock issuable under the First FirstFire Note as registrable securities. The RRA provides that the Company shall file a registration statement registering the shares of common stock issuable upon conversion of the FirstFire Note no later than 60 days from the date of the FirstFire Note and take commercially reasonable efforts to cause such registration statement to be effective with the SEC no later than 90 days from the date of the First FirstFire Note.

On November 16, 2021, we entered into a Securities Purchase Agreement with FirstFire further to which FirstFire purchased a Senior Secured Convertible Promissory Note (the "Second FirstFire Note" and together with the First FirstFire Note, the "FirstFire Notes"), with an interest rate of 6% per annum, having a face value of $2,625,000 for a total purchase price of $2,500,000. The Second FirstFire Note is convertible at the option of FirstFire into shares of the Company's common stock at a conversion price (the "Second FirstFire Conversion Price") which is the lesser of (i) $4.28, and (ii) 90% of the average of the two lowest volume-weighted average prices during the five consecutive trading day period preceding the delivery of the notice of conversion. FirstFire is not permitted to submit conversion notices in any thirty day period having conversion amounts equaling, in the aggregate, in excess of $500,000. If the Second FirstFire Conversion Price set forth in any conversion notice is less than $3.29 per share, the Company, at its sole option, may elect to pay the applicable conversion amount in cash rather than issue shares of its common stock. In connection with the Second FirstFire Note, the Company issued (a) 30,000 additional shares of common stock to FirstFire and (b) 100,000 additional shares of common stock to Oasis Capital, as set forth in the waivers and consents (the "Waivers"), dated November 16, 2021 executed by each of FirstFire and Oasis Capital (collectively, the "Waiver Shares"). In addition, the Company entered into an amendment to the RRA, dated November 16, 2021. The RRA, as amended, provides that the Company shall file a registration statement registering the shares of common stock issuable upon conversion of the FirstFire Notes, and the Waiver Shares by November 30, 2021 and use its best efforts to cause such registration statement to be effective with the SEC no later than 120 days from the date of the FirstFire Note.

The Oasis Note and the FirstFire Notes are together the "Convertible Notes". This prospectus relates to the resale of up to 2,500,000 shares of our common stock by Oasis Capital and FirstFire issuable pursuant to the Convertible Notes.

Issuer	Digital Brands Group, Inc.
Common Stock offered by the selling stockholders	Up to 2,500,000 shares of common stock, comprised of the Commitment Shares, the Waiver Shares, and shares of common stock issuable upon exercise of the Convertible Notes and shares of common stock that may be issuable from time to time in the event that the Company pays a portion of the interest on the Convertible Notes in kind.
Common Stock issued and outstanding before this prospectus	12,757,488 shares(*)
Use of proceeds	We will not receive any of the proceeds from the sale by the selling stockholders of the securities. See "Use of Proceeds."
Common Stock NASDAQ Symbol	DBGI
Risk factors	You should read the section entitled "Risk Factors" beginning on page 9, the risk factors incorporated by reference in this prospectus, and any risk factors set forth in any applicable prospectus supplement or incorporated by reference therein, for a discussion of some of the risks and uncertainties you should carefully consider before deciding to invest in our securities.

* As of November 23, 2021. Excludes:

- Outstanding warrants to acquire up to 3,591,348 shares of our common stock at exercise prices between $2.66 and $7.66 expiring between October 2021 and October 2030;
- Outstanding stock options to acquire up to 3,895,103 shares of our common stock at exercise prices between $0.14 and $4.15 expiring between June 2024 and May 2031;
- 588,000 shares of our common stock reserved for future issuance under our 2020 Omnibus Incentive Plan; and
- Shares of common stock issuable upon conversion of the Convertible Notes.

RISK FACTORS

This investment has a high degree of risk. Before you invest you should carefully consider the risks and uncertainties described below and the other information in this prospectus. If any of the following risks actually occur, our business, operating results and financial condition could be harmed and the value of our stock could go down. This means you could lose all or a part of your investment.

Risks Related to Our Business

We have incurred significant net losses since our inception and cannot assure you that we will achieve or maintain profitable operations.

We have incurred significant net losses since inception. Our pro forma combined net loss (giving effect to the acquisitions of each of Bailey, H&J and Stateside) was approximately $24.4 million for the nine months ended September 30, 2021, $16.8 million for the year ended December 31, 2020 and $15.3 million for the year ended December 31, 2019. We may continue to incur significant losses in the future for a number of reasons, including unforeseen expenses, difficulties, complications, delays, and other unknown events, including the length of time COVID-19 related restrictions impact the business.

We anticipate that our operating expenses will increase substantially in the foreseeable future as we undertake the acquisition and integration of different brands, incur expenses associated with maintaining compliance as a public company, and increased marketing and sales efforts to increase our customer base. These increased expenditures may make it more difficult to achieve and maintain profitability. In addition, our efforts to grow our business may be more expensive than we expect, and we may not be able to generate sufficient revenue to offset increased operating expenses. If we are required to reduce our expenses, our growth strategy could be materially affected. We will need to generate and sustain significant revenue levels in future periods in order to become profitable, and, even if we do, we may not be able to maintain or increase our level of profitability.

Accordingly, we cannot assure you that we will achieve sustainable operating profits as we continue to expand our product offerings and infrastructure, further develop our marketing efforts, and otherwise implement our growth initiatives. Any failure to achieve and maintain profitability would have a materially adverse effect on our ability to implement our business plan, our results and operations, and our financial condition.

If we do not obtain adequate capital funding or improve our financial performance, we may not be able to continue as a going concern.

The report of our independent registered public accounting firm for the year ended December 31, 2020 included herein contains an explanatory paragraph indicating that there is substantial doubt as to our ability to continue as a going concern as a result of recurring losses from operations. In addition, we have incurred a net loss in each year since our inception and expect to incur losses in future periods as we continue to increase our expenses in order to grow our business. If we are unable to obtain adequate funding or if we are unable to grow our revenue substantially to achieve and sustain profitability, we may not be able to continue as a going concern.

Widespread outbreak of an illness or any other public health crisis, including the recent coronavirus (COVID-19) global pandemic, could materially and adversely affect, and has materially and adversely affected, our business, financial condition and results of operations.

Our business has been, and will continue to be, impacted by the effects of the COVID-19 global pandemic in countries where our suppliers, third-party service providers or consumers are located. These effects include recommendations or mandates from governmental authorities to close businesses, limit travel, avoid large gatherings or to self-quarantine, as well as temporary closures and decreased operations of the facilities of our suppliers, service providers and customers. The impacts on us have included, and in the future could include, but are not limited to:

- significant uncertainty and turmoil in global economic and financial market conditions causing, among other things: decreased consumer confidence and decreased consumer spending, now and in

the mid and long-term. Specifically, COVID has impacted our business in several ways, including store closings, supply chain disruptions and delivery delays, meaningfully lower net revenue, furloughs and layoffs of 52 employees and increased costs to operate our warehouse to ensure a healthy and safe work environment. Approximately 220 boutique stores where we sold our products closed temporarily and permanently in 2020 and into 2021, representing a reduction in approximately 40% of such stores prior to COVID. Additionally, approximately 40 department stores that carried our products have closed as well, representing a reduction of approximately 35% of such stores prior to COVID. We do not anticipate the department stores will open those stores back up, and we do not anticipate a majority of the closed boutique stores will reopen. We also waited to hire a new Creative Director until the summer, once we knew that stores would open back up at some capacity. This delay in hiring a new designer also impacted the first four months of 2021, as her first collection was not offered until recently for a May 2021 shipment to our accounts. We expect to also experience lower order quantities from our accounts throughout 2021 versus pre-COVID levels, but meaningfully higher than 2020;

- inability to access financing in the credit and capital markets at reasonable rates (or at all) in the event we, or our suppliers find it desirable to do so, increased exposure to fluctuations in foreign currency exchange rates relative to the U.S. Dollar, and volatility in the availability and prices for commodities and raw materials we use for our products and in our supply chain. Specifically, the pandemic shut down our supply chain for several months in 2020, and delayed deliveries throughout the year;
- inability to meet our consumers' needs for inventory production and fulfillment due to disruptions in our supply chain and increased costs associated with mitigating the effects of the pandemic caused by, among other things: reduction or loss of workforce due to illness, quarantine or other restrictions or facility closures, scarcity of and/or increased prices for raw materials, scrutiny or embargoing of goods produced in infected areas, and increased freight and logistics costs, expenses and times; failure of third parties on which we rely, including our suppliers, customers, distributors, service providers and commercial banks, to meet their obligations to us or to timely meet those obligations, or significant disruptions in their ability to do so, which may be caused by their own financial or operational difficulties, including business failure or insolvency and collectability of existing receivables; and
- significant changes in the conditions in markets in which we do business, including quarantines, governmental or regulatory actions, closures or other restrictions that limit or close our operating and manufacturing facilities and restrict our employees' ability to perform necessary business functions, including operations necessary for the design, development, production, distribution, sale, marketing and support of our products. Specifically, we had to furlough and layoff a significant amount of employees to adjust to our lower revenues.

Any of these impacts could place limitations on our ability to execute on our business plan and materially and adversely affect our business, financial condition and results of operations. We continue to monitor the situation and may adjust our current policies and procedures as more information and guidance become available regarding the evolving situation. The impact of COVID-19 may also exacerbate other risks discussed in this "Risk Factors" section, any of which could have a material effect on us. This situation is changing rapidly and additional impacts may arise that we are not aware of currently.

We have no combined operating history, and there are risks associated with our recently closed acquisitions of Stateside, H&L and Bailey that could adversely affect the results of our operations.

We acquired Stateside in August 2021, H&J in May 2021 and Bailey in February 2020, each of which operated independently of DBG prior to its acquisition. There can be no assurance that we will be able to integrate the operations of Stateside, H&J and Bailey successfully or to institute the necessary systems and procedures, including accounting and financial reporting systems, to manage the combined enterprise on a profitable basis and to report the results of operations of the combined entities on a timely basis. In addition, there can be no assurance that our management team will be able to successfully manage the combined entity and effectively implement our operating or growth strategies. The pro forma financial results of Stateside, H&J and Bailey cover periods during which they were not under common control or management and, therefore, may not be indicative of our future financial or operating results. Our success

will depend on management's ability to integrate Stateside, H&J, Bailey and other companies we may acquire in the future into one organization. Our inability to successfully integrate these companies and to coordinate and integrate certain operational, administrative, financial and information technology systems would have a material adverse effect on our financial condition and results of operations.

If our efforts to locate desirable targets are unsuccessful or if we are unable to acquire desirable companies on commercially reasonable terms, our revenues and operating results will be adversely affected.

One of our principal growth strategies is to increase our revenue through the acquisition of additional businesses within our industry, particularly since there is no assurance that the operations of Stateside, H&J and Bailey alone will be sufficiently profitable to meet our expectations. It may be difficult for us to identify desirable companies to acquire. We may face competition in our pursuit to acquire additional businesses, which could limit the number of available companies for sale and may lead to higher acquisition prices. When we identify desirable companies, their owners may not be willing to sell their companies at all or on terms that we have determined to be commercially reasonable. If our efforts to locate and acquire desirable companies are not successful, our revenues and operating results may be adversely affected.

Our ability to acquire additional businesses may require issuances of our common stock and/or debt financing that we may be unable to obtain on acceptable terms.

The timing, size and success of our acquisition efforts and the associated capital commitments cannot be readily predicted. We intend to use our common stock, cash, and borrowings under our credit facility, if necessary, as consideration for future acquisitions of companies. The issuance of additional common stock in connection with future acquisitions may be dilutive to holders of shares of our common stock. In addition, if our common stock does not maintain a sufficient market value or potential acquisition candidates are unwilling to accept common stock as part of the consideration for the sale of their businesses, we may be required to use more of our cash resources, including obtaining additional capital through debt financing. However, there can be no assurance that we will be able to obtain financing if and when it is needed or that it will be available on terms that we deem acceptable. As a result, we may be unable to pursue our acquisition strategy successfully, which may prevent us from achieving our growth objectives.

We may not be able to successfully integrate future acquisitions or generate sufficient revenues from future acquisitions, which could cause our business to suffer.

If we buy a company or a division of a company, there can be no assurance that we will be able to profitably manage such business or successfully integrate such business without substantial costs, delays or other operational or financial problems. Acquisitions also may require us to spend a substantial portion of our available cash, incur debt or other liabilities, amortize expenses related to intangible assets, incur write-offs of goodwill or other assets or obligate us to issue a substantial number of shares of our capital stock, which would result in dilution for our existing stockholders. There can be no assurance that the businesses we acquire in the future will achieve anticipated revenues or earnings. Additionally:

- the key personnel of the acquired business may decide not to work for us;
- changes in management at an acquired business may impair its relationships with employees and customers;
- we may be unable to maintain uniform standards, controls, procedures and policies among acquired businesses;
- we may be unable to successfully implement infrastructure, logistics and systems integration;
- we may be held liable for legal claims (including environmental claims) arising out of activities of the acquired businesses prior to our acquisitions, some of which we may not have discovered during our due diligence, and we may not have indemnification claims available to us or we may not be able to realize on any indemnification claims with respect to those legal claims;
- we will assume risks associated with deficiencies in the internal controls of acquired businesses;
- we may not be able to realize the cost savings or other financial benefits we anticipated;

- we may be unable to successfully scale an acquired business; and
- our ongoing business may be disrupted or receive insufficient management attention.

Some or all of these factors could have a material adverse effect on our business, financial condition and results of operations. Moreover, we may not benefit from our acquisitions as we expect, or in the time frame we expect. In the apparel industry, differing brands are used to reach different market segments and capture new market share. However, not every brand deployment is successful. In addition, integrating an acquired business or technology is risky. We may incur significant costs acquiring, developing, and promoting new brands only to have limited market acceptance and limited resulting sales. If this occurs, our financial results may be negatively impacted and we may determine it is in the best interest of the company to no longer support that brand. If a new brand does not generate sufficient revenues or if we are unable to efficiently manage our expanded operations, our results of operations will be adversely affected. Finally, acquisitions could be viewed negatively by analysts, investors or our customers.

In addition, we may not be successful in acquiring businesses and may expend time and professional expenses in connection with failed acquisitions. For example, in connection with our Series CF financing, we disclosed that we were planning to acquire a New Jersey based apparel company. On September 10, 2020, we and the acquisition target mutually agreed to terminate the acquisition.

We may be subject to claims arising from the operations of our various businesses for periods prior to the dates we acquired them.

We may be subject to claims or liabilities arising from the ownership or operation of acquired businesses for the periods prior to our acquisition of them, including environmental, warranty, workers' compensation and other employee-related and other liabilities and claims not covered by insurance. These claims or liabilities could be significant. Our ability to seek indemnification from the former owners of our acquired businesses for these claims or liabilities may be limited by various factors, including the specific time, monetary or other limitations contained in the respective acquisition agreements and the financial ability of the former owners to satisfy our indemnification claims. In addition, insurance companies may be unwilling to cover claims that have arisen from acquired businesses or locations, or claims may exceed the coverage limits that our acquired businesses had in effect prior to the date of acquisition. If we are unable to successfully obtain insurance coverage of third-party claims or enforce our indemnification rights against the former owners, or if the former owners are unable to satisfy their obligations for any reason, including because of their current financial position, we could be held liable for the costs or obligations associated with such claims or liabilities, which could adversely affect our financial condition and results of operations.

Our results of operations could be adversely affected as a result of asset impairments.

Our results of operations and financial condition could be adversely affected by impairments to goodwill, other intangible assets, receivables, long-lived assets or investments. For example, when we acquire a business, we record goodwill in an amount equal to the amount we paid for the business minus the fair value of the net tangible assets and other identifiable intangible assets of the acquired business. Goodwill and other intangible assets that have indefinite useful lives cannot be amortized, but instead must be tested at least annually for impairment. Any future impairments, including impairments of goodwill, intangible assets, long- lived assets or investments, could have a material adverse effect on our financial condition and results of operations for the period in which the impairment is recognized.

If we fail to effectively manage our growth, our business, financial condition and operating results could be harmed.

We have grown rapidly and to effectively manage our growth, we must continue to implement our operational plans and strategies, improve our business processes, improve and expand our infrastructure of people and information systems, and expand, train and manage our employee base. Since our inception, we have rapidly increased our employee headcount across our organization to support the growth of our business. To support continued growth, we must effectively integrate, develop and motivate a large number of new employees while maintaining our corporate culture. We face significant competition for personnel. To attract top talent, we have had to offer, and expect to continue to offer, competitive compensation and

benefits packages before we can validate the productivity of new employees. We may also need to increase our employee compensation levels to remain competitive in attracting and retaining talented employees. The risks associated with a rapidly growing workforce will be particularly acute as we choose to expand into new merchandise categories and internationally. Additionally, we may not be able to hire new employees quickly enough to meet our needs. If we fail to effectively manage our hiring needs or successfully integrate new hires, our efficiency, our ability to meet forecasts and our employee morale, productivity and retention could suffer, which may have an adverse effect on our business, financial condition and operating results.

We are also required to manage numerous relationships with various vendors and other third parties. Further growth of our operations, vendor base, fulfillment center, information technology systems or internal controls and procedures may not be adequate to support our operations. If we are unable to manage the growth of our organization effectively, our business, financial condition and operating results may be adversely affected.

If we are unable to anticipate and respond to changing customer preferences and shifts in fashion and industry trends in a timely manner, our business, financial condition and operating results could be harmed.

Our success largely depends on our ability to consistently gauge tastes and trends and provide a diverse and balanced assortment of merchandise that satisfies customer demands in a timely manner. Our ability to accurately forecast demand for our products could be affected by many factors, including an increase or decrease in demand for our products or for products of our competitors, our failure to accurately forecast acceptance of new products, product introductions by competitors, unanticipated changes in general market conditions, and weakening of economic conditions or consumer confidence in future economic conditions. We typically enter into agreements to manufacture and purchase our merchandise in advance of the applicable selling season and our failure to anticipate, identify or react appropriately, or in a timely manner to changes in customer preferences, tastes and trends or economic conditions could lead to, among other things, missed opportunities, excess inventory or inventory shortages, markdowns and write-offs, all of which could negatively impact our profitability and have a material adverse effect on our business, financial condition and operating results. Failure to respond to changing customer preferences and fashion trends could also negatively impact the image of our brands with our customers and result in diminished brand loyalty.

Our business depends on our ability to maintain a strong portfolio of brands, engaged customers and influencers. We may not be able to maintain and enhance our existing brand portfolio if we receive customer complaints, negative publicity or otherwise fail to live up to consumers' expectations, which could materially adversely affect our business, operating results and growth prospects.

Our ability to acquire or offer new brands and maintain and enhance the appeal of our existing brands is critical to expanding our base of customers. A significant portion of our customers' experience depends on third parties outside of our control, including vendors, suppliers and logistics providers such as FedEx, UPS and the U.S. Postal Service. If these third parties do not meet our or our customers' expectations or if they increase their rates, our business may suffer irreparable damage or our costs may increase. Also, if we fail to promote and maintain our brands, or if we incur excessive expenses in this effort, our business, operating results and financial condition may be materially adversely affected. We anticipate that as our market becomes increasingly competitive, our ability to acquire or offer new brands and to maintain and enhance our existing brands may become increasingly difficult and expensive and will depend largely on our ability to provide high quality products to our customers and a reliable, trustworthy and profitable sales channel to our vendors, which we may not do successfully.

Customer complaints or negative publicity about our sites, products, product delivery times, customer data handling and security practices or customer support, especially on blogs, social media websites and our sites, could rapidly and severely diminish consumer use of our sites and consumer and supplier confidence in us and result in harm to our brands.

An economic downturn or economic uncertainty in the United States may adversely affect consumer discretionary spending and demand for our products.

Our operating results are affected by the relative condition of the United States economy as many of our products may be considered discretionary items for consumers. Our customers may reduce their spending

and purchases due to job loss or fear of job loss, foreclosures, bankruptcies, higher consumer debt and interest rates, reduced access to credit, falling home prices, increased taxes, and/or lower consumer confidence. Consumer demand for our products may not reach our targets, or may decline, when there is an economic downturn or economic uncertainty. Current, recent past, and future conditions may also adversely affect our pricing and liquidation strategy; promotional activities, product liquidation, and decreased demand for consumer products could affect profitability and margins. Any of the foregoing factors could have a material adverse effect on our business, results of operations, and financial condition.

Additionally, many of the effects and consequences of U.S. and global financial and economic conditions could potentially have a material adverse effect on our liquidity and capital resources, including the ability to raise additional capital, if needed, or could otherwise negatively affect our business and financial results. For example, global economic conditions may also adversely affect our suppliers' access to capital and liquidity with which to maintain their inventory, production levels, and product quality and to operate their businesses, all of which could adversely affect our supply chain. Market instability could make it more difficult for us and our suppliers to accurately forecast future product demand trends, which could cause us to carry too much or too little merchandise in various product categories.

We operate in highly competitive markets and the size and resources of some of our competitors may allow them to compete more effectively than we can, resulting in a loss of our market share and a decrease in our net revenue.

The markets in which we compete are highly competitive. Competition may result in pricing pressures, reduced profit margins or lost market share, or a failure to grow or maintain our market share, any of which could substantially harm our business and results of operations. We compete directly against wholesalers and direct retailers of apparel, including large, diversified apparel companies with substantial market share and strong worldwide brand recognition. Many of our competitors have significant competitive advantages, including longer operating histories, larger and broader customer bases, more established relationships with a broader set of suppliers, greater brand recognition and greater financial, research and development, marketing, distribution, and other resources than we do.

As a result, these competitors may be better equipped than we are to influence consumer preferences or otherwise increase their market share by:

- quickly adapting to changes in customer requirements or consumer preferences;
- discounting excess inventory that has been written down or written off;
- devoting resources to the marketing and sale of their products, including significant advertising campaigns, media placement, partnerships and product endorsement; and
- engaging in lengthy and costly intellectual property and other disputes.

Our inability to compete successfully against our competitors and maintain our gross margin could have a material adverse effect on our business, financial condition and results of operations.

Use of social media and influencers may materially and adversely affect our reputation or subject us to fines or other penalties.

We use third-party social media platforms as, among other things, marketing tools. We also maintain relationships with many social media influencers and engage in sponsorship initiatives. As existing e-commerce and social media platforms continue to rapidly evolve and new platforms develop, we must continue to maintain a presence on these platforms and establish presences on new or emerging popular social media platforms. If we are unable to cost-effectively use social media platforms as marketing tools or if the social media platforms we use change their policies or algorithms, we may not be able to fully optimize such platforms, and our ability to maintain and acquire customers and our financial condition may suffer. Furthermore, as laws and regulations and public opinion rapidly evolve to govern the use of these platforms and devices, the failure by us, our employees, our network of social media influencers, our sponsors or third parties acting at our direction to abide by applicable laws and regulations in the use of these platforms and devices or otherwise could subject us to regulatory investigations, class action lawsuits, liability, fines or other penalties and have a material adverse effect on our business, financial condition and operating results.

In addition, an increase in the use of social media for product promotion and marketing may cause an increase in the burden on us to monitor compliance of such materials, and increase the risk that such materials could contain problematic product or marketing claims in violation of applicable regulations. For example, in some cases, the FTC has sought enforcement action where an endorsement has failed to clearly and conspicuously disclose a financial relationship or material connection between an influencer and an advertiser. We do not prescribe what our influencers post, and if we were held responsible for the content of their posts or their actions, we could be fined or forced to alter our practices, which could have an adverse impact on our business.

Negative commentary regarding us, our products or influencers and other third parties who are affiliated with us may also be posted on social media platforms and may be adverse to our reputation or business. Influencers with whom we maintain relationships could engage in behavior or use their platforms to communicate directly with our customers in a manner that reflects poorly on our brand and may be attributed to us or otherwise adversely affect us. It is not possible to prevent such behavior, and the precautions we take to detect this activity may not be effective in all cases. Our target consumers often value readily available information and often act on such information without further investigation and without regard to its accuracy. The harm may be immediate, without affording us an opportunity for redress or correction.

If we fail to retain existing customers, or fail to maintain average order value levels, we may not be able to maintain our revenue base and margins, which would have a material adverse effect on our business and operating results.

A significant portion of our net sales are generated from sales to existing customers. If existing customers no longer find our offerings appealing, or if we are unable to timely update our offerings to meet current trends and customer demands, our existing customers may make fewer or smaller purchases in the future. A decrease in the number of our customers who make repeat purchases or a decrease in their spending on the merchandise we offer could negatively impact our operating results. Further, we believe that our future success will depend in part on our ability to increase sales to our existing customers over time, and if we are unable to do so, our business may suffer. If we fail to generate repeat purchases or maintain high levels of customer engagement and average order value, our growth prospects, operating results and financial condition could be materially adversely affected.

We purchase inventory in anticipation of sales, and if we are unable to manage our inventory effectively, our operating results could be adversely affected.

Our business requires us to manage a large volume of inventory effectively. We regularly add new apparel, accessories and beauty styles to our sites, and we depend on our forecasts of demand for and popularity of various products to make purchase decisions and to manage our inventory of stock-keeping units, or SKUs. Demand for products, however, can change significantly between the time inventory is ordered and the date of sale. Demand may be affected by seasonality, new product launches, rapid changes in product cycles and pricing, product defects, promotions, changes in consumer spending patterns, changes in consumer tastes with respect to our products and other factors, and our consumers may not purchase products in the quantities that we expect.

It may be difficult to accurately forecast demand and determine appropriate levels of product. We generally do not have the right to return unsold products to our suppliers. If we fail to manage our inventory effectively or negotiate favorable credit terms with third-party suppliers, we may be subject to a heightened risk of inventory obsolescence, a decline in inventory values, and significant inventory write-downs or write-offs. In addition, if we are required to lower sale prices in order to reduce inventory level or to pay higher prices to our suppliers, our profit margins might be negatively affected. Any failure to manage owned brand expansion or accurately forecast demand for owned brands could adversely affect growth, margins and inventory levels. In addition, our ability to meet customer demand has been and may be in the future negatively impacted by disruptions in the supply chain from a number of factors, including, for example, the COVID-19 coronavirus outbreak in China. The COVID-19 coronavirus has and is expected to continue to impact our supply chain and may delay or prevent the manufacturing or transport of product. Any of the above may materially and adversely affect our business, financial condition and operating results.

Merchandise returns could harm our business.

We allow our customers to return products, subject to our return policy. If the rate of merchandise returns increases significantly or if merchandise return economics become less efficient, our business, financial condition and operating results could be harmed. Further, we modify our policies relating to returns from time to time, which may result in customer dissatisfaction or an increase in the number of product returns. From time to time our products are damaged in transit, which can increase return rates and harm our brands.

We rely on third-party suppliers and manufacturers to provide raw materials for and to produce our products, and we have limited control over these suppliers and manufacturers and may not be able to obtain quality products on a timely basis or in sufficient quantity.

We rely on third-party suppliers primarily located outside of the United States to provide raw materials for our products. In addition, we do not own or operate any manufacturing facilities and rely solely on unaffiliated manufacturers primarily located outside the United States to manufacture our products. Increases in the costs of labor and other costs of doing business in these countries could significantly increase our costs to produce our products and could have a negative impact on our operations, net revenue, and earnings. In addition, certain of our manufacturers are subject to government regulations related to wage rates, and therefore the labor costs to produce our products may fluctuate. Factors that could negatively affect our business include a potential significant revaluation of the currencies used in these countries, which may result in an increase in the cost of producing products, labor shortage and increases in labor costs, and difficulties in moving products manufactured out of the countries in which they are manufactured and through the ports in North America, whether due to port congestion, labor disputes, product regulations and/or inspections or other factors, and natural disasters or health pandemics. A labor strike or other transportation disruption affecting these ports could significantly disrupt our business. In addition, the imposition of trade sanctions or other regulations against products imported by us from, or the loss of "normal trade relations" status with any country in which our products are manufactured, could significantly increase our cost of products and harm our business.

The operations of our suppliers can be subject to additional risks beyond our control, including shipping delays, labor disputes, trade restrictions, tariffs and embargos, or any other change in local conditions. We may experience a significant disruption in the supply of fabrics or raw materials from current sources or, in the event of a disruption, we may be unable to locate alternative materials suppliers of comparable quality at an acceptable price, or at all. We do not have any long-term supply contracts in place with any of our suppliers and we compete with other companies, including many of our competitors, for fabrics, raw materials, production and import quota capacity. We have occasionally received, and may in the future receive, shipments of products that fail to comply with our specifications or that fail to conform to our quality control standards. We have also received, and may in the future receive, products that are otherwise unacceptable to us or our customers. Under these circumstances, we may incur substantial expense to remedy the problems and may be required to obtain replacement products. If we fail to remedy any such problem in a timely manner, we risk the loss of net revenue resulting from the inability to sell those products and related increased administrative and shipping costs. Additionally, if the unacceptability of our products is not discovered until after such products are purchased by our customers, our customers could lose confidence in our products or we could face a product recall. In such an event our brand reputation may be negatively impacted which could negatively impact our results of operations.

These and other factors beyond our control could result in our third-party suppliers and manufacturers being unable to fill our orders in a timely manner. If we experience significant increased demand, or we lose or need to replace an existing third-party supplier and manufacturer as a result of adverse economic conditions or other reasons, we may not be able to secure additional manufacturing capacity when required or on terms that are acceptable to us, or at all, or manufacturers may not be able to allocate sufficient capacity to us in order to meet our requirements. In addition, even if we are able to find new third-party suppliers or manufacturers, we may encounter delays in production and added costs as a result of the time it takes to train our manufacturers on our methods, products and quality control standards. Moreover, it is possible that we will experience defects, errors, or other problems with their work that will materially affect our operations and we may have little or no recourse to recover damages for these losses. Any delays,

interruption or increased costs in the supply of fabric or manufacture of our products could have an adverse effect on our ability to meet retail customer and consumer demand for our products and result in lower net revenues and net income both in the short and long term.

In addition to the foregoing, H&J depends on two primary suppliers located in China and Turkey for the substantial portion of raw materials used in its products and the manufacture of these products, which makes it vulnerable to a disruption in the supply of its products. As a result, termination of these supply arrangements, an adverse change in the financial condition of these suppliers or an adverse change in their ability to manufacture and/or deliver desired products on a timely basis each could have a material adverse effect on the business, financial condition and results of operations of H&J and us.

Our sales and gross margins may decline as a result of increasing product costs and decreasing selling prices.

The fabrics used in our products include synthetic fabrics whose raw materials include petroleum-based products, as well as natural fibers such as cotton. Significant price fluctuations or shortages in petroleum or other raw materials can materially adversely affect our cost of net revenues.

In addition, the United States and the countries in which our products are produced or sold internationally have imposed and may impose additional quotas, duties, tariffs, or other restrictions or regulations, or may adversely adjust prevailing quota, duty or tariff levels. Countries impose, modify and remove tariffs and other trade restrictions in response to a diverse array of factors, including global and national economic and political conditions, which make it impossible for us to predict future developments regarding tariffs and other trade restrictions. Trade restrictions, including tariffs, quotas, embargoes, safeguards, and customs restrictions, could increase the cost or reduce the supply of products available to us or may require us to modify our supply chain organization or other current business practices, any of which could harm our business, financial condition and results of operations.

Our operations are currently dependent on a single warehouse and distribution center, and the loss of, or disruption in, the warehouse and distribution center and other factors affecting the distribution of merchandise could have a material adverse effect on our business and operations.

Our warehouse and fulfillment/distribution functions are currently primarily handled from a single facility in Vernon, California. Our current fulfillment/distribution operations are dependent on the continued use of this facility. Any significant interruption in the operation of the warehouse and fulfillment/distribution center due to COVID-19 restrictions, natural disasters, accidents, system issues or failures, or other unforeseen causes that materially impair our ability to access or use our facility, could delay or impair the ability to distribute merchandise and fulfill online orders, which could cause sales to decline.

We also depend upon third-party carriers for shipment of a significant amount of merchandise directly to our customers. An interruption in service by these third-party carriers for any reason could cause temporary disruptions in business, a loss of sales and profits, and other material adverse effects.

Our sales and gross margins may decline as a result of increasing freight costs.

Freight costs are impacted by changes in fuel prices through surcharges, among other factors. Fuel prices and surcharges affect freight costs both on inbound freight from suppliers to the distribution center as well as outbound freight from the distribution center to stores/shops, supplier returns and third-party liquidators, and shipments of product to customers. The cost of transporting our products for distribution and sale is also subject to fluctuation due in large part to the price of oil. Because most of our products are manufactured abroad, our products must be transported by third parties over large geographical distances and an increase in the price of oil can significantly increase costs. Manufacturing delays or unexpected transportation delays can also cause us to rely more heavily on airfreight to achieve timely delivery to our customers, which significantly increases freight costs. Increases in fuel prices, surcharges, and other potential factors may increase freight costs. Any of these fluctuations may increase our cost of products and have an adverse effect on our margins, results of operations and financial condition.

Increases in labor costs, including wages, could adversely affect our business, financial condition and results of operations.

Labor is a significant portion of our cost structure and is subject to many external factors, including unemployment levels, prevailing wage rates, minimum wage laws, potential collective bargaining arrangements,

health insurance costs and other insurance costs and changes in employment and labor legislation or other workplace regulation. From time to time, legislative proposals are made to increase the federal minimum wage in the United States, as well as the minimum wage in California and a number of other states and municipalities, and to reform entitlement programs, such as health insurance and paid leave programs. As minimum wage rates increase or related laws and regulations change, we may need to increase not only the wage rates of our minimum wage employees, but also the wages paid to our other hourly or salaried employees. Any increase in the cost of our labor could have an adverse effect on our business, financial condition and results of operations or if we fail to pay such higher wages we could suffer increased employee turnover. Increases in labor costs could force us to increase prices, which could adversely impact our sales. If competitive pressures or other factors prevent us from offsetting increased labor costs by increases in prices, our profitability may decline and could have a material adverse effect on our business, financial condition and results of operations.

We have an amount of debt which may be considered significant for a company of our size which could adversely affect our financial condition and our ability to react to changes in our business.

As of November 20, 2021, we had an aggregate principal amount of debt outstanding of approximately $22.8 million. We believe this is an amount of indebtedness which may be considered significant for a company of our size and current revenue base.

Our substantial debt could have important consequences to us. For example, it could:

- make it more difficult for us to satisfy our obligations to the holders of our outstanding debt, resulting in possible defaults on and acceleration of such indebtedness;
- require us to dedicate a substantial portion of our cash flows from operations to make payments on our debt, which would reduce the availability of our cash flows from operations to fund working capital, capital expenditures or other general corporate purposes;
- increase our vulnerability to general adverse economic and industry conditions, including interest rate fluctuations;
- place us at a competitive disadvantage to our competitors with proportionately less debt for their size;
- limit our ability to refinance our existing indebtedness or borrow additional funds in the future;
- limit our flexibility in planning for, or reacting to, changing conditions in our business; and
- limit our ability to react to competitive pressures or make it difficult for us to carry out capital spending that is necessary or important to our growth strategy.

Any of the foregoing impacts of our substantial indebtedness could have a material adverse effect on our business, financial condition and results of operations.

We may not be able to generate sufficient cash to service all of our debt or refinance our obligations and may be forced to take other actions to satisfy our obligations under such indebtedness, which may not be successful.

Our ability to make scheduled payments on our indebtedness or to refinance our obligations under our debt agreements, will depend on our financial and operating performance, which, in turn, will be subject to prevailing economic and competitive conditions and to the financial and business risk factors we face as described in this section, many of which may be beyond our control. We may not be able to maintain a level of cash flows from operating activities sufficient to permit us to pay the principal, premium, if any, and interest on our indebtedness.

If our cash flows and capital resources are insufficient to fund our debt service obligations, we may be forced to reduce or delay capital expenditures or planned growth objectives, seek to obtain additional equity capital or restructure our indebtedness. In the future, our cash flows and capital resources may not be sufficient for payments of interest on and principal of our debt, and such alternative measures may not be successful and may not permit us to meet scheduled debt service obligations. In addition, the recent worldwide credit crisis could make it more difficult for us to refinance our indebtedness on favorable terms, or at all.

In the absence of such operating results and resources, we may be required to dispose of material assets to meet our debt service obligations. We may not be able to consummate those sales, or, if we do, we will not control the timing of the sales or whether the proceeds that we realize will be adequate to meet debt service obligations when due.

There is no assurance that even if market conditions are favorable that the representative will waive the standstill provision. In such a case we anticipate to make any required payments under our senior credit facility from cash generated from operations. Our credit agreement contains negative covenants that, subject to significant exceptions limit our ability, among other things to make restricted payments, pledge assets as security, make investments, loans, advances, guarantees and acquisitions, or undergo other fundamental changes. A breach of any of these covenants could result in a default under the credit facility and permit the lender to cease making loans to us. If for whatever reason we have insufficient liquidity to make scheduled payments under our credit facility or to repay such indebtedness by the schedule maturity date, we would seek the consent of our senior lender to modify such terms. Although our senior lender has previously agreed to seven prior modifications of our credit agreement, there is no assurance that it will agree to any such modification and could then declare an event of default. Upon the occurrence of an event of default under this agreement, the lender could elect to declare all amounts outstanding thereunder to be immediately due and payable. We have pledged all of our assets as collateral under our credit facility. If the lender accelerates the repayment of borrowings, we may not have sufficient assets to repay them and we could experience a material adverse effect on our financial condition and results of operations.

Security breaches and other disruptions could compromise our information and expose us to liability, which would cause our business and reputation to suffer.

In the ordinary course of our business, we collect and store sensitive data, including intellectual property, our proprietary business information, and financial and other personally identifiable information of our customers and employees. The secure processing, maintenance, and transmission of this information is critical to our operations and business strategy. Despite our security measures, our information technology and infrastructure may be vulnerable to attacks by hackers or breached due to employee error, malfeasance, or other disruptions. Any such breach could compromise our networks and the information stored there could be accessed, publicly disclosed, lost, or stolen. Advanced attacks are multi-staged, unfold over time, and utilize a range of attack vectors with military-grade cyber weapons and proven techniques, such as spear phishing and social engineering, leaving organizations and users at high risk of being compromised. The vast majority of data breaches, whether conducted by a cyber attacker from inside or outside of the organization, involve the misappropriation of digital identities and user credentials. These credentials are used to gain legitimate access to sensitive systems and high-value personal and corporate data. Many large, well-known organizations have been subject to cyber-attacks that exploited the identity vector, demonstrating that even organizations with significant resources and security expertise have challenges securing their identities. Any such access, disclosure, or other loss of information could result in legal claims or proceedings, liability under laws that protect the privacy of personal information, regulatory penalties, a disruption of our operations, damage to our reputation, or a loss of confidence in our business, any of which could adversely affect our business, revenues, and competitive position.

Our future success depends on our key executive officers and our ability to attract, retain, and motivate qualified personnel.

Our future success largely depends upon the continued services of our executive officers and management team, especially our Chief Executive Officer and President, Mr. John “Hil” Davis. If one or more of our executive officers are unable or unwilling to continue in their present positions, we may not be able to replace them readily, if at all. Additionally, we may incur additional expenses to recruit and retain new executive officers. If any of our executive officers joins a competitor or forms a competing company, we may lose some or all of our customers. Finally, we do not maintain “key person” life insurance on any of our executive officers. Because of these factors, the loss of the services of any of these key persons could adversely affect our business, financial condition, and results of operations, and thereby an investment in our stock.

In addition, our continuing ability to attract and retain highly qualified personnel, especially employees with experience in the fashion and fitness industries, will also be critical to our success because we will need

to hire and retain additional personnel as our business grows. There can be no assurance that we will be able to attract or retain highly qualified personnel. We face significant competition for skilled personnel in our industries. This competition may make it more difficult and expensive to attract, hire, and retain qualified managers and employees. Because of these factors, we may not be able to effectively manage or grow our business, which could adversely affect our financial condition or business. As a result, the value of your investment could be significantly reduced or completely lost.

If we cannot successfully protect our intellectual property, our business could suffer.

We rely on a combination of intellectual property rights, contractual protections and other practices to protect our brand, proprietary information, technologies and processes. We primarily rely on copyright and trade secret laws to protect our proprietary technologies and processes, including the algorithms we use throughout our business. Others may independently develop the same or similar technologies and processes, or may improperly acquire and use information about our technologies and processes, which may allow them to provide a service similar to ours, which could harm our competitive position. Our principal trademark assets include the registered trademarks "DSTLD", "Bailey 44" and "ACE STUDIOS" and "STATESIDE" and our logos and taglines. Our trademarks are valuable assets that support our brand and consumers' perception of our services and merchandise. We also hold the rights to the "www.digitalbrandsgroup.co", "www.dstld.com", "www.bailey44.com", "www.harperandjones.com", and "www.shopstateside.com". Internet domain name and various related domain names, which are subject to Internet regulatory bodies and trademark and other related laws of each applicable jurisdiction. If we are unable to protect our trademarks or domain names, our brand recognition and reputation would suffer, we would incur significant expense establishing new brands and our operating results would be adversely impacted. Further, to the extent we pursue patent protection for our innovations, patents we may apply for may not issue, and patents that do issue or that we acquire may not provide us with any competitive advantages or may be challenged by third parties. There can be no assurance that any patents we obtain will adequately protect our inventions or survive a legal challenge, as the legal standards relating to the validity, enforceability and scope of protection of patent and other intellectual property rights are uncertain. We may be required to spend significant resources to monitor and protect our intellectual property rights, and the efforts we take to protect our proprietary rights may not be sufficient.

If the technology-based systems that give our customers the ability to shop with us online do not function effectively, our operating results could be materially adversely affected.

A substantial number of our customers currently shop with us through our e-commerce website and mobile application. Increasingly, customers are using tablets and smart phones to shop online with us and with our competitors and to do comparison shopping. Any failure on our part to provide an attractive, effective, reliable, user-friendly e-commerce platform that offers a wide assortment of merchandise with rapid delivery options and that continually meet the changing expectations of online shoppers could place us at a competitive disadvantage, result in the loss of sales, harm our reputation with customers, and could have a material adverse impact on our business and results of operations.

Organizations face growing regulatory and compliance requirements.

New and evolving regulations and compliance standards for cyber security, data protection, privacy, and internal IT controls are often created in response to the tide of cyber-attacks and will increasingly impact organizations. Existing regulatory standards require that organizations implement internal controls for user access to applications and data. In addition, data breaches are driving a new wave of regulation with stricter enforcement and higher penalties. Regulatory and policy-driven obligations require expensive and time-consuming compliance measures. The fear of non-compliance, failed audits, and material findings has pushed organizations to spend more to ensure they are in compliance, often resulting in costly, one-off implementations to mitigate potential fines or reputational damage. Any substantial costs associated with failing to meet regulatory requirements, combined with the risk of fallout from security breaches, could have a material adverse effect on our business and brand.

Our failure to comply with trade and other regulations could lead to investigations or actions by government regulators and negative publicity.

The labeling, distribution, importation, marketing and sale of our products are subject to extensive regulation by various federal agencies, including the Federal Trade Commission, Consumer Product Safety Commission and state attorneys general in the U.S., as well as by various other federal, state, provincial, local and international regulatory authorities in the locations in which our products are distributed or sold. If we fail to comply with those regulations, we could become subject to significant penalties or claims or be required to recall products, which could negatively impact our results of operations and disrupt our ability to conduct our business, as well as damage our brand image with consumers. In addition, the adoption of new regulations or changes in the interpretation of existing regulations may result in significant unanticipated compliance costs or discontinuation of product sales and may impair the marketing of our products, resulting in significant loss of net revenues.

Our international operations are also subject to compliance with the U.S. Foreign Corrupt Practices Act, or FCPA, and other anti-bribery laws applicable to our operations. Although we have policies and procedures to address compliance with the FCPA and similar laws, there can be no assurance that all of our employees, agents and other partners will not take actions in violations of our policies. Any such violation could subject us to sanctions or other penalties that could negatively affect our reputation, business and operating results.

Our business is affected by seasonality.

Our business is affected by the general seasonal trends common to the retail apparel industry. This seasonality may adversely affect our business and cause our results of operations to fluctuate, and, as a result, we believe that comparisons of our operating results between different quarters within a single fiscal year are not necessarily meaningful and that results of operations in any period should not be considered indicative of the results to be expected for any future period.

Risk Factors Related to Our Common Stock

We are required to register additional shares of common stock to be issued in connection with the Equity Purchase Agreement. The sale of such shares could depress the market price of our common stock.

We are required to register additional shares of common stock for issuance in connection with the Equity Purchase Agreement. The sale of these shares into the public market by the selling stockholders could depress the market price of our common stock.

Shares eligible for future sale by our current stockholders may adversely affect our stock price.

The sale of a significant number of shares of our common stock at any particular time could be difficult to achieve at the market prices prevailing immediately before such shares are offered. In addition, sales of substantial amounts of our common stock, including shares issued upon the exercise of outstanding options and warrants, under Securities and Exchange Commission Rule 144 or otherwise could adversely affect the prevailing market price of our common stock and could impair our ability to raise capital at that time through the sale of our securities.

We have never paid or declared any dividends on our common stock.

We have never paid or declared any dividends on our common stock. Likewise, we do not anticipate paying, in the near future, dividends or distributions on our common stock or our common stock to be sold in this offering. Any future dividends will be declared at the discretion of our board of directors and will depend, among other things, on our earnings, our financial requirements for future operations and growth, and other facts as we may then deem appropriate.

Our directors have the right to authorize the issuance of shares of our preferred stock and additional shares of our common stock.

Our directors, within the limitations and restrictions contained in our Sixth Amended and Restated Certificate of Incorporation and without further action by our stockholders, have the authority to issue

shares of preferred stock from time to time in one or more series and to fix the number of shares and the relative rights, conversion rights, voting rights, and terms of redemption, liquidation preferences and any other preferences, special rights and qualifications of any such series. There are currently no shares of preferred stock outstanding. We have no intention of issuing shares of preferred stock at the present time. Any issuance of shares of preferred stock could adversely affect the rights of holders of our common stock.

If we issue additional shares of our common stock at a later time, each investor's ownership interest in our stock would be proportionally reduced. No investor will have any preemptive right to acquire additional shares of our common stock, or any of our other securities.

The elimination of monetary liability against our directors under our Sixth Amended and Restated Certificate of Incorporation and the existence of indemnification rights to our directors, officers and employees may result in substantial expenditures and may discourage lawsuits against our directors, officers and employees.

Our Sixth Amended and Restated Certificate of Incorporation contains provisions that eliminate the liability of our directors for monetary damages to us and our stockholders. Our bylaws also require us to indemnify our officers and directors. We may also have contractual indemnification obligations under our agreements with our directors, officers and employees. The foregoing indemnification obligations could result in us incurring substantial expenditures to cover the cost of settlement or damage awards against directors, officers and employees, which we may be unable to recoup. These provisions and resultant costs may also discourage us from bringing a lawsuit against directors, officers and employees for breaches of their fiduciary duties, and may similarly discourage the filing of derivative litigation by our stockholders against our directors, officers and employees, even though such actions, if successful, might otherwise benefit us and our stockholders.

Anti-takeover provisions may impede the acquisition of our company.

Certain provisions of Delaware law and our Sixth Amended and Restated Certificate of Incorporation and bylaws have anti-takeover effects and may inhibit a non-negotiated merger or other business combination. These provisions are intended to encourage any person interested in acquiring our company to negotiate with, and to obtain the approval of, our board of directors in connection with such a transaction. As a result, certain of these provisions may discourage a future acquisition of our company, including an acquisition in which the stockholders might otherwise receive a premium for their shares.

You may be unable to sell your common stock at or above your purchase price, which may result in substantial losses to you.

The following factors may add to the volatility in the price of our common stock: actual or anticipated variations in our quarterly or annual operating results; government regulations, announcements of significant acquisitions, strategic partnerships or joint ventures; our capital commitments; and additions or departures of our key personnel. Many of these factors are beyond our control and may decrease the market price of our common stock, regardless of our operating performance. We cannot make any predictions or projections as to what the prevailing market price for our common stock will be at any time, including as to whether our common stock will sustain the current market price, or as to what effect the sale of shares or the availability of common stock for sale at any time will have on the prevailing market price.

Volatility in our common stock price may subject us to securities litigation.

The market for our common stock is characterized by significant price volatility when compared to seasoned issuers, and we expect that our share price will be more volatile than a seasoned issuer for the indefinite future. In the past, plaintiffs have often initiated securities class action litigation against a company following periods of volatility in the market price of its securities. We may in the future be the target of similar litigation. Securities litigation could result in substantial costs and liabilities and could divert management's attention and resources.

We may need to raise additional capital. If we are unable to raise necessary additional capital, our business may fail or our operating results and our stock price may be materially adversely affected.

We may need to secure adequate funding. If we are unable to obtain adequate funding, we may not be able to successfully develop and market our proposed products and our business will most likely fail. We do

not have commitments for additional financing, other than the Equity Purchase Agreement with Oasis Capital. To secure additional financing, we may need to borrow money or sell more securities, which may reduce the value of our outstanding securities. We may be unable to secure additional financing on favorable terms or at all.

Issuing additional stock, either privately or publicly, would dilute the equity interests of our stockholders. If we borrow more money, we will have to pay interest and may also have to agree to restrictions that limit our operating flexibility. If we are unable to obtain adequate financing, we may have to curtail business operations, which would have a material negative effect on operating results and most likely result in a lower stock price.

An active trading market in our shares and warrants may not be sustained.

Although our shares of common stock and warrants are listed for sale on the NasdaqCM, currently there is only a limited trading market in our shares and warrants. An active trading market in our shares or warrants may not be sustained. Factors such as those discussed in this "Risk Factors" section may have a significant impact upon the market price of the securities to be distributed by us. Many brokerage firms may not be willing to participate in transactions in a security if a low price develops in the trading of the security. Even if a purchaser finds a broker willing to effect a transaction in our securities, the combination of brokerage commissions, state transfer taxes, if any, and any other selling costs may exceed the selling price. Further, many lending institutions will not permit the use of our securities as collateral for any loans.

We may incur significant costs to ensure compliance with U.S. corporate governance and accounting requirements.

We may incur significant costs associated with our public company reporting requirements, costs associated with newly applicable corporate governance requirements, including requirements under the Sarbanes-Oxley Act of 2002 and other rules implemented by the SEC. We expect all of these applicable rules and regulations to increase our legal and financial compliance costs and to make some activities more time-consuming and costly.

We also expect that these applicable rules and regulations may make it more difficult and more expensive for us to obtain director and officer liability insurance and we may be required to accept reduced policy limits and coverage or incur substantially higher costs to obtain the same or similar coverage. As a result, it may be more difficult for us to attract and retain qualified individuals to serve on our board of directors or as executive officers. We are currently evaluating and monitoring developments with respect to these newly applicable rules, and we cannot predict or estimate the amount of additional costs we may incur or the timing of such costs.

We will likely be required to raise additional financing by issuing new securities with terms or rights superior to those of our shares of common stock, which could adversely affect the market price of our shares of common stock.

We will likely require additional financing to fund future operations, including expansion in current and new markets, programming development and acquisition, capital costs and the costs of any necessary implementation of technological innovations or alternative technologies. We may not be able to obtain financing on favorable terms, if at all. If we raise additional funds by issuing equity securities, the percentage ownership of our current stockholders will be reduced, and the holders of the new equity securities may have rights superior to those of the holders of shares of common stock, which could adversely affect the market price and the voting power of shares of our common stock. If we raise additional funds by issuing debt securities, the holders of these debt securities would similarly have some rights senior to those of the holders of shares of common stock, and the terms of these debt securities could impose restrictions on operations and create a significant interest expense for us.

We may have difficulty raising necessary capital to fund operations as a result of market price volatility for our shares of common stock.

In recent years, the securities markets in the United States have experienced a high level of price and volume volatility, and the market price of securities of many companies have experienced wide fluctuations

that have not necessarily been related to the operations, performances, underlying asset values or prospects of such companies. For these reasons, our shares of common stock can also be expected to be subject to volatility resulting from purely market forces over which we will have no control. If our business development plans are successful, we may require additional financing to continue to develop and exploit existing and new technologies and to expand into new markets. The exploitation of our technologies may, therefore, be dependent upon our ability to obtain financing through debt and equity or other means.

SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS

This prospectus includes forward-looking statements within the meaning of U.S. federal securities laws, which involve risks and uncertainties. These forward-looking statements can be identified by the use of forward-looking terminology, including the terms "believe," "estimate," "project," "aim," "anticipate," "expect," "seek," "predict," "contemplate," "continue," "possible," "intend," "may," "plan," "forecast," "future," "might," "will," "could," would" or "should" or, in each case, their negative, or other variations or comparable terminology. These forward-looking statements include all matters that are not historical facts. They appear in a number of places throughout this prospectus and include statements regarding our intentions, beliefs or current expectations concerning, among other things, our results of operations, financial condition, liquidity, prospects, growth strategies, the industry in which we operate and potential acquisitions. We derive many of our forward-looking statements from our operating budgets and forecasts, which are based upon many detailed assumptions. While we believe that our assumptions are reasonable, we caution that it is very difficult to predict the impact of known factors, and, of course, it is impossible for us to anticipate all factors that could affect our actual results. All forward-looking statements are based upon information available to us on the date of this prospectus.

By their nature, forward-looking statements involve risks and uncertainties because they relate to events and depend on circumstances that may or may not occur in the future. We caution you that forward-looking statements are not guarantees of future performance and that our actual results of operations, financial condition and liquidity, and the stability of the industry in which we operate may differ materially from those made in or suggested by the forward-looking statements contained in this prospectus. In addition, even if our results of operations, financial condition and liquidity and the development of the industry in which we operate are consistent with the forward-looking statements contained in this prospectus, those results or developments may not be indicative of results or developments in subsequent periods. Important factors that could cause our results to vary from expectations include, but are not limited to:

- the highly fragmented and competitive nature of our industry;
- our ability to successfully locate and acquire companies in the apparel business, to obtain debt financing for that purpose and to successfully integrate them into our business and manage our internal growth;
- loss of any of our executives and managers;
- quarterly variations in our operating results;
- our ability to attract and retain qualified employees while controlling labor costs;
- our ability to manage our working capital to facilitate our inventory management;
- disruptions in the manufacturing and supply chains;
- our ability to adapt our product offerings to changing preferences and consumer tastes;
- our exposure to claims relating to employment violations and workplace injuries;
- our exposure to claims arising from our acquired operations;
- the potential for asset impairments when we acquire businesses;
- disruptions in our information technology systems;
- restrictions imposed on our operations by our credit facility and by other indebtedness we may incur in the future;
- our ability to implement and maintain effective internal control over financial reporting; and
- additional factors discussed under the "Risk Factors" section.

Other sections of this prospectus include additional factors that could adversely impact our business and financial performance. In light of these risks, uncertainties and assumptions, the forward-looking events described in this prospectus may not occur. Moreover, we operate in an evolving environment. New risk factors and uncertainties emerge from time to time, and it is not possible for our management to predict

all risk factors and uncertainties, nor can we assess the impact of all factors on our business or the extent to which any factor, or acquisition of factors, may cause actual results to differ materially from those contained in any forward-looking statements. We qualify all of our forward-looking statements by these cautionary statements.

Estimates and forward-looking statements speak only as of the date they were made, and, except to the extent required by law, we undertake no obligation to update or to review any estimate and/or forward-looking statement because of new information, future events or other factors. Estimates and forward-looking statements involve risks and uncertainties and are not guarantees of future performance. As a result of the risks and uncertainties described above, the estimates and forward-looking statements discussed in this prospectus might not occur and our future results and our performance may differ materially from those expressed in these forward-looking statements due to, but not limited to, the factors mentioned above. Because of these uncertainties, you should not place undue reliance on these forward-looking statements when making an investment decision.

USE OF PROCEEDS

All securities sold pursuant to this prospectus will be offered and sold by the selling stockholders. We will not receive any proceeds from the sale of common stock offered by the selling stockholders.

DIVIDEND POLICY

We have never declared or paid any cash dividends on our capital stock and do not anticipate paying any cash dividends in the foreseeable future. We currently expect to retain future earnings, if any, to finance the growth and development of our business. Any future determination to declare cash dividends will be made at the discretion of our board of directors, subject to applicable laws, and will depend on a number of factors, including our financial condition, results of operations, capital requirements, contractual restrictions, general business conditions, and other factors that our board of directors may deem relevant. In addition, the terms of the credit facility that we entered into concurrently with the IPO may place certain limitations on the amount of cash dividends we can pay, even if no amounts are currently outstanding.

MARKET PRICE OF AND DIVIDENDS ON COMMON STOCK AND RELATED STOCKHOLDER MATTERS

Market Information

Our common stock and warrants are quoted on the NasdaqCM under the symbols DBGI and DBGIW, respectively. Until May 2021, there was no public market for our common stock or warrants.

The following table sets forth the high and low sales prices as reported on the NasdaqCM. The quotations reflect inter-dealer prices, without retail mark-up, mark-down or commission, and may not represent actual transactions.

Common Stock Quarter Ended	High	Low
June 30, 2021	$7.50	$2.80
September 30, 2021	$8.80	$2.32

Warrants Quarter Ended	High	Low
June 30, 2021	$2.84	$0.30
September 30, 2021	$3.71	$0.56

The last reported sales price of our common stock on the NasdaqCM on November 23, 2021 was 3.03.

Holders

As of November 23, 2021, there were approximately 3,794 stockholders of record of our common stock.

SELECTED FINANCIAL DATA

The selected historical financial information for the years ended December 31, 2020 and 2019 represents the historical financial information of DBG. The statements of operations data for the years ended December 31, 2020 and 2019 have been derived from the audited financial statements of DBG included elsewhere in this prospectus. We have derived the statements of operations data for the nine months ended September 30, 2021 and 2020 and the balance sheet data as of September 30, 2021 from the unaudited financial statements of the Company appearing elsewhere in this prospectus. Our historical results are not necessarily indicative of the results that should be expected in any future periods and our results for any interim period are not necessarily indicative of results that should be expected for any full year.

The unaudited pro forma condensed combined financial data for the nine months ended September 30, 2021 and the years ended December 31, 2020 and 2019 represents the historical financial information of DBG and gives effect to the acquisition of Bailey in February 2020, that of H&J in May 2021 and that of Stateside in August 2021. The pro forma adjustments are based on currently available information and certain estimates and assumptions, and, therefore, the actual effects of the offering and the acquisition as reflected in the pro forma data may differ from the effects reflected below. However, management believes that the assumptions provide a reasonable basis for presenting the significant effects of the offering and acquisitions as contemplated and that the pro forma adjustments give appropriate effect to those assumptions. During the periods presented, DBG, Bailey, H&J and Stateside were not under common control or management and, therefore, the data presented may not be comparable to, or indicative of, post-acquisition results.

You should review the information below together with "Management's Discussion and Analysis of Financial Condition and Results of Operations," the Unaudited Pro Forma Combined Financial Information and the related notes beginning on page F-1 of this prospectus, and the audited and unaudited interim financial statements of DBG, Bailey, H&J and Stateside and the related notes all included elsewhere in this prospectus.

	Nine Months Ended September 30,		
	2021 Pro Forma	2021 Actual	2020 Actual
	(unaudited)	(unaudited)	(unaudited)
Net revenues	$ 7,824,956	$ 3,575,214	$ 4,475,507
Cost of net revenues	3,723,720	2,179,023	3,884,864
Gross profit	4,101,236	1,396,191	590,643
Operating expenses	26,060,482	22,500,331	7,458,722
Operating loss	(21,959,246)	(21,104,140)	(6,868,079)
Other expenses	(3,496,221)	(2,655,460)	(1,207,244)
Loss before provision for income taxes	(25,455,467)	(23,759,600)	(8,075,323)
Benefit (provision) for income taxes	1,100,120	1,100,120	(13,657)
Net loss	$(24,355,347)	$(22,659,480)	(8,088,980)

	Year Ended December 31,		
	2020 Pro Forma	2020 Actual	2019 Actual
	(unaudited)		
Net revenues	$ 12,989,493	$ 5,239,437	$ 3,034,216
Cost of net revenues	8,089,592	4,685,755	1,626,505
Gross profit	4,899,902	553,682	1,407,711
Operating expenses	18,372,629	9,701,572	6,255,180
Operating loss	(13,472,727)	(9,147,890)	(4,847,469)

	Year Ended December 31,		
	2020 Pro Forma	2020 Actual	2019 Actual
	(unaudited)		
Other expenses	(3,308,887)	(1,566,764)	(805,704)
Loss before provision for income taxes	(16,781,614)	(10,714,654)	(5,653,173)
Benefit (provision) for income taxes	(14,441)	(13,641)	(800)
Net loss	$(16,796,055)	$(10,728,295)	$(5,653,973)

	As of September 30, 2021	
	Actual	Pro Forma
	(unaudited)	
Total cash	$ 254,527	$ 3,929,527
Total current assets	5,474,460	9,149,460
Total assets	40,664,284	44,339,284
Total current liabilities including current portion of long-term debt	23,669,092	24,068,692
Total long-term obligations	15,532,391	19,207,391
Total liabilities	39,201,483	43,276,083
Total stockholders' equity	1,462,801	1,063,201
Total liabilities and stockholders' equity	$40,664,284	$44,339,284

UNAUDITED PRO FORMA COMBINED FINANCIAL INFORMATION

The following unaudited pro forma combined financial information presents the unaudited pro forma combined balance sheet and statement of operations based upon the combined historical financial statements of DBG, Bailey, H&J and Stateside after giving effect to the business combinations and adjustments described in the accompanying notes.

The unaudited pro forma combined balance sheets of DBG, Bailey, H&J and Stateside as of September 30, 2021 has been prepared to reflect the effects of the acquisitions as if they occurred on January 1, 2021. The unaudited pro forma combined statements of operations for the nine months ended September 30, 2021 and year ended December 31, 2020 combine the historical results and operations of Bailey, H&J, Stateside and DBG giving effect to the transaction as if it occurred on January 1, 2020.

The unaudited pro forma combined financial information should be read in conjunction with the audited and unaudited historical financial statements of each of DBG, Bailey, H&J and Stateside and the notes thereto. Additional information about the basis of presentation of this information is provided in Note 2 below.

The unaudited pro forma combined financial information was prepared in accordance with Article 11 of Regulation S-X. The unaudited pro forma adjustments reflecting the transaction have been prepared in accordance with business combination accounting guidance as provided in *Accounting Standards Codification Topic 805, Business Combinations* and reflect the preliminary allocation of the purchase price to the acquired assets and liabilities based upon the preliminary estimate of fair values, using the assumptions set forth in the notes to the unaudited pro forma combined financial information.

The unaudited pro forma combined financial information is provided for informational purposes only and is not necessarily indicative of the operating results or financial position that would have occurred if the transaction had been completed as of the dates set forth above, nor is it indicative of the future results or financial position of the combined company. In connection with the pro forma financial information, DBG allocated the purchase price using its best estimates of fair value. Accordingly, the pro forma acquisition price adjustments are preliminary and subject to further adjustments as additional information becomes available and as additional analyses are performed. The unaudited pro forma combined financial information also does not give effect to the potential impact of current financial conditions, any anticipated synergies, operating efficiencies or cost savings that may result from the transaction or any integration costs. Furthermore, the unaudited pro forma combined statements of operations do not include certain nonrecurring charges and the related tax effects which result directly from the transaction as described in the notes to the unaudited pro forma combined financial information.

UNAUDITED PROFORMA COMBINED STATEMENT OF OPERATIONS
FOR THE NINE MONTHS ENDED SEPTEMBER 30, 2021

	DBG	H&J	Stateside	Total	Pro Forma Adjustments		Pro Forma Combined
Net revenues	$ 3,575,214	$ 980,261	$3,269,481	$ 7,824,956	$ —		$ 7,824,956
Cost of net revenues	2,179,023	350,004	1,194,693	3,723,720	—		3,723,720
Gross profit	1,396,191	630,257	2,074,788	4,101,236	—		4,101,236
Operating expenses:							
General and administrative	12,820,841	410,891	1,147,168	14,378,900	1,022,727	(a)	15,401,626
Sales and marketing	2,401,322	349,338	514,742	3,265,402	—		3,265,402
Distribution	238,774	—	115,286	354,060	—		354,060
Change in fair value of contingent consideration	7,039,394	—	—	7,039,394	—		7,039,394
Total operating expenses	22,500,331	760,229	1,777,195	25,037,756	1,022,727		26,060,482
Loss from operations	(21,104,140)	(129,972)	297,593	(20,936,519)	(1,022,727)		(21,959,246)
Other income (expense):							
Interest expense	(2,020,806)	(33,668)	—	(2,054,474)	(794,600)	(b)	(2,849,074)
Other non-operating income (expenses)	(634,654)	—	(12,494)	(647,148)	—		(647,148)
Total other income (expense), net	(2,655,460)	(33,668)	(12,494)	(2,701,621)	(794,600)		(3,496,221)
Income tax benefit (provision)	1,100,120	—	—	1,100,120	—		1,100,120
Net income (loss)	$(22,659,480)	$(163,640)	$ 285,099	$(22,538,021)	$(1,817,327)		$(24,355,347)

UNAUDITED PROFORMA COMBINED STATEMENT OF OPERATIONS
FOR THE YEAR ENDED DECEMBER 31, 2020

	DBG	Bailey	H&J	Stateside	Total	Pro Forma Adjustments		Pro Forma Combined
Net revenues	$ 5,239,437	$2,019,823	$2,542,721	$3,187,512	$ 12,989,493	$ —		$ 12,989,493
Cost of net revenues	4,685,755	1,020,237	897,873	1,485,726	8,089,592	—		8,089,592
Gross profit	553,682	999,586	1,644,848	1,701,786	4,899,902	—		4,899,902
Operating expenses:								
General and administrative	7,149,210	1,439,879	1,044,397	1,192,241	10,825,728	2,353,637	(a)	13,179,365
Sales and marketing	576,469	483,657	1,163,124	838,638	3,061,889	—		3,061,889
Distribution	342,466	—	—	155,483	497,949	—		497,949
Loss on disposal of property and equipment	848,927	—	—	—	848,927	—		848,927
Impairment of intangible assets	784,500	—	—	—	784,500	—		784,500
Total operating expenses	9,701,572	1,923,536	2,207,521	2,186,362	16,018,992	2,353,637		18,372,629
Loss from operations	(9,147,890)	(923,950)	(562,673)	(484,577)	(11,119,090)	(2,353,637)		(13,472,727)
Other income (expense):								
Interest expense	(1,599,518)	(25,396)	(92,270)	—	(1,717,184)	(1,634,567)	(b)	(3,351,751)
Gain on forgiveness of debt	—	—	225,388	261,035	486,423	(486,423)	(d)	—
Other non-operating income (expenses)	32,754	—	10,110	—	42,864	—		42,864
Total other income (expense), net	(1,566,764)	(25,396)	143,228	261,035	(1,187,897)	(2,120,990)		(3,308,887)
Provision for income taxes	13,641	—	—	800	14,441	—		14,441
Net loss	$(10,728,295)	$ (949,346)	$ (419,446)	$ (224,341)	$(12,321,428)	$(4,474,627)		$(16,796,055)

UNAUDITED PROFORMA COMBINED BALANCE SHEET
AS OF SEPTEMBER 30, 2021

	DBG	Total	Pro Forma Adjustments		Pro Forma Combined
ASSETS					
Current assets:					
Cash and cash equivalents	$ 254,527	$ 254,527	$ 3,675,000		$ 3,929,527
Accounts receivable, net	272,264	272,264	—		272,264
Due from factor, net	1,094,309	1,094,309	—		1,094,309
Inventory	2,327,542	2,327,542	—		2,327,542
Prepaid expenses and other current assets	1,525,818	1,525,818	—		1,525,818
Total current assets	5,474,460	5,474,460	3,675,000		9,149,460
Deferred offering costs	367,696	367,696	—		367,696
Property, equipment and software, net	97,862	97,862	—		97,862
Goodwill	17,771,031	17,771,031	—		17,771,031
Intangible assets, net	16,779,126	16,779,126	—		16,779,126
Deposits	174,109	174,109	—		174,109
Total assets	$ 40,664,284	$ 40,664,284	$ 3,675,000		$ 44,339,284
LIABILITIES AND STOCKHOLDERS' EQUITY					
Current liabilities:	$ 6,855,352	$ 6,855,352	$ —		$ 6,855,352
Accrued expenses and other liabilities	1,853,954	1,853,954	—		1,853,954
Deferred revenue	193,023	193,023	—		193,023
Due to related parties	232,635	232,635	—		232,635
Contingent consideration liability	10,527,910	10,527,910	—		10,527,910
Convertible notes, current	100,000	100,000	—		100,000
Accrued interest payable	855,729	855,729	399,600	(b)	1,255,329
Note payable — related party	299,489	299,489	—		299,489
Venture debt, current	300,000	300,000	—		300,000
Loan payable, current	1,796,000	1,796,000	—		1,796,000
Promissory note payable, current	655,000	655,000	—		655,000
Total current liabilities	23,669,092	23,669,092	399,600		24,068,692
Convertible notes	2,793,385	2,793,385	3,675,000	(c)	6,468,385
Loan payable	1,677,213	1,677,213	—		1,677,213
Promissory note payable	2,845,000	2,845,000	—		2,845,000
Venture debt, net of discount	5,701,755	5,701,755	—		5,701,755
Derivative liability	2,486,843	2,486,843	—		2,486,843
Warrant liability	28,195	28,195	—		28,195
Total liabilities	39,201,483	39,201,483	4,074,600		43,276,083
Stockholders' equity:					
Common stock	1,263	1,263	—		1,263
Additional paid-in capital	57,467,015	57,467,015	—		57,467,015
Accumulated deficit	(56,005,477)	(56,005,477)	(399,600)		(56,405,077)
Total stockholders' equity	1,462,801	1,462,801	(399,600)		1,063,201
Total liabilities and stockholders' equity	$ 40,664,284	$ 40,664,284	$ 3,675,000		$ 44,339,284

1. Description of Transactions

Bailey 44

Prior to the merger, Bailey had (a) membership interests consisting of Preferred Units, Common Units and Performance Units (collectively, the "Membership Units") outstanding and (b) entered into certain Phantom Performance Unit Agreements (the "Phantom Performance Units"). All Preferred Units were held by Norwest Venture Partners XI, LP and Norwest Venture Partners XII, LP (the "Holders"). As a result of the merger, (A) each Preferred Unit issued and outstanding immediately prior to the effective time of the merger was converted (and when so converted, was automatically cancelled and retired and ceased to exist) in exchange for the right to receive a portion of (i) an aggregate of 20,754,717 newly issued shares of Series B Preferred Stock, par value $0.0001 per share, of DBG (the "Parent Stock") and (ii) a promissory note in the principal amount of $4,500,000, (B) all other Membership Units other than the Preferred Units as well as all Phantom Performance Units were cancelled and no consideration was delivered in exchange therefor, and (C) Bailey became the wholly-owned subsidiary of DBG. The Articles of Incorporation were amended to authorize the newly issued shares of Series B Preferred Stock, par value $0.0001 per share, of DBG (the "Parent Stock").

Of the shares of Parent Stock issued in connection with the merger, 16,603,773 shares were delivered on the effective date of the merger (the "Initial Shares") and 4,150,944 shares were held back solely, and only to the extent necessary, to satisfy any indemnification obligations of Bailey or the Holders pursuant to the terms of the Merger Agreement (the "Holdback Shares").

DBG agreed that if at that date which is one year from the closing date of DBG's initial public offering, the product of the number of shares of Parent Stock issued under the Merger Agreement multiplied by the sum of the closing price per share of the common stock of DBG on such date as quoted on Nasdaq, the New York Stock Exchange or other stock exchange or interdealer quotation system, as the case may be, plus Sold Parent Stock Gross Proceeds (as that term is defined in the Merger Agreement) does not exceed the sum of $11,000,000 less the value of any Holdback Shares cancelled further to the indemnification provisions of the Merger Agreement, then DBG shall issue to the Holders pro rata an additional aggregate number of shares of common stock of DBG equal to the valuation shortfall at a per share price equal to the then closing price per share of the common stock of DBG as quoted on the Nasdaq, the New York Stock Exchange or other stock exchange or interdealer quotation system, as the case may be. Concurrently, DBG will cause an equivalent number of shares of common stock or common stock equivalents held by affiliated stockholders of DBG prior to the date of the Merger Agreement to be cancelled pro rata in proportion to the number of shares of common stock of DBG held by each of them.

In addition, DBG agreed that at all times from the date of the Merger Agreement until the date immediately preceding the effective date of DBG's initial public offering, in no event will the number of shares of Parent Stock issued pursuant to the Merger Agreement represent less than 9.1% of the outstanding capital stock of DBG on a fully-diluted basis. DBG agreed that in the event that, at any time prior to the date immediately preceding the effective date of DBG's initial public offering, the shares of Parent Stock issued pursuant to the Merger Agreement represent less than 9.1% of the outstanding capital stock of DBG on a fully-diluted basis, DBG shall promptly issue new certificates evidencing additional shares of Parent Stock to the Holders such that the total number of shares of Parent Stock issued pursuant to the Merger Agreement is not less than 9.1% of DBG's outstanding capital stock on a fully-diluted basis as of such date.

Harper & Jones

On October 14, 2020, DBG entered into a Membership Interest Purchase Agreement (the "Agreement") with D. Jones Tailored Collection, Ltd., a Texas limited partnership ("Seller"), to acquire all of the outstanding membership interests of H&J concurrent with the closing of an initial public offering by DBG (the "Transaction"). Pursuant to the Agreement, Seller, as the holder of all of the outstanding membership interests of H&J, exchanged all of such membership interests for a number of common stock of DBG equal to the lesser of (i) $9.1 million at a per share price equal to the initial public offering price of DBG's shares offered pursuant to its initial public offering; or (ii) the number of Subject Acquisition Shares; "Subject Acquisition Shares" means the percentage of the aggregate number of shares of DBG's common stock issued pursuant to the Agreement, which is the percentage that Subject Seller Dollar Value is in relation to Total Dollar Value. "Subject Seller Dollar Value" means $9.1 million. "Total Dollar Value" means the sum of Existing Holders Dollar Value plus the Bailey Holders Dollar Value plus the aggregate dollar value with respect to all other acquisitions to be completed by DBG concurrently with its initial public offering (including the Subject Seller Dollar Value). "Existing Holders Dollar Value" means $40.0 million. "Bailey Holders Dollar Value" means $11.0 million. In addition, DBG contributed to H&J a $500,000 cash payment that was allocated towards H&J's debt outstanding immediately prior to the closing of the Transaction. Twenty percent of the shares of DBG issued to Seller at the closing was issued into escrow to cover possible indemnification obligations of Seller and post-closing adjustments under the Agreement.

If, at the one year anniversary of the closing date of DBG's initial public offering, the product of the number of shares of DBG's common stock issued at the closing of the Transaction multiplied by the average closing price per share of the shares of DBG's common stock as quoted on the NasdaqCM for the thirty (30) day trading period immediately preceding such date plus Sold Buyer Shares Gross Proceeds does not exceed the sum of $9.1 million less the value of any shares of DBG's common stock cancelled further to any indemnification claims made against Seller or post-closing adjustments under the Agreement, then DBG shall issue to Seller an additional aggregate number of shares of DBG's common stock equal to the valuation shortfall at a per share price equal to the then closing price per share of DBG's common stock as quoted on the NasdaqCM (the "Valuation Shortfall").

Concurrently, DBG will cause a number of shares of DBG's common stock or common stock equivalents held by certain of its affiliated stockholders prior to the closing of the Transaction to be cancelled in an equivalent Dollar amount as the Valuation Shortfall on a pro rata basis in proportion to the number of shares of DBG's common stock or common stock equivalents held by each of them. "Sold Buyer Shares Gross Proceeds" means the aggregate gross proceeds received by Seller from sales of Sold Buyer Shares within the period that is one (1) year from the closing date. "Sold Buyer Shares" means shares of DBG's common stock issued to Seller further to the Transaction and which are sold by Seller within the period that is one (1) year from the closing of the Transaction.

Stateside

On August 30, 2021, we entered into a Membership Interest Purchase Agreement (the "MIPA") with Moise Emquies pursuant to which we acquired all of the issued and outstanding membership interests of MOSBEST, LLC, a California limited liability company ("Stateside" and such transaction, the "Stateside Acquisition"). Pursuant to the MIPA, Moise Emquies, as the holder of all of the outstanding membership interests of Stateside, exchanged all of such membership interests for $5.0 million in cash and a number of 1,101,538 shares of our common stock (the "Shares"), which number of Shares was calculated in accordance with the terms of the MIPA. Of such amount, $375,000 in cash and a number of Shares equal to $375,000, or 82,615 shares (calculated in accordance with the terms of the MIPA), is held in escrow to secure any working capital adjustments and indemnification claims. The MIPA contains customary representations, warranties and covenants by Moise Emquies.

The Stateside Acquisition closed on August 30, 2021. Upon closing of the Stateside Acquisition and the other transactions contemplated by the MIPA, Stateside became a wholly-owned subsidiary of the Company.

In connection with the Stateside acquisition, on August 27, 2021, the Company entered into a Securities Purchase Agreement with Oasis Capital further to which Oasis Capital purchased a senior secured convertible note (the "Note"), with an interest rate of 6% per annum, having a face value of $5,265,000 for a total purchase price of $5,000,000, secured by an all assets of the Company.

The Note, in the principal amount of $5,265,000, bears interest at 6% per annum and is due and payable 18 months from the date of issuance, unless sooner converted. The Note is convertible at the option of Oasis Capital into shares of the Company's common stock at a conversion price (the "Conversion Price") which is the lesser of (i) $3.601, and (ii) 90% of the average of the two lowest VWAPs during the five consecutive trading day period preceding the delivery of the notice of conversion. Oasis Capital is not permitted to submit conversion notices in any thirty day period having conversion amounts equaling, in the aggregate, in excess of $500,000. If the Conversion Price set forth in any conversion notice is less than $3.00 per share, the Company, at its sole option, may elect to pay the applicable conversion amount in cash rather than issue shares of its common stock.

2. Basis of Presentation

The historical financial information has been adjusted to give pro forma effect to events that are (i) directly attributable to the transaction, (ii) factually supportable, and (iii) with respect to the unaudited pro forma combined balance sheets and unaudited pro forma combined statements of operations, expected to have a continuing impact on the combined results.

The transactions were accounted for as a business acquisition whereas Bailey, H&J and Stateside are the accounting acquires and DBG is the accounting acquirer.

3. Consideration Transferred

Bailey 44

Total fair value of the purchase price consideration was determined as follows:

Series B preferred stock	$11,000,000
Promissory note payable	4,500,000
Purchase price consideration	$15,500,000

As a result of the acquisition, DBG recorded intangible assets of $8,600,000, including $7,500,000 attributable to brand name and $1,100,000 attributable to customer relationships. DBG recorded $6,479,218 in goodwill representing the remaining excess purchase price of the fair value of net assets acquired and liabilities assumed.

The following table shows the preliminary allocation of the purchase price for Bailey to the acquired net identifiable assets and pro forma goodwill:

	Purchase Price Allocation
Assets acquired	$ 4,705,086
Goodwill	6,479,218
Intangible assets	8,600,000
Liabilities assumed	(4,284,304)
Purchase price consideration	$ 15,500,000

Harper & Jones

Total fair value of the purchase price consideration was determined as follows:

Cash	$ 500,000
Common stock	8,025,542
Contingent consideration	3,421,516
Purchase price consideration	$11,947,058

As a result of the acquisition, DBG recorded pro forma intangible assets of $3,936,030, including $2,218,360 attributable to brand name and $1,717,670 attributable to customer relationships. DBG recorded $9,681,548 in goodwill representing the remaining excess purchase price of the fair value of net assets acquired and liabilities assumed.

The following table shows the preliminary allocation of the purchase price for Bailey to the acquired net identifiable assets and pro forma goodwill:

	Purchase Price Allocation
Assets acquired	$ 309,083
Goodwill	9,681,548
Intangible assets	3,936,030
Liabilities assumed	(1,1979,603)
Purchase price consideration $	11,947,058

Stateside

Total fair value of the purchase price consideration was determined as follows:

Cash	$5,000,000
Common stock	3,403,196
Purchase price consideration	$8,403,196

As a result of the acquisition, DBG recorded intangible assets of $5,939,140, including $2,303,060 attributable to brand name and $3,636,080 attributable to customer relationships. DBG recorded $1,610,265 in goodwill representing the remaining excess purchase price of the fair value of net assets acquired and liabilities assumed.

The following table shows the preliminary allocation of the purchase price for Stateside to the acquired net identifiable assets and pro forma goodwill:

Assets acquired	$1,277,286
Goodwill	1,610,265
Intangible assets	5,939,140
Liabilities assumed	(423,495)
Purchase price consideration	$8,403,196

4. Pro Forma Adjustments

(a) To recognize depreciation on the acquired entities' property and equipment, and amortization on the intangible assets recorded as a result of the acquisitions.

(b) To record accrued interest on the promissory note pursuant to the Convertible Notes.

(c) To record the Convertible Notes, net of discount.

(d) To reverse H&J and Stateside's gain on forgiveness of debt as this amount was determined to be non-recurring income.

MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

The following discussion and analysis of our financial condition and results of operations should be read in conjunction with the historical financial statements of the relevant entities and the pro forma financial statements and the notes thereto included elsewhere in this prospectus. This discussion and analysis contains forward-looking statements that involve risks and uncertainties. Our actual results may differ materially from those anticipated in these forward-looking statements as a result of various factors, including those set forth under "Risk Factors" and "Special Note Regarding Forward-Looking Statements."

Unless otherwise indicated by the context, references to "DBG" refer to Digital Brands Group, Inc. solely, and references to the "Company," "our," "we," "us" and similar terms refer to Digital Brands Group, Inc., together with its wholly-owned subsidiaries Bailey 44, LLC ("Bailey"), Harper & Jones LLC ("H&J") and MOSBEST, LLC ("Stateside").

Business Overview

We offer a wide variety of apparel through numerous brands on a both direct-to-consumer and wholesale basis. We have created a business model derived from our founding as a digitally native-first vertical brand. Digital native first brands are brands founded as e-commerce driven businesses, where online sales constitute a meaningful percentage of net sales, although they often subsequently also expand into wholesale or direct retail channels. Unlike typical e-commerce brands, as a digitally native vertical brand we control our own distribution, sourcing products directly from our third-party manufacturers and selling directly to the end consumer. We focus on owning the customer's "closet share" by leveraging their data and purchase history to create personalized targeted content and looks for that specific customer cohort which includes products across our brands.

We define "closet share" as the percentage ("share") of a customer's clothing units that ("of closet") she or he owns in her or his closet and the amount of those units that go to the brands that are selling these units. For example, if a customer buys 20 units of clothing a year and the brands that we own represent 10 of those units purchased, then our closet share is 50% of that customer's closet, or 10 of our branded units divided by 20 units they purchased in entirety. Closet share is a similar concept to the widely used term wallet share, it is just specific to the customer's closet. The higher our closet share, the higher our revenue as higher closet share suggests the customer is purchasing more of our brands than our competitors.

We have strategically expanded into an omnichannel brand offering these styles and content not only on-line but at selected wholesale and retail storefronts. We believe this approach allows us opportunities to successfully drive Lifetime Value ("LTV") while increasing new customer growth. We define Lifetime Value or LTV as an estimate of the average revenue that a customer will generate throughout their lifespan as our customer. This value/revenue of a customer helps us determine many economic decisions, such as marketing budgets per marketing channel, retention versus acquisition decisions, unit level economics, profitability and revenue forecasting.

We believe that a successful apparel brand needs to sell in every revenue channel. However, each channel offers different margin structures and requires different customer acquisition and retention strategies. We were founded as a digital-first retailer which has strategically expanded into select wholesale and direct retail channels. We strive to strategically create omnichannel strategies that blend physical and online channels to engage consumers in the channel of their choosing. Our products are sold direct-to-consumers principally through our websites, but also through our wholesale channel, primarily in specialty stores and select department stores, and our own showrooms. We currently offer products under the DSTLD, ACE Studios, Bailey 44, Harper & Jones and Stateside brands. Bailey is primarily a wholesale brand, which we have begun to transition to a digital, direct-to-consumer brand. DSTLD is primarily a digital direct-to-consumer brand, to which we recently added select wholesale retailers to create more brand awareness. Harper & Jones is primarily a direct-to-consumer brand using its own showrooms. Stateside is primarily a digital, direct-to-consumer brand. We intend to leverage all three channels (our websites, wholesale and our own stores) for all our brands. Every brand will have a different revenue mix by channel based on optimizing revenue and margin in each channel for each brand, which includes factoring in customer acquisition costs and retention rates by channel and brand.

We believe that by leveraging a physical footprint to acquire customers and increase brand awareness, we can use digital marketing to focus on retention and a very tight, disciplined high value new customer acquisition strategy, especially targeting potential customers lower in the sales funnel. Building a direct relationship with the customer as the customer transacts directly with us allows us to better understand our customer's preferences and shopping habits. Our substantial experience as a company originally founded as a digitally native-first retailer gives us the ability to strategically review and analyze the customer's data, including contact information, browsing and shopping cart data, purchase history and style preferences. This in turn has the effect of lowering our inventory risk and cash needs since we can order and replenish product based on the data from our online sales history, replenish specific inventory by size, color and SKU based on real time sales data, and control our mark-down and promotional strategies versus being told what mark downs and promotions we have to offer by the department stores and boutique retailers.

We acquired Bailey in February 2020, H&J in May 2021 and Stateside in August 2021. We agreed on the consideration that we are paying in each acquisition in the course of arm's length negotiations with the holders of the membership interests in each of Bailey, H&J and Stateside. In determining and negotiating this consideration, we relied on the experience and judgment of our management and our evaluation of the potential synergies that could be achieved in combining the operations of Bailey, H&J and Stateside. We did not obtain independent valuations, appraisals or fairness opinions to support the consideration that we agreed to pay.

Material Trends, Events and Uncertainties

COVID-19

In March 2020, the World Health Organization declared the outbreak of a novel coronavirus ("COVID-19") a pandemic. As the global spread of COVID-19 continues, DBG remains first and foremost focused on a people-first approach that prioritizes the health and well-being of its employees, customers, trade partners and consumers. To help mitigate the spread of COVID-19, DBG has modified its business practices, including in response to legislation, executive orders and guidance from government entities and healthcare authorities. These directives include the temporary closing of offices and retail stores, instituting travel bans and restrictions and implementing health and safety measures including social distancing and quarantines.

The Company's digital platform remains a high priority through which its brands stay connected with consumer communities while providing experiential content. In accordance with local government guidelines and in consultation with the guidance of global health professionals, DBG has implemented measures designed to ensure the health, safety and well-being of associates employed in its distribution and fulfillment centers. Many of these facilities remain operational and support digital consumer engagement with its brands and to service retail partners as needed.

Our business has been, and will continue to be, impacted by the effects of the COVID-19 global pandemic in countries where our suppliers, third-party service providers or consumers are located. These effects include recommendations or mandates from governmental authorities to close businesses, limit travel, avoid large gatherings or to self-quarantine, as well as temporary closures and decreased operations of the facilities of our suppliers, service providers and customers. The impacts on us have included, and in the future could include, but are not limited to:

- significant uncertainty and turmoil in global economic and financial market conditions causing, among other things: decreased consumer confidence and decreased consumer spending, now and in the mid and long-term. Specifically, COVID has impacted our business in several ways, including store closings, supply chain disruptions and delivery delays, meaningfully lower net revenue, furloughs and layoffs of 52 employees and increased costs to operate our warehouse to ensure a healthy and safe work environment. Approximately 220 boutique stores where we sold our products closed temporarily and permanently in 2020 and into 2021, representing a reduction in approximately 40% of such stores prior to COVID. Additionally, approximately 40 department stores that carried our products have closed as well, representing a reduction of approximately 35% of such stores prior to COVID. We do not anticipate the department stores will open those stores back up, and we do not anticipate a majority of the closed boutique stores will reopen. We also waited to hire a new

designer until the summer, once we knew that stores would open back up at some capacity. This delay in hiring a new designer also impacted the first four months of 2021, as her first collection was not offered until recently for a May 2021 shipment to our accounts. We expect to also experience lower order quantities from our accounts throughout 2021 versus pre-COVID levels, but meaningfully higher than 2020.

- inability to access financing in the credit and capital markets at reasonable rates (or at all) in the event we, or our suppliers find it desirable to do so, increased exposure to fluctuations in foreign currency exchange rates relative to the U.S. Dollar, and volatility in the availability and prices for commodities and raw materials we use for our products and in our supply chain. Specifically, the pandemic shut down our supply chain for several months in 2020, and delayed deliveries throughout the year.
- inability to meet our consumers' needs for inventory production and fulfillment due to disruptions in our supply chain and increased costs associated with mitigating the effects of the pandemic caused by, among other things: reduction or loss of workforce due to illness, quarantine or other restrictions or facility closures, scarcity of and/or increased prices for raw materials, scrutiny or embargoing of goods produced in infected areas, and increased freight and logistics costs, expenses and times; failure of third parties on which we rely, including our suppliers, customers, distributors, service providers and commercial banks, to meet their obligations to us or to timely meet those obligations, or significant disruptions in their ability to do so, which may be caused by their own financial or operational difficulties, including business failure or insolvency and collectability of existing receivables; and
- significant changes in the conditions in markets in which we do business, including quarantines, governmental or regulatory actions, closures or other restrictions that limit or close our operating and manufacturing facilities and restrict our employees' ability to perform necessary business functions, including operations necessary for the design, development, production, distribution, sale, marketing and support of our products. Specifically, we had to furlough and layoff a significant amount of employees to adjust to our lower revenues.

The COVID-19 pandemic is ongoing and dynamic in nature, and continues to drive global uncertainty and disruption. As a result, COVID-19 is having a significant negative impact on the Company's business, including the consolidated financial condition, results of operations and cash flows through the third quarter of 2020. While we are not able to determine the ultimate length and severity of the COVID-19 pandemic, we expect store closures, an anticipated reduction in traffic once stores initially reopen and a highly promotional marketplace will have a significant negative impact on our financial performance for at least the first two quarters of 2021.

DBG has implemented cost controls to reduce discretionary spending to help mitigate the loss of sales and to conserve cash while continuing to support employees. DBG is also assessing its forward inventory purchase commitments to ensure proper matching of supply and demand, which will result in an overall reduction in future commitments. As DBG continues to actively monitor the situation, we may take further actions that affect our operations.

Although the Company has taken several measures to maximize liquidity and flexibility to maintain operations during the disruptions caused by the COVID-19 pandemic, uncertainty regarding the duration and severity of the COVID-19 pandemic, governmental actions in response to the pandemic, and the impact on us and our consumers, customers and suppliers, there is no certainty that the measures we take will be sufficient to mitigate the risks posed by COVID-19.

Seasonality

Our quarterly operating results vary due to the seasonality of our individual brands, and are historically stronger in the second half of the calendar year. However, the second half of 2020 has been negatively impacted by the COVID-19 global pandemic.

Senior Credit Facility

As of November 23, 2021, we owed our senior secured lender approximately $6.0 million that is due on the scheduled maturity date of December 31, 2022. Our credit agreement contains negative covenants that,

subject to significant exceptions limit our ability, among other things to make restricted payments, pledge assets as security, make investments, loans, advances, guarantees and acquisitions, or undergo other fundamental changes. A breach of any of these covenants could result in a default under the credit facility and permit the lender to cease making loans to us. If for whatever reason we have insufficient liquidity to make scheduled payments under our credit facility or to repay such indebtedness by the schedule maturity date, we would seek the consent of our senior lender to modify such terms. Although our senior lender has previously agreed to seven prior modifications of our credit agreement, there is no assurance that it will agree to any such modification and could then declare an event of default. Upon the occurrence of an event of default under this agreement, the lender could elect to declare all amounts outstanding thereunder to be immediately due and payable. We have pledged all of our assets as collateral under our credit facility. If the lender accelerates the repayment of borrowings, we may not have sufficient assets to repay them and we could experience a material adverse effect on our financial condition and results of operations.

Performance Factors

We believe that our future performance will depend on many factors, including the following:

Ability to Increase Our Customer Base in both Online and Traditional Wholesale Distribution Channels

We are currently growing our customer base through both paid and organic online channels, as well as by expanding our presence in a variety of physical retail distribution channels. Online customer acquisitions typically occur at our direct websites for each brand. Our online customer acquisition strategies include paid and unpaid social media, search, display and traditional media. Our products for Bailey and DSTLD are also sold through a growing number of physical retail channels, including specialty stores, department stores and online multi-brand platforms. Our products for Harper & Jones are sold through its own showrooms and its outside sales reps, which can use the showrooms to meet clients.

Ability to Acquire Customers at a Reasonable Cost

We believe an ability to consistently acquire customers at a reasonable cost relative to customer retention rates, contribution margins and projected life-time value will be a key factor affecting future performance. To accomplish this goal, we intend to balance advertising spend between online and offline channels, as well as cross marketing and cross merchandising our portfolio brands and their respective products. We believe the ability to cross merchandise products and cross market brands, will decrease our customer acquisition costs while increasing the customer's lifetime value and contribution margin. We will also balance marketing spend with advertising focused on creating emotional brand recognition, which we believe will represent a lower percentage of our spend.

Ability to Drive Repeat Purchases and Customer Retention

We accrue substantial economic value and margin expansion from customer cohort retention and repeat purchases of our products on an annual basis. Our revenue growth rate and operating margin expansion will be affected by our customer cohort retention rates and the cohorts annual spend for both existing and newly acquired customers.

Ability to Expand Our Product Lines

Our goal is to expand our product lines over time to increase our growth opportunity. Our customer's annual spend and brand relevance will be driven by the cadence and success of new product launches.

Ability to Expand Gross Margins

Our overall profitability will be impacted by our ability to expand gross margins through effective sourcing and leveraging buying power of finished goods and shipping costs, as well as pricing power over time.

Ability to Expand Operating Margins

Our ability to expand operating margins will be impacted by our ability to leverage (1) fixed general and administrative costs, (2) variable sales and marketing costs, (3) elimination of redundant costs as we

acquire and integrate brands, (4) cross marketing and cross merchandising brands in our portfolio, and (5) drive customer retention and customer lifetime value. Our ability to expand operating margins will result from increasing revenue growth above our operating expense growth, as well as increasing gross margins. For example, we anticipate that our operating expenses will increase substantially in the foreseeable future as we undertake the acquisition and integration of different brands, incur expenses associated with maintaining compliance as a public company, and increased marketing and sales efforts to increase our customer base. While we anticipate that the operating expenses in absolute dollars will increase, we do not anticipate that the operating expenses as a percentage of revenue will increase. We anticipate that the operating expenses as a percentage of revenue will decrease as we eliminate duplicative costs across brands including a reduction in similar labor roles, contracts for technologies and operating systems and creating lower costs from higher purchasing power from shipping expenses to purchase orders of products. This reduction of expenses and lower cost per unit due to purchasing power should create meaningful savings in both dollars and as a percentage of revenue.

As an example, we were able to eliminate several million in expenses within six months of acquiring Bailey. Examples of these savings include eliminating several Bailey teams, which the DBG teams took over. We merged over half of the technology contracts and operating systems contracts from two brands into one brand contract at significant savings. We also eliminated the DBG office space and rent and moved everyone into the Bailey office space. Finally, we eliminated DSTLD's third-party logistics company and started using Bailey's internal logistics. This resulted in an increase in DBG's operating expenses in absolute dollars as there were now two brands versus one brand. However, the operating expenses as a percentage of pre-COVID revenue declined meaningfully and as we increase revenue for each brand, we expect to experience higher margins.

Ability to Create Free Cash Flow

Our goal is to achieve near term free cash flow through cash flow positive acquisitions, elimination of redundant expenses in acquired companies, increasing customer annual spend and lowering customer acquisition costs through cross merchandising across our brand portfolio.

Critical Accounting Policies and Estimates

Basis of Presentation and Principles of Consolidation

The accounting and reporting policies of the Company conform to accounting principles generally accepted in the United States of America ("GAAP").

Use of Estimates

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosures of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

Business Acquisitions

We record our acquisitions under the acquisition method of accounting, under which most of the assets acquired and liabilities assumed are initially recorded at their respective fair values and any excess purchase price is reflected as goodwill. We utilize management estimates and, in some instances, independent third-party valuation firms to assist in determining the fair values of assets acquired, liabilities assumed and contingent consideration, if any. Such estimates and valuations require us to make significant assumptions, including projections of future events and operating performance.

The fair value of customer relationships, backlog and trade names/trademarks acquired in our acquisitions are determined using various valuation methods, based on a number of significant assumptions.

We determine which assets have finite lives and then determine the estimated useful life of finite assets.

The expected useful life of customer relationships is established as three years, which is the period over which these assets are expected to reasonably contribute to future cash flows. We expect to amortize such customer relationships using the straight-line method.

The estimated fair values are subject to change during the measurement period, which is limited to one year subsequent to the acquisition date.

Revenue Recognition

Revenues are recognized when performance obligations are satisfied through the transfer of promised goods to the Company's customers. Control transfers upon shipment of product and when the title has been passed to the customers. This includes the transfer of legal title, physical possession, the risks and rewards of ownership, and customer acceptance. The Company provides the customer the right of return on the product and revenue is adjusted based on an estimate of the expected returns based on historical rates. The Company considers the sale of products as a single performance obligation. Sales tax collected from customers and remitted to taxing authorities is excluded from revenue and is included in accrued expenses. Revenue is deferred for orders received for which associated shipments have not occurred. ASC 606 has been adopted effective January 1, 2019 using the modified retrospective method with no adjustment.

Accounts Receivable

The Company carries its accounts receivable at invoiced amounts less allowances for customer credits, doubtful accounts, and other deductions. The Company does not accrue interest on its trade receivables. Management evaluates the ability to collect accounts receivable based on a combination of factors. Receivables are determined to be past due based on individual credit terms. A reserve for doubtful accounts is maintained based on the length of time receivables are past due, historical collections, or the status of a customer's financial position. Receivables are written off in the year deemed uncollectible after efforts to collect the receivables have proven unsuccessful.

We periodically review accounts receivable, estimate an allowance for bad debts, and simultaneously record the appropriate expense in the statement of operations. Such estimates are based on general economic conditions, the financial conditions of customers, and the amount and age of past due accounts. Past due accounts are written off against that allowance only after all collection attempts have been exhausted and the prospects for recovery are remote.

Goodwill Impairment

We are required to assess our goodwill for impairment at least annually for each reporting unit that carries goodwill. We may elect to first do a qualitative assessment to determine whether it is more likely than not that a reporting unit's fair value is in excess of its carrying value. If the qualitative assessment concludes that it is more-likely-than-not that the fair value of a reporting unit is less than its carrying value, a quantitative assessment is performed. If the fair value is determined to be less than its carrying value, we record goodwill impairment equal to the amount by which the reporting unit's carrying value exceeds its fair value, not to exceed the carrying amount of goodwill.

Intangible Assets Impairment

We evaluate the carrying amount of intangible assets and other long-lived assets for impairment whenever indicators of impairment exist. We test these assets for recoverability by comparing the net carrying amount of the asset or asset group to the undiscounted net cash flows to be generated from the use and eventual disposition of that asset or asset group. If the assets are recoverable, an impairment loss does not exist, and no loss is recorded. If the carrying amounts of the assets are not recoverable, an impairment loss is recognized for any deficiency of the asset or asset group's fair value compared to their carrying amount. Although we base cash flow forecasts on assumptions that are consistent with plans and estimates we use to manage our business, there is significant judgment in determining the cash flows attributable to these assets, including markets and market share, sales volumes and mix, and working capital changes.

Stock Based Compensation

The Company accounts for stock-based compensation costs under the provisions of ASC 718, Compensation — Stock Compensation, which requires the measurement and recognition of compensation expense related to the fair value of stock-based compensation awards that are ultimately expected to vest. Stock based compensation expense recognized includes the compensation cost for all stock-based payments granted to employees, officers, and directors based on the grant date fair value estimated in accordance with the provisions of ASC 718. ASC 718 is also applied to awards modified, repurchased, or cancelled during the periods reported. Stock-based compensation is recognized as expense over the employee's requisite vesting period and over the nonemployee's period of providing goods or services.

Income Taxes

The Company uses the liability method of accounting for income taxes as set forth in ASC 740, Income Taxes. Under the liability method, deferred taxes are determined based on the temporary differences between the financial statement and tax basis of assets and liabilities using tax rates expected to be in effect during the years in which the basis differences reverse. A valuation allowance is recorded when it is unlikely that the deferred tax assets will not be realized. We assess our income tax positions and record tax benefits for all years subject to examination based upon our evaluation of the facts, circumstances and information available at the reporting date. In accordance with ASC 740-10, for those tax positions where there is a greater than 50% likelihood that a tax benefit will be sustained, our policy will be to record the largest amount of tax benefit that is more likely than not to be realized upon ultimate settlement with a taxing authority that has full knowledge of all relevant information. For those income tax positions where there is less than 50% likelihood that a tax benefit will be sustained, no tax benefit will be recognized in the financial statements.

Controls and Procedures

A company's internal control over financial reporting is a process designed by, or under the supervision of, that company's principal executive and principal financial officers, or persons performing similar functions, and effected by that company's board of directors, management and other personnel to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements in accordance with GAAP. Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with policies or procedures may deteriorate.

In connection with our preparation for this offering, we concluded that, overall, there were material weaknesses in internal control over financial reporting at DBG, Bailey and H&J. Historically, both Bailey and H&J were private companies that had not previously been audited and they had maintained a complement of resources with a variety of levels of accounting knowledge, experience, and expertise that is, overall, not commensurate with our prospective financial reporting needs. Collectively, this could prospectively result in difficulties in meeting our internal reporting needs and our external reporting requirements and assessing the appropriate accounting treatment for a variety of events and/or circumstances.

In preparation for this prospectus, we initiated various remediation efforts, including the hiring of additional financial personnel/consultants with the appropriate public company and technical accounting expertise and other actions that are more fully described below. As such remediation efforts are still ongoing, we have concluded that the material weaknesses have not been fully remediated. Our remediation efforts to date have included the following:

- We have made an assessment of the basis of accounting, revenue recognition policies and accounting period cutoff procedures of each of DBG, Bailey and H&J. In some cases, we made the necessary adjustments to convert the basis of accounting from cash basis to accrual basis. In all cases we have done the required analytical work to ensure the proper cutoff of the financial position and results of operations for the presented accounting periods.
- We have made an assessment of the current accounting personnel, financial reporting and information system environments and capabilities of each of DBG, Bailey and H&J. Based on our preliminary

findings, we have found these resources and systems lacking and have concluded that these resources and systems will need to be supplemented and/or upgraded. We are in the process of identifying a single, unified accounting and reporting system that can be used by each of DBG, Bailey and H&J, with the goal of ensuring consistency and timeliness in reporting, real time access to data while also ensuring ongoing data integrity, backup and cyber security procedures and processes.

- We engaged external consultants with public company and technical accounting experience to facilitate accurate and timely accounting closes and to accurately prepare and review the financial statements of DBG, Bailey and H&J and related footnote disclosures. We plan to retain these financial consultants until such time that the internal resources of the Company, Bailey and/or H&J have been upgraded and the required financial controls have been fully implemented.

The actions that have been taken are subject to continued review, implementation and testing by management, as well as audit committee oversight. While we have implemented a variety of steps to remediate these weaknesses, we cannot assure you that we will be able to fully remediate them, which could impair our ability to accurately and timely meet our public company reporting requirements.

Notwithstanding the assessment that our internal controls over financial reporting are not effective and that material weaknesses exist, we believe that we have employed supplementary procedures to ensure that the financial statements contained in this prospectus fairly present our financial position, results of operations and cash flows for the reporting periods covered herein in all material respects.

Financial Statement Components

DBG

Net Revenue

We sell our products to our customers directly through our website. In those cases, sales, net represents total sales less returns, promotions and discounts.

Cost of Net Revenue

Cost of net revenue include direct cost of purchased merchandise; inventory shrinkage; inventory adjustments due to obsolescence, including excess and slow-moving inventory and lower of cost and net realizable reserves.

Operating Expenses

Our operating expenses include all operating costs not included in cost of net revenues. These costs consist of general and administrative, sales and marketing, and fulfillment and shipping expense to the customer.

General and administrative expenses consist primarily of all payroll and payroll-related expenses, professional fees, insurance, software costs, and expenses related to our operations at our headquarters, including utilities, depreciation and amortization, and other costs related to the administration of our business.

Following the completion of the IPO, we incurred additional expenses as a result of operating as a public company, including costs to comply with the rules and regulations applicable to companies listed on a national securities exchange, costs related to compliance and reporting obligations pursuant to the rules and regulations of the SEC and higher expenses for insurance, investor relations and professional services. These costs have increased our operating costs.

Fulfillment and shipping expenses include the cost to operate our warehouse — or prior to the Bailey 44 acquisition, costs paid to our third-party logistics provider — including occupancy and labor costs to pick and pack customer orders and any return orders; packaging; and shipping costs to the customer from the warehouse and any returns from the customer to the warehouse.

In addition, going forward, the amortization of the identifiable intangibles acquired in the acquisitions will be included in operating expenses.

Interest Expense

Interest expense consists primarily of interest related to our debt outstanding to our senior lender, convertible debt, and other interest bearing liabilities.

Bailey

Net Revenue

Bailey sells its products directly to customers. Bailey also sells its products indirectly through wholesale channels that include third-party online channels and physical channels such as specialty retailers and department stores.

Cost of Net Revenue

Bailey's cost of net revenue includes the direct cost of purchased and manufactured merchandise; inventory shrinkage; inventory adjustments due to obsolescence including excess and slow-moving inventory and lower of cost and net realizable reserves; duties; and inbound freight.

Operating Expenses

Bailey's operating expenses include all operating costs not included in cost of net revenues and sales and marketing. These costs consist of general and administrative, fulfillment and shipping expense to the customer.

General and administrative expenses consist primarily of all payroll and payroll-related expenses, professional fees, insurance, software costs, occupancy expenses related to Bailey's stores and to Bailey's operations at its headquarters, including utilities, depreciation and amortization, and other costs related to the administration of its business.

Bailey's fulfillment and shipping expenses include the cost to operate its warehouse including occupancy and labor costs to pick and pack customer orders and any return orders; packaging; and shipping costs to the customer from the warehouse and any returns from the customer to the warehouse.

Sales & Marketing

Bailey's sales and marketing expense primarily includes digital advertising; photo shoots for wholesale and direct-to-consumer communications, including email, social media and digital advertisements; and commission expenses associated with sales representatives.

Interest Expense

Bailey's interest expense consists primarily of interest related to its outstanding debt to our senior lender.

H&J

Net Revenue

H&J sells its products directly to customers through their showrooms and sales reps.

Cost of Net Revenue

H&J's cost of net revenue sold is associated with procuring fabric and custom tailoring each garment.

Operating Expenses

H&J's operating expenses include all operating costs not included in cost of net revenue.

General and administrative expenses consist primarily of all payroll and payroll-related expenses, professional fees, insurance, software costs, occupancy expenses related to H&J's stores and to H&J's operations at its headquarters, including utilities, depreciation and amortization, and other costs related to the administration of its business.

H&J's sales and marketing expense primarily includes digital advertising; photo shoots for wholesale and direct-to-consumer communications, including email, social media and digital advertisements; and commission expenses associated with sales representatives.

Interest Expense

H&J's interest expense consists primarily of interest related to its outstanding debt.

Stateside

Net Revenue

Stateside sells its products directly to customers. Stateside also sells its products indirectly through wholesale channels that include third-party online channels and physical channels such as specialty retailers and department stores.

Cost of Net Revenue

Stateside's cost of net revenue includes the direct cost of purchased and manufactured merchandise; inventory shrinkage; inventory adjustments due to obsolescence including excess and slow-moving inventory and lower of cost and net realizable reserves; duties; and inbound freight.

Operating Expenses

Stateside's operating expenses include all operating costs not included in cost of net revenues and sales and marketing. These costs consist of general and administrative, fulfillment and shipping expense to the customer.

General and administrative expenses consist primarily of all payroll and payroll-related expenses, professional fees, insurance, software costs, occupancy expenses related to Stateside's stores and to Stateside's operations at its headquarters, including utilities, depreciation and amortization, and other costs related to the administration of its business.

Stateside's fulfillment and shipping expenses include the cost to operate its warehouse including occupancy and labor costs to pick and pack customer orders and any return orders; packaging; and shipping costs to the customer from the warehouse and any returns from the customer to the warehouse.

Sales & Marketing

Stateside's sales and marketing expense primarily includes digital advertising; photo shoots for wholesale and direct-to-consumer communications, including email, social media and digital advertisements; and commission expenses associated with sales representatives.

DBG

Nine Months Ended September 30, 2021 compared to Nine Months Ended September 30, 2020

Results of Operations

The following table presents our results of operations for the nine months ended September 30, 2021 and 2020:

	Nine Months Ended September 30,	
	2021	2020
Net revenues	$ 3,575,214	$ 4,475,507
Cost of net revenues	2,179,023	3,884,864
Gross profit	1,396,191	590,643
Operating expenses	22,500,331	7,458,722
Operating loss	(21,104,140)	(6,868,079)
Other expenses	(2,655,460)	(1,207,244)
Loss before provision for income taxes	(23,759,600)	(8,075,323)
Provision for income taxes	1,100,120	(13,657)
Net loss	$(22,659,480)	$(8,088,980)

Net Revenues

Revenue decreased by $0.9 million to $3.6 million for the nine months ended September 30, 2021, compared to $4.5 million in the corresponding fiscal period in 2020. The decrease is primarily due to the full effects of COVID-19 on the operations of Bailey in the winter of 2021, partially offset by the increase in revenue due to the acquisition of H&J in May 2021 and Stateside in August 2021.

Gross Profit

Our gross profit increased by $0.8 million for the nine months ended September 30, 2021 to $1.4 million from $0.6 million for the corresponding fiscal period in 2020. The increase in gross margin was primarily attributable to the margins achieved by H&J and Stateside, as well as significant write-downs to inventory in 2020, partially offset by lower revenues in the nine months ended September 30, 2021.

Our gross margin was 39.1% for the nine months ended September 30, 2021 compared to 13.2% for the nine months ended September 30, 2020. The increase in in gross margin was due margins per our H&J and Stateside acquisitions, as well as mark downs to net realizable value of DBG and Bailey's inventory in the third quarter of 2020

Operating Expenses

Our operating expenses increased by $15.0 million for the nine months ended September 30, 2021 to $22.5 million compared to $7.5 million for the corresponding fiscal period in 2020. The increase in operating expenses was primarily due to non-cash charges incurred in 2021 upon the IPO and acquisition of H&J, including stock-based compensation expense of $4.0 million and the change in fair value of contingent consideration of $7.0 million, as well as increased professional fees, marketing costs and investor relations costs. We expect operating expenses to increase in total dollars and as a percentage of revenues as our revenue base increases.

Other Expenses

Other expenses increased by $1.5 million to $2.7 million in the nine months ended September 30, 2021 compared to $1.2 million in the corresponding fiscal period in 2020. The increase in the other expense was primarily due to interest expense from the April 2021 note which was fully amortized during the second quarter of 2021, amortization of debt discounts recorded upon debt conversions during the IPO and the change in the fair value of the Company's derivative liability issued in August 2021.

Net Loss

Our net loss increased by $14.6 million to a loss of $22.7 million for the nine months ended September 30, 2021 compared to a loss of $8.1 million for the corresponding fiscal period in 2020 primarily due to our increased operating expenses, partially offset by a higher gross profit and tax benefit recorded in 2021.

The majority of the increase was primarily due to non-cash charges incurred in 2021 upon the IPO and acquisition of H&J, including stock-based compensation expense of $4.0 million and the change in fair value of contingent consideration of $7.0 million, as well as increased professional fees, marketing costs and investor relations costs.

Cash Flow Activities

The following table presents selected captions from our condensed statement of cash flows for the nine months ended September 30, 2021 and 2020:

	Nine Months Ended September 30,	
	2021	**2020**
Net cash provided by operating activities:		
Net loss	$(22,659,480)	$(8,088,980)
Non-cash adjustments	$ 12,279,846	$ 2,160,584
Change in operating assets and liabilities	$ (1,096,380)	$ 4,778,788
Net cash used in operating activities	$(11,476,014)	$(1,149,609)
Net cash used in investing activities	$ (5,523,982)	$ (70,642)
Net cash provided by financing activities	$ 16,678,537	$ 1,461,841
Net change in cash	$ (321,459)	$ 241,590

Cash Flows Used In Operating Activities

Our cash used by operating activities increased by $10.3 million to cash used of $11.5 million for the nine months ended September 30, 2021 as compared to cash used of $1.2 million for the corresponding fiscal period in 2020. The increase in net cash used in operating activities was primarily driven by our higher net loss and less cash provided by changes in our operating assets and liabilities in 2021, partially offset by an increase in non-cash charges.

Cash Flows Provided By Investing Activities

Our cash used in investing activities was $5.5 million in the nine months ended September 30, 2021 as compared to cash used of $0.1 million for the corresponding fiscal period in 2020. Cash used in 2021 was primarily related to the cash consideration in the H&J and Stateside acquisitions. Cash used during 2020 was primarily related to purchases of property and equipment, partially offset by cash generated due to the acquisition of Bailey and deposits.

Cash Flows Provided by Financing Activities

Cash provided by financing activities was $16.7 million for the nine months ended September 30, 2021 compared to cash provided of $1.5 million for the corresponding fiscal period in 2020. Cash inflows in the nine months ended September 30, 2021 were primarily related to $8.6 million in net proceeds from the IPO after deducting underwriting discounts and commissions and offering expenses, as well as $1.4 million in net proceeds from the underwriter's exercise of their over-allotment option. Cash was also generated in 2021 from proceeds from loan payables of $2.6 million, exercises of warrants of $1.8 million and proceeds from convertible notes payable of $5.1 million, partially offset by loan and note repayments of $2.0 million.

Cash inflows in the nine months ended September 30, 2020 were primarily related to proceeds from PPP and SBA loans of $1.7 million, proceeds from our Series A-3 and CF preferred stock for $0.7 million and proceeds from venture debt of $0.9 million.

Year ended December 31, 2020 compared to the Year Ended December 31, 2019

Results of Operations

The following table presents DBG's results of operations for the years ended December 31, 2020 and 2019:

	Year Ended December 31,	
	2020	2019
Net revenues	$ 5,239,437	$ 3,034,216
Cost of net revenues	4,685,755	1,626,505
Gross profit	553,682	1,407,711
Operating expenses	9,701,572	6,255,180
Operating loss	(9,147,890)	(4,847,469)
Other expenses	(1,566,764)	(805,704)
Loss before provision for income taxes	(10,714,654)	(5,653,173)
Provision for income taxes	13,641	800
Net loss	$(10,728,295)	$(5,653,973)

Net Revenue

DBG's net revenue increased by $2.2 million to $5.2 million for 2020, compared to $3.0 million for 2019. The increase was due to the Bailey 44 acquisition.

Gross Profit

DBG's gross profit decreased by $0.9 million for 2020 to $0.6 million from $1.4 million for 2019. The decrease in gross margin was primarily due to the Bailey 44 acquisition.

DBG's gross margin decreased by 35.8% to 10.6% for 2020 compared to 46.4% for 2019. The decrease in the gross margin was primarily associated with the acquisition of Bailey 44 due to heavy discounting to sell their aged and current inventory. DBG discounted the Bailey 44 inventory due to lower market demand caused by COVID-19 and our decision to hire a new designer and create a clean break in the product collections.

Operating Expense

DBG's operating expenses increased by $3.5 million for 2020 to $9.7 million compared to $6.3 million for 2019. The increase in operating expenses was primarily due to the Bailey 44 acquisition. DBG's operating expenses as a percentage of revenue decreased by 21.0% to 185.2% for 2020 compared to 206.2% for 2019. The decrease in operating expenses as a percentage of net revenue was primarily due to cost synergies and significant cost reductions from merging Bailey 44 operations with DBG operations. The cost reductions were driven by eliminating the DBG office and moving into the Bailey 44 office, by eliminating DBG's third-party fulfillment center and moving it into Bailey 44's fulfillment operations, and layoffs due to overlapping roles and responsibilities.

Other Income and Interest Expense

DBG's other expense increased by approximately $0.8 million to $1.6 million for 2020 compared to $0.8 million for 2019. The increase in the other expense was primarily due to interest expense from the Bailey 44 acquisition and an increase in the DBG interest expense year over year.

Net Loss

DBG's net loss increased by $5.1 million to a loss of $10.7 million for 2020 compared to a loss of $5.7 million for 2019 primarily due to lower gross profit in both dollars and as a percentage of net revenue, an increase in general and administrative expenses and an increase in other expenses in dollars.

Cash Flow Activities

As of December 31, 2020, DBG had a cash balance of $575,986, and working capital of ($18,270,034). The following table presents selected captions from DBG's condensed statement of cash flows for the years ended December 31, 2020 and 2019:

	Year Ended December 31,	
	2020	2019
Net cash provided by operating activities:		
Net loss	$(10,728,295)	$(5,653,973)
Non-cash adjustments	$ 2,413,918	$ 371,324
Change in operating assets and liabilities	$ 6,252,790	$ 1,413,284
Net cash used in operating activities	$ (2,061,587)	$(3,869,365)
Net cash used in investing activities	$ 204,884	$ 6,642
Net cash provided by financing activities	$ 2,392,220	$ 3,318,711
Net change in cash	$ 535,517	$ (544,012)

During the year ended December 31, 2020 and 2019, DBG's sources and uses of cash were as follows:

Cash Flows Used In Operating Activities

DBG's cash used by operating activities increased by $1.8 million to cash used of $2.1 million for 2020 as compared to cash used in operating activities of $3.9 million for 2019. The increase in cash used by operating activities was primarily driven by an increase of $3.2 million from sell through of inventory, offset by a $0.6 million decline in accrued expenses and other liabilities.

Cash Flows Used In Investing Activities

DBG's cash generated from investing activities was $205,000 for 2020 as compared to cash generated of $6,700 for 2019. Cash generated during 2020 was primarily related to cash acquired due to business combinations and deposits.

Cash Flows Provided By Financing Activities

DBG's cash provided by financing activities was $2.4 million for 2020 compared to cash provided of $3.3 million for 2019. Cash inflows in 2020 were primarily related to proceeds from a loan payable of $1.7 million, proceeds from convertible notes payable for $1.25 million, and proceeds from venture debt of $1.05 million. Cash inflows in 2019 were primarily related to proceeds to our Series A-3 for $2.5 million, proceeds from venture debt of $500,000 and proceeds from a convertible note of $800,000.

Bailey 44, LLC

Bailey results from January 1, 2020 through February 11, 2020 (pre-acquisition) are not considered material, thus financial information for that period and for the comparative period in 2019 is not provided.

Year ended December 31, 2019 compared to the year ended December 31, 2018

Results of Operations

The following table presents the results of operations for the years ended December 31, 2019 and 2018:

	December 31,	
Statement of Operations	**2019**	**2018**
Net revenue	$27,099,718	$29,037,497
Cost of net revenue	$12,663,514	$13,451,654
Gross profit	$14,436,204	$15,585,843
Operating expenses	$19,060,108	$17,756,807
Operating income	$ (4,623,904)	$ (2,170,964)
Other expense	$ (153,078)	$ (531,599)

Statement of Operations	December 31, 2019	2018
Loss before provision for income taxes	$(4,776,982)	$(2,702,563)
Provision for income taxes	$ (14,890)	$ (13,390)
Net loss	$(4,791,872)	$(2,715,953)

Net Revenue

Bailey's net revenue decreased by $1.9 million to $27.1 million in 2019, compared to $29.0 million in 2018. This decrease was due to a decline of $3.4 million in its wholesale channels, partially offset by an increase of $1.5 million in its direct-to-consumer channel. The decline in its wholesale channels was primarily associated with reduced demand for its products by its wholesale accounts.

Cost of Net Revenue

Bailey's cost of net revenue decreased by $0.8 million in 2019 to $12.7 million from $13.5 million in 2018. Costs of net revenue increased by 0.4% to 46.7% compared to 46.3%, primarily due to increased raw material and finished garment costs related to imposed trade tariffs associated with the China trade dispute.

Gross Profit

Bailey's gross profit decreased by $1.1 million in 2019 to $14.4 million from $15.6 million in 2018. Gross margin decreased by 0.4% to 53.3% in 2019 compared to 53.7% in 2018, primarily due to increased promotional activity in direct-to-consumer channels, expanded inventory liquidation events and increases in cost of goods.

General and Administrative Expense

Bailey's general and administrative expense increased by $1.5 million in 2019 to $14.5 million compared to $13.0 million in 2018 due to expenses related to additional operating expenses related to a new retail store that opened in April 2019. General and administrative expense as a percentage of net revenue increased by 8.6% to 53.6% in 2019 compared to 45.0% in 2018. Bailey expects to lower general and administrative expenses as a percentage of revenue going forward as a result of a staff reorganization in 2020 that reduced headcount significantly and streamlined and lowered the cost of its processes, systems and third-party service providers. After the acquisition of Bailey, DBG has reorganized Bailey and eliminated significant labor and structural costs including costs associated with closing all three of Bailey's retail stores.

Sales and Marketing Expense

Bailey's sales and marketing expense decreased by approximately $200,000 in 2019 to $4.5 million compared to $4.7 million in 2018, and as a percentage of net revenue increased by 0.5% to 16.7% in 2019 compared to 16.2% in 2018, primarily due to the eliminating the services of a digital marketing agency in 2019, offset by higher digital marketing spend in 2019 compared to 2018.

We expect Bailey's sales and marketing expense as a percentage of net revenue to increase going forward associated with the transition to direct-to-consumer, which should result in higher gross margins as a percentage and in dollars.

Other Income and Interest Expense

Bailey's other expense decreased by $0.4 million primarily related to a loss on disposal of property and equipment. Interest expense increased $78,000 associated with an increase of $850,000 in a note payable.

Net Income (Loss)

Bailey's net loss increased by $2.1 million to a loss of $4.8 million for 2019 compared to a net loss of $2.7 million in 2018 primarily due to lower revenue, lower gross profit in both dollars and as a percentage of revenue, an increase in general and administrative expenses and an increase in sales and marketing expenses.

Cash Flow Activities

The following sections discuss Bailey's cash flow activities:

As of December 31, 2019, Bailey had a cash balance of $358,726 and working capital of ($322,073).

The following table presents selected captions from Bailey's condensed statement of cash flows for the years ended December 31, 2019 and 2018:

	December 31,	
	2019	2018
Net cash used in operating activities:		
Net loss	$(4,791,872)	$(2,715,953)
Non-cash adjustments	$ 636,401	$ 469,318
Change in operating assets and liabilities	$ 2,269,173	$ 1,622,885
Net cash used in operating activities	$(1,886,298)	$ (623,750)
Net cash used in investing activities	$ (557,328)	$ (185,970)
Net cash provided by financing activities	$ 1,840,039	$ 349,514
Net change in cash	$ (603,587)	$ (460,206)

During the years ended December 31, 2019 and 2018, Bailey's sources and uses of cash were as follows:

Cash Flows Used In Operating Activities

Bailey's cash used by operating activities increased by $1.3 million to $1.9 million for 2019 as compared to cash used in operating activities of $0.6 million in 2018. The increase in cash used by operating activities was primarily driven by $2.1 million from in its additional net loss.

Cash Flows Used In Investing Activities

Bailey's cash used from investing activities was $0.6 million in 2019 as compared to cash used of $0.2 million in 2018. Cash used during 2019 and 2018 were primarily related to purchase of property and equipment.

Cash Flows Provided By Financing Activities

Bailey's cash provided by financing activities was $1.8 million in 2019 compared to cash provided of $0.4 million in 2018. Cash inflows in 2019 were primarily related to proceeds from a related party notes payable of $0.85 million and $1.0 million in advances from our factor. Cash inflows in 2018 were primarily related to proceeds of $0.6 million in advances from Bailey's factor, offset by $0.3 million in distribution to members.

Harper & Jones, LLC

Nine months ended September 30, 2021 compared to Nine months ended September 30, 2020

Results of Operations

The following table presents our results of operations for the nine months ended September 30, 2021 and 2020:

	Nine Months Ended September 30,	
	2021	2020
Net revenues	$2,033,387	$1,936,967
Cost of net revenues	798,942	659,566
Gross profit	1,234,445	1,277,401
Operating expenses	1,640,849	1,420,297
Operating loss	(406,404)	(142,896)
Other income (expense)	189,903	(64,565)
Loss before provision for income taxes	(216,501)	(207,461)
Provision for income taxes	—	—
Net loss	$ (216,501)	$ (207,461)

Net Revenues

H&J's net revenue was $2.0 million for the nine months ended September 30, 2021 as compared to $1.9 million for the nine months ended September 30, 2020.

Gross Profit

H&J's gross profit was $1.2 million in 2021 as compared to $1.3 million in 2021. Gross margin decreased to 60.7% in 2021 compared to 65.9% in 2020 primarily due to increased product costs in 2021.

Operating Expenses

H&J's general and administrative expense increased $0.3 million in 2021 to $1.0 million compared to $0.7 million in 2020 due to new hires and new showrooms that were made in the second half of 2020. These new hires and new showrooms had no expense associated with them in the first half of 2020 but did have expenses associated with them in the first half of 2021.

As a result of the above, general and administrative expenses as a percentage of revenue increased to 51.0% in 2021 compared to 35.0% in 2020.

Sales & Marketing

H&J's sales and marketing expense decreased by $0.1 million in 2021 to $0.6 million compared to $0.7 million in 2020 primarily due to lower commissions.

As a result of the above, H&J's sales and marketing expenses as a percentage of revenue decreased to 29.7% in 2021 compared to 38.3% in 2020.

Other Income (Expense)

H&J's other income increased by $0.3 million primarily related to the gain on forgiveness of debt associated with the PPP loan in 2021.

Net Loss

H&J's net loss was $0.2 million in 2021 and in 2020.

Cash Flow Activities

The following table presents selected captions from H&J's condensed statement of cash flows for the nine months ended September 30, 2021 and 2020:

	Nine Months Ended September 30,	
	2021	2020
Net cash provided by operating activities:		
Net loss	$(216,501)	$(207,461)
Non-cash adjustments	$ 112,047	$ 30,917
Change in operating assets and liabilities	$(221,332)	$(204,156)
Net cash used in operating activities	$(325,786)	$(380,700)
Net cash used in investing activities	$ —	$ (60,671)
Net cash provided by financing activities	$ 290,593	$ 401,946
Net change in cash	$ (35,193)	$ (39,425)

Cash Flows Used In Operating Activities

H&J's cash used by operating activities decreased by $55,000 to $326,000 for 2021 compared to $381,000 for 2020.The decrease in cash used by operating activities was primarily driven by increases in non-cash adjustments.

Cash Flows Used In Investing Activities

H&J's cash used from investing activities was $0 for the nine months ended September 30, 2021 and $61,000 for 2020, which was due to expenditures for leasehold improvements.

Cash Flows Provided By Financing Activities

H&J's cash provided by financing activities was $291,000 for 2021 compared to $402,000 for 2020. Cash inflows in 2021 were primarily related to advances from DBG. Cash inflows in 2020 were primarily related to proceeds from a note payable offset by a $82,000 payment on an outstanding line of credit.

Year ended December 31, 2020 compared to the year ended December 31, 2019

Results of Operations

The following table presents the results of operations for the years ended December 31, 2020 and 2019:

	Year Ended December 31,	
	2020	2019
Net revenues	$2,542,721	$3,325,761
Cost of net revenues	897,873	1,202,819
Gross profit	1,644,848	2,122,943
Operating expenses	2,207,521	2,295,379
Operating loss	(562,673)	(172,437)
Other expenses	143,228	(3,955)
Loss before provision for income taxes	(419,446)	(176,391)
Provision for income taxes	—	—
Net loss	$ (419,446)	$ (176,391)

Net Revenues

H&J's net revenue decreased by $0.8 million to $2.5 million in 2020, compared to $3.3 million in 2019. This decrease was due to the impact of COVID-19 on customer demand and customer traffic at the retail stores. The customer traffic at the retail stores has increased from its lows during the height of the pandemic in the second quarter of 2020.

Gross Profit

H&J's gross profit decreased by $0.5 million in 2020 to $1.6 million from $2.1 million in 2019. Gross margin increased 0.9% to 64.7% in 2020 compared to 63.8% in 2019, primarily due to changes in discounting in 2020 compared to 2019.

Operating Expenses

H&J's general and administrative expense increased $0.3 million in 2020 to $1.0 million compared to $0.7 million in 2019 due to new hires and new showrooms that were made in the second half of 2019. These new hires and new showrooms had no expense associated with them in the first half of 2019 but did have expenses associated with them in the first half of 2020.

General and administrative expenses as a percentage of revenue increased by 19.5% to 41.1% in 2020 compared to 21.6% in 2019. The increase in the general and administrative expenses as a percentage of revenue was significantly impacted by the lower revenue associated with COVID-19 and the incremental expense of new hires and showrooms.

Sales & Marketing

H&J's sales and marketing expense decreased by $0.4 million in 2020 to $1.2 million compared to $1.6 million in 2019 primarily due to commissions associated with lower revenue.

H&J's sales and marketing expenses as a percentage of revenue decreased by 1.7% to 45.7% in 2020 compared to 47.4% in 2019 due to lower commission rates associated with lower revenue from COVID-19.

Other Income (Expense)

H&J's other income increased by $0.1 million primarily related to the gain on forgiveness of debt associated with the PPP loan in 2020.

Net Loss

H&J's net loss increased by $0.2 million to a loss of $0.4 million in 2020 compared to a loss of $0.2 million in 2019 primarily due to lower revenue and lower gross profit in dollars, lower sales and marketing expenses in dollars, offset slightly by higher general and administrative expenses in dollars.

Cash Flow Activities

As of December 31, 2020, H&J had a cash balances of $51,315 and working capital of ($414,680).

The following table presents selected captions from H&J's condensed statement of cash flows for the years ended December 31, 2020 and 2019:

	Year Ended December 31,	
	2020	**2019**
Net cash provided by operating activities:		
Net Loss	$(419,446)	$(176,391)
Non-cash adjustments	$ (33,742)	$ 82,422
Change in operating assets and liabilities	$ 61,146	$ 115,377
Net cash used in operating activities	$(392,042)	$ 21,407
Net cash used in investing activities	$ (65,750)	$(254,437)
Net cash provided by financing activities	$ 490,598	$ 237,002
Net change in cash	$ 32,806	$ 3,972

Cash Flows Used In Operating Activities

H&J's cash used by operating activities increased by $413,000 to $392,042 for 2020 as compared to cash provided in operating activities of $21,000 for 2019. The increase in cash used by operating activities was primarily driven by the $419,446 in net loss and the gain on forgiveness of note payable of $225,388.

Cash Flows Used In Investing Activities

H&J's cash used from investing activities was $66,000 for 2020 as compared to cash used of $254,000 for 2019. Cash used during 2020 and 2019 was primarily related to expenditures for leasehold improvements.

Cash Flows Provided By Financing Activities

H&J's cash provided by financing activities was $491,000 for 2020 compared to cash provided of $237,000 for 2019. Cash inflows in 2020 were primarily related to proceeds from notes payables and a line of credit of $717,000, partially offset by repayments of $216,000 on outstanding notes. Cash inflows in 2019 were primarily related to proceeds from two notes payables for $400,000 offset by a $160,000 payment on an outstanding line of credit.

Stateside

Nine months ended September 30, 2021 compared to Nine months ended September 30, 2020

Results of Operations

The following table presents our results of operations for the nine months ended September 30, 2021 and 2020:

	Nine Months Ended September 30,	
	2021	**2020**
Net revenues	$3,797,529	$2,525,845
Cost of net revenues	1,278,388	1,326,287
Gross profit	2,519,141	1,199,558
Operating expenses	2,147,674	1,552,490
Operating income (loss)	371,467	(352,932)
Other income (expense)	(12,494)	261,035
Income (loss) before provision for income taxes	358,973	(91,897)
Net income (loss)	$ 358,973	$ (91,897)

Net Revenues

Stateside's net revenue increased by $1.3 million to $3.8 million in the nine months ended September 30, 2021, compared to $2.5 million in 2020. This increase was due to a recovery in demand and operations back to full scale after the impact of COVID-19 in 2020.

Gross Profit

Stateside's gross profit increase by $1.3 million in the nine months ended September 30, 2021 to $2.5 million from $1.2 million in 2020. Gross margin was 66.3% in 2021 compared to 47.5% in 2020, primarily due to efficiencies in lower product costs.

Operating Expenses

Stateside's general and administrative expense increased by $0.3 million in 2021 to 1.4 million compared to $1.1 million in 2020.

General and administrative expenses as a percentage of revenue decreased to 36.4% in 2021 compared to 43.1% in 2020. The decrease in the general and administrative expenses as a percentage of revenue was primarily due to consistent general and administrative expenses and increased in revenue in 2021.

Sales & Marketing

Stateside's sales and marketing expense increased by $0.3 million in 2021 to $0.6 million compared to $0.3 million in 2020. This increase was due to a recovery in demand after the impact of COVID-19 in 2020.

Stateside's sales and marketing expenses as a percentage of revenue was 16.7% in 2021 compared to 13.7% in 2020.

Other Income (Expense)

Other income (expense) was $(13,000) and $260,000 for the nine months ended September 30, 2021 and 2020, respectively.

Net Loss

Stateside's net income was $0.4 million in the nine months ended September 30, 2021 compared to a net loss of $0.1 million in 2020, primarily due to increased revenue and gross profit in dollars, partially offset by a slight increase in operating expenses in 2021 and PPP forgiveness in 2020.

Cash Flow Activities

As of September 30, 2021, Stateside had a cash balance of $309,298 and working capital of $1,100,749.

The following table presents selected captions from Stateside's condensed statement of cash flows for the nine months ended September 30, 2021 and 2020:

	Nine Months Ended September 30,	
	2021	**2020**
Net cash provided by operating activities:		
Net income (loss)	$ 358,973	$ (91,896)
Non-cash adjustments	$ 17,839	$ 41,406
Change in operating assets and liabilities	$(232,929)	$(471,933)
Net cash provided by (used in) operating activities	$ 143,883	$(522,423)
Net cash used in investing activities	$ —	$ (6,200)
Net cash used in financing activities	$(327,905)	$ 919,128
Net change in cash	$(184,022)	$ 390,505

Cash Flows Used In Operating Activities

Stateside had cash provided by operating activities of $143,883 in 2020 as compared to cash used of $522,423 in 2020. The increase in cash provided by operating activities was primarily driven by the net income in 2021 and less cash used by changes in operating assets and liabilities in 2021.

Cash Flows Used In Investing Activities

Stateside's cash used from investing activities was $6,200 in 2020.

Cash Flows Provided By Financing Activities

Stateside's cash used in financing activities was $327,905 in 2021 compared to cash provided of $919,128 in 2020. Cash inflows in 2021 were related to proceeds from the PPP loan of $229,000 offset by distributions of $550,000. Cash inflows in 2020 were primarily related to proceeds from the PPP loan of $251,000 and advances from the factor of $668,000.

Year ended December 31, 2020 compared to the year ended December 31, 2019

Results of Operations

The following table presents the results of operations for the years ended December 31, 2020 and 2019:

	Year Ended December 31,	
	2020	2019
Net revenues	$3,187,512	$5,913,987
Cost of net revenues	1,485,726	2,687,902
Gross profit	1,701,786	3,226,085
Operating expenses	2,186,362	3,244,856
Operating loss	(484,576)	(18,771)
Other income	261,035	—
Loss before provision for income taxes	(223,541)	(18,771)
Provision for income taxes	800	—
Net loss	$ (224,341)	$ (18,771)

Net Revenues

Stateside's net revenue decreased by $2.7 million to $3.2 million in 2020, compared to $5.9 million in 2019. This decrease was due to the impact of COVID-19 on customer demand in its e-commerce and wholesale channels.

Gross Profit

Stateside's gross profit decreased by $1.5 million in 2020 to $1.7 million from $3.2 million in 2019. Gross margin was 53.4% in 2020 compared to 54.6% in 2019.

Operating Expenses

Stateside's general and administrative expense decreased by $0.1 million in 2020 to 1.2 million compared to $1.3 million in 2019 due to cost cutting measures and decreased operations as a result of COVID-19.

General and administrative expenses as a percentage of revenue increased to 37.4% in 2020 compared to 22.5% in 2019. The increase in the general and administrative expenses as a percentage of revenue was significantly impacted by the lower revenue associated with COVID-19.

Sales & Marketing

Stateside's sales and marketing expense decreased by $0.8 million in 2020 to $0.8 million compared to $1.7 million in 2019 primarily due to commissions associated with lower revenue and lower advertising costs.

Stateside's sales and marketing expenses as a percentage of revenue was 26.3% in 2020 compared to 28.0% in 2019 due to lower commission rates associated with lower revenue from COVID-19.

Other Income (Expense)

In 2020, Stateside recorded other income of $0.3 million primarily related to the gain on forgiveness of debt associated with the PPP loan in 2020.

Net Loss

Stateside's net loss increased by $0.2 million to a loss of $0.2 million in 2020 compared to a loss of $18,000 in 2019 primarily due to lower revenue and lower gross profit in dollars, offset slightly by an increase in other income in 2020.

Cash Flow Activities

As of December 31, 2020, Stateside had a cash balance of $251,381 and working capital of $869,165.

The following table presents selected captions from Stateside's condensed statement of cash flows for the years ended December 31, 2020 and 2019:

	Year Ended December 31,	
	2020	2019
Net cash provided by operating activities:		
Net loss	$(224,341)	$ (18,771)
Non-cash adjustments	$(196,014)	$ 75,449
Change in operating assets and liabilities	$ (32,141)	$(603,288)
Net cash used in operating activities	$(452,496)	$(546,610)
Net cash used in investing activities	$ (9,594)	$ (97,472)
Net cash provided by financing activities	$ 615,803	$ 691,966
Net change in cash	$ 153,713	$ 47,884

Cash Flows Used In Operating Activities

Stateside's cash used by operating activities decreased by $94,000 to $452,496 for 2020 as compared to $546,610 for 2019. The decrease in cash used by operating activities was primarily driven by the less cash used pursuant to changes in operating assets and liabilities in 2020.

Cash Flows Used In Investing Activities

Stateside's cash used from investing activities was $9,594 for 2020 as compared to cash used of $97,472 for 2019. Cash used during 2020 and 2019 was primarily related to deposits and advances to related parties.

Cash Flows Provided By Financing Activities

Stateside's cash provided by financing activities was $615,803 for 2020 compared to cash provided of $691,966 for 2019. Cash inflows in 2020 were primarily related to proceeds from the PPP loan of $251,000 and advances from the factor of $668,000, partially offset by distributions of $303,000. Cash inflows in 2019 were due to advances from the factor.

Digital Brands Group, Inc — Pro Forma giving effect to the acquisitions of H&J and Stateside

Nine months ended September 30, 2021 compared to Nine months ended September 30, 2020

Results of Operations

The following table presents our pro forma results of operations for the nine months ended September 30, 2021 and 2020:

	Nine Months Ended September 30,	
	2021	**2020**
Net revenues	$ 7,824,956	$ 10,958,142
Cost of net revenues	3,723,720	6,890,954
Gross profit	4,101,236	4,067,188
Operating expenses	26,060,482	14,120,273
Operating loss	(21,959,246)	(10,053,085)
Other expenses	(3,496,221)	(2,262,095)
Loss before provision for income taxes	(25,455,467)	(12,315,180)
Benefit (provision) for income taxes	1,100,120	(13,657)
Net loss	$(24,355,347)	$(12,328,837)

Net Revenues

Pro forma revenue decreased by $3.2 million to $7.8 million for the nine months ended September 30, 2021, compared to $11.0 million in the corresponding fiscal period in 2020. The decrease is primarily due to the full effects of COVID-19 on the operations of Bailey in the winter of 2021, partially offset by the increase in revenue due to the increased pro forma revenue of Stateside in 2021.

Gross Profit

Our pro forma gross profit was $4.1 million for both the nine months ended September 30, 2021 and 2020.

Our pro forma gross margin was 52.4% for the nine months ended September 30, 2021 compared to 37.61% for the nine months ended September 30, 2020.

Operating Expenses

Our pro forma operating expenses increased by $11.9 million for the nine months ended September 30, 2021 to $26.1 million compared to $14.1 million for the corresponding fiscal period in 2020. The increase in operating expenses was primarily due to non-cash charges incurred in 2021 upon the IPO and acquisition of H&J, including stock-based compensation expense of $4.0 million and the change in fair value of contingent consideration of $3.1 million, as well as increased professional fees and investor relations costs. We expect operating expenses to increase in total dollars and as a percentage of revenues as our revenue base increases.

Other Expenses

Other expenses pro forma increased by $1.2 million to $3.5 million in the nine months ended September 30, 2021 compared to $2.3 million in the corresponding fiscal period in 2020. The increase in the other expense was primarily due to interest expense from the April 2021 note which was fully amortized during the second quarter of 2021 as well as amortization of debt discounts recorded upon debt conversions during the IPO.

Net Loss

Our pro forma net loss increased by $12.0 million to a loss of $24.3 million for the nine months ended September 30, 2021 compared to a loss of $12.3 million for the corresponding fiscal period in 2020 primarily due to our increased operating expenses, partially offset by a tax benefit recorded in 2021.

Cash Flow Activities

The following table presents selected captions from our pro forma condensed statement of cash flows for the nine months ended September 30, 2021 and 2020:

	Nine Months Ended September 30,	
	2021	2020
Net cash provided by operating activities:		
Net loss	$(24,355,347)	$(12,328,836)
Non-cash adjustments	$ 14,352,526	$ 5,450,006
Change in operating assets and liabilities	$ (1,329,310)	$ 4,405,582
Net cash used in operating activities	$(11,332,131)	$ (2,473,248)
Net cash used in investing activities	$ (5,523,982)	$ (5,076,842)
Net cash provided by financing activities	$ 20,025,632	$ 11,555,969
Net change in cash	$ 3,169,519	$ 4,005,879

Cash Flows Used In Operating Activities

Our pro forma cash used by operating activities increased by $8.9 million to cash used of $11.3 million for the nine months ended September 30, 2021 as compared to cash used of $3.6 million for the corresponding fiscal period in 2020. The increase in net cash used in operating activities was primarily driven by our higher net loss and less cash provided by changes in our operating assets and liabilities in 2021, partially offset by an increase in non-cash charges.

Cash Flows Provided By Investing Activities

Our pro forma cash used in investing activities was $5.5 million in the nine months ended September 30, 2021 as compared to $5.1 million for the corresponding fiscal period in 2020. Cash used in 2021 was primarily related to the cash consideration in the H&J and Stateside acquisitions. Pro forma cash used in 2020 was primarily related to the cash consideration in the Stateside acquisition, partially offset by cash acquired due to the acquisition of Bailey and deposits.

Cash Flows Provided by Financing Activities

Pro forma cash provided by financing activities was $20.0 million for the nine months ended September 30, 2021 compared to cash provided of $11.6 million for the corresponding fiscal period in 2020. Cash inflows in the nine months ended September 30, 2021 were primarily related to $8.6 million in net proceeds from the IPO after deducting underwriting discounts and commissions and offering expenses, as well as $1.4 million in net proceeds from the underwriter's exercise of their over-allotment option. Pro forma cash was also generated in 2021 from proceeds from loan payables of $2.8 million and proceeds from convertible notes payable of $7.8 million and proceeds from the Oasis and First Fire convertibles notes, partially offset by loan and note repayments of $2.0 million.

Pro forma cash inflows in the nine months ended September 30, 2020 were primarily related to proceeds from PPP and SBA loans of $1.9 million, proceeds from our Series A-3 and CF preferred stock for $0.7 million, proceeds from venture debt of $0.3 million and advances from Bailey and Stateside's factor of $0.8 million, as well as proceeds from the Oasis and First Fire convertibles notes.

Year Ended December 31, 2020 compared to the year ended December 31, 2019

Results of Operations

	Year Ended December 31,	
	2020	2019
Net revenues	$ 12,989,493	$ 39,373,683

	Year Ended December 31,	
	2020	2019
Cost of net revenues	8,089,592	18,180,740
Gross profit	4,899,901	21,192,943
Operating expenses	18,372,629	33,865,331
Operating loss	(13,472,728)	(12,672,388)
Other expenses	(3,308,887)	(2,597,303)
Loss before provision for income taxes	(16,781,615)	(15,269,691)
Provision for income taxes	14,441	15,690
Net loss	$(16,796,056)	$(15,285,381)

Net Revenue

Our pro forma net revenue decreased by $26.4 million to $13.0 million for 2020, compared to $39.4 million for 2019. The decrease was due to the Bailey 44 acquisition, which experienced a significant decline in 2020 wholesale revenues associated with COVID-19. Additionally, at Bailey 44, we transitioned to a new Creative Director. The new Creative Director did not start until June 2020 and therefore her first collection for sale is May 2021. This resulted in no new product for sale to wholesale or online for approximately one year, which significantly reduced revenue along with COVID-19.

Gross profit

Our pro forma gross profit decreased by $16.3 million for 2020 to $4.9million from $21.2 million for 2019. The decrease in gross margin was primarily due to the Bailey 44 acquisition and the subsequent lower revenue associated with Bailey 44 due to COVID-19 and the Creative Director transition as noted in the net revenue section.

Our pro forma gross margin decreased by 16.1% to 37.7% for 2020 compared to 53.8% for 2019. The decrease in the gross margin was primarily associated with our acquisition of Bailey 44 due to our heavy discounting to sell their aged and current inventory. We discounted the Bailey 44 inventory due to lower market demand as a result of COVID-19 and our decision to hire a new Creative Director and create a clean break in the product collections.

Operating Expenses

Our pro forma operating expenses decreased by $15.5 million for 2020 to $18.4 million compared to $33.9 million for 2019. The decrease in general and administrative expenses was primarily due to the Bailey 44 acquisition. As part of the acquisition we reduced expenses in the employee base, merging two corporate offices and fulfillment centers into one location for each, closing the three Bailey 44 stores, and renegotiated contracts with one of our major wholesale accounts.

Other Income and Interest Expense

Our pro forma other expense increased by approximately $0.7 million to $3.3 million for 2020 compared to $2.6 million for 2019. The increase in the other expense was primarily due to interest expense from the Bailey 44 acquisition and an increase in the DBG interest expense year over year.

Net Loss

Our pro forma net loss increased by $1.5 million to a loss of $16.8 million for 2020 compared to a loss of $15.3 million for 2019 primarily due to lower revenue, lower gross profit in both dollars and as a percentage of revenue and an increase in other expenses in dollars.

Cash Flow Activities

The following table presents selected captions from our pro forma combined condensed statement of cash flows for the year ended December 31, 2020 and 2019:

	Year Ended December 31,	
	2020	2019
Net cash provided by operating activities:		
Net loss	$(16,796,055)	$(15,285,382)
Non-cash adjustments	$ 5,942,803	$ 3,094,970
Change in operating assets and liabilities	$ 6,920,522	$ 3,734,547
Net cash used in operating activities	$ (3,932,730)	$ (8,455,865)
Net cash used in investing activities	$ (4,870,459)	$ (5,902,595)
Net cash provided by financing activities	$ 12,673,621	$ 14,762,717
Net change in cash	$ 3,870,432	$ 404,257

During the years ended December 31, 2020 and 2019, our sources and uses of cash were as follows:

Net Cash Provided by Operating Activities

DBG's cash used by operating activities increased by $4.5 million to cash used of $3.9 million for 2020 as compared to cash used in operating activities of $8.5 million for 2018. For DBG, the increase in cash used by operating activities was primarily driven by an increase of $3.2 million in inventory, offset by a $0.6 million decline in accrued expenses and other liabilities. For H&J, the increase in cash used by operating activities was primarily driven by $419,446 in net loss and the gain on forgiveness of note payable of $225,388. For Stateside, the decrease in cash used by operating activities was primarily driven by the less cash used pursuant to changes in operating assets and liabilities in 2020.

Net Cash Used in Investing Activities

DBG's cash used in investing activities was $4.9 million for 2020 as compared to cash used of $5.9 million for 2019. Pro forma cash used includes the cash consideration for the Stateside acquisition. For DBG, cash was generated during 2020 due to business combinations and deposits. For H&J, cash used during 2020 and 2019 was primarily related to expenditures for leasehold improvements. Stateside's cash used from investing activities was primarily related to deposits and advances to related parties.

Net Cash Used in and Provided by Financing Activities

DBG's cash provided by financing activities was $12.7 million for 2020 compared to cash provided of $14.8 million for 2019. Pro forma cash provided includes the cash received pursuant to the Convertible Notes. For DBG, cash inflows in 2019 and 2020 were primarily related to proceeds from debt and equity financings. For H&J, cash inflows in 2020 were primarily related to proceeds from two notes payable of $592,000 offset by a $75,000 payment on an outstanding note payable. For Stateside, cash inflows in 2020 were primarily related to proceeds from the PPP loan of $251,000 and advances from the factor of $668,000, partially offset by distributions of $303,000. Cash inflows in 2019 were primarily related to proceeds from two notes payables for $400,000 offset by a $160,000 payment on an outstanding line of credit and advances from the factor.

Liquidity and Capital Resources

Each of DBG, Bailey, H&J and Stateside has historically satisfied our liquidity needs and funded operations with internally generated cash flow and borrowings and capital raises. Changes in working capital, most notably accounts receivable, are driven primarily by levels of business activity. Historically each of DBG, Bailey, H&J and Stateside has maintained credit line facilities to support such working capital needs and makes repayments on that facility with excess cash flow from operations.

As of September 30, 2021, December 31, 2020 and 2019, we had combined pro forma cash balances of approximately $3,929,527, $3,678,682 and $3,315,372, respectively, and a working capital deficit of $14,919,232, $17,595,549 and $4,646,648, respectively.

In 2020 and 2021, each of DBG, Bailey, H&J and Stateside have benefited from PPP and EIDL loans to fund operations. PPP loans are to be partially or fully forgiven based on the terms of the notes and related

expenses incurred. DBG has also benefited from convertible debt, which may convert upon a public offering into common stock.

In March 2017, DBG entered into a senior credit agreement with an outside lender for up to $4,000,000, dependent upon the achievement of certain milestones. The initial close amount was a minimum of $1,345,000. The loan bears interest at 12.5% per annum, compounded monthly, including fees. A 5% closing fee is due upon each closing, legal and accounting fees of up to $40,000, and management fees of $4,167-$5,000 per month. As of September 30, 2021, we owed our senior secured lender approximately $6.0 million that is due on the scheduled maturity date of December 31, 2022. Our credit agreement contains negative covenants that, subject to significant exceptions, limit our ability, among other things to make restricted payments, pledge assets as security, make investments, loans, advances, guarantees and acquisitions, or undergo other fundamental changes. A breach of any of these covenants could result in a default under the credit facility and permit the lender to cease making loans to us. If for whatever reason we have insufficient liquidity to make scheduled payments under our credit facility or to repay such indebtedness by the schedule maturity date, we would seek the consent of our senior lender to modify such terms. Although our senior lender has previously agreed to seven prior modifications of our credit agreement, there is no assurance that it will agree to any such modification and could then declare an event of default. Upon the occurrence of an event of default under this agreement, the lender could elect to declare all amounts outstanding thereunder to be immediately due and payable. We have pledged all of our assets as collateral under our credit facility. If the lender accelerates the repayment of borrowings, we may not have sufficient assets to repay them and we could experience a material adverse effect on our financial condition and results of operations.

Repayment is accelerated upon a change in control, as defined in the senior credit agreement. The loan is senior to all other debts and obligations of DBG, is collateralized by all assets of DBG, and shares of DBG's common stock pledged by officers of DBG. As of December 31, 2020 and 2019, the gross loan balance was $6,001,755 and $4,542,544, respectively resulting from cash disbursed to DBG and considerations for outstanding interest of $1,459,211 and $508,249, respectively plus loan fees of $60,000 and $34,296, respectively charged to the loan balance, respectively. DBG failed to comply with certain debt covenants during the years ended December 31, 2020 and 2019. Accordingly, as of December 31, 2020 and 2019, the entire amount is shown as a current liability. The senior lender has waived any default in connection with DBG's prior failure to comply with such debt covenants.

The lender was also granted warrants to purchase common stock representing 1% of the fully diluted capitalization of DBG for each $1,000,000 of principal loaned under the agreement, which was increased to 1.358% during 2020. During the nine months ended September 30, 2021 and the years ended December 31, 2020 and 2019, the Company granted 0, 493,462 and 128,667 common stock warrants, respectively, to the lender with an exercise price of $2.50 per share and a ten-year contractual life. As discussed in Note 8 to the financial statements, during the nine months ended September 30, 2021 and the years ended December 31, 2020 and 2019, these warrants were valued at $0, $184,191 and $49,928, respectively. The value of the warrants was initially recorded as a discount to the note, which is amortized over its term.

For the nine months ended September 30, 2021 and the years ended December 31, 2020 and 2019, $147,389, $241,878 and $149,948 of these loan fees and discounts from warrants were amortized to interest expense, leaving unamortized balances of $0, $147,389 and $225,720 as of September 30, 2021, December 31, 2020 and 2019, respectively. Unamortized balances are expected to be amortized through December 2022, the maturity date of the loan.

Interest expense and effective interest rate on this loan for the nine months ended September 30, 2021 and the years ended December 31, 2020 and 2019 was $323,807, $770,277 and $624,127, and 14.0%, 14.6% and 17.7%, all respectively.

In April 2021, DBG received gross proceeds of $1.0 million from a debt offering. The terms of the debt offering were (1) repayment of $1.0 million (reflecting a 15% original issue discount), (2) a three month maturity date from the closing, (3) 50% warrant coverage for five year cash warrants with the exercise price set at the IPO price and callable at a 200% increase in the IPO price, (4) 50,000 common shares issued at the closing, and (5) if the IPO is not completed or the Note is not repaid by the maturity date then the warrant coverage will increase to 75% and the note will begin generating a 15% annual interest rate, paid in cash, until the default is cured. The debt was repaid using a portion of the proceeds from the IPO.

On August 27, 2021, we entered into a Securities Purchase Agreement with Oasis Capital, LLC ("Oasis Capital") further to which Oasis Capital purchased a Senior Secured Convertible Promissory Note (the "Oasis Note"), with an interest rate of 6% per annum, having a face value of $5,265,000 for a total purchase price of $5,000,000, secured by an all assets of the Company. The Oasis Note, in the principal amount of $5,265,000, bears interest at 6% per annum and is due and payable 18 months from the date of issuance, unless sooner converted. The Note is convertible at the option of Oasis Capital into shares of the Company's common stock at a conversion price (the "Oasis Conversion Price") which is the lesser of (i) $3.601, and (ii) 90% of the average of the two lowest volume-weighted average prices during the five consecutive trading day period preceding the delivery of the notice of conversion. Oasis Capital is not permitted to submit conversion notices in any thirty day period having conversion amounts equaling, in the aggregate, in excess of $500,000. If the Oasis Conversion Price set forth in any conversion notice is less than $3.00 per share, the Company, at its sole option, may elect to pay the applicable conversion amount in cash rather than issue shares of its common stock. In connection with the issuance of the Oasis Note, the Company entered into a security agreement (the "Security Agreement") pursuant to which the Company agreed to grant Oasis Capital a security interest in substantially all of its assets to secure the obligations under the Oasis Note and a registration rights agreement with Oasis Capital (the "RRA").

On October 1, 2021, we entered into an Amended and Restated Securities Purchase Agreement with FirstFire Global Opportunities Fund, LLC ("FirstFire") and Oasis Capital further to which FirstFire purchased a Senior Secured Convertible Promissory Note (the "First FirstFire Note"), with an interest rate of 6% per annum, having a face value of $1,575,000 for a total purchase price of $1,500,000, secured by an all assets of the Company. The First FirstFire Note, in the principal amount of $1,575,000, bears interest at 6% per annum and is due and payable 18 months from the date of issuance, unless sooner converted. The First FirstFire Note is convertible at the option of FirstFire into shares of the Company's common stock at a conversion price (the "First FirstFire Conversion Price") which is the lesser of (i) $3.952, and (ii) 90% of the average of the two lowest volume-weighted average prices during the five consecutive trading day period preceding the delivery of the notice of conversion. FirstFire is not permitted to submit conversion notices in any thirty day period having conversion amounts equaling, in the aggregate, in excess of $500,000. If the First FirstFire Conversion Price set forth in any conversion notice is less than $3.00 per share, the Company, at its sole option, may elect to pay the applicable conversion amount in cash rather than issue shares of its common stock. In connection with the issuance of the First FirstFire Note, the Company, Oasis Capital and FirstFire amended the Security Agreement to grant FirstFire a similar security interest in substantially all of the Company's assets to secure the obligations under the First FirstFire Note. The Company, Oasis Capital and FirstFire also amended the RRA to join FirstFire as a party thereto and to include the shares of Company common stock issuable under the First FirstFire Note as registrable securities.

On November 16, 2021, we entered into a Securities Purchase Agreement with FirstFire further to which FirstFire purchased a Senior Secured Convertible Promissory Note (the "Second FirstFire Note" and together with the First FirstFire Note, the "FirstFire Notes"), with an interest rate of 6% per annum, having a face value of $2,625,000 for a total purchase price of $2,500,000. The Second FirstFire Note is convertible at the option of FirstFire into shares of the Company's common stock at a conversion price (the "Second FirstFire Conversion Price") which is the lesser of (i) $4.28, and (ii) 90% of the average of the two lowest volume-weighted average prices during the five consecutive trading day period preceding the delivery of the notice of conversion. FirstFire is not permitted to submit conversion notices in any thirty day period having conversion amounts equaling, in the aggregate, in excess of $500,000. If the Second FirstFire Conversion Price set forth in any conversion notice is less than $3.29 per share, the Company, at its sole option, may elect to pay the applicable conversion amount in cash rather than issue shares of its common stock. In connection with the Second FirstFire Note, the Company issued (a) 30,000 additional shares of common stock to FirstFire and (b) 100,000 additional shares of common stock to Oasis Capital, as set forth in the waivers and consents (the "Waivers"), dated November 16, 2021 executed by each of FirstFire and Oasis Capital (collectively, the "Waiver Shares"). In addition, the Company entered into an amendment to the RRA, dated November 16, 2021. The RRA, as amended, provides that the Company shall file a registration statement registering the shares of common stock issuable upon conversion of the FirstFire Notes, and the Waiver Shares by November 30, 2021 and use its best efforts to cause such registration statement to be effective with the SEC no later than 120 days from the date of the FirstFire Note.

DESCRIPTION OF BUSINESS

Overview

We offer a wide variety of apparel through numerous brands on a both direct-to-consumer and wholesale basis. We have created a business model derived from our founding as a digitally native-first vertical brand. Digital native first brands are brands founded as e-commerce driven businesses, where online sales constitute a meaningful percentage of net sales, although they often subsequently also expand into wholesale or direct retail channels., Unlike typical e-commerce brands, as a digitally native vertical brand we control our own distribution, sourcing products directly from our third-party manufacturers and selling directly to the end consumer. We focus on owning the customer's "closet share" by leveraging their data and purchase history to create personalized targeted content and looks for that specific customer cohort including products from across our brands. We have strategically expanded into an omnichannel brand offering these styles and content not only on-line but at selected wholesale and retail storefronts. We believe this approach allows us opportunities to successfully drive Lifetime Value ("LTV") while increasing new customer growth.

Market Opportunity

We believe that a successful apparel brand needs to sell in every revenue channel. Furthermore, each channel offers different margin structures and requires different customer acquisition and retention strategies. We were founded as a digital-first retailer which has strategically expanded into select wholesale and direct retail channels. We strive to strategically create omnichannel strategies that blend physical and online channels to engage consumers in the channel of their choosing. Our products are sold direct-to-consumers principally through our websites, but also through our wholesale channel, primarily in specialty stores and select department stores, and our own showrooms. We currently offer products under the DSTLD, ACE Studios, Bailey 44, Harper & Jones and Stateside brands. Bailey is primarily a wholesale brand, which we have begun to transition to a digital, direct-to-consumer brand. DSTLD is primarily a digital direct-to-consumer brand, to which we recently added select wholesale retailers to create more brand awareness. Harper & Jones is primarily a direct-to-consumer brand using its own showrooms. Stateside is primarily a digital, direct-to-consumer brand. We intend to leverage all these channels (our websites, wholesale and our own stores) for all our brands. Every brand will have a different revenue mix by channel based on optimizing revenue and margin in each channel for each brand, which includes factoring in customer acquisition costs and retention rates by channel and brand.

We believe that by leveraging a physical footprint to acquire customers and increase brand awareness, we can use digital marketing to focus on retention and a very tight, disciplined high value new customer acquisition strategy, especially targeting potential customers lower in the sales funnel. Building a direct relationship with the customer as the customer transacts directly with us allows us to better understand our customer's preferences and shopping habits. Our substantial experience as a company originally founded as a digitally native-first retailer gives us the ability to strategically review and analyze the customer's data, including contact information, browsing and shopping cart data, purchase history and style preferences. This in turn has the effect of lowering our inventory risk and cash needs since we can order and replenish product based on the data from our online sales history, replenish specific inventory by size, color and SKU based on real times sales data, and control our mark-down and promotional strategies versus being told what mark downs and promotions we have to offer by the department stores and boutique retailers.

Our Growth Model

We believe that the highly fragmented nature of the apparel industry, combined with the opportunity to leverage our position as a public company with access to financial resources, presents a significant opportunity for consolidation of apparel brands. We use a disciplined approach to identify and evaluate acquisition candidates. We believe there are three ideal acquisition targets: (1) strong legacy brands that have been mismanaged, (2) strong brands that do not have capital to grow, and (3) wholesale brands that are struggling to transition to e-commerce. We look for brands that have an emotional hook in its customers, a high repeat customer rate, the potential to scale and strong financials. We source and identify acquisition

targets based on our industry knowledge and through our network of investment banks, finders, private equity and venture capital firms, among others.

We intend to actively pursue acquisitions to increase and tighten customer cohorts and increase our ability to create more customized content and personalized looks and styles for each customer cohort. We believe that customers want and trust brands that can deliver customized content and personalized looks and styles. We expect this should results in higher customer loyalty, higher lifetime value, higher average order value and lower customer acquisition cost.

The acquisition of other apparel businesses increases our customer base, our data to create tighter customer cohorts, customized customer content and personalized styles and looks utilizing products across all our portfolio brands. These acquisitions also increase our future acquisition network, as these potential acquisitions can watch how we integrate and grow the brands we acquire.

We believe that our ability to acquire businesses at prevailing private company valuations will present opportunities for earnings growth, accretion, and private-to-public valuation multiple positive arbitrage. Moreover, our acquisition strategy will provide opportunities, not only to expand into new geographic areas, but also to expand our range of product offerings in existing areas of operation and cross-sell to our collective enterprise.

We believe that we are revolutionizing the corporate holding company for direct-to-consumer and wholesale apparel brands by focusing on a customer's "closet share" and leveraging the customer's data to create personalized customer cohorts and customized customer content. This allows the company to successfully increase our customer lifetime value, lower our customer acquisition cost, exponentially increase new customer growth across our portfolio brands and increase our average order value.

We believe that customers seldomly wear the same brand from head to toe. By owning multiple brands across complementary categories, the customer is provided head to toe looks and personalized styles based on products across our brands. This results in the customer buying and wearing multiple brands, across product categories instead of wearing a singular brand's products in one category. Digital Brands Group refers to this as "Closet Share," which results in best of class KPIs, margins and sustainable revenue growth. This lowers the cost of customer acquisition for each brand and increases customer loyalty to all of our brands.

By owning the customer data, Digital Brands Group captures an individual's shopping behavior, purchases and style preferences. This results in the ability to create customized customer content that is highly targeted and cross merchandise styles for every customer using all the brands in the portfolio to create personalized looks for each customer. As we aggregate more data, it exponentially increases the customers in each customer cohort, which results in each customer cohort becoming more targeted and customized.

Furthermore, we believe that we will increase our gross margins by leveraging a consolidated supply chain to give the Company more control and lower our inventory purchases and control and optimize our pricing and promotions. We also believe that we will expand our operating margin expansion through a shared services model, which eliminates redundant back office expenses and leverages our marketing and data analytics teams and expenses across our portfolio of brands.

We believe this creates a proprietary and scalable flywheel driven by personalized and targeted customer experiences, fueling loyalty, lifetime value and virality resulting in increased revenue growth that leverages operating costs and generates significant cash flow. Wholesale and direct to consumer channels provide different cash flow to our business. Wholesale provides a good source of cash upfront because financing can be provided to purchase inventory and fund operations. In contrast, direct to consumer requires scaling and results in cash flow once inventory is sold to consumers. We believe having a proper mix of both wholesale and direct to consumer enables us to maintain a strong cash business.

Organizational Structure

We operate the brands on a decentralized basis with an emphasis on brand level execution supported by corporate coordination. The brand's executive teams operate and leverage relationships with customers

and suppliers, including designing and producing product and developing marketing plans including social media, email and digital communications.

We plan to continue to consolidate marketing and tech contracts as we have done with Bailey's contracts, which has provided significant cost savings. We also review the fabric mills and factories used by each brand to see if we can consolidate or cross utilize these mills and factories, which will drive increased volumes, lower production costs and higher gross margins. As an example, we are utilizing DSTLD's denim mills and factories to develop denim products for Bailey and H&J. We are also consolidating production into a few factories in Europe from China and the U.S., which lowers our average production cost per unit.

We leverage the Digital Brands Group marketing and data analytics team to create cross marketing campaigns based on the customer data respective to each brand's customer base. As an example, the Digital Brands Group's marketing and data team reviews the customer data across all our portfolio brands and will work with each brand to identify the new customers from our other portfolio brands that they can target and what styles and looks should be created for each of those customer cohorts. The brand level employees then execute the looks and styles and create the customized customer communication based on the information and data from the Digital Brand Group marketing and data teams.

Certain administrative functions is centralized on a regional and, in certain circumstances, a national basis, including but not limited to accounting support functions, corporate strategy and acquisitions, human resources, information technology, insurance, marketing, data analytics and customer cross merchandising, advertising buys, contract negotiations, safety, systems support and transactional processing.

We believe integrated operations create opportunities for economies of scale as we grow. We expect cost savings in such areas as materials purchasing, bulk apparel production, shipping and logistics, information systems, marketing purchasing (both online and offline) and contractual relationships with key suppliers.

We also believe there are significant opportunities to improve operating margins by consolidating administrative functions such as accounting, employee benefits, finance, insurance, marketing, data analytics, cross merchandising and risk management. We have identified initiatives to increase market share, revenue and volume and to expand our profit margins. These initiatives include, but are not limited to:

- Implement System-Wide Best Practices. We have identified certain best practices among our brands, including marketing strategies, data analytics, contract renegotiating, sourcing and supply chain and organization structure and hiring plans. We plan to implement these best practices to improve the operating margins of our brands and any subsequently-acquired businesses.
- Leverage Size to Create Efficiencies. We believe our increasing scale will enhance our ability to leverage buying power in product quantities, marketing strategies and assets, vendor contracts and fulfillment and shipping, resulting in lower costs, higher margins and cash flow. This in turns creates competitive advantages.
- Expand our Product Offerings. We will have opportunities to share expertise across our acquired businesses on the sale of certain products and lines that are not currently offered by all of them or that will become available to us through acquisitions.
- Increase our Margins and Enhance Operating Efficiencies. We believe that as our portfolio of acquired businesses grows, so will our ability to negotiate volume and cash discounts from our suppliers, thereby increasing our profit margins.
- Lower our customer acquisition cost and increase our LTV. We will have the opportunity to cross market our brands to new customers that are loyal to other brands we own. This cross merchandising should lower our customer acquisition cost meaningfully, while also increasing our LTV. This should not only increase our margins, cash flow and revenues, but also create loyalty and repeat purchases by the customer as we provide a single solution for their products that are personalized to them based on their past purchases and data.

As we organically grow and acquire new businesses, we believe we will be in an improved position to negotiate volume and cash discounts and to increase the mix of higher- margin product offerings. We also

believe that we will lower our customer acquisition cost, while increasing our annual average spend per customer and LTV. These increased profit margins and customer retention and repeat purchases will provide us with additional room to improve pricing with our customers that will improve our competitive advantages.

Principal Products and Services

DSTLD — Brand Summary

DSTLD focuses on minimalist design, superior quality, and only the essential wardrobe pieces. We deliver casual luxury rooted in denim; garments that are made with exhaustive attention to detail from the finest materials for a closet of timeless, functional staples. Our brand name "DSTLD" is derived from the word 'distilled,' meaning to extract only the essentials. As such, DSTLD boasts an line of key wardrobe pieces in a fundamental color palette of black, white, grey, and denim.

Our denim prices generally range from $75 to $95; similar quality brands produced at the same factories wholesale for approximately $95 to $125 and retail for $185 to $350. Our tee shirts and tops will range $30 to $90, similar quality brands produced at the same factories wholesale for approximately $25 to $75 and retail for $60 to $250. Our casual pants will range $85 to $109, similar quality brands produced at the same factories wholesale for approximately $85 to $115 and retail for $175 to $250.

ACE Studios — Brand Summary

ACE Studios will design and offer luxury men's suiting with superior performance, superb fits, and excellent quality at an exceptional value. We will offer men's classic tailored apparel with premium and luxury fabrics and manufacturing. We work with the same high-quality mills and factories in the world as the leading luxury brands. We believe most customers have different shapes and sizes, so we plan to offer multiple fits for our products. We sidestep the middleman and sell our products ourselves, allowing us to offer top-tier quality without the standard retail markup.

Our suits are expected to range from $295 to $495; similar quality brands produced at the same factories wholesale for approximately $300 to $600 and retail for $600 to $1,200. Our dress shirts will range $55 to $65, similar quality brands produced at the same factories wholesale for approximately $50 to $75 and retail for $95 to $150. Our casual pants will range $85 to $109, similar quality brands produced at the same factories wholesale for approximately $85 to $115 and retail for $175 to $250.

We anticipate rolling out the ACE Studios brand in 2023 as a digitally native first brand.

Bailey — Brand Summary

In February 2020, we acquired Bailey. Bailey delivers distinct high-quality, well-fitting, on-trend contemporary apparel using at an entry contemporary price point. Bailey combines beautiful, luxe fabrics and on-trend designs to offer clean, sophisticated ready-to-wear separates that easily transition from day to night and for date night. Bailey offers fashionable staples with timeless design features, making them wearable for any occasion — majority of products are tops, sweaters and dresses.

Bailey's full seasonal collections of dresses, tops, jumpsuits, bottoms, sets, jackets and rompers retail at price points between $90 – $350. We believe that we can create more compelling price points as we leverage our direct-to-consumer expertise. As we increase the direct-to-consumer revenue mix, we believe we will have opportunities to increase our margins, which will mostly be passed along to the customer with lower price points.

With our acquisition of Bailey, we view the following as tangible near-term growth opportunities:

- Increase emphasis on email and SMS communications allowing for personalized direct customer engagement, retention and repurchases.
- Increase market share in existing and new wholesale, including specialty boutiques due to the well-known and respected designer we hired in June 2020.

- Increase digital spend, social media presence, and brand and influencer collaborations.
- Selective opportunity to roll out proven retail concept in well defined, strategic locations.
- International expansion and licensing opportunities in select categories.

Harper & Jones — Brand Summary

We acquired H&J upon the completion of the IPO. H&J is well-known for delivering extremely high-quality, luxury custom and made-to-measure suiting and sportswear. The company provides full-closet customization, including shirts, jackets, pants, shorts, polos, plus more products that are made-to-measure. H&J offers a proprietary custom and made-to-measure supply chain, which creates positive working capital since the customer pays for the product upfront and we have terms with vendors to pay 60+ days later.

Their custom bench-made suit prices range between $1,995 – $4,995, custom bench-made jacket prices range from $1,895 – $3,495, custom-bench made trousers range from $600 – $1,100, and custom bench-made shirts range from $250 – $450.

With our acquisition of H&J, we view the following as tangible near-term growth opportunities:

- Increase showroom openings, which generate a 100% cash-on-cash return in the first year.
- Incorporate a store in store concept into their showrooms to sell our other menswear brands.
- Increase gross margins by buying fabric directly from the mills versus fabric agents.
- Launch ready-to-wear in certain categories based on small batch limited editions.

Stateside — Brand Summary

We acquired Stateside in August 2021. Stateside is a collection of elevated American basics influenced by the evolution of the classic T-Shirt. All garments are designed and produced in Los Angeles from the finest fabrics. All knitting, dyeing, cutting and sewing is sourced and manufactured locally in Los Angeles.

Stateside is known for delivering high quality, luxury T-shirts, tops and bottoms. Stateside is primarily a wholesale brand with very limited online revenue. Their T-shirt prices range from $68 to $94, their other tops range from $98 to $130, and their bottoms from $80 to $144.

With our acquisition of Stateside, we view the following as tangible near-term growth opportunities:

- Increase online revenues significantly as we have spent very little resources on developing their online sales opportunity from the website optimization to photography to email marketing to online advertising to digital customer acquisition and retention.
- Increase gross margins by ordering larger quantities as we pay meaningful upcharges for minimum order quantities.
- Launch new product categories for Fall 2022 in women's knits and wovens in the top category and women's wovens in the bottom category. We believe knits and wovens tops are one of the larger product categories in womenswear, with higher price points and dollar profit.

Sales and Distribution

DSTLD products have historically been sold solely direct-to-consumer, via our website. We recently started offering DSTLD products through a wholesale channel in October 2020. We intend to leverage the Bailey sales force to sell DSTLD products into their select independent boutiques and select department stores. We believe that we can increase the brand awareness, new customer acquisition and revenue by leveraging the Bailey independent boutiques. We will start selling old season stock through selected off-price retailers, with additional sales expected to be generated through specifically-cut product for select off-price retailers.

Bailey products are distributed through wholesale and direct-to-consumer channels. The wholesale channel includes premium department stores, select independent boutiques and third-party online stores.

As of January 31, 2021, products are distributed through 75+ doors at major department stores, over 350 points of sale at boutique stores and several major e-commerce multi-brand platform wholesale customers.

Stateside products are distributed through wholesale and direct-to-consumer channels. The wholesale channel includes premium department stores, select independent boutiques and third-party online stores. As of January 31, 2021, products are distributed through 50+ doors at major department stores, over 400+ points of sale at boutique stores and several major e-commerce multi-brand platform wholesale customers.

We do not have material terms or arrangements with our third-party distributors. As is customary in the wholesale side of the retail apparel industry, we work with the wholesale buyers for every product collection and season to develop a purchase order based on quantities, pricing, profit margin and any future mark- down agreements. Historically, these factors are driven by the wholesale buyer's belief of how well they think the product will sell at their stores. For example, if the collection is considered very strong by the wholesale buyer, we usually achieve higher quantities, higher margins and lower future markdown guarantees.

Conversely, when the wholesale buyer considers the collection to be weak, we experience lower quantities, lower margins and higher mark-down guarantees.

Our direct-to-consumer channels include our own website. Old season stock is sold through selected off-price retailers, with additional sales generated through specifically-cut product for select off-price retailers.

H&J products are currently sold solely through direct-to-consumer, via their three showrooms. The three showrooms are located in Dallas, Houston and New Orleans. We expect to open additional showrooms in the future. We believe that we can sell our other menswear products and brands in the H&J showrooms. Since all the product is custom made, there is no old stock to sell off.

All of our DSTLD and Bailey sellable product is stored at our corporate warehouse and distribution center in Vernon, CA, which also houses our corporate office. In addition to storing product, we also receive and process new product deliveries, process and ship outbound orders, and process and ship customer returns in this same facility.

All of H&J product is sent directly to the showroom, clothier or customer. They also receive and process new product deliveries, process and ship outbound orders, and process and ship customer returns through their showrooms or clothiers.

We offer free shipping and returns above to all our customers in the United States. We also offer customers the option to upgrade to 2-Day or Overnight Shipping for an additional cost.

Design and Development

Our products are designed at headquarters of each brand, which are in in Los Angeles, CA and Dallas, TX in the top floor of H&J's showroom. Each brand's design efforts are supported by well-established product development and production teams. The continued collaboration between design and merchandising ensures it responds to consumer preferences and market trends with new innovative product offerings while maintaining its core fashion foundation. In-house design and production teams in Los Angeles perform development of the sample line allowing for speed to market, flexibility and quality of fit.

We are engaged in analyzing trends, markets, and social media feedback along with utilizing historical data and industry tools to identify essential styles and proper replenishment timing and quantities.

We hired a new head designer for DSTLD Men's in December 2019 and hired a designer for DSTLD Women's in August 2021. We also contracted with a third-party designer for Bailey in June 2020. Stateside has its own head designer, who has been with the brand for several years.

We rely on a limited number of suppliers to provide our finished products, so we can aggregate pricing power. As we continue to increase our volumes, we will source additional factories to spread out our risks.

While we have developed long-standing relationships with a number of our suppliers and manufacturing sources and take great care to ensure that they share our commitment to quality and ethics, we do not have

any long-term term contracts with these parties for the production and supply of our fabrics and products. We require that all of our manufacturers adhere to a vendor code of ethics regarding social and environmental sustainability practices. Our product quality and sustainability team partners with leading inspection and verification firms to closely monitor each supplier's compliance with applicable laws and our vendor code of ethics.

Currently, our products are shipped from our suppliers to our distribution center in Vernon, CA which currently handles all our warehousing, fulfillment, outbound shipping and returns processing. In 2021, we will review maintaining our own distribution centers versus using a third-party solution.

For H&J, finished product is shipped to either our headquarters in Dallas, TX, or directly to one of their showroom locations.

Product Suppliers: Sourcing and Manufacturing

We work with a variety of apparel manufacturers in North America, Asia and Europe. We only work with full package suppliers, which supply fabric, trims, along with cut/sew/wash services, only invoicing us for the final full cost of each garment. This allows us the ability to maximize cash flows and optimize operations. We do not have long-term written contracts with manufacturers, though we have long-standing relationships with a diverse base of vendors.

We do not own or operate any manufacturing facilities and rely solely on third-party contract manufacturers operating primarily in Europe, United States, and the Asia Pacific region for the production of our products depending on the brand. All of our contract manufacturers are evaluated for quality systems, social compliance and financial strength by our internal teams prior to being selected and on an ongoing basis. Where appropriate, we strive to qualify multiple manufacturers for particular product types and fabrications.

All of our garments are produced according to each brand's specifications, and requires that all of manufacturers adhere to strict regulatory compliance and standards of conduct. The vendors' factories are monitored by each brand's production team to ensure quality control, and they are monitored by independent third-party inspectors we employ for compliance with local manufacturing standards and regulations on an annual basis. We also monitor our vendors' manufacturing facilities regularly, providing technical assistance and performing in-line and final audits to ensure the highest possible quality.

We source our products from a variety of domestic and international manufacturers. When deciding which factory to source a specific product from, we take into account the following factors:

- Cost of garment
- Retail price for end consumer
- Production time
- Minimum order quantity
- Shipping/delivery time
- Payment terms

By taking all of these into consideration, we can focus on making sure we have access to in-demand and high quality products available for sale to our customer at the competitive price points and sustainable margins for our business.

Marketing

We believe marketing is a critical element in creating brand awareness and an emotional connection, as well as driving new customer acquisition and retention. Each brand has their own in-house marketing department, which creates and produces marketing initiatives specific to each marketing channel and based on the specific purpose, such as acquisition, retention or brand building. We also have an in-house

marketing team at the DBG portfolio level, which reviews these brand initiatives, develops and helps initiate cross merchandising strategies, manages the data analytics and negotiates contracts using all our brands to lower the cost.

Our goal at the brand and the portfolio level is to increase brand awareness and reach, customer engagement, increase new customer conversion and repurchase rates and average order size. We utilize a multi-pronged marketing strategy to connect with our customers and drive traffic to our online platform, comprised of the following:

Customer Acquisition Marketing

Paid Social Media Marketing: This is our primary customer acquisition channel, and it is composed almost entirely of paid Facebook and Instagram marketing. We believe our core customers rely on the opinions of their peers, often expressed through social media, Social media platforms are viral marketing platforms that allow our brands to communicate directly with our customers while also allowing customers to interact with us and provide feedback on our products and service. We make regular posts highlighting new products, brand stories, and other topics and images we deem "on brand". By being a verified brand, our followers can shop products directly from our posts. We are also able to link to products in the stories feature.

Affiliate Marketing: With select online publications and influencers, we've sought to establish CPA or revenue sharing agreements. We believe these agreements are effective in incentivizing influencers or media to push our product and allowing us to only pay partners based on performance.

Email Marketing: We utilize email marketing to build awareness and drive repeat purchases. We believe this can be the most personalized customer communication channel for our brands, and therefore should continue to be one of our highest performing channels. We use an email service provider that enables us to send out a variety of promotional, transactional, and retargeting emails, with the main goal of driving increased site traffic and purchases. We maintain a database through which we track and utilize key metrics such as customer acquisition cost, lifetime value per customer, cost per impression and cost per click.

Retargeting: We engage the services of certain retargeting engines that allow us to dynamically target our visitors on third-party websites via banner/content ads.

Content Marketing: We use content marketing platforms that allow us to serve up native ads in the form of articles promoting our brand story and specific products.

Search Engine Optimization: This is the process of maximizing the number of visitors to our website by increasing our rankings in the search results on internet search engines. This is done by optimizing our onsite content, by making sure our pages, titles, tags, links, and blog content is structured to increase our search results on certain keywords, and our offsite content, which is the number of external websites linking to our website, usually through press articles and other advertising channels.

Print Advertising: We also intend to utilize print advertisements in magazines or billboards in major metropolitan areas to drive increased site traffic and brand awareness.

Video / Blog Content: We plan to offer videos and blog posts as a way to engage and educate the customer on our brands, how to wear different looks and styles, and create confidence and trust between our brands and customers. Videos and blog posts will include interviews with our designers, a behind-the-scenes look at how products are made, features of other artists or creatives, and photo shoots.

Retail Stores: We have successfully tested retail "pop ups" in the past. These "pop ups" have resulted in higher average order value, significantly lower customer returns (even when the retail customer orders online at a later date), and higher repurchase rate and annual spend. We view these retail locations as a marketing strategy, similar to allocating funds towards digital/online marketing. We expect our pop ups to generate a small to break even profit, which is more than offset by any potential marketing costs to acquire those customers in another marketing channel.

As we grow our entire portfolio, we will test "pop up" locations for specific brands, and also develop a multi-line pop up that incorporate our other brands into the "pop-up". We believe this strategy should be

cost effective given the number of store closures from COVID-19. We will determine whether a "pop up" or wholesale specialty boutique is the better option for each market and brand.

Instagram and Influencer Marketing

Instagram and influencer marketing is one of our largest initiatives. On a weekly basis, we reach out to and receive requests from tastemakers in fashion, lifestyle, and photography. We have developed a certain set of criteria for working with influencers (for example, engagement level, aesthetic, audience demographic) that have enabled us to garner impactful impressions. Our focus is not on the size of an account, but on creating organic relationships with influencers who are excited to tell our story. While most of our collaborations are compensated solely through product gifts, we also offer an affiliate commission of up to 20% through the influencer platform rewardStyle, which is the parent company of LiketoKnow.it, the first influencer platform to make Instagram shoppable (users receive an email directly to their inbox with complete outfit details when they "Like" a photo with LiketoKnow.it technology).

Retail Locations

Currently, H&J have three showrooms located in Dallas, Houston and New Orleans. We plan to use a portion of the proceeds of the IPO to selectively open a number of selected additional H&J showrooms. We will also test opening a men's multi-line showroom next to our H&J showrooms.

At the time of acquisition, Bailey operated three retail locations in Southern California. All three locations were shut down in 2020 due to declining revenue and profitability.

Public Relations

To generate ongoing organic and word-of-mouth awareness, we intend to work with print and online media outlets to announce new products and develop timely news stories. We are in contact with leading fashion, business, and tech writers in order to capitalize on celebrity fashion features, e-commerce trend pieces, or general brand awareness articles. We may utilize outside agencies from time to time. We plan to visit the major fashion, tech, and news outlets in New York City on a quarterly basis to keep them up to date on our latest launches and any relevant company developments. We also plan to host local Los Angeles press at our office space.

Celebrity gifting

We approach celebrity gifting in a strategic, discerning manner. We have longstanding, personal relationships with the industries top stylists; we do not send clothing blindly or unsolicited. We have successfully placed clothing (and as a result, fashion press) on a number of well-known A-list celebrities.

Loyalty Program

We plan to develop and launch a company-wide loyalty program, which would include all our brands. Our customer loyalty program will be designed to engage and reward our customers in a direct and targeted manner, and to cross merchandise our portfolio brands to our customers. Customers will earn reward points that can be used to purchase products. We will also use loyalty point multipliers to create customer purchases, especially, which is a strategy beauty retailers have effectively used.

Competition

Our business depends on our ability to create consumer demand for our brands and products. We believe we are well-positioned to compete in the apparel, leather products and accessories segments by developing high quality, well designed products at competitive prices that are often below our competitor's pricing. We focus on designing products that we hope exceed consumer expectations, which should result in retention and repurchases. We will invest in cross merchandising brands to customers through customized customer communications and personalized styles and looks utilizing products across all our portfolio brands, which we believe creates a competitive advantage for our brands versus single brands. As noted above, each of our brands has different competitors depending on product, quality and price point.

Government Regulation

Our business is subject to a number of domestic and foreign laws and regulations that affect companies conducting business on the Internet, many of which are still evolving and could be interpreted in ways that could harm our business. These laws and regulations include federal and state consumer protection laws and regulations, which address, among other things, the privacy and security of consumer information, sending of commercial email, and unfair and deceptive trade practices.

Under applicable federal and state laws and regulations addressing privacy and data security, we must provide notice to consumers of our policies with respect to the collection and use of personal information, and our sharing of personal information with third parties, and notice of any changes to our data handling practices. In some instances, we may be obligated to give customers the right to prevent sharing of their personal information with third parties. Under applicable federal and state laws, we also are required to adhere to a number of requirements when sending commercial email to consumers, including identifying advertising and promotional emails as such, ensuring that subject lines are not deceptive, giving consumers an opportunity to opt-out of further communications and clearly disclosing our name and physical address in each commercial email. Regulation of privacy and data security matters is an evolving area, with new laws and regulations enacted frequently. For example, California recently enacted legislation that, among other things, will require new disclosures to California consumers, and afford such consumers new abilities to opt out of certain sales of personal information. In addition, under applicable federal and state unfair competition laws, including the California Consumer Legal Remedies Act, and U.S. Federal Trade Commission, or FTC, regulations, we must, and our network of influencers may be required to, accurately identify product offerings, not make misleading claims on our websites or in advertising, and use qualifying disclosures where and when appropriate. The growth and demand for eCommerce could result in more stringent domestic and foreign consumer protection laws that impose additional compliance burdens on companies that transact substantial business on the Internet.

Our international business is subject to additional laws and regulations, including restrictions on imports from, exports to, and services provided to persons located in certain countries and territories, as well as foreign laws and regulations addressing topics such as advertising and marketing practices, customs duties and taxes, privacy, data protection, information security and consumer rights, any of which might apply by virtue of our operations in foreign countries and territories or our contacts with consumers in such foreign countries and territories. Many foreign jurisdictions have laws, regulations, or other requirements relating to privacy, data protection, and consumer protection, and countries and territories are adopting new legislation or other obligations with increasing frequency.

In many jurisdictions, there is great uncertainty whether or how existing laws governing issues such as property ownership, sales and other taxes, libel and personal privacy apply to the Internet and eCommerce. New legislation or regulation, the application of laws and regulations from jurisdictions whose laws do not currently apply to our business or the application of existing laws and regulations to the Internet and eCommerce could result in significant additional obligations on our business or may necessitate changes to our business practices. These obligations or required changes could have an adverse effect on our cash flows and results of operations. Further, any actual or alleged failure to comply with any of these laws or regulations by us, our vendors or our network of influencers could hurt our reputation, brand and business, force us to incur significant expenses in defending against proceedings or investigations, distract our management, increase our costs of doing business, result in a loss of customers and suppliers and may result in the imposition of monetary penalties.

Employees

As of November 23, 2021, we had 58 employees, all of whom were full-time employees. We believe our relationship with our employees is good. None of our employees are currently covered by a collective bargaining agreement. We have had no labor-related work stoppages and we believe our relationship with our employees is strong.

DESCRIPTION OF PROPERTY

We currently lease approximately 49,198 square feet of office and showroom spaces in the states of California, Dallas, Texas and Louisiana, United States, with leases that expire between 2021 and 2023. We believe that our existing facilities, will be sufficient for our needs for the foreseeable future.

The following table sets forth information with respect to our facilities:

Location	Type	Square Footage (approximate)	Lease Expiration
Vernon, California	Corporate Warehouse and Distribution Center	42,206	2023
Los Angeles, California	Showroom	2,000	2020[1]
Los Angeles, California	Stateside Office	7,700	2022
Austin, Texas	Interim Corporate Headquarters	500	2021[2]
Dallas, Texas	Office Space and Showroom	2,860	2022
Houston, Texas	Showroom	1,117	2021
New Orleans, Louisiana	Showroom	1,015	2021

(1) Bailey's lease for its showroom in Los Angeles, California expired on May 31, 2020. The lease is now a month-to-month lease.

(2) We are currently leveraging shared office space and working remotely as we work with an agent to secure long-term office space in Austin, TX for our corporate headquarters.

LEGAL PROCEEDINGS

We are currently involved in, and may in the future be involved in, legal proceedings, claims, and government investigations in the ordinary course of business. These include proceedings, claims, and investigations relating to, among other things, regulatory matters, commercial matters, intellectual property, competition, tax, employment, pricing, discrimination, consumer rights, personal injury, and property rights. These matters also include the following:

- On February 28, 2020, a Company vendor filed a lawsuit against the Company's non-payment of trade payables totaling $123,000. Such amounts, including expected interest, are included in accounts payable in the accompanying consolidated balance sheets and the Company does not believe it is probable that losses in excess of such trade payables will be incurred. The Company is actively working to resolve this matter.
- On March 25, 2020, a Bailey's product vendor filed a lawsuit against Bailey for non-payment of trade payables totaling $492,390. Approximately the same amount is held in accounts payable for this vendor in the accompanying consolidated balance sheets and the Company does not believe it is probable that losses in excess of such trade payables will be incurred. The Company and product vendor have entered into a settlement, which require the Company make ten monthly payments of approximately $37,000, the initial payment of which commenced in May 2021. Upon completion of the payment schedule, any remaining amounts will be forgiven. If the Company fails to meet its obligations based on the prescribed time frame, the full amount will be due with interest, less payments made.
- On December 21, 2020, a Company investor filed a lawsuit against DBG for reimbursement of their investment totaling $100,000. Claimed amounts are included in short-term convertible note payable in the accompanying consolidated balance sheets and the Company does not believe it is probable that losses in excess of such short-term note payable will be incurred. The Company is actively working to resolve this matter.
- In August 2020 and March 2021, two lawsuits were filed against Bailey's by third-party's related to prior services rendered. The claims (including fines, fees, and legal expenses) total an aggregate of $96,900. Both cases are in the preliminary stages and the Company believes the claims to be without merit. At this time, the Company is unable to determine potential outcomes but does not believe risk of loss is probable.
- On September 24, 2020 a Bailey's product vendor filed a lawsuit against Bailey's non-payment of trade payables totaling approximately $481,000 and additional damages of approximately $296,000. Claimed amounts for trade payables are included in accounts payable in the accompanying consolidated balance sheets, net of payments made. The Company does not believe it will be liable for additional damages and therefore the Company does not believe additional accrual is needed over what is included in accounts payable at this time. The Company plans to contest any such damages vigorously.

Depending on the nature of the proceeding, claim, or investigation, we may be subject to monetary damage awards, fines, penalties, or injunctive orders. Furthermore, the outcome of these matters could materially adversely affect our business, results of operations, and financial condition. The outcomes of legal proceedings, claims, and government investigations are inherently unpredictable and subject to significant judgment to determine the likelihood and amount of loss related to such matters. While it is not possible to determine the outcomes, we believe based on our current knowledge that the resolution of all such pending matters will not, either individually or in the aggregate, have a material adverse effect on our business, results of operations, cash flows, or financial condition.

DIRECTORS AND EXECUTIVE OFFICERS

The following table sets forth certain information with respect to our executive officers and directors as of November 23, 2021.

Name	Age	Position
Executive Officers and Directors		
John Hilburn Davis IV	49	President and Chief Executive Officer
Laura Dowling	42	Chief Marketing Officer
Reid Yeoman	39	Chief Financial Officer
Mark T. Lynn	37	Director
Trevor Pettennude	54	Director
Jameeka Aaron	41	Director
Huong “Lucy” Doan	53	Director

Board Composition

Our board of directors may establish the authorized number of directors from time to time by resolution.

No current or pending member of our board of directors or Compensation Committee serves as a member of the board of directors or the compensation committee of any entity that has one or more executive officers serving as a member of our board of directors or compensation committee.

Executive Officers

John Hilburn Davis IV, “Hil”, has served as our President and Chief Executive Officer since March 2019. He joined DSLTD to overhaul its supply chain in March 2018. Prior to that, Mr. Davis founded two companies, BeautyKind and J.Hilburn. He founded and was CEO of BeautyKind from October 2013 to January 2018. He also founded and was CEO of J.Hilburn from January 2007 to September 2013, growing it from $0 to $55 million in revenues in six years. From 1998 to 2006 Mr. Davis worked as an equity research analyst covering consumer luxury publicly traded companies at Thomas Weisel Partners, SunTrust Robinson Humphrey and Citadel Investment Group. He graduated from Rhodes College in 1995 with a BA in Sociology and Anthropology.

Laura Dowling has served as our Chief Marketing Officer since February 2019. Prior to that she was the Divisional Vice President of Marketing & PR, North America at Coach from February 2016 to August 2018. At Coach Ms. Dowling led a team of 25 and was held accountable for $45 million profit and loss. From August 2011 to February 2016, she was the Director of Marketing & PR at Harry Winston and from March 2009 to August 2011 she was the Director of Wholesale Marketing at Ralph Lauren. Ms. Dowling holds both a Masters degree (2002) and Bachelors degree (2001) in Communications & Media Studies with a Minor in French from Fordham University.

Reid Yeoman has served as our Chief Financial Officer since October 2019. Mr. Yeoman is a finance professional with a core Financial Planning & Analysis background at major multi-national Fortune 500 companies — including Nike & Qualcomm. He has a proven track record of driving growth and expanding profitability with retail. From November 2017 to September 2019, Mr. Yeoman served as CFO/ COO at Hurley — a standalone global brand within the Nike portfolio — where he managed the full profit and loss/Balance Sheet, reporting directly to Nike and oversaw the brand’s logistics and operations. He is a native Californian and graduated with an MBA from UCLA’s Anderson School of Management in 2013 and a BA from UC Santa Barbara in 2004.

Nonemployee Board Members

Mark T. Lynn has been a director of our company since inception and served as our Co-Chief Executive Officer from September 2013 to the October 2018. Prior to joining us, until September 2011 he was

Co-Founder of WINC, a direct-to-consumer e-commerce company which was then the fastest growing winery in the world, backed by Bessemer Venture Partners. Prior to Club W, Mr. Lynn co-founded a digital payments company that was sold in 2011. He holds a digital marketing certificate from Harvard Business School's Executive Education Program.

Trevor Pettennude is a seasoned financial services executive. In 2013, Mr. Pettennude became the CEO of 360 Mortgage Group, where he oversees a team of 70 people generating over $1 billion of annual loan volume. He is also the founder and principal of Banctek Solutions, a global merchant service company which was launched in 2009 and which processes over $300 million of volume annually.

Jameeka Green Aaron became a director on the effective date of the IPO. Ms. Aaron is the Chief Information Security Officer at Auth0. Ms. Aaron is responsible for the holistic security and compliance of Auth0's platform, products, and corporate environment. Auth0 provides a platform to authenticate, authorize, and secure access for applications, devices, and users. Prior to her current role Ms. Aaron was the Chief Information Officer Westcoast Operations at United Legwear and Apparel. Her 20+ years of experience include serving as the Director of North American Technology and Director of Secure Code and Identity and Access Management at Nike, and as Chief of Staff to the CIO of Lockheed Martin Space Systems Company. Ms. Aaron is also a 9-year veteran of the United States Navy. Ms. Aaron's dedication to service has extended beyond her military career. She is committed to advancing women and people of color in Science, Technology, Engineering, and Mathematics (STEM) fields she is an alumni of the U.S. State Department's TechWomen program and the National Urban League of Young Professionals. Ms. Aaron currently sits on the board of the California Women Veterans Leadership Council, is an advisor for U.C. Riverside Design Thinking Program, and is a member of Alpha Kappa Alpha Sorority, Inc. Born in Stockton, California, Ms. Aaron holds a bachelor's degree in Information Technology from the University of Massachusetts, Lowell. Ms. Aaron's extensive corporate and leadership experience qualifies her to serve on our board of directors.

Huong "Lucy" Doan is a seasoned finance and strategy executive who brings expertise working with some of the world's best-known brands. Since 2018, Ms. Doan serves as advisor to CEOs and founders of high-growth DTC, ecommerce and retail brands, in apparel and consumer products. In this capacity, she provides strategic guidance to successfully scale businesses while driving profitability, with focus on operational excellence and capital resource planning. In 2019, she became a board member of Grunt Style, a patriotic apparel brand. Prior, Ms. Doan spent 20 years in senior executive roles at Guitar Center, Herbalife International, Drapers & Damons, and Fox Television, where she built high performance teams to drive execution of business plans and growth strategies.

Committees of the Board of Directors

Our board of directors has established an audit committee, a compensation committee and a nominating and corporate governance committee, each of which operates pursuant to a charter adopted by our board of directors. The board of directors may also establish other committees from time to time to assist our company and the board of directors. The composition and functioning of all of our committees will comply with all applicable requirements of the Sarbanes-Oxley Act of 2002, NasdaqCM and SEC rules and regulations, if applicable. Each committee's charter is available on our website at www.digitalbrandsgroup.co. The reference to our website address does not constitute incorporation by reference of the information contained at or available through our website, and you should not consider it to be part of this prospectus.

Audit committee

Trevor Pettennude, Jameeka Green Aaron and Mark Lynn serve on the audit committee, which is chaired by Trevor Pettennude. Our board of directors has determined that each are "independent" for audit committee purposes as that term is defined by the rules of the SEC and NasdaqCM, and that each has sufficient knowledge in financial and auditing matters to serve on the audit committee. Our Board of directors has designated Trevor Pettennude as an "audit committee financial expert," as defined under the applicable rules of the SEC. The audit committee's responsibilities include:

- appointing, approving the compensation of, and assessing the independence of our independent registered public accounting firm;

- pre-approving auditing and permissible non-audit services, and the terms of such services, to be provided by our independent registered public accounting firm;
- reviewing the overall audit plan with our independent registered public accounting firm and members of management responsible for preparing our financial statements;
- reviewing and discussing with management and our independent registered public accounting firm our annual and quarterly financial statements and related disclosures as well as critical accounting policies and practices used by us;
- coordinating the oversight and reviewing the adequacy of our internal control over financial reporting;
- establishing policies and procedures for the receipt and retention of accounting-related complaints and concerns;
- recommending, based upon the audit committee's review and discussions with management and our independent registered public accounting firm, whether our audited financial statements shall be included in our Annual Report on Form 10-K;
- monitoring the integrity of our financial statements and our compliance with legal and regulatory requirements as they relate to our financial statements and accounting matters;
- preparing the audit committee report required by SEC rules to be included in our annual proxy statement;
- reviewing all related person transactions for potential conflict of interest situations and approving all such transactions; and
- reviewing quarterly earnings releases.

Compensation committee

Trevor Pettennude, Jameeka Green Aaron and Mark Lynn serve on the compensation committee, which is chaired by Jameeka Green Aaron. Our board of directors has determined that each member of the compensation committee is "independent" as defined in the applicable NasdaqCM rules. The compensation committee's responsibilities include:

- annually reviewing and recommending to the board of directors the corporate goals and objectives relevant to the compensation of our Chief Executive Officer;
- evaluating the performance of our Chief Executive Officer in light of such corporate goals and objectives and based on such evaluation: (i) recommending to the board of directors the cash compensation of our Chief Executive Officer, and (ii) reviewing and approving grants and awards to our Chief Executive Officer under equity-based plans;
- reviewing and recommending to the board of directors the cash compensation of our other executive officers;
- reviewing and establishing our overall management compensation, philosophy and policy;
- overseeing and administering our compensation and similar plans;
- reviewing and approving the retention or termination of any consulting firm or outside advisor to assist in the evaluation of compensation matters and evaluating and assessing potential and current compensation advisors in accordance with the independence standards identified in the applicable NasdaqCM rules;
- retaining and approving the compensation of any compensation advisors;
- reviewing and approving our policies and procedures for the grant of equity-based awards;
- reviewing and recommending to the board of directors the compensation of our directors; and
- preparing the compensation committee report required by SEC rules, if and when required, to be included in our annual proxy statement.

None of the members of our compensation committee has at any time during the prior three years been one of our officers or employees. None of our executive officers currently serves, or in the past fiscal year has served, as a member of the board of directors or compensation committee of any entity that has one or more executive officers serving on our board of directors or compensation committee.

Nominating and corporate governance committee

Trevor Pettennude, Jameeka Green Aaron and Mark Lynn serve on the nominating and corporate governance committee, which is chaired by Mark Lynn. Our board of directors has determined that each member of the nominating and corporate governance committee is "independent" as defined in the applicable NasdaqCM rules. The nominating and corporate governance committee's responsibilities include:

- developing and recommending to the board of directors' criteria for board and committee membership;
- establishing procedures for identifying and evaluating board of director candidates, including nominees recommended by stockholders; and
- reviewing the composition of the board of directors to ensure that it is composed of members containing the appropriate skills and expertise to advise us.

Involvement in Certain Legal Proceedings

There are no legal proceedings that have occurred within the past ten years concerning our directors, or control persons which involved a criminal conviction, a criminal proceeding, an administrative or civil proceeding limiting one's participation in the securities or banking industries, or a finding of securities or commodities law violations.

None of our directors and officers has been affiliated with any company that has filed for bankruptcy within the last ten years. We are not aware of any proceedings to which any of our officers or directors, or any associate of any such officer or director, is a party adverse to us or any of our or has a material interest adverse to us or any of our subsidiaries.

EXECUTIVE COMPENSATION

Compensation of Named Executive Officers

The summary compensation table below shows certain compensation information for services rendered in all capacities for the fiscal years ended December 31, 2020 and 2019. Other than as set forth herein, no executive officer's salary and bonus exceeded $100,000 in any of the applicable years. The following information includes the dollar value of base salaries, bonus awards, the number of stock options granted and certain other compensation, if any, whether paid or deferred.

Name and Principal Position	Fiscal Year	Salary[1]	Bonus	Option Awards	All Other Compensation	Total
John "Hil" Davis	2020	$222,500	$	$	$	$
President and Chief Executive Officer	2019	$180,000	$ —	$ —	$ —	$
Laura Dowling	2020	$258,231	$ —	$ —	$ —	$
Chief Marketing Officer	2019	$211,538	$ —	$16,836	$ —	$
Reid Yeoman	2020	$225,000	$ —	$ —	$ —	$
Chief Financial Officer[1]	2019	$ 34,615	$ —	$12,078	$ —	$

(1) Effective October 1, 2019, Mr. Yeoman was appointed Chief Financial Officer at an annual salary of $225,000.

Employment Agreements

In December 2020, we entered into an offer letter with Mr. Davis, our Chief Executive Officer and a member of our board. The offer letter provides for an annual base salary of $350,000 effective October 1, 2020, and for Mr. Davis to be appointed to our board effective November 30, 2020. Effective January 1, 2021, Mr. Davis is also eligible to receive an annual bonus with a target of 175%, and with a range from 0% to a maximum of 225%, of his base salary based upon achievement of Company and individual goals. He is also eligible to participate in employee benefit plans that we offer to our other senior executives. In the event of a termination of his employment after June 30, 2021, Mr. Davis is eligible for severance benefits as may be approved by the Board. Mr. Davis is subject to our recoupment, insider trading and other company policies, a perpetual non-disclosure of confidential information covenant, a non-disparagement covenant and a non-solicitation of employees covenant. Mr. Davis' offer letter also provided for an option grant exercisable for up to 2,144,000 shares of our common stock to him at a per share exercise price equal to the IPO price, of which 75% of the options vested on the effective date of the IPO and 25% of the options vest in accordance with the vesting schedule provided in the Company's 2020 Stock Plan. Mr. Davis is an at-will employee and does not have a fixed employment term.

In December 2020, we entered into an offer letter with Ms. Dowling, our Chief Marketing Officer. The offer letter provides for an annual base salary of $300,000 effective upon the closing of the IPO. Effective January 1, 2021, Ms. Dowling is also eligible to receive an annual bonus with a target of 100%, and with a range from 0% to a maximum of 125%, of her base salary based upon achievement of Company and individual goals. She is also eligible to participate in employee benefit plans that we offer to our other senior executives. In the event of a termination of her employment after June 30, 2021, Ms. Dowling is eligible for severance benefits as may be approved by the Board. Ms. Dowling is subject to our recoupment, insider trading and other company policies, a perpetual non-disclosure of confidential information covenant, a non-disparagement covenant and a non-solicitation of employees covenant. Ms. Dowling's offer letter also provided for an option grant exercisable for up to 288,000 shares of our common stock to her at a per share exercise price equal to the IPO price, of which 75% of the options vested on the effective date of the IPO and 25% of the options vest in accordance with the vesting schedule provided in the Company's 2020 Stock Plan. Ms. Dowling is an at-will employee and does not have a fixed employment term.

In December 2020, we entered into an offer letter with Mr. Yeoman, our Chief Financial Officer. The offer letter provides for an annual base salary of $250,000 effective upon the closing of the IPO. Effective January 1, 2021, Mr. Yeoman is also eligible to receive an annual bonus with a target of 50%, and with a range

from 0% to a maximum of 75%, of his base salary based upon achievement of Company and individual goals. He is also eligible to participate in employee benefit plans that we offer to our other senior executives. In the event of a termination of his employment after June 30, 2021, Mr. Yeoman is eligible for severance benefits as may be approved by the Board. Mr. Yeoman is subject to our recoupment, insider trading and other company policies, a perpetual non-disclosure of confidential information covenant, a non-disparagement covenant and a non-solicitation of employees covenant. Mr. Yeoman's offer letter also provided for an option grant 128,000 shares of our common stock to him at a per share exercise price equal to the IPO price, of which 75% of the options vested on the effective date of the IPO and 25% of the options vest in accordance with the vesting schedule provided in the Company's 2020 Stock Plan. Mr. Yeoman is an at-will employee and does not have a fixed employment term.

Compensation of Directors

No obligations with respect to compensation for non-employee directors have been accrued or paid for any periods presented in this prospectus.

Going forward, our board of directors believes that attracting and retaining qualified non-employee directors critical to the future value growth and governance of our company. Our board of directors also believes that any compensation package for our non-employee directors should be equity-based to align the interest of these directors with our stockholders. On the effective date of the IPO, each of our director nominees were granted options to purchase 20,000 shares of common stock at a per share exercise price equal to the price of the shares of common stock in the IPO. The options vest over a one year period of time. We may in the future grant additional options to our non-employee directors although there are no current plans to do so. We do not currently intend to provide any cash compensation to our non-employee directors.

Directors who are also our employees will not receive any additional compensation for their service on our board of directors.

2020 Incentive Stock Plan

We have adopted a 2020 Omnibus Incentive Stock Plan (the "2020 Plan"). An aggregate of 3,300,000 shares of our common stock is reserved for issuance and available for awards under the 2020 Plan, including incentive stock options granted under the 2020 Plan. The 2020 Plan administrator may grant awards to any employee, director, and consultants of the company and its subsidiaries. To date, 2,712,000 grants have been made under the 2020 Plan and 588,000 shares remain eligible for issuance under the Plan.

The 2020 Plan is administered by the compensation committee of the Board. The 2020 Plan administrator has the authority to determine, within the limits of the express provisions of the 2020 Plan, the individuals to whom awards will be granted, the nature, amount and terms of such awards and the objectives and conditions for earning such awards. The Board may at any time amend or terminate the 2020 Plan, provided that no such action may be taken that adversely affects any rights or obligations with respect to any awards previously made under the 2020 Plan without the consent of the recipient. No awards may be made under the 2020 Plan after the tenth anniversary of its effective date.

Awards under the 2020 Plan may include incentive stock options, nonqualified stock options, stock appreciation rights ("SARs"), restricted shares of common stock, restricted stock Units, performance share or Unit awards, other stock-based awards and cash-based incentive awards.

Stock Options

The 2020 Plan administrator may grant to a participant options to purchase our common stock that qualify as incentive stock options for purposes of Section 422 of the Internal Revenue Code ("incentive stock options"), options that do not qualify as incentive stock options ("non-qualified stock options") or a combination thereof. The terms and conditions of stock option grants, including the quantity, price, vesting periods, and other conditions on exercise will be determined by the 2020 Plan administrator. The exercise price for stock options will be determined by the 2020 Plan administrator in its discretion, but non-qualified stock options and incentive stock options may not be less than 100% of the fair market value of one share of our company's common stock on the date when the stock option is granted. Additionally, in the case of

incentive stock options granted to a holder of more than 10% of the total combined voting power of all classes of our stock on the date of grant, the exercise price may not be less than 110% of the fair market value of one share of common stock on the date the stock option is granted. Stock options must be exercised within a period fixed by the 2020 Plan administrator that may not exceed ten years from the date of grant, except that in the case of incentive stock options granted to a holder of more than 10% of the total combined voting power of all classes of our stock on the date of grant, the exercise period may not exceed five years. At the 2020 Plan administrator's discretion, payment for shares of common stock on the exercise of stock options may be made in cash, shares of our common stock held by the participant or in any other form of consideration acceptable to the 2020 Plan administrator (including one or more forms of "cashless" or "net" exercise).

Stock Appreciation Rights

The 2020 Plan administrator may grant to a participant an award of SARs, which entitles the participant to receive, upon its exercise, a payment equal to (i) the excess of the fair market value of a share of common stock on the exercise date over the SAR exercise price, times (ii) the number of shares of common stock with respect to which the SAR is exercised. The exercise price for a SAR will be determined by the 2020 Plan administrator in its discretion; provided, however, that in no event shall the exercise price be less than the fair market value of our common stock on the date of grant.

Restricted Shares and Restricted Units

The 2020 Plan administrator may award to a participant shares of common stock subject to specified restrictions ("restricted shares"). Restricted shares are subject to forfeiture if the participant does not meet certain conditions such as continued employment over a specified forfeiture period and/or the attainment of specified performance targets over the forfeiture period. The 2020 Plan administrator also may award to a participant Units representing the right to receive shares of common stock in the future subject to the achievement of one or more goals relating to the completion of service by the participant and/or the achievement of performance or other objectives ("restricted Units"). The terms and conditions of restricted share and restricted Unit awards are determined by the 2020 Plan administrator.

Performance Awards

The 2020 Plan administrator may grant performance awards to participants under such terms and conditions as the 2020 Plan administrator deems appropriate. A performance award entitles a participant to receive a payment from us, the amount of which is based upon the attainment of predetermined performance targets over a specified award period. Performance awards may be paid in cash, shares of common stock or a combination thereof, as determined by the 2020 Plan administrator.

Other Stock-Based Awards

The 2020 Plan administrator may grant equity-based or equity-related awards, referred to as "other stock-based awards," other than options, SARs, restricted shares, restricted Units, or performance awards. The terms and conditions of each other stock-based award will be determined by the 2020 Plan administrator. Payment under any other stock-based awards will be made in common stock or cash, as determined by the 2020 Plan administrator.

Cash-Based Awards

The 2020 Plan administrator may grant cash-based incentive compensation awards, which would include performance-based annual cash incentive compensation to be paid to covered employees. The terms and conditions of each cash-based award will be determined by the 2020 Plan administrator.

2013 Stock Plan

Eligibility and Administration

Our employees, outside directors and consultants are eligible to receive nonstatutory options or the direct award or sale of shares under our 2013 Stock Plan, while only our employees are eligible to receive

grants of ISOs under our 2013 Stock Plan. A person who owns more than 10% of the total combined voting power of all classes of our outstanding stock, of the outstanding common stock of our parent or subsidiary, is not eligible for the grant of an ISO unless the exercise prices is at least 110% of the fair market value of a share on the grant date and such ISO is not exercisable after five years from the grant date. The 2013 Stock Plan may be administered by a committee of the board of directors, and if no committee is appointed, then the board of directors. The board of directors has the authority to make all determinations and interpretations under, prescribe all forms for use with, and adopt rules for the administration of, the 2013 Stock Plan, subject to its express terms and conditions.

Shares Available and Termination

In the event that shares previously issued under the 2013 Stock Plan are reacquired, such shares will be added to the available shares for issuance under the 2013 Stock Plan. In the event that shares that would have otherwise been issuable under the 2013 Stock Plan were withheld in payment of the purchase price, exercise price, or withholding taxes, such shares will remain available for issuance under the 2013 Stock Plan. In the event that an outstanding option or other right is cancelled or expired, the shares allocable to the unexcised portion of the option or other right will be added to the number of shares available under the 2013 Stock Plan.

The 2013 Stock Plan will terminate automatically 10 years after the later of (i) the date when the board of directors adopted the 2013 Stock Plan or (ii) the date when the board of directors approved the most recent increase in the number of shares reserved under the 2013 Stock Plan that was also approved by our stockholders.

Awards

The 2013 Stock Plan provides for the grant of shares of common stock and options, including ISO intended to qualify under Code Section 422 and nonstatutory options which are not intended to qualify. All awards under the 2013 Stock plan will be set forth in award agreements, which will detail the terms and conditions of the awards, including any applicable vesting and payment terms and post-termination exercise limitations.

As of November 23, 2021, there were options to purchase 3,895,103 shares of our common stock at a weighted average exercise price of $3.62 per share.

CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS AND DIRECTOR INDEPENDENCE

Other than the compensation agreements and other arrangements described under "Executive Compensation" in this prospectus and the transactions described below, since January 1, 2019, there has not been and there is not currently proposed, any transaction or series of similar transactions to which we were, or will be, a party in which the amount involved exceeded, or will exceed, the lesser of (i) $120,000 or (ii) one percent of the average of our total assets for the last two completed fiscal years, and in which any director, executive officer, holder of five percent or more of any class of our capital stock or any member of the immediate family of, or entities affiliated with, any of the foregoing persons, had, or will have, a direct or indirect material interest.

Related Person Transactions — Digital Brands Group, Inc.

On the effective date of the IPO, we granted stock options to acquire up to an aggregate of 2,672,000 shares to our Chief Executive Officer, Chief Marketing Officer and Chief Financial Officer at a per share exercise price equal to the initial public offering price of the shares.

Related Person Transactions — DBG

DBG uses Banctek Solutions, a registered independent sales organization (ISO) of FirstData as its back-end payment processor. Trevor Pettennude is majority owner of Banctek Solutions. We started to use Banctek Solutions services prior to Mr. Pettennude's involvements with DBG. Total expenses for the years ended December 31, 2020 and 2019 were approximately $25,000 and $140,000, respectively, and included in sales and marketing in the accompanying statements of operations.

Two former officers, Corey Epstein and Mark Lynn ("Former Officers"), and one current officer, Hil Davis, of DBG deferred their salary during portions of 2014-2016 and 2019, respectively. DBG commenced repaying the Former Officers obligations during 2017; however, no additional payments were made during 2018. The balance of employee backpay to Former Officers, as of December 31, 2018 was approximately $430,500. DBG has loaned funds to these same Former Officers of DBG throughout the life of the business, which net of repayments amounted to approximately $234,500 as of December 31, 2018. These loans are payable on demand and do not bear interest. Due to the right of offset of the loans' receivable and backpay for the Former Officers such amounts were netted as of December 31, 2018 and included in due to related parties on the accompanying balance sheet. As of December 31, 2018, due to related parties totaled $415,380 which included additional advances from one Former Officer, and the current officer, John "Hil" Davis. In 2019, the balance due to one of the Former Officers, was relieved in full through offset. The second Former Officer, who is a director, received repayment on all balances that existed as of 2018 and advanced additional funds to DBG. These advances are non-interest bearing and due on demand. The current officer, John "Hil" Davis, converted prior advances to a loan payable. The loan payable accrued interest at 5% per annum until March 25, 2021, at which time Mr. Davis agreed to waive any further requirement for the payment of future interest and to convert the balance into shares of common stock at the completion of the IPO at a 30% discount to the IPO price. As of December 31, 2020 and 2019, the due to related parties account on the accompanying balance sheet include advances from the Former Officer, Mark Lynn, who also serves as a director, totaling $194,568, and accrued salary of $246,885 and $68,859 to current officers.

A portion of the net proceeds of the IPO were used to pay salary and expenses to Laura Dowling, our Chief Marketing Officer, and Mark Lynn, a director. In addition, each of Mark Lynn, John "Hil" Davis, and Trevor Pettennude has agreed to convert certain amounts owed to them into shares of common stock at the effective date of the IPO at a 30% discount to the IPO price as part of the Debt Conversion.

Related Person Transactions — Bailey

On July 22, 2019 Bailey entered into two promissory note agreements with its managing member, Norwest Venture Partners, totaling $350,000. The notes bear interest at 12%, and all principal and accrued interest was payable on July 22, 2021.

On December 12, 2019 Bailey entered into two promissory note agreements with its managing member, Norwest Venture Partners, totaling $500,000. The notes bear interest at 12%, and all principal and accrued interest was payable on July 22, 2021.

Related Person Transactions — H&J

In July 2017, H&J issued a promissory note with a principal of $300,000 to a company owned by its majority owner. The note has an interest rate of 12% per annum, and is payable on or before July 10, 2022. Interest is paid quarterly. In October 2019, H&J borrowed an additional $125,000 pursuant to an addendum to the promissory note. During 2020, H&J borrowed an additional $210,000 pursuant to an addendum. The balance of the note was $635,000, and $425,000, as of December 31, 2020 and 2019, respectively. Accrued interest at December 31, 2020 and 2019 was $19,500 and $10,500, respectively.

In December 2019, H&J issued a promissory note with a principal amount of $75,000 to its majority owner. The note has an interest rate of 8.5% and is payable on or before December 31, 2020. The note was repaid during 2020 and balance of the note was $0 and $75,000 as of December 31, 2020 and 2019, respectively.

Related Person Transactions — Stateside

On August 30, 2021, we entered into a Membership Interest Purchase Agreement (the "MIPA") with Moise Emquies pursuant to which we acquired all of the issued and outstanding membership interests of MOSBEST, LLC, a California limited liability company ("Stateside" and such transaction, the "Stateside Acquisition"). Pursuant to the MIPA, the seller, as the holder of all of the outstanding membership interests of Stateside, exchanged all of such membership interests for $5.0 million in cash and a number of shares of our common stock equal to $5.0 million, or 1,101,538 shares (the "Shares"), which number of Shares was calculated in accordance with the terms of the MIPA. Of such amount, $375,000 in cash and a number of Shares equal to $375,000, or 82,615 shares (calculated in accordance with the terms of the MIPA), is held in escrow to secure any working capital adjustments and indemnification claims.

The Stateside Acquisition closed on August 30, 2021. Upon closing of the Stateside Acquisition and the other transactions contemplated by the MIPA, Stateside became a wholly-owned subsidiary of the Company.

At the time of the acquisition, Moise Emquies was a member of the Board of Directors of the Company. The Stateside Acquisition was unanimously approved by all of the members of the Company's Board of Directors (other than Moise Emquies who recused himself).

Policies and Procedures for Related Person Transactions

Our board of directors intends to adopt a written related person policy to set forth the policies and procedures for the review and approval or ratification of related person transactions. This policy will cover any transaction, arrangement or relationship, or any series of similar transactions, arrangements or relationships in which we are to be a participant, the amount involved exceeds $100,000 and a related person had or will have a direct or indirect material interest, including purchases of goods or services by or from the related person or entities in which the related person has a material interest, indebtedness, guarantees of indebtedness and employment by us of a related person.

Director Independence

Our board of directors has undertaken a review of the independence of each director. Based on information provided by each director concerning his or her background, employment and affiliations, our board of directors has determined that Trevor Pettennude, Jameeka Aaron, and Huong "Lucy" Doan, do not have a relationship that would interfere with the exercise of independent judgment in carrying out the responsibilities of a director and that each of these directors is "independent" as that term is defined under the applicable rules and regulations of the SEC and the listing standards of Nasdaq. In making these determinations, our board of directors considered the current and prior relationships that each non-employee director has with our company and all other facts and circumstances our board of directors deemed relevant in determining their independence.

SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT

The table below sets forth information known to us regarding the projected beneficial ownership of our common stock as of November 23, 2021 by:

- each person or entity who is known by us to own beneficially more than 5% of our outstanding stock;
- each of our executive officers;
- each of our directors and director nominees; and
- all of our directors, director nominees and executive officers as a group.

Beneficial ownership is determined in accordance with the rules of the SEC and generally includes voting or investment power with respect to the securities in question. Except as otherwise indicated, and subject to applicable community property laws, the persons named in the table below have sole voting and investment power with respect to all shares of our common stock held by them.

The table below represents beneficial ownership of our common stock. The beneficial ownership of our common stock is based on 12,757,488 shares of common stock outstanding as of November 23, 2021.

Name of Beneficial Owner	Number of Shares Beneficially Owned	Percentage of Shares Outstanding
Executive Officers and Directors		
John Hilburn Davis IV[(1)]	1,713,641	13.4%
Laura Dowling[(2)]	334,667	2.6%
Reid Yeoman[(3)]	114,000	0.9%
Mark Lynn[(4)]	507,386	4.0%
Trevor Pettennude[(5)]	328,625	2.6%
Jameeka Aaron[(6)]	15,000	*
Huong “Lucy” Doan[(7)]	20,000	*
All executive officers, directors and director nominees as a group (6 persons)[(8)]	3,013,319	23.6%
Additional 5% Stockholders		
Drew Jones[(9)]	1,820,000	14.3%
2736 Routh Street Dallas, Texas 75201		
Moise Emquies	963,847	7.6%
Norwest Venture Partners XI, LP	796,981	6.2%
Norwest Venture Partners XII, LP	796,981	6.2%

(1) Represents options exercisable at $4.00 per share.

(2) Represents options to acquire up to 300,000 shares of common stock, exercisable at $4.00 per share and options to acquire up to 34,667 shares of common stock, exercisable at $3.28 per share.

(3) Represents options to acquire up to 96,000 shares of common stock, exercisable at $4.00 per share and options to acquire up to 18,000 shares of common stock, exercisable at $3.28 per share.

(4) Includes options to acquire up to 321,011 shares of common stock exercisable between $1.56 and $3.28 per share.

(5) Includes options to acquire up to 74,880 shares of common stock exercisable between $1.56 and $3.28 per share.

(6) Represents options exercisable at $4.00 per share.

(7) Represents options exercisable at $3.56 per share.

(8) Includes options to acquire up to 2,452,558 shares of common stock exercisable between $1.56 and $4.00.

(9) Represents shares issued to D. Jones Tailored Collection, Ltd., a Texas limited partnership, an entity controlled by Drew Jones.

DESCRIPTION OF CAPITAL STOCK

Authorized and Outstanding Capital Stock

Our authorized capital stock consists of 200,000,000 shares of common stock, $0.0001 par value per share, of which 12,757,488 shares are issued and outstanding, and 10,000,000 shares of preferred stock, $0.0001 par value per share, no shares of which are issued and outstanding. The following description of our capital stock is only a summary and is subject to and qualified in its entirety by our Sixth Amended and Restated Certificate of Incorporation and Amended and Restated Bylaws, which are included as exhibits to the registration statement of which this prospectus forms a part, and by the applicable provisions of Delaware law.

Common Stock

Holders of common stock are entitled to one vote per share on all matters to be voted upon by the stockholders, including the election of directors. Such holders are not entitled to vote cumulatively for the election of directors. Holders of a majority of the shares of common stock may elect all of the directors standing for election. Subject to preferences that may be applicable to any outstanding preferred stock, common stockholders are entitled to receive ratably such dividends, if any, as may be declared from time to time by the board of directors out of funds legally available for that purpose. In the event of our liquidation, dissolution or winding up, the common stockholders are entitled to share ratably in all assets remaining after payment of liabilities, subject to prior distribution rights of preferred stock, if any, then outstanding. Common stockholders have no preemptive or conversion rights or other subscription rights. There are no redemption or sinking fund provisions applicable to the common stock.

We have never declared or paid any cash dividends on our capital stock. We currently expect to retain future earnings, if any, to finance the growth and development of our business and do not anticipate paying any cash dividends in the foreseeable future.

Preferred Stock

The board of directors is authorized, without action by the stockholders, to designate and issue preferred stock in one or more series and to designate the powers, preferences and rights of each series, which may be greater than the rights of the common stock. It is not possible to state the actual effect of the issuance of any shares of preferred stock upon the rights of holders of the common stock until the board of directors determines the specific rights of the holders of such preferred stock. However, the effects might include, among other things:

- impairing dividend rights of the common stock;
- diluting the voting power of the common stock;
- impairing the liquidation rights of the common stock; and
- delaying or preventing a change in control of us without further action by the stockholders.

Options

As of November 23, 2021 there were outstanding options to acquire up to 3,895,103 shares of our common stock at exercise prices between $0.14 and $4.15 expiring between June 2024 and May 2031;

Warrants

As of November 23, 2021, there were outstanding warrants to acquire up to 3,591,348 shares of our common stock at exercise prices between $2.66 and $7.66 expiring between October 2021 and October 2030.

Convertible Notes

The Oasis Note, in the principal amount of $5,265,000, bears interest at 6% per annum and is due and payable 18 months from the date of issuance, unless sooner converted. The Note is convertible at the option

of Oasis Capital into shares of the Company's common stock at a conversion price (the "Oasis Conversion Price") which is the lesser of (i) $3.601, and (ii) 90% of the average of the two lowest volume-weighted average prices during the five consecutive trading day period preceding the delivery of the notice of conversion. Oasis Capital is not permitted to submit conversion notices in any thirty day period having conversion amounts equaling, in the aggregate, in excess of $500,000. If the Oasis Conversion Price set forth in any conversion notice is less than $3.00 per share, the Company, at its sole option, may elect to pay the applicable conversion amount in cash rather than issue shares of its common stock.

The FirstFire Note, in the principal amount of $1,575,000, bears interest at 6% per annum and is due and payable 18 months from the date of issuance, unless sooner converted. The FirstFire Note is convertible at the option of FirstFire into shares of the Company's common stock at a conversion price (the "FirstFire Conversion Price") which is the lesser of (i) $3.952, and (ii) 90% of the average of the two lowest volume-weighted average prices during the five consecutive trading day period preceding the delivery of the notice of conversion. FirstFire is not permitted to submit conversion notices in any thirty day period having conversion amounts equaling, in the aggregate, in excess of $500,000. If the FirstFire Conversion Price set forth in any conversion notice is less than $3.00 per share, the Company, at its sole option, may elect to pay the applicable conversion amount in cash rather than issue shares of its common stock.

The Second FirstFire Note, in the principal amount of $2,625,000, bears interest at 6% per annum and is due and payable 18 months from the date of issuance, unless sooner converted. The FirstFire Note is convertible at the option of FirstFire into shares of the Company's common stock at a conversion price (the "Second FirstFire Conversion Price") which is the lesser of (i) $4.28, and (ii) 90% of the average of the two lowest volume-weighted average prices during the five consecutive trading day period preceding the delivery of the notice of conversion. FirstFire is not permitted to submit conversion notices in any thirty day period having conversion amounts equaling, in the aggregate, in excess of $500,000. If the FirstFire Conversion Price set forth in any conversion notice is less than $3.29 per share, the Company, at its sole option, may elect to pay the applicable conversion amount in cash rather than issue shares of its common stock.

Options to CEO, CMO and CFO

On the effective date of the IPO, we granted stock options to acquire up to an aggregate of 2,672,000 shares to our Chief Executive Officer, Chief Marketing Officer and Chief Financial Officer at a per share exercise price equal to the initial public offering price, of which 75% of the options vested on the effective date of the IPO and 25% of the options vest in accordance with the vesting schedule provided in the Company's 2020 Stock Plan.

Anti-Takeover Provisions and Choice of Forum

Certain provisions of Delaware law and our Sixth Amended and Restated Certificate of Incorporation and Amended and Restated Bylaws could make the following more difficult:

- the acquisition of us by means of a tender offer;
- acquisition of control of us by means of a proxy contest or otherwise; and
- the removal of our incumbent officers and directors.

These provisions, summarized below, are expected to discourage certain types of coercive takeover practices and inadequate takeover bids and are designed to encourage persons seeking to acquire control of us to negotiate with our board of directors. We believe that the benefits of increased protection against an unfriendly or unsolicited proposal to acquire or restructure us outweigh the disadvantages of discouraging such proposals. Among other things, negotiation of such proposals could result in an improvement of their terms.

Delaware Anti-Takeover Law. We are subject to Section 203 of the Delaware General Corporation Law, an anti-takeover law. In general, Section 203 prohibits a publicly held Delaware corporation from engaging in a "business acquisition " with an "interested stockholder" for a period of three years following the date the person became an interested stockholder, unless the "business acquisition " or the transaction in

which the person became an interested stockholder is approved by our board of directors in a prescribed manner. Generally, a "business acquisition " includes a merger, asset or stock sale, or other transaction resulting in a financial benefit to the interested stockholder. Generally, an "interested stockholder" is a person who, together with affiliates and associates, owns or, within three years prior to the determination of interested stockholder status, did own, 15% or more of a corporation's voting stock. The existence of this provision may have an anti-takeover effect with respect to transactions not approved in advance by the board of directors, including discouraging attempts that might result in a premium over the market price for the shares of common stock held by stockholders.

Stockholder Meetings. Under our bylaws, only the board of directors, the chairman of the board, the chief executive officer and the president, and stockholders holding an aggregate of 25% of our shares of our common stock may call special meetings of stockholders.

No Cumulative Voting. Our Sixth Amended and Restated Certificate of Incorporation and bylaws do not provide for cumulative voting in the election of directors.

Action by Written Consent of Stockholders Prohibited. Our Sixth Amended and Restated Certificate of Incorporation does not allow stockholders to act by written consent in lieu of a meeting, unless approved in advance by our board of directors.

Undesignated Preferred Stock. The authorization of undesignated preferred stock makes it possible for the board of directors without stockholder approval to issue preferred stock with voting or other rights or preferences that could impede the success of any attempt to obtain control of us. These and other provisions may have the effect of deferring hostile takeovers or delaying changes in control or management of us.

Amendment of Provisions in the Sixth Amended and Restated Certificate of Incorporation. The Sixth Amended and Restated Certificate of Incorporation will generally require the affirmative vote of the holders of at least 66 2/3% of the outstanding voting stock in order to amend any provisions of the Sixth Amended and Restated Certificate of Incorporation concerning, among other things:

- the required vote to amend certain provisions of the Sixth Amended and Restated Certificate of Incorporation;
- the reservation of the board of director's right to amend the Amended and Restated Bylaws, with all rights granted to stockholders being subject to this reservation;
- management of the business by the board of directors;
- number of directors and structure of the board of directors;
- removal and appointment of directors;
- director nominations by stockholders;
- prohibition of action by written consent of stockholders;
- personal liability of directors to us and our stockholders; and
- indemnification of our directors, officers, employees and agents.

Choice of Forum. Our Sixth Amended and Restated Certificate of Incorporation provides that, unless we consent in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware (or, if and only if the Court of Chancery of the State of Delaware lacks subject matter jurisdiction, any state court located within the State of Delaware or, if and only if all such state courts lack subject matter jurisdiction, the federal district court for the District of Delaware) shall be the sole and exclusive forum for the following types of actions or proceedings under Delaware statutory or common law:

- any derivative action or proceeding brought on our behalf;
- any action asserting a breach of a fiduciary duty owed by any of our directors, officers or other employees to us or our stockholders;
- any action asserting a claim against us or our directors, officers or other employees arising under the Delaware General Corporation Law, our Sixth Amended and Restated Certificate of Incorporation or our bylaws;

- any action or proceeding to interpret, apply, enforce or determine the validity of our Sixth Amended and Restated Certificate of Incorporation or our bylaws;
- any action or proceeding as to which the Delaware General Corporation Law confers jurisdiction to the Court of Chancery of the State of Delaware; or
- any action asserting a claim against us or our directors, officers or other employees that is governed by the "internal affairs doctrine" as that term is defined in Section 115 of the Delaware General Corporation Law, in all cases to the fullest extent permitted by law and subject to the court's having personal jurisdiction over the indispensable parties named as defendants.

Our Sixth Amended and Restated Certificate of Incorporation further provides that unless the Company consents in writing to the selection of an alternative forum, the U.S. federal district courts have exclusive jurisdiction of the resolution of any complaint asserting a cause of action arising under the Securities Act. The enforceability of similar exclusive federal forum provisions in other companies' organizational documents has been challenged in legal proceedings, and while the Delaware Supreme Court has ruled that this type of exclusive federal forum provision is facially valid under Delaware law, there is uncertainty as to whether other courts would enforce such provisions and that investors cannot waive compliance with the federal securities laws and the rules and regulations thereunder. This exclusive forum provision does not apply to suits brought to enforce a duty or liability created by the Exchange Act or any other claim for which the federal courts have exclusive jurisdiction.

Any person or entity purchasing or otherwise acquiring any interest in shares of our capital stock will be deemed to have notice of and to have consented to this exclusive forum provision of our Sixth Amended and Restated Certificate of Incorporation. This choice of forum provision may limit a stockholder's ability to bring a claim in a judicial forum that it finds favorable for disputes with us or any of our directors, officers, other employees or stockholders, which may discourage lawsuits with respect to such claims. Alternatively, if a court were to find this choice of forum provision in our Sixth Amended and Restated Certificate of Incorporation to be inapplicable or unenforceable in an action, we may incur additional costs associated with resolving such action in other jurisdictions. Additional costs associated with resolving an action in other jurisdictions could materially adversely affect our business, financial condition and results of operations.

Limitations on Directors' Liability and Indemnification

Our Sixth Amended and Restated Certificate of Incorporation provides that our directors will not be personally liable to us or our stockholders for monetary damages for breach of their fiduciary duties as directors, except liability for any of the following:

- any breach of their duty of loyalty to the corporation or its stockholders;
- acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law;
- payments of dividends or approval of stock repurchases or redemptions that are prohibited by Delaware law; or
- any transaction from which the director derived an improper personal benefit.

This limitation of liability does not apply to liabilities arising under the federal securities laws and does not affect the availability of equitable remedies such as injunctive relief or rescission.

Our Sixth Amended and Restated Certificate of Incorporation provides that we shall indemnify our directors, officers, employees and other agents to the fullest extent permitted by law, and our Amended and Restated Bylaws provide that we shall indemnify our directors and officers, and may indemnify our employees and other agents, to the fullest extent permitted by law. We believe that indemnification under our bylaws covers at least negligence and gross negligence on the part of indemnified parties. Our bylaws also permit us to secure insurance on behalf of any officer, director, employee or other agent for any liability arising out of his or her actions in such capacity, regardless of whether Delaware law would permit indemnification.

We have entered into agreements to indemnify our directors and executive officers, in addition to the indemnification provided for in our Sixth Amended and Restated Certificate of Incorporation and bylaws. These agreements, among other things, provide for indemnification of our directors and officers for expenses, judgments, fines, penalties and settlement amounts incurred by any such person in any action or proceeding arising out of such person's services as a director or officer or at our request.

We believe that these provisions and agreements are necessary to attract and retain qualified persons as directors and executive officers. There is no pending litigation or proceeding involving any of our directors, officers, employees or agents. We are not aware of any pending or threatened litigation or proceeding that might result in a claim for indemnification by a director, officer, employee or agent.

Transfer Agent and Registrar

The transfer agent and registrar for our common stock is VStock Transfer, LLC. The telephone number of VStock Transfer, LLC is (212) 828-8436.

NasdaqCM Listing

Our common stock and warrants are listed on the NasdaqCM under the symbols "DBGI" and "DBGIW", respectively.

SHARES ELIGIBLE FOR FUTURE SALE

Future sales of a substantial number of shares of our common stock in the public market could adversely affect market prices prevailing from time to time. Under the terms of this prospectus, the shares of our common stock offered may be resold without restriction or further registration under the Securities Act, except that any shares purchased by our "affiliates," as that term is defined under the Securities Act, may generally only be sold in compliance with Rule 144 under the Securities Act.

Sale of Restricted Shares

Certain shares of our outstanding common stock were issued and sold by us in private transactions in reliance upon exemptions from registration under the Securities Act and have not been registered for resale. Such shares may be sold only pursuant to an effective registration statement filed by us or an applicable exemption, including the exemption contained in Rule 144 promulgated under the Securities Act.

Rule 144

In general, Rule 144 promulgated by the SEC pursuant to the Securities Act, provides:

- If the issuer of the securities is, and has been for a period of at least 90 days immediately before the sale, subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act, a minimum of six months must elapse between the later of the date of the acquisition of the securities from the issuer, or from an affiliate of the issuer, and any resale of such securities in reliance on this section for the account of either the acquiror or any subsequent holder of those securities.
- If the issuer of the securities is not, or has not been for a period of at least 90 days immediately before the sale, subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act, a minimum of one year must elapse between the later of the date of the acquisition of the securities from the issuer, or from an affiliate of the issuer, and any resale of such securities in reliance on this section for the account of either the acquiror or any subsequent holder of those securities.
- Except as provided in Rule 144, the amount of securities sold for the account of an affiliate of the issuer in reliance upon this section shall be determined as follows: If any securities are sold for the account of an affiliate of the issuer, regardless of whether those securities are restricted, the amount of securities sold, together with all sales of securities of the same class sold for the account of such person within the preceding three months, shall not exceed the greatest of: (A) one percent of the shares or other units of the class outstanding as shown by the most recent report or statement published by the issuer, or (B) the average weekly reported volume of trading in such securities on all national securities exchanges and/or reported through the automated quotation system of a registered securities association during the four calendar weeks preceding the filing of notice required by paragraph (h) of Rule 144, or if no such notice is required the date of receipt of the order to execute the transaction by the broker or the date of execution of the transaction directly with a market maker, or (C) the average weekly volume of trading in such securities reported pursuant to an effective transaction reporting plan or an effective national market system plan during the four-week period specified in paragraph (e)(1)(ii) of Rule 144.

We will publish information necessary as required by the Exchange Act to permit transfer of the common stock in accordance with Rule 144 of the Securities Act.

SELLING STOCKHOLDERS

This prospectus covers 2,500,000 shares of our common stock, comprised of the Commitment Shares, the Waiver Shares, and shares of common stock issuable to the selling stockholders pursuant to the terms of the Convertible Notes. We have entered into a Registration Rights Agreement with the selling stockholders to register the resale of such shares of common stock by the selling stockholders.

The selling stockholders may, from time to time, offer and sell pursuant to this prospectus any or all of the common stock set forth below. However, the selling stockholders are under no obligation to sell any of the common stock offered pursuant to this prospectus.

The information in the following table is based on 12,757,488 shares of common stock outstanding as of November 23, 2021. Beneficial ownership for the purposes of the following tables is determined in accordance with the rules and regulations of the SEC. These rules and regulations generally provide that a person is the beneficial owner of securities if such person has or shares the power to vote or direct the voting of securities, or to dispose or direct the disposition of securities or has the right to acquire such powers within 60 days. The number of shares in the column "Number of Shares of Common Stock Owned Prior to Offering" assumes that the full principal amount of the Convertible Notes (including all interest that is payable in kind) is converted into shares of common stock.

For purposes of calculating each person's percentage ownership, common stock issuable pursuant to options or warrants exercisable within 60 days are included as outstanding and beneficially owned for that person or group, but are not deemed outstanding for the purposes of computing the percentage ownership of any other person. Except as disclosed in the footnotes to these tables, we believe that each beneficial owner identified in the table possesses sole voting and investment power over all common stock shown as beneficially owned by such beneficial owner. The information in the table below is based on information provided by or on behalf of the selling stockholders. Since the date on which the selling stockholders provided us with the information below, the selling stockholders may have sold, transferred or otherwise disposed of some or all of their shares in transactions exempt from the registration requirements of the Securities Act.

Name of Selling Stockholder	Number of Shares of Common Stock Owned Prior to Offering[1]	Maximum Number of Shares of Common Stock to be Sold Pursuant to this Prospectus[5]	Number of Shares of Common Stock Owned After Offering	Percentage of Shares of Common Stock Owned After the Offering
Oasis Capital, LLC[3]	226,356	1,390,650	226,356	1.8%
FirstFire Global Opportunities Fund, LLC[4]	360,653	1,109,350	360,653	2.8%

(1) The number of shares consists of the aggregate number of shares of common stock held by each selling stockholder and shares of common stock issuable upon exercise of the Convertible Notes held by such selling stockholder.

(2) For purposes of this table, the Company assumes that all of the shares covered by this prospectus will be sold by the selling stockholders.

(3) Adam Long, Managing Partner of Oasis Capital, LLC exercises voting and dispositive power with respect to the shares of our common stock that are beneficially owned by Oasis Capital, LLC.

(4) Eli Fireman, Managing Partner of FirstFire Global Opportunities Fund, LLC exercises voting and dispositive power with respect to the shares of our common stock that are beneficially owned by irstFire Global Opportunities Fund, LLC .

(5) Includes the Commitment Shares, the Waiver Shares and shares issuable upon conversion of the Convertible Notes.

The principal business address of Oasis Capital, LLC is 208 Ponce de Leon Avenue, Suite 1600, San Juan, Puerto Rico 00918. The principal business address of FirstFire Global Opportunities Fund, LLC is 1040 First Avenue, Suite 190, New York, NY 10022.

Each time a selling stockholder sells any shares of common stock offered by this prospectus, it is required to provide you with this prospectus and the related prospectus supplement, if any, containing specific information about the selling stockholder and the terms of the shares of common stock being offered in the manner required by the Securities Act.

No offer or sale may occur unless the registration statement that includes this prospectus has been declared effective by the SEC and remains effective at the time the selling stockholder offers or sells shares of common stock. We are required, under certain circumstances, to update, supplement or amend this prospectus to reflect material developments in our business, financial position and results of operations and may do so by an amendment to this prospectus or a prospectus supplement.

PLAN OF DISTRIBUTION

The purpose of this prospectus is to permit the selling stockholders to offer and sell up to an aggregate of 2,500,000 shares at such times and at such places as they choose. The decision to sell any shares is within the sole discretion of the holder thereof.

The distribution of the common stock by a selling stockholders may be effected from time to time in one or more transactions. Any of the common stock may be offered for sale, from time to time, by a selling stockholder, or by permitted transferees or successors of the selling stockholder, or otherwise, at prices and on terms then obtainable, at fixed prices, at prices then prevailing at the time of sale, at prices related to such prevailing prices, or in negotiated transactions at negotiated prices or otherwise. The common stock may be sold by one or more of the following:

- On the NasdaqCM or any other national common stock exchange or automated quotation system on which our common stock is traded, which may involve transactions solely between a broker-dealer and its customers which are not traded across an open market and block trades.
- Through one or more dealers or agents (which may include one or more underwriters).
- Block trades in which the broker or dealer as principal and resale by such broker or dealer for its account pursuant to this prospectus.
- Purchases by a broker or dealer as principal and resale by such broker or dealer for its account pursuant to this prospectus.
- Ordinary brokerage transactions.
- Transactions in which the broker solicits purchasers.
- Directly to one or more purchasers.
- A combination of these methods.

Oasis Capital, FirstFire and any broker-dealers who act in connection with the sale of its shares are "underwriters" within the meaning of the Securities Act, and any discounts, concessions or commissions received by them and profit on any resale of the shares as principal may be deemed to be underwriting discounts, concessions and commissions under the Securities Act.

In connection with the distribution of the common stock or otherwise, the selling stockholder may enter into hedging transactions with broker-dealers or other financial institutions. In connection with such transactions, broker-dealers or other financial institutions may engage in short sales of shares in the course of hedging the positions they assume with the selling stockholder. The selling stockholder may also enter into options or other transactions with broker-dealers or other financial institutions which require the delivery to such broker-dealers or other financial institutions of the common stock, which shares such broker-dealers or financial institutions may resell pursuant to this prospectus, as supplemented or amended to reflect that transaction. The selling stockholder may also pledge the common stock registered hereunder to a broker-dealer or other financial institution and, upon a default, such broker-dealer or other financial institution may affect sales of the pledged shares pursuant to this prospectus, as supplemented or amended to reflect such transaction. In addition, any common stock covered by this prospectus that qualifies for sale pursuant to Rule 144 under the Securities Act may be sold under Rule 144 rather than pursuant to this prospectus.

The selling stockholders or their respective underwriters, dealers or agents may sell the common stock to or through underwriters, dealers or agents, and such underwriters, dealers or agents may receive compensation in the form of discounts or concessions allowed or reallowed. Underwriters, dealers, brokers or other agents engaged by the selling stockholder may arrange for other such persons to participate. Any fixed public offering price and any discounts and concessions may be changed from time to time. Underwriters, dealers and agents who participate in the distribution of the common stock may be deemed to be underwriters within the meaning of the Securities Act, and any discounts or commissions received by them or any profit on the resale of shares by them may be deemed to be underwriting discounts and commissions thereunder. The proposed amounts of the common stock, if any, to be purchased by underwriters and the compensation, if any, of underwriters, dealers or agents will be set forth in a prospectus supplement.

Unless granted an exemption by the SEC from Regulation M under the Exchange Act, or unless otherwise permitted under Regulation M, a selling stockholder will not engage in any stabilization activity in connection with our common stock, will furnish each broker or dealer engaged by a selling stockholder and each other participating broker or dealer the number of copies of this prospectus required by such broker or dealer, and will not bid for or purchase any common stock of ours or attempt to induce any person to purchase any of the common stock other than as permitted under the Exchange Act.

We will not receive any proceeds from the sale of these shares of common stock offered by the selling stockholders. We shall use our best efforts to prepare and file with the SEC such amendments and supplements to the registration statement and this prospectus as may be necessary to keep such registration statement effective and to comply with the provisions of the Securities Act with respect to the disposition of the common stock covered by the registration statement for the period required to effect the distribution of such common stock.

We are paying certain expenses (other than commissions and discounts of underwriters, dealers or agents) incidental to the offering and sale of the common stock to the public, which are estimated to be approximately $125,000. If we are required to update this prospectus during such period, we may incur additional expenses in excess of the amount estimated above.

In order to comply with certain state securities laws, if applicable, the common stock will be sold in such jurisdictions only through registered or licensed brokers or dealers. In certain states the shares of common stock may not be sold unless they have been registered or qualify for sale in such state or an exemption from registration or qualification is available and is complied with.

LEGAL MATTERS

The validity of the issuance of the common stock offered hereby will be passed upon for us by Manatt, Phelps & Phillips, LLP, Costa Mesa, California. As of the date of this prospectus, Thomas Poletti, one of the attorneys and a partner of this firm, owns a stock option exercisable for 2,750 shares of our common stock.

EXPERTS

The financial statements as of and for the years ended December 31, 2020 and 2019 of Digital Brands Group, Inc. (formerly Denim.LA, Inc.) and Harper & Jones, LLC, and the financial statements as of and for the year then ended of December 31, 2019 of Bailey 44 LLC, in this prospectus have been so included in reliance on the report of dbbmckennon, an independent registered public accounting firm, appearing elsewhere herein, given on the authority of said firm as experts in auditing and accounting.

The financial statements of Mosbest, LLC, dba Stateside as of December 31, 2020, and for the year then ended, have been included herein in reliance on the report of Armanino LLP, an independent registered public accounting firm, and upon the authority of said firm as experts in accounting and auditing.

The consolidated financial statements of Bailey 44, LLC as of December 31, 2018, and for the year then ended, included herein have been audited by Moss Adams LLP, independent auditors, as stated in their report which is included herein. Such consolidated financial statements have been so included in reliance upon the report of such firm given upon their authority as experts in accounting and auditing.

WHERE YOU CAN FIND MORE INFORMATION

For further information with respect to our company and the securities being offered hereby, reference is hereby made to the registration statement, including the exhibits thereto and the financial statements, notes, and schedules filed as a part thereof.

No person is authorized to give you any information or make any representation other than those contained or incorporated by reference in this prospectus. Any such information or representation must not be relied upon as having been authorized. Neither the delivery of this prospectus nor any sale made hereunder shall, under any circumstances, create any implication that there has been no change in our affairs since the date of the prospectus.

We are subject to the informational requirements of the Exchange Act, and must file reports, proxy statements and other information with the SEC, such as current, quarterly and annual reports on Forms 8-K, 10-Q and 10-K. These filings will be a matter of public record and any person may read and copy any materials we file with the SEC at the SEC's Public Reference Room at 100 F Street N.E., Washington, D.C. 20549. You may obtain information on the operation of the Public Reference Room by calling the SEC at 1-800-SEC-0330. Further, the SEC maintains an Internet web site at http://www.sec.gov that contains reports, proxy and information statements, and other information regarding issuers, including us, that file electronically with the SEC.

Digital Brands Group, Inc.

Consolidated Financial Statements

DIGITAL BRANDS GROUP, INC.

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Report of Independent Registered Public Accounting Firm

The Board of Directors and Stockholders
Digital Brands Group, Inc.
Los Angeles, CA

Opinion on the Financial Statements

We have audited the accompanying consolidated balance sheets of Digital Brands Group, Inc., formerly Denim.LA, Inc., and subsidiary (collectively, the "Company") as of December 31, 2020 and 2019, and the related consolidated statements of operations, stockholders' deficit, and cash flows for the years then ended, and the related notes (collectively referred to as the "consolidated financial statements"). In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of the Company as of December 31, 2020 and 2019, and the results of its operations and its cash flows for the years then ended, in conformity with accounting principles generally accepted in the United States of America.

Going Concern

The accompanying consolidated financial statements have been prepared assuming the Company will continue as a going concern. As discussed in Note 2 to the financial statements, the Company's net losses from inception, negative cash flow from operations, and lack of liquidity raise substantial doubt about its ability to continue as a going concern. Management's plans in regard to these matters are also described in Note 2. The consolidated financial statements do not include any adjustments that might result from the outcome of this uncertainty.

Basis for Opinion

These consolidated financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audits. 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 audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audits 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 Company's internal control over financial reporting. Accordingly, we express no such opinion.

Our audits included performing procedures to assess the risks of material misstatement of the consolidated 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 supporting the amounts and disclosure in the consolidated financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

/s/ dbb*mckennon*

We have served as the Company's auditor since 2018

Newport Beach, California
April 12, 2021, except for the effects of the reverse stock split discussed in Note 14 to the consolidated financial statements, as to which the date is May 12, 2021

DIGITAL BRANDS GROUP, INC.
(FORMERLY DENIM.LA, INC.)

CONSOLIDATED BALANCE SHEETS

	December 31, 2020	December 31, 2019
ASSETS		
Current assets:		
Cash and cash equivalents	$ 575,986	$ 40,469
Accounts receivable, net	35,532	—
Due from factor, net	210,033	—
Inventory	1,163,279	1,061,969
Prepaid expenses	23,826	63,516
Total current assets	2,008,656	1,165,954
Deferred offering costs	214,647	
Property, equipment and software, net	62,313	72,593
Goodwill	6,479,218	—
Intangible assets, net	7,494,667	—
Deposits	92,668	43,510
Total assets	$ 16,352,169	$ 1,282,057
LIABILITIES AND STOCKHOLDERS' DEFICIT		
Current liabilities:		
Accounts payable	$ 5,668,703	$ 1,597,770
Accrued expenses and other liabilities	1,245,646	1,121,317
Deferred revenue	1,667	15,231
Due to related parties	441,453	263,427
Convertible notes, current	700,000	—
Accrued interest payable	737,039	129,982
Note payable – related party	137,856	115,000
Venture debt, net of discount	5,854,326	4,382,549
Loan payable, current	992,000	—
Promissory note payable	4,500,000	—
Total current liabilities	20,278,690	7,625,276
Convertible notes	1,215,815	799,280
Loan payable	709,044	—
Warrant liability	6,265	7,700
Total liabilities	22,209,814	8,432,256
Commitments and contingencies (Note 13)		
Stockholders' deficit:		
Series Seed convertible preferred stock, $0.0001 par, 20,714,518 shares authorized, 20,714,518 shares issued and outstanding at both December 31, 2020 and 2019. Convertible into one share of common stock. Liquidation preference of $5,633,855 as of both December 31, 2020 and 2019[(1)]	2,071	2,071

See accompanying notes to consolidated financial statements.

DIGITAL BRANDS GROUP, INC.
(FORMERLY DENIM.LA, INC.)

CONSOLIDATED BALANCE SHEETS (continued)

	December 31,	
	2020	**2019**
Series A convertible preferred stock, $0.0001 par, 14,481,413 shares authorized, 5,654,072 shares issued and outstanding at both December 31, 2020 and 2019. Convertible into one share of common stock. Liquidation preference of $2,713,955 as of both December 31, 2020 and 2019[1]	565	565
Series A-2 convertible preferred stock, $0.0001 par, 20,000,000 shares authorized, 5,932,742 shares issued and outstanding at both December 31, 2020 and 2019. Convertible into one share of common stock. Liquidation preference of $2,966,371 as of both December 31, 2020 and 2019[1]	593	593
Series A-3 convertible preferred stock, $0.0001 par, 18,867,925 shares authorized, 9,032,330 and 8,223,036 shares issued and outstanding at December 31, 2020 and 2019, respectively. Convertible into one share of common stock. Liquidation preference of $4,787,135 and $4,358,209 as of December 31, 2020 and 2019, respectively[1]	904	823
Series CF convertible preferred stock, $0.0001 par, 2,000,000 shares authorized, 836,331 and 126,641 shares issued and outstanding at December 31, 2020 and 2019, respectively. Convertible into one share of common stock. Liquidation preference of $434,890 and $65,863 as of December 31, 2020 and 2019, respectively[1]	83	12
Series B convertible preferred stock, $0.0001 par, 20,754,717 shares authorized, 20,754,717 and no shares issued and outstanding at December 31, 2020 and 2019, respectively. Convertible into one share of common stock. Liquidation preference of $11,000,000 and $0 as of December 31, 2020 and 2019, respectively[1]	2,075	—
Undesignated preferred stock, $0.0001 par, 936,144 shares authorized, 0 and 0 shares issued and outstanding as of December 31, 2020 and 2019, respectively		
Common stock, $0.0001 par, 200,000,000 shares authorized, 664,167 and 664,167 shares issued and outstanding as of both December 31, 2020 and 2019[1]	66	66
Additional paid-in capital	27,481,995	15,486,050
Subscription receivable	—	(22,677)
Accumulated deficit	(33,345,997)	(22,617,702)
Total stockholders' deficit	(5,857,645)	(7,150,199)
Total liabilities and stockholders' deficit	$ 16,352,169	$ 1,282,057

(1) The shares have been retroactively restated to reflect the 1-for-15.625 reverse stock split approved by the board of directors and shareholders in May 2021, of its issued and outstanding shares of common stock and a proportional adjustment to the existing conversion ratios for each series of the Company's convertible preferred stock (see Note 14)

See accompanying notes to consolidated financial statements.

DIGITAL BRANDS GROUP, INC.
(FORMERLY DENIM.LA, INC.)

CONSOLIDATED STATEMENTS OF OPERATIONS

	Years Ended December 31,	
	2020	2019
Net revenues	$ 5,239,437	$ 3,034,216
Cost of net revenues	4,685,755	1,626,505
Gross profit	553,682	1,407,711
Operating expenses:		
General and administrative	7,149,210	4,584,010
Sales and marketing	576,469	869,285
Distribution	342,466	801,885
Loss on disposal of property and equipment	848,927	—
Impairment of intangible assets	784,500	—
Total operating expenses	9,701,572	6,255,180
Loss from operations	(9,147,890)	(4,847,469)
Other income (expense):		
Interest expense	(1,599,518)	(772,592)
Other non-operating income (expenses)	32,754	(33,112)
Total other income (expense), net	(1,566,764)	(805,704)
Provision for income taxes	13,641	800
Net loss	$(10,728,295)	$ (5,653,973)
Weighted average vested common shares outstanding – basic and diluted[(1)]	664,167	664,167
Net loss per common share – basic and diluted	$ (16.15)	$ (8.51)

(1) The shares have been retroactively restated to reflect the 1-for-15.625 reverse stock split approved by the board of directors and shareholders in May 2021, of its issued and outstanding shares of common stock and a proportional adjustment to the existing conversion ratios for each series of the Company's convertible preferred stock (see Note 14)

See accompanying notes to consolidated financial statements.

DIGITAL BRANDS GROUP, INC.
(FORMERLY DENIM.LA, INC.)

CONSOLIDATED STATEMENTS OF STOCKHOLDERS' DEFICIT

	Series Seed Preferred Stock		Series A Preferred Stock		Series A-2 Preferred Stock		Series A-3 Preferred Stock		Series CF Preferred Stock		Series B Preferred Stock		Common Stock		Additional Paid-in Capital	Subscription Receivable	Accumulated Deficit	Total Stockholders' Deficit
	Shares[(1)]	Amount	Shares[(1)]	Amount	Shares[(1)]	Amount	Shares[(1)]	Amount	Shares[(1)]	Amount	Shares[(1)]	Amount	Shares[(1)]	Amount				
Balances at December 31, 2018	20,714,518	$2,071	5,650,903	$565	5,932,742	$593	3,447,608	$345	124,204	$12	—	$ —	664,167	$66	$13,242,183	$ (8,283)	$(16,963,729)	$ (3,726,177)
Stock-based compensation	—	—	—	—	—	—	—	—	—	—	—	—	—	—	172,491	—	—	172,491
Issuance of Series CF preferred stock	—	—	—	—	—	—	—	—	2,437	—	—	—	—	—	—	8,283	—	8,283
Shares issued to holders in prior offerings	—	—	3,169	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Issuance of Series A-3 preferred stock	—	—	—	—	—	—	4,775,428	478	—	—	—	—	—	—	2,530,499	(22,677)	—	2,508,300
Offering costs	—	—	—	—	—	—	—	—	—	—	—	—	—	—	(509,051)	—	—	(509,051)
Fair value of warrant issuances – venture debt	—	—	—	—	—	—	—	—	—	—	—	—	—	—	49,928	—	—	49,928
Net loss	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	(5,653,973)	(5,653,973)
Balances at December 31, 2019	20,714,518	$2,071	5,654,072	$565	5,932,742	$593	8,223,036	$823	126,641	$12	—	$ —	664,167	$66	$15,486,050	$ (22,677)	$(22,617,702)	$ (7,150,199)
Stock-based compensation	—	—	—	—	—	—	—	—	—	—	—	—	—	—	144,775	—	—	144,775
Issuance of Series CF preferred stock	—	—	—	—	—	—	—	—	709,690	71	—	—	—	—	309,679	—	—	309,750
Issuance of Series A-3 preferred stock	—	—	—	—	—	—	809,294	81	—	—	—	—	—	—	428,845	22,677	—	451,603
Issuance of Series B preferred stock	—	—	—	—	—	—	—	—	—	—	20,754,717	2,075	—	—	10,997,925	—	—	11,000,000
Offering costs	—	—	—	—	—	—	—	—	—	—	—	—	—	—	(69,470)	—	—	(69,470)
Fair value of warrant issuances – venture debt	—	—	—	—	—	—	—	—	—	—	—	—	—	—	184,191	—	—	184,191
Net loss	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	(10,728,295)	(10,728,295)
Balances at December 31, 2020	20,714,518	$2,071	5,654,072	$565	5,932,742	$593	9,032,330	$904	836,331	$83	20,754,717	$2,075	664,167	$66	$27,481,995	$ —	$(33,345,997)	$ (5,857,645)

(1) The shares have been retroactively restated to reflect the 1-for-15.625 reverse stock split approved by the board of directors and shareholders in May 2021, of its issued and outstanding shares of common stock and a proportional adjustment to the existing conversion ratios for each series of the Company's convertible preferred stock (see Note 14)

See accompanying notes to consolidated financial statements.

DIGITAL BRANDS GROUP, INC.
(FORMERLY DENIM.LA, INC.)

CONSOLIDATED STATEMENTS OF CASH FLOWS

	Year Ended December 31,	
	2020	**2019**
Cash flows from operating activities:		
Net loss	$(10,728,295)	$(5,653,973)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation and amortization	603,857	48,885
Amortization of loan discount and fees	241,878	149,948
Stock-based compensation	144,775	172,491
Change in fair value of warrant liability	(2,353)	—
Impairment of intangible assets	784,500	—
Loss on disposal of property and equipment	848,927	—
Change in credit reserve	(207,666)	—
Changes in operating assets and liabilities:		
Accounts receivable, net	1,947	—
Due from factor, net	1,616,939	—
Inventory	3,202,350	146,673
Other current assets	168,589	114,898
Accounts payable	673,263	610,216
Accrued expenses and other liabilities	(591,028)	602,384
Deferred revenue	(13,564)	(259,728)
Accrued compensation – related party	178,026	68,859
Accrued interest	1,016,268	129,982
Net cash used in operating activities	(2,061,587)	(3,869,365)
Cash flows from investing activities:		
Cash acquired in business combination	106,913	—
Purchases of property and equipment	(864)	(7,848)
Deposits	98,835	14,490
Net cash provided by investing activities	204,884	6,642
Cash flows from financing activities:		
Proceeds (repayment) – related party advances, net	22,856	(105,812)
Repayments to factor	(1,931,369)	—
Proceeds from venture debt	1,050,000	508,249
Proceeds from loans payable	1,701,044	—
Proceeds from convertible notes payable	1,250,308	799,280
Proceeds from sale of Series A-3 preferred stock	428,926	2,508,300
Subscription receivable from Series A-3 preferred stock	22,677	—
Proceeds from sale of Series CF preferred stock, net of fees	309,750	8,283
Offering costs	(461,972)	(399,589)
Net cash provided by financing activities	2,392,220	3,318,711
Net increase (decrease) in cash and cash equivalents	535,517	(544,012)

See accompanying notes to consolidated financial statements.

DIGITAL BRANDS GROUP, INC.
(FORMERLY DENIM.LA, INC.)

CONSOLIDATED STATEMENTS OF CASH FLOWS (continued)

	Year Ended December 31,	
	2020	**2019**
Cash and cash equivalents at beginning of year	40,469	584,481
Cash and cash equivalents at end of year	$ 575,986	$ 40,469
Supplemental disclosure of cash flow information:		
Cash paid for income taxes	$ —	$ —
Cash paid for interest	$ 264,177	$ 90,000
Supplemental disclosure of non-cash investing and financing activities:		
Warrants issued for offering costs	$ 918	$ 6,600
Warrants issued with venture debt	$ 184,191	$ 49,928
Venture debt issued in exchange of forgiveness of accrued interest	$ 409,211	$ —
Issuance of promissory note payable in acquisition	$ 4,500,000	$ —
Issuance of Series B preferred stock in acquisition	$ 11,000,000	$ —

See Note 4 for reconciliation of net assets/liabilities assumed in connection with Bailey 44, LLC.

See accompanying notes to consolidated financial statements.

DIGITAL BRANDS GROUP, INC.
(FORMERLY DENIM.LA, INC.)

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE 1: NATURE OF OPERATIONS

Digital Brands Group, Inc. (formerly Denim.LA, Inc.) (the "Company" or "DBG"), is a corporation organized September 17, 2012 under the laws of Delaware as a limited liability company under the name Denim.LA LLC. The Company converted to a Delaware corporation on January 30, 2013 and changed its name to Denim.LA, Inc. The Company does business under the names DSTLD and Digital Brands Group. The Company sells premium denim and other products direct-to-consumers.

On February 12, 2020, Digital Brands Group, Inc. entered into an Agreement and Plan of Merger with Bailey 44, LLC, a Delaware Limited Liability Company. On the acquisition date, Bailey 44, LLC became a wholly owned subsidiary of the Company. See Note 4.

In March 2020, the World Health Organization declared the outbreak of a novel coronavirus ("COVID-19") a pandemic. As the global spread of COVID-19 continues, DBG remains first and foremost focused on a people-first approach that prioritizes the health and well-being of its employees, customers, trade partners and consumers. To help mitigate the spread of COVID-19, DBG has modified its business practices, including in response to legislation, executive orders and guidance from government entities and healthcare authorities (collectively, "COVID-19 Directives"). These directives include the temporary closing of offices and retail stores, instituting travel bans and restrictions and implementing health and safety measures including social distancing and quarantines.

The full extent of the future impact of the COVID-19 pandemic on the Company's operational and financial performance is currently uncertain and will depend on many factors outside the Company's control, including, without limitation, the timing, extent, trajectory and duration of the pandemic, the development and availability of effective treatments and vaccines, and the imposition of protective public safety measures.

NOTE 2: GOING CONCERN

The accompanying consolidated financial statements have been prepared on a going concern basis, which contemplates the realization of assets and the satisfaction of liabilities in the normal course of business. The Company has not generated profits since inception, has sustained net losses of $10,728,295 and $5,653,973 for the years ended December 31, 2020 and 2019, respectively, and has incurred negative cash flows from operations for the years ended December 31, 2020 and 2019. The Company has historically lacked liquidity to satisfy obligations as they come due and as of December 31, 2020, the Company had a working capital deficit of $18,270,034. These factors raise substantial doubt about the Company's ability to continue as a going concern. The Company's ability to continue as a going concern for the next twelve months is dependent upon its ability to generate sufficient cash flows from operations to meet its obligations, which it has not been able to accomplish to date, and/or to obtain additional capital financing. No assurance can be given that the Company will be successful in these efforts. The accompanying consolidated financial statements do not include any adjustments as a result of this uncertainty.

NOTE 3: SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Basis of Presentation

The accounting and reporting policies of the Company conform to accounting principles generally accepted in the United States of America ("GAAP").

Reclassifications

Certain prior year accounts have been reclassified to conform with current year presentation.

DIGITAL BRANDS GROUP, INC.
(FORMERLY DENIM.LA, INC.)

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

Principles of Consolidation

These consolidated financial statements include the accounts of the Company and its wholly-owned subsidiary, Bailey 44, LLC. All inter-company transactions and balances have been eliminated on consolidation.

Use of Estimates

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosures of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

Cash and Equivalents and Concentration of Credit Risk

The Company considers all highly liquid securities with an original maturity of less than three months to be cash equivalents. As of December 31, 2020 and 2019, the Company did not hold any cash equivalents. The Company's cash and cash equivalents in bank deposit accounts, at times, may exceed federally insured limits of $250,000.

Fair Value of Financial Instruments

FASB guidance specifies a hierarchy of valuation techniques based on whether the inputs to those valuation techniques are observable or unobservable. Observable inputs reflect market data obtained from independent sources, while unobservable inputs reflect market assumptions. The hierarchy gives the highest priority to unadjusted quoted prices in active markets for identical assets or liabilities (Level 1 measurement) and the lowest priority to unobservable inputs (Level 3 measurement). The three levels of the fair value hierarchy are as follows:

Level 1 — Unadjusted quoted prices in active markets for identical assets or liabilities that the reporting entity has the ability to access at the measurement date. Level 1 primarily consists of financial instruments whose value is based on quoted market prices such as exchange-traded instruments and listed equities.

Level 2 — Inputs other than quoted prices included within Level 1 that are observable for the asset or liability, either directly or indirectly (e.g., quoted prices of similar assets or liabilities in active markets, or quoted prices for identical or similar assets or liabilities in markets that are not active).

Level 3 — Unobservable inputs for the asset or liability. Financial instruments are considered Level 3 when their fair values are determined using pricing models, discounted cash flows or similar techniques and at least one significant model assumption or input is unobservable.

The Company's financial instruments consist of cash and cash equivalents, accounts payable, accrued expenses, due to related parties, related party note payable, and convertible debt. The carrying value of these assets and liabilities is representative of their fair market value, due to the short maturity of these instruments.

Certain of the Company's common stock warrants are carried at fair value. The fair value of the Company's common stock warrant liabilities has been measured under the Level 3 hierarchy using the Black-Scholes pricing model. (See Note 10). The Company's underlying common stock has no observable market price and was valued using a market approach. Changes in common stock warrant liability during the year ended December 31, 2020 and 2019 are as follows:

DIGITAL BRANDS GROUP, INC.
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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

	Warrant Liability
Oustanding as of December 31, 2018	$ —
Warrants granted	7,700
Oustanding as of December 31, 2019	7,700
Warrants granted	918
Change in fair value	(2,353)
Oustanding as of December 31, 2020	$ 6,265

Inventory

Inventory is stated at the lower of cost or net realizable value and accounted for using the weighted average cost method and first-in, first-out method for Bailey. The inventory balances as of December 31, 2020 and 2019 consist substantially of finished good products purchased or produced for resale, as well as any materials the Company purchased to modify the products.

Property, Equipment, and Software

Property, equipment, and software are recorded at cost. Depreciation/amortization is recorded for property, equipment, and software using the straight-line method over the estimated useful lives of assets. The Company reviews the recoverability of all long-lived assets, including the related useful lives, whenever events or changes in circumstances indicate that the carrying amount of a long-lived asset might not be recoverable. The balances at December 31, 2020 and 2019 consist of software with three (3) year lives, property and equipment with 3-10 year lives, and leasehold improvements which are depreciated over the shorter of the lease life or expected life.

Depreciation and amortization charges on property, equipment, and software are included in general and administrative expenses and amounted to $283,024 and $48,885 for the years ended December 31, 2020 and 2019, respectively. Capital assets as of December 31, 2020 and 2019 are as follows:

	December 31,	
	2020	2019
Computer equipment	$ 57,810	$ 57,004
Furniture and fixtures	207,140	70,108
Leasehold improvements	69,274	40,351
	334,224	167,463
Accumulated depreciation	(334,224)	(97,703)
Property and equipment, net	$ —	$ 69,760
Software	$ 278,405	$ 56,450
Accumulated amortization	(216,092)	(53,617)
Software, net	$ 62,313	$ 2,833

During the year ended December 31, 2020, the Company disposed of certain assets, primarily related to leasehold improvements and related fixtures, in relation to the termination of various leases and contracts that were acquired with Bailey. During the year ended December 31, 2020, a total of approximately $2,202,000 in property and equipment was disposed, resulting in a loss on disposal of $848,927 after disposal costs, which is included in operating expenses in the accompanying consolidated statement of operations.

DIGITAL BRANDS GROUP, INC.
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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

Business Combinations

The Company accounts for acquisitions in which it obtains control of one or more businesses as a business combination. The purchase price of the acquired businesses is allocated to the tangible and intangible assets acquired and liabilities assumed based on their estimated fair values at the acquisition date. The excess of the purchase price over those fair values is recognized as goodwill. During the measurement period, which may be up to one year from the acquisition date, the Company may record adjustments, in the period in which they are determined, to the assets acquired and liabilities assumed with the corresponding offset to goodwill. If the assets acquired are not a business, the Company accounts for the transaction or other event as an asset acquisition. Under both methods, the Company recognizes the identifiable assets acquired, the liabilities assumed, and any noncontrolling interest in the acquired entity. In addition, for transactions that are business combinations, the Company evaluates the existence of goodwill or a gain from a bargain purchase.

Goodwill represents the excess of the purchase price of an acquired entity over the fair value of identifiable tangible and intangible assets acquired and liabilities assumed in a business combination.

Intangible assets are established with business combinations and consist of brand names and customer relationships. Intangible assets with finite lives are recorded at their estimated fair value at the date of acquisition and are amortized over their estimated useful lives using the straight-line method. Brand names and other assets with indefinite lives are not subject to amortization. The estimated useful lives of amortizable intangible assets are as follows:

Customer relationships	3 years

Impairment of Long-Lived Assets

The Company reviews its long-lived assets (property and equipment and amortizable intangible assets) for impairment whenever events or circumstances indicate that the carrying amount of an asset may not be recoverable. If the sum of the expected cash flows, undiscounted, is less than the carrying amount of the asset, an impairment loss is recognized as the amount by which the carrying amount of the asset exceeds its fair value.

Goodwill

Goodwill and identifiable intangible assets that have indefinite useful lives are not amortized, but instead are tested annually for impairment and upon the occurrence of certain events or substantive changes in circumstances. The annual goodwill impairment test allows for the option to first assess qualitative factors to determine whether it is more likely than not that the fair value of a reporting unit is less than its carrying amount. An entity may choose to perform the qualitative assessment on none, some or all of its reporting units or an entity may bypass the qualitative assessment for any reporting unit and proceed directly to step one of the quantitative impairment test. If it is determined, on the basis of qualitative factors, that the fair value of a reporting unit is, more likely than not, less than its carrying value, the quantitative impairment test is required. The quantitative impairment test calculates any goodwill impairment as the difference between the carrying amount of a reporting unit and its fair value, but not to exceed the carrying amount of goodwill. It is our practice, at a minimum, to perform a quantitative goodwill impairment test in the first quarter every year.

During the year ended December 31, 2020, management performed a quantitative impairment test after evaluating qualitative factors due to COVID-19. The Company determined that the fair value of the reporting unit exceeded the carrying amount, and therefore no goodwill impairment was recognized as of December 31, 2020. The Company made this determination by observing average market multiples on revenue

for similar companies against current and expected revenue levels of the Bailey unit acquired and comparing such against the carrying value of the Bailey unit, which resulted in the estimated fair value exceeding the carrying value.

Indefinite-Lived Intangible Assets

Indefinite-lived intangible assets established in connection with business combinations consist of the brand name. The impairment test for identifiable indefinite-lived intangible assets consists of a comparison of the estimated fair value of the intangible asset with its carrying value. If the carrying value exceeds its fair value, an impairment loss is recognized in an amount equal to that excess.

At September 30, 2020, management determined that certain events and circumstances occurred, primarily the reduction in revenues due to COVID-19, that indicated that the carrying value of the Company's brand name asset may not be recoverable. The Company calculated the estimated fair value of the brand name based on a relief of royalty model using revised revenue projections and discount rates believed to be appropriate. The Company compared the estimated fair value of the brand name with its carrying value and recorded an impairment loss of $784,500 in the consolidated statements of operations.

Convertible Instruments

U.S. GAAP requires companies to bifurcate conversion options from their host instruments and account for them as free standing derivative financial instruments according to certain criteria. The criteria include circumstances in which (a) the economic characteristics and risks of the embedded derivative instrument are not clearly and closely related to the economic characteristics and risks of the host contract, (b) the hybrid instrument that embodies both the embedded derivative instrument and the host contract is not re-measured at fair value under otherwise applicable generally accepted accounting principles with changes in fair value reported in earnings as they occur and (c) a separate instrument with the same terms as the embedded derivative instrument would be considered a derivative instrument. An exception to this rule is when the host instrument is deemed to be conventional as that term is described under applicable U.S. GAAP.

When the Company has determined that the embedded conversion options should not be bifurcated from their host instruments, the Company records, when necessary, discounts to convertible notes for the intrinsic value of conversion options embedded in debt instruments based upon the differences between the fair value of the underlying common stock at the commitment date of the note transaction and the effective conversion price embedded in the note. Debt discounts under these arrangements are amortized over the term of the related debt to their stated date of redemption. The Company also records, when necessary, deemed dividends for the intrinsic value of conversion options embedded in preferred shares based upon the differences between the fair value of the underlying common stock at the commitment date of the transaction and the effective conversion price embedded in the preferred shares.

Accounting for Preferred Stock

ASC 480, Distinguishing Liabilities from Equity, includes standards for how an issuer of equity (including equity shares issued by consolidated entities) classifies and measures on its balance sheet certain financial instruments with characteristics of both liabilities and equity.

Management is required to determine the presentation for the preferred stock as a result of the redemption and conversion provisions, among other provisions in the agreement. Specifically, management is required to determine whether the embedded conversion feature in the preferred stock is clearly and closely related to the host instrument, and whether the bifurcation of the conversion feature is required and whether the conversion feature should be accounted for as a derivative instrument. If the host instrument and conversion feature are determined to be clearly and closely related (both more akin to equity), derivative liability accounting under ASC 815, Derivatives and Hedging, is not required. Management determined

that the host contract of the preferred stock is more akin to equity, and accordingly, liability accounting is not required by the Company. The Company has presented preferred stock within stockholders' deficit.

Costs incurred directly for the issuance of the preferred stock are recorded as a reduction of gross proceeds received by the Company, resulting in a discount to the preferred stock. The discount is not amortized.

Revenue Recognition

Revenues are recognized when performance obligations are satisfied through the transfer of promised goods to the Company's customers. Control transfers upon shipment of product and when the title has been passed to the customers. This includes the transfer of legal title, physical possession, the risks and rewards of ownership, and customer acceptance. The Company provides the customer the right of return on certain products and revenue is adjusted based on an estimate of the expected returns based on historical rates. The Company considers the sale of products as a single performance obligation. Sales tax collected from customers and remitted to taxing authorities is excluded from revenue and is included in accrued expenses. Revenue is deferred for orders received for which associated shipments have not occurred. ASC 606 has been adopted effective January 1, 2019 using the modified retrospective method with no adjustment.

The reserve for returns totaled $5,229 and $100,000 as of December 31, 2020 and 2019, respectively, and is included in accrued expenses and other liabilities in the accompanying consolidated balance sheets.

Cost of Revenues

Cost of revenues consists primarily of inventory sold and related freight-in.

Shipping and Handling

The Company recognizes shipping and handling billed to customers as a component of net revenues, and the cost of shipping and handling as a component of sales and marketing. Total shipping and handling billed to customers as a component of net revenues was approximately $3,900 and $39,000 for the years ended December 31, 2020 and 2019, respectively. Total shipping and handling costs included in distribution costs were approximately $246,000 and $357,000 for the years ended December 31, 2020 and 2019, respectively.

Advertising and Promotion

Advertising and promotional costs are expensed as incurred. Advertising and promotional expense for the years ended December 31, 2020 and 2019 amounted to approximately $146,000 and $579,000, respectively, which is included in sales and marketing expense.

Common Stock Purchase Warrants and Other Derivative Financial Instruments

The Company accounts for derivative instruments in accordance with ASC 815, which establishes accounting and reporting standards for derivative instruments and hedging activities, including certain derivative instruments embedded in other financial instruments or contracts and requires recognition of all derivatives on the balance sheet at fair value, regardless of hedging relationship designation. Accounting for changes in fair value of the derivative instruments depends on whether the derivatives qualify as hedging relationships and the types of relationships designated are based on the exposures hedged. At December 31, 2020 and 2019, the Company did not have any derivative instruments that were designated as hedges.

The Company adopted Accounting Standards Update ("ASU") No. 2017-11, Earnings Per Share (Topic 260), Distinguishing Liabilities from Equity (Topic 480), Derivatives and Hedging (Topic 815). The amendments in Part I of this Update change the classification analysis of certain equity-linked financial instruments (or embedded features) with down round features.

DIGITAL BRANDS GROUP, INC.
(FORMERLY DENIM.LA, INC.)

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

Stock Option and Warrant Valuation

Stock option and warrant valuation models require the input of highly subjective assumptions. The fair value of stock-based payment awards was estimated using the Black-Scholes option model with a volatility figure derived from an index of historical stock prices for comparable entities. For warrants and stock options issued to non-employees, the Company accounts for the expected life based on the contractual life of the warrants and stock options. For employees, the Company accounts for the expected life of options in accordance with the "simplified" method, which is used for "plain-vanilla" options, as defined in the accounting standards codification. The risk-free interest rate was determined from the implied yields of U.S. Treasury zero-coupon bonds with a remaining life consistent with the expected term of the options.

Stock-Based Compensation

The Company accounts for stock-based compensation costs under the provisions of ASC 718, Compensation — Stock Compensation, which requires the measurement and recognition of compensation expense related to the fair value of stock-based compensation awards that are ultimately expected to vest. Stock based compensation expense recognized includes the compensation cost for all stock-based payments granted to employees, officers, and directors based on the grant date fair value estimated in accordance with the provisions of ASC 718. ASC 718 is also applied to awards modified, repurchased, or cancelled during the periods reported. Stock-based compensation is recognized as expense over the employee's requisite vesting period and over the nonemployee's period of providing goods or services.

Deferred Offering Costs

The Company complies with the requirements of ASC 340, Other Assets and Deferred Costs, with regards to offering costs. Prior to the completion of an offering, offering costs are capitalized. The deferred offering costs are charged to additional paid-in capital or as a discount to debt, as applicable, upon the completion of an offering or to expense if the offering is not completed. As of December 31, 2020, the Company had capitalized $214,647 in deferred offering costs.

Segment Information

In accordance with ASC 280, Segment Reporting ("ASC 280"), we identify our operating segments according to how our business activities are managed and evaluated. As of December 31, 2020 our operating segments included: DSTLD and Bailey 44. Each operating segment has a current report to the Chief Executive Officer. Each of our brands serve or are expected to serve customers through our wholesale and online channels, allowing us to execute on our omni-channel strategy. We have determined that each of our operating segments share similar economic and other qualitative characteristics, and therefore the results of our operating segments are aggregated into one reportable segment. All of the operating segments have met the aggregation criteria and have been aggregated and are presented as one reportable segment, as permitted by ASC 280. We continually monitor and review our segment reporting structure in accordance with authoritative guidance to determine whether any changes have occurred that would impact our reportable segments.

Income Taxes

The Company uses the liability method of accounting for income taxes as set forth in ASC 740, Income Taxes. Under the liability method, deferred taxes are determined based on the temporary differences between the financial statement and tax basis of assets and liabilities using tax rates expected to be in effect during the years in which the basis differences reverse. A valuation allowance is recorded when it is unlikely that the deferred tax assets will not be realized. We assess our income tax positions and record tax benefits for all years subject to examination based upon our evaluation of the facts, circumstances and information available at the reporting date. In accordance with ASC 740-10, for those tax positions where there is a greater than 50% likelihood that a tax benefit will be sustained, our policy will be to record the

DIGITAL BRANDS GROUP, INC.
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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

largest amount of tax benefit that is more likely than not to be realized upon ultimate settlement with a taxing authority that has full knowledge of all relevant information. For those income tax positions where there is less than 50% likelihood that a tax benefit will be sustained, no tax benefit will be recognized in the financial statements.

Net Loss per Share

Net earnings or loss per share is computed by dividing net income or loss by the weighted-average number of common shares outstanding during the period, excluding shares subject to redemption or forfeiture. The Company presents basic and diluted net earnings or loss per share. Diluted net earnings or loss per share reflect the actual weighted average of common shares issued and outstanding during the period, adjusted for potentially dilutive securities outstanding. Potentially dilutive securities are excluded from the computation of the diluted net loss per share if their inclusion would be anti-dilutive. As all potentially dilutive securities are anti-dilutive as of December 31, 2020 and 2019, diluted net loss per share is the same as basic net loss per share for each year. Potentially dilutive items outstanding as of December 31, 2020 and 2019 are as follows:

	December 31,	
	2020	2019
Series Seed Preferred Stock (convertible to common stock)	20,714,518	20,714,518
Series A Preferred Stock (convertible to common stock)	5,654,072	5,654,072
Series A-2 Preferred Stock (convertible to common stock)	5,932,742	5,932,742
Series CF Preferred Stock (convertible to common stock)	836,331	126,641
Series A-3 Preferred Stock (convertible to common stock)	9,032,330	8,223,036
Series B Preferred Stock (convertible to common stock)	20,754,717	—
Common stock warrants	914,539	417,962
Preferred stock warrants	806,903	806,903
Stock options	1,163,103	1,084,215
Total potentially dilutive shares	65,809,254	42,960,089

All shares of preferred stock are convertible into shares of common stock at a ratio of 15.625:1 per share. See Note 14.

Concentrations

The Company utilized three vendors that made up 41%, 31% and 28% of all inventory purchases, respectively, during the year ended December 31, 2020 and two vendors that made up 39% and 29% of all inventory purchases, respectively during the year ended December 31, 2019. The loss of one of these vendors, may have a negative short-term impact on the Company's operations; however, we believe there are acceptable substitute vendors that can be utilized longer-term.

Recent Accounting Pronouncements

In February 2016, the FASB issued Accounting Standards Update ("ASU") 2016-02: Leases (Topic 842). The new guidance generally requires an entity to recognize on its balance sheet operating and financing lease liabilities and corresponding right-of-use assets. The standard will be effective for the first interim period within annual reporting periods beginning after December 15, 2018 and early adoption is permitted. The new standard requires a modified retrospective transition for existing leases to each prior reporting period presented. The Company has elected to utilize the extended adoption period available to the Company as an emerging growth company and has not currently adopted this standard. This standard will be effective for the first interim period within annual reporting periods beginning after December 15, 2021. The Company

is currently evaluating the impact of the adoption of ASU 2016-02 on its financial position, results of operations and cash flows once adopted.

In August 2018, the FASB issued ASU No. 2018-13, "Fair Value Measurement (Topic 820): Disclosure Framework — Changes to the Disclosure Requirements for Fair Value Measurement ("ASU 2018-13"). The amendments in ASU 2018-13 modify the disclosure requirements associated with fair value measurements based on the concepts in the Concepts Statement, including the consideration of costs and benefits. The amendments on changes in unrealized gains and losses, the range and weighted average of significant unobservable inputs used to develop Level 3 fair value measurements, and the narrative description of measurement uncertainty should be applied prospectively for only the most recent interim or annual period presented in the initial fiscal year of adoption. All other amendments should be applied retrospectively to all periods presented upon their effective date. The amendments are effective for all entities for fiscal years beginning after December 15, 2019, and interim periods within those fiscal years. Early adoption is permitted, including adoption in an interim period. We adopted ASU-2018-13 as of January 1, 2020, which did not materially affect our consolidated financial statements.

In January 2017, the FASB issued ASU No. 2017-04, Intangibles — Goodwill and Other: Simplifying the Test for Goodwill Impairment (Topic 350) ("ASU 2017-04"), which provides for the elimination of Step 2 from the goodwill impairment test. If impairment charges are recognized, the amount recorded will be the amount by which the carrying amount exceeds the reporting unit's fair value with certain limitations. ASU 2017-04 is effective for fiscal years beginning after December 15, 2019 with early adoption allowed. The Company has early adopted ASU 2017-04 as of January 1, 2020.

Management does not believe that any other recently issued, but not yet effective, accounting standards could have a material effect on the accompanying financial statements. As new accounting pronouncements are issued, the Company will adopt those that are applicable under the circumstances.

NOTE 4: BUSINESS COMBINATIONS

On February 12, 2020, Digital Brands Group, Inc. ("Denim") entered into an Agreement and Plan of Merger (the "Merger Agreement") by and between Bailey 44, LLC, a Delaware limited liability company ("Bailey"), Norwest Venture Partners XI, LP, a Delaware limited partnership ("NVP XI"), and Norwest Venture Partners XII, LP, a Delaware limited partnership ("NVP XII", each of NVP XI and NVP XII known herein as a "Holder" and together the "Holders"), on the one hand, and the issuer, and Denim.LA Acquisition Corp., a Delaware corporation and a wholly-owned subsidiary of the issuer ("Merger Sub"), on the other hand to effect the merger of Merger Sub with and into Bailey (the "Merger"). Upon the consummation of the Merger (the "Effective Time"), which occurred on the date of the Merger Agreement, Merger Sub ceased to exist and Bailey was the entity surviving the Merger.

Prior to the Merger, Bailey had (a) membership interests consisting of Preferred Units, Common Units and Performance Units (collectively, the "Membership Units") outstanding and (b) entered into certain Phantom Performance Unit Agreements (the "Phantom Performance Units"). All Preferred Units were held by the Holders. As a result of the Merger, (A) each Preferred Unit issued and outstanding immediately prior to the Effective Time of the Merger was converted (and when so converted, was automatically cancelled and retired and ceased to exist) in exchange for the right to receive a portion of (i) an aggregate of 20,754,717 newly issued shares of Series B Preferred Stock, par value $0.0001 per share, of Denim (the "Parent Stock") and (ii) a promissory note in the principal amount of $4,500,000, (B) all other Membership Units other than the Preferred Units as well as all Phantom Performance Units were cancelled and no consideration was delivered in exchange therefor, and (C) Bailey became the wholly-owned subsidiary of Denim. The Articles of Incorporation were amended to authorize the newly issued shares of Series B Preferred Stock, par value $0.0001 per share, of Denim (the "Parent Stock").

Of the shares of Parent Stock issued in connection with the Merger, 16,603,773 shares were delivered on the effective date of the Merger (the "Initial Shares") and four million one hundred fifty thousand nine

hundred forty four (4,150,944) shares were held back solely, and only to the extent necessary, to satisfy any indemnification obligations of Bailey or the Holders pursuant to the terms of the Merger Agreement (the "Holdback Shares").

Denim agreed that if at that date which is one year from the closing date of Denim's initial public offering, the product of the number of shares of Parent Stock issued under the Merger Agreement multiplied by the sum of the closing price per share of the common stock of Denim on such date as quoted on Nasdaq, the New York Stock Exchange or other stock exchange or interdealer quotation system, as the case may be, plus Sold Parent Stock Gross Proceeds (as that term is defined in the Merger Agreement) does not exceed the sum of $11,000,000 less the value of any Holdback Shares cancelled further to the indemnification provisions of the Merger Agreement, then Denim shall issue to the Holders pro rata an additional aggregate number of shares of common stock of Denim equal to the valuation shortfall at a per share price equal to the then closing price per share of the common stock of Denim as quoted on the Nasdaq, the New York Stock Exchange or other stock exchange or interdealer quotation system, as the case may be. Concurrently, Denim will cause an equivalent number of shares of common stock or common stock equivalents held by affiliated stockholders of Denim prior to the date of the Merger Agreement to be cancelled pro rata in proportion to the number of shares of common stock of Denim held by each of them.

In addition, Denim agreed that at all times from the date of the Merger Agreement until the date immediately preceding the effective date of Denim's initial public offering, in no event will the number of shares of Parent Stock issued pursuant to the Merger Agreement represent less than 9.1% of the outstanding capital stock of Denim on a fully-diluted basis. Denim agreed that in the event that, at any time prior to the date immediately preceding the effective date of Denim's initial public offering, the shares of Parent Stock issued pursuant to the Merger Agreement represent less than 9.1% of the outstanding capital stock of Denim on a fully-diluted basis, Denim shall promptly issue new certificates evidencing additional shares of Parent Stock to the Holders such that the total number of shares of Parent Stock issued pursuant to Denim's Merger Agreement is not less than 9.1% of Denim's the outstanding capital stock on a fully-diluted basis as of such date.

The Company evaluated the acquisitions of Bailey pursuant to ASC 805 and ASU 2017-01, Topic 805, Business Combinations. The acquisition method of accounting requires, among other things, that the assets acquired and liabilities assumed in a business combination be measured at their estimated respective fair values as of the closing date of the acquisition. Goodwill recognized in connection with this transaction represents primarily the potential economic benefits that the Company believes may arise from the acquisition.

Total fair value of the purchase price consideration was determined as follows:

Series B preferred stock	$11,000,000
Promissory note payable	4,500,000
Purchase price consideration	$15,500,000

The Company has made a allocation of the purchase price in regard to the acquisition related to the assets acquired and the liabilities assumed as of the purchase date. The following table summarizes the purchase price allocation:

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	Purchase Price Allocation
Cash and cash equivalents	$ 106,913
Accounts receivable	37,479
Due from/(to) factor	(312,063)
Inventory	3,303,660
Prepaid expenses	165,856
Deposits	187,493
Property, equipment and software	1,215,748
Goodwill	6,479,218
Intangible assets (Note 6)	8,600,000
Accounts payable	(3,397,547)
Accrued expenses and other liabilities	(886,757)
Purchase price consideration	$ 15,500,000

Goodwill is primarily attributable to the go-to-market synergies that are expected to arise as a result of the acquisition and other intangible assets that do not qualify for separate recognition. The goodwill is not deductible for tax purposes.

The results of Bailey have been included in the consolidated financial statements since the date of acquisition. Bailey's net revenue and net loss included in the consolidated financial statements since the acquisition date were approximately $3,975,000 and $4,500,000, respectively.

Unaudited Pro Forma Financial Information

The following unaudited pro forma financial information presents the Company's financial results as if the Bailey acquisition had occurred as of January 1, 2019. The unaudited pro forma financial information is not necessarily indicative of what the financial results actually would have been had the acquisitions been completed on this date. In addition, the unaudited pro forma financial information is not indicative of, nor does it purport to project, the Company's future financial results. The following unaudited pro forma financial information includes incremental property and equipment depreciation and intangible asset amortization as a result of the acquisitions. The pro forma information does not give effect to any estimated and potential cost savings or other operating efficiencies that could result from the acquisition:

	Year Ended December 31,	
	2020	2019
Net revenues	$ 7,259,260	$ 30,133,934
Net loss	$(12,786,695)	$(11,868,423)
Net loss per common share	$ (19.25)	$ (17.87)

Proposed Business Combination

On October 14, 2020, Digital Brands Group, Inc. a Delaware corporation (the "Company"), entered into a Membership Interest Purchase Agreement (the "Agreement") with D. Jones Tailored Collection, Ltd., a Texas limited partnership ("Seller"), to acquire all of the outstanding membership interests of Harper & Jones LLC ("H&J") concurrent with the closing of an initial public offering by the Company (the "Transaction"). Pursuant to the Agreement, Seller, as the holder of all of the outstanding membership interests of H&J, will exchange all of such membership interests for a number of common stock of the Company equal to the lesser of (i) $9.1 million at a per share price equal to the initial public offering price of the Company's shares offered pursuant to its initial public offering or (ii) the number of Subject Acquisition

Shares; "Subject Acquisition Shares" means the percentage of the aggregate number of shares of the Company's common stock issued pursuant to the Agreement, which is the percentage that Subject Seller Dollar Value is in relation to Total Dollar Value. "Subject Seller Dollar Value" means $9.1 million. "Total Dollar Value" means the sum of Existing Holders Dollar Value plus the Bailey Holders Dollar Value plus the aggregate dollar value with respect to all other acquisitions to be completed by the Company concurrently with its initial public offering (including the Subject Seller Dollar Value). "Existing Holders Dollar Value" means $40.0 million. "Bailey Holders Dollar Value" means $11.0 million. In addition, the Company will contribute to H&J a $500,000 cash payment that will be allocated towards H&J's debt outstanding immediately concurrent to the closing of the Transaction. Twenty percent of the shares of the Company issued to Seller at the closing will be issued into escrow to cover possible indemnification obligations of Seller and post-closing adjustments under the Agreement.

If, at the one year anniversary of the closing date of the Company's initial public offering, the product of the number of shares of the Company's common stock issued at the closing of the Transaction multiplied by the average closing price per share of the shares of the Company's common stock as quoted on the NasdaqCM for the thirty (30) day trading period immediately preceding such date plus Sold Buyer Shares Gross Proceeds does not exceed the sum of $9.1 million less the value of any shares of the Company's common stock cancelled further to any indemnification claims made against Seller or post-closing adjustments under the Agreement, then the Company shall issue to Seller an additional aggregate number of shares of the Company's common stock equal to the valuation shortfall at a per share price equal to the then closing price per share of the Company's common stock as quoted on the NasdaqCM (the "Valuation Shortfall").

Concurrently, the Company will cause a number of shares of the Company's common stock or common stock equivalents held by certain of its affiliated stockholders prior to the closing of the Transaction to be cancelled in an equivalent Dollar amount as the Valuation Shortfall on a pro rata basis in proportion to the number of shares of the Company's common stock or common stock equivalents held by each of them. "Sold Buyer Shares Gross Proceeds" means the aggregate gross proceeds received by Seller from sales of Sold Buyer Shares within the period that is one (1) year from the Closing Date. "Sold Buyer Shares" means shares of the Company's common stock issued to Seller further to the Transaction and which are sold by Seller within the period that is one (1) year from the closing of the Transaction. The obligations of each party to consummate the transactions contemplated by the Agreement are predicate on the closing of the initial public offering on or before December 31, 2020. Should the initial public offering not occur by that date, either the Company or Seller may terminate the Agreement. There is no penalty for either party should the initial public offering not occur, and in such instance the sale becomes null and void.

We have been working with Harper & Jones to reorganize their marketing team and create targeted and return driven marketing strategies. We have also helped analyze the sales representative, customer and showroom data, which we are using to develop the brand's growth strategies. As an example, our analysis showed that the showrooms cost $125,000 to open while generating $250,000 in store level cash flow in its first year. This 100% cash on cash return shows the opportunity to open more showrooms, but Harper & Jones does not have the cash or balance sheet to support additional store openings. We plan to use a portion of the proceeds of this offering to open additional Harper & Jones showrooms in markets where the brand already has a strong customer base.

The acquisition agreement with Harper & Jones did not occur during the current (2019 and 2020) reporting period and is contingent upon an initial public offering. According, acquisition accounting under ASC 805 has not been completed and preparation of historical financials remain in progress at the time these financial statements were available to be issued.

NOTE 5: DUE FROM FACTOR

The Company, via its subsidiary, Bailey, assigns a portion of its trade accounts receivable to a third-party factoring company, who assumes the credit risk with respect to the collection of non-recourse accounts

receivable. The Company may request advances on the net sales factored at any time before their maturity date, and up to 50% of eligible finished goods inventories. The factor charges a commission on the net sales factored for credit and collection services. Interest on advances is charged as of the last day of each month at a rate equal to the LIBOR rate plus 2.5%. Advances are collateralized by a security interest in substantially all of Bailley's assets.

Due from factor consist of the following:

	December 31,	
	2020	2019
Outstanding receivables:		
Without recourse	$151,158	$ —
With recourse	42,945	—
Advances	56,246	—
Credits due customers	(40,316)	—
	$210,033	$ —

NOTE 6: GOODWILL AND INTANGIBLE ASSETS

The Company recorded $6,479,218 in goodwill from the Bailey business combination in February 2020.

The following table summarizes information relating to the Company's identifiable intangible assets as of December 31, 2020:

	Gross Amount	Accumulated Amortization	Carrying Value
Amortized:			
Customer relationships	$1,100,000	$ (320,833)	$ 779,167
	1,100,000	(320,833)	779,167
Indefinite-lived:			
Brand name	6,715,500	—	6,715,500
	$7,815,500	$ (320,833)	$7,494,667

Due to the effects of COVID-19 and related uncertainty which affected Bailey's 2020 results and near-term demand for its products, the Company determined that there were indications for further impairment analysis.

During the year ended December 31, 2020, the Company recorded an impairment loss of $784,500 for the intangible asset as management determined circumstances existed that indicated the carrying value may not be recoverable. The impairment analysis was based on the relief from royalty method using projected revenue estimates and discounts rates believed to be appropriate.

Fair value determinations require considerable judgment and are sensitive to changes in underlying assumptions, estimates and market factors. The discount rate, revenue assumptions and terminal growth rate of our reporting unit were the material assumptions utilized in the model used to estimate the fair value of the Bailey unit. The analysis requires estimates, assumptions and judgments about future events. Our analysis uses our internally generated long-range plan. The long-range plan reflects management judgment, which includes observation of expected industry trends.

The Company recorded amortization expense of $320,833 during the year ended December 31, 2020, which is included in general and administrative expenses in the consolidated statements of operations.

Future amortization expense at December 31, 2020 is as follows:

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Year Ending December 31,	
2021	366,667
2022	366,667
2023	45,833
	$779,167

NOTE 7: LIABILITIES AND DEBT

Accrued Expenses and Other Liabilities

The Company accrued expenses and other liabilities line in the consolidated balance sheets is comprised of the following as of December 31, 2020 and 2019:

	December 31,	
	2020	**2019**
Accrued expenses	$ 92,074	$ 188,341
Reserve for returns	5,229	100,000
Payroll related liabilities	843,704	412,155
Sales tax liability	196,410	156,707
Other liabilities	108,230	264,114
	$1,245,646	$1,121,317

Certain liabilities including sales tax and payroll related liabilities maybe be subject to interest in penalties. As of December 31, 2020, payroll related labilities included approximately $152,000 in estimated penalties associated with accrued payroll taxes.

Venture Debt

In March 2017, the Company entered into a senior credit agreement with an outside lender for up to $4,000,000, dependent upon the achievement of certain milestones. The initial close amount was a minimum of $1,345,000. The loan bears interest at 12.5% per annum, compounded monthly, plus fees. A 5% closing fee is due upon each closing, legal and accounting fees of up to $40,000, and management fees of $4,167-$5,000 per month. The loan requires monthly payments of interest commencing March 31, 2017, and a balloon payment for the full principal amount at the pre-amended maturity date in June 2021. In March 2021, the Company and its senior credit facility agreed to extend the maturity date of the credit agreement to December 31, 2022, with certain payments due as follows. If the Company consummates a follow on public offering on or before July 31, 2021, the Company is required to make a $3,000,000 payment on the loan within five business days after such public offering. In addition, if the Company consummates an additional follow-on offering thereafter on or before September 30, 2021, the Company is required to make another $3,000,000 payment on the loan within five business days after such public offering. If the Company does not consummate the initial follow on offering or, if the Company does but does not consummate the aforementioned second follow-on offering by September 30, 2021, the Company is required to make a $300,000 payment on the loan by September 30, 2021. While the Company has current plans to conduct a follow-on offering prior to July 31, 2021 and September 30, 2021, the Company may effect such an offering if market conditions are favorable for such an offering and should the representative agree to waive the standstill provision set forth herein. There is no assurance that even if market conditions are favorable that the representative will waive the standstill provision. In such a case the Company anticipates to make any required payments under its senior credit facility from cash generated from operations. The Company’s credit agreement contains negative covenants that, subject to significant exceptions, limit its ability, among other things to make restricted payments, pledge assets as security, make investments, loans, advances,

guarantees and acquisitions, or undergo other fundamental changes. A breach of any of these covenants could result in a default under the credit facility and permit the lender to cease making loans to the Company. If for whatever reason the Company has insufficient liquidity to make scheduled payments under the Company's credit facility or to repay such indebtedness by the schedule maturity date, the Company would seek the consent of the Company's senior lender to modify such terms. Although the Company's senior lender has previously agreed to seven prior modifications of the Company's credit agreement, there is no assurance that the senior lender will agree to any such modification and could then declare an event of default. Upon the occurrence of an event of default under the credit agreement, the lender could elect to declare all amounts outstanding thereunder to be immediately due and payable. The Company has pledged all of its assets as collateral under the Company's credit facility. If the lender accelerates the repayment of borrowings, the Company may not have sufficient assets to repay them and the Company could experience a material adverse effect on its financial condition and results of operations.

Repayment is accelerated upon a change in control, as defined in the agreement. The loan is senior to all other debts and obligations of the Company, is collateralized by all assets of the Company, and shares of the Company's common stock pledged by officers of the Company. As of December 31, 2020 and 2019, the gross loan balance is $6,001,755 and $4,542,544, resulting from cash disbursed to the Company and considerations for outstanding interest of $1,459,211 and, $508,249 including loan fees of $60,000 and $34,296, charged to the loan balance, respectively. The Company failed to comply with certain debt covenants during the year ended December 31, 2020. Accordingly, as of December 31, 2020 and 2019, the venture debt is shown as a current liability.

The lender was also granted warrants to purchase common stock representing 1% of the fully diluted capitalization of the Company for each $1,000,000 of principal loaned under the agreement, which was increased to 1.358% during 2019. During the year ended December 31, 2020, the Company granted 493,462 common stock warrants, to the lender with an exercise price of $2.50 per share and a ten-year contractual life. During 2019, the Company granted 128,667 common stock warrants to the lender with an exercise price of $2.50 per share and a ten-year contractual life. As discussed in Note 10, during the years ended December 31, 2020 and 2019, warrants associated with the venture debt were valued at $184,191 and $49,928, respectively. The relative fair value of the warrants was initially recorded as a discount to the note, which is amortized over its term.

For the years ended December 31, 2020 and 2019, $241,878 and $149,948 of these loan fees and discounts from warrants were amortized to interest expense, leaving unamortized balances of $147,389 and $225,720 as of December 31, 2020 and 2019, respectively. Unamortized balances are expected to be amortized through December 2022, the maturity date of the loan.

Interest expense and effective interest rate on this loan for the years ended December 31, 2020 and 2019 was $770,277 and $624,127, and 14.6% and 17.7%, all respectively.

Convertible Debt

2020 Regulation CF Offering

During the year ended December 31, 2020, the Company received gross proceeds of $450,308 from a Regulation CF convertible debt offering. The terms of the Regulation CF convertible debt offering are (1) a conversion upon a Qualified Financing. In the event that the Company issues and sells shares of its equity securities ("Equity Securities") to investors (the "Investors") while this Note remains outstanding in an equity financing with total proceeds to the Company of not less than $1,000,000 (excluding the conversion of the Notes) (a "Qualified Financing"), then the outstanding principal amount of this Note and any unpaid accrued interest shall automatically convert in whole without any further action by the Holder into Equity Securities sold in the Qualified Financing at a conversion price equal to the price paid per share for Equity Securities by the Investors in the Qualified Financing multiplied by 0.7. The issuance of Equity Securities pursuant to the conversion of this Note shall be upon and subject to the same terms and conditions applicable to

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Equity Securities sold in the Qualified Financing, and (2) simple interest on the outstanding principal amount at the rate of 6% per annum. All unpaid interest and principal shall be due and payable upon request the Majority Holders on or after October 30, 2022. The gross proceeds could change based on the final closing amount that WeFunder funds from the investment commitments in escrow. As of December 31, 2020, issuance costs totaled $33,773, which is recognized as a debt discount and will be amortized over the life of the notes.

2020 Regulation D Offering

Concurrently with the offering above, the Company received gross proceeds of $800,000 from a Regulation D convertible debt offering. The debt accrues interest at a rate of 14% per annum with a maturity date of nine months from the date of issuance. The debt is contingently convertible and contains both automatic and optional conversions. The debt converts automatically upon an initial public offering of at least $10,000,000 in gross proceeds at a price per share equal to 50% of the IPO price. Upon the maturity date, the holders shall have the right to convert the debt at $23.44 per share. If, after the lock-up period, the price of the common stock is less than 50% of the IPO price, the Company shall issue additional shares to the holder as if the IPO price had been the closing price as of the day after the lock-up period. As the debt is not currently convertible and ultimate number of shares is not known, it is not included in dilutive share counts. As of December 31, 2020, issuance costs totaled $100,000 all of which remain unamoritzed as the related debts were received near year end. In addition, the Company issued 512 warrants to purchase common stock in connection with the notes. The issuance costs and warrants are recognized as a debt discount and will be amortized over the life of the notes. The fair value of the warrants were determined to be negligible.

2019 Regulation D Offering

For the year ended December 31, 2019, the Company received gross proceeds of $799,280 from a Regulation D convertible debt offering. The debt accrues interest at a rate of 12% per annum with a maturity date of thirty-six months from the date of issuance. The debt is contingently convertible and contains both automatic and optional conversions. The debt converts automatically upon an initial public offering at $2.19 per share. If, prior to maturity there is a change in control event, the holders of a majority of the debt can vote to convert two times the value of the principle, with accrued interest being eliminated, at 1) the fair market value of the company's common stock at the time of such conversion, 2) $2.19 per share, 3) dividing the valuation cap ($9,000,000) by the pre-money fully diluted capitalization. Upon maturity and vote of the majority investors, principal balances can be converted into common stock at the quotient by dividing the valuation cap by the fully diluted capitalization. As the debt is not currently convertible and ultimate number of shares is not known, it is not included in dilutive share counts.

Loan Payable — PPP and SBA Loan

In April 2020, the Company and Bailey each entered into a loan with a lender in an aggregate principal amount of $203,994 and $1,347,050, respectively, pursuant to the Paycheck Protection Program ("PPP") under the Coronavirus Aid, Relief, and Economic Security (CARES) Act. The PPP Loan is evidenced by a promissory note ("Note"). Subject to the terms of the Note, the PPP Loan bears interest at a fixed rate of one percent (1%) per annum, with the first six months of interest deferred, has an initial term of two years, and is unsecured and guaranteed by the Small Business Administration. The Company may apply to the Lender for forgiveness of the PPP Loan, with the amount which may be forgiven equal to the sum of payroll costs, covered rent, and covered utility payments incurred by the Company during the applicable forgiveness period, calculated in accordance with the terms of the CARES Act. The Note provides for customary events of default including, among other things, cross-defaults on any other loan with the lender. The PPP Loan may be accelerated upon the occurrence of an event of default. The loan proceeds were used for payroll and other covered payments and is expected to be forgiven in part based on current information available; however, formal forgiveness has not yet occurred as of the date of these financial statements.

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The CARES Act additionally extended COVID relief funding for qualified small businesses under the Economic Injury Disaster Loan (EIDL) assistance program. On June 25, 2020 the Company was notified that their EIDL application was approved by the Small Business Association (SBA). Per the terms of the EIDL agreement, the Company received total proceeds of $150,000. The Loan matures in thirty years from the effective date of the Loan and has a fixed interest rate of 3.75% per annum.

Promissory Note Payable

As noted in Note 4, the Company issued a promissory note in the principal amount of $4,500,000 to the Bailey Holders pursuant to the Bailey acquisition. In February 2021, the maturity date of the agreement was extended from December 31, 2020 to July 31, 2021. The note incurs interest at 12% per annum. Interest expense was $472,500 for the year ended December 31, 2020, all of which was accrued and unpaid as of December 31, 2020.

NOTE 8: STOCKHOLDERS' DEFICIT

Convertible Preferred Stock

In September 2018, the Company amended and restated its articles of incorporation, increasing the authorized common stock to 110,000,000 shares and increasing the authorized preferred stock to 77,000,000 shares. On February 11, 2020 the Company increased the authorized common stock to 200,000,000 and the authorized preferred stock to 125,000,000, and authorized 20,754,717 Series B Preferred Stock ("Series B").

The Company designated its preferred stock as 20,714,518 shares of Series Seed Preferred Stock, 14,481,413 shares of Series A Preferred Stock, 20,000,000 shares of Series A-2 Preferred Stock, 2,000,000 shares of Series CF Preferred Stock, 18,867,925 shares of Series A-3 Preferred Stock, 20,754,717 shares of Series B Preferred Stock and with 936,144 shares of preferred stock undesignated. The Company also amended the rights and privileges applicable to the various share classes to include the newly designated Series CF Preferred Stock and Series A-3 Preferred Stock. Series Seed Preferred Stock holders are entitled to vote on an as converted basis, while Series A Preferred Stock holders, Series A-2 Preferred Stock holders, Series CF Preferred Stock holders, Series A-3 and Series B Preferred Stock holders do not have voting privileges. The preferred stockholders have certain dividend preferences over common stockholders. The preferred stock is subject to an optional conversion right, where the preferred stock is convertible into fully paid and non-assessable shares of common stock at a 15.625:1 rate, with certain dilution protections. All classes of preferred stock are subject to automatic conversion into the Company's common stock if and upon an initial public offering of $25,000,000 or greater. The preferred stockholders are entitled to a liquidation preference over common stockholders of the greater of: 1) the preferred stock purchase price ($0.27 per share for Series Seed Preferred Stock, $0.48 per share for Series A Preferred Stock, $0.50 per share for Series A-2 Preferred Stock, $0.52 per share for Series CF Preferred Stock, $0.53 per share for Series A-3 Preferred Stock and $0.53 per share for Series B Preferred Stock) multiplied by a multiple of 1.00 for Series A Preferred Stock, Series A-2 Preferred Stock, Series CF and Series B Preferred Stock, and Series A-3 Preferred Stock, and 1.00 or 1.25 depending upon certain conditions defined the articles of incorporation for the Series Seed Preferred Stock; 2) on an as converted to common stock at the liquidation date.

As of December 31, 2020 and 2019, 20,714,518 shares of Series Seed Preferred Stock were issued and outstanding, 5,654,072 shares of Series A Preferred Stock were issued and outstanding, 5,932,742 shares of Series A-2 Preferred Stock were issued and outstanding, 836,331 and 126,641 shares of Series CF Preferred Stock were issued and outstanding, 9,032,330 and 8,223,036 shares of Series A-3 Preferred Stock were issued and outstanding, and 20,754,717 and 0 shares Series B Preferred Stock, all respectively.

Based on circumstances in place as of, December 31, 2020 and 2019, the liquidation preference on the Series Seed Preferred Stock was subject to the 1.00 and 1.00 multiple and the liquidation preference on the

Series A Preferred Stock was subject to a multiple of 1.00 and 1.00, all respectively. The total liquidation preferences as of December 31, 2020 and 2019 amounted to 27,536,206 and 15,738,253, respectively.

In 2019, the Company sold 4,775,428 shares of Series A-3 Preferred Stock at a price of $0.53 per share, providing gross proceeds of $2,530,977.

In 2020, the Company issued 709,960 shares of Series CF Preferred Stock at price of $0.44, providing gross proceeds of $309,750 and 809,294 shares of Series A-3 Preferred Stock at price per share of $0.53, providing gross proceeds of $428,926.

In 2020, the Company issued 20,754,717 shares of Series B Preferred Stock to the Bailey Holders pursuant to the Bailey acquisition at a price per share of $0.53 for a total fair value of $11,000,000. See Note 4.

Common Stock

The Company had 110,000,000 shares of common stock authorized with a par value of $0.0001 as of December 31, 2019. As of December 31, 2020, the common stock authorized was increased to 200,000,000. As of December 31, 2020 and 2019, 664,167 shares of common stock were issued and outstanding. There were no shares of common stock issued during 2020 and 2019.

Common stockholders have voting rights of one vote per share. The voting, dividend, and liquidation rights of the holders of common stock are subject to and qualified by the rights, powers, and preferences of preferred stockholders.

NOTE 9: RELATED PARTY TRANSACTIONS

Employee Backpay, Loans Receivable and Loans Payable

Two former officers, Corey Epstein and Mark Lynn (“Former Officers”), and one current officer, Hil Davis, of the Company deferred their salary during portions of 2014-2016 and 2019, respectively. The Company commenced repaying the Former Officers obligations during 2017; however, no additional payments were made during 2018. In 2019, the balance due to one the Former Officers, was relieved in full through offset. The second Former Officers, who is a director, received repayment on all balances that existed as of 2018 and advanced additional funds to the Company. These advances are non-interest bearing and due on demand. The current officer, Hil Davis, converted prior advances to a loan payable (see below). As of December 31, 2020 and 2019, the due to related parties account on the accompanying balance sheet include advances from the former officer, Mark Lynn, who also serves as a director, totaling $194,568, and accrued salary and expense reimbursements of $246,885 and $68,859 to current officers.

An officer, Hil Davis, of the Company previously advanced funds to the Company for working capital, as described above. These prior advances were converted to a note payable totaling $115,000 as of December 31, 2020 and 2019. The loan bears an interest rate of 5% per annum.

Payment Processor:

The Company’s backend payment processor’s majority shareholder, Trevor Pettennude, is a director of the Company. Total expenses for the years ended December 31, 2020 and 2019 were approximately $25,000 and $140,000, respectively, and included in sales and marketing in the accompanying statements of operations.

NOTE 10: SHARE-BASED PAYMENTS

Common Stock Warrants

In March 2017, the lender of venture debt was granted warrants to purchase common stock representing 1% of the fully diluted capitalization of the Company for each $1,000,000 of principal loaned under the

agreement, see Note 7. During the year ended December 31, 2020, 493,462 common stock warrants were granted under the terms of the loan, respectively, to the lender with an exercise price of $2.50 per share and a ten-year contractual life. The 2020 warrants granted were valued at $184,191 using the below range of inputs using the Black-Scholes model. During the year ended December 31, 2019, 128,667 common stock warrants were granted under the terms of the loan, to the lender with an exercise price of $2.50 per share and a ten-year contractual life. In aggregate, these warrants were valued at $49,928 using the below range of inputs using the Black-Scholes model.

During the Company's Series A-3 Preferred Stock raise, the Company granted 21,279 common warrants to a funding platform in 2019, and an additional 2,603 granted in 2020. The warrants are fully vested with an exercise price of $8.28 per share, expiring in five years. The warrants contain a put option for the Company to redeem the warrants in cash in a change-in-control transaction, equal to the Black-Scholes value immediately prior to the fundamental event. The warrants also include other down-round and anti-dilution features if shares of common stock are issued or granted at a lesser value than the strike price which may also require additional warrants to be issued, such that the aggregate value of the strike price remains the same. The number of warrants also increase by 25% each six months after they are exercised in which an IPO has not occurred. As the warrants include a put option and embody an obligation for the Company to redeem these warrants in cash upon a contingent event, they are presented as a liability in the accompanying balance sheet. The Company valued the 2019 warrants at $7,700 and the 2020 warrants at $918 using a Black-Scholes model within the same inputs described below. The volatility rate of 100% was used as it is a floor volatility as defined by the warrants. As of December 31, 2020, the Company remeasured the fair value of the warrants to be $6,265, and recorded a gain due to the change in fair value of $2,353.

	Year Ended December 31,	
	2020	2019
Risk Free Interest Rate	0.59 – 1.59%	1.47 – 2.49%
Expected Dividend Yield	0.00%	0.00%
Expected Volatility	58.0 – 100%	58.0 – 100%
Expected Life (years)	10.00	5.00

For valuing the warrants noted above, the Company uses the same assumptions used for valuing employee options as noted below in the Stock Plan section, with the exception of the useful life which is either the contractual life or the estimated life.

In connection with the Regulation D offerings in 2020, the Company issued 512 warrants to purchase common stock in connection with the notes at an exercise price of $2.50 per share. The issuance costs and warrants are recognized as a debt discount and will be amortized over the life of the notes.

A summary of information related to common stock warrants for the years ended December 31, 2020 and 2019 is as follows:

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	Common Stock Warrants	Weighted Average Exercise Price
Outstanding – December 31, 2018	268,656	$ 2.50
Granted	149,946	3.28
Exercised	—	—
Forfeited	(640)	—
Outstanding – December 31, 2019	417,962	$ 2.81
Granted	496,577	2.53
Exercised	—	—
Forfeited	—	—
Outstanding – December 31, 2020	914,539	$ 2.66
Exercisable at December 31, 2020	914,539	$ 2.66

Preferred Stock Warrants

During the Company's 2019 Series A-3 Preferred Stock raise, the company granted 261,430 warrants to purchase Series A-3 Preferred Stock to a funding platform. The warrants are fully vested with an exercise price of $0.53 per share, expiring in five years. The fair value of these warrants was calculated under the Black-Scholes method, using below variables, resulting in an aggregate fair value of $71,400 being recorded to additional paid-in capital and as offering costs within additional paid-in capital for the year ended December 31, 2019.

	2019
Risk Free Interest Rate	2.49%
Expected Dividend Yield	0.00%
Expected Volatility	58.00%
Expected Life (years)	5.00

A summary of information related to preferred stock warrants for the years ended December 31, 2020 and 2019 is as follows:

	Preferred Stock Warrants	Weighted Average Exercise Price
Outstanding – December 31, 2018	545,473	$ 0.47
Granted	261,430	0.53
Exercised	—	—
Forfeited	—	—
Outstanding – December 31, 2019	806,903	$ 0.49
Exercised	—	—
Forfeited	—	—
Outstanding – December 31, 2020	806,903	$ 0.49
Exercisable at December 31, 2020	806,903	$ 0.49

There were no preferred stock warrants issued during the year ended December 31, 2020.

Stock Plan

The Company has adopted the 2013 Stock Plan, as amended and restated (the "Plan"), which provides for the grant of shares of stock options, stock appreciation rights, and stock awards (performance shares)

to employees, non-employee directors, and non-employee consultants. The number of shares authorized by the Plan was 1,196,356 shares as December 31, 2020 and 2019. The option exercise price generally may not be less than the underlying stock's fair market value at the date of the grant and generally have a term of ten years. The amounts granted each calendar year to an employee or non-employee is limited depending on the type of award. Stock options comprise all of the awards granted since the Plan's inception. Shares available for grant under the Plan amounted to 33,253 and 112,140 as of December 31, 2020 and 2019, respectively.

Vesting generally occurs over a period of immediately to four years. A summary of information related to stock options for the years ended December 31, 2020 and 2019 is as follows:

	Options	Weighted Average Exercise Price
Outstanding – December 31, 2018	1,136,091	$ 2.34
Granted	168,525	3.28
Exercised	—	—
Forfeited	(220,401)	—
Outstanding – December 31, 2019	1,084,215	$ 2.50
Granted	91,688	0.94
Exercised	—	—
Forfeited	(12,800)	3.28
Outstanding – December 31, 2020	1,163,103	$ 2.34
Exercisable at December 31, 2020	880,955	$ 2.34
Weighted average grant date fair value of options granted during period		$ 0.500
Weighted average duration (years) to expiration of outstanding options at December 31, 2020		6.02

The Company measures employee stock-based awards at grant-date fair value and recognizes employee compensation expense on a straight-line basis over the vesting period of the award. Determining the appropriate fair value of stock-based awards requires the input of subjective assumptions, including the fair value of the Company's common stock, and for stock options, the expected life of the option, and expected stock price volatility. The Company used the Black-Scholes option pricing model to value its stock option awards. The assumptions used in calculating the fair value of stock-based awards represent management's best estimates and involve inherent uncertainties and the application of management's judgment. As a result, if factors change and management uses different assumptions, stock-based compensation expense could be materially different for future awards.

The expected life of stock options was estimated using the "simplified method," as the Company has limited historical information to develop reasonable expectations about future exercise patterns and employment duration for its stock options grants. The simplified method is based on the average of the vesting tranches and the contractual life of each grant. For stock price volatility, the Company uses comparable public companies as a basis for its expected volatility to calculate the fair value of options grants. The risk-free interest rate is based on U.S. Treasury notes with a term approximating the expected life of the option. The number of stock award forfeitures are recognized as incurred. The assumptions utilized for option grants during the years ended December 31, 2020 and 2019 are as follows:

DIGITAL BRANDS GROUP, INC.
(FORMERLY DENIM.LA, INC.)

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

	Year Ended December 31,	
	2020	2019
Risk Free Interest Rate	0.42% – 0.51%	1.59% – 2.55%
Expected Dividend Yield	0%	0%
Expected Volatility	58%	58%
Expected Life (years)	6.25	6.25
Weighted Average fair value of stock options granted	$0.50	$0.26

The total grant-date fair value of the options granted during the years ended December 31, 2020 and 2019 was $46,253 and $39,441, respectively. Stock-based compensation expense of $144,775 and $172,491 was recognized for the years ended December 31, 2020 and 2019, respectively, and was recorded to general and administrative expense in the statements of operations. Total unrecognized compensation cost related to non-vested stock option awards as of December 31, 2020 amounted to $238,275 and will be recognized over a weighted average period of 1.80 years.

2020 Incentive Stock Plan

We have adopted a 2020 Omnibus Incentive Stock Plan (the "2020 Plan"). An aggregate of 3,300,000 shares of our common stock is reserved for issuance and available for awards under the 2020 Plan, including incentive stock options granted under the 2020 Plan. The 2020 Plan administrator may grant awards to any employee, director, consultant or other person providing services to us or our affiliates. To date, no grants have been made under the 2020 Plan.

NOTE 11: INCOME TAXES

Deferred taxes are recognized for temporary differences between the basis of assets and liabilities for financial statement and income tax purposes. The differences relate primarily to depreciable assets using accelerated depreciation methods for income tax purposes, share-based compensation expense, and for net operating loss carryforwards. As of December 31, 2020 and 2019, the Company had net deferred tax assets before valuation allowance of 9,128,614 and $6,047,117, respectively. The following table presents the deferred tax assets and liabilities by source:

	December 31,	
	2020	2019
Deferred tax assets:		
Net operating loss carryforwards	$ 9,134,447	$ 6,060,102
Stock-based compensation	40,467	36,829
Deferred tax liabilities:		
Depreciation timing differences	(5,103)	(5,103)
Other	(41,198)	(44,711)
Valuation allowance	(9,128,614)	(6,047,117)
Net deferred tax assets	$ —	$ —

The Company recognizes deferred tax assets to the extent that it believes that these assets are more likely than not to be realized. In making such a determination, the Company considers all available positive and negative evidence, including future reversals of existing taxable temporary differences, projected future taxable income, tax-planning strategies, and results of recent operations. The Company assessed the need for a valuation allowance against its net deferred tax assets and determined a full valuation allowance is required due to taxable losses for the years ended December 31, 2020 and 2019, cumulative losses through

December 31, 2020, and no history of generating taxable income. Therefore, valuation allowances of $9,128,614 and $6,047,117 were recorded as of December 31, 2020 and 2019, respectively. Valuation allowance increased by $3,081,497 and $1,689,947 during the years ended December 31, 2020 and 2019, respectively. Accordingly, a $13,641 and $800 provision for income taxes has been recognized for each of the years ended December 31, 2020 and 2019. Deferred tax assets were calculated using the Company's combined effective tax rate, which it estimated to be approximately 28.0%. The effective rate is reduced to 0% for 2020 and 2019 due to the full valuation allowance on its net deferred tax assets.

The Company's ability to utilize net operating loss carryforwards will depend on its ability to generate adequate future taxable income. At December 31, 2020 and 2019, the Company had net operating loss carryforwards available to offset future taxable income in the amounts of approximately $32,680,000 and $21,650,000, which may be carried forward indefinitely.

The Company has evaluated its income tax positions and has determined that it does not have any uncertain tax positions. The Company will recognize interest and penalties related to any uncertain tax positions through its income tax expense.

The Company is not presently subject to any income tax audit in any taxing jurisdiction, though all tax years from 2017 on remain open to examination.

NOTE 12: LEASE OBLIGATIONS

In January 2018, the Company entered into a lease agreement requiring base rent payments of $14,500 per month for a 36-month term. The lease required a $43,500 deposit. The Company terminated its lease agreement in February 2020. The Company received $73,500 from the landlord, which included $43,500 from the security deposit and two-thirds of the brokerage commission payable for the sub-lease agreement.

Bailey leases facilities under operating leases with unrelated parties that expire at various dates through February 2029, however in July 2020 Bailey negotiated the early termination of the leases on two of its retail locations. The third lease was vacated and no additional liability is expected. Total minimum lease payments under the operating leases is $442,253 in 2021, $455,521 in 2022, $456,202 and $76,290 in 2023.

Total rent expense for the year ended December 31, 2020 and 2019 was $541,146 and $210,352, respectively.

NOTE 13: CONTINGENCIES

We were in a lawsuit with our Los Angeles landlord in 2019. In February 2020, we settled with the landlord and terminated our lease agreement. The Company received $73,500 from the landlord, which included $43,500 from the security deposit and two-thirds of the brokerage commission payable for the sub-lease agreement, which will be received in 2020. The premises have been vacated there is no additional liability.

On February 28, 2020, a DBG vendor filed a lawsuit against DBG's non-payment of trade payables totaling $123,000. Such amounts, including expected interest, are included in accounts payable in the accompanying consolidated balance sheets and the Company does not believe it is probable that losses in excess of such trade payables will be incurred. The Company is actively working to resolve this matter.

On March 25, 2020, a Bailey's product vendor filed a lawsuit against Bailey for non-payment of trade payables totaling $492,390. Approximately the same amount is held in accounts payable for this vendor in the accompanying consolidated balance sheets and the Company does not believe it is probable that losses in excess of such trade payables will be incurred. The Company is actively working to resolve this matter.

On December 21, 2020, a DBG investor filed a lawsuit against DBG for reimbursement of their investment totaling $100,000. Claimed amounts are included in short-term convertible note payable in the

accompanying consolidated balance sheets and the Company does not believe it is probable that losses in excess of such short-term note payable will be incurred. The Company is actively working to resolve this matter.

In August 2020 and March 2021, two lawsuits were filed against Bailey's by third-party's related to prior services rendered. The claims (including fines, fees, and legal expenses) total an aggregate of $96,900. Both cases are in the preliminary stages and the Company believes the claims to be without merit. At this time, the Company is unable to determine potential outcomes but does not believe risk of loss is probable.

On September 24, 2020 a Bailey's product vendor filed a lawsuit against Bailey's non-payment of trade payables totaling approximately $481,000 and additional damages of approximately $296,000. Claimed amounts for trade payables are included in accounts payable in the accompanying consolidated balance sheets, net of payments made. The Company does not believe it will be liable for additional damages and therefore the Company does not believe additional accrual is needed over what is included in accounts payable at this time. We plan to contest any such damages vigorously.

Except as may be set forth above the Company are not a party to any legal proceedings, and the Company are not aware of any claims or actions pending or threatened against us. In the future, the Company might from time to time become involved in litigation relating to claims arising from our ordinary course of business, the resolution of which the Company do not anticipate would have a material adverse impact on our financial position, results of operations or cash flows.

NOTE 14: SUBSEQUENT EVENTS

1) The Company received an additional $438,126 in net proceeds from its Regulation D convertible debt offering.

2) In February 2021 the Company was notified that their 2nd Round PPP Loan application was approved by the Small Business Association. Per the terms of the PPP Loan, the Company received total proceeds of $1,347,050. The Loan matures in two years from the effective date of the Loan and has a fixed interest rate of 1% per annum.

3) In April 2021, certain officers and directors agreed to convert balances due totaling $442,597 into convertible notes on the same terms as the 2020 Regulation CF Offering described in Note 7, other than these notes carry no interest.

4) In March 2021, the Company and their senior credit facility agreed to extend the term of the credit agreement, see Note 7.

On May 12, 2021, the Board of Directors approved a one-for-15.625 reverse stock split of its issued and outstanding shares of common stock and a proportional adjustment to the existing conversion ratios for each series of the Company's preferred stock (see Note 8). Accordingly, all share and per share amounts for all periods presented in the accompanying consolidated financial statements and notes thereto have been adjusted retroactively, where applicable, to reflect this reverse stock split and adjustment of the preferred stock conversion ratios.

Management's Evaluation

Management has evaluated subsequent events through April 12, 2021 the date the financial statements were available to be issued. Based on this evaluation, no additional material events were identified which require adjustment or disclosure in these consolidated financial statements.

BAILEY 44, LLC

FINANCIAL STATEMENTS

AS OF AND FOR THE YEARS ENDED
December 31, 2019 and 2018

Index to Financial Statements

INDEPENDENT AUDITORS' REPORT

The Management and Members
Bailey 44, LLC
Vernon, CA

Report on the Financial Statements

We have audited the accompanying financial statements of Bailey 44, LLC (the "Company"), which comprise the balance sheet as of December 31, 2019, and the related statements of operations, members' equity (deficit), 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 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.

Auditors' Responsibility

Our responsibility is to express an opinion on these 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 audits 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 financial statements referred to above present fairly, in all material respects, the financial position of Bailey 44, LLC as of December 31, 2019, 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.

Going Concern

The accompanying financial statements have been prepared assuming that the Company will continue as a going concern. As discussed in Note 1 to the financial statements, the Company has suffered recurring losses from operations, has negative operating cash flows, and has recently lacked the liquidity to satisfy obligations as they come due, which raises substantial doubt about its ability to continue as a going concern. Management's plans in regard to these matters are also described in Note 1. The financial statements do not include any adjustments that might result from the outcome of this uncertainty.

Emphasis of Matter Regarding Restatement

As discussed in Note 2 to the financial statements, the 2019 financial statements have been restated to correct a misstatement. Our opinion is not modified with respect to this matter.

/s/ dbb*mckennon*
Newport Beach, California
December 29, 2020, except as described in Note 2 under Restatement, for which the date is February 16, 2021

Report of Independent Auditors

The Board of Managers
Bailey 44, LLC and Subsidiary

Report on Consolidated Financial Statements

We have audited the accompanying consolidated financial statements of Bailey 44, LLC and Subsidiary which comprise the consolidated balance sheet as of December 31, 2018, and the related consolidated statements of operations, members' equity, and cash flows for the year then ended, and the related notes to the consolidated financial statements.

Management's Responsibility for the Consolidated Financial Statements

Management is responsible for the preparation and fair presentation of the 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 the consolidated 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 consolidated financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the consolidated financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the consolidated 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 consolidated 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 consolidated 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 Bailey 44, LLC and Subsidiary as of December 31, 2018, and the results of their operations and their cash flows for the year then ended, in accordance with accounting principles generally accepted in the United States of America.

/s/ Moss Adams LLP
Irvine, California
October 7, 2019, except for Note 1, as to which
the date is December 29, 2020

BAILEY 44, LLC

BALANCE SHEETS
DECEMBER 31, 2019 AND 2018

	2019	2018
Assets		
Current assets:		
Cash and cash equivalents	$ 358,726	$ 962,313
Due from factor, net	—	1,312,743
Accounts receivable, net of allowance of $155,973 and $257,140	261,190	456,510
Inventory	3,038,185	3,643,298
Prepaid and other current assets	178,888	236,746
Total current assets	3,836,989	6,611,610
Property and equipment, net	1,265,152	1,242,158
Other assets	151,049	240,919
Total assets	$5,253,190	$8,094,687
Liabilities and members' equity (deficit)		
Current liabilities:		
Accounts payable	$3,462,200	$2,593,733
Due to factor, net	101,251	—
Accrued liabilities	595,611	545,176
Total current liabilities	4,159,062	3,138,909
Deferred rent	264,683	184,461
Notes payable – related party member	850,000	—
Total liabilities	5,273,745	3,323,370
Members' equity (deficit)	(20,555)	4,771,317
Total liabilities and members' equity (deficit)	$5,253,190	$8,094,687

BAILEY 44, LLC

STATEMENTS OF OPERATIONS
FOR THE YEARS ENDED DECEMBER 31, 2019 AND 2018

	2019	2018
Net sales	$27,099,718	$29,037,497
Cost of sales	12,663,514	13,451,654
Gross profit	14,436,204	15,585,843
Operating expenses:		
Design, selling, and shipping	4,535,276	4,702,589
General and administrative	14,524,832	13,054,218
Total operating expenses	19,060,108	17,756,807
Loss from operations	(4,623,904)	(2,170,964)
Other expense:		
Loss on disposal of property and equipment	49,558	506,280
Interest expense, net	103,520	25,319
Total other expense	153,078	531,599
Loss before provision for income taxes	(4,776,982)	(2,702,563)
Income tax expense	14,890	13,390
Net Loss	$ (4,791,872)	$ (2,715,953)

BAILEY 44, LLC

STATEMENTS OF MEMBERS' EQUITY (DEFICIT)
FOR THE YEARS ENDED DECEMBER 31, 2019 AND 2018

	Members' Equity (Deficit)
December 31, 2017	$ 7,783,328
Distributions	(296,058)
Net loss	(2,715,953)
December 31, 2018	4,771,317
Net loss	(4,791,872)
December 31, 2019	$ (20,555)

BAILEY 44, LLC

STATEMENTS OF CASH FLOWS
FOR THE YEARS ENDED DECEMBER 31, 2019 AND 2018

	2019 (restated)	2018
CASH FLOWS FROM OPERATING ACTIVITIES:		
Net loss	$(4,791,872)	$(2,715,953)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation	484,776	358,526
Decrease in open credit reserve	102,067	(395,488)
Loss on sale of property and equipment	49,558	506,280
Changes in operating assets and liabilities:		
Factor receivable	321,888	1,143,896
Accounts receivable	195,320	(81,099)
Inventory	605,113	(171,393)
Prepaid expenses and other current assets	57,858	212,700
Other assets	89,870	(9,500)
Accounts payable	868,467	685,642
Accrued liabilities	50,435	(17,460)
Deferred rent	80,222	(139,901)
Net cash used in operating activities	(1,886,298)	(623,750)
CASH FLOWS FROM INVESTING ACTIVITIES:		
Purchase of property and equipment	(557,328)	(185,970)
Net cash used in operating activities	(557,328)	(185,970)
CASH FLOWS FROM FINANCING ACTIVITIES:		
Distributions to members	—	(296,058)
Proceeds – notes payable – related party member	850,000	—
Advances from Factor	990,039	645,572
Net cash provided by financing activities	1,840,039	349,514
Decrease in cash and cash equivalents	(603,587)	(460,206)
Cash and cash equivalents, beginning of year	962,313	1,422,519
Cash and cash equivalents, end of year	$ 358,726	$ 962,313
Supplemental disclosures of cash flow information:		
Cash paid for interest	$ 91,887	$ 35,127
Cash paid for income taxes	$ 14,890	$ 13,390

Bailey 44, LLC
Notes to Financial Statements

NOTE 1 — NATURE OF OPERATIONS

Bailey 44, LLC ("Bailey 44"), a Delaware limited liability company, is primarily engaged in the business of designing and manufacturing women's apparel for sale to retailers throughout the United States and for sale through its e-commerce platform. Bailey 44 also operates three retail stores in Southern California. The Company's retail store in Florida was closed in 2019. Bailey 44 held a 50.1% ownership interest in Superfine USA, LLC, which was shut down in 2018. The 2018 financial position and results of operations have been reflected in these financial statements on a consolidated basis. The 2019 financial position and results of operations have been reflected in these financial statements as a single entity.

Superfine restatement — On March 4, 2015, the Company, the Company's chief executive officer and an unrelated third party formed Superfine to develop the Superfine clothing line. The Company retained 50.1% of the Superfine entity with the operating agreement specifying the Company fund all operations, cash flows, and working capital requirements up to $2,600,000. In September 2016, the Company's management ceased all funding of the Superfine entity for a total amount of funding at that date of approximately $2,600,000, and all operations were ceased. The Superfine entity was legally terminated in 2018, with the settlement of a lawsuit brought on by the noncontrolling interest (NCI) holder in 2017.

The Company has restated the statement of equity to reflect the NCI with no value as of January 1, 2018. Under the terms of Superfine's operating agreement, no additional contributions are required by the members, and therefore, because of the cease of operations in 2016 and the legal termination of the entity based upon the lawsuit in 2017, NCI of ($1,297,429) was reclassified into members equity as of December 31, 2017, as no amounts were to be repaid by the NCI holder. The restatement did not change total members equity, and there was no material effect of this restatement to the balance sheet, nor the statements of cash flows and operations as of December 31, 2018.

Basis of Presentation — The accompanying consolidated financial statements are presented on the accrual basis of accounting in accordance with accounting principles generally accepted in the United States of America ("GAAP"). References to the "ASC" included hereinafter refer to the Accounting Standards Codification established by the Financial Accounting Standards Board ("FASB") as the source of authoritative GAAP.

Going Concern — The accompanying financial statements have been prepared on a going concern basis, which contemplates the realization of assets and the satisfaction of liabilities in the normal course of business. The Company has sustained net losses of $4,791,872 and $2,715,953 for the years ended December 31, 2019 and 2018, respectively, and has incurred negative cash flows from operations for the years ended December 31, 2019 and 2018. The Company has recently lacked liquidity to satisfy obligations as they come due and as of December 31, 2019, the Company had a working capital deficit of $322,073. These factors raise substantial doubt about the Company's ability to continue as a going concern. The Company's ability to continue as a going concern for the next twelve months is dependent upon its ability to generate sufficient cash flows from operations to meet its obligations, which it has not been able to accomplish to date, and/or to obtain additional capital financing. No assurance can be given that the Company will be successful in these efforts.

NOTE 2 — SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Restatement — The Company previously filed its financial statements for the period ended December 31, 2019 with incorrect calculations within the statement of cash flow as it relates to its factoring and lending activity described in Note 4. The financial statements for the year ended December 31, 2019 have been restated to reclassify certain amounts within the cash flow between operating and financing activities. The effect of this reclassification is that net cash used in operating activities increased by $901,311 and cash provided by financing activities decreased by $901,311. There was no net change within the statement of cash flows. The balance sheet, statement of operations, and statement of members' equity (deficit) were not affected.

Principles of Consolidation — The consolidated financial statements include the accounts of Bailey 44 and its majority owned subsidiary, Superfine (collectively the company). All significant intercompany balances and transactions have been eliminated upon consolidation.

Bailey 44, LLC
Notes to Financial Statements

Use of estimates — The preparation of the financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the amounts reported in the financial statements and accompanying notes. Actual results could differ from those estimates.

Fair value of financial instruments — The Company's financial instruments consist of cash, due from factor, accounts receivable, accounts payable, and accrued expenses. The carrying value of these financial instruments are considered to be representative of their fair market value due to the short maturity of these instruments.

Cash and cash equivalents — The Company considers all highly liquid investments purchased with a maturity of three months or less to be cash equivalents.

Accounts receivable — The Company carries its accounts receivable at invoiced amounts less allowances for customer credits, doubtful accounts, and other deductions. The Company does not accrue interest on its trade receivables. Management evaluates the ability to collect accounts receivable based on a combination of factors. Receivables are determined to be past due based on individual credit terms. A reserve for doubtful accounts is maintained based on the length of time receivables are past due, historical collections, or the status of a customer's financial position. Receivables are written off in the year deemed uncollectible after efforts to collect the receivables have proven unsuccessful.

Concentration of credit risk — Financial instruments that potentially subject the Company to credit risk consist principally of accounts receivable and cash. At various times throughout the period, the Company had cash deposits in a financial institution in excess of the amount insured by the Federal Deposit Insurance Corporation. Management considers the risk of loss to be minimal due to the credit worthiness of the financial institution. Concentrations of risk with respect to receivables are limited due to the diversity of the Company's customer base and use of a factor. The Company does not require collateral on accounts receivable. Management considers its customer base to be credit worthy and that established reserves against accounts receivable are sufficient to cover the risk of any future losses. During the year ended December 31, 2018, one customer accounted for approximately 10% of the Company's revenue. Sales to this customer are assigned to the Company's factor.

Inventories — Inventories are stated at the lower of cost, determined by the first-in, first-out method, or net realizable value. Inventories are comprised of raw materials, work-in process and finished goods as of December 31, 2019 and 2018.

Property and equipment — Property and equipment are stated at cost. Depreciation of property and equipment is computed using the straight-line method over estimated useful lives of 5 to 7 years. Amortization of leasehold improvements is computed over the lesser of the term of the related lease or the estimated useful lives of the assets.

Impairment of long-lived assets — The Company evaluates the recoverability of its long-lived assets whenever events or changes in circumstances indicate that the carrying value of such assets may not be recoverable. If the expected future cash flows from the use of such assets (undiscounted and without interest charges) are less than the carrying value, a write-down would be recorded to reduce the carrying value of the asset to its estimated fair value. Fair value is determined based on appropriate valuation techniques. The Company determined that there was no impairment of its long-lived assets as of December 31, 2019 and 2018.

Deferred rent — Rent expense is recorded on a straight-line basis over the term of the lease. The difference between rent expense recorded and amounts paid under the lease agreement is recorded as deferred rent liability. Included in deferred rent are amounts resulting from tenant improvement allowances, which are amortized over the life of the related leases.

Revenue recognition — Revenues are recognized when performance obligations are satisfied through the transfer of promised goods to the Company's customers. Control transfers upon shipment of product and when the title has been passed to the customers. This includes the transfer of legal title, physical possession,

the risks and rewards of ownership, and customer acceptance. For the Company's retail segment, revenues are recognized at the point of sale. The Company provides the customer the right of return on the product and revenue is adjusted based on an estimate of the expected returns based on historical rates. The Company considers the sale of products in either the direct or retail segment as a single performance obligation. Sales tax collected from customers and remitted to taxing authorities is excluded from revenue and is included in accrued expenses. ASC 606 has been adopted effective December 31, 2019 using the modified retrospective method with no adjustment.

Merchandise risk — The Company's success is largely dependent upon its ability to gauge the fashion tastes of its targeted consumers and provide merchandise that satisfies consumer demand. Any inability to provide appropriate merchandise in sufficient quantities in a timely manner could have material adverse effect on the Company's business, operating results, and financial condition.

Income taxes — An LLC is not a tax paying entity at the corporate level. Each member is individually responsible for their share of the Company's income or loss for income tax reporting purposes. In accordance with the Company's operating agreement, the Company may disburse funds necessary in order to satisfy the members' estimated income tax liabilities. LLCs registered in the State of California are subject to an annual minimum state franchise tax of $800 and an LLC fee based upon revenues. The total LLC fees and taxes were approximately $14,890 and $13,390 for the years ended December 31, 2019 and 2018 respectively, and are recorded as income tax expense on the statement of operations.

Uncertain tax positions — The Company accounts for uncertain tax provisions in accordance with ASC 740-10. ASC 740-10 prescribes a recognition threshold and measurement process for accounting for uncertain tax positions and also provides guidance on various related matters such as de-recognition, interest, penalties, and disclosures required. As of December 31, 2019 and 2018, the Company does not have any entity-level uncertain tax positions. The Company files U.S. federal and various state income tax returns, which are subject to examination by the taxing authorities for three to four years from filing of a tax return.

Sales tax — Taxes collected from the Company's customers are and have been recorded on a net basis. This obligation is included in accrued expenses until the taxes are remitted to the appropriate taxing authorities.

Advertising — Advertising costs includes general advertising, production of photography for e-commerce, digital marketing, events, and public relations charges. Such costs are expensed as incurred and totaled approximately $1,244,000 and $1,225,000 for the years ended December 31, 2019 and 2018 respectively.

Shipping and handling — Shipping and handling fees billed to customers are classified as a component of revenues. The costs associated with shipping goods to customers are recorded as an operating expense. Freight-out for the years ended December 31, 2019 and 2018 amounted to approximately $509,000 and $588,000 respectively.

New accounting pronouncements — In February 2016, the FASB issued Accounting Standards Update (ASU) 2016-02, Leases (Accounting Standards Codification Topic 842), a comprehensive new lease recognition standard which will supersede previous existing lease recognition guidance. Under the standard, lessees will need to recognize a right-of-use asset and a lease liability for leases with terms of greater than twelve months. The liability will be equal to the present value of lease payments. The asset will be based on the liability, subject to adjustment, such as for initial direct costs. For income statement purposes, leases will be required to be classified as either operating or finance. Operating leases will result in straight-line expense (similar to current operating leases) while finance leases will result in a front-loaded expense pattern (similar to current capital leases). The standard is effective for fiscal periods beginning after December 15, 2021 and requires a modified retrospective adoption. Management is currently evaluation the impact of the adoption of this standard on the Company's financial statements.

Bailey 44, LLC
Notes to Financial Statements

Note 3 — Due (to)/from Factor

The Company assigns a substantial portion of its trade accounts receivable to a third-party factoring company, who assumes the credit risk with respect to the collection of non-recourse accounts receivable. The Company may request advances on the net sales factored at any time before their maturity date, and up to 50% of eligible finished goods inventories. The factor charges a commission on the net sales factored for credit and collection services. Interest on advances is charged as of the last day of each month at a rate equal to the LIBOR rate plus 2.5%. Advances are collateralized by a security interest in substantially all of the Company's assets.

Due to/from factor consist of the following at December 31, :	2019	2018
Outstanding receivables:		
Without recourse	$ 2,058,298	$2,339,588
With recourse	5,001	45,599
Advances	(1,891,348)	(901,309)
Credits due customers	(273,202)	(171,135)
	$ (101,251)	$1,312,743

Note 4 — Inventories

Inventories consist of the following at December 31,:	2019	2018
Finished goods	$2,327,882	$2,766,476
Work-in process	193,873	351,246
Raw materials	516,430	525,576
	$3,038,185	$3,643,298

Note 5 — Property and Equipment

Property and equipment consists of the following at December 31,:	2019	2018
Machinery and equipment	$ 265,618	$ 312,846
Furniture and fixtures	1,064,698	962,218
Leasehold improvements	1,307,976	986,392
	2,638,292	2,261,456
Less accumulated depreciation and amortization	(1,373,140)	(1,019,298)
	$ 1,265,152	$ 1,242,158

Depreciation and amortization expense related to property and equipment amounted to approximately $485,000 and $359,000 for the years ended December 31, 2019 and 2018 respectively.

Note 6 — Members' Equity (Deficit)

As of December 31, 2019 and 2018, members' equity (deficit) consists of the following: 28,350,000 preferred units outstanding, 21,829,500 common units outstanding, and 3,919,263 performance units outstanding. The common units are subordinated to the preferred units for distributions on liquidation and dissolution. Each preferred and common unit holder shall be entitled to one vote requiring the approval of future unit grants. As described in the Restated Limited Liability Company Agreement, the performance units are treated as profit interests, with no ownership interest in the Company included. The owners of these performance units are entitled to a pro rata share of the appreciation in the value of the Company's assets, at the time granted, in the event of a liquidation or deemed liquidation event, as defined in the agreement. These performance units are classified as either (i) time vested units, or (ii) units driven by the equity value of the Company. The time vested performance units vest over five years, with 20% vesting the first year and the remaining vesting in equal pro rata amounts monthly thereafter through December 2019.

Bailey 44, LLC
Notes to Financial Statements

The units driven by the equity value of the Company do not vest until the Company receives an equity value greater than $150,000,000. Since the exercise of these units are contingent upon the occurrence of a future event, there has been no value assigned to these units.

During the years ended December 31, 2019 and 2018, the Company did not grant additional performance units. As of December 31, 2019, and 2018, a total of 3,919,263 performance units are outstanding and 151,200 performance units are available to be issued. Of the performance units, 3,919,263 performance units were vested as of December 31, 2019 and 2018.

On May 9, 2013, the Company adopted a phantom performance unit plan (the "Plan"). Under the Plan, phantom performance units are granted to key employees. As per the Plan, phantom performance units vest over five years, with 20% vesting the first year and the remainder vesting in equal pro rata amounts coming fully vested through December 2017. These were accounted for as a liability award with compensation cost measured as of the end of each reporting period. Since the exercise of these units are contingent upon the occurrence of a future event, there has been no value assigned to these units. During the years ended December 31, 2019 and 2018, the Company did not grant additional phantom performance units. During the year ended December 31, 2018 one key employee forfeited 600,000 phantom performance units. As of December 31, 2019 and 2018, a total of 300,000 performance units are outstanding and fully vested and 600,000 are available to be issued.

The performance units and phantom performance units were eliminated in February of 2020 as part of a transaction in which the Company was acquired.

Note 7 — Commitments

The Company leases facilities under operating leases with unrelated parties that expire at various dates through February 2029. Total facility rent expense was approximately $3,071,000 and $1,442,000 for the years ended December 31, 2019 and 2018 respectively.

The future minimum lease payments are as follows:

Year Ending December 31,	
2020	$ 809,939
2021	795,067
2022	821,630
2023	456,202
2024	394,241
Thereafter	1,238,998
	$4,516,077

Please see Note 9 — Subsequent Events regarding retail lease terminations.

Contingencies — As a manufacturer of consumer products, the Company has exposure to California Proposition 65, which regulates substances officially listed by California as causing cancer, birth defects, or other reproductive harm. The regulatory arm of Proposition 65 that relates to the Company prohibits businesses from knowingly exposing individuals to listed substances without providing a clear and reasonable warning. All companies in California are subject to potential claims based on the content of their products sold. The Company is not currently subject to litigation matters related to the proposition. While there is currently not an accrual recorded for this potential contingency, in the opinion of management, the amount of ultimate loss with respect to these actions will not materially affect the financial position or results of operations of the Company.

The apparel industry is subject to laws and regulations of federal, state, and local governments. Management believes that the Company is in compliance with these laws. While no regulatory inquires have

Bailey 44, LLC
Notes to Financial Statements

been made, compliance with such laws and regulations can be subject to future review and interpretation, as well as regulatory actions unknown or asserted at this time.

The Company, in the course of its business operations, is subject to various claims being asserted against it. Management believes that the ultimate resolution of these claims will not have a material impact on the Company's financial position or results of operations.

Note 8 — Related Party Transactions

During the year ended December 31, 2018 the Company paid $220,000 to a member of the Company for design consulting services.

On July 22, 2019 the Company entered into two promissory note agreements with its managing member totaling $350,000. The notes bear interest at 12%, and all principal and accrued interest is payable on July 22, 2021.

On December 12, 2019 the Company entered into two promissory note agreements with its managing member totaling $500,000. The notes bear interest at 12%, and all principal and accrued interest is payable on July 22, 2021.

Note 9 — Subsequent Events

1) On Feb 12, 2020, the members of B44 LLC sold their interest to Denim.LA, Inc. for 20,754,717 shares of series B Preferred Stock. 16,603,773 shares of Series B Preferred Stock were issued to the members of B44 LLC on the effective date of the transaction and 4,150,944 shares subject to hold back. All profit units were cancelled as part of the agreement. Denim.LA, Inc. and the members of B44 LLC agreed the gross proceeds of the effective shares of Series B Preferred Stock shall equal no more than $11,000,000 at the one-year mark immediately following Denim.LA, Inc.'s initial public offering, thus the effective shares of Series B Preferred Stock may be subject to adjustment based on the post-initial public offering price of Denim.LA, Inc.

2) On January 30, 2020, the World Health Organization declared the coronavirus outbreak a "Public Health Emergency of International Concern" and on March 10, 2020, declared it to be a pandemic. Actions taken around the world to help mitigate the spread of the coronavirus include restrictions on travel, and quarantines in certain areas, and forced closures for certain types of public places and businesses. The coronavirus and actions taken to mitigate it have had and are expected to continue to have an adverse impact on the economies and financial markets of many countries, including the geographical area in which the Company operates.

   The negative impact the global pandemic has had on the Company in 2020 is significant, as the majority of Bailey 44's revenue comes from wholesale retailers — many of which have frozen inventory buys due to brick and mortal retail door closures and / or reduced consumer spending.

   Due to the coronavirus pandemic, the Company placed the majority of Bailey 44's workforce on furlough and terminated employment agreements with several full-time employees. The Company brought back a few of the furloughed employees on a part-time basis once a new Designer came on board; however, the Company does not expect to hire back the any additional former employees that were either placed on furlough or had their employment terminated. Once revenues have stabilized and the volatility caused by the coronavirus has subsided, the Company plans to offer the part-time employees full-time positions.

   On June 30, 2020, the Company permanently closed down the Ali & Jay brand (a sub brand under Baily 44) due to significantly reduced revenues associated with wholesale retail store closures from the coronavirus. the Company also exited their three brick and mortar retail doors over the course of 2020 due to lack of profitability.

3) In April 2020, the Company entered into a loan with a lender in an aggregate principal amount of

Bailey 44, LLC
Notes to Financial Statements

$1,347,050 pursuant to the Paycheck Protection Program ("PPP") under the Coronavirus Aid, Relief, and Economic Security (CARES) Act. The PPP Loan is evidenced by a promissory note ("Note"). Subject to the terms of the Note, the PPP Loan bears interest at a fixed rate of one percent (1%) per annum, with the first six months of interest deferred, has an initial term of two years, and is unsecured and guaranteed by the Small Business Administration. The Company may apply to the Lender for forgiveness of the PPP Loan, with the amount which may be forgiven equal to the sum of payroll costs, covered rent, and covered utility payments incurred by the Company during the applicable forgiveness period, calculated in accordance with the terms of the CARES Act. The Note provides for customary events of default including, among other things, cross- defaults on any other loan with the lender. The PPP Loan may be accelerated upon the occurrence of an event of default. The loan proceeds were used for payroll and other covered payments and is expected to be forgiven in whole or in part based on current information available.

The Company has evaluated subsequent events that occurred after December 31, 2019 through December 29, 2020, the issuance date of these financial statements.

HARPER & JONES, LLC

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FOR THE YEARS ENDED DECEMBER 31, 2020 AND 2019

INDEPENDENT AUDITORS' REPORT

The Management and Members
Harper & Jones, LLC
Dallas, Texas

Report on the Financial Statements

We have audited the accompanying balance sheets of Harper & Jones, LLC (the "Company") as of December 31, 2020 and 2019, and the related statements of operations, members' deficit, and cash flows, for the years then ended, and the related notes (collectively referred to as the "financial statements").

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these 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.

Auditors' Responsibility

Our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audits 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 financial statements referred to above present fairly, in all material respects, the financial position of Harper & Jones, LLC as of December 31, 2020 and 2019, and the results of its operations, and its cash flows for the years then ended in conformity with accounting principles generally accepted in the United States of America.

Going Concern

The accompanying financial statements have been prepared assuming that the Company will continue as a going concern. As discussed in Note 3 to the financial statements, the Company has suffered recurring losses from operations and has negative operating cash flows, which raises substantial doubt about its ability to continue as a going concern. Management's plans in regard to these matters are also described in Note 3. The financial statements do not include any adjustments that might result from the outcome of this uncertainty.

/s/ dbb*mckennon*
Newport Beach, California
April 9, 2021

HARPER & JONES, LLC

BALANCE SHEETS

	December 31,	
	2020	**2019**
ASSETS		
Current assets:		
Cash and cash equivalents	$ 51,315	$ 18,509
Accounts receivable, net	38,689	31,995
Inventory	73,690	42,643
Other current assets	54,423	129,162
Total current assets	218,117	222,309
Fixed assets, net	138,040	221,686
Intangible assets, net	2,034	2,206
Other assets	4,416	15,004
Total assets	$ 362,607	$ 461,205
LIABILITIES AND MEMBERS' DEFICIT		
Current liabilities:		
Accounts payable	$ 187,516	$ 119,068
Accrued liabilities	31,771	21,297
Other current liabilities	68,335	66,437
Note payable, current portion	60,941	147,562
Related party notes payable, current portion	—	75,000
Deferred rent	19,432	23,161
Deferred revenue	264,802	286,255
Total current liabilities	632,797	738,780
Related party notes payable, net of current portion	635,000	425,000
Notes payable, net of current portion	276,754	49,441
Total liabilities	1,544,551	1,213,221
Commitments and contingencies (Note 8)		
Members' deficit:		
Class A members units, $0.00001 par value, 100 authorized; 100 outstanding at both December 31, 2020 and 2019	—	—
Class B members units, $0.00001 par value, 100 authorized; 87 and 100 outstanding at December 31, 2020 and 2019, respectively	—	—
Additional paid-in capital	102,083	112,565
Accumulated deficit	(1,284,027)	(864,581)
Total members' deficit	(1,181,944)	(752,016)
Total liabilities and members' deficit	$ 362,607	$ 461,205

The accompany notes are an integral part of these financial statements.

HARPER & JONES, LLC

STATEMENTS OF OPERATIONS

	Year Ended December 31,	
	2020	**2019**
Revenues	$2,542,721	$3,325,762
Cost of goods sold	897,873	1,202,819
Gross profit	1,644,848	2,122,943
Operating expenses:		
General and administrative	1,044,397	717,901
Sales and marketing	1,163,124	1,577,478
Total operating expenses	2,207,521	2,295,379
Loss from operations	(562,673)	(172,436)
Other income (expense):		
Interest expense	(92,270)	(53,955)
Gain on forgiveness of debt	225,388	—
Other income	10,109	50,000
Total other income (expense), net	143,227	(3,955)
Provision for income taxes	—	—
Net loss	$ (419,446)	$ (176,391)

The accompany notes are an integral part of these financial statements.

HARPER & JONES, LLC

STATEMENTS OF MEMBERS' DEFICIT

	Class A Members' Units		Class B Members' Units		Additional Paid-in Capital	Accumulated Deficit	Total Members' Deficit
	Shares	Amount	Shares	Amount			
Balances at December 31, 2018	100	$—	100	$—	$112,565	$ (688,190)	$ (575,625)
Net loss	—	—	—	—	—	(176,391)	(176,391)
Balances at December 31, 2019	100	$—	100	$—	$112,565	$ (864,581)	$ (752,016)
Contributions	—	—	—	—	771	—	771
Repurchase of members' units	—	—	(13)	—	(11,253)	—	(11,253)
Net loss	—	—	—	—	—	(419,446)	(419,446)
Balances at December 31, 2020	100	$—	87	$—	$102,083	$(1,284,027)	$(1,181,944)

The accompany notes are an integral part of these financial statements.

HARPER & JONES, LLC

STATEMENTS OF CASH FLOWS

	Year Ended December 31,	
	2020	**2019**
Cash flows from operating activities:		
Net loss	$(419,446)	$(176,391)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation and amortization	149,568	82,422
Gain on forgiveness of note payable	(225,388)	—
Bad debt expense	42,078	—
Changes in operating assets and liabilities:		
Accounts receivable, net	(48,772)	968
Inventory	(31,047)	(17,577)
Deposits	—	(5,438)
Other assets	85,327	(66,659)
Accounts payable	68,448	79,266
Accrued expenses and other current liabilities	12,372	(12,130)
Deferrent rent	(3,729)	12,784
Deferred revenue	(21,453)	124,162
Net cash provided by (used in) operating activities	(392,042)	21,407
Cash flows from investing activities:		
Purchases of property and equipment and intangibles	(65,750)	(254,437)
Net cash used in investing activities	(65,750)	(254,437)
Cash flows from financing activities:		
Proceeds from related party notes payable	210,000	200,000
Proceeds from notes payable	382,600	200,000
Principal payments on line of credit	—	(160,000)
Proceeds from line of credit	125,000	—
Principal repayments of notes payable	(141,520)	—
Principal payments on related party notes payable	(75,000)	(2,998)
Member contributions	771	—
Repurchase of members' units	(11,253)	—
Net cash provided by financing activities	490,598	237,002
Net increase in cash and cash equivalents	32,806	3,972
Cash and cash equivalents at beginning of year	18,509	14,537
Cash and cash equivalents at end of year	$ 51,315	$ 18,509
Supplemental disclosure of cash flow information:		
Cash paid for income taxes	$ —	$ —
Cash paid for interest	$ 82,270	$ 53,955
Non cash investing and financing activities:		
Conversion of line of credit to note payable	$ 125,000	—

The accompany notes are an integral part of these financial statements.

Harper & Jones, LLC

Notes to Financial Statements

NOTE 1 — NATURE OF OPERATIONS

Harper & Jones, LLC (the "Company" or "H&J" or the "LLC") was formed on April 10, 2017 in the State of Texas. The Company's headquarters are located in Dallas, Texas.

The Company operates a clothing business of custom men's garments from casual wear to formal wear; including suits, sport coats, slacks, dress shirts, crew necks, chinos, denim, tuxedos and more. Our team consists of clothiers that grow their own clientele through their network and company leads. We meet our clients at their home, office, or in one of our showrooms with a goal of taking over our clients' image and wardrobe and making them bench-made garments that align with their unique personality and lifestyle.

On January 30, 2020, the World Health Organization declared the coronavirus outbreak a "Public Health Emergency of International Concern" and on March 10, 2020, declared it to be a pandemic. Actions taken around the world to help mitigate the spread of the coronavirus include restrictions on travel, and quarantines in certain areas, and forced closures for certain types of public places and businesses. The coronavirus and actions taken to mitigate it have had and are expected to continue to have an adverse impact on the economies and financial markets of many countries, including the geographical area in which the Company operates.

The negative impact the global pandemic has had on the Company in 2020 is significant, given H&J's revenue is linked to physical showroom locations — all of which were forced to close for a duration of 2020, per local requirements around continued operations for essential vs. non-essential businesses.

NOTE 2 — SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Basis of Presentation

The financial statements of Harper & Jones, LLC are prepared in accordance with accounting principles generally accepted in the United States of America ("U.S. GAAP").

Use of Estimates

Preparation of the financial statements in conformity with U.S. GAAP requires us to make certain estimates and assumptions that affect the amounts reported in the financial statements and accompanying notes. Actual results could ultimately differ from these estimates. It is reasonably possible that changes in estimates may occur in the near term.

Fair Value of Financial Instruments

Fair value is defined as the exchange price that would be received for an asset or paid to transfer a liability (an exit price) in the principal or most advantageous market for the asset or liability in an orderly transaction between market participants as of the measurement date. Applicable accounting guidance provides an established hierarchy for inputs used in measuring fair value that maximizes the use of observable inputs and minimizes the use of unobservable inputs by requiring that the most observable inputs be used when available. Observable inputs are inputs that market participants would use in valuing the asset or liability and are developed based on market data obtained from sources independent of the Company. Unobservable inputs are inputs that reflect our assumptions about the factors that market participants would use in valuing the asset or liability. There are three levels of inputs that may be used to measure fair value:

Level 1 — Observable inputs that reflect quoted prices (unadjusted) for identical assets or liabilities in active markets.

Level 2 — Include other inputs that are directly or indirectly observable in the marketplace.

Level 3 — Unobservable inputs which are supported by little or no market activity.

Harper & Jones, LLC

Notes to Financial Statements

The fair value hierarchy also requires an entity to maximize the use of observable inputs and minimize the use of unobservable inputs when measuring fair value.

Fair-value estimates discussed herein are based upon certain market assumptions and pertinent information available to us as of December 31, 2020 and 2019. Fair values of the Company's financial instruments were assumed to approximate carrying values because of the instruments' short-term nature.

Cash and Cash Equivalents

For purpose of the statement of cash flows, the Company considers all highly liquid debt instruments purchased with an original maturity of three months or less to be cash equivalents.

Accounts Receivable

Accounts receivable are recorded at the invoiced amount and are non-interest-bearing. The Company maintains an allowance for doubtful accounts for potential uncollectible receivables. As of December 31, 2020, and 2019, there were no allowances for credit losses.

Inventories

Inventories are valued at the lower of first-in, first-out, cost, or market value, less costs to sell (net realizable value).

Fixed Assets

Fixed assets are stated at cost. The Company's fixed assets are depreciated using the straight-line method over the estimated useful life of one (1) to seven (7) years. Leasehold improvements are depreciated over the lesser of the term of the respective lease or estimated useful economic life. At the time of retirement or other disposition of property and equipment, the cost and accumulated depreciation are removed from the accounts and any resulting gain or loss is reflected in operations.

Intangible Assets

Intangible assets with finite lives are amortized over their respective estimated lives and reviewed for impairment whenever events or other changes in circumstances indicate that the carrying amount may not be recoverable. The impairment testing compares carrying values to fair values and, when appropriate, the carrying value of these assets is reduced to fair value. Impairment charges, if any, are recorded in the period in which the impairment is determined. No impairment was deemed necessary for the periods presented.

Impairment of Long-Lived Assets

The Company reviews its long-lived assets in accordance with Accounting Standards Codification ("ASC") 360-10-35, *Impairment or Disposal of Long-Lived Assets.* Under that directive, long-lived assets are grouped with other assets and liabilities at the lowest level for which identifiable cash flows are largely independent of the cash flows of other assets and liabilities. Such group is tested for impairment whenever events or changes in circumstances indicate that its carrying amount may not be recoverable. When such factors and circumstances exist, the projected undiscounted future cash flows associated with the related asset or group of assets over their estimated useful lives are compared against their respective carrying amount. Impairment, if any, is based on the excess of the carrying amount over the fair value, based on market value when available, or discounted expected cash flows, of those assets and is recorded in the period in which the determination is made.

Revenue Recognition

In accordance with ASC Topic 606, Revenue from Contracts with Customers, revenue is recorded is when the customer takes physical possession of the product. The amount of revenue recognized reflects the

consideration to which the Company expects to be entitled to receive in exchange for these goods, using the five-step method required by ASC 606. The Company adopted this standard at the beginning of fiscal year 2019, with no material impact to its financial position or results of operations, using the modified retrospective method.

Revenue from product sales is recognized in the period during which the product is delivered to the end consumer; any taxes collected on behalf of government authorities are excluded from net revenue.

Advertising

The Company expenses advertising costs as incurred. Advertising costs expensed were $4,124 and $7,435 for the years ended December 31, 2020 and 2019, respectively.

Income Taxes

The Company is a limited liability company. Under these provisions, the Company is not subject to federal corporate income taxes. Instead, the shareholders were liable for individual federal and state income taxes on their respective shares of the Company's taxable income. The Company paid state Franchise taxes at reduced rates. Tax returns for years on and after 2017 are open to examination by government agencies; however, there are no ongoing examinations.

Concentration of Credit Risk

Cash — The Company maintains its cash with a major financial institution, which it believes to be creditworthy, located in the United States of America. The Federal Deposit Insurance Corporation insures balances up to $250,000. At times, the Company may maintain balances in excess of the federally insured limits.

Suppliers — The Company relies on a small number of vendors for raw materials and tailoring services. Management believes that the loss of one or more of these vendors would have a material impact on the Company's financial position, results of operations and cash flows.

Recent Accounting Pronouncements

In February 2016, the FASB issued ASU No. 2016-02,*Leases (Topic 842)*. The new standard establishes a right-of-use ("ROU") model that requires a lessee to record a ROU asset and a lease liability, measured on a discounted basis, the balance sheet for all leases with terms greater than 12 months. Leases will be classified as either finance or operating, with classification affecting the pattern of expense recognition in the statements of operations. A modified retrospective transition approach is required for capital and operating leases existing at the date of adoption, with certain practical expedients available. The Company is currently in the process of evaluating the potential impact of this new guidance, which is effective for the Company beginning on January 1, 2022, although early adoption is permitted.

NOTE 3 — GOING CONCERN

The accompanying financial statements have been prepared assuming the Company will continue as a going concern. The Company has incurred losses from operations of $562,673 and $172,437, for the years ended December 31, 2020 and 2019, respectively, and had net cash provided by/ (used in) operating activities of ($392,042) and $21,407 for the years ended December 31, 2020 and 2019, respectively. These matters raise substantial doubt about the Company's ability to continue as a going concern.

During the next 12 months, the Company intends to fund operations through the sale of products and debt and/or equity financing. There are no assurances that management will be able to raise capital on terms acceptable to the Company. If it is unable to obtain sufficient amounts of additional capital, it may be

required to reduce the scope of its planned operations, which could harm its business, financial condition, and operating results. The accompanying financial statements do not include any adjustments that might result from these uncertainties.

NOTE 4 — INVENTORIES

The Company had fabric inventories of $73,690 and $42,643 as of December 31, 2020 and 2019, respectively.

NOTE 5 — FIXED ASSETS

Fixed assets are comprised of the following:

	December 31,	
	2020	2019
Leasehold improvements and showrooms	$ 375,677	$309,928
Accumulated amortization	(237,637)	(88,242)
Fixed Assets, net	$ 138,040	$221,686

Depreciation expense of $149,396 and $82,251 for the years ended December 31, 2020 and 2019, respectively.

NOTE 6 — RELATED-PARTY TRANSACTIONS

In July 2017, the Company issued a promissory note with a principal of $300,000 to a company owned by its majority owner. The note has an interest rate of 12% per annum, and is payable on or before July 10, 2022. Interest is paid quarterly. In October, 2019, the Company borrowed an additional $125,000 pursuant to an addendum to the promissory note. During 2020, the Company borrowed an additional $210,000 pursuant to an addendum. The balance of the note was $635,000, and $425,000, as of December 31, 2020 and 2019, respectively. Accrued interest at December 31, 2020 and 2019 was $19,500 and $10,500, respectively.

In December 2019, the Company issued a promissory note with a principal amount of $75,000 to its majority owner. The note has an interest rate of 8.5% and is payable on or before December 31, 2020. The note was repaid during 2020 and balance of the note was $0 and $75,000 as of December 31, 2020 and 2019 respectively.

NOTE 7 — DEBT

Notes payable

	December 31,	
	2020	2019
Note payable to bank, principal due November 27, 2020 bearing interest at 1.75% over prime (4.75% at December 31, 2019)	$ —	$123,917
Note payable to bank, principal due December 2025, bearing interest at 5.526%	125,000	—
Note payable to majority owner, principal due on or before December 31, 2020, variable monthly payments, interest at 8.5%	—	75,000
Note payable to a bank, monthly installments of $2,279 through November 26, 2022, bearing interest at 5.85%	55,483	73,086
PPP and EIDL Loans (see below for terms)	157,212	—
Note payable to a company owned by the majority owner of the Company, due on or before July 10, 2022, bearing interest at 12%	635,000	425,000
	$972,695	$697,003

Harper & Jones, LLC

Notes to Financial Statements

The note payable to a majority owner totaling $75,000 was repaid in 2020 with proceeds from additional loans from a related party described in Note 6.

Annual aggregate maturities of notes payable that existed as December 31, 2020 are as follows:

Year Ending December 31,	
2021	$ 60,941
2022	686,007
2023	28,119
2024	29,654
2025	31,171
Thereafter	136,803
	972,695
Less: current portion of note payable	(60,941)
Notes payable, long-term	$911,754

Line of Credit

In April 2018, the Company entered into a line of credit (the "line") with a bank in the amount of $200,000. The line bore interest at 5.85%, matured on April 27, 2019. The line of credit was secured by all tangible and intangible property of the Company. The balance of the line was $160,000 as of December 31, 2018. The line was paid in full in April 2019.

The Company received a new line of credit with similar terms in 2020. The Company drew $125,000 of the line of credit through December 31, 2020. The Company then converted the line of credit to a note for $125,000. The note carries an interest rate of 5.526% and matures in December 2025. The Company is required to make monthly payments of approximately $2,394.

PPP and EIDL Loans

In April 2020, the Company entered into a loan with a lender in an aggregate principal amount of $232,700 pursuant to the Paycheck Protection Program ("PPP") under the Coronavirus Aid, Relief, and Economic Security (CARES) Act. The PPP Loan is evidenced by a promissory note ("Note"). Subject to the terms of the Note, the PPP Loan bears interest at a fixed rate of one percent (1%) per annum, with the first six months of interest deferred, has an initial term of two years, and is unsecured and guaranteed by the Small Business Administration. The Company may apply to the Lender for forgiveness of the PPP Loan, with the amount which may be forgiven equal to the sum of payroll costs, covered rent, and covered utility payments incurred by the Company during the applicable forgiveness period, calculated in accordance with the terms of the CARES Act. The Note provides for customary events of default including, among other things, cross-defaults on any other loan with the lender. The PPP Loan may be accelerated upon the occurrence.

In December 2020, the Company received notification from the Small Business Association that the majority of the initial PPP loan balance had been forgiven; leaving a loan balance of approximately $7,312 as of December 31, 2020.

The CARES Act additionally extended COVID relief funding for qualified small businesses under the Economic Injury Disaster Loan (EIDL) assistance program. On June 25, 2020 the Company was notified that their EIDL application was approved by the Small Business Association (SBA). Per the terms of the EIDL agreement, the Company received total proceeds of $150,000. The Loan matures in thirty years from the effective date of the Loan and has a fixed interest rate of 3.75% per annum.

Harper & Jones, LLC

Notes to Financial Statements

NOTE 8 — COMMITMENTS AND CONTINGENCIES

Litigation

The Company is not currently involved with, and does not know of any, pending or threatened litigation against the Company or any of its officers.

Leases

The Company leases office and showroom facilities in Dallas and Houston, Texas, and New Orleans, Louisiana. The leases expire at various dates through June 2022 with base rents ranging from $3,400 to $6,500. The following table shows the future annual minimum obligations under lease commitments in effect at December 31, 2020:

2021	$ 95,617
2022	42,996
	$138,613

Rent expense for the years ended December 31, 2020 and 2019 was $159,032 and $165,326, respectively.

NOTE 9 — MEMBERS' EQUITY / (DEFICIT)

The Company has authorized the issuance of 200 shares of membership units consisting of 100 Class A Common units and 100 of Class B Common Stock with par value of $0.00001, 187 and 200 of which were issued and outstanding as of December 31, 2020, and 2019. Profits are allocated first to Class A members, pro rata until cumulative profits allocated to Class A Members equal the cumulative losses allocated to Class A members from all prior periods, second to Class B Members, pro rata until cumulative profits allocated to Class B Members equal the cumulative losses allocated to Class B members from all prior periods, then the balance, if any, to Class B Members, pro rata. Losses are allocated first to Class B members, pro rata until cumulative losses to Class Be members equal cumulative profits allocated to Class B members for all prior periods, second to Class A members, pro rata.

In 2020, the Company repurchased 13 Class B Member units for $11,253.

The Company's certificate of formation dictates that the entity has a finite life of 60 years. Accordingly, the LLC will cease to exist in April 2077.

Proposed Sale of Business

On October 14, 2020, the members of Harper & Jones LLC (H&J) agreed to sell their interest to Digital Brands Group, Inc., formerly Denim.LA, Inc. ("Denim.LA"), subject to the successful closing of Denim.LA's initial public offering, for $9,100,000 of Denim.LA Common Stock, at a price per share equal to the price per share at Denim.LA's initial public offering (IPO), thus the number of Common Stock shares the members of Harper & Jones receive is dependent on the price per share of Denim.LA's Common Stock at the time of their IPO.

In addition, Denim.LA will contribute to Harper & Jones LLC a sum of $500,000 in cash to be allocated to H&J's outstanding debt immediately prior to the closing of the transaction.

The finalization of this sale is dependent on a successful initial public offering by Denim.LA within time periods specified in the agreement. There is no penalty for either party if Denim.LA fails to complete its initial public offering, and in such circumstance the sale will be deemed null and void.

NOTE 10 — SUBSEQUENT EVENTS

In January, 2021 the Company was notified that their 2nd Round PPP Loan application was approved by the Small Business Association. Per the terms of the PPP Loan, the Company received total proceeds of $232,700. The Loan matures in two years from the effective date of the Loan and has a fixed interest rate of 1% per annum.

The Company has evaluated subsequent events that occurred after December 31, 2020 through April 9, 2021, the issuance date of these financial statements.

DIGITAL BRANDS GROUP, NC.
FORM 10-Q
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DIGITAL BRANDS GROUP, INC.
CONDENSED CONSOLIDATED BALANCE SHEETS
(UNAUDITED)

	September 30, 2021	December 31, 2020
ASSETS		
Current assets:		
Cash and cash equivalents	$ 254,527	$ 575,986
Accounts receivable, net	272,264	35,532
Due from factor, net	1,094,309	210,033
Inventory	2,327,542	1,163,279
Prepaid expenses and other current assets	1,525,818	23,826
Total current assets	5,474,460	2,008,656
Deferred offering costs	367,696	214,647
Property, equipment and software, net	97,862	62,313
Goodwill	17,771,031	6,479,218
Intangible assets, net	16,779,126	7,494,667
Deposits	174,109	92,668
Total assets	$ 40,664,284	$ 16,352,169
LIABILITIES AND STOCKHOLDERS' EQUITY (DEFICIT)		
Current liabilities:		
Accounts payable	$ 6,855,352	$ 5,668,703
Accrued expenses and other liabilities	1,853,954	1,245,646
Deferred revenue	193,023	1,667
Due to related parties	232,635	441,453
Contingent consideration liability	10,527,910	—
Convertible notes, current	100,000	700,000
Accrued interest payable	855,729	737,039
Note payable — related party	299,489	137,856
Venture debt, current	300,000	5,854,326
Loan payable, current	1,796,000	992,000
Promissory note payable, current	655,000	4,500,000
Total current liabilities	23,669,092	20,278,690
Convertible note payable, net	2,793,385	1,215,815
Loan payable	1,677,213	709,044
Promissory note payable	2,845,000	—
Venture debt, net of discount	5,701,755	—
Derivative liability	2,486,843	—
Warrant liability	28,195	6,265
Total liabilities	39,201,483	22,209,814
Commitments and contingencies (Note 12)		
Stockholders' equity (deficit):		
Series Seed convertible preferred stock, $0.0001 par, no shares and 20,714,518 shares, authorized, issued and outstanding at September 30, 2021 and December 31, 2020, respectively	—	2,071
Series A convertible preferred stock, $0.0001 par, no shares and 14,481,413 shares authorized, no shares and 5,654,072 shares issued and outstanding at September 30, 2021, and December 31, 2020, respectively	—	565
Series A-2 convertible preferred stock, $0.0001 par, no shares and 20,000,000 shares authorized, no shares and 5,932,742 shares issued and outstanding at September 30, 2021, and December 31,2020,respectively	—	593
Series A-3 convertible preferred stock, $0.0001 par, no shares and 18,867,925 shares authorized, no shares and 9,032,330 shares issued and outstanding at September 30, 2021, and December 31, 2020, respectively	—	904
Series CF convertible preferred stock, $0.0001 par, no shares and 2,000,000 shares authorized, no shares and 836,331 shares issued and outstanding at September 30, 2021, and December 31, 2020, respectively	—	83
Series B convertible preferred stock, $0.0001 par, no shares and 20,714,517 shares authorized, no shares and 20,714,517 shares issued and outstanding at September 30, 2021, and December 31, 2020, respectively	—	2,075
Undesignated preferred stock, $0.0001 par, 10,000,000 shares and 936,144 shares authorized, 0 shares issued and outstanding as of both September 30,2021 and December 31, 2020	—	—
Common stock, $0.0001 par, 200,000,000 and 110,000,000 shares authorized, 12,627,488 and 664,167 shares issued and outstanding as of both September 30, 2021 and December 31, 2020, respectively	1,263	66
Additional paid-in capital	57,467,015	27,481,995
Accumulated deficit	(56,005,477)	(33,345,997)
Total stockholders' equity (deficit)	1,462,801	(5,857,645)
Total liabilities and stockholders' equity (deficit)	$ 40,664,284	$ 16,352,169

See the accompanying notes to the unaudited condensed consolidated financial statements

DIGITAL BRANDS GROUP, INC.
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS
(UNAUDITED)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2021	2020	2021	2020
Net revenues	$ 2,163,280	$ 1,234,805	$ 3,575,214	$ 4,475,507
Cost of net revenues	954,137	1,729,709	2,179,023	3,884,864
Gross profit (loss)	1,209,143	(494,904)	1,396,191	590,643
Operating expenses:				
General and administrative	3,720,863	1,356,653	12,820,841	5,258,084
Sales and marketing	1,307,219	101,081	2,401,322	543,327
Distribution	105,332	65,681	238,774	279,362
Loss on disposal of property and equipment	—	593,449	—	593,449
Impairment of intangible assets	—	784,500	—	784,500
Change in fair value of contingent consideration	3,988,493	—	7,039,394	—
Total operating expenses	9,121,907	2,901,364	22,500,331	7,458,722
Loss from operations	(7,912,764)	(3,396,268)	(21,104,140)	(6,868,079)
Other income (expense):				
Interest expense	(447,842)	(550,505)	(2,020,806)	(1,239,437)
Other non-operating income (expenses)	(577,441)	32,193	(634,654)	32,193
Total other income (expense), net	(1,025,283)	(518,312)	(2,655,460)	(1,207,244)
Income tax benefit (provision)	—	(276)	1,100,120	(13,657)
Net loss	$ (8,938,047)	$(3,914,856)	$(22,659,480)	$(8,088,980)
Weighted average common shares outstanding – basic and diluted	11,786,592	664,167	6,002,669	664,167
Net loss per common share – basic and diluted	$ (0.76)	$ (5.89)	$ (3.77)	$ (12.18)

See the accompanying notes to the unaudited condensed consolidated financial statements

DIGITAL BRANDS GROUP, INC.
CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY (DEFICIT)
(UNAUDITED)

	Series Seed Preferred Stock		Series A Preferred Stock		Series A-2 Preferred Stock		Series A-3 Preferred Stock		Series CF Preferred Stock		Series B Preferred Stock		Common Stock		Additional Paid-in Capital	Subscription Receivable	Accumulated Deficit	Total Stockholders' Equity (Deficit)
	Shares	Amount	Shares	Amount	Shares	Amount	Shares	Amount	Shares	Amount	Shares	Amount	Shares	Amount				
Balances at December 31, 2019	20,714,518	$ 2,071	5,654,072	$ 565	5,932,742	$ 593	8,223,036	$ 823	126,641	$ 12	—	$ —	664,167	$ 66	$15,486,050	$ (22,677)	$(22,617,702)	$ (7,150,199)
Stock-based compensation	—	—	—	—	—	—	—	—	—	—	—	—	—	—	49,932	—	—	49,932
Issuance of Series A-3 preferred stock for cash	—	—	—	—	—	—	809,294	81	—	—	—	—	—	—	428,845	(117,614)	—	311,312
Issuance of Series B preferred stock	—	—	—	—	—	—	—	—	—	—	20,754,717	2,075	—	—	10,997,925	—	—	11,000,000
Offering costs	—	—	—	—	—	—	—	—	—	—	—	—	—	—	(31,690)	—	—	(31,690)
Fair value of warrant issuances – venture debt	—	—	—	—	—	—	—	—	—	—	—	—	—	—	58,421	—	—	58,421
Net loss	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	(1,906,527)	(1,906,527)
Balances at March 31, 2020	20,714,518	$ 2,071	5,654,072	$ 565	5,932,742	$ 593	9,032,330	$ 904	126,641	$ 12	20,754,717	$ 2,075	664,167	$ 66	$26,989,483	$ (140,291)	$(24,524,229)	$ 2,331,249
Stock-based compensation	—	—	—	—	—	—	—	—	—	—	—	—	—	—	49,932	—	—	49,932
Issuance of Series CF preferred stock for cash	—	—	—	—	—	—	—	—	709,690	71	—	—	—	—	286,447	—	—	286,518
Issuance of Series A-3 preferred stock for cash	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	126,837	—	126,837
Net loss	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	(2,267,597)	(2,267,597)
Balances at June 30, 2020	20,714,518	$ 2,071	5,654,072	$ 565	5,932,742	$ 593	9,032,330	$ 904	836,331	$ 83	20,754,717	$ 2,075	664,167	$ 66	$27,325,862	$ (13,454)	$(26,791,826)	$ 526,939
Stock-based compensation	—	—	—	—	—	—	—	—	—	—	—	—	—	—	5,779	—	—	5,779
Fair value of warrant issuances – venture debt	—	—	—	—	—	—	—	—	—	—	—	—	—	—	81,151	—	—	81,151
Offering costs	—	—	—	—	—	—	—	—	—	—	—	—	—	—	(28,756)	—	—	(28,756)
Net loss	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	(3,914,856)	(3,914,856)
Balances at September 30, 2020	20,714,518	$ 2,071	5,654,072	$ 565	5,932,742	$ 593	9,032,330	$ 904	836,331	$ 83	20,754,717	$ 2,075	664,167	$ 66	$27,384,036	$ (13,454)	$(30,706,682)	$ (3,329,743)
Balances at December 31, 2020	20,714,518	$ 2,071	5,654,072	$ 565	5,932,742	$ 593	9,032,330	$ 904	836,331	$ 83	20,754,717	$ 2,075	664,167	$ 66	$27,481,995	$ —	$(33,345,997)	$ (5,857,645)
Stock-based compensation	—	—	—	—	—	—	—	—	—	—	—	—	—	—	36,976	—	—	36,976
Net loss	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	(3,023,935)	(3,023,935)
Balances at March 31, 2021	20,714,518	$ 2,071	5,654,072	$ 565	5,932,742	$ 593	9,032,330	$ 904	836,331	$ 83	20,754,717	$ 2,075	664,167	$ 66	$27,518,971	$ —	$(36,369,932)	$ (8,844,604)
Conversion of preferred stock into common stock	(20,714,518)	(2,071)	(5,654,072)	(565)	(5,932,742)	(593)	(9,032,330)	(904)	(836,331)	(83)	(20,754,717)	(2,075)	4,027,181	403	5,888	—	—	—
Issuance of common stock in public offering	—	—	—	—	—	—	—	—	—	—	—	—	2,409,639	241	9,999,761	—	—	10,000,002
Offering costs	—	—	—	—	—	—	—	—	—	—	—	—	—	—	(2,116,957)	—	—	(2,116,957)
Exercise of over-allotment option, net of offering costs	—	—	—	—	—	—	—	—	—	—	—	—	361,445	36	1,364,961	—	—	1,364,997
Conversion of debt into common stock	—	—	—	—	—	—	—	—	—	—	—	—	1,135,153	114	2,680,175	—	—	2,680,289
Conversion of related party notes and payables into common stock	—	—	—	—	—	—	—	—	—	—	—	—	152,357	15	257,500	—	—	257,515
Common stock and warrants issued in connection with note	—	—	—	—	—	—	—	—	—	—	—	—	20,000	2	73,956	—	—	73,958
Common stock issued in connection with business combination	—	—	—	—	—	—	—	—	—	—	—	—	2,192,771	219	8,025,323	—	—	8,025,542
Exercise of warrants	—	—	—	—	—	—	—	—	—	—	—	—	31,881	3	145,693	—	—	145,696
Common stock issued pursuant to consulting agreement	—	—	—	—	—	—	—	—	—	—	—	—	50,000	5	182,995	—	—	183,000
Stock-based compensation	—	—	—	—	—	—	—	—	—	—	—	—	—	—	3,801,553	—	—	3,801,553
Net loss	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	(10,697,498)	(10,697,498)
Balances at June 30, 2021	—	$ —	—	$ —	—	$ —	—	$ —	—	$ —	—	$ —	11,044,594	$1,104	$51,939,819	$ —	$(47,067,430)	$ 4,873,493
Issuance of common stock pursuant to equity line of credit	—	—	—	—	—	—	—	—	—	—	—	—	126,356	13	367,683	—	—	367,696
Common stock issued in connection with business combination	—	—	—	—	—	—	—	—	—	—	—	—	1,101,538	110	3,403,086	—	—	3,403,196
Exercise of warrants	—	—	—	—	—	—	—	—	—	—	—	—	355,000	36	1,622,314	—	—	1,622,350
Stock-based compensation	—	—	—	—	—	—	—	—	—	—	—	—	—	—	134,113	—	—	134,113
Net loss	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	(8,938,047)	(8,938,047)
Balances at September 30, 2021	—	$ —	—	$ —	—	$ —	—	$ —	—	$ —	—	$ —	12,627,488	$1,263	$57,467,015	$ —	$(56,005,477)	$ 1,462,801

See the accompanying notes to the unaudited condensed consolidated financial statements

DIGITAL BRANDS GROUP, INC.
CONSOLIDATED STATEMENTS OF CASH FLOWS
(UNAUDITED)

	Nine Months Ended September 30,	
	2021	**2020**
Cash flows from operating activities:		
Net loss	$(22,659,480)	$ (8,088,980)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation and amortization	652,732	716,568
Amortization of loan discount and fees	682,956	144,974
Stock-based compensation	4,155,641	105,643
Fees incurred in connection with debt financings	132,609	—
Change in fair value of warrant liability	21,930	(1,792)
Change in fair value of derivative liability	627,956	—
Change in fair value of contingent consideration	7,039,394	—
Deferred income tax benefit	(1,100,120)	—
Impairment of intangible assets	—	784,500
Loss on disposal of property and equipment	—	593,449
Change in credit reserve	66,748	(182,758)
Changes in operating assets and liabilities:		
Accounts receivable, net	(32,582)	(74,256)
Due from factor, net	(540,257)	1,334,263
Inventory	(483,477)	2,578,261
Prepaid expenses	(1,259,835)	(113,566)
Accounts payable	749,352	1,161,279
Accrued expenses and other liabilities	451,298	(721,062)
Deferred revenue	(78,492)	(13,564)
Accrued compensation – related party	(108,550)	(29,302)
Accrued interest	206,163	656,734
Net cash used in operating activities	(11,476,014)	(1,149,609)
Cash flows from investing activities:		
Cash acquired (consideration) pursuant to business combination	(5,442,966)	106,913
Issuance of related party receivable	—	(10,000)
Purchase of property, equipment and software	(13,585)	(266,390)
Deposits	(67,431)	98,835
Net cash provided by (used in) investing activities	(5,523,982)	(70,642)
Cash flows from financing activities:		
Proceeds from related party advances	—	22,856
Repayments to factor	(39,520)	(1,684,703)
Proceeds from venture debt	—	862,500
Issuance of loans payable	2,626,050	1,701,044
Repayments of promissory notes and loans payable	(2,002,731)	—
Issuance of convertible notes payable	5,078,650	—
Proceeds from initial public offering	10,000,002	—
Exercise of over-allotment option with public offering, net	1,364,997	—
Exercise of warrants	1,768,046	—
Proceeds from sale of Series A-3 preferred stock	—	355,945
Subscription receivable from Series A-3 preferred stock	—	22,677
Proceeds from sale of Series CF preferred stock	—	286,518
Offering costs	(2,116,957)	(104,996)
Net cash provided by financing activities	16,678,537	1,461,841
Net increase in cash and cash equivalents	(321,459)	241,590
Cash and cash equivalents at beginning of period	575,986	40,469
Cash and cash equivalents at end of period	$ 254,527	$ 282,059
Supplemental disclosure of cash flow information:		
Cash paid for income taxes	$ —	$ —
Cash paid for interest	$ 460,179	$ —
Supplemental disclosure of non-cash investing and financing activities:		
Conversion of preferred stock into common stock	$ 6,291	$ —
Conversion of related party notes and payables into common stock	$ 257,515	$ —
Conversion of debt into common stock	$ 2,680,289	$ —
Derivative liability in connection with convertible note	$ 1,858,887	$ —
Comon shares issued pursuant to equity line of credit	$ 367,696	$ —
Venture debt issued in exchange of forgiveness of accrued interest	$ —	$ 209,211
Warrants issued for offering costs	$ —	$ 918
Warrants issued with venture debt	$ —	$ 139,572
Issuance of promissory note payable in acquisition	$ —	$ 4,500,000
Issuance of Series B preferred stock in acquisition	$ —	$11,000,000
Subscription receivable for Series A preferred stock	$ —	$ 13,454

See the accompanying notes to the unaudited condensed consolidated financial statements

DIGITAL BRANDS GROUP, INC.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(UNAUDITED)

NOTE 1: NATURE OF OPERATIONS

Digital Brands Group, Inc. (the "Company" or "DBG"), was organized on September 17, 2012 under the laws of Delaware as a limited liability company under the name Denim.LA LLC. The Company converted to a Delaware corporation on January 30, 2013 and changed its name to Denim.LA, Inc. Effective December 31, 2020, the Company changed its name to Digital Brands Group, Inc. (DBG).

On February 12, 2020, Denim.LA, Inc. entered into an Agreement and Plan of Merger with Bailey 44, LLC ("Bailey"), a Delaware limited liability company. On the acquisition date, Bailey 44 , LLC became a wholly owned subsidiary of the Company. See Note 4.

On May 18, 2021, the Company closed its acquisition of Harper & Jones, LLC ("H&J") pursuant to its Membership Interest Stock Purchase Agreement with D. Jones Tailored Collection, Ltd. to purchase 100% of the issued and outstanding equity of Harper & Jones, LLC. On the acquisition date, H&J became a wholly owned subsidiary of the Company. See Note 4.

On August 30, 2021, the Company closed its acquisition of Mosbest, LLC dba Stateside ("Stateside") pursuant to its Membership Interest Purchase Agreement with Moise Emquies to purchase 100% of the issued and outstanding equity of Stateside. On the acquisition date, Stateside became a wholly owned subsidiary of the Company. See Note 4.

In March 2020, the World Health Organization declared the outbreak of a novel coronavirus ("COVID-19") a pandemic. As the global spread of COVID-19 continues, DBG remains first and foremost focused on a people-first approach that prioritizes the health and well-being of its employees, customers, trade partners and consumers. To help mitigate the spread of COVID-19, DBG has modified its business practices in accordance with legislation, executive orders and guidance from government entities and healthcare authorities (collectively, "COVID-19 Directives"). These directives include the temporary closing of offices and retail stores, instituting travel bans and restrictions and implementing health and safety measures including social distancing and quarantines.

The full extent of the future impact of the COVID-19 pandemic on the Company's operational and financial performance is currently uncertain and will depend on many factors outside the Company's control, including, without limitation, the timing, extent, trajectory and duration of the pandemic, the development and availability of effective treatments and vaccines, and the imposition of protective public safety measures.

Reverse Stock Split

On May 12, 2021, the Board of Directors approved a one-for-15.625 reverse stock split of its issued and outstanding shares of common stock and a proportional adjustment to the existing conversion ratios for each series of the Company's preferred stock (see Note 8). Accordingly, all share and per share amounts for all periods presented in the accompanying condensed consolidated financial statements and notes thereto have been adjusted retroactively, where applicable, to reflect this reverse stock split and adjustment of the preferred stock conversion ratios.

Initial Public Offering

On May 13, 2021, the Company's registration statement on Form S-1 relating to its initial public offering of its common stock (the "IPO") was declared effective by the Securities and Exchange Commission ("SEC"). Further to the IPO, which closed on May 18, 2021, the Company issued and sold 2,409,639 shares of common stock at a public offering price of $4.15 per share. Additionally, the Company issued warrants to purchase 2,771,084 shares, which includes 361,445 warrants sold upon the partial exercise of the over-allotment option. The aggregate net proceeds to the Company from the IPO, were $8.6 million after deducting underwriting discounts and commissions of $0.8 million and direct offering expenses of

DIGITAL BRANDS GROUP, INC.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(UNAUDITED)

$0.6 million. Concurrent with this offering, the Company acquired H&J (see Note 4). The Company incurred an additional $0.6 million in offering costs related to the IPO that were not paid directly out of the proceeds from the offering.

NOTE 2: GOING CONCERN

The accompanying condensed consolidated financial statements have been prepared on a going concern basis, which contemplates the realization of assets and the satisfaction of liabilities in the normal course of business. The Company has not generated profits since inception, has sustained net losses of $22,659,480 and $8,088,980 for the nine months ended September 30, 2021 and 2020, respectively, and has incurred negative cash flows from operations for the nine months ended September 30, 2021 and 2020. The Company has historically lacked liquidity to satisfy obligations as they come due and as of September 30, 2021, and the Company had a working capital deficit of $18,194,632. These factors raise substantial doubt about the Company's ability to continue as a going concern. The Company expects to continue to generate operating losses for the foreseeable future. The accompanying consolidated financial statements do not include any adjustments as a result of this uncertainty.

Management Plans

As of November 11, 2021, the date of issuance of these unaudited interim condensed consolidated financial statements, the Company expects that its cash and cash equivalents of $254,527 as of September 30, 2021, together with the measures described below, will be sufficient to fund its operating expenses, debt obligations and capital expenditure requirements for at least one year from the date these consolidated financial statements are issued.

In August 2021, the Company entered into an equity line of credit agreement which the investor is committed to purchase up to $17,500,000 of the Company's common stock (see Note 8). The Company plans to utilize multiple drawdowns on this agreement, subject to satisfying a registration rights agreement and other restrictions.

Throughout the next twelve months, the Company intends to fund its operations primarily from the funds raised through the equity line of credit agreement. The Company may pursue secondary offerings or debt financings to provide working capital and satisfy debt obligations.

There can be no assurance as to the availability or terms upon which such financing and capital might be available in the future. If the Company is unable to secure additional funding, it may be forced to curtail or suspend its business plans.

NOTE 3: SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Basis of Presentation

The accounting and reporting policies of the Company conform to accounting principles generally accepted in the United States of America ("GAAP").

Unaudited Interim Financial Information

The accompanying unaudited condensed consolidated balance sheet as of September 30, 2021, the unaudited condensed consolidated statements of operations for the three and nine months ended September 30, 2021 and 2020 and of cash flows for the nine months ended September 30, 2021 and 2020 have been prepared by the Company, pursuant to the rules and regulations of the SEC for the interim financial statements. Certain information and footnote disclosures normally included in financial statements prepared in accordance with GAAP have been condensed or omitted pursuant to rules and regulations. However, the Company believes that the disclosures are adequate to make the information presented not

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misleading. The unaudited interim consolidated financial statements have been prepared on a basis consistent with the audited consolidated financial statements and in the opinion of management, reflect all adjustments, consisting of only normal recurring adjustments, necessary for the fair presentation of the results for the interim periods presented and of the financial condition as of the date of the interim consolidated balance sheet.

The accompanying unaudited interim condensed consolidated financial statements should be read in conjunction with the Company's audited consolidated financial statements and the notes thereto for the year ended December 31, 2020 included in the Company's prospectus that forms a part of the Company's Registration Statement on Form S-1 (File No. 333-255193). The prospectus was filed with the SEC pursuant to Rule 424(b)(4) on May 17, 2021.

Principles of Consolidation

These condensed consolidated financial statements include the accounts of the Company and its wholly-owned subsidiaries Bailey, H&J and Stateside from the dates of acquisition. All inter-company transactions and balances have been eliminated on consolidation.

Use of Estimates

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosures of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

Cash and Equivalents and Concentration of Credit Risk

The Company considers all highly liquid securities with an original maturity of less than three months to be cash equivalents. As of September 30, 2021 and December 31, 2020, the Company did not hold any cash equivalents. The Company's cash and cash equivalents in bank deposit accounts, at times, may exceed federally insured limits of $250,000.

Fair Value of Financial Instruments

FASB guidance specifies a hierarchy of valuation techniques based on whether the inputs to those valuation techniques are observable or unobservable. Observable inputs reflect market data obtained from independent sources, while unobservable inputs reflect market assumptions. The hierarchy gives the highest priority to unadjusted quoted prices in active markets for identical assets or liabilities (Level 1 measurement) and the lowest priority to unobservable inputs (Level 3 measurement). The three levels of the fair value hierarchy are as follows:

Level 1 — Unadjusted quoted prices in active markets for identical assets or liabilities that the reporting entity has the ability to access at the measurement date. Level 1 primarily consists of financial instruments whose value is based on quoted market prices such as exchange-traded instruments and listed equities.

Level 2 — Inputs other than quoted prices included within Level 1 that are observable for the asset or liability, either directly or indirectly (e.g., quoted prices of similar assets or liabilities in active markets, or quoted prices for identical or similar assets or liabilities in markets that are not active).

Level 3 — Unobservable inputs for the asset or liability. Financial instruments are considered Level 3 when their fair values are determined using pricing models, discounted cash flows or similar techniques and at least one significant model assumption or input is unobservable.

The Company's financial instruments consist of cash and cash equivalents, prepaid expenses, accounts payable, accrued expenses, due to related parties, related party note payable, and convertible debt. The

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carrying value of these assets and liabilities is representative of their fair market value, due to the short maturity of these instruments.

The following tables present information about the Company's financial assets and liabilities measured at fair value on a recurring basis and indicates the level of the fair value hierarchy used to determine such fair values:

	Fair Value Measurements as of September 30, 2021 Using:			
	Level 1	Level 2	Level 3	Total
Liabilities:				
Warrant liability	$ —	$28,195	$ —	$ 28,195
Contingent consideration	—	—	10,527,910	10,527,910
Derivative liability	—	—	2,486,843	2,486,843
	$ —	$28,195	$13,014,753	$13,042,948

	Fair Value Measurements as of December 31, 2020 Using:			
	Level 1	Level 2	Level 3	Total
Liabilities:				
Warrant liability	$ —	$ —	$6,265	$6,265
	$ —	$ —	$6,265	$6,265

Warrant Liability

Certain of the Company's common stock warrants are carried at fair value. As of December 31, 2020, the fair value of the Company's common stock warrant liabilities was measured under the Level 3 hierarchy using the Black-Scholes pricing model as the Company's underlying common stock had no observable market price (see Note 10). The warrant liability was valued using a market approach. Upon the IPO, the warrant liabilities were valued using quoted prices of identical assets in active markets, and was reclassified under the Level 2 hierarchy. Changes in common stock warrant liability during the nine months ended September 30, 2021 are as follows:

	Warrant Liability
Outstanding as of December 31, 2020	$ 6,265
Change in fair value	21,930
Outstanding as of September 30, 2021	$28,195

Contingent Consideration

The Company records a contingent consideration liability relating to stock price guarantees included in its acquisition and consulting agreements. The estimated fair value of the contingent consideration is recorded using significant unobservable measures and other fair value inputs and is therefore classified as a Level 3 financial instrument.

The fair value of the contingent consideration liability related to the Company's business combinations is valued using the Monte Carlo simulation model. The Monte Carlo simulation inputs include the stock price, volatility of common stock, timing of settlement and resale restrictions and limits. The fair value of the contingent consideration is then calculated based on guaranteed equity values at settlement as defined in

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the acquisition agreements. Changes in contingent consideration liability during the nine months ended September 30, 2021 are as follows:

	Contingent Consideration Liability
Balance as of December 31, 2020	$ —
Initial recognition in connection with acquisition of Harper & Jones	3,421,516
Stock price guarantee per consulting agreement	67,000
Change in fair value	7,039,394
Outstanding as of September 30, 2021	$ 10,527,910

Derivative Liability

In connection with the Company's convertible note with Oasis Capital, LLC ("Oasis"), the Company recorded a derivative liability (see Note 7). The estimated fair value of the derivative liability is recorded using significant unobservable measures and other fair value inputs and is therefore classified as a Level 3 financial instrument.

The fair value of the derivative liability is valued using a multinomial lattice model. The multinomial lattice inputs include the underlying stock price, volatility of common stock and remaining term of the convertible note. Changes in derivative liability during the nine months ended September 30, 2021 are as follows:

	Derivative Liability
Outstanding as of December 31, 2020	$ —
Initial fair value on issuance of convertible note	1,858,887
Change in fair value	627,956
Outstanding as of September 30, 2021	$2,486,843

Inventory

Inventory is stated at the lower of cost or net realizable value and accounted for using the weighted average cost method for DSTLD and first-in, first-out method for Bailey and Stateside. The inventory balances as of September 30, 2021 and December 31, 2020 consist substantially of finished good products purchased or produced for resale, as well as any raw materials the Company purchased to modify the products and work in progress.

Property, Equipment, and Software

Property, equipment, and software are recorded at cost. Depreciation/amortization is recorded for property, equipment, and software using the straight-line method over the estimated useful lives of assets. The Company reviews the recoverability of all long-lived assets, including the related useful lives, whenever events or changes in circumstances indicate that the carrying amount of a long-lived asset might not be recoverable. The balances at September 30, 2021 and December 31, 2020 consist of software with three (3) year lives, property and equipment with 3-10 year lives, and leasehold improvements which are depreciated over the shorter of the lease life or expected life.

Depreciation and amortization charges on property, equipment, and software are included in general and administrative expenses and amounted to $25,263 and $306,845 for the three months ended September 30, 2021 and 2020, and $62,061 and $487,402 for the nine months ended September 30, 2021 and 2020, respectively.

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Business Combinations

The Company accounts for acquisitions in which it obtains control of one or more businesses as a business combination. The purchase price of the acquired businesses is allocated to the tangible and intangible assets acquired and liabilities assumed based on their estimated fair values at the acquisition date. The excess of the purchase price over those fair values is recognized as goodwill. During the measurement period, which may be up to one year from the acquisition date, the Company may record adjustments, in the period in which they are determined, to the assets acquired and liabilities assumed with the corresponding offset to goodwill. If the assets acquired are not a business, the Company accounts for the transaction or other event as an asset acquisition. Under both methods, the Company recognizes the identifiable assets acquired, the liabilities assumed, and any noncontrolling interest in the acquired entity. In addition, for transactions that are business combinations, the Company evaluates the existence of goodwill or a gain from a bargain purchase.

Goodwill represents the excess of the purchase price of an acquired entity over the fair value of identifiable tangible and intangible assets acquired and liabilities assumed in a business combination.

Intangible assets are established with business combinations and consist of brand names and customer relationships. Intangible assets with finite lives are recorded at their estimated fair value at the date of acquisition and are amortized over their estimated useful lives using the straight-line method. The estimated useful lives of amortizable intangible assets are as follows:

Customer relationships	3 years

Contingent Consideration

The Company estimates and records the acquisition date fair value of contingent consideration as part of purchase price consideration for acquisitions. Additionally, each reporting period, the Company estimates changes in the fair value of contingent consideration and recognizes any change in fair in the consolidated statement of operations. The estimate of the fair value of contingent consideration requires very subjective assumptions to be made of future operating results, discount rates and probabilities assigned to various potential operating result scenarios. Future revisions to these assumptions could materially change the estimate of the fair value of contingent consideration and, therefore, materially affect the Company's future financial results. The contingent consideration liability is to be settled with the issuance of shares of common stock once contingent provisions set forth in respective acquisition agreements have been achieved. Upon achievement of contingent provisions, respective liabilities are relieved and offset by increases to common stock and additional paid in capital in the stockholders' equity section of the Company's consolidated balance sheets.

Impairment of Long-Lived Assets

The Company reviews its long-lived assets (property and equipment and amortizable intangible assets) for impairment whenever events or circumstances indicate that the carrying amount of an asset may not be recoverable. If the sum of the expected cash flows, undiscounted, is less than the carrying amount of the asset, an impairment loss is recognized as the amount by which the carrying amount of the asset exceeds its fair value.

Goodwill

Goodwill and identifiable intangible assets that have indefinite useful lives are not amortized, but instead are tested annually for impairment and upon the occurrence of certain events or substantive changes in circumstances. The annual goodwill impairment test allows for the option to first assess qualitative factors to determine whether it is more likely than not that the fair value of a reporting unit is less than its carrying amount. An entity may choose to perform the qualitative assessment on none, some or all of its

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reporting units or an entity may bypass the qualitative assessment for any reporting unit and proceed directly to step one of the quantitative impairment test. If it is determined, on the basis of qualitative factors, that the fair value of a reporting unit is, more likely than not, less than its carrying value, the quantitative impairment test is required.

The quantitative impairment test calculates any goodwill impairment as the difference between the carrying amount of a reporting unit and its fair value, but not to exceed the carrying amount of goodwill. It is our practice, at a minimum, to perform a qualitative or quantitative goodwill impairment test in the first quarter every year.

In the first quarter of 2021, management performed its annual qualitative impairment test. The Company determined no factors existed to conclude that it is more likely than not that the fair value of the reporting unit was less than its carrying amount. As such, no goodwill impairment was recognized as of September 30, 2021.

Indefinite-Lived Intangible Assets

Indefinite-lived intangible assets established in connection with business combinations consist of the brand name. The impairment test for identifiable indefinite-lived intangible assets consists of a comparison of the estimated fair value of the intangible asset with its carrying value. If the carrying value exceeds its fair value, an impairment loss is recognized in an amount equal to that excess.

At September 30, 2020, management determined that certain events and circumstances occurred, primarily the reduction in revenues due to COVID-19, that indicated that the carrying value of the Company's brand name asset may not be recoverable. As such, the Company compared the estimated fair value of the brand name with its carrying value and recorded an impairment loss of $784,500 in the consolidated statements of operations.

Convertible Instruments

U.S. GAAP requires companies to bifurcate conversion options from their host instruments and account for them as free standing derivative financial instruments according to certain criteria. The criteria include circumstances in which (a) the economic characteristics and risks of the embedded derivative instrument are not clearly and closely related to the economic characteristics and risks of the host contract, the hybrid instrument that embodies both the embedded derivative instrument and the host contract is not re-measured at fair value under otherwise applicable generally accepted accounting principles with changes in fair value reported in earnings as they occur and (c) a separate instrument with the same terms as the embedded derivative instrument would be considered a derivative instrument. An exception to this rule is when the host instrument is deemed to be conventional as that term is described under applicable U.S. GAAP.

When the Company has determined that the embedded conversion options should not be bifurcated from their host instruments, the Company records, when necessary, discounts to convertible notes for the intrinsic value of conversion options embedded in debt instruments based upon the differences between the fair value of the underlying common stock at the commitment date of the note transaction and the effective conversion price embedded in the note. Debt discounts under these arrangements are amortized over the term of the related debt to their stated date of redemption. The Company also records, when necessary, deemed dividends for the intrinsic value of conversion options embedded in preferred shares based upon the differences between the fair value of the underlying common stock at the commitment date of the transaction and the effective conversion price embedded in the preferred shares.

Accounting for Preferred Stock

ASC 480, Distinguishing Liabilities from Equity, includes standards for how an issuer of equity (including equity shares issued by consolidated entities) classifies and measures on its balance sheet certain financial instruments with characteristics of both liabilities and equity.

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Management is required to determine the presentation for the preferred stock as a result of the redemption and conversion provisions, among other provisions in the agreement. Specifically, management is required to determine whether the embedded conversion feature in the preferred stock is clearly and closely related to the host instrument, and whether the bifurcation of the conversion feature is required and whether the conversion feature should be accounted for as a derivative instrument.

If the host instrument and conversion feature are determined to be clearly and closely related (both more akin to equity), derivative liability accounting under ASC 815, Derivatives and Hedging, is not required. Management determined that the host contract of the preferred stock is more akin to equity, and accordingly, liability accounting is not required by the Company. The Company has presented preferred stock within stockholders' equity.

Costs incurred directly for the issuance of the preferred stock are recorded as a reduction of gross proceeds received by the Company, resulting in a discount to the preferred stock. The discount is not amortized.

Revenue Recognition

Revenues are recognized when performance obligations are satisfied through the transfer of promised goods to the Company's customers. Control transfers upon shipment of product and when the title has been passed to the customers. This includes the transfer of legal title, physical possession, the risks and rewards of ownership, and customer acceptance. The Company provides the customer the right of return on the product and revenue is adjusted based on an estimate of the expected returns based on historical rates. The Company considers the sale of products as a single performance obligation. Sales tax collected from customers and remitted to taxing authorities is excluded from revenue and is included in accrued expenses. Revenue is deferred for orders received for which associated shipments have not occurred.

The reserve for returns totaled $20,041 and $5,229 as of September 30 , 2021 and December 31, 2020, respectively, and is included in accrued expenses and other liabilities in the accompanying consolidated balance sheets.

Cost of Revenues

Cost of revenues consists primarily of inventory sold and related freight-in.

Shipping and Handling

The Company recognizes shipping and handling billed to customers as a component of net revenues, and the cost of shipping and handling as distribution costs. Total shipping and handling billed to customers as a component of net revenues was approximately $6,500 and $3,900 for the nine months ended September 30, 2021 and 2020, respectively. Total shipping and handling costs included in distribution costs were approximately $81,000 and $36,000 for the three months ended September 30, 2021 and 2020, and $200,000 and $140,000 for the nine months ended September 30, 2021 and 2020, respectively.

Advertising and Promotion

Advertising and promotional costs are expensed as incurred. Advertising and promotional expense for the three months ended September 30, 2021 and 2020 amounted to approximately $12,000 and $0, and $16,000 and $100,000 for the nine months ended September 30, 2021 and 2020,respectively. The amounts are included in sales and marketing expense.

Common Stock Purchase Warrants and Other Derivative Financial Instruments

The Company accounts for derivative instruments in accordance with ASC 815, which establishes accounting and reporting standards for derivative instruments and hedging activities, including certain

derivative instruments embedded in other financial instruments or contracts and requires recognition of all derivatives on the balance sheet at fair value, regardless of hedging relationship designation. Accounting for changes in fair value of the derivative instruments depends on whether the derivatives qualify as hedging relationships and the types of relationships designated are based on the exposures hedged. At September 30, 2021 and December 31, 2020, the Company did not have any derivative instruments that were designated as hedges.

Stock Option and Warrant Valuation

Stock option and warrant valuation models require the input of highly subjective assumptions. The fair value of stock-based payment awards was estimated using the Black-Scholes option model with a volatility figure derived from an index of historical stock prices for comparable entities. For warrants and stock options issued to non-employees, the Company accounts for the expected life based on the contractual life of the warrants and stock options. For employees, the Company accounts for the expected life of options in accordance with the "simplified" method, which is used for "plain-vanilla" options, as defined in the accounting standards codification. The risk-free interest rate was determined from the implied yields of U.S. Treasury zero-coupon bonds with a remaining life consistent with the expected term of the options.

Stock-Based Compensation

The Company accounts for stock-based compensation costs under the provisions of ASC 718, Compensation — Stock Compensation, which requires the measurement and recognition of compensation expense related to the fair value of stock-based compensation awards that are ultimately expected to vest. Stock based compensation expense recognized includes the compensation cost for all stock-based payments granted to employees, officers, and directors based on the grant date fair value estimated in accordance with the provisions of ASC 718. ASC 718 is also applied to awards modified, repurchased, or cancelled during the periods reported. Stock-based compensation is recognized as expense over the employee's requisite vesting period and over the nonemployee's period of providing goods or services.

Deferred Offering Costs

The Company complies with the requirements of ASC 340, Other Assets and Deferred Costs, with regards to offering costs. Prior to the completion of an offering, offering costs are capitalized. The deferred offering costs are charged to additional paid-in capital or as a discount to debt, as applicable, upon the completion of an offering or to expense if the offering is not completed. As of December 31, 2020, the Company had capitalized $214,647 in deferred offering costs. Upon completion of the IPO in May 2021, all capitalized deferred offering costs were charged to additional paid-in capital. As of September 30, 2021, the Company capitalized $367,696 in deferred offering costs pertaining to its equity line of credit agreement with Oasis (Note 8).

Segment Information

In accordance with ASC 280, Segment Reporting ("ASC 280"), we identify our operating segments according to how our business activities are managed and evaluated. As of September 30, 2021 our operating segments included: DSTLD, Bailey, H&J and Stateside. Each operating segment currently reports to the Chief Executive Officer. Each of our brands serve or are expected to serve customers through our wholesale, in store and online channels, allowing us to execute on our omni-channel strategy. We have determined that each of our operating segments share similar economic and other qualitative characteristics, and therefore the results of our operating segments are aggregated into one reportable segment. All of the operating segments have met the aggregation criteria and have been aggregated and are presented as one reportable segment, as permitted by ASC 280. We continually monitor and review our segment reporting structure in accordance with authoritative guidance to determine whether any changes have occurred that would impact our reportable segments.

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Income Taxes

The Company uses the liability method of accounting for income taxes as set forth in ASC 740, Income Taxes. Under the liability method, deferred taxes are determined based on the temporary differences between the financial statement and tax basis of assets and liabilities using tax rates expected to be in effect during the years in which the basis differences reverse. A valuation allowance is recorded when it is unlikely that the deferred tax assets will not be realized. We assess our income tax positions and record tax benefits for all years subject to examination based upon our evaluation of the facts, circumstances and information available at the reporting date. In accordance with ASC 740-10, for those tax positions where there is a greater than 50% likelihood that a tax benefit will be sustained, our policy will be to record the largest amount of tax benefit that is more likely than not to be realized upon ultimate settlement with a taxing authority that has full knowledge of all relevant information. For those income tax positions where there is less than 50% likelihood that a tax benefit will be sustained, no tax benefit will be recognized in the financial statements.

Net Loss per Share

Net earnings or loss per share is computed by dividing net income or loss by the weighted-average number of common shares outstanding during the period, excluding shares subject to redemption or forfeiture. The Company presents basic and diluted net earnings or loss per share. Diluted net earnings or loss per share reflect the actual weighted average of common shares issued and outstanding during the period, adjusted for potentially dilutive securities outstanding. Potentially dilutive securities are excluded from the computation of the diluted net loss per share if their inclusion would be anti-dilutive. As all potentially dilutive securities are anti-dilutive as of September 30, 2021 and 2020, diluted net loss per share is the same as basic net loss per share for each year. Potentially dilutive items outstanding as of September 30, 2021 and 2020 are as follows:

	September 30,	
	2021	**2020**
Convertible notes	2,240,426	—
Series Seed Preferred Stock (convertible to common stock)	—	20,714,518
Series A Preferred Stock (convertible to common stock)	—	5,654,072
Series A-2 Preferred Stock (convertible to common stock)	—	5,932,742
Series CF Preferred Stock (convertible to common stock)	—	836,331
Series A-3 Preferred Stock (convertible to common stock)	—	9,032,330
Series B Preferred Stock (convertible to common stock)	—	20,754,717
Common stock warrants	3,591,348	794,569
Preferred stock warrants	—	806,903
Stock options	3,895,103	1,129,503
Total potentially dilutive shares	9,706,877	65,655,685

All shares of preferred stock were convertible into shares of common stock at a ratio of 15.625:1 per share. Upon the closing of the IPO, all 62,924,710 shares of preferred stock converted into an aggregate of 4,027,181 shares of common stock according to their respective terms. Additionally, all preferred stock warrants converted into 51,642 common stock warrants at the same ratio as the underlying preferred stock conversion.

Concentrations

The Company utilized five vendors that made up 39% of all inventory purchases during the nine months ended September 30, 2021 and two vendors that made up 39% of all inventory purchases during the

nine months ended September 30, 2020. The loss of one of these vendors, may have a negative short-term impact on the Company's operations; however, we believe there are acceptable substitute vendors that can be utilized longer-term.

Recent Accounting Pronouncements

In August 2020, the FASB issued Accounting Standards Update ("ASU") 2020-06, which simplifies the guidance on the issuer's accounting for convertible debt instruments by removing the separation models for convertible debt with a cash conversion feature and convertible instruments with a beneficial conversion feature. As a result, entities will not separately present in equity an embedded conversion feature in such debt and will account for a convertible debt instrument wholly as debt, unless certain other conditions are met. The elimination of these models will reduce reported interest expense and increase reported net income for entities that have issued a convertible instrument that is within the scope of ASU 2020-06. ASU 2020-06 is applicable for fiscal years beginning after December 15, 2021, with early adoption permitted no earlier than fiscal years beginning after December 15, 2020. The Company has elected to early adopt this ASU and the adoption of this ASU did not have a material impact on the Company's consolidated financial statements and related disclosures.

In February 2016, the FASB issued Accounting Standards Update ("ASU") 2016-02: Leases (Topic 842). The new guidance generally requires an entity to recognize on its balance sheet operating and financing lease liabilities and corresponding right-of-use assets. The standard will be effective for the first interim period within annual reporting periods beginning after December 15, 2018 and early adoption is permitted. The new standard requires a modified retrospective transition for existing leases to each prior reporting period presented. The Company has elected to utilize the extended adoption period available to the Company as an emerging growth company and has not currently adopted this standard. This standard will be effective for the first interim period within annual reporting periods beginning after December 15, 2021. The Company is currently evaluating the impact of the adoption of ASU 2016-02 on its financial position, results of operations and cash flows once adopted.

Management does not believe that any other recently issued, but not yet effective, accounting standards could have a material effect on the accompanying financial statements. As new accounting pronouncements are issued, the Company will adopt those that are applicable under the circumstances.

NOTE 4: BUSINESS COMBINATIONS

Bailey 44

On February 12, 2020, the Company acquired 100% of the membership interests of Bailey. The purchase price consideration included (i) an aggregate of 20,754,717 shares of Series B Preferred Stock of the Company (the "Parent Stock") and (ii) a promissory note in the principal amount of $4,500,000.

Of the shares of Parent Stock issued in connection with the Merger, 16,603,773 shares were delivered on the effective date of the Merger (the "Initial Shares") and four million one hundred fifty thousand nine hundred forty four (4,150,944) shares were held back solely, and only to the extent necessary, to satisfy any indemnification obligations of Bailey or the Holders pursuant to the terms of the Merger Agreement (the "Holdback Shares").

DBG agreed that if at that date which is one year from the closing date of the IPO, the product of the number of shares of Parent Stock issued under the Merger multiplied by the sum of the closing price per share of the common stock of the Company on such date, plus Sold Parent Stock Gross Proceeds (as that term is defined in the Merger Agreement), does not exceed the sum of $11,000,000 less the value of any Holdback Shares cancelled further to the indemnification provisions of the Merger Agreement, then the Company shall issue to the Holders pro rata an additional aggregate number of shares of common stock of

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the Company equal to the valuation shortfall at a per share price equal to the then closing price per share of the common stock of the Company.

Series B preferred stock	$11,000,000
Promissory note payable	4,500,000
Purchase price consideration	$15,500,000

	Purchase Price Allocation
Cash and cash equivalents	$ 106,913
Accounts receivable, net	37,479
Due (to) from factor, net	(312,063)
Inventory	3,303,660
Prepaid expenses	165,856
Deposits	187,493
Property, equipment and software, net	1,215,748
Goodwill	6,479,218
Intangible assets	8,600,000
Accounts payable	(3,397,547)
Accrued expenses and other liabilities	(886,757)
Purchase price consideration	$ 15,500,000

As of September 30, 2021, the Company has a contingent consideration liability of $7,056,479 based on the valuation shortfall as noted above. See Note 3.

Harper & Jones

On May 18, 2021, the Company closed its acquisition of H&J pursuant to its previously disclosed Membership Interest Stock Purchase Agreement (as amended, the "Purchase Agreement") with D. Jones Tailored Collection, Ltd. (the "Seller"), to purchase 100% of the issued and outstanding equity of Harper & Jones LLC. The purchase price consideration included (i) an aggregate of 2,192,771 shares of the Company's common stock and (ii) $500,000 financed from the proceeds of the IPO.

Pursuant to the H&J Purchase Agreement, the Seller, as the holder of all of the outstanding membership interests of H&J, exchanged all of such membership interests for a number of common stock of the Company equal to the lesser of (i) $9.1 million at a per share price equal to the initial public offering price of the Company's shares offered pursuant to its initial public offering or (ii) the number of Subject Acquisition Shares; "Subject Acquisition Shares" means the percentage of the aggregate number of shares of the Company's common stock issued pursuant to the Agreement, which is the percentage that Subject Seller Dollar Value is in relation to Total Dollar Value. "Subject Seller Dollar Value" means $9.1 million. If, at the one year anniversary of the closing date of the Company's IPO, the product of the number of shares of the Company's common stock issued at the closing of the acquisition multiplied by the average closing price per share of the shares of the Company's common stock as quoted on the NasdaqCM for the thirty (30) day trading period immediately preceding such date does not exceed the sum of $9.1 million less the value of any shares of the Company's common stock cancelled further to any indemnification claims made against the Seller then the Company shall issue to Seller an additional aggregate number of shares of the Company's common stock equal to the valuation shortfall at a per share price equal to the then closing price per share of the Company's common stock as quoted on the NasdaqCM.

The Company evaluated the acquisition of H&J pursuant to ASC 805 and ASU 2017-01, Topic 805, Business Combinations. The acquisition method of accounting requires, among other things, that the assets

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acquired and liabilities assumed in a business combination be measured at their estimated respective fair values as of the closing date of the acquisition. Goodwill recognized in connection with this transaction represents primarily the potential economic benefits that the Company believes may arise from the acquisition.

Total fair value of the purchase price consideration was determined as follows:

Cash	$ 500,000
Common stock	8,025,542
Contingent consideration	3,421,516
Purchase price consideration	$11,947,058

The Company has made an allocation of the purchase price in regard to the acquisition related to the assets acquired and the liabilities assumed as of the purchase date. The following table summarizes the purchase price allocation:

	Purchase Price Allocation
Cash and cash equivalents	$ 24,335
Accounts receivable, net	49,472
Inventory	77,159
Prepaid expenses	69,715
Deposits	4,415
Property, equipment and software, net	83,986
Goodwill	9,681,548
Intangible assets	3,936,030
Accounts payable	(51,927)
Accrued expenses and other liabilities	(107,957)
Deferred revenue	(269,848)
Due to related parties	(1,361)
Loan payable	(148,900)
Note payable – related party	(299,489)
Deferred tax liability	(1,100,120)
Purchase price consideration	$ 11,947,058

The customer relationships and will be amortized on a straight-line basis over their estimated useful lives of three years. The brand name is indefinite-lived. The Company used the relief of royalty approach to estimate the fair value of intangible assets acquired.

Goodwill is primarily attributable to the go-to-market synergies that are expected to arise as a result of the acquisition and other intangible assets that do not qualify for separate recognition. The goodwill is not deductible for tax purposes.

The Company recorded an initial contingent consideration liability at a fair value of $3,421,516 based on the valuation shortfall noted above. As of September 30, 2021, the H&J contingent consideration was valued at $3,471,431. See Note 3.

The results of H&J have been included in the consolidated financial statements since the date of acquisition. H&J's net revenue and net loss included in the consolidated financial statements since the acquisition date were approximately $1,050,000 and $53,000, respectively.

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Stateside

On August 30, 2021, the Company entered into a Membership Interest Purchase Agreement (the "MIPA") with Moise Emquies pursuant to which the Company acquired all of the issued and outstanding membership interests of MOSBEST, LLC, a California limited liability company ("Stateside" and such transaction, the "Stateside Acquisition"). Pursuant to the MIPA, Moise Emquies, as the holder of all of the outstanding membership interests of Stateside, exchanged all of such membership interests for $5.0 million in cash and 1,101,538 shares of the Company's common stock (the "Shares"), which number of Shares was calculated in accordance with the terms of the MIPA. Of such amount, $375,000 in cash and a number of Shares equal to $375,000, or 82,615 shares (calculated in accordance with the terms of the MIPA), is held in escrow to secure any working capital adjustments and indemnification claims. The MIPA contains customary representations, warranties and covenants by Moise Emquies.

The Company evaluated the acquisition of Stateside pursuant to ASC 805 and ASU 2017-01, Topic 805, Business Combinations. The acquisition method of accounting requires, among other things, that the assets acquired and liabilities assumed in a business combination be measured at their estimated respective fair values as of the closing date of the acquisition. Goodwill recognized in connection with this transaction represents primarily the potential economic benefits that the Company believes may arise from the acquisition.

Total fair value of the purchase price consideration was determined as follows:

Cash	$5,000,000
Common stock	3,403,196
Purchase price consideration	$8,403,196

The Company has made an allocation of the purchase price in regard to the acquisition related to the assets acquired and the liabilities assumed as of the purchase date. The following table summarizes the purchase price allocation:

	Purchase Price Allocation
Cash and cash equivalents	$ 32,700
Accounts receivable, net	154,678
Due from factor, net	371,247
Inventory	603,626
Prepaid expenses	105,442
Deposits	9,595
Goodwill	1,610,265
Intangible assets	5,939,140
Accounts payable	(374,443)
Accrued expenses and other liabilities	(49,053)
Purchase price consideration	$ 8,403,196

The customer relationships and will be amortized on a straight-line basis over their estimated useful lives of three years. The brand name is indefinite-lived. The Company used the relief of royalty and income approach to estimate the fair value of intangible assets acquired.

Goodwill is primarily attributable to the go-to-market synergies that are expected to arise as a result of the acquisition and other intangible assets that do not qualify for separate recognition. The goodwill is not deductible for tax purposes.

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The results of Stateside have been included in the consolidated financial statements since the date of acquisition. Stateside's net revenue and net income included in the consolidated financial statements since the acquisition date were approximately $530,000 and $69,000, respectively.

Unaudited Pro Forma Financial Information

The following unaudited pro forma financial information presents the Company's financial results as if the Bailey, H&J and Stateside acquisitions had occurred as of January 1, 2020. The unaudited pro forma financial information is not necessarily indicative of what the financial results actually would have been had the acquisitions been completed on this date. In addition, the unaudited pro forma financial information is not indicative of, nor does it purport to project, the Company's future financial results. The following unaudited pro forma financial information includes incremental property and equipment depreciation and intangible asset amortization as a result of the acquisitions. The pro forma information does not give effect to any estimated and potential cost savings or other operating efficiencies that could result from the acquisition:

	Nine Months Ended September 30,	
	2021	2020
Net revenues	$ 7,956,477	$ 11,287,932
Net loss	$(22,853,732)	$(10,080,468)
Net loss per common share	$ (3.81)	$ (15.18)

NOTE 5: DUE FROM FACTOR

The Company, via its subsidiaries, Bailey and Stateside, assigns a portion of its trade accounts receivable to a third- party factoring company, who assumes the credit risk with respect to the collection of non-recourse accounts receivable. The Company may request advances on the net sales factored at any time before their maturity date, and up to 50% of eligible finished goods inventories. The factor charges a commission on the net sales factored for credit and collection services. Interest on advances is charged as of the last day of each month at a rate equal to the LIBOR rate plus 2.5% for Bailey. For Stateside, should total commission and fees payable be less than $30,000 in a single year, then the factor shall charge the difference between the actual fees in said year and $30,000 to the Company. Interest on advances is charged as of the last day of each month at a rate equal to the greater of either, (a) the Chase Prime Rate + (2.0)% or (b) (4.0)% per annum. Advances are collateralized by a security interest in substantially all of the companies' assets.

Due to/from factor consist of the following:

	September 30, 2021	December 31, 2020
Outstanding receivables:		
Without recourse	$ 1,022,552	$ 151,158
With recourse	58,884	42,945
Advances	119,937	56,246
Credits due customers	(107,064)	(40,316)
	$ 1,094,309	$ 210,033

NOTE 6: GOODWILL AND INTANGIBLE ASSETS

The Company recorded $6,479,218 in goodwill from the Bailey business combination in February 2020, $9,681,548 in goodwill from the H&J business combination in May 2021 and $1,610,265 in goodwill from the Stateside business combination in August 2021.

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The following table summarizes information relating to the Company's identifiable intangible assets as of September 30, 2021:

	Gross Amount	Accumulated Amortization	Carrying Value
Amortized:			
Customer relationships	$ 6,453,750	$ (911,544)	$ 5,542,206
	6,453,750	(911,544)	5,542,206
Indefinite-lived:			
Brand name	$11,236,920	—	11,236,920
	$17,690,670	$ (911,544)	$16,779,126

The Company recorded amortization expense of $355,808 and $91,667 during the three months ended September 30, 2021 and 2020, and $590,711 and $229,167 during the nine months ended September 30, 2021 and 2020, respectively, which is included in general and administrative expenses in the consolidated statements of operations.

During the nine months ended September 30, 2020, the Company recorded an impairment loss of $784,500 for the brand name as management determined circumstances existed that indicated the carrying value of the Company's may not be recoverable.

NOTE 7: LIABILITIES AND DEBT

Accrued Expenses and Other Liabilities

The Company accrued expenses and other liabilities line in the consolidated balance sheets is comprised of the following as of September 30, 2021 and December 31, 2020:

	September 30, 2021	December 31, 2020
Accrued expenses	$ 266,646	$ 92,074
Reserve for returns	20,041	5,229
Payroll related liabilities	1,253,639	843,704
Sales tax liability	242,021	196,410
Other liabilities	71,607	108,229
	$ 1,853,954	$ 1,245,646

Certain liabilities including sales tax and payroll related liabilities maybe be subject to interest in penalties. As of September 30, 2021 and December 31, 2020, payroll related labilities included approximately $262,000 and $152,000 in estimated penalties associated with accrued payroll taxes.

Venture Debt

In March 2017, the Company entered into a senior credit agreement with an outside lender for up to $4,000,000, dependent upon the achievement of certain milestones. Through various amendments to the agreement, the credit agreement has been increased to approximately $6,000,000. The loan bears interest at 12.5% per annum, compounded monthly, plus fees currently at $5,000 per month. In March 2021, the Company and the lender agreed to extend the maturity date of the credit agreement to December 31, 2022, with certain payments due as follows. If the Company consummated a follow on public offering on or before July 31, 2021, the Company was required to make a $3,000,000 payment on the loan within five business days after such public offering. In addition, if the Company consummated an additional follow-on offering

thereafter on or before September 30, 2021, the Company was required to make another $3,000,000 payment on the loan within five business days after such public offering. If the Company did not consummate the initial follow on offering or, if the Company did not consummate the aforementioned second follow-on offering by September 30, 2021, the Company was required to make a $300,000 payment on the loan by September 30, 2021. As of the filing date of these financial statements, the Company and the lender agreed to defer the September 30, 2021 payment to December 15, 2021. As of the filing date, of these financial statements, all defaults were cured and there are no additional expected defaults in the next twelve months. Therefore, as of September 30, 2021, all venture debt is included as non-current with the exception of $300,000 included as current liabilities.

As of September 30, 2021 and December 31, 2020, the gross loan balance was $6,001,755.

The lender was also granted warrants to purchase common stock representing 1% of the fully diluted capitalization of the Company for each $1,000,000 of principal loaned under the agreement, which was increased to 1.358% during 2019. The relative fair value of the warrants is initially recorded as a discount to the note, which is amortized over its term. See Note 10 for further detail.

For the nine months ended September 30, 2021 and 2020, $147,389 and $144,974 of these loan fees and discounts from warrants were amortized to interest expense, leaving unamortized balances of $0 and $147,389 as of September 30, 2021 and December 31, 2020, respectively.

Interest expense for the three and nine months ended September 30, 2021 and 2020 was $189,096 and $323,807, and $591,123 and $658,730, respectively. Effective interest rate on the loan for the nine months ended September 30, 2021 and 2020 was 13.4% and 14.0%, respectively.

Convertible Debt

2020 Regulation CF Offering

During the year ended December 31, 2020, the Company received gross proceeds of $450,308 from a Regulation CF convertible debt offering. In 2021, the Company received additional gross proceeds of $473,650. Interest was 6% per annum and the debt was due October 30, 2022.

Upon closing of the IPO, the outstanding principal and accrued and unpaid interest of $16,942 was converted into 319,661 shares of common stock based on the terms of the notes. Total issuances costs were $69,627, which was recognized as a debt discount and was amortized in 2021 through the date of IPO when such debt converted. During the nine months ended September 30, 2021, $27,894 of the debt discount was amortized to interest expense.

2020 Regulation D Offering

Concurrently with the offering above, in 2021 and 2020 the Company received gross proceeds of $55,000 and $800,000, respectively, from a Regulation D convertible debt offering. The debt accrued interest at a rate of 14% per annum with a maturity date of nine months from the date of issuance. The debt was contingently convertible and contains both automatic and optional conversions. The debt converted automatically upon an initial public offering of at least $10,000,000 in gross proceeds at a price per share equal to 50% of the IPO price. Issuance costs on the aggregate funds totaled $100,000. In addition, the Company issued 512 warrants to purchase common stock in connection with the notes. The issuance costs and warrants are recognized as a debt discount and were amortized in 2021 through the date of IPO when such debt converted. The fair value of the warrants was determined to be negligible.

Upon closing of the IPO, $755,000 in outstanding principal and approximately $185,000 of the accrued and unpaid interest was converted into 453,437 shares of common stock. As of September 30, 2021, there was $100,000 remaining in outstanding principal that was not converted into equity.

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During the three and nine months ended September 30, 2021, $0 and $100,000 of debt discount was amortized to interest expense. The Company recorded an additional $132,609 in default interest expense upon conversion of these notes.

2019 Regulation D Offering

For the year ended December 31, 2019, the Company received gross proceeds of $799,280 from a Regulation D convertible debt offering. The debt accrued interest at a rate of 12% per annum with a maturity date of thirty-six months from the date of issuance. The debt was contingently convertible and contained both automatic and optional conversions. The debt converts automatically upon an initial public offering at $2.19 per share. If, prior to maturity there is a change in control event, the holders of a majority of the debt can vote to convert two times the value of the principle, with accrued interest being eliminated, at 1) the fair market value of the company's common stock at the time of such conversion, 2) $2.19 per share, 3) dividing the valuation cap ($9,000,000) by the pre-money fully diluted capitalization.

Upon closing of the IPO, the outstanding principal was converted into 362,055 shares of common stock.

Convertible Promissory Note

On August 27, 2021, the Company entered into a Securities Purchase Agreement with Oasis Capital, LLC ("Oasis Capital") further to which Oasis Capital purchased a senior secured convertible note (the "Oasis Note"), with an interest rate of 6% per annum, having a face value of $5,265,000 for a total purchase price of $5,000,000, secured by an all assets of the Company.

The Oasis Note, in the principal amount of $5,265,000, bears interest at 6% per annum and is due and payable 18 months from the date of issuance, unless sooner converted. The Oasis Note is convertible at the option of Oasis Capital into shares of the Company's common stock at a conversion price (the " Oasis Conversion Price") which is the lesser of (i) $3.601, and (ii) 90% of the average of the two lowest volumed weighted average prices ("VWAPs') during the five consecutive trading day period preceding the delivery of the notice of conversion. Oasis Capital is not permitted to submit conversion notices in any thirty day period having conversion amounts equaling, in the aggregate, in excess of $500,000. If the Oasis Conversion Price set forth in any conversion notice is less than $3.00 per share, the Company, at its sole option, may elect to pay the applicable conversion amount in cash rather than issue shares of its common stock.

In connection with the issuance of the Oasis Note, the Company entered into a security agreement (the "Security Agreement") pursuant to which the Company agreed to grant Oasis Capital a security interest in substantially all of its assets to secure the obligations under the Oasis Note and a registration rights agreement with Oasis Capital (the "Oasis Note RRA"). The Oasis Note RRA provides that the Company shall file a registration statement registering the shares of common stock issuable upon conversion of the Oasis Note no later than 60 days from the date of the Oasis Note and take commercially reasonable efforts to cause such registration statement to be effective with the SEC no later than 90 days from the date of the Oasis Note.

In connection with the issuance of the Oasis Note, each of the Company's subsidiaries entered into a security agreement and a subsidiary guarantee in favor of Oasis Capital pursuant to which such subsidiaries granted Oasis Capital a security interest in substantially all their assets and guarantee the obligations of the Company under the Oasis Note.

The Company received net proceeds, after the original issue discount and issuance costs, of $4,550,000. As such, the Company recognized a debt discount of $715,000 which will be amortized over the life of the note.

The Company evaluated the terms of the conversion features of the Oasis Note as noted above in accordance with ASC Topic No. 815 — 40, Derivatives and Hedging — Contracts in Entity's Own Stock, and determined they are not indexed to the Company's common stock and that the conversion features meet

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the definition of a liability. The Oasis Note contains an indeterminate number of shares to settle with conversion options outside of the Company's control. Therefore, the Company bifurcated the conversion feature and accounted for it as a separate derivative liability. Upon issuance of the Oasis Note, the Company recognized a derivative liability at fair value of $1,858,887, which is recorded as a debt discount and will amortized over the life of the note.

During the three months ended September 30, 2021, the Company amortized $102,772 of debt discount to interest expense. As of September 30, 2021, the net balance of the Oasis Note, after unamortized debt discount of $2,471,615, was $2,793,385.

Interest expense for the three months ended September 30, 2021 was $26,325.

Loan Payable — PPP and SBA Loan

In April 2020, the Company and Bailey each entered into a loan with a lender in an aggregate principal amount of $203,994 and $1,347,050, respectively, pursuant to the Paycheck Protection Program ("PPP") under the Coronavirus Aid, Relief, and Economic Security (CARES) Act. In February 2021, Bailey entered into an 2nd Round PPP Loan for a principal amount of $1,347,050. In May 2021, the Company entered into an 2nd Round PPP loan for a principal amount of $204,000.The PPP Loans are evidenced by a promissory note ("Note"). Subject to the terms of the Note, the PPP Loans bear interest at a fixed rate of one percent (1%) per annum, with the first six months of interest deferred, has an initial term of two years, and is unsecured and guaranteed by the Small Business Administration. The Company may apply to the Lender for forgiveness of the PPP Loan, with the amount which may be forgiven equal to the sum of payroll costs, covered rent, and covered utility payments incurred by the Company during the applicable forgiveness period, calculated in accordance with the terms of the CARES Act. The Note provides for customary events of default including, among other things, cross-defaults on any other loan with the lender. The PPP Loans may be accelerated upon the occurrence of an event of default. The loan proceeds were used for payroll and other covered payments including general operating costs and is expected to be forgiven in part based on current information available; however, formal forgiveness has not yet occurred as of the date of these financial statements.

The CARES Act additionally extended COVID relief funding for qualified small businesses under the Economic Injury Disaster Loan (EIDL) assistance program. On June 25, 2020 the Company was notified that their EIDL application was approved by the Small Business Association (SBA). Per the terms of the EIDL agreement, the Company received total proceeds of $150,000. The Loan matures in thirty years from the effective date of the Loan and has a fixed interest rate of 3.75% per annum. As of September 30, 2021, Harper & Jones had an outstanding loan under the EIDL program of $148,900.

Loan Payable

In May 2021, H&J entered into a loan payable with a bank and received proceeds of $75,000. The line bears interest at 7.76% and matures in December 2025. As of September 30, 2021, the outstanding balance was $72,269.

Note Payable — Related Party

As of September 30, 2021, H&J had an outstanding note payable of $299,489 owned by the H&J Seller. The note matures on July 10, 2022 and bears interest at 12% per annum.

Promissory Note Payable

As noted in Note 4, the Company issued a promissory note in the principal amount of $4,500,000 to the Bailey Holders pursuant to the Bailey acquisition. In February 2021, the maturity date of the agreement was extended from December 31, 2020 to July 31, 2021. In August 2021, the maturity date was further

extended to December 31, 2022. The Company is required to make prepayments of $2,000,000 to $4,000,000 if the Company completes a secondary public offering. If a public offering is not consummated before October 31, 2021 and June 30, 2022, the Company shall repay 10% of the outstanding principal at each date. The note incurs interest at 12% per annum. Upon the IPO closing, the Company repaid $1,000,000 of the outstanding principal on this note in May 2021. As of September 30, 3021, $3,500,000 remained outstanding, of which $655,000 is included in current liabilities based on the provisions above.

Interest expense was $105,000 and $135,000 for the three months ended September 30, 2021 and 2020, and $389,000 and $337,500 for the nine months ended September 30, 2021 and 2020, respectively, all of which was accrued and unpaid as of September 30, 2021.

In April 2021, the Company entered into a promissory note in the principal amount of $1,000,000. The Company received $810,000 in proceeds, net of issuance costs and original issue discount. Additionally, the Company issued 120,482 warrants to the lender and 20,000 shares of common stock to the underwriter, both of which was recorded as a debt discount at the time of the loan. The fair value of the warrants and shares recorded as a debt discount was $73,958. Upon the closing of the IPO, the note was repaid in full. The entire debt discount of $263,958 was amortized to interest expense upon repayment of the note.

NOTE 8: STOCKHOLDERS' EQUITY (DEFICIT)

Amended and Restated Certificate of Incorporation

On May 18, 2021, the Company filed a Sixth Amended and Restated Certificate of Incorporation (the "Restated Certificate") with the Secretary of State of the State of Delaware in connection with the Company's IPO. The Company's board of directors and stockholders previously approved the Restated Certificate to be effective immediately prior to the closing of the IPO.

The Restated Certificate amends and restates the Company's amended and restated certificate of incorporation, as amended, in its entirety to, among other things: (i) increase the authorized number of shares of common stock to 200,000,000 shares; (ii) authorize 10,000,000 shares of preferred stock that may be issued from time to time by the Company's board of directors in one or more series; (iii) provide that directors may be removed from office only for cause by the affirmative vote of the holders of at least 66 2/3% in voting power of the Company's outstanding capital stock then entitled to vote in an election of directors; (iv) eliminate the ability of the Company's stockholders to take action by written consent in lieu of a meeting; and (v) designate the Court of Chancery of the State of Delaware to be the sole and exclusive forum for certain legal actions and proceedings against the Company.

The Restated Certificate also effected a 1-for-15.625 reverse stock split approved by the Company's Board of Directors as described above.

Convertible Preferred Stock

During the nine months ended September 30, 2020, the Company issued 809,294 shares of Series A-3 Preferred Stock at a price of $0.53 and 709,690 shares of Series CF Preferred Stock at price per share of $0.52.

During the nine months ended September 30, 2020, the Company issued 20,754,717 shares of Series B Preferred Stock to the Bailey Holders pursuant to the Bailey acquisition at a price per share of $0.53 for a total fair value of $11,000,000. See Note 4.

Upon the closing of the Company's IPO on May 18, 2021, all then-outstanding shares of Preferred Stock converted into an aggregate of 4,027,181 shares of common stock according to their terms.

Common Stock

The Company had 200,000,000 shares of common stock authorized with a par value of $0.0001 as of September 30, 2021.

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Common stockholders have voting rights of one vote per share. The voting, dividend, and liquidation rights of the holders of common stock are subject to and qualified by the rights, powers, and preferences of preferred stockholders.

Equity Line of Credit

On August 27, 2021 ("Execution Date"), the Company entered into an equity line of credit arrangement with Oasis Capital. Specifically, the Company entered into an equity purchase agreement (the "EPA"), pursuant to which Oasis Capital is committed to purchase up to $17,500,000 of the Company's common stock over the 24-month term of the EPA. The Company is not obligated to request any portion of the $17,500,000.

As of September 30, 2021, the Company has not drawn down any portion of this commitment, leaving the entire $17,500,000 available under the equity line of credit, and for which the Company has agreed, pursuant to a registration rights agreement (the "Oasis Equity RRA"), to register the shares of common stock issuable further to the equity line of credit with the SEC before any such issuances. The actual number of shares that the Company may issue pursuant to the equity line of credit is not determinable as it is based on the market price of the Company's common stock from time to time and the number of shares desired to put to Oasis Capital.

During the 24-month term of the investment agreement, the Company may request a drawdown on the equity line of credit by delivering a "put notice" to Oasis Capital stating the dollar amount of shares the Company intends to sell to Oasis Capital. The Company may make either an Option 1 or Option 2 request to Oasis Capital. Under Option 1, the purchase price Oasis Capital is required to pay for the shares is the lesser of (i) the lowest traded price of the common stock on the Nasdaq Capital Market on the Clearing Date, which is the date on which Oasis Capital receives the put shares as DWAC shares in its brokerage account, or (ii) the average of the three lowest closing sale prices of our Common Stock on the Nasdaq Capital Market during the period of twelve consecutive trading days immediately preceding the Clearing Date. The maximum amount the Company may request in an Option 1 request is $500,000. Under Option 2, the purchase price Oasis Capital is required to pay for the shares is the lesser of (i) 93% of the one (1) lowest traded price of our common stock on the Nasdaq Capital Market during the period of five (5) consecutive trading days immediately preceding the put date, or (ii) 93% of the VWAP on the Clearing Date, or (iii) 93% of the closing bid price of the Company's common stock on the Nasdaq Capital Market on the Clearing Date. The maximum amount the Company may request in an Option 2 request is $2,000,000.

2021 Transactions

On May 13, 2021, the Company's registration statement on Form S-1 relating to the IPO was declared effective by the SEC. In the IPO, which closed on May 18, 2021, the Company issued and sold 2,409,639 shares of common stock at a public offering price of $4.15 per share. Additionally, the Company issued warrants to purchase 2,771,084 shares, which includes 361,445 warrants sold upon the partial exercise of the over-allotment option. The aggregate net proceeds to the Company from the were $8.6 million after deducting underwriting discounts and commissions of $0.8 million and direct offering expenses of $0.6 million.

Upon the closing of the Company's IPO on May 18, 2021, all then-outstanding shares of Preferred Stock converted into an aggregate of 4,027,181 shares of common stock according to their terms.

Upon closing of the Company's IPO, the Company converted outstanding principal totaling $2,680,289 and certain accrued and unpaid interest of the Company's convertible debt into an aggregate of 1,135,153 shares of common stock. See Note 7.

Upon closing of the Company's IPO, certain officers and directors converted balances due totaling $257,515 into 152,357 shares of common stock and recorded $233,184 in compensation expense for the shares issued in excess of accrued balances owed. See Note 9.

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In connection with the H&J and Stateside acquisitions, the Company issued 2,192,771 and 1,101,538 shares of common stock to the respective sellers. See Note 4.

The Company issued 20,000 shares to the underwriter in connection with its April 2021 note financing.

Pursuant to a consulting agreement, the Company issued 50,000 shares of common stock with a guaranteed equity value of $250,000. In connection with the agreement, the Company recorded a contingent consideration liability of $67,000. See Note 3.

In May 2021, an aggregate of 31,881 warrants were exercised for shares of common stock for proceeds of $145,696. In July 2021, warrant holders exercised 355,000 warrants for proceeds of $1,622,350.

On June 28, 2021, the Company's underwriters purchased 361,445 shares of common stock at a public offering price of $4.15 per share pursuant to the exercise of the remaining portion of their over-allotment option. The Company received net proceeds of approximately $1.4 million after deducting underwriting discounts and commissions of $0.1 million.

In connection with the execution of the Oasis Capital EPA, the Company issued Oasis Capital 126,354 shares of common stock (the "Commitment Shares"). Upon nine months from the Execution Date, Oasis may return a portion of the Commitment Shares. As of September 30, 2021, the Company recorded the fair value of the Commitment Shares of $367,696 as deferred offering costs as no financings under the related EPA have occurred.

NOTE 9: RELATED PARTY TRANSACTIONS

Employee Backpay, Loans Receivable and Loans Payable

As of September 30, 2021 and December 31, 2020, due to related parties includes advances from the former officer, Mark Lynn, who also serves as a director, totaling $104,568 and $194,568 respectively, and accrued salary and expense reimbursements of $126,706 and $246,885 respectively, to current officers. Upon closing of the IPO, 25,080 shares of common stock were issued to directors as conversion of balances owed.

The current CEO, Hil Davis, previously advanced funds to the Company for working capital. These prior advances were converted to a note payable totaling $115,000. Upon closing of the IPO, 127,278 shares of common stock were issued to the CEO as conversion of the outstanding note payable and related accrued interest, accrued compensation and other consideration. As of a result of the transaction, the Company recorded an additional $233,184 in stock compensation expense, which is included in general and administrative expenses in the condensed consolidated statements of operations.

As of September 30, 2021, H&J had an outstanding note payable of $299,489 owned by the H&J Seller. The note matures on July 10, 2022 and bears interest at 12% per annum.

As of September 30, 2021, Stateside had $97,471 in outstanding amounts advances to a company partially owned by the Stateside Seller. The advances are unsecured, non-interest bearing and due on demand. The amount is included in prepaid expenses and other current assets in the consolidated balance sheets.

NOTE 10: SHARE-BASED PAYMENTS

Common Stock Warrants

During the nine months ended September 30, 2020, the Company granted 374,048 common stock warrants to the venture debt lender with an exercise price of $2.50 per share. The warrants were valued at $139,572 using the below range of inputs using the Black-Scholes model.

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During the Company's Series A-3 Preferred Stock raise, the Company granted 2,603 common stock warrants at an exercise price of $8.28 per share to a funding platform in the nine months ended September 30, 2020.

	Nine Months Ended September 30, 2020
Risk Free Interest Rate	1.54 – 1.59%
Expected Dividend Yield	0.00%
Expected Volatility	58.0%
Expected Life (years)	10.00

In connection with the IPO, the Company issued 2,409,639 warrants and an additional 361,445 warrants to purchase common stock per the over-allotment option. Each warrant will have an exercise price of $4.57 per share (equal to 110% of the offering price of the common stock), will be exercisable upon issuance and will expire five years from issuance.

On May 13, 2021, pursuant to the IPO Underwriting Agreement, the Company issued warrants to the underwriters to purchase up to an aggregate of 120,482 shares of common stock with an exercise price of $5.19 per share. The warrants may be exercised beginning on November 13, 2021 and will expire five years from issuance.

In connection with the Company's April 2021 note financing, the Company issued warrants to the lender to purchase up to 120,482 shares of common stock. The warrants have an exercise price of $4.15 per share and are exercisable immediately after issuance.

In May 2021, an aggregate of 31,881 warrants were exercised for shares of common stock for proceeds of $145,696. In July 2021, warrant holders exercised 355,000 warrants for proceeds of $1,622,350.

A summary of information related to common stock warrants for the nine months ended September 30, 2021 is as follows:

	Common Stock Warrants	Weighted Average Exercise Price
Outstanding – December 31, 2020	914,539	$ 2.66
Granted	3,012,048	4.58
Conversion of preferred stock warrants upon IPO	51,642	7.66
Exercised	(386,881)	4.57
Forfeited	—	—
Outstanding – September 30, 2021	3,591,348	$ 4.13
Exercisable at September 30, 2021	3,470,866	$ 4.10

Preferred Stock Warrants

A summary of information related to preferred stock warrants for the nine months ended September 30, 2021 is as follows:

DIGITAL BRANDS GROUP, INC.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(UNAUDITED)

	Preferred Stock Warrants	Weighted Average Exercise Price
Outstanding – December 31, 2020	806,903	$ 0.49
Converted to common stock warrants upon IPO	(806,903)	0.49
Exercised	—	—
Forfeited	—	—
Outstanding – September 30, 2021	—	$ —
Exercisable at September 30, 2021	—	$ —

Upon the IPO, all outstanding preferred stock warrants converted into common stock warrants at a ratio of 15.625:1.

Stock Options

2020 Incentive Stock Plan

The Company has adopted a 2020 Omnibus Incentive Stock Plan (the "2020 Plan"). An aggregate of 3,300,000 shares of the Company's common stock is reserved for issuance and available for awards under the 2020 Plan, including incentive stock options granted under the 2020 Plan. The 2020 Plan administrator may grant awards to any employee, director, consultant or other person providing services to us or our affiliates. Upon the IPO, 2,712,000 options were granted to executives and directors at an exercise price of $4.15 per share. As of September 30, 2021, 588,000 options were available for future issuance.

A summary of information related to stock options under our 2013 and 2020 Stock Plan for the nine months ended September 30, 2021 is as follows:

	Options	Weighted Average Exercise Price
Outstanding – December 31, 2020	1,163,103	$ 2.34
Granted	2,712,000	4.15
Exercised	—	—
Forfeited	—	—
Outstanding – September 30, 2021	3,875,103	$ 3.62
Exercisable at September 30, 2021	3,084,831	$ 3.61
Weighted average duration (years) to expiration of outstanding options at September 30, 2021	8.27	

Stock-based compensation expense of $134,113 and $5,779 was recognized for the three months ended September 30, 2021 and 2020, and $4,155,641 and $105,643 was recognized for the nine months ended September 30, 2021 and 2020, respectively. During the nine months ended September 30, 2021, $537,550 was recorded to sales and marketing expense, and all other stock compensation was included in general and administrative expense in the condensed consolidated statements of operations. Total unrecognized compensation cost related to non-vested stock option awards as of September 30, 2021 amounted to $1,164,223 and will be recognized over a weighted average period of 2.48 years.

NOTE 11: LEASE OBLIGATIONS

In April 2021, the Company entered into a lease agreement for operating space in Los Angeles, California. The lease expires in June 2023 and has monthly base rent payments of $17,257. The lease required a $19,500 deposit.

DIGITAL BRANDS GROUP, INC.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(UNAUDITED)

H&J leases office and showroom facilities in Dallas and Houston, Texas, and New Orleans, Louisiana. The leases expire at various dates through June 2022 with base rents ranging from $3,400 to $6,500.

Stateside leases office and showroom facilities in Los Angeles, California. The leases expire at various dates through November 2021 with base rents ranging from $3,100 to $9,000.

Total rent expense for the three months ended September 30, 2021 and 2020 was $246,103 and $106,702, and $551,944 and $570,051 for the nine months ended September 30, 2021 and 2020, respectively.

NOTE 12: CONTINGENCIES

On February 28, 2020, a Company vendor filed a lawsuit against the Company's non-payment of trade payables totaling $123,000. Such amounts, including expected interest, are included in accounts payable in the accompanying consolidated balance sheets and the Company does not believe it is probable that losses in excess of such trade payables will be incurred. The Company is making payments each month and this matter will be settled by March 2022.

On March 25, 2020, a Bailey's product vendor filed a lawsuit against Bailey for non-payment of trade payables totaling $492,390. Approximately the same amount is held in accounts payable for this vendor in the accompanying consolidated balance sheets and the Company does not believe it is probable that losses in excess of such trade payables will be incurred. The Company and product vendor have entered into a settlement, which will require the Company make ten monthly payments of approximately $37,000, starting in May 2021. Upon completion of the payment schedule, any remaining amounts will be forgiven. If the Company fails to meet its obligations based on the prescribed time frame, the full amount will be due with interest, less payments made.

On December 21, 2020, a Company investor filed a lawsuit against DBG for reimbursement of their investment totaling $100,000. Claimed amounts are included in short-term convertible note payable in the accompanying consolidated balance sheets and the Company does not believe it is probable that losses in excess of such short-term note payable will be incurred. The Company is actively working to resolve this matter.

In August 2020 and March 2021, two lawsuits were filed against Bailey's by third-party's related to prior services rendered. The claims (including fines, fees, and legal expenses) total an aggregate of $96,900. Both cases are in the preliminary stages and the Company believes the claims to be without merit. At this time, the Company is unable to determine potential outcomes but does not believe risk of loss is probable.

On September 24, 2020 a Bailey's product vendor filed a lawsuit against Bailey's non-payment of trade payables totaling approximately $481,000 and additional damages of approximately $296,000. Claimed amounts for trade payables are included in accounts payable in the accompanying consolidated balance sheets, net of payments made. The Company does not believe it will be liable for additional damages and therefore the Company does not believe additional accrual is needed over what is included in accounts payable at this time. The Company plans to contest any such damages vigorously.

Except as may be set forth above the Company is not a party to any legal proceedings, and the Company is not aware of any claims or actions pending or threatened against us. In the future, the Company might from time to time become involved in litigation relating to claims arising from its ordinary course of business, the resolution of which the Company does not anticipate would have a material adverse impact on our financial position, results of operations or cash flows.

NOTE 13: INCOME TAXES

The Company recorded a tax benefit of $1,100,200 for the nine months ended September 30, 2021 related to a full release of its valuation allowance pertaining to the acquisition of H&J (see Note 4). The

DIGITAL BRANDS GROUP, INC.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(UNAUDITED)

acquisition of H&J created a deferred tax liability position, and those deferred tax liabilities can be used as a source of income for the Company's existing deferred tax assets.

NOTE 14: SUBSEQUENT EVENTS

Management's Evaluation

On October 1, 2021, FirstFire Global Opportunities Fund, LLC ("FirstFire") purchased from the Company a senior secured convertible note (the "FirstFire Note"), with an interest rate of 6% per annum, having a face value of $1,575,000 for a total purchase price of $1,500,000, secured by an all assets of the Company. The Company received net proceeds of $1,380,000.

The FirstFire Note, in the principal amount of $1,575,000, bears interest at 6% per annum and is due and payable 18 months from the date of issuance, unless sooner converted. The FirstFire Note is convertible at the option of FirstFire into shares of the Company's common stock at a conversion price (the "FirstFire Conversion Price") which is the lesser of (i) 130% of the closing price on the last trading day prior to the issue date, and (ii) 90% of the average of the two lowest VWAPs during the five consecutive trading day period preceding the delivery of the notice of conversion. FirstFire is not permitted to submit conversion notices in any thirty day period having conversion amounts equaling, in the aggregate, in excess of $500,000. If the FirstFire Conversion Price set forth in any conversion notice is less than $3.00 per share, the Company, at its sole option, may elect to pay the applicable conversion amount in cash rather than issue shares of its common stock.

MOSBEST, LLC, dba Stateside

FINANCIAL STATEMENTS
AS OF AND FOR THE SIX MONTHS
ENDED JUNE 30, 2021 (UNAUDITED)
AND YEAR ENDED
DECEMBER 31, 2020

Mosbest, LLC, dba Stateside

Index to the Financial Statements

As of June 30, 2021 (unaudited) and December 31, 2020

armanino

INDEPENDENT AUDITOR'S REPORT

To the Member
Mosbest, LLC, dba Stateside
Los Angeles, California

We have audited the accompanying financial statements of Mosbest, LLC, dba Stateside, a California limited liability company (the "Company"), which comprise the balance sheet as of December 31, 2020, and the related statements of operations, member's 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 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 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 financial statements referred to above present fairly, in all material respects, the financial position of the Company as of December 31, 2020, 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.

/s/ Armanino LLP
Los Angeles, California

September 2, 2021

MOORE

An independent firm associated with Moore Global Network Limited

MOSBEST, LLC, dba Stateside

BALANCE SHEETS

	June 30, 2021 (unaudited)	December 31, 2020
ASSETS		
Current assets:		
Cash	$ 241,989	$ 251,381
Accounts receivable	127,346	56,926
Due from factor	199,322	378,880
Inventory	517,926	386,756
Due from related parties	97,551	97,472
Prepaid expenses and other current assets	12,556	11,036
Total current assets	1,196,690	1,182,451
Fixed assets, net	—	17,838
Deposits	9,594	9,594
Total assets	$1,206,284	$ 1,209,883
LIABILITIES AND MEMBER'S EQUITY		
Current liabilities:		
Accounts payable	$ 255,071	$ 289,613
Accrued liabilities	60,051	23,673
Loan payable, current	34,838	—
Total current liabilities	349,960	313,286
Loan payable, net of current portion	187,257	—
Total liabilities	537,217	313,286
Commitments and contingencies (Note 8)		
Member's equity	669,067	896,597
Total member's equity	669,067	896,597
Total liabilities and member's equity	$1,206,284	$ 1,209,883

The accompanying notes are an integral part of these financial statements.

MOSBEST, LLC, dba Stateside

STATEMENTS OF OPERATIONS

	Six Months Ended June 30,		Year Ended December 31,
	2021	2020	2020
	(unaudited)		
Net revenues	$2,350,362	$1,481,167	$ 3,187,512
Cost of goods sold	712,320	564,355	1,485,726
Gross profit	1,638,042	916,812	1,701,786
Operating expenses:			
General and administrative	605,427	659,201	1,192,241
Distribution	86,965	86,667	155,483
Sales and marketing	609,886	428,791	838,638
Total operating expenses	1,302,278	1,174,659	2,186,362
Income (loss) from operations	335,764	(257,847)	(484,577)
Other income (expenses), net			
Other income	—	10,000	261,035
Other expenses	(12,494)	—	—
Total other income (expenses), net	(12,494)	10,000	261,035
Provision for income taxes	800	800	800
Net income (loss)	$ 322,470	$ (248,647)	$ (224,341)

The accompanying notes are an integral part of these financial statements.

MOSBEST, LLC, dba Stateside

STATEMENTS OF MEMBER'S EQUITY

	Member's Equity
Balances at December 31, 2019	$1,424,263
Distributions	(303,325)
Net loss	(224,341)
Balances at December 31, 2020	896,597
Distributions	(550,000)
Net income	322,470
Balances at June 30, 2021 (unaudited)	$ 669,067

The accompanying notes are an integral part of these financial statements.

MOSBEST, LLC, dba Stateside

STATEMENTS OF CASH FLOWS

	Six Months Ended June 30,		Year Ended December 31,
	2021	2020	2020
	(unaudited)		
Cash flows from operating activities:			
Net income (loss)	$ 322,470	$(248,647)	$ (224,341)
Adjustments to reconcile net income (loss) to net cash provided by (used in) operating activities:			
Gain on forgiveness of debt	—	—	(251,221)
Depreciation and amortization	17,838	27,604	55,207
Non-cash contributions	—	—	—
Changes in operating assets and liabilities:			
Accounts receivable	(70,420)	105,298	221,173
Due from factor	179,558	(126,392)	(322,367)
Inventory	(131,170)	—	283,467
Prepaid expenses and other current assets	(1,520)	30,749	26,663
Accounts payable	(34,542)	(381,845)	(143,680)
Accrued liabilities	36,378	35,360	(97,397)
Net cash provided by (used in) operating activities	318,592	(557,873)	(452,496)
Cash flows from investing activities:			
Advances to related parties	(79)	—	—
Deposits	—	(6,200)	(9,594)
Net cash used in investing activities	(79)	(6,200)	(9,594)
Cash flows from financing activities:			
Proceeds from loan payable	222,095	251,221	251,221
Advances from factor	—	667,907	667,907
Distributions	(550,000)	—	(303,325)
Net cash provided by (used in) financing activities	(327,905)	919,128	615,803
Net change in cash and cash equivalents	(9,392)	355,055	153,713
Cash and cash equivalents at beginning of period	251,381	97,668	97,668
Cash and cash equivalents at end of period	$ 241,989	$ 452,723	$ 251,381
Supplemental disclosure of cash flow information:			
Cash paid for income taxes	$ 800	$ 800	$ 800
Cash paid for interest	$ —	$ —	$ —

The accompanying notes are an integral part of these financial statements.

MOSBEST, LLC, dba Stateside

NOTES TO THE FINANCIAL STATEMENTS

NOTE 1 — NATURE OF OPERATIONS

Mosbest, LLC, dba Stateside, (the "Company") was formed on November 8, 2010, in the State of California. The Company's headquarters are located in Los Angeles, California.

The Company operates a clothing business of women's garments for casual wear, including blouses, dresses, loungewear, and more. Our team created a collection of elevated American basics influenced by the evolution of the classic t-shirt. All garments are designed and produced in Los Angeles.

NOTE 2 — SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Basis of Presentation

The financial statements of the Company are prepared in accordance with accounting principles generally accepted in the United States of America ("U.S. GAAP").

Unaudited Interim Financial Information

The accompanying financial statements for the six months ended June 30, 2021 and the related footnote disclosures are unaudited. The unaudited interim financial statements have been prepared on the same basis as the annual financial statements and, in our opinion, reflect all adjustments necessary to present fairly our financial position as of June 30, 2021 and results of operations, and cash flows for the six months ended June 30, 2021 and 2020. The results for the six months ended June 30, 2021 are not necessarily indicative of the results to be expected for the year ending December 31, 2021 or for any other periods.

Use of Estimates

Preparation of the financial statements in conformity with U.S. GAAP requires us to make certain estimates and assumptions that affect the amounts reported in the financial statements and accompanying notes. Actual results could ultimately differ from these estimates. It is reasonably possible that changes in estimates may occur in the near term.

Risks and Uncertainties

On January 30, 2020, the World Health Organization declared the coronavirus outbreak a "Public Health Emergency of International Concern" and on March 10, 2020, declared it to be a pandemic. Actions taken around the world to help mitigate the spread of the coronavirus include restrictions on travel, and quarantines in certain areas, and forced closures for certain types of public places and businesses. The negative impact the global pandemic has had on the Company in 2020 is significant, given Stateside revenue is linked to domestic and local locations and offices for operations ranging from production to shipment of goods to customers — all of which were forced to close for a duration of 2020, per local requirements around continued operations for essential vs. non-essential businesses.

Fair Value of Financial Instruments

Fair value is defined as the exchange price that would be received for an asset or paid to transfer a liability (an exit price) in the principal or most advantageous market for the asset or liability in an orderly transaction between market participants as of the measurement date. Applicable accounting guidance provides an established hierarchy for inputs used in measuring fair value that maximizes the use of observable inputs and minimizes the use of unobservable inputs by requiring that the most observable inputs be used when available. Observable inputs are inputs that market participants would use in valuing the asset or liability and are developed based on market data obtained from sources independent of the Company. Unobservable inputs are inputs that reflect our assumptions about the factors that market participants would use in valuing the asset or liability. There are three levels of inputs that may be used to measure fair value:

Level 1 — Observable inputs that reflect quoted prices (unadjusted) for identical assets or liabilities in active markets.

Level 2 — Include other inputs that are directly or indirectly observable in the marketplace.

Level 3 — Unobservable inputs which are supported by little or no market activity.

The fair value hierarchy also requires an entity to maximize the use of observable inputs and minimize the use of unobservable inputs when measuring fair value.

Fair-value estimates discussed herein are based upon certain market assumptions and pertinent information available to us as of June 30, 2021 and December 31, 2020. Fair values of the Company's financial instruments were assumed to approximate carrying values because of the instruments' short-term nature.

Cash

The Company maintains its cash in various commercial banks in the United States ("U.S."). Accounts at U.S. banks are insured by the Federal Deposit Insurance Corporation up to $250,000. While the Company's accounts at these institutions, at times, may exceed the federally insured limits, management believes that the risk of loss is not significant and the Company has not experienced any losses in such accounts to date.

Accounts Receivable

Accounts receivable are recorded at the invoiced amount and are non-interest-bearing. As of June 30, 2021 and December 31, 2020, there were no allowances for credit losses.

Inventories

Inventory consists of raw materials purchased from the Company's suppliers, work in progress, finished goods and amounts held on consignment. Inventory is valued at the lower of first-in, first-out, cost, or net realizable value.

Fixed Assets, Net

Fixed assets are stated at cost less accumulated depreciation. The Company's fixed assets are depreciated using the straight-line method over the estimated useful life of three (3) to seven (7) years. Leasehold improvements are depreciated over the lesser of the term of the respective lease or estimated useful economic life. At the time of retirement or other disposition of property and equipment, the cost and accumulated depreciation are removed from the accounts and any resulting gain or loss is reflected in operations.

Impairment of Long-Lived Assets

The Company reviews its long-lived assets in accordance with Accounting Standards Codification ("ASC") 360-10-35, *Impairment or Disposal of Long-Lived Assets.* Under that directive, long-lived assets are grouped with other assets and liabilities at the lowest level for which identifiable cash flows are largely independent of the cash flows of other assets and liabilities. Such group is tested for impairment whenever events or changes in circumstances indicate that its carrying amount may not be recoverable. When such factors and circumstances exist, the projected undiscounted future cash flows associated with the related asset or group of assets over their estimated useful lives are compared against their respective carrying amount. Impairment, if any, is based on the excess of the carrying amount over the fair value, based on market value when available, or discounted expected cash flows, of those assets and is recorded in the period in which the determination is made. For the six months ended June 30, 2021 and year ended December 31, 2020, there were no impairment charges.

Revenue Recognition

In accordance with ASC Topic 606,*Revenue from Contracts with Customers*, the Company recognizes revenue via the sale of the Company's merchandise to its customers. Sales contracts (purchase orders) generally have a single performance obligation, which is satisfied upon shipment of merchandise at a point in time. Revenue is measured based on the consideration stated on an invoice, net of estimated returns, chargebacks, and allowances for other deductions based upon management's estimates and the Company's

historical experience. The Company accepts product returns from customers in line with the Company's return policy, with each return depending on the underlying reason for and timing of the returned merchandise.

Wholesale revenues are recognized upon shipment of product to the customer. Revenues are recorded, net of expected returns, discounts and allowances. The Company reviews and refines these estimates using historical trends, seasonal results and current economic and market conditions.

E-commerce revenues of products ordered through the Company's website are recognized upon shipment to the customers. E-commerce revenues are also reduced by expected returns and discounts.

The Company evaluates the allowance for sales returns and allowances based on historical percentages, utilizing a multiple-month lookback period. As of June 30, 2021 and December 31, 2020, the Company determined no allowance for sales returns was necessary.

Cost of Goods Sold

Cost of goods sold consist of the costs of inventory sold and inbound freight. The Company includes outbound freight associated with shipping goods to customers as a component of distribution expenses as noted below.

Shipping and Handling Fees and Costs

The Company includes shipping and handling fees billed to customers within revenues. The costs associated with shipping goods to customers are recorded within distribution expenses and amounted to approximately $43,000, $28,000 and $57,000 for the six months ended June 30, 2021 and 2020 and year ended December 31, 2020, respectively.

Advertising

The Company expenses advertising costs as incurred. Advertising costs expensed were $40,219, $35,391 and $20,271 for the six months ended June 30, 2021 and 2020 and year ended December 31, 2020, respectively.

Income Taxes

The Company is a limited liability company (LLC) classified as a partnership for federal income tax purposes, which provides for profits and losses to be reported at the individual member level for income tax purposes. The Company pays the necessary amount of distributions in order to satisfy the member's estimated personal income tax liabilities arising from the Company's profits. The state of California imposes an annual fee on the LLC based on the level of gross revenue of the LLC. As of December 31, 2020, the Company does not have any entity-level uncertain tax positions. The Company files income tax returns in the U.S. federal and California state jurisdictions. Generally, the Company is subject to examination by U.S. federal (or state and local) income tax authorities for three to four years from the filing of a tax return.

Concentration of Credit Risk

Cash — The Company maintains its cash with a major financial institution, which it believes to be creditworthy, located in the United States of America. The Federal Deposit Insurance Corporation insures balances up to $250,000. At times, the Company may maintain balances in excess of the federally insured limits.

Customers — As of December 31, 2020, one customer accounted for approximately 14% of accounts receivable, and accounted for approximately 12% of revenues for the year ended December 31, 2020. There were no revenue or receivable concentrations in 2021.

Suppliers — The Company relies on a small number of vendors for raw materials and inventory purchases. Management believes that the loss of one or more of these vendors would have a material impact on the Company's financial position, results of operations and cash flows.

Recent Accounting Pronouncements

In February 2016, the FASB issued ASU No. 2016-02,*Leases (Topic 842)*. The new standard establishes a right-of-use ("ROU") model that requires a lessee to record a ROU asset and a lease liability, measured on a discounted basis, the balance sheet for all leases with terms greater than 12 months. Leases will be classified as either finance or operating, with classification affecting the pattern of expense recognition in the statements of operations. A modified retrospective transition approach is required for capital and operating leases existing at the date of adoption, with certain practical expedients available. The Company is currently in the process of evaluating the potential impact of this new guidance, which is effective for the Company beginning on January 1, 2022, although early adoption is permitted.

In June 2016, the FASB issued ASU 2016-13,*Financial Instruments — Credit Losses: Measurement of Credit Losses on Financial Instruments*, which changes the impairment model for most financial assets. Several amendments to this new guidance have also been issued by the FASB between 2016 and 2020. The new model uses a forward-looking expected loss method, which will generally result in earlier recognition of allowances for losses. The Company is evaluating the impact of this guidance, which is effective for the Company beginning on January 1, 2023, although early adoption is permitted.

NOTE 3 — DUE FROM FACTOR

The Company assigns a portion of its accounts receivable to a third- party factoring company ("the Factor"), who assumes the credit risk with respect to the collection of non-recourse accounts receivable. The Company may request advances on the net sales factored at any time before their maturity date, and other advances at the discretion of the Factor. The Factor charges a commission on the net sales factored for credit and collection services. Should total commission and fees payable be less than $30,000 in a single year, considered to be fees charged to both the Company's Factoring Agreement and a separate agreement with Sunnyside, LLC, then the Factor shall charge the difference between the actual fees in said year and $30,000 to the Company. Interest on advances is charged as of the last day of each month at a rate equal to the greater of either, (a) the Chase Prime Rate + (2.0%) or (b) (4.0%) per annum.

During the year ended December 31, 2020, the Company received advances from the factor of $667,907. There were no advances in the six months ended June 30, 2021.

NOTE 4 — INVENTORY

The Company had inventories consisting of the following:

	June 30, 2021	December 31, 2020
	(unaudited)	
Raw materials	$ 179,889	$ 85,966
Work in progress	245,947	205,253
Finished goods	71,691	89,131
Inventory on cosignment	20,399	6,407
Inventory	$ 517,926	$ 386,756

NOTE 5 — FIXED ASSETS, NET

Fixed assets, net, are comprised of the following:

	June 30, 2021	December 31, 2020
	(unaudited)	
Leasehold improvements and showrooms	$ 196,129	$ 196,129
Furniture and equipment	62,909	62,909
Automobile	17,000	17,000
	276,038	276,038
Less: accumulated depreciation and amortization	(276,038)	(258,200)
Fixed assets, net	$ —	$ 17,838

Depreciation and amortization expense was $17,838, $27,604 and $55,207 for the six months ended June 30, 2021 and 2020 and year ended December 31, 2020, respectively.

NOTE 6 — DEBT

In April 2020, the Company entered into a loan with a lender in an aggregate principal amount of $251,221 pursuant to the Paycheck Protection Program ("PPP") under the Coronavirus Aid, Relief, and Economic Security (CARES) Act. The PPP Loan is evidenced by a promissory note ("Note"). Subject to the terms of the Note, the PPP Loan bears interest at a fixed rate of one percent (1%) per annum, with the first six months of interest deferred, has an initial term of two years, and is unsecured and guaranteed by the Small Business Administration. The Company may apply to the Lender for forgiveness of the PPP Loan, with the amount which may be forgiven equal to the sum of payroll costs, covered rent, and covered utility payments incurred by the Company during the applicable forgiveness period, calculated in accordance with the terms of the CARES Act. The Note provides for customary events of default including, among other things, cross-defaults on any other loan with the lender. The PPP Loan may be accelerated upon the occurrence.

In December 2020, the Company received notification from the Small Business Association that the entire PPP loan balance had been forgiven.

In January 2021, the Company entered into a second PPP Loan for proceeds of $222,095.

NOTE 7 — RELATED-PARTY TRANSACTIONS

In May 2019, the Company advanced funds to a company partially owned by its Member. As of June 30, 2021 and December 31, 2020, the amount outstanding was $97,551 and $97,472, respectively. These advances are unsecured, non-interest bearing, and due on demand.

The Company has a lease with the owner for its office and showroom facilities. See Note 8.

During the six months ended June 30, 2021 and year ended December 31, 2020, the Company paid payroll expenses on behalf of a related party entity totaling $0 and $34,615, respectively.

NOTE 8 — COMMITMENTS AND CONTINGENCIES

Litigation

The Company is not currently involved with, and does not know of any, pending or threatened litigation against the Company or any of its officers.

Leases

The Company leases office and showroom facilities in Los Angeles, California. The leases expire at various dates through November 2021 with base rents ranging from $3,100 to $9,000. The following table shows the future annual minimum obligations under lease commitments in effect at December 31, 2020:

2021	$67,620
2022	—
	$67,620

In May 2021, the Company resigned the lease from June 2021 through June 2022. The base rent is $12,000 per month and there are renewal options at expiration.

NOTE 9 — MEMBER'S EQUITY

As of December 31, 2020 and 2019, the Company had a single member. During the six months ended June 30, 2021, member distributions were $550,000. During the year ended December 31, 2020, member distributions were $303,325.

The sole member has exclusive and complete authority over the activities of the Company.

The debts, obligations, and liabilities of the Company, whether arising in contract, tort, or otherwise, are solely the debts, obligations, and liabilities of the Company, and no member of the Company is obligated personally for any such debt, obligation, or liability.

NOTE 10 — SUBSEQUENT EVENTS

The Company has evaluated subsequent events that occurred after June 30, 2021 through September 2, 2021, the issuance date of these financial statements.

On August 30, 2021, Digital Brands Group, Inc., a Delaware corporation (DBG"), entered into a Membership Interest Purchase Agreement (the "MIPA") with Moise Emquies ("Seller") pursuant to which DBG acquired all of the issued and outstanding membership interests of the Company. Pursuant to the MIPA, Seller, as the holder of all of the outstanding membership interests of the Company, exchanged all of such membership interests for $5.0 million in cash and a number of shares of common stock of DBG equal to $5.0 million, or 1,101,538 shares (the "Shares"), which number of Shares was calculated in accordance with the terms of the Agreement. Of such amount, $375,000 in cash and a number of Shares equal to $375,000, or 82,615 shares (calculated in accordance with the terms of the Agreement), is held in escrow to secure any working capital adjustments and indemnification claims. The MIPA contains customary representations, warranties and covenants by Seller.

The Acquisition closed on August 30, 2021. Upon closing of the Acquisition and the other transactions contemplated by the MIPA, the Company became a wholly-owned subsidiary of DBG.

UNAUDITED PRO FORMA COMBINED FINANCIAL INFORMATION

The following unaudited pro forma combined financial information presents the unaudited pro forma combined balance sheet and statement of operations based upon the combined historical financial statements of DBG, Bailey, H&J and Stateside after giving effect to the business combinations and adjustments described in the accompanying notes.

The unaudited pro forma combined balance sheets of DBG, Bailey, H&J and Stateside as of June 30, 2021 has been prepared to reflect the effects of the acquisitions as if they occurred on January 1, 2021. The unaudited pro forma combined statements of operations for the six months ended June 30, 2021 and year ended December 31, 2020 combine the historical results and operations of Bailey, H&J, Stateside and DBG giving effect to the transaction as if it occurred on January 1, 2020.

The unaudited pro forma combined financial information should be read in conjunction with the audited and unaudited historical financial statements of each of the DBG, Bailey, H&J and Stateside and the notes thereto. Additional information about the basis of presentation of this information is provided in Note 2 below.

The unaudited pro forma combined financial information was prepared in accordance with Article 11 of Regulation S-X. The unaudited pro forma adjustments reflecting the transaction have been prepared in accordance with business combination accounting guidance as provided in *Accounting Standards Codification Topic 805, Business Combinations* and reflect the preliminary allocation of the purchase price to the acquired assets and liabilities based upon the preliminary estimate of fair values, using the assumptions set forth in the notes to the unaudited pro forma combined financial information.

The unaudited pro forma combined financial information is provided for informational purposes only and is not necessarily indicative of the operating results or financial position that would have occurred if the transaction had been completed as of the dates set forth above, nor is it indicative of the future results or financial position of the combined company. In connection with the pro forma financial information, DBG allocated the purchase price using its best estimates of fair value. Accordingly, the pro forma acquisition price adjustments are preliminary and subject to further adjustments as additional information becomes available and as additional analyses are performed. The unaudited pro forma combined financial information also does not give effect to the potential impact of current financial conditions, any anticipated synergies, operating efficiencies or cost savings that may result from the transaction or any integration costs. Furthermore, the unaudited pro forma combined statements of operations do not include certain nonrecurring charges and the related tax effects which result directly from the transaction as described in the notes to the unaudited pro forma combined financial information.

UNAUDITED PROFORMA COMBINED STATEMENT OF OPERATIONS
FOR THE SIX MONTHS ENDED JUNE 30, 2021

	DBG	H&J	Stateside	Total	Pro Forma Adjustments		Pro Forma Combined
Net revenues	$ 1,411,934	$ 980,261	$2,350,362	$ 4,742,558	$ —		$ 4,742,558
Cost of net revenues	1,224,886	350,004	712,320	2,287,210	—		2,287,210
Gross profit	187,048	630,257	1,638,042	2,455,347	—		2,455,347
Operating expenses:							
General and administrative	9,099,978	410,891	605,427	10,116,296	952,903	(a)	11,069,199
Sales and marketing	1,094,103	349,338	609,886	2,053,328	—		2,053,328
Distribution	133,442	—	86,965	220,407	—		220,407
Change in fair value of contingent consideration	3,050,901	—	—	3,050,901	—		3,050,901
Total operating expenses	13,378,424	760,229	1,302,278	15,440,931	952,903		16,393,834
Loss from operations	(13,191,376)	(129,972)	335,764	(12,985,584)	(952,903)		(13,938,487)
Other income (expense):							
Interest expense	(1,572,964)	(33,668)	—	(1,606,632)	(318,533)	(b)	(1,925,165)
Other non-operating income (expenses)	(57,213)	—	(12,494)	(69,707)	—		(69,707)
Total other income (expense), net	(1,630,177)	(33,668)	(12,494)	(1,676,338)	(318,533)		(1,994,872)
Income tax benefit (provision)	1,100,120	—	(800)	1,099,320	—		1,099,320
Net income (loss)	$(13,721,433)	$(163,640)	$ 322,470	$(13,562,603)	$(1,271,436)		$(14,834,039)

UNAUDITED PROFORMA COMBINED STATEMENT OF OPERATIONS
FOR THE YEAR ENDED DECEMBER 31, 2020

	DBG	Bailey	H&J	Stateside	Total	Pro Forma Adjustments		Pro Forma Combined
Net revenues	$ 5,239,437	$2,019,823	$2,542,721	$3,187,512	$ 12,989,493	$ —		$ 12,989,493
Cost of net revenues	4,685,755	1,020,237	897,873	1,485,726	8,089,592	—		8,089,592
Gross profit	553,682	999,586	1,644,848	1,701,786	4,899,902	—		4,899,902
Operating expenses:								
General and administrative	7,149,210	1,439,879	1,044,397	1,192,241	10,825,728	2,353,637	(a)	13,179,365
Sales and marketing	576,469	483,657	1,163,124	838,638	3,061,889	—		3,061,889
Distribution	342,466	—	—	155,483	497,949	—		497,949
Loss on disposal of property and equipment	848,927	—	—	—	848,927	—		848,927
Impairment of intangible assets	784,500	—	—	—	784,500	—		784,500
Total operating expenses	9,701,572	1,923,536	2,207,521	2,186,362	16,018,992	2,353,637		18,372,629
Loss from operations	(9,147,890)	(923,950)	(562,673)	(484,577)	(11,119,090)	(2,353,637)		(13,472,727)
Other income (expense):								
Interest expense	(1,599,518)	(25,396)	(92,270)	—	(1,717,184)	(1,177,067)	(b)	(2,894,251)
Gain on forgiveness of debt	—	—	225,388	261,035	486,423	(486,423)	(d)	—
Other non-operating income (expenses)	32,754	—	10,110	—	42,864	—		42,864
Total other income (expense), net	(1,566,764)	(25,396)	143,228	261,035	(1,187,897)	(1,663,490)		(2,851,387)
Provision for income taxes	13,641	—	—	800	14,441	—		14,441
Net loss	$(10,728,295)	$ (949,346)	$ (419,446)	$ (224,341)	$(12,321,428)	$(4,017,127)		$(16,338,555)

UNAUDITED PROFORMA COMBINED BALANCE SHEET
AS OF JUNE 30, 2021

	DBG	Stateside	Total	Pro Forma Adjustments		Pro Forma Combined
ASSETS						
Current assets:						
Cash and cash equivalents	$ 4,075,921	$ 241,989	$ 4,317,910	$ 1,500,000		$ 5,817,910
Accounts receivable, net	346,390	127,346	473,736	—		473,736
Due from factor, net	6,859	199,322	206,181	—		206,181
Inventory	1,165,152	517,926	1,683,078	—		1,683,078
Due from related parties	—	97,551	97,551	—		97,551
Prepaid expenses	849,434	12,556	861,990	—		861,990
Total current assets	6,443,756	1,196,690	7,640,446	1,500,000		9,140,446
Deferred offering costs	—	—	—	—		—
Property, equipment and software, net	119,817	—	119,817	—		119,817
Goodwill	16,160,766	—	16,160,766	1,794,989	(c)	17,955,755
Intangible assets, net	11,175,794	—	11,175,794	5,333,127	(a), (c)	16,508,921
Deposits	116,199	9,594	125,793	—		125,793
Total assets	$ 34,016,332	$1,206,284	$ 35,222,616	$ 8,628,116		$ 43,850,732
LIABILITIES AND STOCKHOLDERS' EQUITY						
Current liabilities:						
Accounts payable	$ 6,307,071	$ 255,071	$ 6,562,142	$ —		$ 6,562,142
Accrued expenses and other liabilities	1,615,622	60,051	1,675,673	—		1,675,673
Deferred revenue	172,470	—	172,470	—		172,470
Due to related parties	252,635	—	252,635	—		252,635
Contingent consideration liability	6,539,417	—	6,539,417	—		6,539,417
Convertible notes, current	100,000	—	100,000	—		100,000
Accrued interest payable	801,031	—	801,031	205,200	(b)	1,006,231
Note payable – related party	299,489	—	299,489	—		299,489
Venture debt, current	300,000	—	300,000	—		300,000
Loan payable, current	1,712,000	34,838	1,746,838	—		1,746,838
Promissory note payable	3,500,000	—	3,500,000	—		3,500,000
Total current liabilities	21,599,735	349,960	21,949,695	205,200		22,154,895
Convertible notes	—	—	—	6,500,000	(c)	6,500,000
Loan payable	1,762,639	187,257	1,949,896	—		1,949,896
Venture debt, net of discount	5,701,755	—	5,701,755	—		5,701,755
Warrant liability	78,710	—	78,710	—		78,710
Total liabilities	29,142,839	537,217	29,680,056	6,705,200		36,385,256
Stockholders' equity:						
Common stock	1,104	—	1,104	110	(c)	1,214
Additional paid-in capital	51,939,819	—	51,939,819	3,403,086	(c)	55,342,905
Accumulated deficit	(47,067,430)	669,067	(46,398,363)	(1,480,280)		(47,878,643)
Total stockholders' equity	4,873,493	669,067	5,542,560	1,922,916		7,465,476
Total liabilities and stockholders' equity	$ 34,016,332	$1,206,284	$ 35,222,616	$ 8,628,116		$ 43,850,732

1. Description of Transactions

Bailey 44

Prior to the Merger, Bailey had (a) membership interests consisting of Preferred Units, Common Units and Performance Units (collectively, the "Membership Units") outstanding and (b) entered into certain Phantom Performance Unit Agreements (the "Phantom Performance Units"). All Preferred Units were held by Norwest Venture Partners XI, LP and Norwest Venture Partners XII, LP (the "Holders"). As a result of the Merger, (A) each Preferred Unit issued and outstanding immediately prior to the Effective Time of the Merger was converted (and when so converted, was automatically cancelled and retired and ceased to exist) in exchange for the right to receive a portion of (i) an aggregate of 20,754,717 newly issued shares of Series B Preferred Stock, par value $0.0001 per share, of DBG (the "Parent Stock") and (ii) a promissory note in the principal amount of $4,500,000, (B) all other Membership Units other than the Preferred Units as well as all Phantom Performance Units were cancelled and no consideration was delivered in exchange therefor, and (C) Bailey became the wholly-owned subsidiary of DBG. The Articles of Incorporation were amended to authorize the newly issued shares of Series B Preferred Stock, par value $0.0001 per share, of DBG (the "Parent Stock").

Of the shares of Parent Stock issued in connection with the Merger, 16,603,773 shares were delivered on the effective date of the Merger (the "Initial Shares") and four million one hundred fifty thousand nine hundred forty four (4,150,944) shares were held back solely, and only to the extent necessary, to satisfy any indemnification obligations of Bailey or the Holders pursuant to the terms of the Merger Agreement (the "Holdback Shares").

DBG agreed that if at that date which is one year from the closing date of DBG's initial public offering, the product of the number of shares of Parent Stock issued under the Merger Agreement multiplied by the sum of the closing price per share of the common stock of DBG on such date as quoted on Nasdaq, the New York Stock Exchange or other stock exchange or interdealer quotation system, as the case may be, plus Sold Parent Stock Gross Proceeds (as that term is defined in the Merger Agreement) does not exceed the sum of $11,000,000 less the value of any Holdback Shares cancelled further to the indemnification provisions of the Merger Agreement, then DBG shall issue to the Holders pro rata an additional aggregate number of shares of common stock of DBG equal to the valuation shortfall at a per share price equal to the then closing price per share of the common stock of DBG as quoted on the Nasdaq, the New York Stock Exchange or other stock exchange or interdealer quotation system, as the case may be. Concurrently, DBG will cause an equivalent number of shares of common stock or common stock equivalents held by affiliated stockholders of DBG prior to the date of the Merger Agreement to be cancelled pro rata in proportion to the number of shares of common stock of DBG held by each of them.

In addition, DBG agreed that at all times from the date of the Merger Agreement until the date immediately preceding the effective date of DBG's initial public offering, in no event will the number of shares of Parent Stock issued pursuant to the Merger Agreement represent less than 9.1% of the outstanding capital stock of DBG on a fully-diluted basis. DBG agreed that in the event that, at any time prior to the date immediately preceding the effective date of DBG's initial public offering, the shares of Parent Stock issued pursuant to the Merger Agreement represent less than 9.1% of the outstanding capital stock of DBG on a fully-diluted basis, DBG shall promptly issue new certificates evidencing additional shares of Parent Stock to the Holders such that the total number of shares of Parent Stock issued pursuant to DBG's Merger Agreement is not less than 9.1% of DBG's the outstanding capital stock on a fully-diluted basis as of such date.

Harper & Jones

On October 14, 2020, DBG entered into a Membership Interest Purchase Agreement (the "Agreement") with D. Jones Tailored Collection, Ltd., a Texas limited partnership ("Seller"), to acquire all of the outstanding membership interests of H&J concurrent with the closing of an initial public offering by DBG (the "Transaction"). Pursuant to the Agreement, Seller, as the holder of all of the outstanding membership interests of H&J, exchanged all of such membership interests for a number of common stock of DBG equal to the lesser of (i) $9.1 million at a per share price equal to the initial public offering price of DBG's shares offered pursuant to its initial public offering or (ii) the number of Subject Acquisition Shares; "Subject

Acquisition Shares" means the percentage of the aggregate number of shares of DBG's common stock issued pursuant to the Agreement, which is the percentage that Subject Seller Dollar Value is in relation to Total Dollar Value. "Subject Seller Dollar Value" means $9.1 million. "Total Dollar Value" means the sum of Existing Holders Dollar Value plus the Bailey Holders Dollar Value plus the aggregate dollar value with respect to all other acquisitions to be completed by DBG concurrently with its initial public offering (including the Subject Seller Dollar Value). "Existing Holders Dollar Value" means $40.0 million. "Bailey Holders Dollar Value" means $11.0 million. In addition, DBG contributed to H&J a $500,000 cash payment that was allocated towards H&J's debt outstanding immediately prior to the closing of the Transaction. Twenty percent of the shares of DBG issued to Seller at the closing was issued into escrow to cover possible indemnification obligations of Seller and post-closing adjustments under the Agreement.

If, at the one year anniversary of the closing date of DBG's initial public offering, the product of the number of shares of DBG's common stock issued at the closing of the Transaction multiplied by the average closing price per share of the shares of DBG's common stock as quoted on the NasdaqCM for the thirty (30) day trading period immediately preceding such date plus Sold Buyer Shares Gross Proceeds does not exceed the sum of $9.1 million less the value of any shares of DBG's common stock cancelled further to any indemnification claims made against Seller or post-closing adjustments under the Agreement, then DBG shall issue to Seller an additional aggregate number of shares of DBG's common stock equal to the valuation shortfall at a per share price equal to the then closing price per share of DBG's common stock as quoted on the NasdaqCM (the "Valuation Shortfall").

Concurrently, DBG will cause a number of shares of DBG's common stock or common stock equivalents held by certain of its affiliated stockholders prior to the closing of the Transaction to be cancelled in an equivalent Dollar amount as the Valuation Shortfall on a pro rata basis in proportion to the number of shares of DBG's common stock or common stock equivalents held by each of them. "Sold Buyer Shares Gross Proceeds" means the aggregate gross proceeds received by Seller from sales of Sold Buyer Shares within the period that is one (1) year from the Closing Date. "Sold Buyer Shares" means shares of DBG's common stock issued to Seller further to the Transaction and which are sold by Seller within the period that is one (1) year from the closing of the Transaction.

Stateside

On August 30, 2021, we entered into a Membership Interest Purchase Agreement (the "MIPA") with Moise Emquies ("Seller") pursuant to which we acquired all of the issued and outstanding membership interests of MOSBEST, LLC, a California limited liability company ("MOSBEST" and such transaction, the "MOSBEST Acquisition"). Pursuant to the MIPA, Seller, as the holder of all of the outstanding membership interests of MOSBEST, exchanged all of such membership interests for $5.0 million in cash and a number of shares of our common stock equal to $5.0 million, or 1,101,538 shares (the "Shares"), which number of Shares was calculated in accordance with the terms of the MIPA. Of such amount, $375,000 in cash and a number of Shares equal to $375,000, or 82,615 shares (calculated in accordance with the terms of the MIPA), is held in escrow to secure any working capital adjustments and indemnification claims. The MIPA contains customary representations, warranties and covenants by Seller.

The MOSBEST Acquisition closed on August 30, 2021. Upon closing of the MOSBEST Acquisition and the other transactions contemplated by the MIPA, MOSBEST became a wholly-owned subsidiary of the Company.

In connection with the Stateside acquisition, on August 27, 2021, the Company entered into a Securities Purchase Agreement with Oasis Capital, LLC ("Oasis Capital") further to which Oasis Capital purchased a senior secured convertible note (the "Note"), with an interest rate of 6% per annum, having a face value of $5,265,000 for a total purchase price of $5,000,000, secured by an all assets of the Company.

The Note, in the principal amount of $5,265,000, bears interest at 6% per annum and is due and payable 18 months from the date of issuance, unless sooner converted. The Note is convertible at the option of Oasis Capital into shares of the Company's common stock at a conversion price (the "Conversion Price") which is the lesser of (i) $3.601, and (ii) 90% of the average of the two lowest VWAPs during the five consecutive trading day period preceding the delivery of the notice of conversion. Oasis Capital is not permitted to submit conversion notices in any thirty day period having conversion amounts equaling, in the aggregate, in

excess of $500,000. If the Conversion Price set forth in any conversion notice is less than $3.00 per share, the Company, at its sole option, may elect to pay the applicable conversion amount in cash rather than issue shares of its common stock.

2. Basis of Presentation

The historical financial information has been adjusted to give pro forma effect to events that are (i) directly attributable to the transaction, (ii) factually supportable, and (iii) with respect to the unaudited pro forma combined balance sheets and unaudited pro forma combined statements of operations, expected to have a continuing impact on the combined results.

The transactions were accounted for as a business acquisition whereas Bailey, H&J and Stateside are the accounting acquires and DBG is the accounting acquirer.

3. Consideration Transferred

Bailey 44

Total fair value of the purchase price consideration was determined as follows:

Series B preferred stock	$11,000,000
Promissory note payable	4,500,000
Purchase price consideration	$15,500,000

As a result of the acquisition, DBG recorded intangible assets of $8,600,000, including $7,500,000 attributable to brand name and $1,100,000 attributable to customer relationships. DBG recorded $6,479,218 in goodwill representing the remaining excess purchase price of the fair value of net assets acquired and liabilities assumed.

The following table shows the allocation of the purchase price for Bailey to the acquired net identifiable assets: and pro forma goodwill

	Purchase Price Allocation
Assets acquired	$ 4,705,086
Goodwill	6,479,218
Intangible assets	8,600,000
Liabilities assumed	(4,284,304)
Purchase price consideration	$ 15,500,000

Harper & Jones

Total fair value of the purchase price consideration was determined as follows:

	Purchase Price Allocation
Common stock	$ 9,100,000
Purchase price consideration	$ 9,100,000

As a result of the acquisition, DBG recorded pro forma intangible assets of $3,936,030, including $2,218,360 attributable to brand name and $1,717,670 attributable to customer relationships. DBG recorded $9,681,548 in pro forma goodwill representing the remaining excess purchase price of the fair value of net assets acquired and liabilities assumed.

The following table shows the allocation of the purchase price for H&J to the acquired net identifiable assets and pro forma goodwill:

	Purchase Price Allocation
Assets acquired	$ 309,083
Goodwill	9,681,548
Intangible assets	3,936,030
Liabilities assumed	(1,979,603)
Purchase price consideration	$ 11,947,058

Stateside

Total fair value of the purchase price consideration was determined as follows:

Cash	$5,000,000
Common stock	3,403,196
Purchase price consideration	$8,403,196

As a result of the acquisition, DBG recorded pro forma intangible assets of $5,939,140, including $2,303,060 attributable to brand name and $3,636,080 attributable to customer relationships. DBG recorded $1,794,989 in pro forma goodwill representing the remaining excess purchase price of the fair value of net assets acquired and liabilities assumed.

The following table shows the preliminary allocation of the purchase price for Stateside to the acquired net identifiable assets and pro forma goodwill:

	Preliminary Purchase Price Allocation
Assets acquired	$ 1,206,284
Goodwill	1,794,989
Intangible assets	5,939,140
Liabilities assumed	(537,217)
Purchase price consideration	$ 8,403,196

4. Pro Forma Adjustments

(a) To recognize depreciation on the acquired entities' property and equipment, and amortization on the intangible assets recorded as a result of the acquisitions.

(b) To record accrued interest on the promissory note pursuant to the convertible notes.

(c) To record the purchase price allocation of the Stateside pro forma acquisition, including the recognition of goodwill and intangible assets, purchase price consideration by DBG, and elimination of Stateside's equity. Further, to record the Oasis and First Fire convertible notes, net of discount.

(d) To reverse H&J and Stateside's gain on forgiveness of debt as this amount was determined to be non-recurring income.

Digital Brands Group, Inc.

2,500,000 **Shares of Common Stock**

PROSPECTUS

, 2021

PART II

INFORMATION NOT REQUIRED IN PROSPECTUS

Item 13. ***Other Expenses of Issuance and Distribution.***

The following table sets forth all fees and expenses payable by the Company in connection with the offering of our common stock being registered hereby. All amounts are estimated except the SEC registration fee.

Securities and Exchange Commission registration fee	$ 717
Accounting fees and expenses	35,000
Legal fees and expenses	75,000
Printing fees and expenses	5,000
Miscellaneous fees and expenses	9,283
Total	$125,000

Item 14. ***Indemnification of Directors and Officers.***

The Registrant is governed by the Delaware General Corporation Law, as the same exists or may hereafter be amended (the "General Corporation Law"). Section 145 of the General Corporation Law ("Section 145") provides that a Delaware corporation may indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of such corporation) by reason of the fact that such person is or was a director, officer, employee or agent of such corporation, or is or was serving at the request of such corporation as a director, officer, employee or agent of another corporation or enterprise. The indemnification may include expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceeding, provided such person acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the corporation's best interests and, with respect to any criminal action or proceeding, had no reasonable cause to believe that his conduct was unlawful. Section 145 also provides that a Delaware corporation may indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of such corporation, under the same conditions, except that such indemnification is limited to expenses (including attorneys' fees) actually and reasonably incurred by such person, and except that no indemnification is permitted without judicial approval if such person is adjudged to be liable to such corporation. Where an officer or director of a corporation is successful, on the merits or otherwise, in the defense of any action, suit or proceeding referred to above, or any claim, issue or matter therein, the corporation must indemnify that person against the expenses (including attorneys' fees) which such officer or director actually and reasonably incurred in connection therewith.

Section 145 further authorizes a corporation to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation or enterprise, against any liability asserted against such person and incurred by such person in any such capacity, or arising out of such person's status as such, whether or not the corporation would otherwise have the power to indemnify such person against such liability under Section 145.

The Registrant's Sixth Amended and Restated Certificate of Incorporation provides that the Registrant may indemnify to the fullest extent permitted by law any person made or threatened to be made a party to an action or proceeding, whether criminal, civil, administrative or investigative, by reason of the fact that he, his testator or intestate is or was a director, officer, employee or agent of the Registrant or any predecessor of the Registrant, or serves or served at any other corporation, partnership, joint venture, trust or other enterprise as a director, officer, employee or agent at the request of the Registrant or any predecessor of the Registrant.

The Registrant's Amended and Restated Bylaws provide for mandatory indemnification of directors and officers (and permit the Registrant to indemnify non-officer employees and agents at its option) to the fullest extent permitted by General Corporation Law against all expense, liability and loss including attorney's fees, judgments, fines, ERISA excise taxes or penalties and amounts paid in settlements, provided that the Registrant shall not be required to indemnify in connection with a proceeding initiated by such indemnitee unless the proceeding in which indemnification is sought was authorized in advance by the Registrant's board of directors.

The Registrant's Sixth Amended and Restated Certificate of Incorporation eliminates the liability of a director of the registrant to the fullest extent under applicable law. Pursuant to Section 102(b)(7) of the General Corporation Law, a corporation may eliminate the personal liability of a director to the corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except for liabilities arising (i) from any breach of the director's duty of loyalty to the corporation or its stockholders, (ii) from acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of the General Corporation Law, or (iv) from any transaction from which the director derived an improper personal benefit.

The Registrant's directors and executive officers are covered by insurance maintained by the Registrant against specified liabilities for actions taken in their capacities as such, including liabilities under the Securities Act of 1933, as amended (the "Securities Act"). In addition, the Registrant has entered into contracts with its directors and executive officers providing indemnification of such directors and executive officers by the Registrant to the fullest extent permitted by law, subject to certain limited exceptions.

We have entered into indemnification agreements with each of our directors and intend to enter into such agreements with certain of our executive officers. These agreements provide that we will indemnify each of our directors, certain of our executive officers and, at times, their affiliates to the fullest extent permitted by Delaware law. We will advance expenses, including attorneys' fees (but excluding judgments, fines and settlement amounts), to each indemnified director, executive officer or affiliate in connection with any proceeding in which indemnification is available and we will indemnify our directors and officers for any action or proceeding arising out of that person's services as a director or officer brought on behalf of us or in furtherance of our rights. Additionally, certain of our directors or officers may have certain rights to indemnification, advancement of expenses or insurance provided by their affiliates or other third parties, which indemnification relates to and might apply to the same proceedings arising out of such director's or officer's services as a director referenced herein. Nonetheless, we have agreed in the indemnification agreements that our obligations to those same directors or officers are primary and any obligation of such affiliates or other third parties to advance expenses or to provide indemnification for the expenses or liabilities incurred by those directors are secondary.

Item 15. ***Recent Sales of Unregistered Securities.***

The following information relates to all securities issued or sold by us within the past three years and not registered under the Securities Act. Each of the transactions described below was conducted in reliance upon the exemptions from registration provided in Section 4(a)(2) of the Securities Act and the rules and regulations promulgated thereunder. There were no underwriters employed in connection with any of the transactions set forth in this Item 15.

From December 2017 to December 2020, the Registrant issued and sold an aggregate of 180,791 shares of its Series A-2 preferred stock at a per share purchase price of $0.50, and 487,746 shares of its Series A-3 at a per share purchase price of $0.53, and 45,162 shares of its Series CF preferred stock at a per share price of $0.41, $0.52 and $0.59 for aggregate gross consideration of approximately $7 million; the Registrant offered and sold the shares in reliance on the exemption from registration pursuant to Regulation CF and Regulation A of the Securities Act.

From December 2017 to December 2020, the Registrant issued and sold an aggregate of 321,261 shares of its Preferred Stock at per share purchase prices of $0.14 and $2.50 for aggregate gross consideration of $1,399,588 investment; the Registrant offered and sold the shares in reliance on the exemption from registration pursuant to Rule 506(c) of Regulation D of the Securities Act — all of the investors were accredited investors.

From December 2017 to December 2020, the Registrant received gross proceeds of $799,280 from a Regulation D convertible debt offering. The debt accrues interest at a rate of 12% per annum with a maturity date of thirty-six months from the date of issuance. The debt is contingently convertible and contains both automatic and optional conversions. The debt converts automatically upon an initial public offering at $2.19 per share.

From December 2017 to December 2020, the Registrant issued an aggregate of 592,333 warrants to purchase shares of its Common Stock at a weighted average exercise price of $2.50 to a certain lender in connection with the granting of loans; all of the issues were accredited investors. The grant of the warrants and the shares of Common Stock underlying the warrants is and will be exempt from the registration requirements of the Securities Act pursuant to Section 4(a)(2) of the Securities Act. The securities were issued pursuant to Rule 506 of Regulation D promulgated under the Securities and/or Section 4(a)(2) of the Securities Act, as all of the issuees are “accredited investors” as such term is defined in Regulation D.

From December 2017 to December 2020, the Registrant issued an aggregate of 20,512 warrants to purchase shares of its Common Stock at a weighted average exercise price of $9.81 and we issued an aggregate of 14,117 shares of its Series A-3 Preferred Stock at a weighted average exercise price of $8.29 to certain crowd platforms in connection with the capital it raised on their platforms; all of the issues were accredited investors. The grant of the warrants and the shares of Common and Preferred Stock underlying the warrants is and will be exempt from the registration requirements of the Securities Act pursuant to Section 4(a)(2) of the Securities Act. The securities were issued pursuant to Rule 506 of Regulation D promulgated under the Securities and/or Section 4(a)(2) of the Securities Act, as all of the issuees are “accredited investors” as such term is defined in Regulation D.

From December 2017 to December 2020, the Registrant issued to certain of its employees, consultants, vendors and board members options to purchase an aggregate of 443,115 shares of its Common Stock in exchange for their services. The grant of the options and the issuance of the shares of Common Stock underlying the options is and will be exempt from the registration requirements of the Securities Act pursuant to Section 4(a)(2) of the Securities Act.

In February 2020, the Registrant acquired Bailey 44, LLC in exchange for an aggregate of 1,120,755 shares of its Series B Preferred Stock. The securities were issued pursuant to Rule 506 of Regulation D promulgated under the Securities and/or Section 4(a)(2) of the Securities Act, as all of the issuees are “accredited investors” as such term is defined in Regulation D.

From December 2017 to December 2020, the Registrant received gross proceeds of $675,000 from a Regulation D convertible debt offering. The debt accrues interest at a rate of 14% per annum with a maturity date of November 13, 2022. The debt is contingently convertible contains both automatic and optional conversions. The debt converts automatically upon an initial public offering at a 50% discount to the IPO price per share.

From December 2017 to December 2020, the Registrant received gross proceeds of $923,958 from a Regulation CF convertible debt offering. The debt accrues interest at a rate of 6% per annum with a maturity date of October 30, 2022. The debt converts automatically upon an initial public offering at a 30% discount to the IPO price per share.

In April 2021, the Registrant received gross proceeds of $1.0 million from a debt offering. In connection with such debt offering, the Registrant agreed to 50% warrant coverage for five year cash warrants with the exercise price set at the IPO price and callable at a 200% increase in the IPO price and issued the lender 50,000 common shares, concurrently, the Registrant issued 20,000 shares of common stock to Kingswood Capital Markets as partial consideration for brokering said loan to the Registrant.

Upon the closing of the IPO on May 18, 2021, all then-outstanding shares of preferred stock converted into an aggregate of 4,027,181 shares of common stock according to their terms.

Upon closing of the IPO, we converted outstanding principal totaling $2,680,289 and certain accrued and unpaid interest of our convertible debt into an aggregate of 1,135,153 shares of common stock.

Upon closing of the IPO, certain officers and directors converted balances due totaling $257,515 into 152,357 shares of common stock and recorded $233,184 in compensation expense for the shares issued in excess of accrued balances owed.

In connection with the H&J acquisition, we issued 2,192,771 shares of common stock to the seller.

We issued 20,000 shares to the underwriter in connection with its April 2021 note financing.

Pursuant to a consulting agreement, we issued 50,000 shares of common stock.

In May 2021, an aggregate of 31,881 warrants were exercised for shares of common stock for proceeds of $145,696.

In July 2021, an aggregate of 355,000 warrants were exercised for shares of common stock for proceeds of $1,622,350.

In August 2021, an aggregate of 1,101,538 shares of common stock were issued in exchange for 100% of the outstanding membership interests in Stateside.

In connection with the execution of the Oasis Capital equity purchase agreement, the Company issued 126,354 shares of common stock as commitment shares.

In connection with the Convertible Notes, the Company issued 130,000 shares of common stock to the purchasers thereof.

Unless otherwise stated, the sales of the below securities were deemed to be exempt from registration under the Securities Act in reliance upon Section 4 (a)(2) of the Securities Act (or Regulation D or Regulation S promulgated thereunder), or Rule 701 promulgated under Section 3(b) of the Securities Act as transactions by an issuer not involving any public offering or pursuant to benefit plans and contracts relating to compensation as provided under Rule 701. The recipients of the securities in each of these transactions represented their intentions to acquire the securities for investment only and not with a view to or for sale in connection with any distribution thereof, and appropriate legends were placed upon the stock certificates issued in these transactions.

Use of Proceeds from Initial Public Offering of Common Stock

On May 13, 2021, our registration statement on Form S-1 relating to our IPO was declared effective by the SEC. In the IPO, which closed on May 18, 2021, we issued and sold 2,409,639 shares of common stock at a public offering price of $4.15 per share. Additionally, we issued warrants to purchase 2,771,084 shares, which includes 361,445 warrants sold upon the partial exercise of the over-allotment option. Total gross proceeds were approximately $10 million, which includes the warrants. The aggregate net proceeds to us from the IPO, inclusive of the proceeds from the over-allotment exercise, were approximately $8.6 million after deducting underwriting discounts and commissions of $0.8 million and estimated offering expenses of approximately $0.6 million. The offer and sale of all of the shares in the offering were registered under the Securities Act pursuant to registration statement on Form S-1 (File No. 333-256174). Kingwood Capital Markets, a division of Benchmark Investments, Inc., acting as representative of the several underwriters named in the Underwriting Agreement.

On June 28, 2021, our underwriters purchased 361,445 shares of common stock at a public offering price of $4.15 per share pursuant to the exercise of the remaining portion of their over-allotment option. We received net proceeds of approximately $1.4 million after deducting underwriting discounts and commissions.

None of the underwriting discounts and commissions or offering expenses were paid directly or indirectly to any directors or officers of ours or their associates or to persons owning 10% or more of any class of equity securities or to any affiliates of ours.

We used the net proceeds to us from the IPO for general corporate purposes, including working capital, marketing initiatives and capital expenditures. Specifically, we used a portion of the net proceeds from the offering to pay the remaining approximately $1.0 million to pay off a note payable, $1.0 million owed for the

acquisition of Bailey by DBG, $500,000 to fund the acquisition of H&J (which accrues interest at 12.0% per annum), and $179,501 to pay accrued interest owed further to the 2019 convertible debt.

Use of Proceeds from Sale of Convertible Notes

We used the net proceeds to us from the sale of the Oasis Note to pay a portion of the purchase price in the acquisition of Stateside. We used net proceeds to us from the sale of the Convertible Notes to FirstFire for general corporate purposes, including working capital, marketing initiatives and capital expenditures.

Item 16. ***Exhibits and Financial Statement Schedules.***

(a) Exhibits

Exhibit Number	Description
2.1	Membership Interest Purchase Agreement dated October 14, 2020 among D. Jones Tailored Collection, LTD and Digital Brands Group (formerly known as Denim.LA, Inc.)
2.2	First Amendment to Membership Interest Purchase Agreement dated December 31, 2020 among D. Jones Tailored Collection, LTD and Digital Brands Group (formerly known as Denim.LA, Inc)
2.3	Agreement and Plan of Merger with Bailey 44, LLC dated February 11, 2020 among Bailey 44, LLC, Norwest Venture Partners XI, and Norwest Venture Partners XII, LP and Digital Brands Group (formerly known as Denim.LA, Inc)
2.4	Second Amendment to Membership Interest Purchase Agreement Dated May 10, 2021 among D. Jones Tailored Collection, LTD and Digital Brands Group (formerly known as Denim. LA, Inc.)
2.5	Membership Interest Purchase Agreement, dated August 30, 2021, by and between Moise Emquies and Digital Brands Group, Inc.
3.1	Amended and Restated Certificate of Incorporation of the Registrant
3.2	Amendment to Amended and Restated Certificate of Incorporation of the Registrant
3.3	Sixth Amended and Restated Certificate of Incorporation of the Registrant
3.4	Bylaws of the Registrant
3.5	Amended and Restated Bylaws of Registrant
4.1	Form of Common Stock Certificate
4.2	Form of Warrant Agency Agreement, including Form of Warrant Certificate
4.3	Form of Underwriter's Warrants
4.4	Form of Lender's Warrants
4.5	Form of Series Seed Preferred Stock Purchase Agreement
4.6	Form of Series A Preferred Stock Subscription Agreement
4.7	Form of Series A-2 Preferred Stock Subscription Agreement
4.8	Form of Series A-3 Preferred Stock Subscription Agreement
4.9	Form of Series CF Preferred Stock Purchase Agreement
4.10	Form of 2019 Regulation D Convertible Note
4.11	Form of 2020 Regulation D Convertible Note
5.1	Opinion of Manatt, Phelps & Phillips, LLP
10.1	Form of Indemnification Agreement between the Registrant and each of its directors and officers
10.2	Form of Option Agreement with each of John "Hil" Davis, Laura Dowling and Reid Yeoman

Exhibit Number	Description
10.3	Amendment No. 7 to Senior Credit Agreement, dated as of April 1, 2021 between bocm3-DSTLD-Senior Debt, LLC, bocm3-DSTLD-Senior Debt 2, LLC, Stockholders and Digital Brands Group (formerly known as Denim.LA, Inc)
10.4	Form of Board of Directors Agreement, entered into by each of the Director Nominees
10.5	Original Issue Discount Promissory Note by Digital Brands Group, Inc. in favor of Target Capital 2, LLC in the aggregate amount of $1,000,000 dated as of April 8, 2021
10.6	Consulting Agreement dated as of April 8, 2021 between Alchemy Advisory LLC and Digital Brands Group, Inc.
10.7	2013 Stock Plan
10.8	Senior Credit Agreement dated March 10, 2017 among bocm3-DSTLD-Senior Debt, LLC, Stockholders and Digital Brands Group (formerly known as Denim.LA, Inc)
10.9	Amendment No. 1 to Senior Credit Agreement, dated as of July 1, 2017 among bocm3-DSTLD-Senior Debt, LLC, Stockholders and Digital Brands Group (formerly known as Denim.LA, Inc)
10.10	Amendment No. 2 to Credit Agreement, Security Agreement and Management, dated as of March 30, 2018 among bocm3-DSTLD-Senior Debt, LLC, Stockholders, bocm3-DSTLD-Senior Debt 2, LLC and Digital Brands Group (formerly known as Denim.LA, Inc)
10.11	Limited Waiver and Amendment No. 3 to Senior Credit Agreement, dated as of April 30, 2018 among bocm3-DSTLD-Senior Debt, LLC, Stockholders, bocm3-DSTLD-Senior Debt 2, LLC and Digital Brands Group (formerly known as Denim.LA, Inc)
10.12	Amendment No. 4 to Senior Credit Agreement, dated as of February 28, 2019 among bocm3-DSTLD-Senior Debt, LLC, Stockholders, bocm3-DSTLD-Senior Debt 2, LLC and Digital Brands Group (formerly known as Denim.LA, Inc)
10.13	Amendment No. 5 to Senior Credit Agreement and Security Agreement, dated as of February 7, 2020 among bocm3-DSTLD-Senior Debt, LLC, Stockholders, bocm3-DSTLD-Senior Debt 2, LLC and Digital Brands Group (formerly known as Denim.LA, Inc)
10.14	Amendment No. 6 to Senior Credit Agreement, dated as of September 9, 2020 among bocm3-DSTLD-Senior Debt, LLC, Stockholders, bocm3-DSTLD-Senior Debt 2, LLC and Digital Brands Group (formerly known as Denim.LA, Inc)
10.15	Amendment No. 7 to Senior Credit Agreement, dated as of April 1, 2021 between bocm3-DSTLD-Senior Debt, LLC, bocm3-DSTLD-Senior Debt 2, LLC, Stockholders and Digital Brands Group (formerly known as Denim.LA, Inc)
10.16	Promissory Note, dated April 10, 2020, between Digital Brands Group (formally known as Denim.LA, Inc.) and JPMorgan Chase Bank, N.A.
10.17	Loan dated June 25, 2020, between Digital Brands Group and The Small Business Administration, an Agency of the U.S. Government
10.18	Promissory Note, dated April 5, 2020, between JPMorgan Chase Bank, N.A. and Bailey 44, LLC
10.19	Lease Agreement between 3926 Magazine Street Properties, LLC and Harper & Jones LLC, dated June 22, 2018
10.20	Lease Agreement between Crosby 2100, LTD. and Harper & Jones LLC, dated April 4, 2018
10.21	Amendment to Lease Agreement between Crosby 2100, LTD. and Harper & Jones LLC, dated December 23, 2020
10.22	Lease Agreement between Pasha & Sina, Inc. and Harper & Jones LLC, dated February 27, 2019
10.23	Lease Agreement between 850-860 South Los Angeles Street LLC and Bailey 44, LLC, dated April 27, 2016

Exhibit Number	Description
10.24	Lease Agreement between 850-860 South Los Angeles Street LLC and Bailey 44, LLC, dated April 16, 2018
10.25	Lease Agreement among 45th Street, LLC, Sister Sam, LLC and Bailey 44, LLC dated January 17, 2013
10.26	Amendment to Lease Agreement among 45th Street, LLC, Sister Sam, LLC and Bailey 44, LLC dated February 20, 2018
10.27	Form of Board of Directors Agreement, entered into by each of the Director Nominees
10.28	Secured Promissory Note to Norwest Venture Partners XI, LP and Norwest Venture Partners XII, LP of Bailey 44, LLC
10.29	Original Issue Discount Promissory Note by Digital Brands Group, Inc. in favor of Target Capital 2, LLC in the aggregate amount of $1,000,000 dated as of April 8, 2021
10.30	Consulting Agreement dated as of April 8, 2021 between Alchemy Advisory LLC and Digital Brands Group, Inc.
10.31	Securities Purchase Agreement, dated August 27, 2021, by and between Digital Brands Group, Inc. and Oasis Capital, LLC
10.32	Senior Secured Convertible Promissory Note, dated August 27, 2021, by Digital Brands Group, Inc. in favor of Oasis Capital, LLC
10.33	Equity Purchase Agreement, dated August 27, 2021, by and between Digital Brands Group, Inc. and Oasis Capital, LLC
10.34	Amended and Restated Securities Purchase Agreement, dated October 1, 2021, by and among Digital Brands Group, Inc., Oasis Capital, LLC and FirstFire Global Opportunities Fund, LLC
10.35	Senior Secured Convertible Promissory Note, dated October 1, 2021, by Digital Brands Group, Inc. in favor of FirstFire Global Opportunities Fund, LLC
10.36	Security Agreement, dated August 27, 2021, by and between Digital Brands Group, Inc. and Oasis Capital, LLC
10.37	Joinder and Amendment to Security Agreement, dated October 1, 2021, by and among Digital Brands Group, Inc., Oasis Capital, LLC and FirstFire Global Opportunities Fund, LLC
10.38	Registration Rights Agreement, dated August 27, 2021, by and between Digital Brands Group, Inc. and Oasis Capital, LLC
10.39	Amendment to Registration Rights Agreement, dated November 16, 2021, by and among Digital Brands Group, Inc., Oasis Capital, LLC and FirstFire Global Opportunities Fund, LLC
10.40	Securities Purchase Agreement, dated November 16, 2021, by and among Digital Brands Group, Inc., Oasis Capital, LLC and FirstFire Global Opportunities Fund, LLC
10.41	Senior Secured Convertible Promissory Note, dated November 16, 2021, by Digital Brands Group, Inc. in favor of FirstFire Global Opportunities Fund, LLC
10.42	Waiver by FirstFire Global Opportunities Fund, LLC, dated November 16, 2021
10.43	Waiver by Oasis Capital, LLC, dated November 16, 2021
21.1*	List of Subsidiaries of the Registrant
23.1	Consent of dbbmckennon for Digital Brands Group, Inc.
23.2	Consent of dbbmckennon for Harper & Jones LLC
23.3	Consent of dbbmckennon for Bailey 44, LLC
23.4	Consent of Moss Adams LLP for Bailey 44, LLC
23.5	Consent of Armanino LLP for Mosbest, LLC
23.6	Consent of Manatt, Phelps & Phillips (contained in Exhibit 5.1)

Exhibit Number	Description
24.1*	Power of Attorney
101.INS*	XBRL Instance Document
101.SCH*	XBRL Taxonomy Extension Schema Document
101.CAL*	XBRL Taxonomy Extension Calculation Linkbase Document
101.DEF*	XBRL Taxonomy Extension Definition Linkbase Document
101.LAB*	XBRL Taxonomy Extension Label Linkbase Document

* Previously filed

(b) Financial Statement Schedules

Schedules have been omitted because the information required to be set forth therein is not applicable or is shown in the financial statements or notes thereto.

Item 17. ***Undertakings*****.**

The undersigned Registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:

(i) to include any prospectus required by Section 10(a)(3) of the Securities Act of 1933;

(ii) to reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the Registration Statement. Notwithstanding the foregoing, any increase or decrease in volume of shares of common stock offered (if the total dollar value of shares of common stock offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20% change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective registration statement; and

(iii) to include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement; provided, however, that (i) and (ii) do not apply if the registration statement is on Form S-3 or Form S-8, and the information required to be included in a post-effective amendment by (i) and (ii) is contained in periodic reports filed with or furnished to the Commission by the registrant pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in the registration statement.

(2) That, for the purpose of determining any liability under the Securities Act of 1933, each such post-effective amendment shall be deemed to be a new registration statement relating to the shares of common stock offered therein, and the offering of such shares of common stock at that time shall be deemed to be the initial bona fide offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the shares of common stock being registered which remain unsold at the termination of the offering.

Each prospectus filed pursuant to Rule 424(b) as part of a registration statement relating to an offering, other than registration statements relying on Rule 430B or other than prospectuses filed in reliance on Rule 430A, shall be deemed to be part of and included in the registration statement as of the date it is first used after effectiveness. Provided, however, that no statement made in a registration statement or prospectus that is part of the registration statement or made in a document incorporated or deemed

incorporated by reference into the registration statement or prospectus that is part of the registration statement will, as to a purchaser with a time of contract of sale prior to such first use, supersede or modify any statement that was made in the registration statement or prospectus that was part of the registration statement or made in any such document immediately prior to such date of first use.

Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Securities Act of 1933 and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the shares of common stock being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act of 1933 and will be governed by the final adjudication of such issue.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-1 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Austin, on December 16, 2021.

DIGITAL BRANDS GROUP, INC.

By: /s/ John Hilburn Davis IV
John Hilburn Davis IV
President and Chief Executive Officer

As required under the Securities Act of 1933, this registration statement has been signed below by the following persons in the capacities and on the dates indicated:

NAME	TITLE	DATE
/s/ John Hilburn Davis IV John Hilburn Davis IV	President and Chief Executive Officer	December 16, 2021
/s/ Reid Yeoman Reid Yeoman	Chief Financial Officer (Principal financial and accounting officer)	December 16, 2021
* Mark T. Lynn	Director	December 16, 2021
* Trevor Pettennude	Director	December 16, 2021
* Jameeka Aaron Green	Director	December 16, 2021
* Huong "Lucy" Doan	Director	December 16, 2021
* /s/ John Hilburn Davis IV Attorney-in-Fact		

Exhibit 2.1

Execution copy

MEMBERSHIP INTEREST PURCHASE AGREEMENT

by and between

D. Jones Tailored Collection, Ltd.,

as Seller

and

Denim.LA, Inc.,

as Buyer

Dated effective as of October 14, 2020

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Execution copy

MEMBERSHIP INTEREST PURCHASE AGREEMENT

THIS MEMBERSHIP INTEREST PURCHASE AGREEMENT (this "**Agreement**"), effective as of October 14, 2020 (the "**Effective Date**"), is entered into by and between D. Jones Tailored Collection, Ltd., a Texas limited partnership (the "**Seller**"), and Denim.LA, Inc., a Delaware corporation ("**Buyer**"). Seller and Buyer are sometimes collectively referred to herein as the "**Parties**" and individually as a "**Party**."

RECITALS

WHEREAS, Seller owns all of the issued and outstanding membership interests (the "**Membership Interests**"), in Harper & Jones, LLC, a Texas single–member limited liability company that is a subchapter S corporation for federal income tax purposes pursuant to Code § 1362 (the "**Company**");

WHEREAS, Seller wishes to transfer to Buyer, and Buyer wishes to acquire from Seller, the Membership Interests, subject to the terms and conditions set forth herein; and

WHEREAS, a portion of the purchase price payable by Buyer to Seller shall be placed in escrow by Buyer, the release of which shall be contingent upon certain events and conditions, all as set forth in this Agreement and the Escrow Agreement (as defined herein).

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

ARTICLE I
DEFINITIONS

The following definitions shall apply to capitalized terms (or phrases) defined below and used throughout this Agreement:

"**Acquisition**" or "**Acquisitions**" means any one or all entities, as the case may be, to be acquired by Buyer concurrently on the closing of the IPO or Uplisting.

"**Acquisition Proposal**" means any inquiry, proposal or offer from any Person (other than Buyer or any of its Affiliates) concerning (a) a merger, consolidation, liquidation, recapitalization or other business combination transaction involving the Company; (b) the issuance or acquisition of membership interests in the Company; or (c) the sale, lease, exchange or other disposition of any significant portion of the Company's properties or assets.

"**Action**" means any claim, action, cause of action, demand, lawsuit, arbitration, inquiry, audit, notice of violation, proceeding, litigation, citation, summons, subpoena or investigation of any nature, civil, criminal, administrative, regulatory or otherwise, whether at law or in equity.

"**Affiliate**" of a Person means any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. The term "control" (including the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

"**Agreed to Dollar Value**" means the aggregate dollar value of Buyer Shares issued or issuable with respect to a subject Acquisition as reflected in the agreement pursuant to which Buyer agreed to acquire the subject entity.

"**Agreement**" has the meaning set forth in the preamble.

"**Ancillary Documents**" means the Employment Agreement, the Escrow Agreement and the Assignment.

"**Arbitration Notice**" has the meaning set forth in Section 9.12(b).

"**Assignment**" has the meaning set forth in Section 2.04(b)(i)(A).

"**Bailey**" means Bailey 44, LLC, Delaware limited liability company.

"**Bailey Holders**" means former holders of membership interests in Bailey who were issued Buyer Shares pursuant to that certain Agreement and Plan of Merger dated as of February 12, 2020, is entered into by and between Bailey, Norwest Venture Partners XI, LP, a Delaware limited partnership, and Norwest Venture Partners XII, LP, a Delaware limited partnership, on the one hand, and Buyer and Denim.LA Acquisition Corp., a Delaware corporation and a wholly-owned subsidiary of Buyer, on the other hand.

"**Bailey Holders Dollar Value**" shall mean Eleven Million and No/100 Dollars ($11,000,000.00).

"**Balance Sheet**" has the meaning set forth in Section 3.06.

"**Balance Sheet Date**" has the meaning set forth in Section 3.06.

"**Benefit Plan**" has the meaning set forth in Section 3.20(a).

"**Business Day**" means any day except Saturday, Sunday or any other day on which commercial banks located in New York City, New York, are authorized or required by Law to be closed for business.

"**Buyer**" has the meaning set forth in the preamble.

"**Buyer Fundamental Representation**" has the meaning set forth in Section 7.01.

"**Buyer Indemnifiable Amount**" has the meaning set forth in Section 7.03.

"**Buyer Indemnified Parties**" has the meaning set forth in Section 7.02.

"**Buyer Shares**" means the outstanding common stock of Buyer on a fully diluted and fully converted basis, issued in connection with and in furtherance of the Acquisitions (including the Subject Acquisition).

"**Buyer's Accountants**" means dbb*mckennon*, independent registered public accounting firm.

"**Buyer's Disclosure Schedule Update**" has the meaning set forth in Section 6.03(a).

"**CERCLA**" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. §§ 9601 et seq.

"**Change of Control Payments**" means the aggregate amount of all change of control, bonus, termination, transaction, retention and severance payments, forgiveness of Indebtedness, increase in benefits or other similar payments or Liabilities that are accrued, incurred or payable by the Company prior to or at the Closing or as a result of the consummation of the transactions contemplated by this Agreement pursuant to any arrangement in effect as of the Effective Date or the Closing, to any Person as a result of or connection with the transactions contemplated by this Agreement (including any severance, termination and other payments that may arise in the future as a result of any termination of employment by the Company after Closing).

"**Claim**" has the meaning set forth in Section 7.05.

"**Claim Notice**" has the meaning set forth in Section 7.05.

"**Closing**" has the meaning set forth in Section 2.03.

"**Closing Date**" has the meaning set forth in Section 2.03.

"**Closing Indebtedness"** means, as of the close of business on the Closing Date, the Indebtedness of the Company plus any unpaid Company Transaction Expenses.

"**Closing Indebtedness Statement**" has the meaning set forth in Section 2.05(a).

"**Closing Indebtedness Protest Notice**" has the meaning set forth in Section 2.05(c).

"**Code**" means the Internal Revenue Code of 1986, as amended.

"**Company**" has the meaning set forth in the recitals.

"**Company Transaction Expenses**" means (i) all costs, fees and expenses incurred or accrued by the Company or the Seller in connection with any efforts to sell the Membership Interests, and the preparation, negotiation, execution and delivery of this Agreement and the consummation of the transactions contemplated by this Agreement and the Ancillary Documents, in each case, including any amounts payable to financial, tax, accounting and legal advisors, brokers or consultants; (ii) any obligations to pay any current or former directors, employees or consultants of the Company any compensation, commission or other benefit arising or resulting from, triggered by or otherwise in connection with the execution of this Agreement or the transactions contemplated by this Agreement (including any Change in Control Payment), in each case, together with any Taxes relating thereto or arising therefrom; and (iii) all premiums and cost of any insurance tail policies; for each of the preceding sections (i), (ii) and (iii), whether or not any of the foregoing is actually invoiced, assessed or billed to the Company or Seller prior to or at the Closing.

"**Contracts**" means all contracts, leases, deeds, mortgages, licenses, instruments, notes, commitments, undertakings, indentures, joint ventures and all other agreements, commitments and legally binding arrangements, whether written or oral.

"**Disclosure Schedules**" means the Disclosure Schedules delivered by the Seller and Buyer concurrently with the execution and delivery of this Agreement.

"**Dispute**" has the meaning set forth in Section 9.12.

"**Dispute Notice**" has the meaning set forth in Section 9.12(a).

"**Dollars or $**" means the lawful currency of the U.S.

"**Effective Date**" has the meaning set forth in the preamble.

"**Employment Agreement**" means that certain Employment Agreement, dated as of the Closing Date, by and between Buyer and Drew Jones, an individual resident of Texas.

"**Encumbrance**" means any charge, claim, community property interest, pledge, condition, equitable interest, lien (statutory or other), option, security interest, mortgage, easement, encroachment, right of way, right of first refusal, or restriction of any kind, including any restriction on use, voting, transfer, receipt of income or exercise of any other attribute of ownership.

"**Environmental Claim**" means any Action, Governmental Order, lien, fine, penalty, or, as to each, any settlement or judgment arising therefrom, by or from any Person alleging liability of whatever kind or nature (including liability or responsibility for the costs of enforcement proceedings, investigations, cleanup, governmental response, removal or remediation, natural resources damages, property damages, personal injuries, medical monitoring, penalties, contribution, indemnification and injunctive relief) arising out of, based on or resulting from: (a) the presence, Release of, or exposure to, any Hazardous Materials; or (b) any actual or alleged non-compliance with any Environmental Law or term or condition of any Environmental Permit.

"**Environmental Law**" means any applicable Law, and any Governmental Order or binding agreement with any Governmental Authority: (a) relating to pollution (or the cleanup thereof), the protection of natural resources, endangered or threatened species, human health or safety or the environment (including ambient air, soil, surface water or groundwater or subsurface strata); or (b) concerning the presence of, exposure to, or the management, manufacture, use, containment, storage, recycling, reclamation, reuse, treatment, generation, discharge, transportation, processing, production, disposal or remediation of any Hazardous Materials; and shall include, without limitation, the following (including the implementing regulations and any state analogs): CERCLA; the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended by the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. §§ 6901 *et seq.*; the Federal Water Pollution Control Act of 1972, as amended by the Clean Water Act of 1977, 33 U.S.C. §§ 1251 *et seq.*; the Toxic Substances Control Act of 1976, as amended, 15 U.S.C. §§ 2601 *et seq.*; the Emergency Planning and Community Right–to–Know Act of 1986, 42 U.S.C. §§ 11001 *et seq.*; the Clean Air Act of 1966, as amended by the Clean Air Act Amendments of 1990, 42 U.S.C. §§ 7401 *et seq.*; and the Occupational Safety and Health Act of 1970, as amended, 29 U.S.C. §§ 651 *et seq.*

"**Environmental Notice**" means any written directive, notice of violation or infraction, or notice respecting any Environmental Claim relating to actual or alleged non-compliance with any Environmental Law or any term or condition of any Environmental Permit.

"**Environmental Permit**" means any Permit, letter, clearance, consent, waiver, closure, exemption, decision or other action required under or issued, granted, given, authorized by or made pursuant to Environmental Law.

"**Equipment**" has the meaning set forth in Section 3.19(b).

"**ERISA**" means the Employee Retirement Income Security Act of 1974, as amended, and the regulations promulgated thereunder.

"**ERISA Affiliate**" means all employers (whether or not incorporated) that would be treated together with the Company or any of its Affiliates as a "single employer" within the meaning of Section 414 of the Code or Section 4001 of ERISA.

"**Escrow Account**" means the account established by the Parties with the Escrow Agent pursuant to the terms of the Escrow Agreement.

"**Escrow Agent**" means a third–party to be mutually acceptable by and among the Parties to act as Escrow Agent pursuant to the Escrow Agreement.

"**Escrow Agreement**" means the Escrow Agreement to be entered into by Buyer, Seller and Escrow Agent at Closing, substantially in the form of Exhibit B.

"**Exchange Act**" means the Securities Exchange Act of 1934, as amended.

"**Existing Holders Dollar Value**" shall mean Forty Million and No/100 Dollars ($40,000,000.00).

"**Existing Holders' Shares**" means all Buyer Shares that existing stockholders of Buyer (excluding shares held by the Bailey Holders) will own on the date of the IPO (excluding shares issuable in connection with the IPO) or the date of the Uplisting, whichever first occurs.

"**Final Indebtedness**" means the Closing Indebtedness as finally determined pursuant to Section 2.05.

"**Final Offer**" has the meaning set forth in Section 9.12(d).

"**Financial Statements**" has the meaning set forth in Section 3.06.

"**Governmental Authority**" means any federal, state, local or foreign government or political subdivision thereof, or any agency or instrumentality of such government or political subdivision, or any self–regulated organization or other non–governmental regulatory authority or quasi–governmental authority (to the extent that the rules, regulations or orders of such organization or authority have the force of Law), or any arbitrator, court or tribunal of competent jurisdiction.

"**Governmental Order**" means any order, writ, judgment, injunction, decree, stipulation, determination or award entered by or with any Governmental Authority and the IRS, including any compromise or settlement agreement.

"**Hazardous Materials**" means (a) any material, substance, chemical, waste, product, derivative, compound, mixture, solid, liquid, mineral or gas, in each case, whether naturally occurring or manmade, that is hazardous, acutely hazardous, toxic, or words of similar import or regulatory effect under Environmental Laws; and (b) any petroleum or petroleum–derived products, radon, radioactive materials or wastes, asbestos in any form, lead or lead–containing materials, urea formaldehyde foam insulation and polychlorinated biphenyls.

"**Indebtedness**" means, without duplication and with respect to the Company, all (a) indebtedness for borrowed money; (b) accounts payable; (c) obligations for the deferred purchase price of property or services, (d) long or short-term obligations evidenced by notes, bonds, debentures or other similar instruments, (e) obligations under any interest rate, currency swap or other hedging agreement or arrangement; (f) capital lease obligations; (g) reimbursement obligations under any letter of credit, banker's acceptance or similar credit transactions; (h) guarantees made by the Company on behalf of any third party in respect of obligations of the kind referred to in the foregoing clauses (a) through (g); and (i) any unpaid interest, prepayment penalties, premiums, costs and fees that would arise or become due as a result of the prepayment of any of the obligations referred to in the foregoing clauses (a) through (h).

"**Indemnified Party**" means any Party entitled to indemnification pursuant to Article VII.

"**Indemnifying Party**" means any Party required to provide indemnification pursuant to Article VII.

"**Independent Accounting Firm**" has the meaning set forth in Section 2.05(c).

"**Intellectual Property**" means any and all rights in, arising out of, or associated with any of the following in any jurisdiction throughout the world: (a) issued patents and patent applications (whether provisional or non-provisional), including divisionals, continuations, continuations–in–part, substitutions, reissues, reexaminations, extensions or restorations of any of the foregoing, and other indicia of invention ownership (including certificates of invention, petty patents, and patent utility models) issued by any Governmental Authority ("**Patents**"); (b) trademarks, service marks, brands, certification marks, logos, trade dress, trade names and other similar indicia of source or origin, together with the goodwill connected with the use of and symbolized by, and all registrations, applications for registration and renewals of any of the foregoing ("**Trademarks**"); (c) copyrights and works of authorship, whether or not copyrightable, and all registrations, applications for registration, and renewals of any of the foregoing ("**Copyrights**"); (d) internet domain names and social media account or user names (including "handles"), whether or not Trademarks, all associated web addresses, URLs, websites and web pages, social media sites and pages, and all content and data thereon or relating thereto, whether or not Copyrights; (e) mask works and all registrations, applications for registration and renewals thereof; (f) industrial designs, and all Patents, registrations, applications for registration and renewals thereof; (g) trade secrets, know–how, inventions (whether or not patentable), discoveries, improvements, technology, business and technical information, databases, data compilations and collections, tools, methods, processes, techniques and other confidential and proprietary information and all rights therein ("**Trade Secrets**"); (h) computer programs, operating systems, applications, firmware and other code, including all source code, object code, application programming interfaces, data files, databases, protocols, specifications and other documentation thereof; (i) rights of publicity; and (j) all other intellectual or industrial property and proprietary rights.

"**IPO**" means the initial firm commitment public offering of Buyer Shares on the Nasdaq or the NYSE American, as the case may be.

"**IPO Price**" means the per share price of Buyer Shares sold in the IPO.

"**IRS**" means the Internal Revenue Service.

"**Knowledge"** or any other similar knowledge qualification, means the actual knowledge of Seller, the Company or Buyer, as the case may be.

"**Law**" means any statute, law, ordinance, regulation, rule, code, order, constitution, treaty, common law, judgment, decree, other requirement or rule of law of any Governmental Authority.

"**Lease Agreements**" has the meaning set forth in Section 3.10(c).

"**Leased Real Property**" has the meaning set forth in Section 3.10(c).

"**Liability**" and "**Liabilities**" have the meanings set forth in Section 3.07.

"**Losses**" means losses, damages, Liabilities, deficiencies, Actions, judgments, interest, awards, penalties, fines, costs or expenses of whatever kind, including reasonable attorneys' fees and the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers, but excluding punitive and consequential damages.

"**Material Adverse Effect**" means any event, occurrence, fact, condition or change that is individually or in the aggregate materially adverse to (a) the business, results of operations, condition (financial or otherwise) or assets of the Company or (b) the ability of Seller to consummate the transactions contemplated by this Agreement on a timely basis; *provided, however,* that "Material Adverse Effect" shall not include any event, occurrence, fact, condition or change, directly or indirectly, arising out of or attributable to: (i) general economic or political conditions, (ii) conditions generally affecting the industry in which the Company operates, (iii) any changes in financial or securities markets in general or (iv) acts of war (whether or not declared), armed hostilities or terrorism, or the escalation or worsening thereof; *provided further, however,* that any event, occurrence, fact, condition or change referred to in clauses (i) through (iv) immediately above shall be taken into account in determining whether a Material Adverse Effect has occurred to the extent that such event, occurrence, fact, condition or change has had a disproportionately adverse effect on the Company relative to other participants in the industry in which the Company conducts its business.

"**Material Contracts**" has the meaning set forth in Section 3.09(a).

"**Material Customers**" has the meaning set forth in Section 3.15(a).

"**Material Supplies**" has the meaning set forth in Section 3.15(b).

"**Membership Interests**" has the meaning set forth in the recitals.

"**Nasdaq**" means the National Association of Securities Dealers Automated Quotation market and securities exchange or any successor national securities exchange or trading market in the U.S.

"**NYSE American**" means NYSE American LLC or any successor that is a national securities exchange registered under Section 6 of the Exchange Act.

"**Organizational Documents**" means (a) in the case of a Person that is a corporation, its articles or certificate of incorporation and its bylaws, regulations or similar governing instruments required by the laws of its jurisdiction of formation or organization; (b) in the case of a Person that is a partnership, its articles or certificate of partnership, formation or association, and its partnership agreement (in each case, limited, limited liability, general or otherwise); (c) in the case of a Person that is a limited liability company, its articles or certificate of formation or organization, and its limited liability company agreement or operating agreement; and (d) in the case of a Person that is none of a corporation, partnership (limited, limited liability, general or otherwise), limited liability company or natural person, its governing instruments as required or contemplated by the Laws of its jurisdiction of organization.

"**OTC**" means any one of over the counter markets through which the Buyer Shares may be listed and traded.

"**Party**" and "**Parties**" have the meanings set forth in the preamble.

"**Permits**" means all permits, licenses, franchises, approvals, authorizations, registrations, certificates, variances and similar rights obtained, or required to be obtained, from any Governmental Authority.

"**Permitted Encumbrances**" has the meaning set forth in Section 3.10(a).

"**Person**" means an individual, corporation, partnership, joint venture, limited liability company, unincorporated organization, trust, association or other entity.

"**Protest Period**" has the meaning set forth in Section 2.05(c).

"**Purchase Price**" has the meaning set forth in Section 2.02.

"**Real Property**" means the real property owned, leased or subleased by the Company, together with all buildings, structures and facilities located thereon.

"**Release**" means any actual or threatened release, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, abandonment, disposing or allowing to escape or migrate into or through the environment (including, without limitation, ambient air (indoor or outdoor), surface water, groundwater, land surface or subsurface strata or within any building, structure, facility or fixture).

"**Representative**" means, with respect to any Person, any and all directors/managing members, managers, officers, employees, consultants, financial advisors, counsel, accountants and other agents of such Person.

"**Securities Act**" has the meaning set forth in Section 3.24(b).

"**Seller**" has the meaning set forth in the preamble.

"**Seller's Accountants**" means Howard, LLP, a Texas limited liability partnership.

"**Seller's Disclosure Schedule Update**" has the meaning set forth in Section 6.02(a).

"**Seller Fundamental Representation**" has the meaning set forth in Section 7.01.

"**Seller Indemnifiable Amount**" has the meaning set forth in Section 7.02.

"**Seller Indemnified Parties**" has the meaning set forth in Section 7.03.

"**Sold Buyer Shares**" means Buyer Shares sold by Seller within the period that is one (1) year from the Closing Date.

"**Sold Buyer Shares Gross Proceeds**" means the aggregate gross proceeds received by Seller from sales of Sold Buyer Shares within the period that is one (1) year from the Closing Date.

"**Subject Acquisition**" means the acquisition of the Company by Buyer pursuant to this Agreement.

"**Subject Acquisition Shares**" means the percentage of the aggregate number of Buyer Shares issued pursuant to this Agreement, which is the percentage that Subject Seller Dollar Value is in relation to Total Dollar Value.

"**Subject Seller Dollar Value"** means Nine Million One Hundred Thousand and No/100 Dollars ($9,100,000.00), which is the dollar value of the Buyer Shares to be issued to the Seller as referenced in Section 2.02.

"**Tax,**" "**Taxes**" or "**Taxable**" means all federal, state, local, foreign and other income, gross receipts, sales, use, production, ad valorem, transfer, franchise, registration, profits, license, lease, service, service use, withholding, payroll, employment, unemployment, estimated, excise, severance, environmental, stamp, occupation, premium, property (real or personal), real property gains, windfall profits, customs, duties or other taxes, fees, assessments or charges of any kind whatsoever, together with any interest, additions or penalties with respect thereto and any interest in respect of such additions or penalties.

"**Tax Return**" means any return, declaration, report, claim for refund, information return, or statement or other document relating to Taxes, including any schedule or attachment thereto, and including any amendment thereof.

"**Total Dollar Value**" means the sum of Existing Holders Dollar Value *plus* the Bailey Holders Dollar Value *plus* the aggregate dollar value with respect to all Acquisitions (including the Subject Seller Dollar Value).

"**Uplisting**" means an uplisting of Buyer Shares from the OTC to the Nasdaq or the NYSE American, as the case may be.

"**Uplisting Price**" means the opening price of Buyer Shares per share in connection with an Uplisting.

"**U.S.**" means the United States of America.

"**Valuation Shortfall**" has the meaning set forth in Section 2.06(a)(i).

ARTICLE II
PURCHASE AND SALE

Section 2.01 Purchase and Sale. Subject to the terms and conditions set forth herein, at the Closing, Seller shall sell to Buyer, and Buyer shall purchase from Seller, all of Seller's right, title, and interest in and to the Membership Interests, free and clear of all Encumbrances, for the consideration specified in Section 2.02.

Section 2.02 Purchase Price. The purchase price for the Membership Interests shall be:

(a) Paid in Buyer Shares calculated as follows and subject to adjustment pursuant to Section 2.05 (the "**Purchase Price**"): that number of Buyer Shares equal to the lesser of (i) Nine Million One Hundred Thousand and No/100 Dollars ($9,100,000.00) at a per share price equal to the IPO Price or Uplisting Price, as the case may be (to the extent the IPO or the Uplisting occurs first), or (ii) the number of Subject Acquisition Shares; and

(b) A cash payment to Seller that shall be allocated towards the Company's debt outstanding immediately prior to Closing pursuant to Section 2.04(a)(ii).

Section 2.03 Closing. Subject to the terms and conditions of this Agreement, the purchase and sale of the Membership Interests contemplated hereby shall take place at a closing (the "**Closing**") to be held no later than two (2) Business Days after the last of the conditions to Closing set forth in Article IV have been satisfied or waived (other than conditions which, by their nature, are to be satisfied on the Closing Date), at the offices of Manatt, Phelps & Phillips LLP, 695 Town Center Drive, 14th Floor, Costa Mesa, CA 92646, or at such other time, on such other date and/or at such other place as Seller and Buyer may mutually agree upon in writing (the day on which the Closing takes place being the "**Closing Date"**).

Section 2.04 Transactions to be Effected at the Closing.

(a) At the Closing, Buyer shall:

(i) Deliver to Seller:

(A) a stock certificate in the name of Seller representing a number of Buyer Shares in an aggregate amount equal to the lesser of (i) Seven Million Two Hundred Eighty Thousand and No/100 Dollars ($7,280,000.00) at a per share price equal to the IPO Price or the Uplisting Price, as the case may be (to the extent the IPO or the Uplisting occurs first), or (ii) eighty percent (80%) of the Subject Acquisition Shares; and

(B) the Ancillary Documents and all other agreements, documents, instruments or certificates required to be delivered by Buyer at or prior to the Closing pursuant to Section 6.03 of this Agreement.

(ii) Deliver immediately available funds to Seller in the amount of Five Hundred Thousand and No/100 Dollars ($500,000.00) for Seller's payment to Seller's creditors.

(iii) Deliver to the Escrow Agent:

(A) a stock certificate representing a number of shares of Buyer Shares in an aggregate amount equal to the lesser of (i) One Million Eight Hundred Twenty Thousand and No/100 Dollars ($1,820,000.00) at a per share price equal to the IPO Price or the Uplisting Price, as the case may be (to the extent the IPO or the Uplisting occurs first), or (ii) twenty percent (20%) of the Subject Acquisition Shares representing the Buyer Shares to be held for the purpose of securing any adjustment pursuant to Section 2.05 and potential indemnification obligations of Seller and the Company referenced in Article VII; and

(B) the Escrow Agreement.

(b) At the Closing, Seller shall:

(i) Deliver to Buyer:

(A) an assignment of the Membership Interests to Buyer in form and substance satisfactory to Buyer (the "**Assignment**"), duly executed by Seller; and

(B) the other Ancillary Documents and all other agreements, documents, instruments or certificates required to be delivered by Seller at or prior to the Closing pursuant to Section 6.02.

(ii) Deliver the Escrow Agreement to the Escrow Agent.

Section 2.05 Closing Indebtedness Adjustment

(a) Within ten (10) days after the Closing Date, Buyer or its Representatives shall cause to be prepared and delivered a statement (the "**Closing Indebtedness Statement**"), setting forth Buyer's good faith calculation of Closing Indebtedness in reasonable detail.

(b) In the event that the Seller agrees with and accepts the amount of Closing Indebtedness set forth in the Closing Indebtedness Statement, then the Seller shall provide Buyer with written notice of such acceptance within ten (10) days of the Seller's receipt of the Closing Indebtedness Statement, with the amount set forth therein then being final, conclusive and binding on the Parties as the Final Indebtedness.

(c) In the event that the Seller disputes or disagrees with the amount of Closing Indebtedness set forth in the Closing Indebtedness Statement, then Seller shall deliver written notice (the "**Closing Indebtedness Protest Notice**") of Seller's good faith objections to Buyer within thirty (30) days after Seller's receipt of the Closing Indebtedness Statement (the "**Protest Period**"), setting forth in reasonable detail the Seller's basis for any contested amounts or methodology in Buyer's calculation and Seller's determination of Closing Indebtedness. If the Seller does not provide Buyer with the Closing Indebtedness Protest Notice within the Protest Period, then the Closing Indebtedness Statement delivered by Buyer pursuant to Section 2.05(a) shall be final, conclusive and binding on the Parties as the Final Indebtedness. Any amounts in the Closing Indebtedness Statement not included in the Closing Indebtedness Protest Notice (if one (1) is delivered) shall be deemed to be accepted by Seller and shall be final, conclusive and binding on the Parties for all purposes hereunder. In the event Seller provide Buyer with a Closing Indebtedness Protest Notice, then Buyer and Seller shall negotiate in good faith to resolve all disagreements related thereto. From and after the delivery of the Closing Indebtedness Protest Notice until the Final Indebtedness is finally determined and agreed upon by the Parties pursuant to this Section 2.05, Seller shall provide Buyer and any Representatives retained by Buyer such information and access to personnel, books and records as Buyer shall reasonably request for the purpose of enabling Buyer and its Representatives to calculate, and to review Seller's calculation of, the Closing Indebtedness set forth in the Closing Indebtedness Protest Notice; *provided*, that, in no event shall Seller be required to provide any documents or other information covered by attorney-client privilege, the attorney work product doctrine or other similar protection. If Buyer and Seller, notwithstanding their good faith efforts, fail to resolve any of the disagreements contained in the Closing Indebtedness Protest Notice within ten (10) days after Seller provides Buyer with such Closing Indebtedness Protest Notice, then Buyer and Seller shall jointly engage any nationally recognized accounting firm, which is neither the Buyer's Accountants or Seller's Accountants (an " **Independent Accounting Firm**"), mutually agreed upon by Buyer and Seller in writing, to resolve any such disagreement(s). Any determination by the Independent Accounting Firm shall not be outside the range defined by the respective amounts in the Closing Indebtedness calculation proposed by Buyer and Seller's proposed adjustments thereto, and such determination shall be final, binding and conclusive upon the Parties. The Buyer and Seller shall each be responsible for fifty percent (50%) of the Independent Accounting Firm's fees incurred in connection with the resolution of any disagreements with regards to the Closing Indebtedness.

(d) Within ten (10) Business Days of the determination of the Final Indebtedness pursuant to either Section 2.05(b) or (c):

(i) If the Final Indebtedness is less than or equal to Four Hundred Fifty-Five Thousand and No/100 Dollars ($455,000.00), Buyer shall instruct the Escrow Agent to release to Seller an aggregate number of Buyer Shares held in escrow in an amount equal to the lesser of (i) Four Hundred Fifty-Five Thousand and No/100 Dollars ($455,000.00) at a per share price equal to the IPO Price or the Uplisting Price, as the case may be (to the extent the IPO or the Uplisting occurs first), or (ii) five percent (5%) of the Subject Acquisition Shares.

(ii) If the Final Indebtedness exceeds Four Hundred Fifty-Five Thousand and No/100 Dollars ($455,000.00), Buyer and Seller shall jointly instruct the Escrow Agent to release to Buyer from the Escrow Account for Buyer's cancellation an aggregate number of Buyer Shares equal to the lesser of (i) that Dollar amount by which the Final Indebtedness exceeds Four Hundred Fifty-Five Thousand and No/100 Dollars ($455,000.00) at a per share price equal to the IPO Price or the Uplisting Price, as the case may be (to the extent the IPO or the Uplisting occurs first), or (ii) that number of Subject Acquisition Shares that would have not otherwise been issued pursuant to Section 2.02 had the Purchase Price been reduced by the amount by which Final Indebtedness exceeds Four Hundred Fifty-Five Thousand and No/100 Dollars ($455,000.00).

Section 2.06 Post–Closing Adjustment Based on Per Share Price of Buyer Shares.

(a) Calculation/Effect.

(i) If, at the one (1) year anniversary of the Closing Date, the product of the number of Buyer Shares issued hereunder multiplied by the average closing price per share of Buyer Shares as quoted on the Nasdaq or NYSE American, as the case may be, for the thirty (30) day trading period immediately preceding such date *plus* Sold Buyer Shares Gross Proceeds does not exceed the sum of Nine Million One Hundred Thousand and No/100 Dollars ($9,100,000.00) *less* the value of any Buyer Shares cancelled pursuant to Section 2.05 and Section 7.04, then Buyer shall issue to Seller an additional aggregate number of Buyer Shares equal to the valuation shortfall at a per share price equal to the then closing price per share of Buyer Shares as quoted on the Nasdaq or NYSE American, as the case may be (collectively, the "**Valuation Shortfall**").

(ii) Concurrently, Buyer will cause a number of Buyer Shares or equivalents of Buyer Shares held by affiliated stockholders of Buyer prior to the IPO or the Uplisting, as the case may be, to be cancelled in an equivalent Dollar amount as the Valuation Shortfall on a pro rata basis in proportion to the number of Buyer Shares or equivalents of Buyer Shares held by each of them.

(b) Adjustments for Tax Purposes. Any issuances to Seller of Buyer Shares made pursuant to Section 2.06(a)(i) shall be treated as an adjustment to the Purchase Price by the Parties for Tax purposes, unless otherwise required by Law.

Section 2.07 Federal Income and Withholding Taxes.

(a) Tax–Free Reorganization. The Seller intends to treat the Seller's exchange of the Membership Interests for Buyer Shares as a corporate reorganization pursuant to §368(a)(1)(B) of the Code.

(b) Withholding Tax. Seller shall deliver a fully-executed true, complete and correct IRS Form W-9 solely for the purpose of certifying to Buyer that no backup withholding would be required by Buyer.

ARTICLE III
REPRESENTATIONS AND WARRANTIES OF SELLER

Except as set forth in the correspondingly numbered Section of the Disclosure Schedules, which shall qualify the corresponding representations and warranties regarding the Company set forth in this Article III, Seller represents and warrants to Buyer that the following statements are true and correct as of the Closing Date in all material respects, except for matters represented and warranted as of a specified date, which shall be made as of such specified date:

Section 3.01 Authority of Seller. Seller has full power and authority to enter into this Agreement and the Ancillary Documents to which Seller is a party, to carry out its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution and delivery by Seller of this Agreement and any Ancillary Document to which Seller is a party, the performance by Seller of its obligations hereunder and thereunder, and the consummation by Seller of the transactions contemplated hereby and thereby have been duly authorized by all requisite action on the part of Seller. This Agreement has been duly executed and delivered by Seller, and (assuming due authorization, execution and delivery by Buyer) this Agreement constitutes a legal, valid and binding obligation of Seller enforceable against Seller in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization or other similar Laws affecting the enforcement of creditors' rights generally. When each Ancillary Document to which Seller is or will be a party has been duly executed and delivered by Seller (assuming due authorization, execution and delivery by each other party thereto), such Ancillary Document will constitute a legal and binding obligation of Seller enforceable against it in accordance with its terms.

Section 3.02 Organization, Authority and Qualification of the Company. The Company is (a) a limited liability company duly organized, validly existing and in good standing under the Laws of the State of Texas and (b) a subchapter S corporation for federal income Tax purposes pursuant to Code § 1361. The Company has full limited liability company power and authority to own, operate or lease the properties and assets now owned, operated or leased by it and to carry on its business as it has been and is currently conducted. Section 3.02 of the Disclosure Schedules sets forth each jurisdiction in which the Company is licensed or qualified to do business, and the Company is duly licensed or qualified to do business and is in good standing in each jurisdiction in which the properties owned or leased by it or the operation of its business as currently conducted makes such licensing or qualification necessary. All limited liability company actions taken by the Company in connection with this Agreement and the other Ancillary Documents will be duly authorized on or prior to the Closing Date.

Section 3.03 Capitalization.

(a) Seller is the record owner of and has good and valid title to the Membership Interests, free and clear of all Encumbrances. The Membership Interests constitute one hundred percent (100%) of the total issued and outstanding Membership Interests of the Company. The Membership Interests have been duly authorized and are validly issued, fully paid and nonassessable. Upon consummation of the transactions contemplated by this Agreement, Buyer shall own all of the Membership Interests, free and clear of all Encumbrances.

(b) The Membership Interests were issued in compliance with applicable Laws. The Membership Interests were not issued in violation of the Organizational Documents of the Company or any other agreement, arrangement or commitment to which Seller or the Company is a party and are not subject to or in violation of any preemptive or similar rights of any Person.

(c) There are no outstanding or authorized options, warrants, convertible securities or other rights, agreements, arrangements or commitments of any character relating to any of the Membership Interests or obligating Seller or the Company to issue or sell any membership interests (including the Membership Interests) or any other interest, in the Company. Other than the Organizational Documents, there are no voting trusts, proxies or other agreements or understandings in effect with respect to the voting or transfer of any of the Membership Interests.

Section 3.04 **No Subsidiaries.** The Company does not own or have any interest in any shares or have an ownership interest in any other Person.

Section 3.05 **No Conflicts; Consents.** The execution, delivery and performance by Seller of this Agreement and the Ancillary Documents to which it is a party, and the consummation of the transactions contemplated hereby and thereby, do not and will not: (a) conflict with or result in a violation or breach of, or default under, any provision of the Organizational Documents of the Company; (b) conflict with or result in a violation or breach of any provision of any Law or Governmental Order applicable to Seller or the Company; (c) require the consent, notice or other action by any Person under, conflict with, result in a violation or breach of, constitute a default or an event that, with or without notice or lapse of time or both, would constitute a default under, result in the acceleration of or create in any party the right to accelerate, terminate, modify or cancel any Contract to which Seller or the Company is a party or by which Seller or the Company is bound or to which any of their respective properties and assets are subject (including any Material Contract) or any Permit affecting the properties, assets or business of the Company; or (d) result in the creation or imposition of any Encumbrance on any properties or assets of the Company, other than Permitted Encumbrances. Except as set forth in Section 3.05 of the Disclosure Schedules, no consent, approval, Permit, Governmental Order, declaration or filing with, or notice to, any Governmental Authority is required by or with respect to Seller or the Company in connection with the execution and delivery of this Agreement and the Ancillary Documents and the consummation of the transactions contemplated hereby and thereby.

Section 3.06 **Financial Statements.** Attached as Section 3.06 of the Disclosure Schedules are the unaudited balance sheets of the Company as of December 31, 2018 and December 31, 2019 and the related statements of income and cash flows for the fiscal years then ended (collectively, the "**Financial Statements**"), and the unaudited balance sheet of the Company (the "**Balance Sheet**") as of the three (3) month period ended March 31, 2020 (the "**Balance Sheet Date**"). Except as set forth therein, such financial statements (a) have been prepared from and are consistent with the books and records of the Company and in accordance with the Company's past practices, (b) are complete and correct in all material respects and (c) present fairly in all material respects the financial position and results of operations of the Company as of their respective dates and for the respective periods covered thereby.

Section 3.07 **Undisclosed Liabilities.** The Company has no liabilities, obligations or commitments of any nature whatsoever, asserted or unasserted, known or unknown, absolute or contingent, accrued or unaccrued, matured or unmatured, or otherwise (each a "**Liability**" and together the "**Liabilities**"), except (a) those which are adequately reflected or reserved against in the Balance Sheet as of the Balance Sheet Date, and (b) those which have been incurred in the ordinary course of business consistent with past practice since the Balance Sheet Date and which are not, individually or in the aggregate, material in amount.

Section 3.08 Absence of Certain Changes, Events, and Conditions. Except as set forth in Section 3.08 of the Disclosure Schedules, since the Balance Sheet Date, and other than in the ordinary course of business consistent with past practice, there has not been, with respect to the Company, any:

(a) event, occurrence or development that has had, or could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect;

(b) incurrence, assumption or guarantee of any indebtedness for borrowed money by the Company in an aggregate amount in excess of Seventy-Five Thousand and No/100 Dollars ($75,000.00);

(c) cancellation of any debts or claims or amendment, termination or waiver of any rights which could reasonably be expected to have a Material Adverse Effect;

(d) material damage, destruction or less, or any material interruption in use of, any of the Company's material assets, whether or not covered by insurance;

(e) imposition of any Lien (other than Permitted Liens) upon any of the Company's assets;

(f) adoption by the Company of any plan of merger, consolidation, reorganization, liquidation or dissolution or filing of a petition in bankruptcy under any provisions of federal or state bankruptcy Law or consent to the filing of any bankruptcy petition against it under similar Law; or

(g) any Contract to which the Company is a party to do any of the foregoing, or any action or omission that would result in any of the foregoing.

Section 3.09 Material Contracts.

(a) Section 3.09 of the Disclosure Schedules lists each of the following Contracts of the Company (such Contracts, together with all Contracts concerning the occupancy, management or operation of any Real Property (including without limitation, brokerage contracts) listed or otherwise disclosed in Section 3.10(c) of the Disclosure Schedules, being "**Material Contracts**"):

(i) each Contract of the Company involving aggregate consideration in excess of Seventy-Five Thousand and No/100 Dollars ($75,000.00) and which, in each case, cannot be cancelled by the Company without penalty or without more than ninety (90) days' notice;

(ii) all Contracts that require the Company to purchase its total requirements of any product or service from a third–party or that contain "take or pay" provisions;

(iii) all Contracts that provide for the indemnification by the Company of any Person or the assumption of any Tax, environmental or other Liability of any Person;

(iv) all Contracts that relate to the acquisition or disposition of any business, a material amount of equity or assets of any other Person or any real property (whether by merger, sale of stock or other equity interests, sale of assets or otherwise);

(v) all broker, distributor, dealer, manufacturer's representative, franchise, agency, sales promotion, market research, marketing consulting and advertising Contracts to which the Company is a party;

(vi) all employment agreements and Contracts with independent contractors or consultants (or similar arrangements) to which the Company is a party and which are not cancellable without material penalty or without more than ninety (90) days' notice;

(vii) except for Contracts relating to trade receivables, all Contracts relating to Indebtedness (including, without limitation, guarantees) of the Company;

(viii) all Contracts that limit or purport to limit the ability of the Company to compete in any line of business or with any Person or in any geographic area or during any period of time;

(ix) any Contracts to which the Company is a party that provide for any joint venture, partnership or similar arrangement by the Company;

(x) all Contracts between or among the Company on the one hand and Seller or any Affiliate of Seller (other than the Company) on the other hand; and

(xi) any other Contract that is material to the Company and not previously disclosed pursuant to this Section 3.09.

(b) Each Material Contract is valid and binding on the Company in accordance with its terms and is in full force and effect. None of the Company or, to Seller's Knowledge, any other party thereto is in breach of or default under (or is alleged to be in breach of or default under) in any material respect, or has provided or received any notice of any intention to terminate, any Material Contract. No event or circumstance has occurred with respect to the Company, or to Seller's Knowledge any other party thereto, that with notice or lapse of time or both, would constitute an event of default under any Material Contract or result in a termination thereof or would cause or permit the acceleration or other changes of any right or obligation or the loss of any benefit thereunder. Complete and correct copies of each Material Contract (including all modifications, amendments, and supplements thereto and waivers thereunder) have been made available to Buyer.

Section 3.10 Title to Assets; Real Property.

(a) The Company has good and valid title to all assets reflected in the Financial Statements or acquired after the Balance Sheet Date, other than properties and assets sold or otherwise disposed of in the ordinary course of business consistent with past practice since the Balance Sheet Date. All such assets are free and clear of Encumbrances except for liens arising under original purchase price conditional sales contracts and equipment leases with third–parties entered into in the ordinary course of business consistent with past practice that are not, individually or in the aggregate, material to the business of the Company and are set forth on Section 3.10(a) of the Disclosure Schedules (collectively referred to as "**Permitted Encumbrances**").

(b) The Company does not currently and has never owned any real property or any option to acquire any real property.

(c) Section 3.10(c) of the Disclosure Schedules sets forth a list of each existing lease or similar agreement showing the parties thereto and the physical address covered by such lease or other agreement (the "**Lease Agreements**") under which the Company is lessee of, or holds or operates, any real property owned by, used in or relating to the Company (the "**Leased Real Property**"). Each Lease Agreement for the Leased Real Property has been provided or made available to Buyer is in full force and effect. The Company is not in breach under the terms of such Lease Agreements.

Section 3.11 Condition and Sufficiency of Assets. Except as set forth inSection 3.11 of the Disclosure Schedules, the buildings, plants, structures, furniture, fixtures, machinery, equipment, vehicles and other items of tangible personal property of the Company are structurally sound, are in good operating condition and repair, are adequate for the uses to which they are being put and none of such buildings, plants, structures, furniture, fixtures, machinery, equipment, vehicles and other items of tangible personal property is in need of maintenance or repairs except for ordinary, routine maintenance and repairs that are not material in nature or cost. The buildings, plants, structures, furniture, fixtures, machinery, equipment, vehicles and other items of tangible personal property currently owned or leased by the Company, together with all other properties and assets of the Company, are sufficient for the continued conduct of the Company's business after the Closing in substantially the same manner as conducted prior to the Closing and constitute all of the rights, property and assets necessary to conduct the business of the Company as currently conducted.

Section 3.12 Intellectual Property. Section 3.12 of the Disclosure Schedules lists all Intellectual Property owned and/or licensed by the Company. Except as set forth in Section 3.12 of the Disclosure Schedules: (a) to Seller's Knowledge, the Company owns or possesses sufficient legal rights to all Company Intellectual Property without any conflicts with, or infringement of, the rights of others, and no product or service marketed or sold (or proposed to be marketed or sold) by the Company violates or will violate any license or infringes or will infringe any intellectual property rights of any other party; (b) other than with respect to commercially available software products under standard end–user object code license agreements or standard license agreements for open source software, there are no outstanding options, licenses, agreements, claims, encumbrances or shared ownership interests of any kind relating to the Intellectual Property, nor is the Company bound by or a party to any options, licenses or agreements of any kind with respect to the Patents, Trademarks, Copyrights, Trade Secrets, licenses, information, proprietary rights and processes of any other Person; (c) no claim has been asserted or, to Seller's Knowledge, threatened against the Company involving any Intellectual Property; (d) to Seller's Knowledge, it will not be necessary to use any inventions of any of its employees or consultants made prior to or outside the scope of their employment by the Company; (e) each employee and consultant has (i) assigned to the Company all Intellectual Property rights he or she owns that are related to the business of the Company and (ii) executed an agreement with the Company acknowledging the Company's exclusive ownership of all Intellectual Property invented, created or developed by such employee or independent contractor within the scope of his or her employment or engagement with the Company; (f) the Company does not utilize any open source software in a manner that requires the Company to disclose, make available, or offer or deliver any portion of the source code of any proprietary Company software or component thereof to any third–party.

Section 3.13 Inventory. All inventory of the Company, whether or not reflected in the Balance Sheet, consists of a quality and quantity usable and salable in the ordinary course of business consistent with past practice, except for obsolete, damaged, defective or slow–moving items that have been written off or written down to fair market value or for which adequate reserves have been established. All such inventory is owned by the Company free and clear of all Encumbrances and no inventory is held on a consignment basis. To Seller's Knowledge, the quantities of each item of inventory (whether raw materials, work–in–process or finished goods) are not excessive, but are reasonable in the present circumstances of the Company.

Section 3.14 Accounts Receivable. The accounts receivable reflected on the Balance Sheet and the accounts receivable arising after the Balance Sheet Date (a) have arisen from bona fide transactions entered into by the Company involving the sale of goods or the rendering of services in the ordinary course of business consistent with past practice; (b) constitute only valid, undisputed claims of the Company and, to Seller's Knowledge, not subject to claims of set–off or other defenses or counterclaims other than normal cash discounts accrued in the ordinary course of business consistent with past practice; and (c) subject to a reserve for bad debts shown on the Balance Sheet or, with respect to accounts receivable arising after the Balance Sheet Date, on the accounting records of the Company, Seller has no reason to believe that any of the accounts receivable are not collectible in full within ninety (90) days after billing.

Section 3.15 Customers and Suppliers.

(a) Section 3.15(a) of the Disclosure Schedules sets forth (i) each customer who has paid aggregate consideration to the Company for goods or services rendered in an amount greater than or equal to Seventy-Five Thousand and No/100 Dollars ($75,000.00) for each of the two (2) most recent fiscal years (collectively, the "**Material Customers**"); and (ii) the amount of consideration paid by each Material Customer during such periods. Except as set forth in Section 3.15(a) of the Disclosure Schedules, the Company has not received any notice, and has no reason to believe, that any of its Material Customers has ceased, or intends to cease after the Closing, to use its goods or services or to otherwise terminate or materially reduce its relationship with the Company.

(b) Section 3.15(b) of the Disclosure Schedules sets forth (i) each supplier to whom the Company has paid consideration for goods or services rendered in an amount greater than or equal to Seventy-Five Thousand and No/100 Dollars ($75,000.00) for each of the two (2) most recent fiscal years (collectively, the "**Material Suppliers**"); and (ii) the amount of purchases from each Material Supplier during such periods. Except as set forth in Section 3.15(b) of the Disclosure Schedules, the Company has not received any notice, and has no reason to believe, that any of its Material Suppliers has ceased, or intends to cease, to supply goods or services to the Company or to otherwise terminate or materially reduce its relationship with the Company.

Section 3.16 Insurance. Section 3.16 of the Disclosure Schedules sets forth a list of all insurance policies carried by or for the benefit of the Company, specifying the insurer, the name of the policy holder, the amount of coverage, the risk insured against, the deductible amount (if any) and the date through which coverage shall continue by virtue of premiums already paid. All such insurance policies are in full force and effect and the Company is not in default with respect to its respective obligations under any such insurance policies. There are no pending claims that have been denied insurance coverage.

Section 3.17 Legal Proceedings; Governmental Orders.

(a) Except as set forth in Section 3.17(a) of the Disclosure Schedules, there are no Actions pending or, to Seller's Knowledge, threatened (a) against or by the Company affecting any of its properties or assets (or by or against Seller or any Affiliate thereof and relating to the Company); or (b) against or by the Company, Seller or any Affiliate of Seller that challenges or seeks to prevent, enjoin or otherwise delay the transactions contemplated by this Agreement. To Seller's Knowledge, no event has occurred or circumstances exist that may give rise to, or serve as a basis for, any such Action.

(b) Except as set forth in Section 3.17(b) of the Disclosure Schedules, there are no outstanding Governmental Orders and no unsatisfied judgments, penalties or awards against or affecting the Company or any of its properties or assets. The Company is in compliance with the terms of each Governmental Order set forth in Section 3.17(b) of the Disclosure Schedules. No event has occurred or circumstances exist that may constitute or result in (with or without notice or lapse of time) a violation of any such Governmental Order.

Section 3.18 Compliance with Laws; Permits.

(a) The Company has complied, and is now complying, with all Laws applicable to it or its business, properties or assets.

(b) All Permits required for the Company to conduct its business have been obtained by it and are valid and in full force and effect. All fees and charges with respect to such Permits as of the Effective Date have been paid in full. Section 3.18(b) of the Disclosure Schedules lists all current Permits issued to the Company, including the names of the Permits and their respective dates of issuance and expiration. To Seller's Knowledge, no event has occurred that, with or without notice or lapse of time or both, would reasonably be expected to result in the revocation, suspension, lapse or limitation of any Permit set forth in Section 3.18(b) of the Disclosure Schedules.

Section 3.19 Environmental Matters.

(a) The Company is currently and has been in compliance with all Environmental Laws and has not, and the Seller has not, received from any Person any: (i) Environmental Notice or Environmental Claim; or (ii) written request for information pursuant to Environmental Law, which, in each case, either remains pending or unresolved, or is the source of ongoing obligations or requirements.

(b) The Company has not received any order, notice or other written communication, or to Seller's Knowledge, oral communication, from any Governmental Authority or third– party of any alleged failure to comply with any Environmental Law, or of any obligation to undertake or bear the cost of any costs of investigation and remediation with respect to (i) any Real Property currently or formerly owned or operated by the Company and any equipment (including motor vehicles, tank cars, and rolling stock) currently owned or operated by the Company ("**Equipment**") or (ii) any other properties or assets (whether real, personal or mixed) in which the Company has had an interest, or with respect to any property to which Hazardous Materials generated by the Company may have been sent where the alleged noncompliance or obligation described in such order, notice or communication remains unresolved;

(c) There are no Actions or threatened Actions, Liens (except Permitted Liens), or other restrictions of any nature, arising under or pursuant to any Environmental Law, with respect to or affecting any of the Real Property or Equipment or any other properties and assets (whether real, personal, or mixed) in which the Company has an interest; and

(d) There are no Hazardous Materials present in the soil or groundwater on the Real Property in such amounts that would give rise to material Liabilities or obligations under any Environmental Law.

Section 3.20 Employee Benefit Matters.

(a) The Company has no pension, benefit, retirement, compensation, employment, consulting, profit–sharing, deferred compensation, incentive, bonus, performance award, phantom equity or other equity, change in control, retention, severance, vacation, paid time off, medical, vision, dental, disability, welfare, Code Section 125 cafeteria, fringe benefit and other similar agreement, plan, policy, program or arrangement (and any amendments thereto), whether funded or unfunded, including any "employee benefit plan" within the meaning of Section 3(3) of ERISA, whether or not tax–qualified and whether or not subject to ERISA, which has ever been maintained, sponsored, contributed to, or required to be contributed to by the Company for the benefit of any current or former employee, officer, manager, retiree, independent contractor or consultant of the Company or any spouse or dependent of such individual, or under which the Company or any of its ERISA Affiliates has or may have any Liability, or with respect to which Buyer or any of its Affiliates would reasonably be expected to have any Liability, contingent or otherwise (each, a "**Benefit Plan**").

(b) No Benefit Plan is the subject of any Action. Neither the Seller nor the Company have received notice of any audit or examination by the IRS, the U.S. Department of Labor or any other Governmental Authority.

(c) Neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated by this Agreement will, either alone or in combination with other events, (i) result in any payment becoming due from the Company under any Benefit Plan, (ii) increase any benefits otherwise payable under any Benefit Plan or (iii) result in the acceleration of the time of payment or vesting of any benefits under any Benefit Plan.

Section 3.21 Employment Matters.

(a) Section 3.21(a) of the Disclosure Schedules contains a list of all persons who are employees, independent contractors or consultants of the Company as of the Effective Date, including any employee who is on a leave of absence of any nature, paid or unpaid, authorized or unauthorized, and sets forth for each such individual the following: (i) name; (ii) title or position (including whether full-time or part-time); (iii) hire or retention date; (iv) current annual base compensation rate or contract fee; (v) commission, bonus or other incentive–based compensation; and (vi) a description of the fringe benefits provided to each such individual as of the Effective Date. Except as set forth in Section 3.21(a) of the Disclosure Schedules, as of the Effective Date, all compensation, including wages, commissions, bonuses, fees and other compensation, payable to all employees, independent contractors or consultants of the Company for services performed on or prior to the Effective Date have been paid in full (or accrued in full on the Balance Sheet) and there are no outstanding agreements, understandings or commitments of the Company with respect to any compensation, commissions, bonuses or fees.

(b) Except as set forth in Section 3.21(a) of the Disclosure Schedules, the Company has complied in all material respects with all applicable Laws relating to wages, hours, and discrimination in employment. There have been no union organizing or election activities involving any non–union employees of the Company and, to Seller Knowledge, none are threatened as of the Effective Date.

Section 3.22 Taxes. Except as set forth in Section 3.22 of the Disclosure Schedules:

(a) There are no federal, state, local or foreign Taxes due and payable by the Company that have not been timely paid. There are no accrued and unpaid federal, state, local or foreign taxes of the Company that are due, whether or not assessed or disputed. There have been no examinations or audits of any Tax Returns or reports by any applicable federal, state, local or foreign Governmental Authority. The Company has duly and timely filed all federal, state, local and foreign Tax Returns required to have been filed by it and there are in effect no waivers of applicable statutes of limitations with respect to Taxes for any year. All Tax Returns for the Company required to be filed on or before the Effective Date are true, complete and correct in all respects.

(b) The Company has withheld and paid each Tax required to have been withheld and paid in connection with amounts paid or owing to any employee, independent contractor, creditor, customer, shareholder or other party, and complied in all material respects with all information reporting and backup withholding provisions of applicable Law.

Section 3.23 Books and Records. The minute books of the Company have been made available to Buyer, are complete and correct, and have been maintained in accordance with sound business practices. The minute books of the Company contain accurate and complete records of all meetings and actions taken by written consent of the members and the managers and no meeting or action taken by written consent of any such members or managers has been held for which minutes have not been prepared and are not contained in such minute books.

Section 3.24 Investment Representations

(a) **Risks of Investment**. Seller recognizes that the acquisition of the Buyer Shares involves a high degree of risk in that an investor could sustain the loss of its entire investment and the Buyer is and will be subject to numerous other risks and uncertainties, including, without limitation, significant and material risks relating to the Buyer's business and the industries, markets and geographic regions in which the Buyer competes.

(b) **Accredited Investor Status**. Seller represents that he is an "accredited investor" as such term is defined in Rule 501 ofRegulation D promulgated under the Securities Act of 1933, as amended (the "**Securities Act**"), and that it is able to bear the economic risk of an investment in the Buyer Shares.

(c) **Investment Experience**. Seller acknowledges that it has prior investment experience, including, without limitation, investment in non–listed and non–registered securities, or it has employed the services of an investment advisor, attorney or accountant to read all of the documents furnished or made available by the Company to Seller and to evaluate the merits and risks of such an investment on its behalf and that it recognizes the highly speculative nature of the investment in Buyer Shares.

(d) **Access to Information**. Buyer has furnished or given access to Seller with (i) all information regarding the Buyer, its financial condition and results of operations that it had requested or desired to know; and (ii) all documents that could reasonably be provided and made available for Seller's inspection and review. Seller has been afforded the opportunity to ask questions of and receive answers from duly authorized Representatives of the Buyer concerning the terms and conditions of the sale and purchase of Buyer Shares and any additional information that it requested in that regard. Seller has neither seen nor received any advertisement or general solicitation with respect to the sale of any securities of the Buyer, including, without limitation, Buyer Shares. Except as set forth in this Agreement, Seller acknowledges that no representations or warranties have been made to the Seller by either the Buyer or any of its agents, employees or Affiliates and, in entering into this transaction, no Seller is relying on any information, other than that contained in this Agreement and the results of independent investigation by Seller.

(e) **Investment Intent; Resales**. Seller acknowledges that the offer and sale of the Buyer Shares has not been reviewed or approved by the SEC because the offering of the Buyer Shares is intended to be a nonpublic offering pursuant to Section 4(a)(2) of the Securities Act. The Buyer Shares are being acquired by Seller for its own account, for investment and without any present intention of distribution or reselling to others. Seller understands that it will not sell or otherwise transfer any of the Buyer Shares unless they are registered under the Securities Act or unless an exemption from such registration is available and, upon Buyer's request, Buyer receives an opinion of counsel, reasonably satisfactory to Buyer, confirming that an exemption from such registration is available for such sale or transfer.

(f) **Legends**. Seller acknowledges and consents to the placement of one or more legends on any certificate or other document evidencing the Buyer Shares stating that they have not been registered under the Securities Act, substantially in the form as set forth below:

|THESE SECURITIES HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "**SECURITIES ACT**"), OR ANY STATE SECURITIES OR BLUE SKY LAWS AND , ACCORDINGLY, MAY NOT BE OFFERED, SOLD, TRANSFERRED, HYPOTHECATED OR OTHERWISE ASSIGNED EXCEPT (A) PURSUANT TO A REGISTRATION STATEMENT WITH RESPECT TO SUCH SECURITIES THAT IS EFFECTIVE UNDER THE SECURITIES ACT OR (B) PURSUANT TO AN AVAILABLE EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT RELATING TO THE DISPOSITION OF SECURITIES AND IN ACCORDANCE WITH APPLICABLE STATE SECURITIES AND BLUE SKY LAWS.

Section 3.25 Brokers. No broker, finder or investment banker is entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement or any Ancillary Document based upon arrangements made by or on behalf of Seller.

Section 3.26 Full Disclosure. No representation or warranty by Seller in this Agreement and no statement contained in the Disclosure Schedules to this Agreement or any certificate or other document furnished or to be furnished to Buyer pursuant to this Agreement contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements contained therein, in light of the circumstances in which they are made, not misleading.

ARTICLE IV
REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer represents and warrants to Seller that the statements contained in this Article IV are true and correct as of the Effective Date.

Section 4.01 Organization and Authority of Buyer. Buyer is a corporation duly organized, validly existing and in good standing under the Laws of the State of Delaware. Buyer has full corporate power and authority to enter into this Agreement and the Ancillary Documents to which Buyer is a party, to carry out its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution and delivery by Buyer of this Agreement and any Ancillary Document to which Buyer is a party, the performance by Buyer of its obligations hereunder and thereunder and the consummation by Buyer of the transactions contemplated hereby and thereby have been duly authorized by all requisite corporate action on the part of Buyer. This Agreement has been duly executed and delivered by Buyer and (assuming due authorization, execution and delivery by Seller) this Agreement constitutes a legal, valid and binding obligation of Buyer enforceable against Buyer in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization or other similar Laws affecting the enforcement of creditors' rights generally. When each Ancillary Document to which Buyer is or will be a party has been duly executed and delivered by Buyer (assuming due authorization, execution and delivery by each other party thereto), such Ancillary Document will constitute a legal and binding obligation of Buyer enforceable against it in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, or other similar Laws affecting the enforcement of creditors' rights generally.

Section 4.02 **No Conflicts; Consents.** The execution, delivery and performance by Buyer of this Agreement and the Ancillary Documents to which it is a party, and the consummation of the transactions contemplated hereby and thereby do not and will not: (a) conflict with or result in a violation or breach of, or default under, any provision of the Organizational Documents of Buyer; (b) conflict with or result in a violation or breach of any provision of any Law or Governmental Order applicable to Buyer; or (c) except as set forth in Section 4.02 of the Disclosure Schedules require the consent, notice or other action by any Person under any Contract to which Buyer is a party. No consent, approval, Permit, Governmental Order, declaration or filing with or notice to any Governmental Authority is required by or with respect to Buyer in connection with the execution and delivery of this Agreement and the Ancillary Documents and the consummation of the transactions contemplated hereby and thereby, except for such consents, approvals, Permits, Governmental Orders, declarations, filings or notices which, in the aggregate, would not have a Material Adverse Effect.

Section 4.03 **Investment Purpose.** Buyer is acquiring the Membership Interests solely for its own account for investment purposes and not with a view to or for offer or sale in connection with any distribution thereof. Buyer acknowledges that the Membership Interests are not registered under the Securities Act or any state securities Laws, and that the Membership Interests may not be transferred or sold except pursuant to the registration provisions of the Securities Act or pursuant to an applicable exemption therefrom and subject to state securities Laws, as applicable.

Section 4.04 **Valid Issuance**. Upon issuance in accordance with and pursuant to the terms of this Agreement, the Buyer Shares will be validly issued, fully paid and non-assessable.

Section 4.05 **Brokers.** No broker, finder or investment banker is entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement or any Ancillary Document based upon arrangements made by or on behalf of Buyer.

Section 4.06 **Legal Proceedings.** There are no Actions pending or, to Buyer's Knowledge, threatened against or by Buyer or any Affiliate of Buyer that challenge or seek to prevent, enjoin or otherwise delay the transactions contemplated by this Agreement. No event has occurred or circumstances exist that may give rise or serve as a basis for any such Action.

ARTICLE V
COVENANTS

Section 5.01 Conduct of Business Prior to the Closing. From the Effective Date until the Closing Date, except as otherwise provided in this Agreement or consented to in writing by Buyer (which consent shall not be unreasonably withheld or delayed), Seller shall, and shall cause the Company to, (x) conduct the business of the Company in the ordinary course of business consistent with past practice; and (y) use reasonable best efforts to maintain and preserve intact the current organization, business and franchise of the Company and to preserve the rights, franchises, goodwill and relationships of its employees, customers, lenders, suppliers, regulators and others having business relationships with the Company. Without limiting the foregoing, from the Effective Date until the Closing Date, Seller shall:

(a) cause the Company to preserve and maintain all of its Permits;

(b) cause the Company to pay its debts, Taxes and other obligations when due and in a manner consistent with past practice;

(c) cause the Company to maintain the properties and assets owned, operated or used by the Company in the same condition as they were on the Effective Date, subject to reasonable wear and tear;

(d) cause the Company to continue in full force and effect without modification all Insurance Policies, except as required by applicable Law;

(e) cause the Company to defend and protect its properties and assets from infringement or usurpation;

(f) cause the Company to perform all of its obligations under all Contracts relating to or affecting its properties, assets or business;

(g) cause the Company to maintain its books and records in accordance with past practice;

(h) cause the Company to comply in all material respects with all applicable Laws; and

(i) cause the Company not to take or permit any action that would cause any of the changes, events, or conditions described in Section 3.08 to occur.

Section 5.02 Access to Information. From the Effective Date until the Closing Date, Seller shall and shall cause the Company to (a) afford Buyer and its Representatives full and free access to and the right to inspect all of the Real Property, properties, assets, premises, books and records, Contracts and other documents and data related to the Company; (b) furnish Buyer and its Representatives with such financial, operating and other data and information related to the Company as Buyer or any of its Representatives may reasonably request; and (c) instruct the Representatives of Seller and the Company to cooperate with Buyer in its investigation of the Company. Any investigation pursuant to this Section 5.02 shall be conducted in such manner as not to interfere unreasonably with the conduct of the business of Seller or the Company.

Section 5.03 No Solicitation of Other Bids.

(a) Seller shall not and shall not authorize or permit any of its Affiliates (including the Company) or any of its or their Representatives to, directly or indirectly, (i) encourage, solicit, initiate, facilitate or continue inquiries regarding an Acquisition Proposal; (ii) enter into discussions or negotiations with, or provide any information to, any Person concerning a possible Acquisition Proposal; or (iii) enter into any agreements or other instruments (whether or not binding) regarding an Acquisition Proposal. Seller shall immediately cease and cause to be terminated, and shall cause its Affiliates (including the Company) and all of its and their Representatives to immediately cease and cause to be terminated, all existing discussions or negotiations with any Persons conducted heretofore with respect to, or that could lead to, an Acquisition Proposal.

(b) In addition to the other obligations under this Section 5.03, Seller shall promptly (and in any event within three (3) Business Days after receipt thereof by Seller or its Representatives) advise Buyer orally and in writing of any Acquisition Proposal, any request for information with respect to any Acquisition Proposal, the material terms and conditions of such request, or Acquisition Proposal, and the identity of the Person making the same.

(c) Seller agrees that the rights and remedies for noncompliance with thisSection 5.03 shall include having such provision specifically enforced by any court having equity jurisdiction, it being acknowledged and agreed that any such breach or threatened breach shall cause irreparable injury to Buyer and that monetary damages would not provide an adequate remedy to Buyer.

Section 5.04 Notice of Certain Events.

(a) From the Effective Date until the Closing Date, Seller and Buyer shall each promptly notify the other in writing of:

(i) any fact, circumstance, event or action the existence, occurrence or taking of which has (A) had, individually or in the aggregate, a Material Adverse Effect, (B) resulted in, any representation or warranty made by Seller hereunder not being true and correct or (C) resulted in, the failure of any of the conditions set forth in Section 6.02 to be satisfied;

(ii) any notice or other communication from any Person alleging that the consent of such Person is or may be required in connection with the transactions contemplated by this Agreement;

(iii) any notice or other communication from any Governmental Authority in connection with the transactions contemplated by this Agreement; and

(iv) any Actions commenced or, to Seller's Knowledge or Buyer's Knowledge, as the case may be, threatened against, relating to or involving or otherwise affecting Seller or Buyer or the Company that, if pending on the Effective Date, would have been required to have been disclosed pursuant to Section 3.17 or that relates to the consummation of the transactions contemplated by this Agreement.

Section 5.05 **Resignations.** Seller shall deliver to Buyer written resignations, effective as of the Closing Date, of the officers and managers of the Company.

Section 5.06 **Confidentiality.** From and after the Closing Date, Seller shall, and shall cause its Affiliates to, hold (and in the event of termination under Article VIII, Buyer as well as its Affiliates shall hold), and shall use its reasonable best efforts to cause its or their respective Representatives to hold, in confidence any and all information, whether written or oral, concerning the Company, except to the extent that Seller (or Buyer in the event of termination) can show that such information (a) is generally available to and known by the public through no fault of Seller (or Buyer in the event of termination), any of Affiliates or its Representatives; or (b) is lawfully acquired by Seller, any of its Affiliates or Representatives from and after the Closing Date from sources that are not prohibited from disclosing such information by a legal, contractual or fiduciary obligation. If Seller or any of its Affiliates or Representatives (or Buyer in the event of termination) are compelled to disclose any information by judicial or administrative process or by other requirements of Law, Seller shall promptly notify Buyer (or Buyer shall promptly notify Seller in the event of termination) in writing and shall disclose only that portion of such information which Seller is advised by their counsel in writing is legally required to be disclosed; *provided*, that Buyer (or Seller as the case may be) may with diligence seek an appropriate protective order or other reasonable assurance that confidential treatment will be accorded such information.

Section 5.07 **Closing Conditions.** From the Effective Date until the Closing Date, each Party shall, and Seller shall cause the Company to, use reasonable best efforts to take such actions as are necessary to expeditiously satisfy the closing conditions set forth in Article VI hereof.

Section 5.08 **Public Announcements.** Unless otherwise required by applicable Law (based upon the reasonable advice of counsel), no Party shall make any public announcements with respect to this Agreement or the transactions contemplated hereby or otherwise communicate with any news media without the prior written consent of the other Party (which consent shall not be unreasonably withheld or delayed), and the Parties shall cooperate as to the timing and contents of any such announcement.

Section 5.09 **Further Assurances.** Following the Closing, each of the Parties shall, and shall cause their respective Affiliates to, execute and deliver such additional documents, instruments, conveyances and assurances and take such further actions as may be reasonably required to carry out the provisions hereof and give effect to the transactions contemplated by this Agreement.

ARTICLE VI
CONDITIONS TO CLOSING

Section 6.01 Conditions to Obligations of All Parties. The obligations of each Party to consummate the transactions contemplated by this Agreement shall be subject to the fulfillment, at or prior to the Closing, of each of the following conditions:

(a) Either the IPO shall have closed or the Uplisting shall have occurred; and

(b) No Governmental Authority shall have enacted, issued, promulgated, enforced or entered any Governmental Order that is in effect and has the effect of making the transactions contemplated by this Agreement illegal, otherwise restraining or prohibiting consummation of such transactions or causing any of the transactions contemplated hereunder to be rescinded following completion thereof.

Section 6.02 Conditions to Obligations of Buyer. The obligations of Buyer to consummate the transactions contemplated by this Agreement shall be subject to the fulfillment or Buyer's waiver, at or prior to the Closing, of each of the following conditions:

(a) The representations and warranties of Seller shall be true and correct in all respects on and as of the Effective Date and the Closing Date with the same effect as though made at and as of such date (except those representations and warranties that address matters only as of a specified date, the accuracy of which shall be determined as of that specified date in all respects). Buyer hereby acknowledges that Seller shall have the right to update any representation and warranty given pursuant to Article III at any time after the Effective Date through an update to the Disclosure Schedules, with any such update a "**Seller's Disclosure Schedule Update**." If the Closing occurs, any such representation and warranty shall be amended by Seller's Disclosure Schedule Update.

(b) Seller shall have duly performed and complied in all material respects with all agreements, covenants and conditions required by this Agreement and each of the Ancillary Documents to be performed or complied with by it prior to or on the Closing Date; *provided,* that, with respect to agreements, covenants and conditions that are qualified by materiality, Seller shall have performed such agreements, covenants and conditions, as so qualified, in all respects.

(c) No Action shall have been commenced against Buyer, Seller or the Company that would prevent the Closing. No injunction or restraining order shall have been issued by any Governmental Authority, and be in effect, which restrains or prohibits any transaction contemplated hereby.

(d) All approvals, consents and waivers that are listed on Section 3.05 of the Disclosure Schedules shall have been received and executed counterparts thereof shall have been delivered to Buyer at or prior to the Closing.

(e) There shall not have occurred any Material Adverse Effect from and after the Effective Date.

(f) Seller shall have duly executed and delivered the Assignment to Buyer.

(g) The Ancillary Documents shall have been executed and delivered by the parties thereto and true and complete copies thereof shall have been delivered to Buyer.

(h) Buyer shall have received a certificate, dated the Closing Date and signed by a duly authorized officer of the Company, that each of the conditions set forth in Sections 6.02(a) and (b) have been satisfied.

(i) Buyer shall have received a certificate of the Secretary or an Assistant Secretary (or equivalent officer) of the Company certifying that attached thereto are true and complete copies of all resolutions adopted by the board of managers or managing members of the Company authorizing the execution, delivery and performance of this Agreement, the Ancillary Documents and the consummation of the transactions contemplated hereby and thereby, that all such resolutions are in full force and effect and are all the resolutions adopted in connection with the transactions contemplated hereby and thereby.

(j) Buyer shall have received a certificate of the Secretary or an Assistant Secretary (or equivalent officer) of the Company certifying the names and signatures of the officers of Company authorized to sign this Agreement, the Ancillary Documents and the other documents to be delivered hereunder and thereunder.

(k) Buyer shall have received resignations of the managers and officers of the Company pursuant to Section 5.05.

(l) Seller shall have delivered to Buyer a good standing certificate (or its equivalent) for the Company from the secretary of state or similar Governmental Authority of the jurisdiction under the Laws in which the Company is organized.

(m) Seller shall have delivered to Buyer such other documents or instruments as Buyer reasonably requests and are reasonably necessary to consummate the transactions contemplated by this Agreement.

Section 6.03 Conditions to Obligations of Seller. The obligations of Seller to consummate the transactions contemplated by this Agreement shall be subject to the fulfillment or Seller's waiver, at or prior to the Closing, of each of the following conditions:

(a) The representations and warranties of Buyer shall be true and correct in all respects on and as of the Effective Date and the Closing Date with the same effect as though made at and as of such date. Seller hereby acknowledges that Buyer shall have the right to update any representation and warranty given pursuant to Article IV herein at any time after the Effective Date through an update to the Disclosure Schedules, any such update a "**Buyer's Disclosure Schedule Update**." If the Closing occurs, any such representation and warranty shall be amended by such Buyer Disclosure Schedule Update.

(b) Buyer shall have duly performed and complied in all material respects with all agreements, covenants and conditions required by this Agreement and each of the Ancillary Documents to be performed or complied with by it prior to or on the Closing Date; *provided,* that, with respect to agreements, covenants and conditions that are qualified by materiality, Buyer shall have performed such agreements, covenants and conditions, as so qualified, in all respects.

(c) No Action shall have been commenced against Buyer that would prevent the Closing. No injunction or restraining order shall have been issued by any Governmental Authority, and be in effect, which restrains or prohibits any material transaction contemplated hereby.

(d) All approvals, consents and waivers that are listed on Section 4.02 of the Disclosure Schedules shall have been received, and executed counterparts thereof shall have been delivered to Seller at or prior to the Closing.

(e) The Ancillary Documents shall have been executed and delivered by the parties thereto and true and complete copies thereof shall have been delivered to Seller.

(f) Seller shall have received a certificate, dated the Closing Date and signed by a duly authorized officer of Buyer, that each of the conditions set forth in Sections 6.02(a) and (b) have been satisfied.

(g) Seller shall have received a certificate of the Secretary or an Assistant Secretary (or equivalent officer) of Buyer certifying that attached thereto are true and complete copies of all resolutions adopted by the board of directors of Buyer authorizing the execution, delivery and performance of this Agreement and the Ancillary Documents and the consummation of the transactions contemplated hereby and thereby, and that all such resolutions are in full force and effect and are all the resolutions adopted in connection with the transactions contemplated hereby and thereby.

(h) Seller shall have received a certificate of the Secretary or an Assistant Secretary (or equivalent officer) of Buyer certifying the names and signatures of the officers of Buyer authorized to sign this Agreement, the Ancillary Documents and the other documents to be delivered hereunder and thereunder.

(i) Buyer shall have delivered a certificate evidencing the Buyer Shares to the Escrow Agent.

(j) Buyer shall have delivered to Seller such other documents or instruments as Seller reasonably requests and are reasonably necessary to consummate the transactions contemplated by this Agreement.

ARTICLE VII
INDEMNIFICATION

Section 7.01 Survival Period. For purposes of this Agreement, (a) the representations and warranties of Seller contained in Sections 3.01, 3.02, 3.03, 3.19, 3.22 and 3.25 (each, a "**Seller Fundamental Representation**") and the representations and warranties of Buyer contained in Sections 4.01, 4.02, 4.04 and 4.05 (each, a "**Buyer Fundamental Representation**") shall survive indefinitely and (b) all other representations and warranties not referenced in this Section 7.01 shall survive for a period of twelve (12) months after the Closing Date. The Parties hereby agree that the foregoing is specifically intended to limit the time period within which a Party may make a Claim, notwithstanding any applicable statute of limitations. No Party shall be entitled to recover for any Losses pursuant to Sections 7.02 or 7.03 unless a Claim Notice is delivered to the Indemnifying Party before the applicable date set forth in this Section 7.01, in which case the Claim set forth in the Claim Notice shall survive the applicable date set forth in this Section 7.01 until such time as such Claim is fully and finally resolved. The covenants and agreements set forth in this Agreement and to be performed to any extent at or after the Closing Date, which have not been waived or amended as set forth herein, shall survive until fully discharged and performed and any Claims for indemnification with respect to a breach of such covenants to be performed in any respect after the Effective Date may be made at any time within the applicable statute of limitations.

Section 7.02 Indemnification by Seller. Seller shall indemnify and hold harmless Buyer and each of its officers, managers, members, agents and Representatives (collectively, the "**Buyer Indemnified Parties**") from and against all Losses that the Buyer Indemnified Parties may suffer or sustain by reason of or arising out of (a) any inaccuracy in any representation or warranty of Seller contained in Article III, except to the extent that the same has been modified or updated by a Seller's Disclosure Schedule Update or (b) any breach of any covenant or agreement of Seller contained in this Agreement (the amount of such Losses, the "**Seller Indemnifiable Amount**"). Except for Claims made pursuant to a breach of a Seller Fundamental Representation, all Claims made by Buyer shall be satisfied from the Escrow Account and the escrowed Buyer Shares. Notwithstanding the foregoing, if Seller (i) terminate this Agreement other than as set forth in Section 8.01 or (ii) breach the provisions of Section 5.03, in addition to all other remedies and damages Buyer may be entitled to pursuant to the provisions hereof, Seller shall be responsible to reimburse Buyer for all reasonable costs and expenses incurred by Buyer in connection with the preparation of this Agreement and the Ancillary Agreements and all reasonable accounting costs and expenses incurred in connection with any audit of the Financial Statements.

Section 7.03 Indemnification by Buyer. Buyer shall indemnify and hold harmless Seller and each of its Representatives (collectively, the '**Seller Indemnified Parties**") from and against all Losses that the Seller Indemnified Parties may suffer or sustain by reason of or arising out of (a) any inaccuracy in any representation or warranty contained in Article IV, except to the extent that the same has been modified or updated by a Buyer Disclosure Schedule Update and (b) any breach of any covenant or agreement of the Buyer contained in this Agreement (the amount of such Losses, the "**Buyer Indemnifiable Amount**").

Section 7.04 Limitations on Indemnification.

(a) Except in the case of intentional fraud or a Claim involving a breach of any Buyer Fundamental Representation, the total aggregate Losses under the Buyer Indemnifiable Amount shall not exceed an amount equal to Five Hundred Thousand and No/100 Dollars ($500,000.00).

(b) Except in the case of intentional fraud or a Claim involving a breach of any Seller Fundamental Representation, the total aggregate Losses under the Seller Indemnifiable Amount shall not exceed an amount equal to the value of the Buyer Shares that remain in the Escrow Account at the time that the Claim or breach is alleged by the Buyer Indemnified Parties and all Claims by Buyer for indemnification pursuant to this Article VII shall be made solely against and result in the cancellation of Buyer Shares deposited in the Escrow Account at a per share price equal to the IPO price or the Uplisting Price, as the case may be.

(c) In no event shall any Indemnifying Party be liable to an Indemnified Party for any punitive, incidental, consequential, special or indirect damages, including loss of future revenue or income, loss of business reputation or opportunity relating to the breach or alleged breach of this Agreement, or diminution of value or any damages based on any type of multiple.

Section 7.05 Indemnification Claims.

(a) If an Indemnified Party wishes to assert an indemnification claim hereunder (a "**Claim**"), the Indemnified Party shall deliver to the responsible Indemnifying Party a written notice (a "**Claim Notice**") setting forth:

(i) a description of the matter giving rise to the Claim, including a reasonably detailed description of the facts and circumstances known to the Indemnified Party giving rise to the Claim, and

(ii) to the extent determinable and based upon facts known to the Indemnified Party at such time, an estimate of the monetary amounts actually incurred or expected to be incurred for which indemnification is sought.

(b) Within thirty (30) days after receipt of any Claim Notice, the Indemnifying Party shall (i) acknowledge in writing its responsibility for all or part of such matter for which indemnification is sought under this Article VII, and will either (A) satisfy (subject to the terms and conditions of Section 7.04) the portion of such matter as to which responsibility is acknowledged or (B) take such other action as is reasonably satisfactory to the Indemnified Party to provide reasonable security or other assurances for the performance of its obligations hereunder, and/or (ii) give written notice to the Indemnified Party of its intention to dispute or contest all or part of such responsibility. Upon delivery of the Indemnifying Party's notice of its intention to contest the Claim, the Parties will negotiate in good faith to resolve any dispute as to the responsibility for or the amount of any such matter as promptly as possible. If the Parties fail to resolve such dispute within ninety (90) days of delivery of the notice of intention to contest, either Party may submit such Claim for resolution pursuant to Section 9.12.

Section 7.06 Defense of Third–Party Claims.

(a) If an Indemnified Party receives written notice or otherwise obtains knowledge of any third–party claim or any threatened third–party claim that gives rise or is reasonably likely to give rise to a Claim against an Indemnifying Party, then the Indemnified Party shall promptly deliver to the Indemnifying Party a written notice describing such third–party claim in reasonable detail. The untimely delivery of such written notice by the Indemnified Party to the Indemnifying Party shall relieve the Indemnifying Party of liability with respect to such third–party claim only to the extent that it has actually been prejudiced by lack of timely notice under this Section 7.06(a) with respect to such third–party claim. The Indemnifying Party shall have the right, at its option, to assume the defense of any such third–party claim with counsel of its own choosing, which counsel shall be reasonably acceptable to the Indemnified Party. If the Indemnifying Party elects to assume the defense of an indemnification third–party claim, then:

(i) Except as set forth in Section 7.06(b), the Indemnifying Party shall not be required to pay or otherwise indemnify the Indemnified Party against any attorneys' fees or other expenses incurred on behalf of the Indemnified Party in connection with such matter following the Indemnifying Party's election to assume the defense of such matter so long as the Indemnifying Party continues to diligently conduct such defense;

(ii) The Indemnified Party shall, subject to the Indemnifying Party's agreement to appropriate confidentiality restrictions, use reasonable efforts to make available to the Indemnifying Party all books, records and other documents and materials that are under the direct or indirect control of the Indemnified Party or any of the Indemnified Party's Representatives that the Indemnifying Party reasonably considers necessary or desirable for the defense of such matter and shall, upon prior request and to the extent reasonably necessary in connection with the defense of such claim, make available to the Indemnifying Party reasonable access to the Indemnified Party's personnel; *provided*, that nothing herein shall require the Indemnified Party to disclose privileged documents that are unrelated to such claim except to the extent Indemnified Party is compelled to do so by a court of competent jurisdiction; and

(iii) The Indemnified Party shall not be required to admit any liability with respect to such third–party claim.

(b) If (i) the Indemnifying Party fails or refuses to assume the defense of and indemnification for such third–party claim within thirty (30) days of receipt of notice of such claim in accordance with Section 7.06(a), (ii) the Indemnifying Party fails to actively and diligently defend such third–party claim following any such acceptance, (iii) the third–party claim includes an injunction or seeks other equitable relief, (iv) the Indemnified Party shall have been advised by counsel reasonably acceptable to the Indemnifying Party that there are one (1) or more legal or equitable defenses available to it which are different from or in addition to those available to the Indemnifying Party, and, in the reasonable opinion of the Indemnified Party, counsel for the Indemnifying Party could not adequately represent the interests of the Indemnified Party because such interests would be in conflict with those of the Indemnifying Party or (v) the third–party claim includes damages that could exceed the limitations in Section 7.04, then at the Indemnified Party's option, the Indemnified Party may assume the defense and if it assumes the defense, the Indemnified Party shall proceed to actively and diligently defend such third–party claim with the assistance of counsel of its selection, and the Indemnifying Party shall be entitled to participate in (but not control) the defense of such third–party claim, with its own counsel and at its own expense; *provided*, that if the Indemnifying Party agrees in writing that the Indemnified Party is entitled to indemnification hereunder for such third–party claim, and the Indemnifying Party is otherwise determined to be obligated for the Losses under this Article VII in respect of such third–party claim, then the Losses recoverable by the Indemnified Party shall include all reasonable costs and expenses, including the defense set forth herein.

(c) No third–party claim may be settled by the Indemnified Party without notice to, and the written consent of, the Indemnifying Party, which consent shall not be unreasonably withheld or delayed. No third–party claim may be settled by the Indemnifying Party without notice to, and the written consent of, the Indemnified Party, which consent shall not be unreasonably withheld or delayed. For purposes of this Section 7.06, the decision not to pursue an appeal (whether as of right or discretionary) shall be deemed to be a decision to settle or compromise, requiring the prior written consent of the Party that has not assumed the defense of such matter, which consent shall not be unreasonably withheld.

ARTICLE VIII
TERMINATION

Section 8.01 Termination. This Agreement may be terminated at any time prior to the Closing in the event any of the following:

(a) By the mutual written consent of Seller and Buyer.

(b) By Buyer by written notice to Seller if:

(i) Buyer is not then in material breach of any provision of this Agreement and (i) there has been a breach, inaccuracy in or failure to perform any representation, warranty, covenant or agreement made by Seller pursuant to this Agreement that would give rise to the failure of any of the conditions specified in Article VI and such breach, inaccuracy or failure has not been cured by Seller within thirty (30) days of Seller's receipt of written notice of such breach from Buyer or (ii) Seller delivers to Buyer a Seller Disclosure Schedule Update that Buyer, in its sole discretion, declines in writing to accept within five (5) days of receipt; or

(ii) Any of the conditions set forth inSection 6.01 and Section 6.02 shall not have been, or if it becomes apparent that any of such conditions will not be, fulfilled by December 31, 2020, unless such nonfulfillment shall be due to the failure of Buyer to perform or comply with any of the covenants, agreements or conditions herein to be performed or complied with by it prior to the Closing.

(c) By Seller by written notice to Buyer if:

(i) Seller is not then in material breach of any provision of this Agreement and (i) there has been a breach, inaccuracy in or failure to perform any representation, warranty, covenant or agreement made by Buyer pursuant to this Agreement that would give rise to the failure of any of the conditions specified in Article VI and such breach, inaccuracy or failure has not been cured by Buyer within thirty (30) days of Buyer's receipt of written notice of such breach from Seller or (ii) Buyer delivers to Seller a Buyer Disclosure Schedule Update which Seller in its sole discretion decline in writing to accept within five (5) days of receipt; or

(ii) Any of the conditions set forth in Section 6.01 and Section 6.02 shall not have been, or if it becomes apparent that any of such conditions will not be, fulfilled by December 31, 2020, unless such nonfulfillment shall be due to the failure of Seller to perform or comply with any of the covenants, agreements or conditions hereof to be performed or complied with by it prior to the Closing.

(d) By Buyer or Seller in the event that (i) there shall be any Law that makes consummation of the transactions contemplated by this Agreement illegal or otherwise prohibited or (ii) any Governmental Authority shall have issued a Governmental Order restraining or enjoining the transactions contemplated by this Agreement, and such Governmental Order shall have become final and non–appealable.

Section 8.02 Effect of Termination. In the event that this Agreement is terminated in accordance with this Article VIII, this Agreement shall then become void and there shall be no liability on the part of any Party except as set forth in Section 5.06 and the last sentence of Section 7.02.

ARTICLE IX
MISCELLANEOUS

Section 9.01 Expenses. Except as otherwise expressly provided herein, all costs and expenses, including, without limitation, fees and costs of legal counsel, financial advisors and accountants incurred in connection with this Agreement and the transactions contemplated hereby shall be paid by the Party incurring such costs and expenses, whether or not the Closing shall have occurred.

Section 9.02 Headings. The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

Section 9.03 Entire Agreement. This Agreement and the Ancillary Documents constitute the sole and entire agreement of the Parties with respect to the subject matter contained herein and therein, and supersede all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter. In the event of any inconsistency between the statements in the body of this Agreement and those in the Ancillary Documents, the Exhibits and Disclosure Schedules (other than an exception expressly set forth as such in the Disclosure Schedules), the statements in the body of this Agreement shall control.

Section 9.04 Successors and Assigns. No Party may assign or otherwise transfer this Agreement or any of its rights hereunder to any Person without the prior written consent of the other Parties. Subject to the foregoing, this Agreement shall inure to the benefit of and be binding upon the Parties hereto and their successors, personal Representatives, heirs and permitted assigns.

Section 9.05 **Severability.** If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the fullest extent possible.

Section 9.06 **Amendment** This Agreement may be amended, modified, waived, discharged or terminated only by an instrument in writing signed by each Party.

Section 9.07 **Notices.** All notices, requests, consents, claims, demands, waivers and other communications hereunder shall be in writing and shall be deemed to have been given (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by facsimile or e–mail of a PDF document (with confirmation of transmission) if sent during normal business hours of the recipient and on the next Business Day if sent after normal business hours of the recipient or (d) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective Parties at the following addresses (or at such other address for a Party as shall be specified in a notice given in accordance with this Section 9.07):

If to Seller:	D. Jones Tailored Collection, Ltd. 2736 Routh Street Dallas, Texas 75201 Email: drew@harperandjones.com Attention: Drew Jones
with a copy to:	Meadows, Collier, Reed, Cousins, Crouch & Ungerman, L.L.P. 901 Main Street, Suite 3700 Dallas, Texas 75202 Facsimile: (214) 292-2331 Email: lstapleton@meadowscollier.com Attention: Laura L. Stapleton, Esq.
If to Buyer:	Denim.LA, Inc. 537 Broadway Los Angeles, CA 90014 Email: hil@dstld.la Attention: Hil Davis, Chief Executive Officer
with a copy to:	Manatt, Phelps & Phillips, LLP 695 Town Center Drive, 14th Floor Costa Mesa, CA 92646 Facsimile: (714) 371-2550 Email: tpoletti@manatt.com Attention: Thomas J. Poletti, Esq.

Section 9.08 Counterparts. This Agreement may be executed in several original or electronic counterparts, each of which is an original, but all of which shall constitute one (1) instrument.

Section 9.09 Third-Party Rights. This Agreement shall not confer any rights or remedies upon any Person other than the Parties, the Indemnified Parties and their respective successors and permitted assigns.

Section 9.10 Exhibits and Schedules. Each of the exhibits and schedules referred to herein and attached hereto is an integral part of this Agreement and is incorporated herein by this reference.

Section 9.11 Governing Law. This Agreement shall be governed by, interpreted under, and construed and enforced in accordance with the Laws of the State of Delaware, without regard to conflicts of Laws principles.

Section 9.12 Dispute Resolution. Any claim, demand, disagreement, controversy or dispute that arises regarding, from or in connection with this Agreement or the breach, alleged breach or termination thereof, other than as set forth in Section 2.05 (collectively, a "**Dispute**"), between or among the Parties shall be resolved in accordance with the following dispute resolution procedures:

(a) Cooperation. If a Dispute arises, any Party may notify the other Parties by sending a written notice (a "**Dispute Notice**"), which Dispute Notice shall identify the Dispute in reasonable detail and set forth briefly the notifying Party's position with respect to the Dispute. Upon receipt of any Dispute Notice, the Parties shall use reasonable efforts to cooperate and arrive at a mutually acceptable resolution of the Dispute within the next thirty (30) days.

(b) Arbitration. In the event that the Dispute is not resolved pursuant to the procedures described in Section 9.12(a), any Party may request that the Dispute be submitted to binding arbitration by providing a notice of arbitration (the "**Arbitration Notice**") to the other Parties to the Dispute. The Arbitration Notice shall be issued within thirty (30) days following the conclusion of the thirty (30) day cooperation period described in Section 9.12(a) and shall identify the unresolved Dispute in reasonable detail.

(c) Selection of the Arbitrator. The Parties agree that the Dispute shall be submitted to a single arbitrator, acceptable to both Parties, who has at least twenty (20) years' experience in the garment industry or the retail fashion industry. The Parties shall use their commercially reasonable efforts to mutually select a qualified arbitrator within ten (10) days after the Arbitration Notice has been delivered. If the Parties cannot agree on the arbitrator within such ten (10) day period, then any Party may request that ADR Services, Inc., the American Arbitration Association or JAMS appoint the arbitrator (who must have the qualifications described above) in accordance with its arbitration rules. The Party seeking action by ADR Services, Inc., the American Arbitration Association or JAMS shall request that the appointment be made within ten (10) Business Days.

(d) The Arbitration Hearing. The arbitration hearing shall be held on a date and at a place and time mutually acceptable to the arbitrator and the Parties within sixty (60) days following the appointment of the arbitrator; *provided*, that the Parties' request for a hearing within such time period is not expedited. At least seventy-two (72) hours in advance of the arbitration hearing, each Party involved in the Dispute shall prepare its best and final offer to settle the Dispute in full (the "**Final Offer"**), and shall deliver its Final Offer to the other Parties involved in the Dispute and the arbitrator. The arbitrator shall determine the format of the arbitration hearing to ensure that the Parties have an opportunity to make an oral presentation of their views of the Dispute and for each Party to explain its Final Offer.

(e) The Decision. Upon the conclusion of the arbitration hearing, the Parties shall request that the arbitrator determine an award that is neither less than the lowest Final Offer nor more than the highest Final Offer. The arbitrator's award shall be final and binding on the Parties and the Parties shall be required to act in accordance with such decision.

(f) Fees and Expenses. Except to the extent specifically set forth in this Agreement, the Parties shall pay their own fees and expenses incurred in connection with the Dispute resolution proceedings set forth in this Section 9.12; *provided, however*, that in the case of an arbitration, the arbitrator may include in its award that the fees and expenses may be awarded to the Party that prevails.

Section 9.13 WAIVER OF JURY TRIAL. EACH PARTY HEREBY WAIVES ITS RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS AGREEMENT, THE ANCILLARY DOCUMENTS, THE SECURITIES OR THE SUBJECT MATTER HEREOF OR THEREOF. THE SCOPE OF THIS WAIVER IS INTENDED TO BE ALL ENCOMPASSING OF ANY AND ALL DISPUTES THAT MAY BE FILED IN ANY COURT AND THAT RELATE TO THE SUBJECT MATTER OF THIS TRANSACTION, INCLUDING, WITHOUT LIMITATION, CONTRACT CLAIMS, TORT CLAIMS (INCLUDING NEGLIGENCE), BREACH OF DUTY CLAIMS AND ALL OTHER COMMON LAW AND STATUTORY CLAIMS. THIS SECTION 9.13 HAS BEEN FULLY DISCUSSED BY EACH OF THE PARTIES HERETO AND THESE PROVISIONS WILL NOT BE SUBJECT TO ANY EXCEPTIONS. EACH PARTY HERETO HEREBY FURTHER WARRANTS AND REPRESENTS THAT SUCH PARTY HAS REVIEWED THIS WAIVER WITH ITS LEGAL COUNSEL AND THAT SUCH PARTY KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL.

[***Remainder of page intentionally left blank. Signature page follows.***]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the date written below each Party's signature to be effective as of the Effective Date.

SELLER:

D. JONES TAILORED COLLECTION, LTD.,
a Texas limited partnership

By: DJONES, LLC,
a Texas limited liability company
Its: General Partner

By: /s/ Drew Jones
Drew Jones
Its: Managing Member
Date: October 27, 2020

BUYER:

DENIM.LA, INC.,
a Delaware corporation

By: /s/ Hil Davis
Hil Davis
Its: Chief Executive Officer
Date: October 26, 2020

Exhibit 2.2

Execution copy

FIRST AMENDMENT
TO THE
MEMBERSHIP INTEREST PURCHASE AGREEMENT

This First Amendment to the Membership Interest Purchase Agreement (this "**First Amendment**"), effective as of December 31, 2020, is entered into by and between D. Jones Tailored Collection, Ltd., a Texas limited partnership (the "**Seller**"), and Denim.LA, Inc., a Delaware corporation ("**Buyer**"). Seller and Buyer are sometimes collectively referred to herein as the "**Parties**" and individually as a "**Party**." All capitalized terms used herein shall have the same meaning ascribed to them in that certain Membership Interest Purchase Agreement, effective as of October 14, 2020, by and between Seller and Buyer (the "**MIPA**"), unless otherwise provided.

RECITALS

WHEREAS, the Parties desire to amend the MIPA to extend the date upon which the closing conditions must be met by the Parties; and

WHEREAS, the Parties also desire to amend the MIPA to clarify other matters as provided

herein.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree to the following provisions of this First Amendment.

Notwithstanding anything to the contrary in the MIPA, the Parties understand, agree and acknowledge:

1. **Purchase Price**. Article II of the MIPA is hereby amended by the deletion of Section 2.02(b) and, in connection therewith, the revised Section 2.02:

"**Section 2.02. Purchase Price.** The purchase price for the Membership Interests shall be paid in Buyer Shares calculated as follows and subject to adjustment pursuant to Section 2.05 (the "**Purchase Price**"): that number of Buyer Shares equal to the lesser of (a) Nine Million One Hundred Thousand and No/100 Dollars ($9,100,000.00) at a per share price equal to the IPO Price or Uplisting Price, as the case may be (to the extent the IPO or the Uplisting occurs first), or (b) the number of Subject Acquisition Shares."

2. **Transactions to be Effected at Closing**. Article II of the MIPA is hereby amended by the following amended Section 2.04(a)(ii):

"(ii) Deliver immediately available funds to Seller in the amount of Five Hundred Thousand and No/100 Dollars ($500,000.00) for Seller's payment to creditors for the purpose of strengthening Seller's financial position after the IPO or Uplisting by the reduction of Seller's debt, with such amount being a contribution by Buyer to Seller, and is not consideration for the Membership Interests."

3. **Termination**. Article VIII of the MIPA is hereby amended by the following:

(a) Section 8.01(b)(ii) is amended as follows:

"(ii) Any of the conditions set forth in Section 6.01 and Section 6.02 shall not have been, or if it becomes apparent that any of such conditions will not be, fulfilled by April 30, 2021, unless such nonfulfillment shall be due to the failure of Buyer to perform or comply with any of the covenants, agreements or conditions herein to be performed or complied with by it prior to the Closing."

(b) Section 8.01(c)(ii) is amended as follows:

"(ii) Any of the conditions set forth in Section 6.01 and Section 6.02 shall not have been, or if it becomes apparent that any of such conditions will not be, fulfilled by April 30, 2021, unless such nonfulfillment shall be due to the failure of Seller to perform or comply with any of the covenants, agreements or conditions hereof to be performed or complied with by it prior to the Closing."

4. **Miscellaneous.** In the event of any conflict between the terms of the MIPA and this First Amendment, the terms of this First Amendment shall control. Except as modified hereby, the terms and provisions of the MIPA shall remain in full force and effect, unmodified, and the MIPA, as amended hereby, shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. This First Amendment may be executed in a number of identical counterparts which, taken together, shall constitute one agreement.

[Remainder of page intentionally left blank. Signature page follows.]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the date written below each Party's signature to be effective as of the Effective Date.

SELLER:

D. JONES TAILORED COLLECTION, LTD.,
a Texas limited partnership

By: DJONES, LLC,

a Texas limited liability company
Its: General Partner

By: /s/ Drew Jones
Drew Jones
Its: Managing Member
Date: December 31, 2020

BUYER:

DENIM.LA, INC.,
a Delaware corporation

By: /s/ Hil Davis
Hil Davis
Its: Chief Executive Officer
Date: December 31, 2020

SIGNATURE PAGE
TO THE
FIRST AMENDMENT
TO THE
MEMBERSHIP INTEREST PURCHASE AGREEMENT

Exhibit 2.3

AGREEMENT AND PLAN OF MERGER

This Agreement and Plan of Merger (this "**Agreement**"), dated as of February 12, 2020 is entered into by and between Bailey 44, LLC, a Delaware limited liability company ("**Bailey**"), Norwest Venture Partners XI, LP, a Delaware limited partnership ("**NVP XI**"), and Norwest Venture Partners XII, LP, a Delaware limited partnership ("**NVP XII**", each of NVP XI and NVP XII known herein as a "**Holder**" and together the "**Holders**"), on the one hand, and Denim.LA, Inc., a Delaware corporation ("**Denim**"), and Denim.LA Acquisition Corp., a Delaware corporation and a wholly-owned subsidiary of Denim ("**Merger Sub**"), on the other hand.

RECITALS

WHEREAS, Bailey has (a) membership interests consisting of Preferred Units, Common Units and Performance Units (collectively, the "**Membership Units**") outstanding as set forth on Schedule A hereto owned by those members set forth in such Schedule and (b) entered into Phantom Performance Unit Agreements with those individuals set forth on Schedule A (the "**Phantom Performance Unit Agreements**");

WHEREAS, subject to the terms and conditions of this Agreement, the parties hereto have agreed to effect the merger of Merger Sub with and into Bailey (the "**Merger**") pursuant to the terms of this Agreement. Upon the consummation of the Merger, Merger Sub will cease to exist and Bailey will be the entity surviving the Merger.

WHEREAS, as a result of the Merger, among other effects, (A) each Preferred Unit issued and outstanding immediately prior to the Effective Time of the Merger will be converted (and when so converted, will automatically be cancelled and retired and will cease to exist) the right to receive a portion of (i) an aggregate of twenty million seven hundred fifty four thousand seven hundred seventeen (20,754,717) newly issued shares of Series B Preferred Stock, par value $0.001 per share, of Denim (the "**Parent Stock**") indicated on the Preferred Allocation Schedule and (ii) a promissory note in the principal amount of $4,500,000 attached hereto as Exhibit A(the "**Note**", together with the Parent Stock, the "**Merger Consideration**"), of which $1,350,000 plus accrued interest will be in exchange for the cancellation of the Bridge Notes as indicated on the Preferred Allocation Schedule, (B) all Membership Units other than the Preferred Units issued and outstanding immediately before the Effective Time of the Merger shall be cancelled and retired and shall cease to exist (without conversion) and no consideration shall be delivered or deliverable in exchange therefor, (C) no consideration shall be delivered or deliverable pursuant to any Phantom Performance Unit Agreement and (D) each share of Merger Sub's common stock issued and outstanding immediately before the Effective Time of the Merger shall be converted into and exchanged for one validly issued, fully paid and non-assessable membership interest in the Surviving Company representing 100% of the membership interests therein, and as a result of which, Bailey shall become the wholly-owned subsidiary of Denim.

WHEREAS, of the shares of Parent Stock issuable in connection with the Merger, sixteen million six hundred three thousand seven hundred seventy three (16,603,773) shares shall be delivered as of the date hereof (the "**Initial Shares**") and four million one hundred fifty thousand nine hundred forty four (4,150,944) shares shall be held back solely, and only to the extent necessary, to satisfy any indemnification obligations of Bailey or the Holders pursuant to Article VIII herein (the "**Holdback Shares**");

WHEREAS, as further set forth on Schedule 4.03 of the Disclosure Schedule and the Preferred Allocation Statement, the Holders own a sufficient number of Preferred Units necessary to approve the transactions set forth herein pursuant to Section 5.3 of the Bailey LLC Agreement;

WHEREAS, the Merger is intended to constitute a reorganization within the meaning of the Internal Revenue Code of 1986, as amended (the "**Code**"), or such other tax free reorganization or restructuring provisions as may be available under the Code.

WHEREAS, the Boards of Directors of Denim and Merger Sub, on the one hand, and the Board of Managers and members of Bailey, on the other hand, has each determined that it is desirable to effect this plan of Merger.

WHEREAS, concurrent with and as a condition to the Merger, Denim will issue the Parent Stock and the Note in conjunction with the Merger.

WHEREAS, Bailey has represented to Denim that further to the capital structure of Bailey, only those holders of Membership Interests set forth on Schedule A hereto are entitled to receive consideration from Denim in connection with the transactions set forth herein;

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS

The following terms have the meanings specified or referred to in this ARTICLE I:

"**Action**" means any claim, action, cause of action, demand, lawsuit, arbitration, inquiry, audit, notice of violation, proceeding, litigation, citation, summons, subpoena or investigation of any nature, civil, criminal, administrative, regulatory or otherwise, whether at law or in equity.

"**Affiliate**" of a Person means any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. The term "control" (including the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

"**Bailey LLC Agreement**" means the Restated Limited Liability Company Agreement, dated December 20, 2012, of Bailey, as amended through the date of this Agreement.

"**Bailey Material Adverse Effect**" means any event, occurrence, fact, condition or change that is, or would reasonably be expected to become, individually or in the aggregate, materially adverse to (a) the business, results of operations, condition (financial or otherwise) or assets of Bailey, or (b) the ability of Bailey or any Holder to consummate the transactions contemplated hereby on a timely basis; *provided, however,* that "Bailey Material Adverse Effect" shall not include any event, occurrence, fact, condition or change, directly or indirectly, arising out of or attributable to: (i) general economic or political conditions; (ii) conditions generally affecting the industries in which Bailey operates; (iii) any changes in financial or securities markets in general; or (iv) acts of war (whether or not declared), armed hostilities or terrorism, or the escalation or worsening thereof; *provided further, however,* that any event, occurrence, fact, condition or change referred to in clauses (i) through (iv) immediately above shall be taken into account in determining whether a Bailey Material Adverse Effect has occurred or would reasonably be expected to occur to the extent that such event, occurrence, fact, condition or change has a disproportionate effect on Bailey compared to other participants in the industries in which Bailey conducts its businesses.

"**Bridge Notes**" means the promissory notes with an aggregate principal amount equal to $1,350,000 issued by Bailey to Norwest Venture Partners XI, LP and Norwest Venture Partners XII, LP.

"**Business Day**" means any day except Saturday, Sunday or any other day on which commercial banks located in New York City are authorized or required by Law to be closed for business.

"**Code**" means the Internal Revenue Code of 1986, as amended.

"**Common Units**" means the Common Units of Bailey issued pursuant to the Bailey LLC Agreement.

"**Contracts**" means all contracts, leases, deeds, mortgages, licenses, instruments, notes, commitments, undertakings, indentures, joint ventures and all other agreements, commitments and legally binding arrangements, whether written or oral.

"**Denim Material Adverse Effect**" means any event, occurrence, fact, condition or change that is, or would reasonably be expected to become, individually or in the aggregate, materially adverse to (a) the business, results of operations, condition (financial or otherwise) or assets of Denim, or (b) the ability of Denim or Merger Sub to consummate the transactions contemplated hereby on a timely basis; *provided, however,* that "Denim Material Adverse Effect" shall not include any event, occurrence, fact, condition or change, directly or indirectly, arising out of or attributable to: (i) general economic or political conditions; (ii) conditions generally affecting the industries in which Denim operates; (iii) any changes in financial or securities markets in general; or (iv) acts of war (whether or not declared), armed hostilities or terrorism, or the escalation or worsening thereof; *provided further, however,* that any event, occurrence, fact, condition or change referred to in clauses (i) through (iv) immediately above shall be taken into account in determining whether a Denim Material Adverse Effect has occurred or would reasonably be expected to occur to the extent that such event, occurrence, fact, condition or change has a disproportionate effect on Denim compared to other participants in the industries in which Denim conducts its businesses.

"**Denim Sale**" means (a) any merger, consolidation, recapitalization or sale of Denim or other transaction or series of transactions in which the stockholders of Denim immediately prior to such transaction do not own and control a majority of the voting power represented by the outstanding equity of the surviving entity after the closing of such transaction or (b) a sale, exclusive license or other transfer or disposition of all or substantially all of Denim's and its subsidiaries' assets (determined on a consolidated basis) to any Person.

"**Disclosure Schedules**" means the Disclosure Schedules delivered by Bailey and Denim concurrently with the execution and delivery of this Agreement.

"**Dollars or $**" means the lawful currency of the United States.

"**Environmental Claim**" means any Action, Governmental Order, lien, fine, penalty, or, as to each, any settlement or judgment arising therefrom, by or from any Person alleging liability of whatever kind or nature (including liability or responsibility for the costs of enforcement proceedings, investigations, cleanup, governmental response, removal or remediation, natural resources damages, property damages, personal injuries, medical monitoring, penalties, contribution, indemnification and injunctive relief) arising out of, based on or resulting from: (a) the presence, Release of, or exposure to, any Hazardous Materials; or (b) any non-compliance with any Environmental Law or term or condition of any Environmental Permit.

"**Environmental Law**" means any applicable Law, and any Governmental Order or binding agreement with any Governmental Authority: (a) relating to pollution (or the cleanup thereof) or the protection of natural resources, endangered or threatened species, human health or safety, or the environment (including ambient air, soil, surface water or groundwater, or subsurface strata); or (b) concerning the presence of, exposure to, or the management, manufacture, use, containment, storage, recycling, reclamation, reuse, treatment, generation, discharge, transportation, processing, production, disposal or remediation of any Hazardous Materials. The term "Environmental Law" includes, without limitation, the following (including their implementing regulations and any state analogs): the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. §§ 9601 et seq.; the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended by the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. §§ 6901 et seq.; the Federal Water Pollution Control Act of 1972, as amended by the Clean Water Act of 1977, 33 U.S.C. §§ 1251 et seq.; the Toxic Substances Control Act of 1976, as amended, 15 U.S.C. §§ 2601 et seq.; the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. §§ 11001 et seq.; the Clean Air Act of 1966, as amended by the Clean Air Act Amendments of 1990, 42 U.S.C. §§ 7401 et seq.; and the Occupational Safety and Health Act of 1970, as amended, 29 U.S.C. §§ 651 et seq.

"**Environmental Notice**" means any written directive, notice of violation or infraction, or notice respecting any Environmental Claim relating to non-compliance with any Environmental Law or any term or condition of any Environmental Permit.

"**Environmental Permit**" means any Permit, letter, clearance, consent, waiver, closure, exemption, decision or other action required under or issued, granted, given, authorized by or made pursuant to Environmental Law.

"**ERISA**" means the Employee Retirement Income Security Act of 1974, as amended, and the regulations promulgated thereunder.

"**ERISA Affiliate**" means all employers (whether or not incorporated) that would be treated together with Bailey or any of its Affiliates as a "single employer" within the meaning of Section 414 of the Code or Section 4001 of ERISA.

"**GAAP**" means United States generally accepted accounting principles in effect from time to time.

"**Governmental Authority**" means any federal, state, local or foreign government or political subdivision thereof, or any agency or instrumentality of such government or political subdivision, or any self-regulated organization or other non-governmental regulatory authority or quasi-governmental authority (to the extent that the rules, regulations or orders of such organization or authority have the force of Law), or any arbitrator, court or tribunal of competent jurisdiction.

"**Governmental Order**" means any order, writ, judgment, injunction, decree, stipulation, determination or award entered by or with any Governmental Authority.

"**Hazardous Materials**" means: (a) any material, substance, chemical, waste, product, derivative, compound, mixture, solid, liquid, mineral or gas, in each case, whether naturally occurring or manmade, that is hazardous, acutely hazardous, toxic, or words of similar import or regulatory effect under Environmental Laws; and (b) any petroleum or petroleum-derived products, radon, radioactive materials or wastes, asbestos in any form, lead or lead-containing materials, urea formaldehyde foam insulation, and polychlorinated biphenyls.

"**Indebtedness**" means, without duplication and with respect to Bailey, all (a) indebtedness for borrowed money; (b) obligations for the deferred purchase price of property or services, (c) long or short-term obligations evidenced by notes, bonds, debentures or other similar instruments, (d) obligations under any interest rate, currency swap or other hedging agreement or arrangement; (e) capital lease obligations; (f) reimbursement obligations under any letter of credit, banker's acceptance or similar credit transactions; (g) guarantees made by Bailey on behalf of any third party in respect of obligations of the kind referred to in the foregoing clauses (a) through (f); and (h) any unpaid interest, prepayment penalties, premiums, costs and fees that would arise or become due as a result of the prepayment of any of the obligations referred to in the foregoing clauses (a) through (g).

"**Intellectual Property**" means any and all rights in, arising out of, or associated with any of the following in any jurisdiction throughout the world: (a) issued patents and patent applications (whether provisional or non-provisional), including divisionals, continuations, continuations-in-part, substitutions, reissues, reexaminations, extensions, or restorations of any of the foregoing, and other Governmental Authority-issued indicia of invention ownership (including certificates of invention, petty patents, and patent utility models) ("**Patents**"); (b) trademarks, service marks, brands, certification marks, logos, trade dress, trade names, and other similar indicia of source or origin, together with the goodwill connected with the use of and symbolized by, and all registrations, applications for registration, and renewals of, any of the foregoing ("**Trademarks**"); (c) copyrights and works of authorship, whether or not copyrightable, and all registrations, applications for registration, and renewals of any of the foregoing ("**Copyrights**"); (d) internet domain names and social media account or user names (including "handles"), whether or not Trademarks, all associated web addresses, URLs, websites and web pages, social media sites and pages, and all content and data thereon or relating thereto, whether or not Copyrights; (e) mask works, and all registrations, applications for registration, and renewals thereof; (f) industrial designs, and all Patents, registrations, applications for registration, and renewals thereof; (g) trade secrets, know-how, inventions (whether or not patentable), discoveries, improvements, technology, business and technical information, databases, data compilations and collections, tools, methods, processes, techniques, and other confidential and proprietary information and all rights therein ("**Trade Secrets**"); (h) computer programs, operating systems, applications, firmware, and other code, including all source code, object code, application programming interfaces, data files, databases, protocols, specifications, and other documentation thereof; (i) rights of publicity; and (j) all other intellectual property and proprietary rights.

"**Indemnified Party**" means a Denim Indemnified Party or a Holder Indemnified Party, as applicable.

"**Indemnifying Party**" means (a) the applicable Holder(s) with respect to a Claim pursuant to Section 8.02 and (b) Denim with respect to a Claim pursuant to Section 8.03.

"**IPO**" means the initial firm commitment underwritten public offering of the Denim's common stock on Nasdaq, the New York Stock Exchange or any other stock exchange or interdealer quotation system.

"**IPO Price**" means the per share price of the Denim's common stock sold in the IPO.

"**Knowledge of Bailey or Bailey's Knowledge**" or any other similar knowledge qualification, means the actual or constructive knowledge of David Lazar and Joe Traboulsi, after reasonable inquiry.

"**Law**" means any statute, law, ordinance, regulation, rule, code, order, constitution, treaty, common law, judgment, decree, other requirement or rule of law of any Governmental Authority.

"**Losses**" means losses, damages, liabilities, deficiencies, Actions, judgments, interest, awards, penalties, fines, costs or expenses of whatever kind, including reasonable attorneys' fees and the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers; *provided, however*, that "**Losses**" shall not include punitive damages, except to the extent actually awarded to a Governmental Authority or other third party.

"**Organizational Documents**" means (a) in the case of a Person that is a corporation, its articles or certificate of incorporation and its by-laws, regulations or similar governing instruments required by the laws of its jurisdiction of formation or organization; (b) in the case of a Person that is a partnership, its articles or certificate of partnership, formation or association, and its partnership agreement (in each case, limited, limited liability, general or otherwise); (c) in the case of a Person that is a limited liability company, its articles or certificate of formation or organization, and its limited liability company agreement or operating agreement; and (d) in the case of a Person that is none of a corporation, partnership (limited, limited liability, general or otherwise), limited liability company or natural person, its governing instruments as required or contemplated by the laws of its jurisdiction of organization.

"**Permits**" means all permits, licenses, franchises, approvals, authorizations, registrations, certificates, variances and similar rights obtained, or required to be obtained, from Governmental Authorities.

"**Performance Units**" means the Performance Units of Bailey issued pursuant to the Bailey LLC Agreement.

"**Person**" means an individual, corporation, partnership, joint venture, limited liability company, Governmental Authority, unincorporated organization, trust, association, or other entity.

"**Preferred Units**" means the Preferred Units of Bailey issued pursuant to the Bailey LLC Agreement.

"**Real Property**" means the real property owned, leased or subleased by Bailey, together with all buildings, structures and facilities located thereon.

"**Release**" means any release, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, abandonment, disposing or allowing to escape or migrate into or through the environment (including, without limitation, ambient air (indoor or outdoor), surface water, groundwater, land surface or subsurface strata or within any building, structure, facility or fixture).

"**Representative**" means, with respect to any Person, any and all directors/managing members, managers, officers, employees, consultants, financial advisors, counsel, accountants and other agents of such Person.

"**Sold Parent Stock**" means Parent Stock sold by all Preferred Members set forth on the Preferred Allocation Schedule within the one-year period commencing on the closing date of the IPO.

"**Sold Parent Stock Gross Proceeds**" means the aggregate gross proceeds received by all Preferred Members set forth on the Preferred Allocation Schedule from sales of Sold Parent Stock within the one-year period commencing on the closing date of the IPO.

"**Taxes**" means all federal, state, local, foreign and other income, gross receipts, sales, use, production, ad valorem, transfer, franchise, registration, profits, license, lease, service, service use, withholding, payroll, employment, unemployment, estimated, excise, severance, environmental, stamp, occupation, premium, property (real or personal), real property gains, windfall profits, customs, duties or other taxes, fees, assessments or charges of any kind whatsoever, together with any interest, additions or penalties with respect thereto and any interest in respect of such additions or penalties.

"**Tax Return**" means any return, declaration, report, claim for refund, information return, or statement or other document relating to Taxes, including any schedule or attachment thereto, and including any amendment thereof.

ARTICLE II

THE MERGER

Section 2.01 The Merger. At the Closing (as defined in Section 2.05), subject to the terms and conditions of this Agreement, Merger Sub shall merge with and into Bailey in accordance with applicable provisions of Delaware law, the separate existence of Merger Sub shall cease and Bailey shall survive and continue to exist as a limited liability company under the Delaware Limited Liability Company Act (the "**DLLCA**") (the "**Surviving Company**") under the name "Bailey 44, LLC". The Certificate of Formation of Bailey as on file with the Delaware Secretary of State and the LLC Agreement of Bailey, as in force and effect immediately prior to the Effective Time of the Merger, shall continue to be the Certificate of Formation and the LLC Agreement of Surviving Entity until duly amended in accordance with the provisions thereof and applicable law. The directors and officers of Denim shall be the managers and officers of the Surviving Company. Upon consummation of the Merger, the Holders, managers and officers of the Surviving Entity shall take all necessary action to amend the LLC Agreement to reflect Denim as the sole member of the Surviving Entity.

Section 2.02 Effect of the Merger. At the Effective Time of the Merger (as defined herein), the effect of the Merger shall be as provided in the DLLCA. Without limiting the generality of the foregoing, at the Effective Time of the Merger all the property, rights, privileges, powers and franchise of Bailey and the Merger Sub shall vest in the Surviving Company, and all debts, liabilities and duties of Bailey and the Merger Sub shall become the debts, liabilities and duties of the Surviving Company.

Section 2.03 Effective Time of the Merger. The parties shall cause a Certificate of Merger required by the DLLCA relating to the Merger in the form attached hereto as Exhibit B to be filed with the Secretary of State of the State of Delaware pursuant to the DLLCA on the Closing Date. The Merger provided for herein shall become effective upon such filing or on such date as may be specified therein (the "**Effective Time of the Merger**").

Section 2.04 Effects on Membership Units; Issuance of Merger Consideration.

(a) Effect on Membership Units and Capital Stock. At the Effective Time of the Merger, automatically by virtue of the Merger and without any action on the part of any Person:

(i) Preferred Units. Each Preferred Unit of Bailey that is issued and outstanding immediately prior to the Effective Time of the Merger shall, by virtue of the Merger, be converted (and when so converted, will automatically be cancelled and retired and will cease to exist) into the right to receive the portion of the Merger Consideration indicated on the Preferred Allocation Schedule in accordance with Section 3.2(a) of the Bailey LLC Agreement;

(ii) Other Membership Units. All Membership Units of Bailey, other than Preferred Units, that are issued and outstanding immediately prior to the Effective Time of the Merger shall be cancelled and retired and shall cease to exist (without conversion) and no consideration shall be delivered or deliverable in exchange therefor;

(iii) Phantom Performance Unit Agreements. No consideration shall be delivered or deliverable pursuant to any Phantom Performance Unit Agreement.

(iv) Stock of Merger Sub. Each share of Merger Sub's common stock issued and outstanding immediately prior to the Effective Time of the Merger will be converted into and exchanged for one validly issued, fully paid and non-assessable membership interest in the Surviving Company representing 100% of the membership interests therein, and as a result of which, Bailey shall become the wholly-owned subsidiary of Denim.

(b) Preferred Allocation Schedule. Schedule A (the "**Preferred Allocation Schedule**") sets forth (i) the number of Preferred Units held by each member of Bailey holding Preferred Units (each, a "**Preferred Unitholder**" and collectively, the "**Preferred Unitholders**"); (ii) the portion of the Merger Consideration to which such Preferred Unitholder is entitled pursuant to the Bailey LLC Agreement (represented as such Preferred Unit Holder's pro rata share and a dollar amount); (iii) the number of Initial Shares such Preferred Unit Holder is entitled to receive in respect of the Parent Stock; (iv) the number of Holdback Shares such Preferred Unit Holder is entitled to receive in respect of the Parent Stock; and (v) the portion of the Note such Preferred Unit Holder is entitled to receive.

(c) Payment Procedures.

(i) The number of shares of Parent Stock issuable to Preferred Holders in connection with the Merger shall be twenty million seven hundred fifty four thousand seven hundred seventeen (20,754,717); of the shares of Parent Stock issuable in connection with the Merger, sixteen million six hundred three thousand seven hundred seventy three (16,603,773) shares shall be delivered as of the date hereof as the Initial Shares and four million one hundred fifty thousand nine hundred forty four (4,150,944) shares shall be held back solely, and only to the extent necessary, to satisfy any indemnification obligations of Bailey or the Holders pursuant to Article VIII herein as the Holdback Shares.

(ii) Only those members of Bailey holding Preferred Units as of Effective Time of the Merger set forth in the Preferred Allocation Schedule shall be entitled to shares of Parent Stock and the Note in an amount set forth opposite such members' name on the Preferred Allocation Schedule, and no other member of Bailey other than those set forth in the Preferred Allocation Schedule above and no party to a Phantom Performance Unit Agreement shall receive any shares of Parent Stock, the Note or any other consideration in connection with the Merger.

(iii) Promptly after the Effective Time of the Merger, Denim will issue new certificates evidencing the Initial Shares to each Preferred Unitholder pursuant to the Preferred Allocation Schedule.

Section 2.05 Closing. The closing (the "**Closing**") of the transactions contemplated by this Agreement shall take place concurrently with the execution and delivery of this Agreement (the "**Closing Date**").

Section 2.06 Post-Closing Adjustment.

(a) IPO Calculation/Effect. If at that date which is one year from the closing date of the IPO, the product of the number of shares of Parent Stock issued hereunder multiplied by the sum of the closing price per share of the common stock of the Denim on such date as quoted on Nasdaq, the New York Stock Exchange or other stock exchange or interdealer quotation system, as the case may be, plus Sold Parent Stock Gross Proceeds does not exceed the sum of Eleven Million Dollars ($11,000,000) less the value of any Holdback Shares cancelled further to Article VIII, then Denim shall issue to the Preferred Members set forth on the Preferred Allocation Schedule pro rata an additional aggregate number of shares of common stock of Denim equal to the valuation shortfall at a per share price equal to the then closing price per share of the common stock of Denim as quoted on the Nasdaq, the New York Stock Exchange or other stock exchange or interdealer quotation system, as the case may be. Concurrently, Denim will cause an equivalent number of shares of common stock or common stock equivalents of Denim held by affiliated stockholders of Denim prior to the date of this Agreement to be cancelled pro rata in proportion to the number of shares of common stock of Denim held by each of them. By way of example only, the closing per share price of the common stock of Denim on said one year anniversary is $0.48, the product of said stock price multiplied by the number of shares of Parent Stock would be approximately $9,967,264 and if there are no Sold Parent Stock Gross Proceeds, in said scenario, the Preferred Members set forth on the Preferred Allocation Schedule would be issued 2,161,950 additional shares of common stock of Denim and an equivalent number of shares of the common stock or common stock equivalents of Denim would be cancelled pro rata by affiliated stockholders of Denim prior to the date of this Agreement.

(b) Sale Calculation/Effect. If, in connection with a Denim Sale, the sum of the cash proceeds payable with respect to the shares of Parent Stock issued hereunder plus Sold Parent Stock Gross Proceeds does not exceed the sum of Eleven Million Dollars ($11,000,000) less the value of any Holdback Shares cancelled further to Article VIII, then Denim shall, in connection with the closing of such Denim Sale, pay to the Preferred Members set forth on the Preferred Allocation Schedule pro rata the amount of any shortfall. By way of example only, if the cash proceeds payable with respect to the shares of Parent Stock issued hereunder in connection with a Denim Sale is $9,000,000 and if there are no Sold Parent Stock Gross Proceeds, in said scenario, the members set forth on the Preferred Allocation Schedule would receive an additional cash payment in the amount of $2,000,000.

(c) Adjustments for Tax Purposes. Any payments made pursuant to Section 2.06 shall be treated as an adjustment to the Purchase Price by the parties for Tax purposes, unless otherwise required by Law.

Section 2.07 Anti-Dilution Protection. The parties hereto understand and agree that, at all times from the date of this Agreement until the date immediately preceding the effective date of the IPO, in no event will the number of shares of Parent Stock issued pursuant to this Agreement represent less than 9.1% of the outstanding capital stock of Denim on a fully-diluted basis. In the event that, at any time prior to the date immediately preceding the effective date of the IPO, the shares of Parent Stock issued pursuant to this Agreement represent less than 9.1% of the outstanding capital stock of Denim on a fully-diluted basis, Denim shall promptly issue new certificates evidencing additional shares of Parent Stock to the Preferred Members set forth on the Preferred Allocation Schedule such that the total number of shares of Parent Stock issued pursuant to this Agreement is not less than 9.1% of the outstanding capital stock of Denim on a fully-diluted basis as of such date.

ARTICLE III

REPRESENTATIONS AND WARRANTIES OF THE HOLDERS

Except as set forth in the correspondingly numbered Section of the Disclosure Schedules, each Holder, severally but not jointly, represents and warrants to Denim that the statements contained in this Article III are true and correct solely with respect to such Holder as of the date hereof.

Section 3.01 Good Title. Such Holder is the record and beneficial owner of, and has good and marketable title to the Membership Units set forth across from such Holder's name on the Preferred Allocation Schedule. Such Holder owns such Membership Units free and clear of any and all Liens, other than (i) the Bailey LLC Agreement and (ii) transfer restrictions under applicable securities laws. Further to the Merger, such Holder will convey to Denim good title to all outstanding Membership Units of Bailey held by such Holder, free and clear of all liens, security interests, pledges, equities and claims of any kind, voting trusts, agreements and other encumbrances (collectively, "Liens"), other than transfer restrictions under applicable securities laws.

Section 3.02 Power and Authority. Such Holder has the requisite organizational power and authority to enter into this Agreement. Such Holder has obtained all requisite approvals to enter into this Agreement and consummate the transactions contemplated by this Agreement. This Agreement constitutes a legal, valid and binding obligation of such Holder, enforceable against such Holder in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar Laws relating to or affecting the enforcement of creditors' rights in general and by general principles of equity (regardless of whether enforcement is sought in equity or at law) (the "**Enforceability Exceptions**"). No consent, approval or agreement of any individual or entity is required to be obtained by such Holder in connection with the execution and performance by such Holder of this Agreement or the execution and performance by such Holder of any agreements, instruments or other obligations entered into in connection with this Agreement.

Section 3.03 No Conflicts. The execution, delivery and performance by such Holder of this Agreement and the consummation of the transactions contemplated hereby, do not and will not: (a) conflict with or result in a violation or breach of, or default under, any provision of the Organizational Documents of such Holder; (b) conflict with or result in a violation or breach of any provision of any Law or Governmental Order applicable to such Holder; (c) except as set forth in Section 3.03 of the Disclosure Schedules, require the consent, notice or other action by any Person under, conflict with, result in a violation or breach of, constitute a default or an event that, with or without notice or lapse of time or both, would constitute a default under, result in the acceleration of or create in any party the right to accelerate, terminate, modify or cancel any material Contract to which such Holder is a party or by which such Holder is bound or to which any of its properties and assets are subject; or (d) result in the creation or imposition of any Lien on any properties or assets of such Holder, other than Permitted Encumbrances. No consent, approval, Permit, Governmental Order, declaration or filing with, or notice to, any Governmental Authority is required by or with respect to such Holder in connection with the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby and thereby.

Section 3.04 Purchase Entirely for Own Account. The Parent Stock proposed to be acquired by such Holder hereunder will be acquired for investment for its own account, and not with a view to the resale or distribution of any part thereof, and such Holder has no present intention of selling or otherwise distributing the Parent Stock except in compliance with applicable securities laws.

Section 3.05 Available Information. Such Holder has such knowledge and experience in financial and business matters that it is capable of evaluating the merits and risks of an investment in Denim.

Section 3.06 Non-Registration. Such Holder understands that the shares of Parent Stock have not been registered under the Securities Act of 1933, as amended (the "Securities Act") and, if issued in accordance with the provisions of this Agreement, will be issued by reason of a specific exemption from the registration provisions of the Securities Act which depends upon, among other things, the bona fide nature of the investment intent and the accuracy of such Holder's representations as expressed herein.

Section 3.07 Investment Representations

(a) **Risks of Investment**. Such Holder recognizes that the acquisition of the Parent Stock involves a high degree of risk in that an investor could sustain the loss of its entire investment, and Denim is and will be subject to numerous other risks and uncertainties, including without limitation, significant and material risks relating to Denim's business and the industries, markets and geographic regions in which Denim competes.

(b) **Accredited Investor Status**. Such Holder represents that it is an "accredited investor" as such term is defined in Rule 501 of**Regulation** D promulgated under the Securities Act, and that it is able to bear the economic risk of an investment in the Parent Stock. Such Holder: (i) was not formed for the purpose of investing in Denim; and (ii) is authorized and otherwise duly qualified to purchase and hold the Parent Stock.

(c) **Investment Experience**. Such Holder acknowledges that it has prior investment experience, including without limitation, investment in non-listed and non-registered securities, and that it recognizes the highly speculative nature of this investment.

(d) **Access to Information**. Such Holder has been furnished or given access by Denim with or to all information regarding Denim and its financial condition and results of operations which it had requested or desired to know; all documents which could be reasonably provided have been made available for its inspection and review; it has been afforded the opportunity to ask questions of and receive answers from duly authorized representatives of Denim concerning the terms and conditions of the sale and purchase of the Parent Stock, and any additional information which it had requested in that connection. Such Holder has not seen or received any advertisement or general solicitation with respect to the sale of any of the securities of Denim, including, without limitation, the Parent Stock. Such Holder acknowledges that, except as set forth herein, no representations or warranties have been made to the Holder by either Denim or any of its agents, employees or affiliates and in entering into this transaction, such Holder is not relying on any information, other than that contained herein and the results of independent investigation by such Holder.

(e) **Investment Intent; Resales**. Such Holder acknowledges that the offer and sale of the Parent Stock has not been reviewed or approved by the SEC because the offering of the Parent Stock is intended to be a nonpublic offering pursuant to Section 4(a)(2) of the Securities Act. Such Holder understands that it will not sell or otherwise transfer any of the Parent Stock unless they are registered under the Securities Act or unless an exemption from such registration is available and, upon Denim's request, Denim receives an opinion of counsel reasonably satisfactory to Denim confirming that an exemption from such registration is available for such sale or transfer, provided that no opinion of counsel shall be required in connection with sales pursuant to Rule 144 promulgated under the Securities Act.

(f) **Legends**. Such Holder acknowledges and consents to the placement of one or more legends on any certificate or other document evidencing the Parent Stock stating that they have not been registered under the Securities Act, substantially in the form as set forth below:

> THESE SECURITIES HAVE NOT BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION OR THE SECURITIES COMMISSION OF ANY STATE IN RELIANCE UPON AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND, ACCORDINGLY, MAY NOT BE OFFERED OR SOLD EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR PURSUANT TO AN AVAILABLE EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF, THE SECURITIES ACT AND IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS, AS EVIDENCED BY A LEGAL OPINION OF COUNSEL TO THE TRANSFEROR TO SUCH EFFECT, THE SUBSTANCE OF WHICH SHALL BE REASONABLY ACCEPTABLE TO BAILEY.

Section 3.08 Restricted Securities. Such Holder understands that the Parent Stock is characterized as "restricted securities" under the Securities Act. Such Holder represents that it is familiar with Rule 144 promulgated under the Securities Act, as presently in effect, and understands the resale limitations imposed thereby and by the Securities Act.

Section 3.09 Legends. It is understood that the shares of Parent Stock will bear the following legend or another legend that is similar to the following:

> THESE SECURITIES ARE SUBJECT TO THE TERMS OF A LOCK-UP AGREEMENT AND MAY NOT BE TRANSFERRED, SOLD OR ASSIGNED OTHER THAN AS PERMITTED THEREIN, A COPY OF WHICH IS ON FILE WITH THE SECRETARY OF THE COMPANY.

and any legend required by the "blue sky" laws of any state to the extent such laws are applicable to the securities represented by the certificate so legended.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES OF BAILEY

Except as set forth in the correspondingly numbered Section of the Disclosure Schedules, Bailey represents and warrants to Denim that the statements contained in this Article IV are true and correct as of the date hereof.

Section 4.01 Authority of Bailey. Bailey has full power and authority to enter into this Agreement, to carry out its obligations hereunder and to consummate the transactions contemplated hereby. The execution and delivery by Bailey of this Agreement, the performance by Bailey of its obligations hereunder, and the consummation by Bailey of the transactions contemplated hereby have been duly authorized by all requisite action on the part of the Board of Managers and members of Bailey. This Agreement has been duly executed and delivered by Bailey, and (assuming due authorization, execution, and delivery by Denim) this Agreement constitutes a legal, valid and binding obligation of Bailey enforceable against Bailey in accordance with its terms, subject to the Enforceability Exceptions.

Section 4.02 Organization, Authority and Qualification of Bailey. Bailey is a limited liability company duly organized, validly existing and in good standing under the Laws of the state of Delaware and has full limited liability company power and authority to own, operate or lease the properties and assets now owned, operated or leased by it and to carry on its business as it has been and is currently conducted. Section 4.02 of the Disclosure Schedules sets forth each jurisdiction in which Bailey is licensed or qualified to do business, and Bailey is duly licensed or qualified to do business and is in good standing in each jurisdiction in which the properties owned or leased by it or the operation of its business as currently conducted makes such licensing or qualification necessary, except as would not have a Bailey Material Adverse Effect. All limited liability company actions taken by Bailey in connection with this Agreement have been duly authorized on or prior to the Closing.

Section 4.03 Capitalization.

(a) Section 4.03 of the Disclosure Schedule sets forth the capitalization of Bailey, including all Membership Interests outstanding and the beneficial owner of such Membership Interests. The Persons listed in Section 4.03 of the Disclosure Schedule are the record owners of and have good and valid title to the Membership Interests, free and clear of all Liens, other than (i) the Bailey LLC Agreement and (ii) transfer restrictions under applicable securities laws. The Membership Interests constitute 100% of the total issued and outstanding membership interests in Bailey. The Membership Interests have been duly authorized and are validly issued, fully-paid and non-assessable. Upon consummation of the transactions contemplated by this Agreement, Denim shall own all of the membership interests of the Surviving Company, free and clear of all Liens, other than other than (i) the Bailey LLC Agreement, (ii) transfer restrictions under applicable securities laws and (iii) Liens incurred by Denim or its Affiliates. Only those Preferred Members set forth on the Preferred Allocation Schedule are entitled to shares of Parent Stock and a portion of the Note in connection with the Merger and no other member of Bailey's is entitled to any consideration or compensation in connection with the Merger.

(b) The Membership Interests were issued in compliance with applicable Laws. The Membership Interests were not issued in violation of the Organizational Documents of Bailey or any other agreement, arrangement, or commitment to which Bailey is a party and are not subject to or in violation of any preemptive or similar rights of any Person.

(c) There are no outstanding or authorized options, warrants, convertible securities or other rights, agreements, arrangements or commitments of any character relating to any membership interests in Bailey or obligating Bailey to issue or sell any membership interests (including the Membership Interests), or any other interest, in Bailey. There are no voting trusts, proxies or other agreements or understandings in effect with respect to the voting or transfer of any of the Membership Interests, other than the Bailey LLC Agreement.

Section 4.04 No Subsidiaries. Except as set forth in Section 4.04 of the Disclosure Schedules, Bailey does not own, or have any interest in any shares or have an ownership interest in any other Person.

Section 4.05 No Conflicts; Consents. The execution, delivery and performance by Bailey of this Agreement, and the consummation of the transactions contemplated hereby, do not and will not: (a) conflict with or result in a violation or breach of, or default under, any provision of the Organizational Documents of Bailey; (b) conflict with or result in a violation or breach of any provision of any Law or Governmental Order applicable to Bailey; (c) except as set forth in Section 4.05 of the Disclosure Schedules, require the consent, notice or other action by any Person under, conflict with, result in a violation or breach of, constitute a default or an event that, with or without notice or lapse of time or both, would constitute a default under, result in the acceleration of or create in any party the right to accelerate, terminate, modify or cancel any Contract to which Bailey is a party or by which Bailey is bound or to which any of its properties and assets are subject (including any Material Contract) or any Permit affecting the properties, assets or business of Bailey; or (d) result in the creation or imposition of any Lien on any properties or assets of Bailey, other than Permitted Encumbrances. No consent, approval, Permit, Governmental Order, declaration or filing with, or notice to, any Governmental Authority is required by or with respect to Bailey in connection with the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby.

Section 4.06 Financial Statements. Attached as Section 4.06 of the Disclosure Schedules are the audited balance sheets of Bailey as of December 31, 2017 and December 31, 2018 and the related statements of income and cash flows for the fiscal years then ended, and the unaudited balance sheet of Bailey (the "**Bailey Balance Sheet**") as of November 30, 2019 (the "**Bailey Balance Sheet Date**") and the related statements of income and cash flows for the 11 months then ended. Except as set forth therein, such financial statements (a) have been prepared from and are consistent with the books and records of Bailey, (b) have been prepared in conformity with GAAP, (c) are complete and correct in all material respects, and (d) present fairly in all material respects the financial position and results of operations of Bailey as of their respective dates and for the respective periods covered thereby, subject to normal year-end adjustments and the absence of disclosures normally made in footnotes.

Section 4.07 Undisclosed Liabilities. Bailey has no material liabilities, obligations or commitments of any nature whatsoever, asserted or unasserted, known or unknown, absolute or contingent, accrued or unaccrued, matured or unmatured, or otherwise (each a "**Liability**" and together the "**Liabilities**"), except (a) those which are adequately reflected or reserved against in the Bailey Balance Sheet as of the Bailey Balance Sheet Date, (b) those which have been incurred in the ordinary course of business consistent with past practice since the Bailey Balance Sheet Date and (c) executory obligations under contracts in the ordinary course of business.

Section 4.08 Absence of Certain Changes, Events, and Conditions. Except as set forth in Section 4.08 of the Disclosure Schedules, since the Bailey Balance Sheet Date, and other than in the ordinary course of business consistent with past practice, there has not been, with respect to Bailey, any:

(a) Bailey Material Adverse Effect;

(b) incurrence, assumption or guarantee of any indebtedness for borrowed money by Bailey in an aggregate amount in excess of $75,000;

(c) cancellation of any debts or claims or amendment, termination or waiver of any rights having a Bailey Material Adverse Effect;

(d) material damage, destruction or less, or any material interruption in use of, any of Bailey's material assets, whether or not covered by insurance;

(e) imposition of any Lien (other than Permitted Liens) upon any of Bailey's assets;

(f) adoption by Bailey of any plan of merger, consolidation, reorganization, liquidation or dissolution or filing of a petition in bankruptcy under any provisions of federal or state bankruptcy Law or consent to the filing of any bankruptcy petition against it under similar Law; or

(g) any Contract to which Bailey is a party to do any of the foregoing, or any action or omission that would result in any of the foregoing.

Section 4.09 Material Contracts.

(a) Section 4.09(a) of the Disclosure Schedules lists each of the following Contracts of Bailey (such Contracts, together with all Contracts concerning the occupancy, management or operation of any Real Property (including without limitation, brokerage contracts) listed or otherwise disclosed in Section 4.10(c)Section 4.10(b) of the Disclosure Schedules, being "**Material Contracts**"):

(i) each Contract of Bailey involving aggregate consideration in excess of $75,000 and which, in each case, cannot be cancelled by Bailey without penalty or without more than 90 days' notice;

(ii) all Contracts that require Bailey to purchase its total requirements of any product or service from a third party or that contain "take or pay" provisions;

(iii) all Contracts that provide for the indemnification by Bailey of any Person outside the ordinary course of business or the assumption of any Tax, environmental or other Liability of any Person;

(iv) all Contracts that relate to the acquisition or disposition of any business, a material amount of equity or assets of any other Person or any real property (whether by merger, sale of stock or other equity interests, sale of assets or otherwise);

(v) all broker, distributor, dealer, manufacturer's representative, franchise, agency, sales promotion, market research, marketing consulting and advertising Contracts to which Bailey is a party;

(vi) all employment agreements and Contracts with independent contractors or consultants (or similar arrangements) to which Bailey is a party and which are not cancellable without material penalty or without more than 90 days' notice;

(vii) except for Contracts relating to trade receivables, all Contracts relating to indebtedness (including, without limitation, guarantees) of Bailey;

(viii) all Contracts that limit or purport to limit the ability of Bailey to compete in any line of business or with any Person or in any geographic area or during any period of time;

(ix) any Contracts to which Bailey is a party that provide for any joint venture, partnership or similar arrangement by Bailey; and

(x) all Contracts between or among Bailey on the one hand and Holder or any Affiliate of Holder (other than Bailey) on the other hand.

(b) Each Material Contract is valid and binding on Bailey in accordance with its terms and is in full force and effect. None of Bailey or, to Bailey's Knowledge, any other party thereto is in breach of or default under (or is alleged to be in breach of or default under) in any material respect, or has provided or received any notice of any intention to terminate, any Material Contract. No event or circumstance has occurred that, with notice or lapse of time or both, would constitute an event of default under any Material Contract or result in a termination thereof or would cause or permit the acceleration or other changes of any right or obligation or the loss of any benefit thereunder. Complete and correct copies of each Material Contract (including all modifications, amendments, and supplements thereto and waivers thereunder) have been made available to Denim.

Section 4.10 Title to Assets; Real Property.

(a) Bailey has good and valid title to all assets reflected in the Bailey Balance Sheet or acquired after the Bailey Balance Sheet Date, other than properties and assets sold or otherwise disposed of in the ordinary course of business consistent with past practice since the Bailey Balance Sheet Date. All such assets are free and clear of Liens except for the following (collectively referred to as "**Permitted Encumbrances**"):

(i) liens for Taxes not yet due and payable;

(ii) mechanics, carriers', workmen's, repairmen's or other like liens arising or incurred in the ordinary course of business consistent with past practice or amounts that are not delinquent and which are not, individually or in the aggregate, material to the business of Bailey;

(iii) liens arising under original purchase price conditional sales contracts and equipment leases with third parties entered into in the ordinary course of business consistent with past practice which are not, individually or in the aggregate, material to the business of Bailey; or

(iv) security interests under the Inventory Security Agreement, dated August 7, 2018, by and between Bailey and CIT Group/Commercial Services, Inc.

(b) Bailey does not currently and has never owned any real property or any option to acquire any real property.

(c) Section 4.10 of the Disclosure Schedules sets forth a list of each existing lease or similar agreement showing the parties thereto and the physical address covered by such lease or other agreement (the "**Lease Agreements**") under which Bailey is lessee of, or holds or operates, any real property owned by, used in or relating to Bailey (the "**Leased Real Property**"). Each Lease Agreement for the Leased Real Property has been provided or made available to Denim is in full force and effect. Bailey is not in breach under the terms of such Lease Agreements.

Section 4.11 Condition and Sufficiency of Assets. Except as set forth in Section 4.11 of the Disclosure Schedules, the buildings, plants, structures, furniture, fixtures, machinery, equipment, vehicles and other items of tangible personal property of Bailey are structurally sound, are in good operating condition and repair, and are adequate for the uses to which they are being put, and none of such buildings, plants, structures, furniture, fixtures, machinery, equipment, vehicles and other items of tangible personal property is in need of maintenance or repairs except for ordinary, routine maintenance and repairs that are not material in nature or cost. The buildings, plants, structures, furniture, fixtures, machinery, equipment, vehicles and other items of tangible personal property currently owned or leased by Bailey, together with all other properties and assets of Bailey, are sufficient for the continued conduct of Bailey's business after the Closing in substantially the same manner as conducted prior to the Closing and constitute all of the rights, property and assets necessary to conduct the business of Bailey as currently conducted.

Section 4.12 Intellectual Property. Except as set forth in Section 4.12 of the Disclosure Schedules: (A) To the Knowledge of Bailey, Bailey owns or possesses sufficient legal rights to all Intellectual Property purported to be owed by Bailey without any conflicts with, or infringement of, the rights of others, and no product or service marketed or sold (or proposed to be marketed or sold) by Bailey violates any license or infringes any intellectual property rights of any other party. (B) Other than with respect to commercially available software products under standard end-user object code license agreements or standard license agreements for free or open source software, there are no outstanding options, licenses, agreements, claims, encumbrances or shared ownership interests of any kind relating to the Intellectual Property, nor is Bailey bound by or a party to any options, licenses or agreements of any kind with respect to the patents, trademarks, service marks, trade names, copyrights, trade secrets, licenses, information, proprietary rights and processes of any other Person. (C) During the past three years, no claim has been asserted or, to the Knowledge of Bailey, threatened against Bailey involving any Intellectual Property (D) To the Knowledge of Bailey, it will not be necessary to use any inventions of any of its employees or consultants made prior to or outside the scope of their employment by Bailey. (E) Each employee and consultant has (i) assigned to Bailey all intellectual property rights he or she owns that are related to the business of Bailey and (ii) executed an agreement with Bailey acknowledging Bailey's exclusive ownership of all Intellectual Property invented, created or developed by such employee or independent contractor within the scope of his or her employment or engagement with Bailey. (F) Bailey does not utilize any free or open source software in a manner that requires Bailey to disclose, make available, or offer or deliver any portion of the source code of such any proprietary Bailey software or component thereof to any third party.

Section 4.13 Inventory. All inventory of Bailey, whether or not reflected in the Bailey Balance Sheet, consists of a quality and quantity usable and salable in the ordinary course of business consistent with past practice, except for obsolete, damaged, defective or slow-moving items that have been written off or written down to fair market value or for which adequate reserves have been established. All such inventory is owned by Bailey free and clear of all Liens, and no inventory is held on a consignment basis. The quantities of each item of inventory (whether raw materials, work-in-process or finished goods) are not excessive, but are reasonable in the present circumstances of Bailey.

Section 4.14 Accounts Receivable. The accounts receivable reflected on the Bailey Balance Sheet and the accounts receivable arising after the date thereof (a) have arisen from bona fide transactions entered into by Bailey involving the sale of goods or the rendering of services in the ordinary course of business consistent with past practice and (b) constitute only valid, undisputed claims of Bailey not subject to claims of set-off or other defenses or counterclaims other than normal cash discounts accrued in the ordinary course of business consistent with past practice. The reserve for bad debts shown on the Bailey Balance Sheet or, with respect to accounts receivable arising after the Balance Sheet Date, on the accounting records of Bailey have been determined in accordance with GAAP, consistently applied, subject to normal year-end adjustments and the absence of disclosures normally made in footnotes.

Section 4.15 Customers and Suppliers.

(a) Section 4.15(a) of the Disclosure Schedules sets forth (i) each customer who has paid aggregate consideration to Bailey for goods or services rendered in an amount greater than or equal to $75,000 for each of the two most recent fiscal years (collectively, the "**Material Customers**"); and (ii) the amount of consideration paid by each Material Customer during such periods. Except as set forth in Section 4.15(a) of the Disclosure Schedules, Bailey has not received any notice that any of its Material Customers has ceased, or intends to cease after the Closing, to use its goods or services or to otherwise terminate or materially reduce its relationship with Bailey.

(b) Section 4.15(b) of the Disclosure Schedules sets forth (i) each supplier to whom Bailey has paid consideration for goods or services rendered in an amount greater than or equal to $75,000 for each of the two most recent fiscal years (collectively, the "**Material Suppliers**"); and (ii) the amount of purchases from each Material Supplier during such periods. Except as set forth in Section 4.15(b) of the Disclosure Schedules, Bailey has not received any notice that any of its Material Suppliers has ceased, or intends to cease, to supply goods or services to Bailey or to otherwise terminate or materially reduce its relationship with Bailey.

Section 4.16 Insurance. Section 4.16 of the Disclosure Schedules sets forth a list of all insurance policies carried by or for the benefit of Bailey, specifying the insurer, the name of the policy holder, the amount of coverage, the risk insured against, the deductible amount (if any) and the date through which coverage shall continue by virtue of premiums already paid. All such insurance policies are in full force and effect and Bailey is not in default with respect to its respective obligations under any such insurance policies. There are no pending claims that have been denied insurance coverage.

Section 4.17 Legal Proceedings; Governmental Orders.

(a) Except as set forth in Section 4.17(a) of the Disclosure Schedules, there are no Actions pending or, to Bailey's Knowledge, threatened (a) against or by Bailey, any Holder or any Affiliate of any Holder affecting any of Bailey's properties or assets; or (b) against or by Bailey, any Holder or any Affiliate of any Holder that challenges or seeks to prevent, enjoin or otherwise delay the transactions contemplated by this Agreement.

(b) Except as set forth in Section 4.17(b) of the Disclosure Schedules, there are no outstanding Governmental Orders and no unsatisfied judgments, penalties or awards against or affecting Bailey or any of its properties or assets. Bailey is in compliance with the terms of each Governmental Order set forth in Section 4.17(b) of the Disclosure Schedules.

Section 4.18 Compliance With Laws; Permits.

(a) Except as set forth in Section 4.18(a) of the Disclosure Schedules, Bailey has complied for the past three years, and is now complying, in all material respects with all Laws applicable to it or its business, properties or assets.

(b) All material Permits required for Bailey to conduct its business have been obtained by it and are valid and in full force and effect. All fees and charges with respect to such Permits as of the date hereof have been paid in full. Section 4.18(b) of the Disclosure Schedules lists all current Permits issued to Bailey, including the names of the Permits and their respective dates of issuance and expiration. No event has occurred that, with or without notice or lapse of time or both, would reasonably be expected to result in the revocation, suspension, lapse or limitation of any Permit set forth in Section 4.18(b) of the Disclosure Schedules.

Section 4.19 Environmental Matters.

(a) Bailey is currently and has been in compliance in all material respects with all Environmental Laws and has not received from any Person any: (i) Environmental Notice or Environmental Claim; or (ii) written request for information pursuant to Environmental Law, which, in each case, either remains pending or unresolved, or is the source of ongoing obligations or requirements as of the Closing Date.

(b) Bailey has not received any order, notice, or other written communication, or to Bailey's Knowledge, oral communication, from any Governmental Body or third party of any alleged failure to comply with any Environmental Law, or of any obligation to undertake or bear the cost of any costs of investigation and remediation with respect to (i) any real property, leaseholds, or other interests currently or formerly owned or operated by Bailey and any buildings, plants, structures, or equipment (including motor vehicles, tank cars, and rolling stock) currently owned or operated by Bailey (the "**Facilities**") or (ii) any other properties or assets (whether real, personal, or mixed) in which Bailey has had an interest, or with respect to any property to which Hazardous Materials generated by Bailey may have been sent where the alleged noncompliance or obligation described in such order, notice or communication remains unresolved;

(c) There are no Actions or threatened claims, Liens (except Permitted Liens), or other restrictions of any nature, arising under or pursuant to any Environmental Law, with respect to or affecting any of the Facilities or any other properties and assets (whether real, personal, or mixed) in which Bailey has an interest; and

(d) There are no Hazardous Materials present in the soil or groundwater at the Facilities in such amounts that would give rise to material liabilities or obligations under any Environmental Law.

Section 4.20 Employee Benefit Matters.

(a) Section 4.20(a) of the Disclosure Schedules contains a true and complete list of each pension, benefit, retirement, compensation, employment, consulting, profit-sharing, deferred compensation, incentive, bonus, performance award, phantom equity or other equity, change in control, retention, severance, vacation, paid time off (PTO), medical, vision, dental, disability, welfare, Code Section 125 cafeteria, fringe benefit and other similar agreement, plan, policy, program or arrangement (and any amendments thereto), in each case whether or not reduced to writing and whether funded or unfunded, including each "employee benefit plan" within the meaning of Section 3(3) of ERISA, whether or not tax-qualified and whether or not subject to ERISA, which is or has been maintained, sponsored, contributed to, or required to be contributed to by Bailey for the benefit of any current or former employee, officer, manager, retiree, independent contractor or consultant of Bailey or any spouse or dependent of such individual, or under which Bailey or any of its ERISA Affiliates has or may have any Liability, or with respect to which Denim or any of its Affiliates would reasonably be expected to have any Liability, contingent or otherwise (as listed on Section 4.20(a) of the Disclosure Schedules, each, a "**Benefit Plan**").

(b) Each Benefit Plan has been established, maintained and administered in compliance in all material respects with its terms and the applicable Laws, including ERISA. No Employee Benefit Plan is subject to the minimum funding requirements under Section 412 of the Code or Title IV of ERISA. No Benefit Plan is a multiemployer plan (as defined in Section 3(37) of ERISA), and neither Bailey nor any ERISA Affiliate currently has, or has ever had any obligation to contribute to any such multiemployer plan.

(c) No Benefit Plan is the subject of any Action or audit or examination by the Internal Revenue Service, the United States Department of Labor or any other governmental entity.

(d) Except as set forth on Section 4.20(a) of the Disclosure Schedules, neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated by this Agreement will, either alone or in combination with other events, (i) result in any payment becoming due from Bailey under any Benefit Plan, (ii) increase any benefits otherwise payable under any Benefit Plan, or (iii) result in the acceleration of the time of payment or vesting of any benefits under any Benefit Plan.

Section 4.21 Employment Matters.

(a) Section 4.21(a) of the Disclosure Schedules contains a list of all persons who are employees, independent contractors or consultants of Bailey as of the date hereof, including any employee who is on a leave of absence of any nature, paid or unpaid, authorized or unauthorized, and sets forth for each such individual the following: (i) name; (ii) title or position (including whether full-time or part-time); (iii) hire or retention date; (iv) current annual base compensation rate or contract fee; (v) commission, bonus or other incentive-based compensation; and (vi) a description of the fringe benefits provided to each such individual as of the date hereof. Except as set forth in Section 4.21(a) of the Disclosure Schedules, as of the date hereof, all compensation, including wages, commissions, bonuses, fees and other compensation, payable to all employees, independent contractors or consultants of Bailey for services performed through the last pay period have been paid in full.

(b) Except as set forth in Section 4.21(a) of the Disclosure Schedule, during the past three years Bailey has complied in all material respects with all applicable Laws relating to wages, hours, and discrimination in employment. Bailey's relations with its employees are satisfactory. There have been no union organizing or election activities involving any non-union employees of Bailey and, to the Knowledge of Bailey, none are threatened as of the date hereof.

Section 4.22 Taxes. Except as set forth in Section 4.22 of the Disclosure Schedules:

(a) There are no federal, state, local or foreign Taxes due and payable by Bailey that have not been timely paid. There are no accrued and unpaid federal, state, local or foreign taxes of Bailey that are due, whether or not assessed or disputed. There have been no examinations or audits of any Tax Returns or reports by any applicable federal, state, local or foreign governmental agency. Bailey has duly and timely filed all federal, state, local and foreign Tax Returns required to have been filed by it and there are in effect no waivers of applicable statutes of limitations with respect to Taxes for any year. All Bailey Tax Returns required to be filed on or before the Effective Date are true, complete and correct in all respects.

(b) Bailey has withheld and paid each Tax required to have been withheld and paid in connection with amounts paid or owing to any employee, independent contractor, creditor, customer, shareholder or other party, and complied in all material respects with all information reporting and backup withholding provisions of applicable Law.

Section 4.23 Books and Records. The minute books of Bailey have been made available to Denim, are complete and correct, and have been maintained in all material respects in accordance with sound business practices. The minute books of Bailey contain accurate and complete records of all meetings, and actions taken by written consent of, the members and the managers, and no meeting, or action taken by written consent, of any such members or managers has been held for which minutes have not been prepared and are not contained in such minute books. At the Closing, all of those books and records will be in the possession of Bailey.

Section 4.24 Brokers. Except as set forth in Section 4.24 of the Disclosure Schedules, no broker, finder or investment banker is entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of Bailey.

Section 4.25 Full Disclosure. No representation or warranty by Bailey or any Holder in this Agreement and no statement contained in the Disclosure Schedules to this Agreement or any certificate or other document furnished or to be furnished to Denim pursuant to this Agreement contains any untrue statement of a material fact, or omits to state a material fact necessary to make the statements contained therein, in light of the circumstances in which they are made, not misleading.

ARTICLE V

REPRESENTATIONS AND WARRANTIES OF DENIM

Denim represents and warrants to Holders that the statements contained in this Article V are true and correct as of the date hereof.

Section 5.01 Organization and Authority of Denim and Merger Sub. Each of Denim and Merger Sub is a corporation duly organized, validly existing and in good standing under the Laws of the state of Delaware. Each of Denim and Merger Sub has full corporate power and authority to enter into this Agreement, to carry out its obligations hereunder and to consummate the transactions contemplated hereby. The execution and delivery by Denim and Merger Sub of this Agreement and the Note, the performance by Denim and Merger Sub of their obligations hereunder and thereunder and the consummation by Denim and Merger Sub of the transactions contemplated hereby and thereby have been duly authorized by all requisite corporate action on the part of Denim and Merger Sub. This Agreement has been duly executed and delivered by Denim and Merger Sub, and (assuming due authorization, execution, and delivery by Bailey) this Agreement constitutes a legal, valid, and binding obligation of Denim and Merger Sub enforceable against Denim and Merger Sub in accordance with its terms, subject to the Enforceability Exceptions.

Section 5.02 Capitalization.

(a) Section 5.02 of the Disclosure Schedule sets forth the capitalization of Denim, including all capital stock outstanding and the beneficial owner thereof. The outstanding capital stock of Denim has been duly authorized and is validly issued, fully-paid and non-assessable.

(b) The outstanding capital stock of Denim was issued in compliance with applicable Laws. The outstanding capital stock of Denim was not issued in violation of the Organizational Documents of Denim or any other agreement, arrangement, or commitment to which Denim is a party and is not subject to or in violation of any preemptive or similar rights of any Person.

(c) There are no outstanding or authorized options, warrants, convertible securities or other rights, agreements, arrangements or commitments of any character relating to any equity interests in Denim or obligating Denim to issue or sell any capital stock or any other interest in Denim. There are no voting trusts, proxies or other agreements or understandings in effect with respect to the voting or transfer of any of the outstanding capital stock of Denim.

Section 5.03 No Conflicts; Consents. The execution, delivery and performance by Denim of this Agreement and the Note, and the consummation of the transactions contemplated hereby and thereby, do not and will not: (a) conflict with or result in a violation or breach of, or default under, any provision of the Organizational Documents of Denim; (b) conflict with or result in a violation or breach of any provision of any Law or Governmental Order applicable to Denim; or (c) except as set forth in Section 5.03 of the Disclosure Schedules require the consent, notice or other action by any Person under any Contract to which Denim is a party. No consent, approval, Permit, Governmental Order, declaration or filing with, or notice to, any Governmental Authority is required by or with respect to Denim in connection with the execution and delivery of this Agreement and the Note and the consummation of the transactions contemplated hereby and thereby, except for such consents, approvals, Permits, Governmental Orders, declarations, filings or notices which, in the aggregate, would not have a Denim Material Adverse Effect.

Section 5.04 Financial Statements. Attached as Section 5.04 of the Disclosure Schedules are the unaudited balance sheets of Denim as of December 31, 2017 and December 31, 2018 and the related statements of income and cash flows for the fiscal years then ended, and the unaudited balance sheet (the "**Denim Balance Sheet**") of Denim as of November 30, 2019 (the "**Denim Balance Sheet Date**") and the related statements of income and cash flows for the 11 months then ended. Except as set forth therein, such financial statements (a) have been prepared from and are consistent with the books and records of Denim, (b) have been prepared in conformity with GAAP, (c) are complete and correct in all material respects, and (d) present fairly in all material respects the financial position and results of operations of Denim as of their respective dates and for the respective periods covered thereby.

Section 5.05 Undisclosed Liabilities. Denim has no material Liabilities, except (a) those which are adequately reflected or reserved against in the Denim Balance Sheet as of the Denim Balance Sheet Date, (b) those which have been incurred in the ordinary course of business consistent with past practice since the Denim Balance Sheet Date and (c) executory obligations under contracts in the ordinary course of business.

Section 5.06 Absence of Certain Changes, Events, and Conditions. Since the Denim Balance Sheet Date, and other than in the ordinary course of business consistent with past practice, there has not been, with respect to Denim, any:

(a) Denim Material Adverse Effect;

(b) incurrence, assumption or guarantee of any indebtedness for borrowed money by Denim in an aggregate amount in excess of $75,000;

(c) cancellation of any debts or claims or amendment, termination or waiver of any rights having a Denim Material Adverse Effect;

(d) material damage, destruction or less, or any material interruption in use of, any of Denim's material assets, whether or not covered by insurance;

(e) imposition of any Lien (other than Permitted Liens) upon any of Denim's assets;

(f) adoption by Denim of any plan of merger, consolidation, reorganization, liquidation or dissolution or filing of a petition in bankruptcy under any provisions of federal or state bankruptcy Law or consent to the filing of any bankruptcy petition against it under similar Law; or

(g) any Contract to which Denim is a party to do any of the foregoing, or any action or omission that would result in any of the foregoing.

Section 5.07 Taxes. Except as set forth in Section 5.07 of the Disclosure Schedules:

(a) There are no federal, state, local or foreign Taxes due and payable by Denim that have not been timely paid. There are no accrued and unpaid federal, state, local or foreign taxes of Denim that are due, whether or not assessed or disputed. There have been no examinations or audits of any Tax Returns or reports by any applicable federal, state, local or foreign governmental agency. Denim has duly and timely filed all federal, state, local and foreign Tax Returns required to have been filed by it and there are in effect no waivers of applicable statutes of limitations with respect to Taxes for any year. All Denim Tax Returns required to be filed on or before the Effective Date are true, complete and correct in all respects.

(b) Bailey has withheld and paid each Tax required to have been withheld and paid in connection with amounts paid or owing to any employee, independent contractor, creditor, customer, shareholder or other party, and complied in all material respects with all information reporting and backup withholding provisions of applicable Law.

Section 5.08 Investment Purpose. Denim is acquiring the Membership Interests solely for its own account for investment purposes and not with a view to, or for offer or sale in connection with, any distribution thereof. Denim acknowledges that the Membership Interests are not registered under the Securities or any state securities laws, and that the Membership Interests may not be transferred or sold except pursuant to the registration provisions of the Securities Act or pursuant to an applicable exemption therefrom and subject to state securities laws and regulations, as applicable.

Section 5.09 Valid Issuance. Upon issuance in accordance with and pursuant to the terms of this Agreement, the Parent Stock will be validly issued, fully paid and non-assessable.

Section 5.10 Brokers. No broker, finder or investment banker is entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of Denim.

Section 5.11 Legal Proceedings. Except as set forth in Section 5.11 of the Disclosure Schedules, there are no Actions pending or, to Denim's knowledge, threatened against or by Denim or any Affiliate of Denim affecting any of Denim’s properties or assets.

Section 5.12 Compliance With Laws. Denim has complied for the past three years, and is now complying, in all material respects with all Laws applicable to it or its business, properties or assets.

Section 5.13 **Full Disclosure.** No representation or warranty by Denim in this Agreement and no statement contained in the Disclosure Schedules to this Agreement or any certificate or other document furnished or to be furnished to Bailey or any Holder pursuant to this Agreement contains any untrue statement of a material fact, or omits to state a material fact necessary to make the statements contained therein, in light of the circumstances in which they are made, not misleading.

ARTICLE VI

DELIVERIES

Section 6.01 Deliveries the Holders. At Closing, as a further condition thereof, the Holders shall deliver or cause to be delivered to Denim:

(a) this Agreement duly executed by the Holders; and

(b) the Bridge Notes stamped "Cancelled".

Section 6.02 Deliveries of Bailey. At Closing, as a further condition thereof, Bailey shall deliver to Denim:

(a) this Agreement duly executed by an authorized signatory of Bailey;

(b) a certificate to Denim from Bailey, signed by its Secretary or Assistant Secretary, certifying that the attached copies of the Bailey LLC Agreement and resolutions of each the Board of Managers and members of Bailey approving this Agreement and the transactions contemplated hereunder are all true, complete and correct and remain in full force and effect; and

(c) written resignations, effective as of the Closing Date, of the officers and managers of Bailey.

Section 6.03 Deliveries of Denim. At Closing, as a further condition thereof, Denim shall deliver to Bailey and the Holders:

(a) this Agreement executed by Denim;

(b) a certificate from Denim, signed by its Secretary or Assistant Secretary certifying that the attached copies of Denim's and Merger Sub's Charter Documents and resolutions of the Boards of Directors and stockholders of Denim and Merger Sub approving this Agreement, are all true, complete and correct and remain in full force and effect;

(c) certificates representing the Initial Shares issued to the Preferred Members set forth on the Preferred Allocation Schedule; and

(d) the Note issued to the Preferred Members set forth on the Preferred Allocation Schedule.

ARTICLE VII

COVENANTS

Section 7.01 Public Announcements. Unless otherwise required by applicable Law (based upon the reasonable advice of counsel), no party to this Agreement shall make any public announcements in respect of this Agreement or the transactions contemplated hereby or otherwise communicate with any news media without the prior written consent of the other parties (which consent shall not be unreasonably withheld or delayed), and the parties shall cooperate as to the timing and contents of any such announcement.

Section 7.02 Market Stand-Off. Each of the Holders hereby agrees in connection with the IPO not to sell, make any short sale of, loan, grant any option for the purchase of, or otherwise dispose of any capital stock of Denim without the prior written consent of Denim or the underwriters (the "**Underwriters**") managing such offering of Denim's securities, as the case may be, for such period of time (not to exceed 180 days) from the effective date of the registration relating to such offering as Denim or the Underwriters may specify. In order to enforce the foregoing covenants, Denim may impose stop-transfer instructions with respect to the securities of Denim beneficially held by the Holders. Such market-stand-off shall be applicable to and enforceable against any transferee of securities of Denim with respect to transfers by any of the Holders.

Section 7.03 Further Assurances. Following the Closing, each of the parties hereto shall, and shall cause their respective Affiliates to, execute and deliver such additional documents, instruments, conveyances and assurances and take such further actions as may be reasonably required to carry out the provisions hereof and give effect to the transactions contemplated by this Agreement.

Section 7.04 Issuance of Holdback Shares. Promptly after the first anniversary of the date of this Agreement, subject to the provisions of Article VIII, Denim will issue new certificates evidencing the Holdback Shares not otherwise cancelled further to Article VIII to each Preferred Unitholder pursuant to the Preferred Allocation Schedule.

ARTICLE VIII

INDEMNIFICATION

Section 8.01 Survival Period. For purposes of this Agreement, (a) the representations and warranties of Holders contained in Sections 3.01, 3.02, 3.03(a), 3.04 and 3.07 (each, a "**Holder Fundamental Representation**"), the representations and warranties of Bailey contained in Sections 4.01, 4.02, 4.03, 4.05(a) and 4.24 (each, a "**Bailey Fundamental Representation**") and the representations and warranties of Denim contained in Sections 5.01, 5.02, 5.03(a), 5.08, 5.09 and 5.10 (each, a "**Holder Fundamental Representation**") shall survive for the applicable statute of limitations, and (b) all other representations and warranties not referenced in Section 8.01(a) shall survive for a period of twelve (12) months after the Closing Date. The parties hereby agree that the foregoing is specifically intended to limit the time period within which a party may make a Claim, notwithstanding any applicable statute of limitations. No party shall be entitled to recover for any Losses pursuant to Sections 8.02 or 8.03 unless a Claim Notice is delivered to the Indemnifying Party before the applicable date set forth in this Section 8.01, in which case the claim set forth in the Claim Notice shall survive the applicable date set forth in this Section 8.01 until such time as such claim is fully and finally resolved. The covenants and agreements set forth in this Agreement and to be performed to any extent at or after the Closing Date shall survive until fully discharged and performed, and any claims for indemnification in respect of a breach of such covenants to be performed in any respect after the Effective Date may be made at any time within the applicable statute of limitations.

Section 8.02 Indemnification by Holders. Subject to the limitations set forth in this Article VIII, from and after the Closing, each Holder shall indemnify and hold harmless Denim and Bailey, as the Surviving Company and each of their respective officers, managers, stockholders, members, agents and representatives (collectively, the "**Denim Indemnified Parties**") from and against all Losses that Denim Indemnified Parties may suffer or sustain by reason of or arising out of (a) any inaccuracy in any representation or warranty of such Holder contained in ARTICLE III or (b) any breach of any covenant or agreement of such Holder contained in this Agreement. Subject to the limitations set forth in this Article VIII, from and after the Closing, each Holder, severally and not jointly based on its Pro Rata Share (as identified in the Preferred Allocation Schedule, shall indemnify and hold harmless the Denim Indemnified Parties from and against all Losses that Denim Indemnified Parties may suffer or sustain by reason of or arising out of (a) any inaccuracy in any representation or warranty of Bailey contained in ARTICLE IV or (b) the determination of the allocation of the Merger Consideration among the holders of Membership Units or the preparation of Preferred Allocation Schedule. The amount of Losses incurred by the Holders pursuant to this Section 8.02 are referred to herein as the "**Holder Indemnifiable Amount**". Except for Claims (as such term is defined below) made in respect of (i) any breach of a Holder Fundamental Representation or a Bailey Fundamental Representation, (ii) breaches of any covenant or agreement, or (iii) the Preferred Allocation Schedule (collectively, "**Holder Fundamental Claims**"), all Claims made by Denim Indemnified Parties shall be satisfied exclusively from the Holdback Shares.

Section 8.03 Indemnification by Denim. Subject to the limitations set forth in this Article VIII, from and after the Closing, Denim shall indemnify and hold harmless Holders and each of their respective officers, managers, members, agents and representatives (collectively, the "**Holder Indemnified Parties**") from and against all Losses that the Holder Indemnified Parties may suffer or sustain by reason of or arising out of (a) any inaccuracy in any representation or warranty contained in ARTICLE V, and (b) any breach of any covenant or agreement of the Denim or Bailey (to the extent contemplating performance after the Closing) contained in this Agreement (the amount of such Losses, the "**Denim Indemnifiable Amount**").

Section 8.04 Limitations on Indemnification

(a) Except in the case of intentional fraud or a Claim involving a breach of any Denim Fundamental Representation or the breach of any covenant or agreement, the total aggregate Losses under the Denim Indemnifiable Amount shall not exceed an amount equal to $2,200,000.

(b) Except in the case of intentional fraud or a Holder Fundamental Claim, the total aggregate Losses under the Holder Indemnifiable Amount shall not exceed an amount equal to the value of the Holdback Shares and, except for a Holder Fundamental Claim which shall be satisfied in cash by the Holders, all Claims by Denim for indemnification further to this ARTICLE VII shall be made solely against and result in the cancellation of Holdback Shares at a per share price equal to $0.53, subject to adjustment for splits, reverse splits and similar events. It is understood that any such cash amounts shall be initially offset against amounts owing under the Note and that any amounts in excess shall be paid in cash by the Holders.

(c) In no event shall any Indemnifying Party be liable to any Indemnified Party for any punitive, incidental, consequential, special or indirect damages, including loss of future revenue or income, loss of business reputation or opportunity relating to the breach or alleged breach of this Agreement, or diminution of value or any damages based on any type of multiple, except to the extent such damages are included as damages payable by an Indemnified Party in respect of a third party claim.

(d) The representations, warranties and covenants of the Indemnifying Party, and the Indemnified Party's right to indemnification with respect thereto, shall not be affected or deemed waived by reason of any investigation made by or on behalf of the Indemnified Party (including by any of its Representatives) or by reason of the fact that the Indemnified Party or any of its Representatives knew or should have known that any such representation or warranty is, was or might be inaccurate.

(e) No Holder nor any of their respective Affiliates will have any right of contribution from the Surviving Company for liabilities for such Person’s obligations pursuant to this Article VIII.

(f) An Indemnified Party shall have no recourse against an Indemnifying Party for a claim relating to a breach of a representation or warranty until such time as the total amount of all Losses in respect of all claims relating to a breach of representations and warranties exceeds $150,000 in the aggregate, and then only in respect of such excess.

(g) Each Indemnified Party acknowledges and agrees that, for purposes hereof, Losses shall be calculated based on the amount of Losses that remains after deducting any insurance proceeds, indemnity, contribution or other similar payment actually received by an Indemnified Party or its Affiliates with respect thereto. If any Indemnified Party of its Affiliates recovers amounts from any third party with respect to such Losses after indemnification is made to it by the Indemnifying party, the Indemnified Party shall promptly pay to the Indemnifying Party that made such indemnification payment the amount of such third party recovery, net of any out-of-pocket costs associated with obtaining such third party recovery, at such time or times as and to the extent that such amount is actually received by the Indemnifying Party or its Affiliates. Each Indemnified Party shall use its commercially reasonable efforts to mitigate any Losses for which it is entitled to indemnification pursuant to this Article VIII.

Section 8.05 Indemnification Claims.

(a) If an Indemnified Party (the "**Claimant**") wishes to assert an indemnification claim hereunder (a "**Claim**"), the Claimant shall deliver to the responsible Indemnifying Party a written notice (a "**Claim Notice**") setting forth:

(i) a description of the matter giving rise to the Claim, including a reasonably detailed description of the facts and circumstances known to Claimant giving rise to the Claim, and

(ii) to the extent determinable based on facts known to the Claimant at such date, an estimate of the monetary amounts actually incurred or expected to be incurred for which indemnification is sought.

(b) Within thirty (30) days after receipt of any Claim Notice, the Indemnifying Party shall either (i) acknowledge in writing its responsibility for all or part of such matter for which indemnification is sought under this ARTICLE VII, and will either (A) satisfy (subject to the terms and conditions of this Article VIII) the portion of such matter as to which responsibility is acknowledged, or (B) take such other action as is reasonably satisfactory to the Indemnified Party to provide reasonable security or other assurances for the performance of its obligations hereunder, and/or (ii) give written notice to the Indemnified Party of its intention to dispute or contest all or part of such responsibility. Upon delivery of such notice of intention to contest, the parties will negotiate in good faith to resolve as promptly as possible any dispute as to responsibility for, or the amount of, any such matter. If the parties fail to resolve such dispute within ninety (90) days of delivery of the notice of intention to contest, either party may submit such dispute for resolution pursuant to Section 9.14.

Section 8.06 Defense of Third-Party Claims

(a) If an Indemnified Party receives written notice or otherwise obtains knowledge of any third-party claim or any threatened third-party claim that gives rise or is reasonably likely to give rise to a Claim against an Indemnifying Party, then the Indemnified Party shall promptly deliver to the Indemnifying Party a written notice describing such third-party claim in reasonable detail. The untimely delivery of such written notice by the Indemnified Party to the Indemnifying Party shall relieve the Indemnifying Party of liability with respect to such third-party claim only to the extent that it has actually been prejudiced by lack of timely notice under this Section 8.06(a) with respect to such third-party claim. The Indemnifying Party shall have the right, at its option, to assume the defense of any such third-party claim with counsel of its own choosing, which counsel shall be reasonably acceptable to the Indemnified Party. If the Indemnifying Party elects to assume the defense of an indemnification for any such third-party claim, then:

(i) Except as set forth in Section 8.06(b), the Indemnifying Party shall not be required to pay or otherwise indemnify the Indemnified Party against any attorneys' fees or other expenses incurred on behalf of the Indemnified Party in connection with such matter following the Indemnifying Party's election to assume the defense of such matter so long as the Indemnifying Party continues to diligently conduct such defense;

(ii) The Indemnified Party shall, subject to the Indemnifying Party's agreement to appropriate confidentiality restrictions, use reasonable efforts to make available to the Indemnifying Party all books, records and other documents and materials that are under the direct or indirect control of the Indemnified Party or any of the Indemnified Party's representatives that the Indemnifying Party reasonably considers necessary or desirable for the defense of such matter and shall, upon prior request and to the extent reasonably necessary in connection with the defense of such claim, make available to the Indemnifying Party reasonable access to the Indemnified Party's personnel; provided that nothing herein shall require the Indemnified Party to disclose privileged documents that are unrelated to such claim except to the extent Indemnified Party is compelled to do so by a court of competent jurisdiction; and

(iii) The Indemnified Party shall not be required to admit any liability with respect to such third-party claim.

(b) If (i) the Indemnifying Party fails or refuses to assume the defense of and indemnification for such third-party claim within thirty (30) days of receipt of notice of such claim in accordance with Section 8.06(a), (ii) the Indemnifying Party fails to actively and diligently defend such third-party claim following any such acceptance, (iii) the third-party claim includes an injunction or seeks other equitable relief, (iv) the Indemnified Party shall have been advised by counsel reasonably acceptable to the Indemnifying Party that there are one or more legal or equitable defenses available to it which are different from or in addition to those available to the Indemnifying Party, and, in the reasonable opinion of the Indemnified Party, counsel for the Indemnifying Party could not adequately represent the interests of the Indemnified Party because such interests would be in conflict with those of the Indemnifying Party, or (v) the third-party claim includes damages that could exceed the limitations in Section 8.04, then at the Indemnified Party's option, the Indemnified Party may assume the defense and if it assumes the defense, the Indemnified Party shall proceed to actively and diligently defend such third-party claim with the assistance of counsel of its selection, and the Indemnifying Party shall be entitled to participate in (but not control) the defense of such third-party claim, with its own counsel and at its own expense; provided, that if the Indemnifying Party agrees in writing that the Indemnified Party is entitled to indemnification hereunder for such third-party claim, and the Indemnifying Party is otherwise determined to be obligated for the Losses under this ARTICLE VIII in respect of such third-party claim, then the Losses recoverable by Indemnified Party shall include all costs and expenses, including of the defense set forth herein.

(c) No third-party claim may be settled by the Indemnified Party without notice to, and the written consent of, the Indemnifying Party, which consent shall not be unreasonably withheld or delayed. No third-party claim may be settled by the Indemnifying Party without notice to, and the written consent of, the Indemnified Party, which consent shall not be unreasonably withheld or delayed. For purposes of this Section 8.06, the decision not to pursue an appeal (whether as of right or discretionary) shall be deemed to be a decision to settle or compromise, requiring the prior written consent of the Party that has not assumed the defense of such matter, which consent shall not be unreasonably withheld.

ARTICLE IX

MISCELLANEOUS

Section 9.01 Expenses. Except as otherwise expressly provided herein, all costs and expenses, including, without limitation, fees and disbursements of counsel, financial advisors and accountants, incurred in connection with this Agreement and the transactions contemplated hereby shall be paid by the party incurring such costs and expenses.

Section 9.02 Notices. All notices, requests, consents, claims, demands, waivers and other communications hereunder shall be in writing and shall be deemed to have been given (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by facsimile or e-mail of a PDF document (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next Business Day if sent after normal business hours of the recipient or (d) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective parties at the following addresses (or at such other address for a party as shall be specified in a notice given in accordance with this Section 9.02):

If to Holders:	Norwest Venture Partners 525 University Avenue, Suite 800 Palo Alto, CA 94301 Email: wmyers@nvp.com Attention: General Counsel
with a copy to:	Goodwin Procter LLP 601 Marshall Street Redwood City, CA 94063 Email: wdavisson@goodwinlaw.com Attention: William Davisson
If to Denim:	Denim.LA, Inc. 537 Broadway Los Angeles, CA 90014 Facsimile: (310) Email: hil@dstld.la Attention: Hil Davis, Chief Executive Officer
with a copy to:	Manatt, Phelps & Phillips, LLP 695 Town Center Drive, 14th Floor Costa Mesa, CA 92646 Facsimile: (714) 371-2550 Email: tpoletti@manatt.com Attention: Thomas J. Poletti, Esq.

Section 9.03 Headings. The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

Section 9.04 Severability. If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Except as otherwise expressly provided herein, upon such determination that any term or other provision is invalid, illegal or unenforceable, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

Section 9.05 Entire Agreement. This Agreement, the Exhibits and the Schedules constitute the sole and entire agreement of the parties to this Agreement with respect to the subject matter contained herein and therein, and supersede all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter. In the event of any inconsistency between the statements in the body of this Agreement, the Exhibits and Schedules (other than an exception expressly set forth as such in the Disclosure Schedules), the statements in the body of this Agreement will control.

Section 9.06 **Successors and Assigns.** No party may assign or otherwise transfer this Agreement or any of its rights hereunder to any Person without the prior written consent of the other parties. Subject to the foregoing, this Agreement shall inure to the benefit of and be binding upon the parties hereto and their successors, personal representatives, heirs and permitted assigns.

Section 9.07 **Entire Agreement.** This Agreement (along with all schedules and exhibits attached hereto) embody the entire agreement and understanding among the parties with respect to the subject matter hereof.

Section 9.08 **Amendment** This Agreement may be amended, modified, waived, discharged or terminated only by an instrument in writing signed by each party.

Section 9.09 **Counterparts.** This Agreement may be executed in several original or electronic counterparts, each of which is an original, but all of which shall constitute one instrument.

Section 9.10 **Third-Party Rights.** This Agreement shall not confer any rights or remedies upon any Person other than the parties, the Indemnified Parties and their respective successors and permitted assigns.

Section 9.11 **Exhibits and Schedules.** Each of the exhibits and schedules referred to herein and attached hereto is an integral part of this Agreement and is incorporated herein by this reference.

Section 9.12 **Severability.** Every provision of this Agreement is intended to be severable. If any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity or legality of the remainder of this Agreement.

Section 9.13 **Governing Law.** The Laws of the State of Delaware, without regard to conflicts of Laws principles, shall govern the validity of this Agreement, the construction of its terms, and the interpretation of the rights and duties of the parties hereto.

Section 9.14 **Dispute Resolution.** Any claim, demand, disagreement, controversy or dispute that arises regarding, from or in connection with this Agreement or the breach or alleged breach thereof (collectively, a "Dispute"), between or among the parties shall be resolved in accordance with the following dispute resolution procedures:

(a) Cooperation. If a Dispute arises, any party may notify the other parties by sending a written notice (a "**Dispute Notice**"), which Dispute Notice shall identify the Dispute in reasonable detail and set forth briefly the notifying party's position with respect to the Dispute. Upon receipt of any Dispute Notice, the parties shall use reasonable efforts to cooperate and arrive at a mutually acceptable resolution of the Dispute within the next thirty (30) days.

(b) Arbitration. In the event that the Dispute is not resolved pursuant to the procedures described in Section 9.14(a), any party may request that the Dispute be submitted to binding arbitration by providing a notice of arbitration (the "**Arbitration Notice**") to the other parties to the Dispute. The Arbitration Notice shall be issued within thirty (30) days following the conclusion of the thirty (30)-day cooperation period described below and shall identify the unresolved Dispute in reasonable detail.

(c) Selection of the Arbitrator. The parties agree that the Dispute shall be submitted to a single arbitrator, acceptable to both parties, who has at least twenty (20) years' experience in the clothing industry. The parties shall use their commercially reasonable efforts to mutually select a qualified arbitrator within ten (10) days after the Arbitration Notice has been delivered. If the parties cannot agree on the arbitrator within such ten (10)-day period, then any party may request that ADR Services, Inc. appoint the arbitrator (who must have the qualifications described above) in accordance with its Arbitration Rules. The party seeking action by ADR Services, Inc. shall request that the appointment be made within ten (10) days.

(d) The Arbitration Hearing. The arbitration hearing shall be held on a date and at a place and time mutually acceptable to the arbitrator and the parties within thirty (30) days following the appointment of the arbitrator. At least 72 hours in advance of the arbitration hearing, each party involved in the Dispute shall prepare its best and final offer to settle the Dispute in full (the "**Final Offers"**), and shall deliver its Final Offer to the other parties involved in the Dispute and the arbitrator. The arbitrator shall determine the format of the arbitration hearing to ensure that the parties have an opportunity to make an oral presentation of their views of the Dispute and to explain their Final Offers.

(e) The Decision. Upon the conclusion of the arbitration hearing, the arbitrator shall and must select the Final Offer proposed by one of the parties with respect to the Dispute, without variation, and enter that as the arbitrator's award. The arbitrator's award will be final and binding on the parties, and the parties shall be required to act in accordance with such decision.

(f) Fees and Expenses. Except to the extent specifically set forth in this Agreement, the parties shall pay their own fees and expenses incurred in connection with the Dispute resolution proceedings set forth in this Section 9.14, provided that in the case of an arbitration, the arbitrator may include in its decision the award of fees and expenses to the prevailing party.

Section 9.15 WAIVER OF JURY TRIAL. EACH PARTY HEREBY WAIVES ITS RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS AGREEMENT, THE OTHER TRANSACTION DOCUMENTS, THE SECURITIES OR THE SUBJECT MATTER HEREOF OR THEREOF. THE SCOPE OF THIS WAIVER IS INTENDED TO BE ALL-ENCOMPASSING OF ANY AND ALL DISPUTES THAT MAY BE FILED IN ANY COURT AND THAT RELATE TO THE SUBJECT MATTER OF THIS TRANSACTION, INCLUDING, WITHOUT LIMITATION, CONTRACT CLAIMS, TORT CLAIMS (INCLUDING NEGLIGENCE), BREACH OF DUTY CLAIMS, AND ALL OTHER COMMON LAW AND STATUTORY CLAIMS. THIS SECTION HAS BEEN FULLY DISCUSSED BY EACH OF THE PARTIES HERETO AND THESE PROVISIONS WILL NOT BE SUBJECT TO ANY EXCEPTIONS. EACH PARTY HERETO HEREBY FURTHER WARRANTS AND REPRESENTS THAT SUCH PARTY HAS REVIEWED THIS WAIVER WITH ITS LEGAL COUNSEL, AND THAT SUCH PARTY KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL.

[Signature page to follow]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first written.

Bailey 44, LLC

By /s/ David M. Lazar
Name: David M. Lazar
Title: CEO

Norwest Venture Partners XI, LP

By: Genesis VC Partners XI, LLC, its General Partner

By: NVP Associates, LLC, its Managing Member

By /s/ Sonya Brown
Name: Sonya Brown
Title: General Partner

Norwest Venture Partners XII, LP

By: Genesis VC Partners XII, LLC, its General Partner

By: NVP Associates, LLC, its Managing Member

By /s/ Sonya Brown
Name: Sonya Brown
Title: General Partner

DENIM.LA, INC.

By /s/ Hil Davis
Name: Hil Davis
Title: Chief Executive Officer

SCHEDULE A

PREFERRED ALLOCATION SCHEDULE

Name	Preferred Units	Portion of Merger Consideration		Initial Shares	Holdback Shares	Portion of Note
		Pro Rata Share	Dollar Amount			
Norwest Venture Partners XI, LP	14,175,000	50.0%	$ 7,750,000	8,301,887	2,075,472	$ 2,250,000
Norwest Venture Partners XII, LP	14,175,000	50.0%	$ 7,750,000	8,301,886	2,075,472	$ 2,250,000

EXHIBIT A

NOTE

EXHIBIT B

CERTIFICATE OF MERGER

SECOND AMENDMENT
TO THE
MEMBERSHIP INTEREST PURCHASE AGREEMENT

This Second Amendment to the Membership Interest Purchase Agreement (this "**Second Amendment**"), dated May 10, 2021 (the "Effective Date"),is entered into by and between D. Jones Tailored Collection, Ltd., a Texas limited partnership (the "**Seller**"), and Digital Brands Group, Inc., a Delaware corporation (formerly known as Denim.LA, Inc., the "**Buyer**"). Seller and Buyer are sometimes collectively referred to herein as the "**Parties**" and individually as a "**Party**." All capitalized terms used herein and not otherwise defined shall have the same meaning ascribed to them in that certain Membership Interest Purchase Agreement, dated as of October 14, 2020, by and between Seller and Buyer (the "**MIPA**") or that certain First Amendment to the Membership Interest Purchase Agreement, dated as of December 31, 2020, by and between Seller and Buyer (the "**First Amendment**").

RECITALS

WHEREAS, the Parties have entered into the First Amendment to extend the date upon which the closing conditions must be met and to clarify other matters provided;

WHEREAS, the Parties now desire to further amend the MIPA to extend the date upon which the Closing Indebtedness Adjustment is to be prepared and delivered; and

WHEREAS, the MIPA may be amended by a written instrument signed by each Party.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree to the following provisions of this Second Amendment.

Notwithstanding anything to the contrary in the MIPA, as amended by the First Amendment, the Parties understand, agree and acknowledge:

1. **Definitions**. The MIPA, as amended by the First Amendment, is hereby amended as follows:

(a) All references to the "Escrow Agreement" shall be deleted.

(b) The definition of "Escrow Account" shall be deleted and replaced by the following:

"'**Escrow Account**'" means the account established by the Parties with the Escrow Agent."

(c) The definition of "Escrow Agent" shall be deleted and replaced by the following:

"'**Escrow Agent**'" means Vstock Transfer, the transfer agent of Buyer."

2. **Transactions to be Effected at Closing**.

(a) Section 2.04(a)(ii) of the MIPA, as amended by the First Amendment, is hereby amended and restated in its entirety as follows:

"**Section 2.04 (a) (ii)** Deliver immediately available funds to the Company in the amount of Five Hundred Thousand and No/100 Dollars ($500,000.00) for the Company's payment to creditors for the purpose of strengthening the Company's financial position after the IPO or Uplisting by the reduction of the Company's debt, with all of such amount constituting a contribution by Buyer to the capital of the Company, and none of such amount constituting consideration for Buyer's acquisition of the Membership Interests from Seller. For the avoidance of doubt, the foregoing shall reduce the Company's Indebtedness for purposes of the Buyer's calculation of Closing Indebtedness, whether received by the Company or a creditor of the Company."

(b) Section 2.04(a)(iii)(B) shall be deleted in its entirety.

(c) Section 2.04(b)(ii) shall be deleted in its entirety.

3. **Closing Indebtedness Adjustment**. Section 2.05(a) of the MIPA is hereby amended and restated in its entirety as follows:

"**Section 2.05 (a)** Within ninety (90) days after the Closing Date (or such longer time period as Buyer and Seller may mutually agree), Buyer or its Representatives shall cause to be prepared and delivered a statement (the "**Closing Indebtedness Statement**"), setting forth Buyer's good faith calculation of Closing Indebtedness in reasonable detail."

4. **Termination**.

(a) Section 8.01(b)(ii) of the MIPA is hereby amended and restated in its entirety as follows:

"**Section 8.01 (b) (ii)** Any of the conditions set forth in Section 6.01 and Section 6.02 shall not have been, or if it becomes apparent that any of such conditions will not be, fulfilled by May 31, 2021, unless such nonfulfillment shall be due to the failure of Buyer to perform or comply with any of the covenants, agreements or conditions herein to be performed or complied with by its prior to the Closing."

(b) Section 8.01(c)(ii) of the MIPA is hereby amended and restated in its entirety as follows:

"**Section 8.01 (c) (ii)** Any of the conditions set forth in Section 6.01 and Section 6.02 shall not have been, or if it becomes apparent that any of such conditions will not be, fulfilled by May 31, 2021, unless such nonfulfillment shall be due to the failure of Seller to perform of comply with any of the covenants, agreements or conditions hereof to be performed or complied with by its prior to the Closing."

5. **Ratification of Agreement**. Except as provided herein, the MIPA and First Amendment are ratified, confirmed and shall remain unchanged and in full force and effect.

6. **Entire Agreement**. This Second Amendment together with the MIPA and First Amendment constitute the full and entire understanding and agreement between the Parties with regard to the subject matter hereof and thereof and no Party shall be liable or bound to any other in any manner by any representations, warranties, covenants and agreements except as specifically set forth herein and therein.

7. **Counterparts**. This Amendment may be executed in two or more counterparts, including by facsimile or electronic transmission, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

8. **Governing Law**. This Amendment shall be governed by and construed in accordance with the laws of the State of Delaware, without giving effect to that body of laws pertaining to conflict of laws.

[Signature page follows.]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the date written below each Party's signature to be effective as of the Effective Date.

SELLER:

D. JONES TAILORED COLLECTION, LTD., a Texas limited partnership

By: DJONES, LLC, a Texas limited liability company
Its: General Partner

By: /s/ Drew Jones
Drew Jones
Its: Managing Member
Date: May 10, 2021

BUYER:

DIGITAL BRANDS GROUP, INC., a Delaware corporation

By: /s/ John Hilburn Davis IV
John Hilburn Davis IV
Its: President and Chief Executive Officer
Date: May 10, 2021

Exhibit 2.5

MEMBERSHIP INTEREST PURCHASE AGREEMENT

by and between

Moise Emquies,

as Seller

and

Digital Brands Group, Inc.,

as Buyer

Dated August 30, 2021

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MEMBERSHIP INTEREST PURCHASE AGREEMENT

THIS MEMBERSHIP INTEREST PURCHASE AGREEMENT (this "**Agreement**"), effective as of August 30, 2021 (the "**Effective Date**"), is entered into by and between Moise Emquies, an individual ("**Seller**"), and Digital Brands Group, Inc., a Delaware corporation ("**Buyer**"). Seller and Buyer are sometimes collectively referred to herein as the "**Parties**" and individually as a "**Party**."

RECITALS

WHEREAS, Seller owns all of the issued and outstanding membership interests (the "**Membership Interests**") in MOSBEST, LLC, a California limited liability company (the "**Company**");

WHEREAS, Seller wishes to transfer to Buyer, and Buyer wishes to acquire from Seller, the Membership Interests, subject to the terms and conditions set forth herein; and

WHEREAS, a portion of the purchase price payable by Buyer to Seller shall be placed in escrow by Buyer, the release of which shall be contingent upon certain events and conditions, all as set forth in this Agreement and the Escrow Agreement (as defined herein).

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

ARTICLE I
DEFINITIONS

The following definitions shall apply to capitalized terms (or phrases) defined below and used throughout this Agreement:

"**Action**" means any claim, action, cause of action, demand, lawsuit, arbitration, inquiry, audit, notice of violation, proceeding, litigation, citation, summons, subpoena or investigation of any nature, civil, criminal, administrative, regulatory or otherwise, whether at law or in equity.

"**Affiliate**" of a Person means any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. The term "control" (including the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

"**Agreement**" has the meaning set forth in the preamble.

"**Ancillary Documents**" means the Escrow Agreement, the Registration Rights Agreement, the Assignment Agreement and the PPP Loan Escrow Agreement.

"**Arbitration Notice**" has the meaning set forth in Section 7.12(b).

"**Assignment Agreement**" has the meaning set forth in Section 2.04(b)(i)(A).

"**Balance Sheet**" has the meaning set forth in Section 3.06.

"**Balance Sheet Date**" has the meaning set forth in Section 3.06.

"**Benefit Plan**" has the meaning set forth in Section 3.20(a).

"**Business Day**" means any day except Saturday, Sunday or any other day on which commercial banks located in New York City, New York, are authorized or required by Law to be closed for business.

"**Buyer**" has the meaning set forth in the preamble.

"**Buyer Fundamental Representation**" has the meaning set forth in Section 6.01.

"**Buyer Indemnifiable Amount**" has the meaning set forth in Section 6.03.

"**Buyer Indemnified Parties**" has the meaning set forth in Section 6.02.

"**Buyer Shares**" means the common stock, with a par value of $0.0001 per share, of Buyer.

"**Buyer's Accountants**" means *dbbmckennon*, independent registered public accounting firm.

"**Buyer's Knowledge"** or any other similar knowledge qualification, means the actual knowledge of John Hilburn Davis IV, Reid Yeomon and Laura Dowling.

"Calculation Time" means 11:59 p.m. on the calendar day prior to the Closing Date.

"Calculation Statement" has the meaning set forth in Section 2.01(b).

"**CARES Act**" means the Coronavirus Aid, Relief and Economic Security Act and any similar or conforming legislation in any U.S. jurisdiction, and any subsequent legislation relating to the COVID-19 pandemic, including the Health and Economic Recovery Omnibus Emergency Solutions Act.

"**CERCLA**" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. §§ 9601 et seq.

"**Claim**" has the meaning set forth in Section 6.05.

"**Claim Notice**" has the meaning set forth in Section 6.05.

"**Closing**" has the meaning set forth in Section 2.03.

"**Closing Balance Sheet**" has the meaning set forth in Section 2.05(a).

"**Closing Date**" has the meaning set forth in Section 2.03.

"**Closing Net Working Capital"** means the Net Working Capital as of the Calculation Time.

"**Closing Statement**" has the meaning set forth in Section 2.05(a).

"**Code**" means the Internal Revenue Code of 1986, as amended.

"**Company**" has the meaning set forth in the recitals.

"**Confidential Information**" has the meaning set forth in Section 5.01.

"**Contracts**" means all contracts, leases, deeds, mortgages, licenses, instruments, notes, commitments, undertakings, indentures, joint ventures and all other agreements, commitments and legally binding arrangements, whether written or oral.

"**Disclosure Schedules**" means the Disclosure Schedules delivered by Seller and Buyer concurrently with the execution and delivery of this Agreement.

"**Dispute**" has the meaning set forth in Section 7.12.

"**Dispute Notice**" has the meaning set forth in Section 7.12(a).

"**Dollars**" or "**$**" means the lawful currency of the U.S.

"**Effective Date**" has the meaning set forth in the preamble.

"**Encumbrance**" means any charge, claim, community property interest, pledge, condition, equitable interest, lien (statutory or other), option, security interest, mortgage, easement, encroachment, right of way, right of first refusal, or restriction of any kind, including any restriction on use, voting, transfer, receipt of income or exercise of any other attribute of ownership.

"**Environmental Claim**" means any Action, Governmental Order, lien, fine, penalty, or, as to each, any settlement or judgment arising therefrom, by or from any Person alleging liability of whatever kind or nature (including liability or responsibility for the costs of enforcement proceedings, investigations, cleanup, governmental response, removal or remediation, natural resources damages, property damages, personal injuries, medical monitoring, penalties, contribution, indemnification and injunctive relief) arising out of, based on or resulting from: (a) the presence, Release of, or exposure to, any Hazardous Materials; or (b) any actual or alleged non-compliance with any Environmental Law or term or condition of any Environmental Permit.

"**Environmental Law**" means any applicable Law, and any Governmental Order or binding agreement with any Governmental Authority: (a) relating to pollution (or the cleanup thereof), the protection of natural resources, endangered or threatened species, human health or safety or the environment (including ambient air, soil, surface water or groundwater or subsurface strata); or (b) concerning the presence of, exposure to, or the management, manufacture, use, containment, storage, recycling, reclamation, reuse, treatment, generation, discharge, transportation, processing, production, disposal or remediation of any Hazardous Materials; and shall include, without limitation, the following (including the implementing regulations and any state analogs): CERCLA; the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended by the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. §§ 6901 *et seq.*; the Federal Water Pollution Control Act of 1972, as amended by the Clean Water Act of 1977, 33 U.S.C. §§ 1251 *et seq.*; the Toxic Substances Control Act of 1976, as amended, 15 U.S.C. §§ 2601 *et seq.*; the Emergency Planning and Community Right–to–Know Act of 1986, 42 U.S.C. §§ 11001 *et seq.*; the Clean Air Act of 1966, as amended by the Clean Air Act Amendments of 1990, 42 U.S.C. §§ 7401 *et seq.*; and the Occupational Safety and Health Act of 1970, as amended, 29 U.S.C. §§ 651 *et seq.*

"**Environmental Notice**" means any written directive, notice of violation or infraction, or notice respecting any Environmental Claim relating to actual or alleged non-compliance with any Environmental Law or any term or condition of any Environmental Permit.

"**Environmental Permit**" means any Permit, letter, clearance, consent, waiver, closure, exemption, decision or other action required under or issued, granted, given, authorized by or made pursuant to Environmental Law.

"**Equipment**" has the meaning set forth in Section 3.19(b).

"**ERISA**" means the Employee Retirement Income Security Act of 1974, as amended, and the regulations promulgated thereunder.

"**ERISA Affiliate**" means all employers (whether or not incorporated) that would be treated together with the Company or any of its Affiliates as a "single employer" within the meaning of Section 414 of the Code or Section 4001 of ERISA.

"**Escrow Account**" means the account established by the Parties with the Escrow Agent pursuant to the terms of the Escrow Agreement.

"**Escrow Agent**" means a third-party to be mutually acceptable by the Parties to act as Escrow Agent pursuant to the Escrow Agreement.

"**Escrow Agreement**" means the Escrow Agreement to be entered into by Buyer, Seller and Escrow Agent at Closing, substantially in the form of Exhibit B.

"**Escrow Holdback**" has the meaning set forth in Section 2.04(iii)(A).

"**Excluded Asset**" means any Trademark owned by the Company with respect to the ALSO brand, which shall be assigned from the Company to Seller on or prior to Closing.

"**Final Offer**" has the meaning set forth in Section 7.12(d).

"**Financial Statements**" has the meaning set forth in Section 3.06.

"GAAP" means U.S. generally accepted accounting principles, consistently applied.

"**Governmental Authority**" means any federal, state, local or foreign government or political subdivision thereof, or any agency or instrumentality of such government or political subdivision, or any self–regulated organization or other non-governmental regulatory authority or quasi-governmental authority (to the extent that the rules, regulations or orders of such organization or authority have the force of Law), or any arbitrator, court or tribunal of competent jurisdiction.

"**Governmental Order**" means any order, writ, judgment, injunction, decree, stipulation, determination or award entered by or with any Governmental Authority and the IRS, including any compromise or settlement agreement.

"**Hazardous Materials**" means (a) any material, substance, chemical, waste, product, derivative, compound, mixture, solid, liquid, mineral or gas, in each case, whether naturally occurring or manmade, that is hazardous, acutely hazardous, toxic, or words of similar import or regulatory effect under Environmental Laws; and (b) any petroleum or petroleum–derived products, radon, radioactive materials or wastes, asbestos in any form, lead or lead–containing materials, urea formaldehyde foam insulation and polychlorinated biphenyls.

"**Indebtedness**" means, without duplication and with respect to the Company, all (a) indebtedness for borrowed money; (b) accounts payable; (c) obligations for the deferred purchase price of property or services, (d) long or short-term obligations evidenced by notes, bonds, debentures or other similar instruments, (e) obligations under any interest rate, currency swap or other hedging agreement or arrangement; (f) capital lease obligations; (g) reimbursement obligations under any letter of credit, banker's acceptance or similar credit transactions; (h) guarantees made by the Company on behalf of any third party in respect of obligations of the kind referred to in the foregoing clauses (a) through (g); and (i) any unpaid interest, prepayment penalties, premiums, costs and fees that would arise or become due as a result of the prepayment of any of the obligations referred to in the foregoing clauses (a) through (h).

"**Indemnified Party**" means any Party entitled to indemnification pursuant to Article VI.

"**Indemnifying Party**" means any Party required to provide indemnification pursuant to Article VI.

"**Independent Accounting Firm**" has the meaning set forth in Section 2.05(c).

"**Intellectual Property**" means any and all rights in, arising out of, or associated with any of the following in any jurisdiction throughout the world: (a) issued patents and patent applications (whether provisional or non-provisional), including divisionals, continuations, continuations-in-part, substitutions, reissues, reexaminations, extensions or restorations of any of the foregoing, and other indicia of invention ownership (including certificates of invention, petty patents, and patent utility models) issued by any Governmental Authority ("**Patents**"); (b) trademarks, service marks, brands, certification marks, logos, trade dress, trade names and other similar indicia of source or origin,

together with the goodwill connected with the use of and symbolized by, and all registrations, applications for registration and renewals of any of the foregoing ("**Trademarks**"); (c) copyrights and works of authorship, whether or not copyrightable, and all registrations, applications for registration, and renewals of any of the foregoing ("**Copyrights**"); (d) internet domain names and social media account or user names (including "handles"), whether or not Trademarks, all associated web addresses, URLs, websites and web pages, social media sites and pages, and all content and data thereon or relating thereto, whether or not Copyrights; (e) mask works and all registrations, applications for registration and renewals thereof; (f) industrial designs, and all Patents, registrations, applications for registration and renewals thereof; (g) trade secrets, know-how, inventions (whether or not patentable), discoveries, improvements, technology, business and technical information, databases, data compilations and collections, tools, methods, processes, techniques and other confidential and proprietary information and all rights therein ("**Trade Secrets**"); (h) computer programs, operating systems, applications, firmware and other code, including all source code, object code, application programming interfaces, data files, databases, protocols, specifications and other documentation thereof; (i) rights of publicity; and (j) all other intellectual or industrial property and proprietary rights; provided that Intellectual Property shall not include any Excluded Assets.

"**IRS**" means the Internal Revenue Service.

"Issuance Price" means the volume-weighted average (rounded to the nearest $0.0001) of the closing price of Buyer Shares on the Nasdaq Capital Market during the thirty (30) trading day period immediately prior to the Closing, as reported by the Nasdaq Capital Market.

"**Law**" means any statute, law, ordinance, regulation, rule, code, order, constitution, treaty, common law, judgment, decree, other requirement or rule of law of any Governmental Authority.

"**Lease Agreements**" has the meaning set forth in Section 3.10(c).

"**Leased Real Property**" has the meaning set forth in Section 3.10(c).

"**Liability**" and "**Liabilities**" have the meanings set forth in Section 3.07.

"**Losses**" means losses, damages, Liabilities, deficiencies, judgments, interest, awards, penalties, fines, costs or expenses of whatever kind, including reasonable attorneys' fees and the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers, but excluding punitive and consequential damages.

"**Material Adverse Effect**" means any event, occurrence, fact, condition or change that is individually or in the aggregate materially adverse to (a) the business, results of operations, condition (financial or otherwise) or assets of the Company or (b) the ability of Seller to consummate the transactions contemplated by this Agreement on a timely basis; *provided, however,* that "Material Adverse Effect" shall not include any event, occurrence, fact, condition or change, directly or indirectly, arising out of or attributable to: (i) general economic or political conditions, (ii) conditions generally affecting the industry in which the Company operates, (iii) any changes in financial or securities markets in general or (iv) acts of war (whether or not declared), armed hostilities or terrorism, or the escalation or worsening thereof, and (v) any pandemic, epidemics or human health crises (including COVID-19); *provided further, however,* that any event, occurrence, fact, condition or change referred to in clauses (i) through (v) immediately above shall be taken into account in determining whether a Material Adverse Effect has occurred to the extent that such event, occurrence, fact, condition or change has had a disproportionately adverse effect on the Company relative to other participants in the industry in which the Company conducts its business.

"**Material Contracts**" has the meaning set forth in Section 3.09(a).

"**Material Customers**" has the meaning set forth in Section 3.15(a).

"**Material Suppliers**" has the meaning set forth in Section 3.15(b).

"**Membership Interests**" has the meaning set forth in the recitals.

"**Nasdaq**" means the National Association of Securities Dealers Automated Quotation market and securities exchange or any successor national securities exchange or trading market in the U.S.

"**Net Working Capital**" means, as of any time, an amount (which may be positive or negative) equal to (1) the sum of cash, cash equivalents, accounts receivable and inventory of the Company as of such time and the cost of obtaining the Directors & Officers insurance tail policy set forth in Section 2.04(a)(i)(C) *minus* (2) the sum of accounts payable of the Company as of such time, determined in accordance with GAAP, and, without duplication, Indebtedness owed by the Company to Seller and payroll liabilities; *provided, that* the categories of items set forth in Schedule A may not be amended or modified and there can be no deviations from the categories of items set forth in Schedule A for calculating the Net Working Capital unless mutually agreed upon by Buyer and Seller.

"**Objections Statement**" has the meaning set forth in Section 2.05(b).

"**Organizational Documents**" means (a) in the case of a Person that is a corporation, its articles or certificate of incorporation and its bylaws, regulations or similar governing instruments required by the laws of its jurisdiction of formation or organization; (b) in the case of a Person that is a partnership, its articles or certificate of partnership, formation or association, and its partnership agreement (in each case, limited, limited liability, general or otherwise); (c) in the case of a Person that is a limited liability company, its articles or certificate of formation or organization, and its limited liability company agreement or operating agreement; and (d) in the case of a Person that is none of a corporation, partnership (limited, limited liability, general or otherwise), limited liability company or natural person, its governing instruments as required or contemplated by the Laws of its jurisdiction of organization.

"**Party**" and "**Parties**" have the meanings set forth in the preamble.

"**Permits**" means all permits, licenses, franchises, approvals, authorizations, registrations, certificates, variances and similar rights obtained, or required to be obtained, from any Governmental Authority.

"**Permitted Encumbrances**" has the meaning set forth in Section 3.10(a).

"**Person**" means an individual, corporation, partnership, joint venture, limited liability company, unincorporated organization, trust, association or other entity.

"**PPP Loan**" means the Company's outstanding loan pursuant to the Paycheck Protection Program under the United States Small Business Administration 7(a) Loan Program, as implemented by the CARES Act, evidenced by that certain Note, dated January 26, 2021, by and between MOSBEST, LLC and City National Bank relating to SBA Loan #6300488309, in the amount of $222,095.00.

"**PPP Loan Escrow Account**" has the meaning set forth in Section 2.04(a)(v).

"**PPP Loan Escrow Agent**" has the meaning set forth in Section 2.04(a)(v).

"**PPP Loan Escrow Agreement**" has the meaning set forth in Section 2.04(a)(v).

"**PPP Loan Escrow Amount**" has the meaning set forth in Section 2.04(a)(v).

"**Purchase Price**" has the meaning set forth in Section 2.02.

"**Real Property**" means the real property owned, leased or subleased by the Company, together with all buildings, structures and facilities located thereon.

"**Release**" means any actual or threatened release, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, abandonment, disposing or allowing to escape or migrate into or through the environment (including, without limitation, ambient air (indoor or outdoor), surface water, groundwater, land surface or subsurface strata or within any building, structure, facility or fixture).

"Registration Rights Agreement" means the Registration Rights Agreement to be entered into by Buyer and Seller at Closing, substantially in the form of Exhibit B.

"**Representative**" means, with respect to any Person, any and all directors/managing members, managers, officers, employees, consultants, financial advisors, counsel, accountants and other agents of such Person.

"**Restricted Business**" has the meaning set forth in Section 5.05(b).

"**Securities Act**" has the meaning set forth in Section 3.24(b).

"**Seller**" has the meaning set forth in the preamble.

"**Seller Fundamental Representation**" has the meaning set forth in Section 6.01.

"**Seller Indemnifiable Amount**" has the meaning set forth in Section 6.02.

"**Seller Indemnified Parties**" has the meaning set forth in Section 6.03.

"**Seller's Knowledge"** or any other similar knowledge qualification, means the actual knowledge of Seller.

"**Target Closing Net Working Capital**" means Three Hundred Sixty Thousand Dollars ($360,000).

"**Tax,**" "**Taxes**" or "**Taxable**" means all federal, state, local, foreign and other income, gross receipts, sales, use, production, ad valorem, transfer, franchise, registration, profits, license, lease, service, service use, withholding, payroll, employment, unemployment, estimated, excise, severance, environmental, stamp, occupation, premium, property (real or personal), real property gains, windfall profits, customs, duties or other taxes, fees, assessments or charges of any kind whatsoever, together with any interest, additions or penalties with respect thereto and any interest in respect of such additions or penalties.

"**Tax Return**" means any return, declaration, report, claim for refund, information return, or statement or other document relating to Taxes, including any schedule or attachment thereto, and including any amendment thereof.

"**U.S.**" means the United States of America.

"**Working Capital Deficiency Amount"** has the meaning set forth in Section 2.05(d).

ARTICLE II
PURCHASE AND SALE

Section 2.01 Purchase and Sale.

(a)Subject to the terms and conditions set forth herein, at the Closing, Seller shall sell to Buyer, and Buyer shall purchase from Seller, all of Seller's right, title, and interest in and to the Membership Interests, free and clear of all Encumbrances, for the consideration specified in Section 2.02.

(b)No later than one (1) Business Days prior to the Closing, Seller will deliver to Buyer a written statement (the " **Calculation Statement**") setting forth the Company's good faith estimate of the Closing Net Working Capital and the amount (if any) by which Closing Net Working Capital exceeds the Target Closing Net Working Capital or the amount (if any) by which Target Closing Net Working Capital exceeds Closing Net Working Capital as of Closing. Seller shall provide Buyer with the opportunity to review and provide comments to the Calculation Statement, which Seller shall consider in good faith but shall be under no obligation to incorporate such comments.

Section 2.02 Purchase Price. Subject to Section 2.04(a), the purchase price for the Membership Interests shall be Ten Million Dollars ($10,000,000) (the "**Purchase Price**"), subject to adjustment pursuant to Section 2.05 payable as follows:

(a) $5,000,000 paid in Buyer Shares at a per share price equal to the Issuance Price; and

(b) a cash payment of $5,000,000.

Section 2.03 Closing. Subject to the terms and conditions of this Agreement, the purchase and sale of the Membership Interests contemplated hereby (the "**Closing**") shall take place on the Effective Date (the "**Closing Date"**), simultaneous with the execution and delivery of this Agreement, at the offices of Manatt, Phelps & Phillips LLP, 695 Town Center Drive, 14th Floor, Costa Mesa, CA 92646 or through the electronic exchange of executed documents and other closing deliveries via e-mail or facsimile transmission.

Section 2.04 Transactions to be Effected at the Closing.

(a) At the Closing, Buyer shall:

(i) Deliver to Seller:

(A) immediately available funds to Seller in the aggregate amount of Four Million One Hundred Forty-One Thousand Eight Hundred and 25/100 Dollars ($4,141,800.25) by wire transfer to the bank account designated in writing by Seller at least one (1) Business Day prior to the Closing;

(B) the Ancillary Documents, each duly executed by Buyer to the extent Buyer is a party thereto; and

(C) Evidence of the procurement by Buyer of a Directors & Officers insurance tail policy of no less than six (6) years covering the Company's officers and directors up to three hundred percent (300%) of the annual policy premium, the cost of which shall be borne by Buyer;

(ii) Deliver to Jennifer Murphy, an employee of the Company, immediately available funds to Jennifer Murphy in the aggregate amount of Two Hundred Fifty Thousand Dollars ($250,000) by wire transfer to the bank account designated in writing by Jennifer Murphy or Seller at least one (1) Business Day prior to the Closing;

(iii) Deliver to the Escrow Agent the Escrow Agreement;

(iv) Deliver to Buyer's transfer agent an instruction letter instructing such transfer agent to deliver the stock certificates set forth in Section 2.04(c) as soon as practicable following the Closing, but in no event later than two (2) Business Days after the Closing Date; and

(v) Deposit $233,199.75 of cash (such amount, the "**PPP Loan Escrow Amount**") into an escrow account (the "**PPP Loan Escrow Account**"), which shall be established pursuant to that certain Consent and Escrow Agreement (the "**PPP Loan Escrow Agreement**"), by and among the Company, Seller and City National Bank, a national banking association, as lender and as escrow agent (the "**PPP Loan Escrow Agent**"), substantially in the form of Exhibit C attached hereto, which PPP Loan Escrow Amount (inclusive of any interest and earnings thereon) will be the exclusive source to satisfy any amounts owed by Buyer to Seller pursuant to Section 5.07;

(b) At the Closing, Seller shall:

(i) Deliver to Buyer:

(A) an assignment of the Membership Interests to Buyer in form and substance satisfactory to Buyer (the "**Assignment Agreement**"), duly executed by Seller;

(B) written resignation, effective as of the Closing Date, of Seller in his capacities as officer and manager of the Company;

(C) the Ancillary Documents, each duly executed by Seller;

(D) a release by Jennifer Murphy of Seller, the Company and Buyer in form and substance satisfactory to Buyer; and

(ii) Deliver the Escrow Agreement to the Escrow Agent.

(c) As soon as practicable following the Closing, but in no event later than two (2) Business Days after the Closing Date, Buyer shall cause to be delivered:

(i) to Seller, a stock certificate in the name of Seller representing in the aggregate a number of whole Buyer Shares (rounded down) in an amount equal to Four Million Three Hundred Seventy Five Thousand Dollars ($4,375,000) at a per share price equal to the Issuance Price;

(ii) to Jennifer Murphy, a stock certificate in the name of Jennifer Murphy representing in the aggregate a number of whole Buyer Shares (rounded down) in an amount equal to Two Hundred Fifty Thousand Dollars ($250,000) at a per share price equal to the Issuance Price; and

(iii) to the Escrow Agent, a stock certificate representing a number of whole shares of Buyer Shares (rounded down) in an aggregate amount equal to Three Hundred Seventy Five Thousand Dollars ($375,000) at a per share price equal to the Issuance Price and immediately available funds in the amount of Three Hundred Seventy Five Thousand Dollars ($375,000) (collectively, the "**Escrow Holdback**") representing the Buyer Shares and cash to be held for the purpose of securing any adjustment pursuant to Section 2.05 and potential indemnification obligations of Seller and the Company referenced in Article VI; *provided*, *that* on the first (1st) anniversary of the Closing Date, any remaining Escrow Holdback amount (including any dividends or distributions, including any interest or income earned thereon, paid with respect to the Buyer Shares and any interest or other income from stock splits relating to the Buyer Shares or as a result of a recapitalization or reorganization) shall be released to Seller pursuant to the terms of the Escrow Agreement.

Section 2.05 Post-Closing Working Capital Adjustment.

(a) Within sixty (60) days after the Closing Date, Buyer will prepare and deliver to Seller an unaudited consolidated balance sheet of the Company as of the close of business on the day immediately prior to the Closing Date (the "**Closing Balance Sheet**") and a written statement (together with the Closing Balance Sheet, the "**Closing Statement**") (i) setting forth Buyer's calculations of the Closing Net Working Capital and the amount (if any) by which Closing Net Working Capital

exceeds the Target Closing Net Working Capital or the amount (if any) by which the Target Closing Net Working Capital exceeds Closing Net Working Capital and (ii) detailing the amounts for each category of current assets or current liabilities set forth in Schedule A during such sixty (60) day period used to calculate the Closing Net Working Capital.

(b) If Seller has any objections to the Closing Statement, Seller must deliver to Buyer a written statement (an "**Objections Statement**") setting forth a description in reasonable detail of his objections thereto, including the basis for the objection, proposed adjustment amount and supporting calculations. If an Objections Statement is not delivered to Buyer within sixty (60) days after delivery of the Closing Statement, the Closing Statement will be final, binding and non-appealable by the Parties.

(c) If Seller timely delivers an Objections Statement to Buyer, then Buyer and Seller will negotiate in good faith to resolve any objections set forth in the Objections Statement, but if they are unable to resolve all disputed items by the end of thirty (30) days after the date of delivery of the Objections Statement, then the remaining items in dispute will be submitted to Buyer's Accountants for resolution acting as an accounting expert and not as an arbitrator, or if that firm is unwilling or unable to serve, Buyer and Seller will engage another mutually agreeable independent accounting firm (such selected independent accounting firm, the "**Independent Accounting Firm**"). Buyer and Seller will use their commercially reasonable efforts to cause the Independent Accounting Firm to resolve all disagreements as soon as practicable and in any event within thirty (30) days after the date of appointment. The Independent Accounting Firm may address only those items and amounts which are identified in the Objections Statement as being items which Seller and Buyer are unable to resolve, and the Independent Accounting Firm's determination shall be within the range proposed by Buyer and Seller. The resolution of the dispute by the Independent Accounting Firm will be final, binding and non-appealable on the Parties. The fees and expenses of the Independent Accounting Firm will be allocated equally between Buyer and Seller.

(d) If the final Closing Net Working Capital as calculated above is greater than the Target Closing Net Working Capital, then Buyer will pay to Seller an amount in immediately available funds equal to any such excess and if the final Closing Net Working Capital as calculated above is less than the Target Closing Net Working Capital, then any such deficiency ("**Working Capital Deficiency Amount**") shall be made initially against and result from the cancellation of escrowed Buyer Shares at a per share price equal to the Issuance Price and then subsequently against cash deposited in the Escrow Account. Any cash payments will be made by wire transfer in immediately available funds to a bank account designated by Seller or Buyer, as applicable, within five (5) Business Days following the final determination referred to above. If there is a Working Capital Deficiency Amount, Buyer shall cancel the specified number of escrowed Buyer Shares and issue a new original stock certificate for the remaining Buyer Shares (if any) at a per share price equal to the Issuance Price to be held for the purpose of securing any potential indemnification obligations of Seller and the Company referenced in Article VI.

Section 2.06 Withholding Taxes. Seller shall deliver a fully-executed true, complete and correct IRS Form W-9 solely for the purpose of certifying to Buyer that no backup withholding would be required by Buyer.

ARTICLE III
REPRESENTATIONS AND WARRANTIES OF SELLER

Except as set forth in the correspondingly numbered Section of the Disclosure Schedules, which shall qualify the corresponding representations and warranties regarding the Company set forth in this Article III, Seller represents and warrants to Buyer that the following statements are true and correct as of the Closing Date in all material respects, except for matters represented and warranted as of a specified date, which shall be made as of such specified date:

Section 3.01 Authority of Seller. Seller has the requisite capacity to enter into this Agreement and the Ancillary Documents to which Seller is a party, to carry out his obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution and delivery by Seller of this Agreement and any Ancillary Document to which Seller is a party, the performance by Seller of his obligations hereunder and thereunder, and the consummation by Seller of the transactions contemplated hereby and thereby have been duly authorized by all requisite action on the part of Seller. This Agreement has been duly executed and delivered by Seller, and (assuming due authorization, execution and delivery by Buyer) this Agreement constitutes a legal, valid and binding obligation of Seller enforceable against Seller in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization or other similar Laws affecting the enforcement of creditors' rights generally. When each Ancillary Document to which Seller is or will be a party has been duly executed and delivered by Seller (assuming due authorization, execution and delivery by each other party thereto), such Ancillary Document will constitute a legal and binding obligation of Seller enforceable against it in accordance with its terms.

Section 3.02 Organization, Authority and Qualification of the Company. The Company is a limited liability company duly organized, validly existing and in good standing under the Laws of the State of California. The Company has full limited liability company power and authority to own, operate or lease the properties and assets now owned, operated or leased by it and to carry on its business as it has been and is currently conducted. Section 3.02 of the Disclosure Schedules sets forth each jurisdiction in which the Company is licensed or qualified to do business. The Company is duly licensed or qualified to do business and is in good standing in each jurisdiction in which the properties owned or leased by it or the operation of its business as currently conducted makes such licensing or qualification necessary. All limited liability company actions taken by the Company in connection with this Agreement and the other Ancillary Documents will be duly authorized on or prior to the Closing Date.

Section 3.03 Capitalization.

(a) Seller is the record owner of and has good and valid title to the Membership Interests, free and clear of all Encumbrances. The Membership Interests constitute one hundred percent (100%) of the total issued and outstanding Membership Interests of the Company. The Membership Interests have been duly authorized and are validly issued, fully paid and nonassessable. Upon consummation of the transactions contemplated by this Agreement, Buyer shall own all of the Membership Interests, free and clear of all Encumbrances.

(b) The Membership Interests were issued in compliance with applicable Laws. The Membership Interests were not issued in violation of the Organizational Documents of the Company or any other agreement, arrangement or commitment to which Seller or the Company is a party and are not subject to or in violation of any preemptive or similar rights of any Person.

(c) There are no outstanding or authorized options, warrants, convertible securities or other rights, agreements, arrangements or commitments of any character relating to any of the Membership Interests or obligating Seller or the Company to issue or sell any membership interests (including the Membership Interests) or any other interest, in the Company. Other than the Organizational Documents, there are no voting trusts, proxies or other agreements or understandings in effect with respect to the voting or transfer of any of the Membership Interests.

Section 3.04 **No Subsidiaries.** The Company does not own or have any interest in any shares or have an ownership interest in any other Person.

Section 3.05 **No Conflicts; Consents.** The execution, delivery and performance by Seller of this Agreement and the Ancillary Documents to which it is a party, and the consummation of the transactions contemplated hereby and thereby, do not and will not: (a) conflict with or result in a violation or breach of, or default under, any provision of the Organizational Documents of the Company; (b) conflict with or result in a material violation or material breach of any provision of any Law or Governmental Order applicable to Seller or the Company; (c) require the consent, notice or other action by any Person under, conflict with, result in a material violation or material breach of, constitute a material default or an event that, with or without notice or lapse of time or both, would constitute a material default under, result in the acceleration of or create in any party the right to accelerate, terminate, modify or cancel any Contract to which the Seller or the Company is a party or by which the Seller or the Company is bound or to which any of their respective properties and assets are subject (including any Material Contract) or any Permit affecting the properties, assets or business of the Company; or (d) result in the creation or imposition of any Encumbrance on any properties or assets of the Company, other than Permitted Encumbrances. Except as set forth in Section 3.05 of the Disclosure Schedules, no consent, approval, Permit, Governmental Order, declaration or filing with, or notice to, any Governmental Authority is required by or with respect to Seller or the Company in connection with the execution and delivery of this Agreement and the Ancillary Documents and the consummation of the transactions contemplated hereby and thereby.

Section 3.06 **Financial Statements.** Attached as Section 3.06 of the Disclosure Schedules are the unaudited balance sheets of the Company as of December 31, 2020 and December 31, 2019 and the related statements of income and cash flows for the fiscal years then ended (collectively, the "**Financial Statements**"), and the unaudited balance sheet of the Company (the "**Balance Sheet**") as of the six (6) month period ended June 30, 2020 (the "**Balance Sheet Date**"). Except as set forth therein, such financial statements (a) have been prepared from and are consistent with the books and records of the Company and in accordance with the Company's past practices, (b) are complete and correct in all material respects and (c) present fairly in all material respects the financial position and results of operations of the Company as of their respective dates and for the respective periods covered thereby.

Section 3.07 **Undisclosed Liabilities.** The Company has no liabilities, obligations or commitments of any nature whatsoever, asserted or unasserted, known or unknown, absolute or contingent, accrued or unaccrued, matured or unmatured, or otherwise (each a "**Liability**" and together the "**Liabilities**"), except (a) those which are adequately reflected or reserved against in the Balance Sheet as of the Balance Sheet Date, (b) those which have been incurred in the ordinary course of business consistent with past practice since the Balance Sheet Date and (c) which are not, individually or in the aggregate, material in amount.

Section 3.08 **Absence of Certain Changes, Events, and Conditions.** Except as set forth in Section 3.08 of the Disclosure Schedules, since the Balance Sheet Date, and other than in the ordinary course of business consistent with past practice, there has not been, with respect to the Company, any:

(a) event, occurrence or development that has had, or could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect;

(b) incurrence, assumption or guarantee of any indebtedness for borrowed money by the Company in an aggregate amount in excess of Seventy-Five Thousand and No/100 Dollars ($75,000.00);

(c) cancellation of any debts or claims or amendment, termination or waiver of any rights which could reasonably be expected to have a Material Adverse Effect;

(d) material damage, destruction or less, or any material interruption in use of, any of the Company's material assets, whether or not covered by insurance;

(e) imposition of any Encumbrance (other than Permitted Encumbrances) upon any of the Company's assets;

(f) adoption by the Company of any plan of merger, consolidation, reorganization, liquidation or dissolution or filing of a petition in bankruptcy under any provisions of federal or state bankruptcy Law or consent to the filing of any bankruptcy petition against it under similar Law; or

(g) any Contract to which the Company is a party to do any of the foregoing, or any action or omission that would result in any of the foregoing.

Section 3.09 **Material Contracts.**

(a) Section 3.09(a) of the Disclosure Schedules lists each of the following Contracts of the Company (such Contracts, together with all Contracts concerning the occupancy, management or operation of any Real Property (including without limitation, brokerage contracts) listed or otherwise disclosed in Section 3.10(c) of the Disclosure Schedules, being "**Material Contracts**"):

(i) each Contract of the Company involving aggregate consideration in excess of Seventy-Five Thousand Dollars ($75,000) and which, in each case, cannot be cancelled by the Company without penalty or without more than ninety (90) days' notice;

(ii) all Contracts that require the Company to purchase its total requirements of any product or service from a third party or that contain "take or pay" provisions;

(iii) all Contracts that provide for the indemnification by the Company of any Person or the assumption of any Tax, environmental or other Liability of any Person;

(iv) all Contracts that relate to the acquisition or disposition of any business, a material amount of equity or assets of any other Person or any real property (whether by merger, sale of stock or other equity interests, sale of assets or otherwise);

(v) all broker, distributor, dealer, manufacturer's representative, franchise, agency, sales promotion, market research, marketing consulting and advertising Contracts to which the Company is a party;

(vi) all employment agreements and Contracts with independent contractors or consultants (or similar arrangements) to which the Company is a party and which are not cancellable without material penalty or without more than ninety (90) days' notice;

(vii) except for Contracts relating to trade receivables, all Contracts relating to Indebtedness (including, without limitation, guarantees) of the Company;

(viii) all Contracts that limit or purport to limit the ability of the Company to compete in any line of business or with any Person or in any geographic area or during any period of time;

(ix) any Contracts to which the Company is a party that provide for any joint venture, partnership or similar arrangement by the Company;

(x) all Contracts between the Company on the one hand and Seller or any Affiliate of the Seller (other than the Company) on the other hand; and

(xi) any other Contract that is material to the Company and not previously disclosed pursuant to this Section 3.09.

(b) Each Material Contract is valid and binding on the Company in accordance with its terms and is in full force and effect. None of the Company or, to Seller's Knowledge, any other party thereto is in breach of or default under (or is alleged to be in breach of or default under) in any material respect, or has provided or received any notice of any intention to terminate, any Material Contract. No event or circumstance has occurred with respect to the Company, or to Seller's Knowledge any other party thereto, that with notice or lapse of time or both, would constitute an event of default under any Material Contract or result in a termination thereof or would cause or permit the acceleration or other material changes of any right or obligation or the loss of any benefit thereunder. Complete and correct copies of each Material Contract (including all modifications, amendments, and supplements thereto and waivers thereunder) have been made available to Buyer.

Section 3.10 Title to Assets; Real Property.

(a) The Company has good and valid title to all assets reflected in the Financial Statements or acquired after the Balance Sheet Date, other than properties and assets sold or otherwise disposed of in the ordinary course of business consistent with past practice since the Balance Sheet Date. All such assets are free and clear of Encumbrances except for liens arising under original purchase price conditional sales contracts and equipment leases with third-parties entered into in the ordinary course of business consistent with past practice that are not, individually or in the aggregate, material to the business of the Company and any other Encumbrance set forth on Section 3.10(a) of the Disclosure Schedules (collectively referred to as "**Permitted Encumbrances**").

(b) The Company does not currently and has never owned any real property or any option to acquire any real property.

(c) Section 3.10(c) of the Disclosure Schedules sets forth a list of each existing lease or similar agreement showing the parties thereto and the physical address covered by such lease or other agreement (the "**Lease Agreements**") under which the Company is lessee of, or holds or operates, any real property owned by, used in or relating to the Company (the "**Leased Real Property**"). Each Lease Agreement for the Leased Real Property has been provided or made available to Buyer and is in full force and effect. The Company is not in breach under the terms of such Lease Agreements.

Section 3.11 [Reserved.]

Section 3.12 Intellectual Property. Section 3.12 of the Disclosure Schedules lists all Intellectual Property owned and/or licensed by the Company. Except as set forth in Section 3.12 of the Disclosure Schedules: (a) to Seller's Knowledge, the Company owns or possesses sufficient legal rights to all Company Intellectual Property without any conflicts with, or infringement of, the rights of others, and no product or service marketed or sold (or proposed to be marketed or sold) by the Company violates or will violate any license or infringes or will infringe any intellectual property rights of any other party; (b) other than with respect to commercially available software products under standard end-user object code license agreements or standard license agreements for open source software, there are no outstanding options, licenses, agreements, claims, encumbrances or shared ownership interests of any kind relating to the Intellectual Property, nor is the Company bound by or a party to any options, licenses or agreements of any kind with respect to the Patents, Trademarks, Copyrights, Trade Secrets, licenses, information, proprietary rights and processes of any other Person; (c) no claim has been asserted or, to Seller's Knowledge, threatened against the Company involving any Intellectual Property; (d) to Seller's Knowledge, it will not be necessary to use any inventions of any of its employees or consultants made prior to or outside the scope of their employment by the Company; (e) each employee and consultant has (i) assigned to the Company all Intellectual Property rights he or she owns that are related to the business of the Company and (ii) executed an agreement with the Company acknowledging the Company's exclusive ownership of all Intellectual Property invented, created or developed by such employee or independent contractor within the scope of his or her employment or engagement with the Company; (f) the Company does not utilize any open source software in a manner that requires the Company to disclose, make available, or offer or deliver any portion of the source code of any proprietary Company software or component thereof to any third party.

Section 3.13 Inventory. All inventory of the Company, whether or not reflected in the Balance Sheet, consists of a quality and quantity usable and salable in the ordinary course of business consistent with past practice, except for obsolete, damaged, defective or slow–moving items that have been written off or written down to fair market value or for which adequate reserves have been established. All such inventory is owned by the Company free and clear of all Encumbrances and no inventory is held on a consignment basis. To Sellers' Knowledge, the quantities of each item of inventory (whether raw materials, work-in-process or finished goods) are not excessive, but are reasonable in the present circumstances of the Company.

Section 3.14 Accounts Receivable. The accounts receivable reflected on the Balance Sheet and the accounts receivable arising after the Balance Sheet Date (a) have arisen from bona fide transactions entered into by the Company involving the sale of goods or the rendering of services in the ordinary course of business consistent with past practice; (b) constitute only valid, undisputed claims of the Company and, to Seller's Knowledge, not subject to claims of set–off or other defenses or counterclaims other than normal cash discounts accrued in the ordinary course of business consistent with past practice; and (c) subject to a reserve for bad debts shown on the Balance Sheet or, with respect to accounts receivable arising after the Balance Sheet Date, on the accounting records of the Company, Seller has no any reason to believe that any of the accounts receivable are not collectible in full within ninety (90) days after billing.

Section 3.15 Customers and Suppliers.

(a) Section 3.15(a) of the Disclosure Schedules sets forth (i) each customer who is a party to a Contract with the Company for goods or services pursuant to which such customer has paid consideration to the Company in an amount greater than or equal to Seventy-Five Thousand Dollars ($75,000) for each of the two (2) most recent fiscal years (collectively, the "**Material Customers**"); and (ii) the amount of consideration paid by each Material Customer during such periods. Except as set forth in Section 3.15(a) of the Disclosure Schedules, the Company has not received any notice, and has no reason to believe, that any of its Material Customers has ceased, or intends to cease after the Closing, to use its goods or services or to otherwise terminate or materially reduce its relationship with the Company.

(b) Section 3.15(b) of the Disclosure Schedules sets forth (i) each supplier who is a party to a Contract with the Company for goods or services pursuant to which the Company has paid consideration to such supplier in an amount greater than or equal to Seventy-Five Thousand Dollars ($75,000) for each of the two (2) most

recent fiscal years (collectively, the "**Material Suppliers**"); and (ii) the amount of consideration paid to each Material Supplier during such periods. Except as set forth in Section 3.15(b) of the Disclosure Schedules, the Company has not received any notice, and has no reason to believe, that any of its Material Suppliers has ceased, or intends to cease, to supply goods or services to the Company or to otherwise terminate or materially reduce its relationship with the Company.

Section 3.16 Insurance. All insurance policies carried by or for the benefit of the Company are in full force and effect and the Company is not in default with respect to its respective obligations under any such insurance policies. There are no pending claims that have been denied insurance coverage.

Section 3.17 Legal Proceedings; Governmental Orders.

(a) Except as set forth in Section 3.17(a) of the Disclosure Schedules, there are no Actions pending or, to Seller's Knowledge, threatened (a) against or by the Company affecting any of its properties or assets (or by or against Seller or Affiliate thereof and relating to the Company); or (b) against or by the Company, Seller or any Affiliate of Seller that challenges or seeks to prevent, enjoin or otherwise delay the transactions contemplated by this Agreement. To Seller's Knowledge, no event has occurred or circumstances exist that may give rise to, or serve as a basis for, any such Action.

(b) Except as set forth in Section 3.17(b) of the Disclosure Schedules, there are no outstanding Governmental Orders and no unsatisfied judgments, penalties or awards against or affecting the Company or any of its properties or assets. The Company is in compliance with the terms of each Governmental Order set forth in Section 3.17(b) of the Disclosure Schedules. No event has occurred or circumstances exist that may constitute or result in (with or without notice or lapse of time) a violation of any such Governmental Order.

Section 3.18 Compliance with Laws; Permits.

(a) The Company has complied, and is now complying, in all material respects with all Laws applicable to it or its business, properties or assets.

(b) All Permits required for the Company to conduct its business have been obtained by it and are valid and in full force and effect. All fees and charges with respect to such Permits as of the Effective Date have been paid in full. To Seller's Knowledge, no event has occurred that, with or without notice or lapse of time or both, would reasonably be expected to result in the revocation, suspension, lapse or limitation of any Permit.

Section 3.19 Environmental Matters.

(a) The Company is currently and has been in compliance in all material respects with all Environmental Laws and has not, and Seller has not, received from any Person any: (i) Environmental Notice or Environmental Claim; or (ii) written request for information pursuant to Environmental Law, which, in each case, either remains pending or unresolved, or is the source of ongoing obligations or requirements.

(b) The Company has not received any order, notice or other written communication, or to Seller's Knowledge, oral communication, from any Governmental Authority or third-party of any alleged failure to comply with any Environmental Law, or of any obligation to undertake or bear the cost of any costs of investigation and remediation with respect to (i) any Real Property currently or formerly owned or operated by the Company and any equipment (including motor vehicles, tank cars, and rolling stock) currently owned or operated by the Company ("**Equipment**") or (ii) any other properties or assets (whether real, personal or mixed) in which the Company has had an interest, or with respect to any property to which Hazardous Materials generated by the Company may have been sent where the alleged noncompliance or obligation described in such order, notice or communication remains unresolved;

(c) There are no Actions or threatened Actions, Encumbrances (except Permitted Encumbrances), or other restrictions of any nature, arising under or pursuant to any Environmental Law, with respect to or affecting any of the Real Property or Equipment or any other properties and assets (whether real, personal, or mixed) in which the Company has an interest; and

(d) There are no Hazardous Materials present in the soil or groundwater on the Real Property in such amounts that would give rise to material Liabilities or obligations under any Environmental Law.

Section 3.20 Employee Benefit Matters.

(a) Except as set forth on Section 3.20(a) of the Disclosure Schedules, the Company has no pension, benefit, retirement, compensation, employment, consulting, profit-sharing, deferred compensation, incentive, bonus, performance award, phantom equity or other equity, change in control, retention, severance, vacation, paid time off, medical, vision, dental, disability, welfare, Code Section 125 cafeteria, fringe benefit and other similar agreement, plan, policy, program or arrangement (and any amendments thereto), whether funded or unfunded, including any "employee benefit plan" within the meaning of Section 3(3) of ERISA, whether or not tax-qualified and whether or not subject to ERISA, which has ever been maintained, sponsored, contributed to, or required to be contributed to by the Company for the benefit of any current or former employee, officer, manager, retiree, independent contractor or consultant of the Company or any spouse or dependent of such individual, or under which the Company or any of its ERISA Affiliates has or may have any Liability, or with respect to which Buyer or any of its Affiliates would reasonably be expected to have any Liability, contingent or otherwise (each, a "**Benefit Plan**").

(b) No Benefit Plan is the subject of any Action. Neither Seller nor the Company has received notice of any audit or examination by the IRS, the U.S. Department of Labor or any other Governmental Authority.

(c) Neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated by this Agreement will, either alone or in combination with other events, (i) result in any material payment becoming due from the Company under any Benefit Plan, (ii) materially increase any benefits otherwise payable under any Benefit Plan or (iii) result in the acceleration of the time of payment or vesting of any benefits under any Benefit Plan.

Section 3.21 Employment Matters.

(a) Section 3.21(a) of the Disclosure Schedules contains a list of all persons who are employees, independent contractors or consultants of the Company as of the Effective Date, including any employee who is on a leave of absence of any nature, paid or unpaid, authorized or unauthorized, and sets forth for each such individual the following: (i) name; (ii) title or position (including whether full-time or part-time); (iii) hire or retention date; (iv) current annual base compensation rate or contract fee; (v) commission, bonus or other incentive-based compensation; and (vi) a description of the fringe benefits provided to each such individual as of the Effective Date. Except as set forth in Section 3.21(a) of the Disclosure Schedules, as of the Effective Date, all compensation, including wages, commissions, bonuses, fees and other compensation, payable to all employees, independent contractors or consultants of the Company for services performed on or prior to the Effective Date have been paid in full (or accrued in full on the Balance Sheet) and there are no outstanding agreements, understandings or commitments of the Company with respect to any compensation, commissions, bonuses or fees.

(b) Except as set forth in Section 3.21(b) of the Disclosure Schedules, the Company has complied in all material respects with all applicable Laws relating to wages, hours, and discrimination in employment. There have been no union organizing or election activities involving any non-union employees of the Company and, to Seller's Knowledge, none are threatened as of the Effective Date.

Section 3.22 Taxes. Except as set forth in Section 3.22 of the Disclosure Schedules:

(a) There are no federal, state, local or foreign Taxes due and payable by the Company that have not been timely paid. There are no accrued and unpaid federal, state, local or foreign taxes of the Company that are due, whether or not assessed or disputed. There have been no examinations or audits of any Tax Returns or reports by any applicable federal, state, local or foreign Governmental Authority. The Company has duly and timely filed all federal, state, local and foreign Tax Returns required to have been filed by it and there are in effect no waivers of applicable statutes of limitations with respect to Taxes for any year. All Tax Returns for the Company required to be filed on or before the Effective Date are true, complete and correct in all respects.

(b) The Company has withheld and paid each Tax required to have been withheld and paid in connection with amounts paid or owing to any employee, independent contractor, creditor, customer, shareholder or other party, and complied in all material respects with all information reporting and backup withholding provisions of applicable Law.

Section 3.23 Books and Records. The minute books of the Company have been made available to Buyer, are complete and correct, and have been maintained in accordance with sound business practices. The minute books of the Company contain accurate and complete records of all meetings and actions taken by written consent of the members and the managers and no meeting or action taken by written consent of any such members or managers has been held for which minutes have not been prepared and are not contained in such minute books.

Section 3.24 Investment Representations

(a) **Risks of Investment**. Seller recognizes that the acquisition of Buyer Shares involves a high degree of risk in that an investor could sustain the loss of its entire investment and Buyer is and will be subject to numerous other risks and uncertainties, including, without limitation, significant and material risks relating to Buyer's business and the industries, markets and geographic regions in which Buyer competes.

(b) **Accredited Investor Status**. Seller represents that he is an "accredited investor" as such term is defined in Rule 501 of Regulation D promulgated under the Securities Act of 1933, as amended (the "**Securities Act**"), and that he is able to bear the economic risk of an investment in the Buyer Shares.

(c) **Investment Experience**. Seller acknowledges that he has prior investment experience, including, without limitation, investment in non-listed and non-registered securities, or he has employed the services of an investment advisor, attorney or accountant to read all of the documents furnished or made available by the Company to Seller and to evaluate the merits and risks of such an investment on its behalf and that he recognizes the highly speculative nature of the investment in Buyer Shares.

(d) **Access to Information**. Buyer has furnished or given access to Seller with (i) all information regarding the Buyer, its financial condition and results of operations that Seller had requested or desired to know; and (ii) all documents that could reasonably be provided and made available for the Seller's inspection and review. Seller has been afforded the opportunity to ask questions of and receive answers from duly authorized Representatives of the Buyer concerning the terms and conditions of the sale and purchase of Buyer Shares and any additional information that it requested in that regard. Seller has neither seen nor received any advertisement or general solicitation with respect to the sale of any securities of Buyer, including, without limitation, the Buyer Shares issuable hereunder. Except as set forth in this Agreement, Seller acknowledges that no representations or warranties have been made to Seller by either Buyer or any of its agents, employees or Affiliates and, in entering into this transaction, Seller is not relying on any information, other than that contained in this Agreement and the results of independent investigation by Seller.

(e) **Investment Intent; Resales**. Seller acknowledges that the offer and sale of the Buyer Shares issuable hereunder has not been reviewed or approved by the Securities and Exchange Commission because the offering of said Buyer Shares is intended to be a nonpublic offering pursuant to Section 4(a)(2) of the Securities Act. The shares of Buyer Shares issuable hereunder are being acquired by Seller for his own account, for investment and without any present intention of distribution or reselling to others. Seller understands that he will not sell or otherwise transfer any of the shares of Buyer Shares issuable hereunder unless they are registered under the Securities Act or unless an exemption from such registration is available and, upon Buyer's request, Buyer receives an opinion of counsel, reasonably satisfactory to Buyer, confirming that an exemption from such registration is available for such sale or transfer.

(f) **Legends**. Seller acknowledges and consents to the placement of one or more legends on any certificate or other document evidencing the Buyer Shares issuable hereunder stating that they have not been registered under the Securities Act and all applicable securities, "blue sky" or other similar laws of the jurisdiction to which Seller is subject, substantially in the form as set forth below:

THESE SECURITIES HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "**SECURITIES ACT**"), OR ANY STATE SECURITIES OR BLUE SKY LAWS AND , ACCORDINGLY, MAY NOT BE OFFERED, SOLD, TRANSFERRED, HYPOTHECATED OR OTHERWISE ASSIGNED EXCEPT (A) PURSUANT TO A REGISTRATION STATEMENT WITH RESPECT TO SUCH SECURITIES THAT IS EFFECTIVE UNDER THE SECURITIES ACT OR (B) PURSUANT TO AN AVAILABLE EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT RELATING TO THE DISPOSITION OF SECURITIES AND IN ACCORDANCE WITH APPLICABLE STATE SECURITIES AND BLUE SKY LAWS.

Section 3.25 Brokers. No broker, finder or investment banker is entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement or any Ancillary Document based upon arrangements made by or on behalf of Seller.

Section 3.26 Full Disclosure. No representation or warranty by Seller in this Agreement and no statement contained in the Disclosure Schedules to this Agreement or any certificate or other document furnished or to be furnished to Buyer pursuant to this Agreement contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements contained therein, in light of the circumstances in which they are made, not misleading.

ARTICLE IV
REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer represents and warrants to Seller that the statements contained in this Article IV are true and correct as of the Effective Date.

Section 4.01 Organization and Authority of Buyer. Buyer is a corporation duly organized, validly existing and in good standing under the Laws of the State of Delaware. Buyer has the requisite corporate power and authority to enter into this Agreement and the Ancillary Documents to which Buyer is a party, to carry out its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution and delivery by Buyer of this Agreement and any Ancillary Document to which Buyer is a party, the performance by Buyer of its obligations hereunder and thereunder and the consummation by Buyer of the transactions contemplated hereby and thereby have been duly authorized by all requisite corporate action on the part of Buyer. This Agreement has been duly executed and delivered by Buyer and (assuming due authorization, execution and delivery by Seller) this Agreement constitutes a legal, valid and binding obligation of Buyer enforceable against Buyer in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization or other similar Laws affecting the enforcement of creditors' rights generally. When each Ancillary Document to which Buyer is or will be a party has been duly executed and delivered by Buyer (assuming due authorization, execution and delivery by each other party thereto), such Ancillary Document will constitute a legal and binding obligation of Buyer enforceable against it in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, or other similar Laws affecting the enforcement of creditors' rights generally.

Section 4.02 No Conflicts; Consents. The execution, delivery and performance by Buyer of this Agreement and the Ancillary Documents to which it is a party, and the consummation of the transactions contemplated hereby and thereby do not and will not: (a) conflict with or result in a violation or breach of, or default under, any provision of the Organizational Documents of Buyer; (b) conflict with or result in a violation or breach of any provision of any Law or Governmental Order applicable to Buyer; or (c) except as set forth in Section 4.02 of the Disclosure Schedules require the consent, notice or other action by any Person under any Contract to which Buyer is a party. No consent, approval, Permit, Governmental Order, declaration or filing with or notice to any Governmental Authority is required by or with respect to Buyer in connection with the execution and delivery of this Agreement and the Ancillary Documents and the consummation of the transactions contemplated hereby and thereby, except for such consents, approvals, Permits, Governmental Orders, declarations, filings or notices which, in the aggregate, would not have a Material Adverse Effect.

Section 4.03 Investment Purpose. Buyer is acquiring the Membership Interests solely for its own account for investment purposes and not with a view to or for offer or sale in connection with any distribution thereof. Buyer acknowledges that the Membership Interests are not registered under the Securities Act or any state securities Laws, and that the Membership Interests may not be transferred or sold except pursuant to the registration provisions of the Securities Act or pursuant to an applicable exemption therefrom and subject to state securities Laws, as applicable.

Section 4.04 Valid Issuance. Upon issuance in accordance with and pursuant to the terms of this Agreement, the Buyer Shares will be validly issued, fully paid and non-assessable.

Section 4.05 Brokers. No broker, finder or investment banker is entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement or any Ancillary Document based upon arrangements made by or on behalf of Buyer.

Section 4.06 Legal Proceedings. There are no Actions pending or, to Buyer's Knowledge, threatened against or by Buyer or any Affiliate of Buyer that challenge or seek to prevent, enjoin or otherwise delay the transactions contemplated by this Agreement. No event has occurred or circumstances exist that may give rise or serve as a basis for any such Action.

ARTICLE V
COVENANTS

Section 5.01 Confidentiality. Seller recognizes and acknowledges that as of the Effective Date, he has knowledge of confidential and proprietary information concerning the Company, Buyer, and their respective Affiliates, including information relating to financial statements, clients, customers, potential clients or customers, employees, suppliers, equipment, designs, drawings, programs, strategies, analyses, profit margins, sales, methods of operation, plans, products, technologies, materials, trade secrets, strategies, prospects or other proprietary information ("**Confidential Information**"). From and after the Closing Date, Seller shall, and shall cause his Affiliates to, hold and shall use his reasonable best efforts to, or cause his or their Representatives to, hold in confidence any and all Confidential Information, whether written or oral, concerning the Company, Buyer and their respective Affiliates, except to the extent that Seller can show that such information (a) is generally available to and known by the public through no fault of Seller, his Affiliates or his Representatives; (b) is lawfully acquired by Seller or any of his Affiliates or Representatives from and after the Closing Date from sources that are not prohibited from disclosing such information by a legal, contractual or fiduciary obligation; (c) is used or disclosed in connection with the good faith performance of his duties as an employee or consultant of Buyer or a Subsidiary of Buyer after Closing, if applicable, (d) is required to be disclosed by Law or the enforcement of rights under this Agreement or any Ancillary Document. If Seller or any of his Affiliates or Representatives is compelled to disclose any Confidential Information by judicial or administrative process or by other requirements of Law, Seller shall promptly notify Buyer in writing and shall disclose only that portion of such Confidential Information which Seller is advised by its counsel in writing is legally required to be disclosed; *provided*, that Buyer (or Seller as the case may be) may with diligence seek an appropriate protective order or other reasonable assurance that confidential treatment will be accorded such Confidential Information.

Section 5.02 Public Announcements. Unless otherwise required by applicable Law (based upon the reasonable advice of counsel), no Party shall make any public announcements with respect to this Agreement or the transactions contemplated hereby or otherwise communicate with any news media without the prior written consent of the other Party (which consent shall not be unreasonably withheld or delayed), and the Parties shall cooperate as to the timing and contents of any such announcement.

Section 5.03 Books and Records. For a period of seven (7) years after the Closing, Buyer shall (a) use commercially reasonable efforts to retain the books and records (including Tax records and personnel files) of the Company relating to periods prior to the Closing in a manner reasonably consistent with the prior practices of the

Company; and (b) upon reasonable notice, afford Seller reasonable access (including the right to make, at Seller's expense, photocopies), during normal business hours, to such books and records. Buyer shall not be obligated to provide Seller with access to any books or records (including personnel files) pursuant to this Section 5.03 where such access would violate any Law.

Section 5.04 Further Assurances. Following the Closing, each of the Parties shall, and shall cause their respective Affiliates to, execute and deliver such additional documents, instruments, conveyances and assurances and take such further actions as may be reasonably required to carry out the provisions hereof and give effect to the transactions contemplated by this Agreement.

Section 5.05 Non-Competition. The Parties agree that Buyer is relying on the covenants and agreements set forth in this Section, that without such covenants Buyer would not enter into this Agreement or the transactions contemplated hereby, and that the Purchase Price is sufficient consideration to make the covenants and agreements set forth herein enforceable.

(a) For purposes of this Section 5.05, the "**Term**" shall mean the period beginning on the Closing Date and ending upon the first (1st) anniversary of the Closing Date; *provided, however*, that in the event of a material breach or violation by Seller of this Section 5.05, the Term shall be extended by a period of time equal to the period of time during which he has materially violated the terms of this Section 5.05; *provided, further*, that Buyer shall be required to provide Seller with written notice of any such event of a material breach or violation of Seller, but if Seller cures such material breach or violation within sixty (60) days of Buyer's written notice, such extension of the Term shall no longer apply.

(b) In furtherance of the acquisition of the Company by virtue of the transactions contemplated hereby, to more effectively protect the value of the Company, and to induce Buyer to consummate the transactions contemplated by this Agreement, Seller covenants and agrees that, during the Term at all times, Seller will not, without the prior written consent of Buyer (which consent may be withheld by Buyer in its sole discretion), directly or indirectly establish, own or operate or provide services to any retail apparel business on or after the Closing (a "**Restricted Business**") anywhere in North America, other than as an employee or consultant of Buyer; *provided, however*, the Parties agree that Seller's affiliation in whatever manner with any business listed on Schedule B is not a Restricted Business and is not subject to the restriction in this Section 5.05, *provided, however* that any business(es) that Seller provides services to at the direction of Buyer, as a consultant to Buyer or any other capacity, as well as Seller's investment in such business(es) shall not be subject to the restrictions set forth in this Section 5.05. Notwithstanding the foregoing, Seller may, without violating this Section 5.05(b), engage in an activity that consists of direct or indirect holdings of securities that do not exceed twenty percent (20%) of the outstanding stock of any Restricted Business.

(c) The restrictive covenants contained in this Section 5.05 shall be in addition to, and not in lieu of, and shall not in any way limit the enforceability of, any restrictive covenant covering similar subject matter contained in any other agreement to which any Seller is a party, including any restrictions agreed to in his capacity as an employee, consultant, officer, director or equityholder of Buyer or any Affiliate of Buyer.

(d) The Parties intend that the covenants contained in this Section 5.05 shall be construed as a series of separate covenants, one for each state within the United States and one for each country outside the United States. If any court of competent jurisdiction shall at any time deem the term of any particular restrictive covenant contained in this Section 5.05 too lengthy, the geographic area covered too extensive or the scope too broad, the other provisions of this Section 5.05 shall nevertheless stand, the term shall be deemed to be the longest period permissible by Law under the circumstances, the geographic area covered shall be deemed to comprise the largest territory permissible by Law under the circumstances and the scope shall be as broad as permissible by Law under the circumstances. The court in each case shall reduce the term, geographic area and or scope covered to permissible duration, size or breadth.

(e) Seller represents that he is familiar with the covenants not to compete contained in this Section 5.05 and is fully aware of his obligations hereunder. Seller further agrees that the length of time, scope and geographic coverage is reasonable given the benefits he has received hereunder. Seller further agrees that he will not challenge the reasonableness of the time, scope and geographic coverage in any legal proceeding, regardless of who initiates litigation.

(f) Seller acknowledges and agrees that the covenants set forth in this Section 5.05 are reasonable and necessary for the protection of Buyer's business interests, that irreparable injury will result to Buyer if Seller breaches any of the terms of this Section 5.05, and that in the event of an actual or threatened breach by him of any of the provisions contained in this Section 5.05, Buyer will have no adequate remedy at Law. Seller accordingly agrees that in the event of any actual or threatened breach by Seller of any of the provisions contained in this Section 5.05, Buyer shall be entitled to injunctive and other equitable relief without (i) the posting of any bond or other security, (ii) the necessity of showing actual damages and (iii) the necessity of showing that monetary damages are an inadequate remedy. Nothing contained herein shall be construed as prohibiting Buyer from pursuing any other remedies available to it for such breach or threatened breach, including the recovery of any damages that it is able to prove.

Section 5.06 Issuance of New Shares. Promptly after the first (1^{st}) anniversary of the Closing Date, Buyer shall issue to Seller a new stock certificate evidencing the escrowed Buyer Shares not otherwise cancelled pursuant to Article IV.

Section 5.07 PPP Loan. With respect to the PPP Loan and any such amount is released after the Closing Date from the PPP Loan Escrow Account, Buyer and Seller shall take all reasonably necessary actions to ensure that such amounts are delivered to Seller by wire transfer. Seller and Buyer each covenant and agree (i) to cooperate as reasonably requested by the other party with respect to seeking forgiveness of the PPP Loan as soon as commercially practicable following the Closing; (ii) to use commercially reasonable efforts not to take any action that may negatively impact forgiveness of the PPP Loan or compliance with any relevant loan covenants (including, among other things, complying with the use requirements and other terms and not taking actions that would reasonably be expected to negatively affect the ability to seek forgiveness); and (iii) to cooperate in ensuring reasonable access is granted to relevant books and records and to individuals involved in the application for and administration of the PPP Loan; provided, however, that nothing in this Section 5.07 shall prevent the Company or Buyer from taking any action required by applicable Law.

ARTICLE VI
INDEMNIFICATION

Section 6.01 Survival Period. For purposes of this Agreement, (a) the representations and warranties of Seller contained in Sections 3.01, 3.02, 3.03 and 3.25 (each, a "**Seller Fundamental Representation**") and the representations and warranties of Buyer contained in Sections 4.01, 4.02, 4.04 and 4.05 (each, a "**Buyer Fundamental Representation**") shall survive indefinitely and (b) all other representations and warranties not referenced in this Section 6.01 shall survive for a period of twelve (12) months after the Closing Date. The Parties hereby agree that the foregoing is specifically intended to limit the time period within which a Party may make a Claim, notwithstanding any applicable statute of limitations. No Party shall be entitled to recover for any Losses pursuant to Sections 6.02 or 6.03 unless a Claim Notice is delivered to the Indemnifying Party before the applicable date set forth in this Section 6.01, in which case the Claim set forth in the Claim Notice shall survive the applicable date set forth in this Section 6.01 until such time as such Claim is fully and finally resolved. The covenants and agreements set forth in this Agreement and to be performed to any extent at or after the Closing Date, which have not been waived or amended as set forth herein, shall survive until fully discharged and performed and any Claims for indemnification with respect to a

breach of such covenants to be performed in any respect after the Effective Date may be made at any time within the applicable statute of limitations.

Section 6.02 Indemnification by Seller. Seller shall indemnify and hold harmless Buyer and each of its officers, managers, members, agents and Representatives (collectively, the "**Buyer Indemnified Parties**") from and against all Losses that the Buyer Indemnified Parties may suffer or sustain by reason of or arising out of (a) any inaccuracy in any representation or warranty of Seller contained in Article III or (b) any breach of any covenant or agreement of Seller contained in this Agreement (the amount of such Losses, the "**Seller Indemnifiable Amount**"). Except for Claims made pursuant to a breach of Seller Fundamental Representation, all Claims made by Buyer shall be made initially against and result in the cancellation of escrowed Buyer Shares at a per share price equal to the Issuance Price and then subsequently from cash deposited in the Escrow Account; *provided*, that after Buyer cancels such escrowed Buyer Shares, Buyer shall issue a new original stock certificate for the remaining Buyer Shares (if any) at a per share price equal to the Issuance Price to be held for the purpose of securing any other potential indemnification obligations of Seller and the Company referenced this Article VI.

Section 6.03 Indemnification by Buyer. Buyer shall indemnify and hold harmless Seller and each of his Representatives (collectively, the '**Seller Indemnified Parties**") from and against all Losses that the Seller Indemnified Parties may suffer or sustain by reason of or arising out of (a) any inaccuracy in any representation or warranty contained in Article IV and (b) any breach of any covenant or agreement of Buyer contained in this Agreement (the amount of such Losses, the "**Buyer Indemnifiable Amount**").

Section 6.04 Limitations on Indemnification.

(a) The Indemnifying Party shall not be liable to the Indemnified Party with respect to any claim relating to an individual or series of related Losses in respect of indemnification under Section 6.02(a) or Section 6.03(a), as applicable, until the amount of such individual or series of related Losses exceeds Ten Thousand Dollars ($10,000), in which event the Indemnifying Party shall be required to pay or be liable for all such Losses from the first dollar.

(b) Subject to Section 7.14 and except in the case of intentional fraud or a Claim involving a breach of any Buyer Fundamental Representation, the total aggregate Losses that the Seller Indemnified Parties may suffer or sustain by reason of or arising out of any inaccuracy in any representation or warranty contained in Article IV shall not exceed an amount equal to Five Hundred Thousand and No/100 Dollars ($500,000.00).

(c) Except in the case of intentional fraud or a Claim involving a breach of any Seller Fundamental Representation, the total aggregate Losses under the Seller Indemnifiable Amount shall not exceed an amount equal to the Escrow Holdback amount and all such Claims by Buyer for indemnification pursuant to this Article VI shall be made solely initially against and result in the cancellation of escrowed Buyer Shares at a per share price equal to the Issuance Price and then subsequently against cash deposited in the Escrow Account; *provided*, that after Buyer cancels such escrowed Buyer Shares, Buyer shall issue a new original stock certificate for the remaining Buyer Shares (if any) at a per share price equal to the Issuance Price to be held for the purpose of securing any other potential indemnification obligations of Seller and the Company referenced this Article VI.

(d) Except in the case of intentional fraud, with respect to a Claim involving a breach of any Seller Fundamental Representation or a breach of any Buyer Fundamental Representation, the total aggregate Losses under the Seller Indemnifiable Amount or the Buyer Indemnifiable Amount, respectively, shall not exceed an amount equal to Ten Million Dollars ($10,000,000). All such Claims by Buyer for indemnification pursuant to this Article VI shall be made initially against and result in the cancellation of escrowed Buyer Shares at a per share price equal to the Issuance Price, subsequently against cash deposited in the Escrow Account and thereafter against the Seller; *provided*, that after Buyer cancels such escrowed Buyer Shares, it shall issue a new original stock certificate for the remaining Buyer Shares (if any) at a per share price equal to the Issuance Price to be held for the purpose of securing any other potential indemnification obligations of Seller and the Company referenced this Article VI.

(e) In no event shall any Indemnifying Party be liable to an Indemnified Party for any punitive, incidental, consequential, special or indirect damages, including loss of future revenue or income, loss of business reputation or opportunity relating to the breach or alleged breach of this Agreement, the transactions contemplated by this Agreement or diminution of value or any damages based on any type of multiple.

(f) Each Indemnified Party acknowledges and agrees that, for purposes hereof, Losses (including any Losses from third-party claims) shall be calculated based on the amount of Losses that remains after deducting any insurance proceeds, indemnity, contribution, reimbursement or other similar payment actually received by an Indemnified Party or its Affiliates with respect thereto. If any Indemnified Party or its Affiliates recovers amounts from any third party with respect to such Losses after indemnification is made to it by the Indemnifying Party, the Indemnified Party shall promptly pay to the Indemnifying Party that made such indemnification payment the amount of such third-party recovery, net of any out-of-pocket costs associated with obtaining such third-party recovery, at such time or times as and to the extent that such amount is actually received by the Indemnifying Party or its Affiliates. Each Indemnified Party shall use its commercially reasonable efforts to mitigate any Losses for which it is entitled to indemnification pursuant to this Article VI.

Section 6.05 Indemnification Claims.

(a) If an Indemnified Party wishes to assert an indemnification claim hereunder (a '**Claim**"), the Indemnified Party shall deliver to the responsible Indemnifying Party a written notice (a "**Claim Notice**") setting forth:

(i) a description of the matter giving rise to the Claim, including a reasonably detailed description of the facts and circumstances known to the Indemnified Party giving rise to the Claim, and

(ii) to the extent determinable and based upon facts known to the Indemnified Party at such time, an estimate of the monetary amounts actually incurred or expected to be incurred for which indemnification is sought.

(b) Within forty-five (45) days after receipt of any Claim Notice, the Indemnifying Party shall (i) acknowledge in writing its responsibility for all or part of such matter for which indemnification is sought under this Article VI, and will either (A) satisfy (subject to the terms and conditions of Section 6.04) the portion of such matter as to which responsibility is acknowledged or (B) take such other action as is reasonably satisfactory to the Indemnified Party to provide reasonable security or other assurances for the performance of its obligations hereunder, and/or (ii) give written notice to the Indemnified Party of its intention to dispute or contest all or part of such responsibility. Upon delivery of the Indemnifying Party's notice of its intention to contest the Claim, the Parties will negotiate in good faith to resolve any dispute as to the responsibility for or the amount of any such matter as promptly as possible. If the Parties fail to resolve such dispute within ninety (90) days of delivery of the notice of intention to contest, either Party may submit such Claim for resolution pursuant to Section 7.12.

Section 6.06 Defense of Third-Party Claims.

(a) If an Indemnified Party receives written notice or otherwise obtains knowledge of any third-party claim or any threatened third-party claim that gives rise or is reasonably likely to give rise to a Claim against an Indemnifying Party, then the Indemnified Party shall promptly deliver to the Indemnifying Party a written notice describing such third-party claim in reasonable detail. The untimely delivery of such written notice by the Indemnified Party to the Indemnifying Party shall relieve the Indemnifying Party of liability with respect to such third-party claim only to the extent that it has actually been prejudiced by lack of timely notice under this Section 6.06(a) with respect to such third-party claim. The Indemnifying Party shall have the right, at its option, to assume the defense of any such third-party claim with counsel of its own choosing, which counsel shall be reasonably acceptable to the Indemnified Party. If the Indemnifying Party elects to assume the defense of an indemnification third-party claim, then:

(i) Except as set forth in Section 6.06(b), the Indemnifying Party shall not be required to pay or otherwise indemnify the Indemnified Party against any attorneys' fees or other expenses incurred on behalf of the Indemnified Party in connection with such matter following the Indemnifying Party's election to assume the defense of such matter so long as the Indemnifying Party continues to diligently conduct such defense;

(ii) The Indemnified Party shall, subject to the Indemnifying Party's agreement to appropriate confidentiality restrictions, use reasonable efforts to make available to the Indemnifying Party all books, records and other documents and materials that are under the direct or indirect control of the Indemnified Party or any of the Indemnified Party's Representatives that the Indemnifying Party reasonably considers necessary or desirable for the defense of such matter and shall, upon prior request and to the extent reasonably necessary in connection with the defense of such claim, make available to the Indemnifying Party reasonable access to the Indemnified Party's personnel; *provided*, that nothing herein shall require the Indemnified Party to disclose privileged documents that are unrelated to such claim except to the extent Indemnified Party is compelled to do so by a court of competent jurisdiction; and

(iii) The Indemnified Party shall not be required to admit any liability with respect to such third-party claim.

(b) If (i) the Indemnifying Party fails or refuses to assume the defense of and indemnification for such third-party claim within forty-five (45) days of receipt of notice of such claim in accordance with Section 6.06(a), (ii) the Indemnifying Party fails to actively and diligently defend such third-party claim following any such acceptance, (iii) the third-party claim includes an injunction or seeks other equitable relief, (iv) the Indemnified Party shall have been advised by counsel reasonably acceptable to the Indemnifying Party that there are one (1) or more legal or equitable defenses available to it which are different from or in addition to those available to the Indemnifying Party, and, in the reasonable opinion of the Indemnified Party, counsel for the Indemnifying Party could not adequately represent the interests of the Indemnified Party because such interests would be in conflict with those of the Indemnifying Party or (v) the third-party claim includes damages that could exceed the limitations in Section 6.04, then at the Indemnified Party's option, the Indemnified Party may assume the defense and if it assumes the defense, the Indemnified Party shall proceed to actively and diligently defend such third-party claim with the assistance of counsel of its selection, and the Indemnifying Party shall be entitled to participate in (but not control) the defense of such third-party claim, with its own counsel and at its own expense; *provided*, that if the Indemnifying Party agrees in writing that the Indemnified Party is entitled to indemnification hereunder for such third-party claim, and the Indemnifying Party is otherwise determined to be obligated for the Losses under this Article VI in respect of such third-party claim, then the Losses recoverable by the Indemnified Party shall include all reasonable costs and expenses, including the defense set forth herein.

(c) No third-party claim may be settled by the Indemnified Party without notice to, and the written consent of, the Indemnifying Party, which consent shall not be unreasonably withheld or delayed. No third-party claim may be settled by the Indemnifying Party without notice to, and the written consent of, the Indemnified Party, which consent shall not be unreasonably withheld or delayed. For purposes of this Section 6.06, the decision not to pursue an appeal (whether as of right or discretionary) shall be deemed to be a decision to settle or compromise, requiring the prior written consent of the Party that has not assumed the defense of such matter, which consent shall not be unreasonably withheld.

ARTICLE VII
MISCELLANEOUS

Section 7.01 Expenses. Except as otherwise expressly provided herein, all costs and expenses, including, without limitation, fees and costs of legal counsel, financial advisors and accountants incurred in connection with this Agreement and the transactions contemplated hereby shall be paid by the Party incurring such costs and expenses, whether or not the Closing shall have occurred; notwithstanding the foregoing, (a) all costs and expenses (i) of that independent auditing firm conducting the audit and review of the Company's financial statements required due to Buyer's public reporting status and (ii) of the Escrow Agent under the Escrow Agreement shall be borne by Buyer and (b) all costs and expenses of the PPP Loan Escrow Agent relating to the PPP Loan Escrow Agreement shall be borne by Seller.

Section 7.02 Headings. The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

Section 7.03 Entire Agreement. This Agreement and the Ancillary Documents constitute the sole and entire agreement of the Parties with respect to the subject matter contained herein and therein, and supersede all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter. In the event of any inconsistency between the statements in the body of this Agreement and those in the Ancillary Documents, the Exhibits and Disclosure Schedules (other than an exception expressly set forth as such in the Disclosure Schedules), the statements in the body of this Agreement shall control.

Section 7.04 Successors and Assigns. No Party may assign or otherwise transfer this Agreement or any of its rights hereunder to any Person without the prior written consent of the other Parties. Subject to the foregoing, this Agreement shall inure to the benefit of and be binding upon the Parties hereto and their successors, personal Representatives, heirs and permitted assigns.

Section 7.05 Severability. If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the fullest extent possible.

Section 7.06 Amendment This Agreement may be amended, modified, waived, discharged or terminated only by an instrument in writing signed by each Party.

Section 7.07 Notices. All notices, requests, consents, claims, demands, waivers and other communications hereunder shall be in writing and shall be deemed to have been given (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by facsimile or e-mail of a PDF document (with confirmation of transmission) if sent during normal business hours of the recipient and on the next Business Day if sent after normal business hours of the recipient or (d) on the third (3rd) day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective Parties at the following addresses (or at such other address for a Party as shall be specified in a notice given in accordance with this Section 7.07):

If to Seller:	Moise Emquies Email: moiseem@icloud.com
with a copy to:	Morrison & Foerster LLP 425 Market Street San Francisco, California 94105 Facsimile: (415) 276-7514 Email: jliu@mofo.com Attention: Jackie Liu, Esq.

If to Buyer:	Digital Brands Group, Inc. Email: hil@dstld.la Attention: Hil Davis, Chief Executive Officer
with a copy to:	Manatt, Phelps & Phillips, LLP 695 Town Center Drive, 14th Floor Costa Mesa, CA 92646 Facsimile: (714) 371-2550 Email: tpoletti@manatt.com Attention: Thomas J. Poletti, Esq.

Section 7.08 Counterparts. This Agreement may be executed in several original or electronic counterparts, each of which is an original, but all of which shall constitute one (1) instrument.

Section 7.09 Third-Party Rights. This Agreement shall not confer any rights or remedies upon any Person other than the Parties, the Indemnified Parties and their respective successors and permitted assigns.

Section 7.10 Exhibits and Schedules. Each of the exhibits and schedules referred to herein and attached hereto is an integral part of this Agreement and is incorporated herein by this reference.

Section 7.11 Governing Law. This Agreement shall be governed by, interpreted under, and construed and enforced in accordance with the Laws of the State of Delaware, without regard to conflicts of Laws principles.

Section 7.12 Dispute Resolution. Any claim, demand, disagreement, controversy or dispute that arises regarding, from or in connection with this Agreement or the breach, alleged breach thereof, other than as set forth in Section 2.05 (collectively, a "**Dispute**"), between or among the Parties shall be resolved in accordance with the following dispute resolution procedures:

(a) Cooperation. If a Dispute arises, any Party may notify the other Parties by sending a written notice (a "**Dispute Notice**"), which Dispute Notice shall identify the Dispute in reasonable detail and set forth briefly the notifying Party's position with respect to the Dispute. Upon receipt of any Dispute Notice, the Parties shall use reasonable efforts to cooperate and arrive at a mutually acceptable resolution of the Dispute within the next thirty (30) days.

(b) Arbitration. In the event that the Dispute is not resolved pursuant to the procedures described in Section 7.12(a), any Party may request that the Dispute be submitted to binding arbitration by providing a notice of arbitration (the "**Arbitration Notice**") to the other Parties to the Dispute. The Arbitration Notice shall be issued within thirty (30) days following the conclusion of the thirty (30) day cooperation period described in Section 7.12(a) and shall identify the unresolved Dispute in reasonable detail.

(c) Selection of the Arbitrator. The Parties agree that the Dispute shall be submitted to a single arbitrator, acceptable to both Parties, who has at least twenty (20) years' experience in the garment industry or the retail fashion industry. The Parties shall use their commercially reasonable efforts to mutually select a qualified arbitrator within ten (10) days after the Arbitration Notice has been delivered. If the Parties cannot agree on the arbitrator within such ten (10) day period, then any Party may request that ADR Services, Inc., the American Arbitration Association or JAMS appoint the arbitrator (who must have the qualifications described above) in accordance with its arbitration rules. The Party seeking Action by ADR Services, Inc., the American Arbitration Association or JAMS shall request that the appointment be made within ten (10) Business Days.

(d) The Arbitration Hearing. The arbitration hearing shall be held on a date and at a place and time mutually acceptable to the arbitrator and the Parties within sixty (60) days following the appointment of the arbitrator; *provided*, that the Parties' request for a hearing within such time period is not expedited. At least seventy-two (72) hours in advance of the arbitration hearing, each Party involved in the Dispute shall prepare its best and final offer to settle the Dispute in full (the "**Final Offer"**), and shall deliver its Final Offer to the other Parties involved in the Dispute and the arbitrator. The arbitrator shall determine the format of the arbitration hearing to ensure that the Parties have an opportunity to make an oral presentation of their views of the Dispute and for each Party to explain its Final Offer.

(e) The Decision. Upon the conclusion of the arbitration hearing, the Parties shall request that the arbitrator determine an award that is neither less than the lowest Final Offer nor more than the highest Final Offer. The arbitrator's award shall be final and binding on the Parties and the Parties shall be required to act in accordance with such decision.

(f) Fees and Expenses. Except to the extent specifically set forth in this Agreement, the Parties shall pay their own fees and expenses incurred in

connection with the Dispute resolution proceedings set forth in this Section 7.12; *provided, however*, that in the case of an arbitration, the arbitrator may include in its award that the fees and expenses may be awarded to the Party that prevails.

Section 7.13 WAIVER OF JURY TRIAL. EACH PARTY HEREBY WAIVES ITS RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS AGREEMENT, THE ANCILLARY DOCUMENTS, THE SECURITIES OR THE SUBJECT MATTER HEREOF OR THEREOF. THE SCOPE OF THIS WAIVER IS INTENDED TO BE ALL ENCOMPASSING OF ANY AND ALL DISPUTES THAT MAY BE FILED IN ANY COURT AND THAT RELATE TO THE SUBJECT MATTER OF THIS TRANSACTION, INCLUDING, WITHOUT LIMITATION, CONTRACT CLAIMS, TORT CLAIMS (INCLUDING NEGLIGENCE), BREACH OF DUTY CLAIMS AND ALL OTHER COMMON LAW AND STATUTORY CLAIMS. THIS SECTION 7.13 HAS BEEN FULLY DISCUSSED BY EACH OF THE PARTIES HERETO AND THESE PROVISIONS WILL NOT BE SUBJECT TO ANY EXCEPTIONS. EACH PARTY HERETO HEREBY FURTHER WARRANTS AND REPRESENTS THAT SUCH PARTY HAS REVIEWED THIS WAIVER WITH ITS LEGAL COUNSEL AND THAT SUCH PARTY KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL.

Section 7.14 Specific Performance. The Parties further 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. Accordingly, the Parties shall be entitled to specific performance of the terms hereof, including an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement in the Court of Chancery of the State of Delaware, *provided that* if jurisdiction is not then available in the Court of Chancery of the State of Delaware, then in any state or federal court located in the State of Delaware, this being in addition to any other remedy to which such party is entitled at law or in equity. Each of the parties hereby further waives (a) any defense in any action for specific performance that a remedy at law would be adequate and (b) any requirement under any law to post security as a prerequisite to obtaining equitable relief.

[***Remainder of page intentionally left blank. Signature page follows.***]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the date written below each Party's signature to be effective as of the Effective Date.

SELLER:

By: /s/ Moise Emquies
Moise Emquies

BUYER:

DIGITAL BRANDS GROUP, INC.,
a Delaware corporation

By: /s/ John Hilburn Davis
Name: John Hilburn Davis
Its: Chief Executive Officer

SIGNATURE PAGE

TO

MEMBERSHIP INTERESTS PURCHASE AGREEMENT

SCHEDULE A

NET WORKING CAPITAL CATEGORIES

[OMITTED]

SCHEDULE A

TO

MEMBERSHIP INTERESTS PURCHASE AGREEMENT

SCHEDULE B

OTHER INVESTMENTS

[OMITTED]

EXHIBIT A

TO

MEMBERSHIP INTERESTS PURCHASE AGREEMENT

EXHIBIT A

ESCROW AGREEMENT

[OMITTED]

EXHIBIT A

TO

MEMBERSHIP INTERESTS PURCHASE AGREEMENT

EXHIBIT B

REGISTRATION RIGHTS AGREEMENT

[OMITTED]

EXHIBIT B

TO

MEMBERSHIP INTERESTS PURCHASE AGREEMENT

EXHIBIT C

PPP LOAN ESCROW AGREEMENT

[OMITTED]

EXHIBIT B

TO

MEMBERSHIP INTERESTS PURCHASE AGREEMENT

Exhibit 3.1

AMENDED AND RESTATED
CERTIFICATE OF INCORPORATION
OF
DENIM.LA, INC.

(Pursuant to Sections 242 and 245 of the
General Corporation Law of the State of Delaware)

Denim.LA, Inc., a corporation organized and existing under and by virtue of the provisions of the General Corporation Law of the State of Delaware (the "**General Corporation Law**"),

DOES HEREBY CERTIFY:

1. That the name of this corporation is Denim.LA, Inc., and that this corporation was originally incorporated pursuant to the General Corporation Law on January 30, 2013, under the name Denim.LA, Inc.

2. That the Board of Directors duly adopted resolutions proposing to amend and restate the Certificate of Incorporation of this corporation, declaring said amendment and restatement to be advisable and in the best interests of this corporation and its stockholders, and authorizing the appropriate officers of this corporation to solicit the consent of the stockholders therefor, which resolution setting forth the proposed amendment and restatement is as follows:

RESOLVED, that the Certificate of Incorporation of this corporation be amended and restated in its entirety to read as follows:

FIRST: The name of this corporation is Denim.LA, Inc. (the "**Corporation**").

SECOND: The address of the registered office of the Corporation in the State of Delaware is 160 Greentree Drive, Suite 101 in the City of Dover, DE 19904, County of Kent. The name of its registered agent at such address is National Registered Agents, Inc.

THIRD: The nature of the business or purposes to be conducted or promoted is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law.

FOURTH: The total number of shares of all classes of stock which the Corporation shall have authority to issue is (i) 72,000,000 shares of Common Stock, $0.0001 par value per share ("**Common Stock**") and (ii) 38,800,000 shares of Preferred Stock, $0.0001 par value per share ("**Preferred Stock**").

The following is a statement of the designations and the powers, privileges and rights, and the qualifications, limitations or restrictions thereof in respect of each class of capital stock of the Corporation.

A. COMMON STOCK

1 . General. The voting, dividend and liquidation rights of the holders of the Common Stock are subject to and qualified by the rights, powers and preferences of the holders of the Preferred Stock set forth herein.

2 . Voting. The holders of the Common Stock are entitled to one vote for each share of Common Stock held at all meetings of stockholders (and written actions in lieu of meetings. The number of authorized shares of Common Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by (in addition to any vote of the holders of one or more series of Preferred Stock that may be required by the terms of the Amended and Restated Certificate of Incorporation) the affirmative vote of the holders of shares of capital stock of the Corporation representing a majority of the votes represented by all outstanding shares of capital stock of the Corporation entitled to vote, irrespective of the provisions of Section 242(b)(2) of the General Corporation Law.

B. PREFERRED STOCK

20,714,518 shares of the authorized and unissued Preferred Stock of the Corporation are hereby designated "**Series Seed Preferred Stock**," and 14,481,413 shares of the authorized and unissued Preferred Stock of the Corporation are hereby designated "**Series A Preferred Stock**," each with the following rights, preferences, powers, privileges and restrictions, qualifications and limitations. Unless otherwise indicated, references to "sections" or "subsections" in this Part B of this Article Fourth refer to sections and subsections of Part B of this Article Fourth.

1. Dividends.

The Corporation shall not declare, pay or set aside any dividends on shares of any other class or series of capital stock of the Corporation (other than dividends on shares of Common Stock payable in shares of Common Stock) unless (in addition to the obtaining of any consents required elsewhere in the Amended and Restated Certificate of Incorporation) the holders of the Preferred Stock then outstanding shall first receive, or simultaneously receive, a dividend on each outstanding share of Preferred Stock in an amount at least equal to (i) in the case of a dividend on Common Stock or any class or series that is convertible into Common Stock, that dividend per share of each applicable series of Preferred Stock as would equal the product of (A) the dividend payable on each share of such class or series determined, if applicable, as if all shares of such class or series had been converted into Common Stock and (B) the number of shares of Common Stock issuable upon conversion of a share of such applicable series of Preferred Stock, in each case calculated on the record date for determination of holders entitled to receive such dividend or (ii) in the case of a dividend on any class or series that is not convertible into Common Stock, at a rate per share of the applicable series of Preferred Stock determined by (A) dividing the amount of the dividend payable on each share of such class or series of capital stock by the original issuance price of such class or series of capital stock (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to such class or series) and (B) multiplying such fraction by an amount equal to the Series Seed Original Issue Price or Series A Original Issue Price (each as defined below), as applicable; provided that, if the Corporation declares, pays or sets aside, on the same date, a dividend on shares of more than one class or series of capital stock of the Corporation, the dividend payable to the holders of each series Preferred Stock pursuant to this Section 1 shall be calculated based upon the dividend on the class or series of capital stock that would result in the highest dividend for such applicable series of Preferred Stock. The "**Series Seed Original Issue Price**" shall mean $0.271976161108161 per share, subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the Series Seed Preferred Stock. The "**Series A Original Issue Price**" shall mean $0.48 per share, subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the Series A Preferred Stock.

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2. Liquidation, Dissolution or Winding Up; Certain Mergers, Consolidations and Asset Sales

2.1 Preferential Payments to Holders of Preferred Stock. In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation or Deemed Liquidation Event, the holders of shares of each series of Preferred Stock then outstanding shall be entitled to be paid out of the assets of the Corporation available for distribution to its stockholders before any payment shall be made to the holders of Common Stock by reason of their ownership thereof, an amount per share equal to the greater of (i) the Applicable Multiple (as defined below) with respect to the applicable series of Preferred Stock, multiplied by the Series A Original Issue Price or the Series Seed Original Issue Price, as applicable, plus any dividends declared but unpaid thereon, or (ii) such amount per share as would have been payable had all shares of Series A Preferred Stock or Series Seed Preferred Stock, as applicable, been converted into Common Stock pursuant to Section 4 immediately prior to such liquidation, dissolution, winding up or Deemed Liquidation Event (the amount payable pursuant to this sentence is hereinafter referred to as the "**Liquidation Amount**"). If upon any such liquidation, dissolution or winding up of the Corporation or Deemed Liquidation Event, the assets of the Corporation available for distribution to its stockholders shall be insufficient to pay the holders of shares of Preferred Stock the full amount to which they shall be entitled under this Subsection 2.1, the holders of shares of Preferred Stock shall share ratably in any distribution of the assets available for distribution in proportion to the respective amounts which would otherwise be payable in respect of the shares held by them upon such distribution if all amounts payable on or with respect to such shares were paid in full. For purposes of this Section 2.1, "**Applicable Multiple**" means 1.0; provided, however, that notwithstanding the foregoing, the "**Applicable Multiple**" shall mean 1.25 with respect to the Series Seed Preferred Stock (but, for the avoidance of doubt, not with respect to the Series A Preferred Stock) if the Corporation has not received gross proceeds from sales of its capital stock in excess of $3,000,000.00, excluding the Corporation's receipt of proceeds from the sale of the Series Seed Preferred Stock, prior to the consummation of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation or Deemed Liquidation Event.

2.2 Payments to Holders of Common Stock. In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation or Deemed Liquidation Event, after the payment of all preferential amounts required to be paid to the holders of shares of Preferred Stock, the remaining assets of the Corporation available for distribution to its stockholders shall be distributed among the holders of shares of Common Stock, pro rata based on the number of shares held by each such holder.

2.3 Deemed Liquidation Events.

2.3.1 Definition. Each of the following events shall be considered a "**Deemed Liquidation Event**" unless the holders of at least a majority of the outstanding shares of Preferred Stock (excluding all shares of Series A Preferred Stock, other than to the extent required by applicable law) elect otherwise by written notice sent to the Corporation at least ten (10) days prior to the effective date of any such event:

(a) a merger or consolidation in which

(i) the Corporation is a constituent party or

(ii) a subsidiary of the Corporation is a constituent party and the Corporation issues shares of its capital stock pursuant to such merger or consolidation,

except any such merger or consolidation involving the Corporation or a subsidiary of the Corporation in which the shares of capital stock of the Corporation outstanding immediately prior to such merger or consolidation continue to represent, or are converted into or exchanged for shares of capital stock that represent, immediately following such merger or consolidation, at least a majority, by voting power, of the capital stock of (1) the surviving or resulting corporation; or (2) if the surviving or resulting corporation is a wholly owned subsidiary of another corporation immediately following such merger or consolidation, the parent corporation of such surviving or resulting corporation; or

(b) the sale, lease, transfer, exclusive license or other disposition, in a single transaction or series of related transactions, by the Corporation or any subsidiary of the Corporation of all or substantially all the assets of the Corporation and its subsidiaries taken as a whole or the sale or disposition (whether by merger, consolidation or otherwise) of one or more subsidiaries of the Corporation if substantially all of the assets of the Corporation and its subsidiaries taken as a whole are held by such subsidiary or subsidiaries, except (i) where such sale, lease, transfer, exclusive license or other disposition is to a wholly owned subsidiary of the Corporation or (ii) a transfer or disposition by pledge or mortgage to a bona fide lender).

2.3.2 Effecting a Deemed Liquidation Event.

(a) Unless the holders of a majority of the outstanding shares of Preferred Stock (excluding all shares of Series A Preferred Stock, other than to the extent required by applicable law) elect otherwise by written notice sent to the Corporation at least 10 days prior to the effective date of any Deemed Liquidation Event, the Corporation shall not have the power to effect a Deemed Liquidation Event referred to in Subsection 2.3.1(a)(i) unless the agreement or plan of merger or consolidation for such transaction (the "**Merger Agreement**") provides that the consideration payable to the stockholders of the Corporation shall be allocated among the holders of capital stock of the Corporation in accordance with Subsections 2.1 and 2.2.

(b) In the event of a Deemed Liquidation Event referred to in Subsection 2.3.1(a)(ii) or 2.3.1(b), if the Corporation does not effect a dissolution of the Corporation under the General Corporation Law within ninety (90) days after such Deemed Liquidation Event, then (i) the Corporation shall send a written notice to each holder of Preferred Stock no later than the ninetieth (90^{th}) day after the Deemed Liquidation Event advising such holders of their right (and the requirements to be met to secure such right) pursuant to the terms of the following clause; (ii) to require the redemption of such shares of Preferred Stock, and (iii) if the holders of at least a majority of the then outstanding shares of Preferred Stock (excluding all shares of Series A Preferred Stock, other than to the extent required by applicable law) so request in a written instrument delivered to the Corporation not later than one hundred twenty (120) days after such Deemed Liquidation Event, the Corporation shall use the consideration received by the Corporation for such Deemed Liquidation Event (net of any retained liabilities associated with the assets sold or technology licensed, as determined in good faith by the Board of Directors of the Corporation)**,** together with any other assets of the Corporation available for distribution to its stockholders, all to the extent permitted by Delaware law governing distributions to stockholders (the "**Available Proceeds**"), on the one hundred fiftieth (150^{th}) day after such Deemed Liquidation Event, to redeem all outstanding shares of Preferred Stock at a price per share equal to the Liquidation Amount. Notwithstanding the foregoing, in the event of a redemption pursuant to the preceding sentence, if the Available Proceeds are not sufficient to redeem all outstanding shares of Preferred Stock, the Corporation shall ratably redeem each holder's shares of Preferred Stock to the fullest extent of such Available Proceeds, and shall redeem the remaining shares as soon as it may lawfully do so under Delaware law governing distributions to stockholders. Prior to the distribution or redemption provided for in this Subsection 2.3.2(b), the Corporation shall not expend or dissipate the consideration received for such Deemed Liquidation Event, except to discharge expenses incurred in connection with such Deemed Liquidation Event or in the ordinary course of business.

2.3.3 Amount Deemed Paid or Distributed. In the event of any such voluntary or involuntary liquidation, dissolution or winding up of

the Corporation or Deemed Liquidation Event, in each case involving the distribution of assets other than cash to the stockholders of the Corporation, the value of the assets to be distributed shall be determined as follows:

(a) In the case of securities that are not subject to investment letter or other similar restrictions on free tradability,

(i) if traded on a national securities exchange or through the Nasdaq Global Market, the value shall be deemed to be the average of the closing prices of the securities over the 10 day period ending three days prior to the closing;

(ii) if actively traded over-the-counter, the value shall be deemed to be the average of (i) the average of the last bid and ask prices or (ii) the closing sale prices (whichever is applicable) over the 30 day period ending three days prior to the closing; and

(iii) if there is no active public market, the value shall be the fair market value thereof, as determined in good faith by the Board of Directors of the Corporation.

(b) In the case of securities subject to investment letter or other restrictions on free marketability (other than restrictions arising solely by virtue of a stockholder's status as an affiliate or former affiliate), the value shall be based on an appropriate discount from the market value determined as above in Section 2.3.3 to reflect the approximate fair market value thereof, as determined in good faith by the Board of Directors of the Corporation.

(c) In the case of any other property, the value shall be equal to the property's fair market value, as determined in good faith by the Board of Directors of the Corporation.

2.3.4 Allocation of Escrow and Contingent Consideration. In the event of a Deemed Liquidation Event pursuant to Subsection 2.3.1(a)(i), if any portion of the consideration payable to the stockholders of the Corporation is payable only upon satisfaction of contingencies (the "**Additional Consideration**"), the Merger Agreement shall provide that (a) the portion of such consideration that is not Additional Consideration (such portion, the "**Initial Consideration**") shall be allocated among the holders of capital stock of the Corporation in accordance with Subsections 2.1 and 2.2 as if the Initial Consideration were the only consideration payable in connection with such Deemed Liquidation Event; and (b) any Additional Consideration which becomes payable to the stockholders of the Corporation upon satisfaction of such contingencies shall be allocated among the holders of capital stock of the Corporation in accordance with Subsections 2.1 and 2.2 after taking into account the previous payment of the Initial Consideration as part of the same transaction. For the purposes of this Subsection 2.3.4, consideration placed into escrow or retained as holdback to be available for satisfaction of indemnification or similar obligations in connection with such Deemed Liquidation Event shall be deemed to be Initial Consideration.

3. Voting.

3.1 General. On any matter presented to the stockholders of the Corporation for their action or consideration at any meeting of stockholders of the Corporation (or by written consent of stockholders in lieu of meeting), (a) each holder of outstanding shares of Series Seed Preferred Stock shall be entitled to cast the number of votes equal to the number of whole shares of Common Stock into which the shares of Series Seed Preferred Stock held by such holder are convertible as of the record date for determining stockholders entitled to vote on such matter, and (b) each holder of outstanding shares of Series A Preferred Stock shall have no voting rights in respect of such shares of Series A Preferred Stock; provided, however, that in the event that any matter presented to the stockholders of the Corporation for their action or consideration at any meeting of stockholders of the Corporation (or by written consent of stockholders in lieu of meeting) is a matter on which the shares of Series A Preferred Stock are required to be entitled to a vote pursuant to applicable law, each holder of outstanding shares of Series A Preferred Stock shall be entitled to cast the number of votes equal to the number of whole shares of Common Stock into which the shares of Series A Preferred Stock held by such holder are convertible as of the record date for determining stockholders entitled to vote on such matter. Except as provided by law or by the other provisions of the Amended and Restated Certificate of Incorporation, holders of Preferred Stock (excluding all shares of Series A Preferred Stock, other than to the extent required by applicable law) shall vote together with the holders of Common Stock as a single class.

3.2 Election of Directors. Neither the holders of record of the shares of Series A Preferred Stock nor the holders of record of the shares of Common Stock issued or issuable upon conversion of the shares of Series A Preferred Stock shall be entitled to elect, nor vote on the election of, any director of the Corporation, other than to the extent required by applicable law. The holders of record of the shares of Series Seed Preferred Stock, exclusively and as a separate class, shall be entitled to elect one (1) director of the Corporation (the "**Series Seed Director**") and the holders of record of the shares of Common Stock not issued or issuable upon conversion of the Preferred Stock, exclusively and as a separate class, shall be entitled to elect two (2) directors of the Corporation. Any director elected as provided in the preceding sentence may be removed without cause by, and only by, the affirmative vote of the holders of the shares of the class or series of capital stock entitled to elect such director or directors, given either at a special meeting of such stockholders duly called for that purpose or pursuant to a written consent of stockholders. If the holders of shares of Series Seed Preferred Stock or Common Stock not issued or issuable upon conversion of the Preferred Stock, as the case may be, fail to elect a sufficient number of directors to fill all directorships for which they are entitled to elect directors, voting exclusively and as a separate class, pursuant to the first sentence of this Subsection 3.2, then any directorship not so filled shall remain vacant until such time as the holders of the Series Seed Preferred Stock or Common Stock not issued or issuable upon conversion of the Preferred Stock, as the case may be, elect a person to fill such directorship by vote or written consent in lieu of a meeting; and no such directorship may be filled by stockholders of the Corporation other than by the stockholders of the Corporation that are entitled to elect a person to fill such directorship, voting exclusively and as a separate class. The holders of record of the shares of Common Stock and of any other class or series of voting stock (including the Series Seed Preferred Stock), exclusively and voting together as a single class, excluding the Series A Preferred Stock and any Common Stock issued or issuable upon conversion thereof in any event, shall be entitled to elect the balance of the total number of directors of the Corporation. At any meeting held for the purpose of electing a director, the presence in person or by proxy of the holders of a majority of the outstanding shares of the class or series entitled to elect such director shall constitute a quorum for the purpose of electing such director. Except as otherwise provided in this Subsection 3.2, a vacancy in any directorship filled by the holders of any class or series shall be filled only by vote or written consent in lieu of a meeting of the holders of such class or series or by any remaining director or directors elected by the holders of such class or series pursuant to this Subsection 3.2.

3.3 Series Seed Preferred Stock Protective Provisions. At any time when at least 5,300,000 shares of Series Seed Preferred Stock (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the Series Seed Preferred Stock) are outstanding, the Corporation shall not, either directly or indirectly by amendment, merger, consolidation or otherwise, do any of the following without (in addition to any other vote required by law or the Amended and Restated Certificate of Incorporation) the written consent or affirmative vote of the holders of at least a majority of the then outstanding shares of Series Seed Preferred Stock, given in writing or by vote at a meeting, consenting or voting (as the case may be) separately as a class, and any such act or transaction entered into without such consent or vote shall be null and void *ab initio*, and of no force or effect.

3.3.1 liquidate, dissolve or wind-up the business and affairs of the Corporation, effect any merger or consolidation or any other Deemed Liquidation Event, or consent to any of the foregoing;

3.3.2 amend, alter or repeal any provision of the Amended and Restated Certificate of Incorporation or Bylaws of the Corporation in a manner that materially and adversely affects the rights, preferences or privileges of the Series Seed Preferred Stock;

3.3.3 create, or authorize the creation of, or issue or obligate itself to issue shares of, any additional class or series of capital stock unless the same ranks junior to the Series Seed Preferred Stock with respect to the distribution of assets on the liquidation, dissolution or winding up of the Corporation, the payment of dividends and rights of redemption, or increase the authorized number of shares of Series Seed Preferred Stock or increase the authorized number of shares of any additional class or series of capital stock unless the same ranks junior to the Series Seed Preferred Stock with respect to the distribution of assets on the liquidation, dissolution or winding up of the Corporation, the payment of dividends and rights of redemption;

3.3.4 (i) reclassify, alter or amend any existing security of the Corporation that is pari passu with the Series Seed Preferred Stock in respect of the distribution of assets on the liquidation, dissolution or winding up of the Corporation, the payment of dividends or rights of redemption, if such reclassification, alteration or amendment would render such other security senior to the Series Seed Preferred Stock in respect of any such right, preference, or privilege or (ii) reclassify, alter or amend any existing security of the Corporation that is junior to the Series Seed Preferred Stock in respect of the distribution of assets on the liquidation, dissolution or winding up of the Corporation, the payment of dividends or rights of redemption, if such reclassification, alteration or amendment would render such other security senior to or pari passu with the Series Seed Preferred Stock in respect of any such right, preference or privilege;

3.3.5 purchase or redeem (or permit any subsidiary to purchase or redeem) or pay or declare any dividend or make any distribution on, any shares of capital stock of the Corporation other than (i) redemptions of or dividends or distributions on the Series Seed Preferred Stock as expressly authorized herein, (ii) dividends or other distributions payable on the Common Stock solely in the form of additional shares of Common Stock, (iii) repurchases of stock from former employees, officers, directors, consultants or other persons who performed services for the Corporation or any subsidiary in connection with the cessation of such employment or service at either the original purchase price or the then-current fair market value thereof or (iv) as approved by the Board of Directors; or

3.3.6 create, or hold capital stock in, any subsidiary that is not wholly owned (either directly or through one or more other subsidiaries) by the Corporation, or sell, transfer or otherwise dispose of any capital stock of any direct or indirect subsidiary of the Corporation, or permit any direct or indirect subsidiary to sell, lease, transfer, exclusively license or otherwise dispose (in a single transaction or series of related transactions) of all or substantially all of the assets of such subsidiary.

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4. Optional Conversion.

The holders of the Preferred Stock shall have conversion rights as follows (the "**Conversion Rights**"):

4.1 Right to Convert.

4.1.1 Conversion Ratio. Each share of Preferred Stock shall be convertible, at the option of the holder thereof, at any time and from time to time, and without the payment of additional consideration by the holder thereof, into such number of fully paid and non-assessable shares of Common Stock as is determined by dividing the applicable Original Issue Price by the applicable Conversion Price (as defined below) in effect at the time of conversion. The "**Series Seed Conversion Price**" shall initially be equal to $0.271976161108161, the "**Series A Conversion Price**" shall initially be equal to $0.48, and each of the foregoing shall be an applicable "**Conversion Price**" for purposes herein. Such initial Series Seed Conversion Price and Series A Conversion Price, and the rate at which shares of Series Seed Preferred Stock and Series A Preferred Stock may be converted into shares of Common Stock, shall be subject to adjustment as provided below.

4.1.2 Termination of Conversion Rights. In the event of a liquidation, dissolution or winding up of the Corporation or a Deemed Liquidation Event, the Conversion Rights shall terminate at the close of business on the last full day preceding the date fixed for the payment of any such amounts distributable on such event to the holders of Preferred Stock.

4.2 Fractional Shares. No fractional shares of Common Stock shall be issued upon conversion of the Preferred Stock. In lieu of any fractional shares to which the holder would otherwise be entitled, the Corporation shall pay cash equal to such fraction multiplied by the fair market value of a share of Common Stock as determined in good faith by the Board of Directors of the Corporation. The number of whole shares issuable to each holder of Preferred Stock upon such conversion shall be determined on the basis of the total number of shares of Preferred Stock the holder is at the time converting into Common Stock and the aggregate number of shares of Common Stock issuable upon such conversion.

4.3 Mechanics of Conversion.

4.3.1 Notice of Conversion. In order for a holder of Preferred Stock to voluntarily convert shares of Preferred Stock into shares of Common Stock, such holder shall (a) provide written notice to the Corporation's transfer agent at the office of the transfer agent for the Preferred Stock (or at the principal office of the Corporation if the Corporation serves as its own transfer agent) that such holder elects to convert all or any number of such holder's shares of Preferred Stock and, if applicable, any event on which such conversion is contingent, and (b) surrender the certificate or certificates for such shares of Preferred Stock (or, if such registered holder alleges that such certificate has been lost, stolen or destroyed, a lost certificate affidavit and agreement reasonably acceptable to the Corporation to indemnify the Corporation against any claim that may be made against the Corporation on account of such allegedly lost, stolen or destroyed certificate), at the office of the transfer agent for the Preferred Stock (or at the principal office of the Corporation if the Corporation serves as its own transfer agent). Such notice shall state such holder's name or the names of the nominees in which such holder wishes the certificate or certificates for shares of Common Stock to be issued. If required by the Corporation, certificates surrendered for conversion shall be endorsed or accompanied by a written instrument or instruments of transfer, in form satisfactory to the Corporation, duly executed by the registered holder or his, her or its attorney duly authorized in writing. The close of business on the date of receipt by the transfer agent (or by the Corporation if the Corporation serves as its own transfer agent) of such certificates (or lost certificate affidavit and agreement) and notice (or if applicable, the time of the occurrence of the event on which such conversion is contingent), shall be the time of conversion (the "**Conversion Time**"), and the shares of Common Stock issuable upon conversion of the shares represented by such certificate shall be deemed to be outstanding of record as of such date. The Corporation shall, as soon as practicable after the Conversion Time, (i) issue and deliver to such holder of Preferred Stock, or to his, her or its nominees, a certificate or certificates for the number of full shares of Common Stock issuable upon such conversion in accordance with the provisions hereof and a certificate for the number (if any) of the shares of Preferred Stock represented by the surrendered certificate that were not converted into Common Stock, (ii) pay in cash such amount as provided in Subsection 4.2 in lieu of any fraction of a share of Common Stock otherwise issuable upon such conversion and (iii) pay all declared but unpaid dividends on the shares of Preferred Stock converted.

4.3.2 Reservation of Shares. The Corporation shall at all times when the Preferred Stock shall be outstanding, reserve and keep available out of its authorized but unissued capital stock, for the purpose of effecting the conversion of the Preferred Stock, such number of its duly authorized shares of

Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding Preferred Stock; and if at any time the number of authorized but unissued shares of Common Stock shall not be sufficient to effect the conversion of all then outstanding shares of the Preferred Stock, the Corporation shall take such corporate action as may be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purposes, including, without limitation, engaging in best efforts to obtain the requisite stockholder approval of any necessary amendment to the Amended and Restated Certificate of Incorporation. Before taking any action which would cause an adjustment reducing each applicable Conversion Price below the then par value of the shares of Common Stock issuable upon conversion of the applicable series of Preferred Stock, the Corporation will take any corporate action which may, in the opinion of its counsel, be necessary in order that the Corporation may validly and legally issue fully paid and non-assessable shares of Common Stock at such adjusted applicable Conversion Price.

4.3.3 Effect of Conversion. All shares of Preferred Stock which shall have been surrendered for conversion as herein provided shall no longer be deemed to be outstanding and all rights with respect to such shares shall immediately cease and terminate at the Conversion Time, except only the right of the holders thereof to receive shares of Common Stock in exchange therefor, to receive payment in lieu of any fraction of a share otherwise issuable upon such conversion as provided in Subsection 4.2 and to receive payment of any dividends declared but unpaid thereon. Any shares of Preferred Stock so converted shall be retired and cancelled and may not be reissued as shares of such series, and the Corporation may thereafter take such appropriate action (without the need for stockholder action) as may be necessary to reduce the authorized number of shares of Preferred Stock, and the applicable series of Preferred Stock, accordingly.

4.3.4 No Further Adjustment. Upon any such conversion, no adjustment to the applicable Conversion Price shall be made for any declared but unpaid dividends on the applicable series of Preferred Stock surrendered for conversion or on the Common Stock delivered upon conversion.

4.3.5 Taxes. The Corporation shall pay any and all issue and other similar taxes that may be payable in respect of any issuance or delivery of shares of Common Stock upon conversion of shares of Preferred Stock pursuant to this Section 4. The Corporation shall not, however, be required to pay any tax which may be payable in respect of any transfer involved in the issuance and delivery of shares of Common Stock in a name other than that in which the shares of Preferred Stock so converted were registered, and no such issuance or delivery shall be made unless and until the person or entity requesting such issuance has paid to the Corporation the amount of any such tax or has established, to the satisfaction of the Corporation, that such tax has been paid.

4.4 Adjustments to Conversion Price for Diluting Issues.

4.4.1 Special Definitions. For purposes of this Article Fourth, the following definitions shall apply:

(a) "**Option**" shall mean rights, options or warrants to subscribe for, purchase or otherwise acquire Common Stock or Convertible Securities.

(b) "**Series A Original Issue Date**" shall mean the date on which the first share of Series A Preferred Stock was issued.

(c) "**Convertible Securities**" shall mean any evidences of indebtedness, shares or other securities directly or indirectly convertible into or exchangeable for Common Stock, but excluding Options.

(d) "**Additional Shares of Common Stock**" shall mean all shares of Common Stock issued (or, pursuant to Subsection 4.4.3 below, deemed to be issued) by the Corporation after the Series A Original Issue Date, other than (1) the following shares of Common Stock and (2) shares of Common Stock deemed issued pursuant to the following Options and Convertible Securities (clauses (1) and (2), collectively, "**Exempted Securities**"):

(i) shares of Common Stock, Options or Convertible Securities issued as a dividend or distribution on Preferred Stock;

(ii) shares of Common Stock, Options or Convertible Securities issued by reason of a dividend, stock split, split-up, subdivision or other distribution on shares of Common Stock that is covered by Subsection 4.5, 4.6, 4.7 or 4.8**;**

(iii) shares of Common Stock or Options issued to employees or directors of, or consultants or advisors to, the Corporation or any of its subsidiaries pursuant to a plan, agreement or arrangement approved by the Board of Directors of the Corporation;

(iv) shares of Common Stock or Convertible Securities actually issued upon the exercise of Options or shares of Common Stock actually issued upon the conversion or exchange of Convertible Securities (including without limitation the Preferred Stock), in each case provided such issuance is pursuant to the terms of such Option or Convertible Security;

(v) shares of Common Stock, Options or Convertible Securities issued to banks, commercial lenders, equipment lessors or other financial institutions, or to real property lessors, pursuant to a debt financing, equipment leasing or real property leasing transaction approved by the Board of Directors;

(vi) shares of Common Stock, Options or Convertible Securities issued pursuant to the acquisition of another corporation by the Corporation by merger, purchase of substantially all of the assets or other reorganization, provided, that such issuances are approved by the Board of Directors of the Corporation;

(vii) shares of Common Stock issued in a QPO (as defined inSubsection 5.9 below); or

(viii) shares of Common Stock, Options or Convertible Securities issued in connection with (A) any joint venture, technology licensing or development activities, (B) distribution, supply or manufacture of the Company's products or services or (C) any other arrangements or strategic transactions involving corporate partners, in each case entered into for primarily non-equity financing purposes and approved by the Board of Directors of the Corporation.

4 . 4 . 2 No Adjustment of Applicable Conversion Price . No adjustment in any Conversion Price shall be made as the result of the issuance or deemed issuance of Additional Shares of Common Stock if the Corporation receives written notice from the holders of at least a majority of the then outstanding shares of Preferred Stock (excluding all shares of Series A Preferred Stock, other than to the extent required by applicable law) agreeing that no such adjustment shall be made as the result of the issuance or deemed issuance of such Additional Shares of Common Stock.

4.4.3 Deemed Issue of Additional Shares of Common Stock.

(a) If the Corporation at any time or from time to time after the Series A Original Issue Date shall issue any Options or Convertible Securities (excluding Options or Convertible Securities which are themselves Exempted Securities) or shall fix a record date for the determination of holders of any class of securities entitled to receive any such Options or Convertible Securities, then the maximum number of shares of Common Stock (as set forth in the instrument relating thereto, assuming the satisfaction of any conditions to exercisability, convertibility or exchangeability but without regard to any provision contained therein for a subsequent adjustment of such number) issuable upon the exercise of such Options or, in the case of Convertible Securities and Options therefor, the conversion or exchange of such Convertible Securities, shall be deemed to be Additional Shares of Common Stock issued as of the time of such issue or, in case such a record date shall have been fixed, as of the close of business on such record date.

(b) If the terms of any Option or Convertible Security, the issuance of which resulted in an adjustment to any Conversion Price pursuant to the terms of Subsection 4.4.4, are revised as a result of an amendment to such terms or any other adjustment pursuant to the provisions of such Option or Convertible Security (but excluding automatic adjustments to such terms pursuant to anti-dilution or similar provisions of such Option or Convertible Security) to provide for either (1) any increase or decrease in the number of shares of Common Stock issuable upon the exercise, conversion and/or exchange of any such Option or Convertible Security or (2) any increase or decrease in the consideration payable to the Corporation upon such exercise, conversion and/or exchange, then, effective upon such increase or decrease becoming effective, the applicable Conversion Price computed upon the original issue of such Option or Convertible Security (or upon the occurrence of a record date with respect thereto) shall be readjusted to such applicable Conversion Price as would have obtained had such revised terms been in effect upon the original date of issuance of such Option or Convertible Security. Notwithstanding the foregoing, no readjustment pursuant to this clause (b) shall have the effect of increasing any applicable Conversion Price to an amount which exceeds the lower of (i) the applicable Conversion Price in effect immediately prior to the original adjustment made as a result of the issuance of such Option or Convertible Security, or (ii) the applicable Conversion Price that would have resulted from any issuances of Additional Shares of Common Stock (other than deemed issuances of Additional Shares of Common Stock as a result of the issuance of such Option or Convertible Security) between the original adjustment date and such readjustment date.

(c) If the terms of any Option or Convertible Security (excluding Options or Convertible Securities which are themselves Exempted Securities), the issuance of which did not result in an adjustment to the applicable Conversion Price pursuant to the terms of Subsection 4.4.4 (either because the consideration per share (determined pursuant to Subsection 4.4.5) of the Additional Shares of Common Stock subject thereto was equal to or greater than the applicable Conversion Price then in effect, or because such Option or Convertible Security was issued before the Series A Original Issue Date), are revised after the Series A Original Issue Date as a result of an amendment to such terms or any other adjustment pursuant to the provisions of such Option or Convertible Security (but excluding automatic adjustments to such terms pursuant to anti-dilution or similar provisions of such Option or Convertible Security) to provide for either (1) any increase in the number of shares of Common Stock issuable upon the exercise, conversion or exchange of any such Option or Convertible Security or (2) any decrease in the consideration payable to the Corporation upon such exercise, conversion or exchange, then such Option or Convertible Security, as so amended or adjusted, and the Additional Shares of Common Stock subject thereto (determined in the manner provided in Subsection 4.4.3(a) shall be deemed to have been issued effective upon such increase or decrease becoming effective.

(d) Upon the expiration or termination of any unexercised Option or unconverted or unexchanged Convertible Security (or portion thereof) which resulted (either upon its original issuance or upon a revision of its terms) in an adjustment to the applicable Conversion Price pursuant to the terms of Subsection 4.4.4, the applicable Conversion Price shall be readjusted to such applicable Conversion Price as would have obtained had such Option or Convertible Security (or portion thereof) never been issued.

(e) If the number of shares of Common Stock issuable upon the exercise, conversion and/or exchange of any Option or Convertible Security, or the consideration payable to the Corporation upon such exercise, conversion and/or exchange, is calculable at the time such Option or Convertible Security is issued or amended but is subject to adjustment based upon subsequent events, any adjustment to the applicable Conversion Price provided for in this Subsection 4.4.3 shall be effected at the time of such issuance or amendment based on such number of shares or amount of consideration without regard to any provisions for subsequent adjustments (and any subsequent adjustments shall be treated as provided in clauses (b) and (c) of this Subsection 4.4.3). If the number of shares of Common Stock issuable upon the exercise, conversion and/or exchange of any Option or Convertible Security, or the consideration payable to the Corporation upon such exercise, conversion and/or exchange, cannot be calculated at all at the time such Option or Convertible Security is issued or amended, any adjustment to the applicable Conversion Price that would result under the terms of this Subsection 4.4.3 at the time of such issuance or amendment shall instead be effected at the time such number of shares and/or amount of consideration is first calculable (even if subject to subsequent adjustments), assuming for purposes of calculating such adjustment to the applicable Conversion Price that such issuance or amendment took place at the time such calculation can first be made.

4.4.4 Adjustment of Applicable Conversion Price Upon Issuance of Additional Shares of Common Stock . In the event the Corporation shall at any time after the Series A Original Issue Date issue Additional Shares of Common Stock (including Additional Shares of Common Stock deemed to be issued pursuant to Subsection 4.4.3), without consideration or for a consideration per share less than the applicable Conversion Price in effect immediately prior to such issue, then the applicable Conversion Price shall be reduced, concurrently with such issue, to a price (calculated to the nearest one-hundredth of a cent) determined in accordance with the following formula:

$$CP_2 = CP_1 * (A + B) \div (A + C).$$

For purposes of the foregoing formula, the following definitions shall apply:

(a) "CP_2" shall mean the applicable Conversion Price in effect immediately after such issue of Additional Shares of Common Stock

(b) "CP_1" shall mean the applicable Conversion Price in effect immediately prior to such issue of Additional Shares of Common Stock;

(c) "A" shall mean the number of shares of Common Stock outstanding immediately prior to such issue of Additional Shares of Common Stock (treating for this purpose as outstanding all shares of Common Stock issuable upon exercise of Options outstanding immediately prior to such issue or upon conversion or exchange of Convertible Securities (including the Preferred Stock) outstanding (assuming exercise of any outstanding Options therefor) immediately prior to such issue);

(d) "B" shall mean the number of shares of Common Stock that would have been issued if such Additional Shares of Common Stock had been issued at a price per share equal to CP_1 (determined by dividing the aggregate consideration received by the Corporation in respect of such issue by CP_1); and

(e) "C" shall mean the number of such Additional Shares of Common Stock issued in such transaction.

4.4.5 Determination of Consideration. For purposes of this Subsection 4.4, the consideration received by the Corporation for the issue of any Additional Shares of Common Stock shall be computed as follows:

(a) Cash and Property: Such consideration shall:

(i) insofar as it consists of cash, be computed at the aggregate amount of cash received by the Corporation, before deducting any reasonable discounts, commissions or other expenses allowed, paid or incurred by the Corporation for any underwriting or otherwise in connection with the issuance and sale thereof, but excluding amounts paid or payable for accrued interest;

(ii) insofar as it consists of property other than cash, be computed at the fair market value thereof at the time of such issue, as determined in good faith by the Board of Directors of the Corporation; and

(iii) in the event Additional Shares of Common Stock are issued together with other shares or securities or other assets of the Corporation for consideration which covers both, be the proportion of such consideration so received, computed as provided in clauses (i) and (ii) above, as determined in good faith by the Board of Directors of the Corporation.

(b) Options and Convertible Securities. The consideration per share received by the Corporation for Additional Shares of Common Stock deemed to have been issued pursuant to Subsection 4.4.3, relating to Options and Convertible Securities, shall be determined by dividing:

(i) the total amount, if any, received or receivable by the Corporation as consideration for the issue of such Options or Convertible Securities, plus the minimum aggregate amount of additional consideration (as set forth in the instruments relating thereto, without regard to any provision contained therein for a subsequent adjustment of such consideration) payable to the Corporation upon the exercise of such Options or the conversion or exchange of such Convertible Securities, or in the case of Options for Convertible Securities, the exercise of such Options for Convertible Securities and the conversion or exchange of such Convertible Securities, by

(ii) the maximum number of shares of Common Stock (as set forth in the instruments relating thereto, without regard to any provision contained therein for a subsequent adjustment of such number) issuable upon the exercise of such Options or the conversion or exchange of such Convertible Securities, or in the case of Options for Convertible Securities, the exercise of such Options for Convertible Securities and the conversion or exchange of such Convertible Securities.

4.4.6 Multiple Closing Dates. In the event the Corporation shall issue on more than one date Additional Shares of Common Stock that are a part of one transaction or a series of related transactions and that would result in an adjustment to the applicable Conversion Price pursuant to the terms of Subsection 4.4.4, and such issuance dates occur within a period of no more than ninety (90) days from the first such issuance to the final such issuance, then, upon the final such issuance, the applicable Conversion Price shall be readjusted to give effect to all such issuances as if they occurred on the date of the first such issuance (and without giving effect to any additional adjustments as a result of any such subsequent issuances within such period).

4.5 Adjustment for Stock Splits and Combinations. If the Corporation shall at any time or from time to time after the Series A Original Issue Date effect a subdivision of the outstanding Common Stock, the applicable Conversion Price in effect immediately before that subdivision shall be proportionately decreased so that the number of shares of Common Stock issuable on conversion of each share of such series shall be increased in proportion to such increase in the aggregate number of shares of Common Stock outstanding. If the Corporation shall at any time or from time to time after the Series A Original Issue Date combine the outstanding shares of Common Stock, the applicable Conversion Price in effect immediately before the combination shall be proportionately increased so that the number of shares of Common Stock issuable on conversion of each share of such series shall be decreased in proportion to such decrease in the aggregate number of shares of Common Stock outstanding. Any adjustment under this subsection shall become effective at the close of business on the date the subdivision or combination becomes effective.

4.6 Adjustment for Certain Dividends and Distributions. In the event the Corporation at any time or from time to time after the Series A Original Issue Date shall make or issue, or fix a record date for the determination of holders of Common Stock entitled to receive, a dividend or other distribution payable on the Common Stock in additional shares of Common Stock, then and in each such event the applicable Conversion Price in effect immediately before such event shall be decreased as of the time of such issuance or, in the event such a record date shall have been fixed, as of the close of business on such record date, by multiplying the applicable Conversion Price then in effect by a fraction:

(1) the numerator of which shall be the total number of shares of Common Stock issued and outstanding immediately prior to the time of such issuance or the close of business on such record date, and

(2) the denominator of which shall be the total number of shares of Common Stock issued and outstanding immediately prior to the

time of such issuance or the close of business on such record date plus the number of shares of Common Stock issuable in payment of such dividend or distribution.

Notwithstanding the foregoing (a) if such record date shall have been fixed and such dividend is not fully paid or if such distribution is not fully made on the date fixed therefor, the applicable Conversion Price shall be recomputed accordingly as of the close of business on such record date and thereafter the applicable Conversion Price shall be adjusted pursuant to this subsection as of the time of actual payment of such dividends or distributions; and (b) that no such adjustment shall be made if the holders of the applicable series of Preferred Stock simultaneously receive a dividend or other distribution of shares of Common Stock in a number equal to the number of shares of Common Stock as they would have received if all outstanding shares of such series of Preferred Stock had been converted into Common Stock on the date of such event.

4.7 Adjustments for Other Dividends and Distributions. In the event the Corporation at any time or from time to time after the Series A Original Issue Date shall make or issue, or fix a record date for the determination of holders of Common Stock entitled to receive, a dividend or other distribution payable in securities of the Corporation (other than a distribution of shares of Common Stock in respect of outstanding shares of Common Stock) or in other property and the provisions of Section 1 do not apply to such dividend or distribution, then and in each such event the holders of each series of Preferred Stock shall receive, simultaneously with the distribution to the holders of Common Stock, a dividend or other distribution of such securities or other property in an amount equal to the amount of such securities or other property as they would have received if all outstanding shares of such series of Preferred Stock had been converted into Common Stock on the date of such event.

4.8 Adjustment for Merger or Reorganization, etc. Subject to the provisions of Subsection 2.3, if there shall occur any reorganization, recapitalization, reclassification, consolidation or merger involving the Corporation in which the Common Stock (but not the applicable series of Preferred Stock) is converted into or exchanged for securities, cash or other property (other than a transaction covered by Subsections 4.4, 4.6 or 4.7), then, following any such reorganization, recapitalization, reclassification, consolidation or merger, each share of such series of Preferred Stock shall thereafter be convertible in lieu of the Common Stock into which it was convertible prior to such event into the kind and amount of securities, cash or other property which a holder of the number of shares of Common Stock of the Corporation issuable upon conversion of one share of such series of Preferred Stock immediately prior to such reorganization, recapitalization, reclassification, consolidation or merger would have been entitled to receive pursuant to such transaction; and, in such case, appropriate adjustment (as determined in good faith by the Board of Directors of the Corporation) shall be made in the application of the provisions in this Section 4 with respect to the rights and interests thereafter of the holders of the applicable series of Preferred Stock, to the end that the provisions set forth in this Section 4 (including provisions with respect to changes in and other adjustments of the applicable Conversion Price) shall thereafter be applicable, as nearly as reasonably may be, in relation to any securities or other property thereafter deliverable upon the conversion of the applicable series of Preferred Stock. For the avoidance of doubt, nothing in this Subsection 4.8 shall be construed as preventing the holders of the applicable series of Preferred Stock from seeking any appraisal rights to which they are otherwise entitled under the General Corporation Law in connection with a merger triggering an adjustment hereunder, nor shall this Subsection 4.8 be deemed conclusive evidence of the fair value of the shares of the applicable series of Preferred Stock in any such appraisal proceeding.

4.9 Certificate as to Adjustments. Upon the occurrence of each adjustment or readjustment of the applicable Conversion Price pursuant to this Section 4, the Corporation at its expense shall, as promptly as reasonably practicable, compute such adjustment or readjustment in accordance with the terms hereof and furnish to each holder of the applicable series of Preferred Stock a certificate setting forth such adjustment or readjustment (including the kind and amount of securities, cash or other property into which the applicable series of Preferred Stock is convertible) and showing in detail the facts upon which such adjustment or readjustment is based. The Corporation shall, as promptly as reasonably practicable after the written request at any time of any holder of the applicable series of Preferred Stock, furnish or cause to be furnished to such holder a certificate setting forth (i) the applicable Conversion Price then in effect, and (ii) the number of shares of Common Stock and the amount, if any, of other securities, cash or property which then would be received upon the conversion of the applicable series of Preferred Stock.

4.10 Notice of Record Date. In the event:

(a) the Corporation shall take a record of the holders of its Common Stock (or other capital stock or securities at the time issuable upon conversion of the any series of Preferred Stock) for the purpose of entitling or enabling them to receive any dividend or other distribution, or to receive any right to subscribe for or purchase any shares of capital stock of any class or any other securities, or to receive any other security; or

(b) of any capital reorganization of the Corporation, any reclassification of the Common Stock of the Corporation, or any Deemed Liquidation Event; or

(c) of the voluntary or involuntary dissolution, liquidation or winding-up of the Corporation, then, and in each such case, the Corporation will send or cause to be sent to the holders of the applicable series of Preferred Stock a notice specifying, as the case may be, (i) the record date for such dividend, distribution or right, and the amount and character of such dividend, distribution or right, or (ii) the effective date on which such reorganization, reclassification, consolidation, merger, transfer, dissolution, liquidation or winding-up is proposed to take place, and the time, if any is to be fixed, as of which the holders of record of Common Stock (or such other capital stock or securities at the time issuable upon the conversion of the applicable series of Preferred Stock) shall be entitled to exchange their shares of Common Stock (or such other capital stock or securities) for securities or other property deliverable upon such reorganization, reclassification, consolidation, merger, transfer, dissolution, liquidation or winding-up, and the amount per share and character of such exchange applicable to the applicable series of Preferred Stock and the Common Stock. Such notice shall be sent at least ten (10) days prior to the record date or effective date for the event specified in such notice; provided, however, that such notice period may be shortened upon the written consent of holders of the Preferred Stock (excluding all shares of Series A Preferred Stock, other than to the extent required by applicable law) that are entitled to such notice rights or similar notice rights and that represent at least a majority of the voting power of all then outstanding shares of the Preferred Stock (excluding all shares of Series A Preferred Stock, other than to the extent required by applicable law).

5. Mandatory Conversion.

5.1 Trigger Events. Upon either (a) the closing of the sale of shares of Common Stock to the public in a firm-commitment underwritten public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended, resulting in at least $25,000,000 of gross proceeds to the Corporation (before deducting underwriters' commissions and selling expenses) (a "**QPO**") or (b) the date and time, or the occurrence of an event, specified by vote or written consent of the holders of a majority of the then outstanding shares of Preferred Stock (excluding all shares of Series A Preferred Stock, other than to the extent required by applicable law) (the time of such closing or the date and time specified or the time of the event specified in such vote or written consent is referred to herein as the "**Mandatory Conversion Time**"), (i) all outstanding shares of Preferred Stock shall automatically be converted into shares of Common Stock, at the then effective conversion rate and (ii) such shares may not be reissued by the Corporation.

5.2 Procedural Requirements. All holders of record of shares of Preferred Stock shall be sent written notice of the Mandatory Conversion Time and the place designated for mandatory conversion of all such shares of Preferred Stock pursuant to this Section 5. Such notice need not be sent in advance of the occurrence of the Mandatory Conversion Time. Upon receipt of such notice, each holder of shares of the applicable series of Preferred Stock shall surrender his, her or its certificate or certificates for all such shares (or, if such holder alleges that such certificate has been lost, stolen or destroyed, a lost certificate affidavit and agreement reasonably acceptable to the Corporation to indemnify the Corporation against any claim that may be made against the Corporation on account of the allegedly lost, stolen or destroyed certificate) to the Corporation at the place designated in such notice. If so required by the Corporation, any certificates surrendered for conversion shall be endorsed or accompanied by written instrument or instruments of transfer, in form satisfactory to the Corporation, duly executed by the registered holder or by his, her or its attorney duly authorized in writing. All rights with respect to the applicable series of Preferred Stock converted pursuant to Subsection 5.1, including the rights, if any, to receive notices and vote (other than as a holder of Common Stock), will terminate at the Mandatory Conversion Time (notwithstanding the failure of the holder or holders thereof to surrender the certificates at or prior to such time), except only the rights of the holders thereof, upon surrender of the certificate or certificates of such holders (or lost certificate affidavit and agreement) therefor, to receive the items provided for in the next sentence of this Subsection 5.2. As soon as practicable after the Mandatory Conversion Time and the surrender of the certificate or certificates (or lost certificate affidavit and agreement) for the applicable series of Preferred Stock, the Corporation shall (a) issue and deliver to such holder, or to his, her or its nominees, a certificate or certificates for the number of full shares of Common Stock issuable on such conversion in accordance with the provisions hereof and (b) pay cash as provided in Subsection 4.2 in lieu of any fraction of a share of Common Stock otherwise issuable upon such conversion and the payment of any declared but unpaid dividends on the shares of the applicable series of Preferred Stock converted; provided, however, that the Corporation shall not be obligated to fulfill any obligations to such holder of the applicable series of Preferred Stock under this sentence unless and until all preceding obligations of such holder under this Subsection 5.2 have been fulfilled. Such converted applicable series of Preferred Stock shall be retired and cancelled and may not be reissued as shares of such series, and the Corporation may thereafter take such appropriate action (without the need for stockholder action) as may be necessary to reduce the authorized number of shares of the applicable series of Preferred Stock accordingly.

6. Intentionally Omitted.

7. Redeemed or Otherwise Acquired Shares. Any shares of Preferred Stock that are redeemed or otherwise acquired by the Corporation or any of its subsidiaries shall be automatically and immediately cancelled and retired and shall not be reissued, sold or transferred. Neither the Corporation nor any of its subsidiaries may exercise any voting or other rights granted to the holders of Preferred Stock following redemption.

8. Waiver. Any of the rights, powers, preferences and other terms of the Preferred Stock set forth herein may be waived on behalf of all holders of Preferred Stock by the affirmative written consent or vote of the holders of at least a majority of the shares of Preferred Stock then outstanding (excluding all shares of Series A Preferred Stock, other than to the extent required by applicable law), voting together as a single class on an as converted to Common Stock basis.

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9. Notices. Any notice required or permitted by the provisions of this Article Fourth to be given to a holder of shares of Preferred Stock shall be mailed, postage prepaid, to the post office address last shown on the records of the Corporation, or given by electronic communication in compliance with the provisions of the General Corporation Law, and shall be deemed sent upon such mailing or electronic transmission.

FIFTH: Subject to any additional vote required by the Amended and Restated Certificate of Incorporation or Bylaws, in furtherance and not in limitation of the powers conferred by statute, the Board of Directors is expressly authorized to make, repeal, alter, amend and rescind any or all of the Bylaws of the Corporation.

SIXTH: Subject to any additional vote required by the Amended and Restated Certificate of Incorporation, the number of directors of the Corporation shall be determined in the manner set forth in the Bylaws of the Corporation.

SEVENTH: Elections of directors need not be by written ballot unless the Bylaws of the Corporation shall so provide.

EIGHTH: Meetings of stockholders may be held within or without the State of Delaware, as the Bylaws of the Corporation may provide. The books of the Corporation may be kept outside the State of Delaware at such place or places as may be designated from time to time by the Board of Directors or in the Bylaws of the Corporation.

NINTH: To the fullest extent permitted by law, a director of the Corporation shall not be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director. If the General Corporation Law or any other law of the State of Delaware is amended after approval by the stockholders of this Article Ninth to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of the Corporation shall be eliminated or limited to the fullest extent permitted by the General Corporation Law as so amended.

Any repeal or modification of the foregoing provisions of this Article Ninth by the stockholders of the Corporation shall not adversely affect any right or protection of a director of the Corporation existing at the time of, or increase the liability of any director of the Corporation with respect to any acts or omissions of such director occurring prior to, such repeal or modification.

TENTH: To the fullest extent permitted by applicable law, the Corporation is authorized to provide indemnification of (and advancement of expenses to) directors, officers and agents of the Corporation (and any other persons to which General Corporation Law, or the California Corporations Code to the extent applicable, permits the Corporation to provide indemnification) through Bylaw provisions, agreements with such agents or other persons, vote of stockholders or disinterested directors or otherwise, (a) in excess of the indemnification and advancement otherwise permitted by Section 317 of the California Corporations Code, subject only to the applicable limits on indemnification set forth in Sections 204 and 317 of the California Corporations Code with respect to actions for breach of duty to the Corporation or its stockholders, to the extent the Corporation is subject to those provision pursuant to Section 2115 of the California Corporations Code, and (b) in excess of the indemnification and advancement otherwise permitted by Section 145 of the General Corporation Law.

Any amendment, repeal or modification of the foregoing provisions of this Article Tenth shall not adversely affect any right or protection of any director, officer or other agent of the Corporation existing at the time of such amendment, repeal or modification.

ELEVENTH: The business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors. In addition to the powers and authority expressly conferred upon them by statute or by this Amended and Restated Certificate of Incorporation, the directors are hereby empowered to exercise all such powers and do all such acts and things as may be exercised or done by the Corporation.

TWELFTH: For purposes of Section 500 of the California Corporations Code (to the extent applicable), in connection with (a) any repurchase of shares of

Common Stock permitted under this Amended and Restated Certificate of Incorporation from employees, officers, directors, advisors or consultants of the Company in connection with a termination of employment or services pursuant to agreements or arrangements approved by the Board of Directors (in addition to any other consent required under this Amended and Restated Certificate of Incorporation), or (ii) the exercise of a contractual right of first refusal entitling the Corporation to purchase shares of Common Stock upon the terms offered by a third party, such repurchase may be made without regard to any "preferential dividends arrears amount" or "preferential rights amount" (as those terms are defined in Section 500 of the California Corporations Code). Accordingly, for purposes of making any calculation under California Corporations Code Section 500 in connection with such repurchase, the amount of any "preferential dividends arrears amount" or "preferential rights amount" (as those terms are defined therein) shall be deemed to be zero (0).

THIRTEENTH: The Corporation reserves the right to amend or repeal any of the provisions contained in this Amended and Restated Certificate of Incorporation in any manner now or hereafter permitted by law, and the rights of the stockholders of the Corporation are granted subject to this reservation.

* * *

3. That the foregoing amendment and restatement was approved by the holders of the requisite number of shares of this corporation in accordance with Section 228 of the General Corporation Law.

4. That this Amended and Restated Certificate of Incorporation, which restates and integrates and further amends the provisions of this Corporation's Certificate of Incorporation, has been duly adopted in accordance with Sections 242 and 245 of the General Corporation Law.

[REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, this Amended and Restated Certificate of Incorporation has been executed by a duly authorized officer of this corporation on this _____, 2016.

By: _____
Mark Lynn, President

Exhibit 3.2

CERTIFICATE OF AMENDMENT

OF

AMENDED AND RESTATED CERTIFICATE OF INCORPORATION

OF

DENIM.LA, INC.

Denim.LA, Inc. (the "Corporation"), a corporation duly organized and existing under and by virtue of the General Corporation Law of the State of Delaware (the "General Corporation Law"), does hereby certify:

FIRST: The name of the Corporation is Denim.LA, Inc., and that the Corporation was originally incorporated pursuant to the General Corporation Law on January 30, 2013.

SECOND: ARTICLE FIRST of the Amended and Restated Certificate of Incorporation of the Corporation is hereby amended and restated in its entirety as follows:

"**FIRST:** The name of this corporation is Digital Brands Group, Inc. (the "**Corporation**")."

THIRD: This Certificate of Amendment has been duly adopted in accordance with the applicable provisions of Sections 228 and 242 of the General Corporation Law.

FOURTH: All other provisions of the Amended and Restated Certificate of Incorporation shall remain in full force and effect.

FIFTH: The foregoing amendment shall be effective upon filing with the Secretary of State of the State of Delaware.

[*Signature Page Follows*]

IN WITNESS WHEREOF, this Certificate of Amendment was executed by a duly authorized officer of the Corporation on this 30th day of December, 2020.

DENIM.LA, INC.,
a Delaware corporation

By: /s/ John "Hil" Davis
Name: John "Hil" Davis
Title: Chief Executive Officer

STATE OF DELAWARE

SIXTH AMENDED AND RESTATED

CERTIFICATE OF INCORPORATION
OF
DIGITAL BRANDS GROUP, INC.

DIGITAL BRANDS GROUP, INC., (the "Corporation"), a corporation organized and existing under the provisions of the General Corporation Law of the State of Delaware (the "DGCL"), does hereby certify that:

A. The name of this corporation is Digital Brands Group, Inc., and that this corporation was originally incorporated pursuant to the General Corporation Law on January 30, 2013, under the name Denim.LA, Inc. An Amended and Restated Certificate of Incorporation of the Corporation was filed with the Secretary of State of the State of Delaware on February 12, 2020, which restated and amended the Certificate of Incorporation in its entirety, and on December 31, 2020, the Company filed a certificate of amendment changing its name from Denim.LA, Inc. to Digital Brands Group, Inc. (as may be further amended from time to time, the "Amended and Restated Certificate of Incorporation").

B. This Sixth Amended and Restated Certificate of Incorporation was duly adopted in accordance with Sections 242 and 245 of the General Corporation Law, and has been duly approved by the written consent of the stockholders of the Corporation in accordance with Section 228 of the General Corporation Law, and restates, integrates and further amends the provisions of the Corporation's Amended and Restated Certificate of Incorporation.

C. The text of the certificate of incorporation of the Corporation is hereby amended and restated in its entirety to read as follows:

FIRST: The name of the corporation is Digital Brands Group, Inc. (hereinafter called the "Corporation").

SECOND: The address of the registered office of the Corporation in the State of Delaware is 1209 Orange Street in the City of Wilmington, County of New Castle, Delaware 19801. The name of its registered agent at such address is National Registered Agents, Inc.

THIRD: The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized and incorporated under the DGCL or any applicable successor act thereto, as the same may be amended from time to time.

FOURTH: Upon this Sixth Amended and Restated Certificate of Incorporation (as amended or restated from time to time, this "Certificate of Incorporation") becoming effective pursuant to the DGCL (the "Effective Time"), the total number of shares of capital stock which the Corporation has authority to issue is 210,000,000 consisting of: 200,000,000 shares of Common Stock, par value $0.0001 per share ("Common Stock"); and 10,000,000 shares of preferred stock, par value $0.0001 per share ("Preferred Stock"). Subject to the rights of the holders of any series of Preferred Stock, the number of authorized shares of any of the Common Stock or Preferred Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by the affirmative vote of the holders of a majority in voting power of the capital stock of the Corporation entitled to vote thereon irrespective of the provisions of Section 242(b)(2) of the DGCL, and no vote of the holders of any of the Common Stock or Preferred Stock voting separately as a class shall be required therefor. Effective prior to the Effective Time, automatically and without any action on the part of the respective holders thereof, each 15.625 issued and outstanding shares of Common Stock shall be combined and reconstituted into one (1) fully paid and non-assessable share of issued and outstanding Common Stock (the "Reverse Stock Split"). The Reverse Stock Split shall be effected on a certificate-by-certificate basis, such that any fractional shares of Common Stock resulting from the Reverse Stock Split and held by a single record holder shall be aggregated. No fractional shares of Common Stock shall be issued upon the combination of any such shares in the Reverse Stock Split. If the Reverse Stock Split would result in the issuance of any fractional share, the Corporation shall, in lieu of issuing any fractional share, pay cash equal to the product of such fraction multiplied by the fair market value (as determined by the Corporation's Board of Directors (the "Board")) of one share of Common Stock as of the Effective Time (after giving effect to the foregoing Reverse Stock Split), rounded up to the nearest whole cent. The Reverse Stock Split shall occur whether or not the certificates representing such shares of Common Stock are surrendered to the Corporation or its transfer agent. All of the share amounts and par value of each share of capital stock following the Reverse Stock Split shall be as stated above in Article FOURTH.

A. Common Stock. The powers, preferences and relative participating, optional or other special rights, and the qualifications, limitations and restrictions of the Common Stock are as follows:

1. Ranking. The voting, dividend and liquidation rights of the holders of the Common Stock are subject to and qualified by the rights of the holders of the Preferred Stock of any series as may be designated by the Board upon any issuance of the Preferred Stock of any series.

2. Voting. Except as otherwise provided by law or by the resolution or resolutions providing for the issue of any series of Preferred Stock, the holders of outstanding shares of Common Stock shall have the exclusive right to vote for the election and removal of directors and for all other purposes. Notwithstanding any other provision of this Certificate of Incorporation to the contrary, the holders of Common Stock shall not be entitled to vote on any amendment to this Certificate of Incorporation (including any Preferred Stock Designation (as defined below)) that relates solely to the terms of one or more outstanding series of Preferred Stock if the holders of such affected series are entitled, either separately or together as a class with the holders of one or more other such series, to vote thereon pursuant to this Certificate of Incorporation (including any Preferred Stock Designation (as defined below)) or the General Corporation Law.

3. Dividends. Subject to the rights of the holders of Preferred Stock, holders of shares of Common Stock shall be entitled to receive such dividends and distributions and other distributions in cash, stock or property of the Corporation when, as and if declared thereon by the Board from time to time out of assets or funds of the Corporation legally available therefor.

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4. Liquidation. Subject to the rights of the holders of Preferred Stock, shares of Common Stock shall be entitled to receive the assets and funds of the Corporation available for distribution in the event of any liquidation, dissolution or winding up of the affairs of the Corporation, whether voluntary or involuntary. A liquidation, dissolution or winding up of the affairs of the Corporation, as such terms are used in this Section A.4., shall not be deemed to be occasioned by or to include any consolidation or merger of the Corporation with or into any other person or a sale, lease, exchange or conveyance of all or a part of its assets.

B. Preferred Stock. Shares of Preferred Stock may be issued from time to time in one or more series. The Board is hereby authorized to provide by resolution or resolutions from time to time for the issuance, out of the unissued shares of Preferred Stock, of one or more series of Preferred Stock, without stockholder

approval, by filing a certificate pursuant to the applicable law of the State of Delaware (the "Preferred Stock Designation"), setting forth such resolution and, with respect to each such series, establishing the number of shares to be included in such series, and fixing the voting powers, full or limited, or no voting power of the shares of such series, and the designation, preferences and relative, participating, optional or other special rights, if any, of the shares of each such series and any qualifications, limitations or restrictions thereof. The powers, designation, preferences and relative, participating, optional and other special rights of each series of Preferred Stock, and the qualifications, limitations and restrictions thereof, if any, may differ from those of any and all other series at any time outstanding. The authority of the Board with respect to each series of Preferred Stock shall include, but not be limited to, the determination of the following:

1. the designation of the series, which may be by distinguishing number, letter or title;

2. the number of shares of the series, which number the Board may thereafter (except where otherwise provided in the Preferred Stock Designation) increase or decrease (but not below the number of shares thereof then outstanding);

3. the amounts or rates at which dividends will be payable on, and the preferences, if any, of shares of the series in respect of dividends, and whether such dividends, if any, shall be cumulative or noncumulative;

4. the dates on which dividends, if any, shall be payable;

5. the redemption rights and price or prices, if any, for shares of the series;

6. the terms and amount of any sinking fund, if any, provided for the purchase or redemption of shares of the series;

7. the amounts payable on, and the preferences, if any, of shares of the series in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation;

8. whether the shares of the series shall be convertible into or exchangeable for, shares of any other class or series, or any other security, of the Corporation or any other corporation, and, if so, the specification of such other class or series or such other security, the conversion or exchange price or prices or rate or rates, any adjustments thereof, the date or dates at which such shares shall be convertible or exchangeable and all other terms and conditions upon which such conversion or exchange may be made;

9. restrictions on the issuance of shares of the same series or any other class or series;

10. the voting rights, if any, of the holders of shares of the series generally or upon specified events; and

11. any other powers, preferences and relative, participating, optional or other special rights of each series of Preferred Stock, and any qualifications, limitations or restrictions of such shares,

all as may be determined from time to time by the Board and stated in the resolution or resolutions providing for the issuance of such Preferred Stock.

Without limiting the generality of the foregoing, the resolutions providing for issuance of any series of Preferred Stock may provide that such series shall be superior or rank equally or be junior to any other series of Preferred Stock to the extent permitted by law.

FIFTH: This Article FIFTH is inserted for the management of the business and for the conduct of the affairs of the Corporation.

A. General Powers. The business and affairs of the Corporation shall be managed by or under the direction of the Board, except as otherwise provided by law.

B. Number of Directors; Election of Directors. Subject to the rights of holders of any series of Preferred Stock to elect directors, the number of directors of the Corporation shall be fixed from time to time solely by the Board. No decrease in the number of directors constituting the Board shall shorten the term of any incumbent director.

C. Vacancies. Subject to the rights of holders of any series of Preferred Stock, any newly created directorship that results from an increase in the number of directors or any vacancy on the Board that results from the death, disability, resignation, disqualification or removal of any director or from any other cause shall be filled solely by the affirmative vote of a majority of the total number of directors then in office, even if less than a quorum, or by a sole remaining director and shall not be filled by the stockholders. Any director elected to fill a vacancy not resulting from an increase in the number of directors shall hold office for the remaining term of his or her predecessor.

D. Removal. Any director or the entire Board may be removed from office at any time, but only for cause and only by the affirmative vote of the holders of at least 66 2/3% in voting power of the capital stock of the Corporation entitled to vote thereon.

SIXTH: Unless and except to the extent that the Bylaws shall so require, the election of directors of the Corporation need not be by written ballot.

SEVENTH: To the fullest extent permitted by the DGCL as it now exists and as it may hereafter be amended, no director of the Corporation shall be personally liable to the Corporation or any of its stockholders for monetary damages for breach of fiduciary duty as a director; provided, however, that nothing contained in this Article SEVENTH shall eliminate or limit the liability of a director (i) for any breach of the director's duty of loyalty to the Corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) pursuant to the provisions of Section 174 of the DGCL, or (iv) for any transaction from which the director derived an improper personal benefit. No repeal or modification of this Article SEVENTH shall apply to or have any adverse effect on any right or protection of, or any limitation of the liability of, a director of the Corporation existing at the time of such repeal or modification with respect to acts or omissions occurring prior to such repeal or modification.

EIGHTH: The Corporation shall indemnify, and advance expenses to, to the fullest extent permitted by law, any person who was or is a party to or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative by reason of the fact that the person is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise.

NINTH: Subject to the terms of any series of Preferred Stock or unless otherwise approved in advance by the Board, any action required or permitted to be taken by the stockholders of the Corporation must be effected at an annual or special meeting of the stockholders called in accordance with the Bylaws and may not be effected by written consent in lieu of a meeting.

TENTH: Special meetings of stockholders for any purpose or purposes may be called at any time by the majority of the directors then in office, the Chairman of the Board or the Chief Executive Officer or President of the Corporation or stockholders of record holding an aggregate of at least 25% in voting power of the then outstanding shares of stock of the Corporation entitled to vote, and may not be called by another other person or persons. Business transacted at any special meeting of stockholders shall be limited to matters relating to the purpose or purposes stated in the notice of meeting.

ELEVENTH: If any provision or provisions of this Certificate of Incorporation shall be held to be invalid, illegal or unenforceable as applied to any circumstance for any reason whatsoever: (i) the validity, legality and enforceability of such provisions in any other circumstance and of the remaining provisions of this Certificate of Incorporation (including, without limitation, each portion of any paragraph of this Certificate of Incorporation containing any such provision held to be invalid, illegal or unenforceable that is not itself held to be invalid, illegal or unenforceable) shall not in any way be affected or impaired thereby and (ii) to the fullest extent possible, the provisions of this Certificate of Incorporation (including, without limitation, each such portion of any paragraph of this Certificate of Incorporation containing any such provision held to be invalid, illegal or unenforceable) shall be construed so as to permit the Corporation to protect its directors, officers, employees and agents from personal liability in respect of their good faith service or for the benefit of the Corporation to the fullest extent permitted by law.

The Corporation reserves the right at any time from time to time to amend, alter, change or repeal any provision contained in this Certificate of Incorporation, and any other provisions authorized by the DGCL may be added or inserted, in the manner now or hereafter prescribed by law; and all rights, preferences and privileges of whatsoever nature conferred upon stockholders, directors or any other persons whomsoever by and pursuant to this Certificate of Incorporation in its present form or as hereafter amended are granted subject to the right reserved in this Article ELEVENTH. Notwithstanding any other provision of this Certificate of Incorporation or any provision of law that might otherwise permit a lesser vote or no vote, but in addition to any affirmative vote of the holders of any series of Preferred Stock required by law, by this Certificate of Incorporation or by any Preferred Stock Designation, the affirmative vote of the holders of a majority in voting power of the stock of the Corporation entitled to vote thereon shall be required to amend, alter, change or repeal any provision of this Certificate of Incorporation, or to adopt any new provision of this Certificate of Incorporation; provided, however, that the affirmative vote of the holders of at least 66 2/3% in voting power of the stock of the Corporation entitled to vote thereon shall be required to amend, alter, change or repeal, or adopt any provision inconsistent with, any of Article FIFTH, Article SEVENTH, Article EIGHTH, Article NINTH, Article TENTH, Article TWELFTH, Article THIRTEENTH, and this sentence of this Certificate of Incorporation, or in each case, the definition of any capitalized terms used therein or any successor provision (including, without limitation, any such article or section as renumbered as a result of any amendment, alteration, change, repeal or adoption of any other provision of this Certificate of Incorporation). Any amendment, repeal or modification of any of Article SEVENTH, Article EIGHTH, and this sentence shall not adversely affect any right or protection of any person existing thereunder with respect to any act or omission occurring prior to such repeal or modification.

TWELFTH: In furtherance and not in limitation of the powers conferred upon it by law, the Board is expressly authorized and empowered to adopt, amend and repeal the Bylaws by the affirmative vote of a majority of the Board. Notwithstanding any other provision of this Certificate of Incorporation or any provision of law that might otherwise permit a lesser vote or no vote, but in addition to any affirmative vote of the holders of any series of Preferred Stock required by law, by this Certificate of Incorporation or by any Preferred Stock Designation, the Bylaws may also be amended, altered or repealed and new Bylaws may be adopted by the affirmative vote of the holders of at least a majority in voting power of the stock of the Corporation entitled to vote thereon.

THIRTEENTH:

Forum Selection. Unless the Corporation consents in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware (or, if the Court of Chancery does not have jurisdiction, the federal district court for the District of Delaware) shall, to the fullest extent permitted by law, be the sole and exclusive forum for (1) any derivative action or proceeding brought on behalf of the Corporation, (2) any action asserting a claim of breach of a fiduciary duty owed by any director, officer or other employee of the Corporation to the Corporation or the Corporation's stockholders, (3) any action arising pursuant to any provision of the DGCL or this Certificate of Incorporation or the Bylaws (as either may be amended from time to time), (4) any action or proceeding to interpret, apply, enforce or determine the validity of this Certificate of Incorporation or the Bylaws, (5) any action or proceeding as to which the DGCL confers jurisdiction to the Court of Chancery of the State of Delaware or (6) any action asserting a claim governed by the internal affairs doctrine. Unless the Corporation consents in writing to the selection of an alternative forum, the federal district courts of the United States of America shall be the exclusive forum for the resolution of any complaint asserting a cause of action arising under the Securities Act of 1933, as amended. Any person or entity purchasing or otherwise acquiring or holding any interest in shares of capital stock of the Corporation shall be deemed to have notice of and consented to the provisions of this Article THIRTEENTH. This Article THIRTEENTH shall not apply to suits brought to enforce a duty or liability created by the Securities Exchange Act of 1934, as amended, or any other claim for which the federal courts have exclusive jurisdiction.

E. Personal Jurisdiction. If any action the subject matter of which is within the scope of Section A immediately above is filed in a court other than a court located within the State of Delaware (a "Foreign Action") in the name of any stockholder, such stockholder shall be deemed to have consented to (i) the personal jurisdiction of the state and federal courts located within the State of Delaware in connection with any action brought in any such court to enforce Section A immediately above (an "FSC Enforcement Action") and (ii) having service of process made upon such stockholder in any such FSC Enforcement Action by service upon such stockholder's counsel in the Foreign Action as agent for such stockholder.

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IN WITNESS WHEREOF, the Corporation has caused this Sixth Amended and Restated Certificate of Incorporation to be signed by the undersigned, the Chief Executive Officer and President of the Corporation, as of May __, 2021.

John Hilburn Davis, IV
Chief Executive Officer and President

BYLAWS

OF

DENIM.LA, INC.

BYLAWS OF
DENIM.LA, INC.

ARTICLE I
STOCKHOLDERS

1.1 Place of Meetings. All meetings of stockholders shall be held at such place (if any) within or without the State of Delaware as may be designated from time to time by the Board of Directors or the President and Chief Executive Officer.

1.2 Annual Meeting. The annual meeting of stockholders for the election of directors and for the transaction of such other business as may properly be brought before the meeting shall be held on a date to be fixed by the Board of Directors at the time and place to be fixed by the Board of Directors and stated in the notice of the meeting. In lieu of holding an annual meeting of stockholders at a designated place, the Board of Directors may, in its sole discretion, determine that any annual meeting of stockholders may be held solely by means of remote communication.

1.3 Special Meetings. Special meetings of stockholders may be called at any time by the Board of Directors, the Chairman of the Board, the President or the holders of record of not less than 10% of all shares entitled to cast votes at the meeting, for any purpose or purposes prescribed in the notice of the meeting and shall be held at such place (if any), on such date and at such time as the Board may fix. In lieu of holding a special meeting of stockholders at a designated place, the Board of Directors may, in its sole discretion, determine that any special meeting of stockholders may be held solely by means of remote communication. Business transacted at any special meeting of stockholders shall be confined to the purpose or purposes stated in the notice of meeting. Upon request in writing sent by registered mail to the President or Chief Executive Officer by any stockholder or stockholders entitled to request a special meeting of stockholders pursuant to this Section 1.3, and containing the information required pursuant to Sections 1.10 and 2.15, as applicable, the Board of Directors shall determine a place and time for such meeting, which time shall be not less than 10 nor more than 30 days after the receipt of such request, and a record date for the determination of stockholders entitled to vote at such meeting shall be fixed by the Board of Directors, in advance, which shall not be more that 15 days nor less than 10 days before the date of such meeting. Following such receipt of a request and determination by the Secretary of the validity thereof, it shall be the duty of the Secretary to present the request to the Board of Directors, and upon Board action as provided in this Section 1.3, to cause notice to be given to the stockholders entitled to vote at such meeting, in the manner set forth in Section 1.4, hereof, that a meeting will be held at the place, if any, and time so determined, for the purposes set forth in the stockholder's request, as well as any purpose or purposes determined by the Board of Directors in accordance with this Section 1.3.

1.4 Notice of Meetings.

(a) Written notice of each meeting of stockholders, whether annual or special, shall be given not less than 10 nor more than 60 days before the date on which the meeting is to be held, to each stockholder entitled to vote at such meeting, except as otherwise provided herein or as required by law (meaning here and hereafter, as required from time to time by the Delaware General Corporation Law or the Certificate of Incorporation). The notice of any meeting shall state the place, if any, date and hour of the meeting, and the means of remote communication, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such meeting. The notice of a special meeting shall state, in addition, the purpose or purposes for which the meeting is called. If mailed, notice is given when deposited in the United States mail, postage prepaid, directed to the stockholder at his address as it appears on the records of the corporation.

(b) Notice to stockholders may be given by personal delivery, mail, or, with the consent of the stockholder entitled to receive notice, by facsimile or other means of electronic transmission. If mailed, such notice shall be delivered by postage prepaid envelope directed to each stockholder at such stockholder's address as it appears in the records of the corporation and shall be deemed given when deposited in the United States mail. Notice given by electronic transmission pursuant to this subsection shall be deemed given: (1) if by facsimile telecommunication, when directed to a facsimile telecommunication number at which the stockholder has consented to receive notice; (2) if by electronic mail, when directed to an electronic mail address at which the stockholder has consented to receive notice; (3) if by posting on an electronic network together with separate notice to the stockholder of such specific posting, upon the later of (A) such posting and (B) the giving of such separate notice; and (4) if by any other form of electronic transmission, when directed to the stockholder. An affidavit of the secretary or an assistant secretary or of the transfer agent or other agent of the corporation that the notice has been given by personal delivery, by mail, or by a form of electronic transmission shall, in the absence of fraud, be prima facie evidence of the facts stated therein.

(c) Notice of any meeting of stockholders need not be given to any stockholder if waived by such stockholder either in a writing signed by such stockholder or by electronic transmission, whether such waiver is given before or after such meeting is held. If such a waiver is given by electronic transmission, the electronic transmission must either set forth or be submitted with information from which it can be determined that the electronic transmission was authorized by the stockholder.

1.5 Voting List. The officer who has charge of the stock ledger of the corporation shall prepare, at least 10 days before each meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting, arranged in alphabetical order for each class of stock and showing the address of each stockholder and the number of shares registered in the name of each stockholder. Such list shall be open to the examination of any such stockholder, for any purpose germane to the meeting, during ordinary business hours, for a period of at least 10 days prior to the meeting, in the manner provided by law. The list shall also be produced and kept at the time and place of the meeting during the whole time of the meeting, and may be inspected by any stockholder who is present. This list shall determine the identity of the stockholders entitled to vote at the meeting and the number of shares held by each of them.

1.6 Quorum. Except as otherwise provided by law or these Bylaws, the holders of a majority of the shares of the capital stock of the corporation entitled to vote at the meeting, present in person or represented by proxy, shall constitute a quorum for the transaction of business. Where a separate class vote by a class or classes or series is required, a majority of the shares of such class or classes or series present in person or represented by proxy shall constitute a quorum entitled to take action with respect to that vote on that matter.

1 . 7 Adjournments. Any meeting of stockholders may be adjourned to any other time and to any other place at which a meeting of stockholders may be held under these Bylaws by the chairman of the meeting or, in the absence of such person, by any officer entitled to preside at or to act as secretary of such meeting, or by the holders of a majority of the shares of stock present or represented at the meeting and entitled to vote, although less than a quorum. When a meeting is adjourned to another place, date or time, written notice need not be given of the adjourned meeting if the date, time, and place, if any, thereof, and the means of remote communication, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such adjourned meeting, are announced at the meeting at which the adjournment is taken; provided, however, that if the date of any adjourned meeting is more than 30 days after the date for which the meeting was originally noticed, or if a new record date is fixed for the adjourned meeting, written notice of the place, if any, date, and time of the adjourned meeting and the means of remote communications, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such adjourned meeting, shall be given in conformity herewith. At the adjourned meeting, the corporation may transact any business which might have been transacted at the original meeting.

1.8 Voting and Proxies. Each stockholder shall have one vote for each share of stock entitled to vote held of record by such stockholder and a proportionate vote for each fractional share so held, unless otherwise provided by law or in the Certificate of Incorporation. Each stockholder of record entitled to vote at a meeting of stockholders may vote in person or may authorize any other person or persons to vote or act for him by written proxy executed by the stockholder or his authorized agent or by a transmission permitted by law and delivered to the Secretary of the corporation. Any copy, facsimile transmission or other reliable reproduction of the writing or transmission created pursuant to this Section may be substituted or used in lieu of the original writing or transmission for any and all purposes for which the original writing or transmission could be used, provided that such copy, facsimile transmission or other reproduction shall be a complete reproduction of the entire original writing or transmission.

1.9 Action at Meeting. When a quorum is present at any meeting, any election of directors shall be determined by a plurality of the votes cast by the stockholders entitled to vote at the election, and any other matter shall be determined by a majority in voting power of the shares entitled to vote on the matter (or if there are two or more classes of stock entitled to vote as separate classes, then in the case of each such class, a majority of the shares of each such class entitled to vote on the matter) shall decide such matter, except when a different vote is required by express provision of law, the Certificate of Incorporation or these Bylaws.

All voting, including on the election of directors, but excepting where otherwise required by law, may be by a voice vote; provided, however, that upon demand therefor by a stockholder entitled to vote or his or her proxy, a vote by ballot shall be taken. Each ballot shall state the name of the stockholder or proxy voting and such other information as may be required under the procedure established for the meeting. The corporation may, and to the extent required by law, shall, in advance of any meeting of stockholders, appoint one or more inspectors to act at the meeting and make a written report thereof. The corporation may designate one or more persons as an alternate inspector to replace any inspector who fails to act. If no inspector or alternate is able to act at a meeting of stockholders, the person presiding at the meeting may, and to the extent required by law, shall, appoint one or more inspectors to act at the meeting. Each inspector, before entering upon the discharge of his duties, shall take and sign an oath to faithfully execute the duties of inspector with strict impartiality and according to the best of his or her ability.

1.10 Conduct of Business. At every meeting of the stockholders, the Chairman of the Board, or, in his or her absence, the President, or, in his or her absence, such other person as may be appointed by the Board of Directors, shall act as chairman. The Secretary of the corporation or a person designated by the chairman of the meeting shall act as secretary of the meeting. Unless otherwise approved by the chairman of the meeting, attendance at the stockholders' meeting is restricted to stockholders of record, persons authorized in accordance with Section 1.8 of these Bylaws to act by proxy, and officers of the corporation.

The chairman of the meeting shall call the meeting to order, establish the agenda, and conduct the business of the meeting in accordance therewith or, at the chairman's discretion, it may be conducted otherwise in accordance with the wishes of the stockholders in attendance. The date and time of the opening and closing of the polls for each matter upon which the stockholders will vote at the meeting shall be announced at the meeting.

The chairman shall also conduct the meeting in an orderly manner, rule on the precedence of, and procedure on, motions and other procedural matters, and exercise discretion with respect to such procedural matters with fairness and good faith toward all those entitled to take part. Without limiting the foregoing, the chairman may (a) restrict attendance at any time to bona fide stockholders of record and their proxies and other persons in attendance at the invitation of the presiding officer or Board of Directors, (b) restrict use of audio or video recording devices at the meeting, and (c) impose reasonable limits on the amount of time taken up at the meeting on discussion in general or on remarks by any one stockholder. Should any person in attendance become unruly or obstruct the meeting proceedings, the chairman shall have the power to have such person removed from the meeting. Notwithstanding anything in the Bylaws to the contrary, no business shall be conducted at a meeting except in accordance with the procedures set forth in this Section 1.10. The chairman of a meeting may determine and declare to the meeting that any proposed item of business was not brought before the meeting in accordance with the provisions of this Section 1.10 and Section 1.9, and if he should so determine, he shall so declare to the meeting and any such business not properly brought before the meeting shall not be transacted.

1.11 Stockholder Action Without Meeting. Any action which may be taken at any annual or special meeting of stockholders may be taken without a meeting and without prior notice, if a consent in writing, setting forth the actions so taken, is signed by the holders of outstanding shares having not less than the minimum number of votes which would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted. All such consents shall be filed with the Secretary of the corporation and shall be maintained in the corporate records. Prompt notice of the taking of a corporate action without a meeting by less than unanimous written consent shall be given to those stockholders who have not consented in writing.

An electronic transmission consenting to an action to be taken and transmitted by a stockholder, or by a proxy holder or other person authorized to act for a stockholder, shall be deemed to be written, signed and dated for the purpose of this Section 1.11, provided that such electronic transmission sets forth or is delivered with information from which the corporation can determine (i) that the electronic transmission was transmitted by the stockholder or by a person authorized to act for the stockholder and (ii) the date on which such stockholder or authorized person transmitted such electronic transmission. The date on which such electronic transmission is transmitted shall be deemed to be the date on which such consent was signed. No consent given by electronic transmission shall be deemed to have been delivered until such consent is reproduced in paper form and until such paper form shall be delivered to the corporation by delivery to its registered office in the State of Delaware, its principal place of business or an officer or agent of the corporation having custody of the books in which proceedings of meetings of stockholders are recorded.

1 . 1 2 Meetings by Remote Communication. If authorized by the Board of Directors, and subject to such guidelines and procedures as the Board may adopt, stockholders and proxy holders not physically present at a meeting of stockholders may, by means of remote communication, participate in the meeting and be deemed present in person and vote at the meeting, whether such meeting is to be held at a designated place or solely by means of remote communication, provided that (i) the corporation shall implement reasonable measures to verify that each person deemed present and permitted to vote at the meeting by means of remote communication is a stockholder or proxy holder, (ii) the corporation shall implement reasonable measures to provide such stockholders and proxy holders a reasonable opportunity to participate in the meeting and to

vote on matters submitted to the stockholders, including an opportunity to read or hear the proceedings of the meeting substantially concurrently with such proceedings, and (iii) if any stockholder or proxy holder votes or takes other action at the meeting by means of remote communication, a record of such vote or other action shall be maintained by the corporation.

ARTICLE II
BOARD OF DIRECTORS

2.1 General Powers. The business and affairs of the corporation shall be managed by or under the direction of a Board of Directors, who may exercise all of the powers of the corporation except as otherwise provided by law or the Certificate of Incorporation. In the event of a vacancy in the Board of Directors, the remaining directors, except as otherwise provided by law, may exercise the powers of the full Board until the vacancy is filled.

2.2 Number and Term of Office. Subject to the rights of the holders of any series of preferred stock to elect directors under specified circumstances, the number of directors shall initially be two (2) and, thereafter, shall be fixed from time to time exclusively by the Board of Directors pursuant to a resolution adopted by a majority of the total number of authorized directors (whether or not there exist any vacancies in previously authorized directorships at the time any such resolution is presented to the Board for adoption). All directors shall hold office until the expiration of the term for which elected and until their respective successors are elected, except in the case of the death, resignation or removal of any director.

2.3 Vacancies and Newly Created Directorships. Subject to the rights of the holders of any series of Preferred Stock then outstanding, newly created directorships resulting from any increase in the authorized number of directors or any vacancies in the Board of Directors resulting from death, resignation, retirement, disqualification or other cause (including removal from office by a vote of the stockholders) may be filled only by a majority vote of the directors then in office, though less than a quorum (and not by stockholders), or by the sole remaining director, or, to the extent required by the Certificate of Incorporation, by the stockholders, and directors so chosen shall hold office for a term expiring at the next annual meeting of stockholders at which the term of office of the class to which they have been elected expires or until such director's successor shall have been duly elected and qualified. No decrease in the number of authorized directors shall shorten the term of any incumbent director.

2.4 Resignation. Any director may resign by delivering notice in writing or by electronic transmission to the President, Chairman of the Board or Secretary. Such resignation shall be effective upon receipt unless it is specified to be effective at some other time or upon the happening of some other event.

2.5 Removal. Subject to the rights of the holders of any series of Preferred Stock then outstanding, any directors, or the entire Board of Directors, may be removed from office at any time, with or without cause, by the affirmative vote of the holders of a majority of the voting power of all of the outstanding shares of capital stock entitled to vote generally in the election of directors, voting together as a single class.

2.6 Regular Meetings. Regular meetings of the Board of Directors may be held without notice at such time and place, either within or without the State of Delaware, as shall be determined from time to time by the Board of Directors; provided that any director who is absent when such a determination is made shall be given notice of the determination. A regular meeting of the Board of Directors may be held without notice immediately after and at the same place as the annual meeting of stockholders.

2.7 Special Meetings. Special meetings of the Board of Directors may be called by the Chairman of the Board, the President or two or more directors and may be held at any time and place, within or without the State of Delaware.

2.8 Notice of Special Meetings. Notice of any special meeting of directors shall be given to each director by whom it is not waived by the Secretary or by the officer or one of the directors calling the meeting. Notice shall be duly given to each director by (i) giving notice to such director in person or by telephone, electronic transmission or voice message system at least 24 hours in advance of the meeting, (ii) sending a facsimile to his last known facsimile number, or delivering written notice by hand to his last known business or home address, at least 24 hours in advance of the meeting, or (iii) mailing written notice to his last known business or home address at least three days in advance of the meeting. A notice or waiver of notice of a meeting of the Board of Directors need not specify the purposes of the meeting. Unless otherwise indicated in the notice thereof, any and all business may be transacted at a special meeting.

2.9 Participation in Meetings by Telephone Conference Calls or Other Methods of Communication. Directors or any members of any committee designated by the directors may participate in a meeting of the Board of Directors or such committee by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and participation by such means shall constitute presence in person at such meeting.

2.10 Quorum. A majority of the total number of authorized directors shall constitute a quorum at any meeting of the Board of Directors. In the absence of a quorum at any such meeting, a majority of the directors present may adjourn the meeting from time to time without further notice other than announcement at the meeting, until a quorum shall be present. Interested directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors or at a meeting of a committee which authorizes a particular contract or transaction.

2.11 Action at Meeting. At any meeting of the Board of Directors at which a quorum is present, the vote of a majority of those present shall be sufficient to take any action, unless a different vote is specified by law, the Certificate of Incorporation or these Bylaws.

2.12 Action by Written Consent. Any action required or permitted to be taken at any meeting of the Board of Directors or of any committee of the Board of Directors may be taken without a meeting if all members of the Board or committee, as the case may be, consent to the action in writing or by electronic transmission, and the writings or electronic transmissions are filed with the minutes of proceedings of the Board or committee. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

2.13 Committees. The Board of Directors may designate one or more committees, each committee to consist of one or more of the directors of the corporation, with such lawfully delegated powers and duties as it therefor confers, to serve at the pleasure of the Board. The Board may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of a member of a committee, the member or members of the committee present at any meeting and not disqualified from voting, whether or not he or they constitute a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in the place of any such absent or disqualified member. Any such committee, to the extent provided in the resolution of the Board of Directors and subject to the provisions of the Delaware General Corporation Law, shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the corporation and may authorize the seal of the corporation to be affixed to all papers which may require it. Each such committee shall keep minutes and make such reports as the Board of Directors may from time to time request. Except as the Board of Directors may otherwise determine, any committee may make rules for the conduct of its business, but unless otherwise provided by such rules, its business shall be conducted as nearly as possible in the same manner as is provided in these Bylaws for the Board of Directors.

2.14 Compensation of Directors. Directors may be paid such compensation for their services and such reimbursement for expenses of attendance at meetings as the Board of Directors may from time to time determine. No such payment shall preclude any director from serving the corporation or any of its parent or subsidiary corporations in any other capacity and receiving compensation for such service.

2.15 Nomination of Director Candidates. Subject to the rights of holders of any class or series of Preferred Stock then outstanding, nominations for the election of Directors may be made by (i) the Board of Directors or a duly authorized committee thereof or (ii) any stockholder entitled to vote in the election of Directors.

ARTICLE III
OFFICERS

3.1 Enumeration. The officers of the corporation shall consist of a Chief Executive Officer, a President, a Secretary, a Treasurer, a Chief Financial Officer and such other officers with such other titles as the Board of Directors shall determine, including, at the discretion of the Board of Directors, a Chairman of the Board and one or more Vice Presidents and Assistant Secretaries. The Board of Directors may appoint such other officers as it may deem appropriate.

3.2 Election. Officers shall be elected annually by the Board of Directors at its first meeting following the annual meeting of stockholders. Officers may be appointed by the Board of Directors at any other meeting.

3.3 Qualification. No officer need be a stockholder. Any two or more offices may be held by the same person.

3.4 Tenure. Except as otherwise provided by law, by the Certificate of Incorporation or by these Bylaws, each officer shall hold office until his successor is elected and qualified, unless a different term is specified in the vote appointing him, or until his earlier death, resignation or removal.

3.5 Resignation and Removal. Any officer may resign by delivering his written resignation to the corporation at its principal office or to the President or Secretary. Such resignation shall be effective upon receipt unless it is specified to be effective at some other time or upon the happening of some other event. Any officer elected by the Board of Directors may be removed at any time, with or without cause, by the Board of Directors.

3.6 Chairman of the Board. The Board of Directors may appoint a Chairman of the Board. If the Board of Directors appoints a Chairman of the Board, he shall perform such duties and possess such powers as are assigned to him by the Board of Directors. Unless otherwise provided by the Board of Directors, he shall preside at all meetings of the Board of Directors.

3.7 Chief Executive Officer. The Chief Executive Officer of the corporation shall, subject to the direction of the Board of Directors, have general supervision, direction and control of the business and the officers of the corporation. He shall preside at all meetings of the stockholders and, in the absence or nonexistence of a Chairman of the Board, at all meetings of the Board of Directors. He shall have the general powers and duties of management usually vested in the chief executive officer of a corporation, including general supervision, direction and control of the business and supervision of other officers of the corporation, and shall have such other powers and duties as may be prescribed by the Board of Directors or these Bylaws.

3.8 President. Subject to the direction of the Board of Directors and such supervisory powers as may be given by these Bylaws or the Board of Directors to the Chairman of the Board or the Chief Executive Officer, if such titles be held by other officers, the President shall have general supervision, direction and control of the business and supervision of other officers of the corporation. Unless otherwise designated by the Board of Directors, the President shall be the Chief Executive Officer of the corporation. The President shall have such other powers and duties as may be prescribed by the Board of Directors or these Bylaws. He or she shall have power to sign stock certificates, contracts and other instruments of the corporation which are authorized and shall have general supervision and direction of all of the other officers, employees and agents of the corporation, other than the Chairman of the Board and the Chief Executive Officer.

3.9 Vice Presidents. Any Vice President shall perform such duties and possess such powers as the Board of Directors or the President may from time to time prescribe. In the event of the absence, inability or refusal to act of the President, the Vice President (or if there shall be more than one, the Vice Presidents in the order determined by the Board of Directors) shall perform the duties of the President and when so performing shall have at the powers of and be subject to all the restrictions upon the President. The Board of Directors may assign to any Vice President the title of Executive Vice President, Senior Vice President or any other title selected by the Board of Directors.

3.10 Secretary and Assistant Secretaries. The Secretary shall perform such duties and shall have such powers as the Board of Directors or the President may from time to time prescribe. In addition, the Secretary shall perform such duties and have such powers as are incident to the office of the Secretary, including, without limitation, the duty and power to give notices of all meetings of stockholders and special meetings of the Board of Directors, to keep a record of the proceedings of all meetings of stockholders and the Board of Directors, to maintain a stock ledger and prepare lists of stockholders and their addresses as required, to be custodian of corporate records and the corporate seal and to affix and attest to the same on documents.

Any Assistant Secretary shall perform such duties and possess such powers as the Board of Directors, the Chief Executive Officer, the President or the Secretary may from time to time prescribe. In the event of the absence, inability or refusal to act of the Secretary, the Assistant Secretary (or if there shall be more than one, the Assistant Secretaries in the order determined by the Board of Directors) shall perform the duties and exercise the powers of the Secretary.

In the absence of the Secretary or any Assistant Secretary at any meeting of stockholders or directors, the person presiding at the meeting shall designate a temporary secretary to keep a record of the meeting.

3.11 Treasurer. The Treasurer shall perform such duties and have such powers as are incident to the office of treasurer, including without limitation, the duty and power to keep and be responsible for all funds and securities of the corporation, to maintain the financial records of the corporation, to deposit funds of the corporation in depositories as authorized, to disburse such funds as authorized, to make proper accounts of such funds, and to render as required by the Board of Directors accounts of all such transactions and of the financial condition of the corporation.

3.12 Chief Financial Officer. The Chief Financial Officer shall perform such duties and shall have such powers as may from time to time be assigned to him by the Board of Directors, the Chief Executive Officer or the President. Unless otherwise designated by the Board of Directors, the Chief Financial Officer shall be the Treasurer of the corporation.

3.13 Salaries. Officers of the corporation shall be entitled to such salaries, compensation or reimbursement as shall be fixed or allowed from time to time by the Board of Directors.

3.14 Delegation of Authority. The Board of Directors may from time to time delegate the powers or duties of any officer to any other officers or agents, notwithstanding any provision hereof.

ARTICLE IV
CAPITAL STOCK

4.1 Issuance of Stock. Subject to the provisions of the Certificate of Incorporation, the whole or any part of any unissued balance of the authorized capital stock of the corporation or the whole or any part of any unissued balance of the authorized capital stock of the corporation held in its treasury may be issued, sold, transferred or otherwise disposed of by vote of the Board of Directors in such manner, for such consideration and on such terms as the Board of Directors may determine.

4.2 Certificates of Stock. The shares of the corporation shall be represented by certificates, provided that the Board of Directors may provide by resolution or resolutions that some or all of any class or series of its stock shall be uncertificated shares; provided, however, that no such resolution shall apply to shares represented by a certificate until such certificate is surrendered to the corporation. Every holder of stock of the corporation represented by certificates shall be entitled to have a certificate, in such form as may be prescribed by law and by the Board of Directors, certifying the number and class of shares owned by him in the corporation. Each such certificate shall be signed by, or in the name of the corporation by, the Chairman or Vice Chairman, if any, of the Board of Directors, or the President or a Vice President, and the Treasurer or an Assistant Treasurer, or the Secretary or an Assistant Secretary of the corporation. Any or all of the signatures on the certificate may be a facsimile.

Each certificate for shares of stock which are subject to any restriction on transfer pursuant to the Certificate of Incorporation, the Bylaws, applicable securities laws or any agreement among any number of shareholders or among such holders and the corporation shall have conspicuously noted on the face or back of the certificate either the full text of the restriction or a statement of the existence of such restriction.

4.3 Transfers. Except as otherwise established by rules and regulations adopted by the Board of Directors, and subject to applicable law, shares of stock may be transferred on the books of the corporation: (i) in the case of shares represented by a certificate, by the surrender to the corporation or its transfer agent of the certificate representing such shares properly endorsed or accompanied by a written assignment or power of attorney properly executed, and with such proof of authority or authenticity of signature as the corporation or its transfer agent may reasonably require; and (ii) in the case of uncertificated shares, upon the receipt of proper transfer instructions from the registered owner thereof. Except as may be otherwise required by law, the Certificate of Incorporation or the Bylaws, the corporation shall be entitled to treat the record holder of stock as shown on its books as the owner of such stock for all purposes, including the payment of dividends and the right to vote with respect to such stock, regardless of any transfer, pledge or other disposition of such stock until the shares have been transferred on the books of the corporation in accordance with the requirements of these Bylaws.

4.4 Lost, Stolen or Destroyed Certificates. The corporation may issue a new certificate of stock in place of any previously issued certificate alleged to have been lost, stolen, or destroyed, or it may issue uncertificated shares if the shares represented by such certificate have been designated as uncertificated shares in accordance with Section 4.2, upon such terms and conditions as the Board of Directors may prescribe, including the presentation of reasonable evidence of such loss, theft or destruction and the giving of such indemnity as the Board of Directors may require for the protection of the corporation or any transfer agent or registrar.

4.5 Record Date. The Board of Directors may fix in advance a record date for the determination of the stockholders entitled to notice of or to vote at any meeting of stockholders or to express consent to corporate action in writing without a meeting, or entitled to receive payment of any dividend or other distribution or allotment of any rights in respect of any change, concession or exchange of stock, or for the purpose of any other lawful action. Such record date shall not precede the date on which the resolution fixing the record date is adopted and shall not be more than 60 nor less than 10 days before the date of such meeting, nor more than 60 days prior to any other action to which such record date relates.

If no record date is fixed by the Board of Directors, the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day before the day on which notice is given, or, if notice is waived, at the close of business on the day before the day on which the meeting is held. If no record date is fixed by the Board of Directors, the record date for determining stockholders entitled to express consent to corporate action in writing without a meeting when no prior action by the Board of Directors is necessary shall be the day on which the first written consent is expressed. The record date for determining stockholders for any other purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating to such purpose.

A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board of Directors may fix a new record date for the adjourned meeting.

ARTICLE V
GENERAL PROVISIONS

5.1 Fiscal Year. The fiscal year of the corporation shall be as fixed by the Board of Directors.

5.2 Corporate Seal. The corporate seal shall be in such form as shall be approved by the Board of Directors.

5.3 Waiver of Notice. Whenever any notice whatsoever is required to be given by law, by the Certificate of Incorporation or by these Bylaws, a waiver of such notice either in writing signed by the person entitled to such notice or such person's duly authorized attorney, or by electronic transmission or any other method permitted under the Delaware General Corporation Law, whether before, at or after the time stated in such waiver, or the appearance of such person or persons at such meeting in person or by proxy, shall be deemed equivalent to such notice. Neither the business nor the purpose of any meeting need be specified in such a waiver. Attendance at any meeting shall constitute waiver of notice except attendance for the sole purpose of objecting to the timeliness of notice.

5.4 Actions with Respect to Securities of Other Corporations. Except as the Board of Directors may otherwise designate, the Chief Executive Officer or President or any officer of the corporation authorized by the Chief Executive Officer or President shall have the power to vote and otherwise act on behalf of the corporation, in person or proxy, and may waive notice of, and act as, or appoint any person or persons to act as, proxy or attorney-in-fact to this corporation (with or without power of substitution) at any meeting of stockholders or shareholders (or with respect to any action of stockholders) of any other corporation or organization, the securities of which may be held by this

corporation and otherwise to exercise any and all rights and powers which this corporation may possess by reason of this corporation's ownership of securities in such other corporation or other organization.

5 . 5 Evidence of Authority. A certificate by the Secretary, or an Assistant Secretary, or a temporary Secretary, as to any action taken by the stockholders, directors, a committee or any officer or representative of the corporation shall as to all persons who rely on the certificate in good faith be conclusive evidence of such action.

5 . 6 Certificate of Incorporation. All references in these Bylaws to the Certificate of Incorporation shall be deemed to refer to the Certificate of Incorporation of the corporation, as amended and in effect from time to time.

5.7 Severability. Any determination that any provision of these Bylaws is for any reason inapplicable, illegal or ineffective shall not affect or invalidate any other provision of these Bylaws.

5.8 Pronouns. All pronouns used in these Bylaws shall be deemed to refer to the masculine, feminine or neuter, singular or plural, as the identity of the person or persons may require.

5.9 Notices. Except as otherwise specifically provided herein or required by law, all notices required to be given to any stockholder, director, officer, employee or agent shall be in writing and may in every instance be effectively given by hand delivery to the recipient thereof, by depositing such notice in the mails, postage paid, or by sending such notice by commercial courier service, or by facsimile or other electronic transmission, provided that notice to stockholders by electronic transmission shall be given in the manner provided in Section 232 of the Delaware General Corporation Law. Any such notice shall be addressed to such stockholder, director, officer, employee or agent at his or her last known address as the same appears on the books of the corporation. The time when such notice shall be deemed to be given shall be the time such notice is received by such stockholder, director, officer, employee or agent, or by any person accepting such notice on behalf of such person, if delivered by hand, facsimile, other electronic transmission or commercial courier service, or the time such notice is dispatched, if delivered through the mails. Without limiting the manner by which notice otherwise may be given effectively, notice to any stockholder shall be deemed given: (1) if by facsimile, when directed to a number at which the stockholder has consented to receive notice; (2) if by electronic mail, when directed to an electronic mail address at which the stockholder has consented to receive notice; (2) if by a posting on an electronic network together with separate notice to the stockholder of such specific posting, upon the later of (A) such posting and (B) the giving of such separate notice; (4) if by any other form of electronic transmission, when directed to the stockholder; and (5) if by mail, when deposited in the mail, postage prepaid, directed to the stockholder at such stockholder's address as it appears on the records of the corporation.

5 . 1 0 Reliance Upon Books, Reports and Records. Each director, each member of any committee designated by the Board of Directors, and each officer of the corporation shall, in the performance of his duties, be fully protected in relying in good faith upon the books of account or other records of the corporation as provided by law, including reports made to the corporation by any of its officers, by an independent certified public accountant, or by an appraiser selected with reasonable care.

5.11 Time Periods. In applying any provision of these Bylaws which require that an act be done or not done a specified number of days prior to an event or that an act be done during a period of a specified number of days prior to an event, calendar days shall be used, the day of the doing of the act shall be excluded, and the day of the event shall be included.

5 . 1 2 Facsimile Signatures. In addition to the provisions for use of facsimile signatures elsewhere specifically authorized in these Bylaws, facsimile signatures of any officer or officers of the corporation may be used whenever and as authorized by the Board of Directors or a committee thereof.

5 . 1 3 Annual Report. For so long as the corporation has fewer than 100 holders of record of its shares, the mandatory requirement of an annual report under Section 1501 of the California Corporations Code, to the extent that it might otherwise apply, is hereby expressly waived.

ARTICLE VI
AMENDMENTS

6 . 1 By the Board of Directors. Except as otherwise set forth in these Bylaws, and subject to the rights of the holders of any series of Preferred Stock then outstanding, these Bylaws may be altered, amended or repealed or new Bylaws may be adopted by the affirmative vote of a majority of the directors present at any regular or special meeting of the Board of Directors at which a quorum is present.

6.2 By the Stockholders. Except as otherwise set forth in these Bylaws, and subject to the rights of the holders of any series of Preferred Stock then outstanding, these Bylaws may be altered, amended or repealed or new Bylaws may be adopted by the affirmative vote of the holders of at least a majority of the voting power of all of the shares of capital stock of the corporation issued and outstanding and entitled to vote generally in any election of directors, voting together as a single class. Such vote may be held at any annual meeting of stockholders, or at any special meeting of stockholders provided that notice of such alteration, amendment, repeal or adoption of new Bylaws shall have been stated in the notice of such special meeting.

ARTICLE VII
INDEMNIFICATION OF DIRECTORS AND OFFICERS

7 . 1 Right to Indemnification. Each person who was or is made a party or is threatened to be made a party to or is involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative ("proceeding"), by reason of the fact that he or she or a person of whom he or she is the legal representative, is or was a director or officer of the corporation or is or was serving at the request of the corporation as a director or officer of another corporation, or as a controlling person of a partnership, joint venture, trust or other enterprise, including service with respect to employee benefit plans, whether the basis of such proceeding is alleged action in an official capacity as a director or officer, or in any other capacity while serving as a director or officer, shall be indemnified and held harmless by the corporation to the fullest extent authorized by the Delaware General Corporation Law, as the same exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the corporation to provide broader indemnification rights than said Law permitted the corporation to provide prior to such amendment) against all expenses, liability and loss reasonably incurred or suffered by such person in connection therewith and such indemnification shall continue as to a person who has ceased to be a director or officer and shall inure to the benefit of his or her heirs, executors and administrators; provided, however, that except as provided in Section 7.2 of this Article VII, the corporation shall indemnify any such person seeking indemnity in connection with a proceeding (or part thereof) initiated by such person only if (a) such indemnification is expressly required to be made by law, (b) the proceeding (or part thereof) was authorized by the Board of Directors of the corporation, (c) such indemnification is provided by the corporation, in its sole discretion, pursuant to the powers vested in the corporation under the Delaware General Corporation Law, or (d) the proceeding (or part thereof) is brought to establish or enforce a right to indemnification or advancement under an indemnity agreement or any other statute or law or otherwise as required under Section 145 of the Delaware General Corporation Law. The rights hereunder shall be contract rights and shall include the right to be paid expenses incurred in defending any such

proceeding in advance of its final disposition; provided, however, that the payment of such expenses incurred by a director or officer of the corporation in his or her capacity as a director or officer (and not in any other capacity in which service was or is tendered by such person while a director or officer, including, without limitation, service to an employee benefit plan) in advance of the final disposition of such proceeding, shall be made only upon delivery to the corporation of an undertaking, by or on behalf of such director or officer, to repay all amounts so advanced if it should be determined ultimately by final judicial decision from which there is no further right to appeal that such director or officer is not entitled to be indemnified under this Section or otherwise.

7.2 Right of Claimant to Bring Suit. If a claim under Section 7.1 is not paid in full by the corporation within 60 days after a written claim has been received by the corporation, or 20 days in the case of a claim for advancement of expenses, the claimant may at any time thereafter bring suit against the corporation to recover the unpaid amount of the claim and, if such suit is not frivolous or brought in bad faith, the claimant shall be entitled to be paid also the expense of prosecuting such claim. It shall be a defense to any such action (other than an action brought to enforce a claim for expenses incurred in defending any proceeding in advance of its final disposition where the required undertaking, if any, has been tendered to this corporation) that the claimant has not met the standards of conduct which make it permissible under the Delaware General Corporation Law for the corporation to indemnify the claimant for the amount claimed. Neither the failure of the corporation (including its Board of Directors, independent legal counsel, or its stockholders) to have made a determination prior to the commencement of such action that indemnification of the claimant is proper in the circumstances because he or she has met the applicable standard of conduct set forth in the Delaware General Corporation Law, nor an actual determination by the corporation (including its Board of Directors, independent legal counsel or its stockholders) that the claimant has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that claimant has not met the applicable standard of conduct. In any suit brought by the corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the corporation shall be entitled to recover such expenses upon a final judicial decision from which there is no further right to appeal that the indemnitee has not met any applicable standard for indemnification set forth in the Delaware General Corporation Law. In any suit brought by the indemnitee to enforce a right to indemnification or to an advancement of expenses hereunder, or brought by the corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the burden of proving that the indemnitee is not entitled to be indemnified, or to such advancement of expenses, shall be on the corporation.

7.3 Indemnification of Employees and Agents. The corporation may, to the extent authorized from time to time by the Board of Directors, grant rights to indemnification, and to the advancement of related expenses, to any employee or agent of the corporation to the fullest extent of the provisions of this Article with respect to the indemnification of and advancement of expenses to directors and officers of the corporation.

7.4 Non-Exclusivity of Rights. The rights conferred on any person in this Article VII shall not be exclusive of any other right which such persons may have or hereafter acquire under any statute, provision of the Certificate of Incorporation, bylaw, agreement, vote of stockholders or disinterested directors or otherwise.

7.5 Indemnification Contracts. The Board of Directors is authorized to enter into a contract with any director, officer, employee or agent of the corporation, or any person serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, including employee benefit plans, providing for indemnification rights equivalent to or, if the Board of Directors so determines, greater than, those provided for in this Article VII.

7.6 Insurance. The corporation may maintain insurance to the extent reasonably available, at its expense, to protect itself and any such director, officer, employee or agent of the corporation or another corporation, partnership, joint venture, trust or other enterprise against any such expense, liability or loss, whether or not the corporation would have the power to indemnify such person against such expense, liability or loss under the Delaware General Corporation Law.

7.7 Effect of Amendment. Any amendment, repeal or modification of any provision of this Article VII shall not adversely affect any right or protection of an indemnitee or his successor existing at the time of such amendment, repeal or modification.

CERTIFICATE OF SECRETARY

OF

DENIM.LA, INC.

(a Delaware corporation)

I, Corey Epstein, the Secretary of Denim.LA, Inc., a Delaware corporation (the “Corporation”), hereby certify that the Bylaws to which this Certificate is attached are the Bylaws of the Corporation.

Executed effective on this [___]th day of January, 2013.

Corey Epstein, Secretary

Exhibit 3.5

AMENDED AND RESTATED BYLAWS

OF

DIGITAL BRANDS GROUP, INC.

ARTICLE I
STOCKHOLDERS

1.1 Place of Meetings. All meetings of stockholders shall be held at such place (if any) within or without the State of Delaware as may be designated from time to time by the Board of Directors or the President and Chief Executive Officer. The Board of Directors may, in its sole discretion, determine that a meeting of stockholders shall not be held at any place, but may instead be held solely by means of remote communication as authorized by Section 211(a)(2) of the Delaware General Corporation Law. In the absence of any such designation or determination, stockholders' meetings shall be held at the registered office of the corporation.

1 . 2 Annual Meeting. The annual meeting of stockholders for the election of directors and for the transaction of such other business as may properly be brought before the meeting shall be held on such date, time and place, either within or without the State of Delaware, as may be designation by resolution of the Board of Directors each year

1 . 3 Special Meetings. Special meetings of stockholders may be called for any purpose or purposes prescribed in the notice of the meeting at any time by the majority of the Board of Directors then in office, the Chairman of the Board, the Chief Executive Officer or President or the stockholders of record holding an aggregate of at least 25% in voting power of the then outstanding shares of stock of the corporation entitled to vote, and may not be called by any other person or persons. In lieu of holding a special meeting of stockholders at a designated place, the Board of Directors may, in its sole discretion, determine that any special meeting of stockholders may be held solely by means of remote communication. Business transacted at any special meeting of stockholders shall be confined to the purpose or purposes stated in the notice of meeting. Upon request in writing sent by registered mail to the President or Chief Executive Officer by any stockholder or stockholders entitled to request a special meeting of stockholders pursuant to this Section 1.3, and containing the information required pursuant to Sections 1.11 and 2.15, as applicable, the Board of Directors shall determine a place and time for such meeting, which time shall be not less than 10 nor more than 30 days after the receipt of such request, and a record date for the determination of stockholders entitled to vote at such meeting shall be fixed by the Board of Directors, in advance, which shall not be more that 15 days nor less than 10 days before the date of such meeting. Following such receipt of a request and determination by the Secretary of the validity thereof, it shall be the duty of the Secretary to present the request to the Board of Directors, and upon Board action as provided in this Section 1.3, to cause notice to be given to the stockholders entitled to vote at such meeting, in the manner set forth in Section 1.4, hereof, that a meeting will be held at the place, if any, and time so determined, for the purposes set forth in the stockholder's request, as well as any purpose or purposes determined by the Board of Directors in accordance with this Section 1.3.

1.4 Notice of Meetings.

(a) Written notice of each meeting of stockholders, whether annual or special, shall be given not less than 10 nor more than 60 days before the date on which the meeting is to be held, to each stockholder entitled to vote at such meeting, except as otherwise provided herein or as required by law (meaning here and hereafter, as required from time to time by the Delaware General Corporation Law or the Certificate of Incorporation of the corporation, as amended from time to time (the "Certificate of Incorporation"). The notice of any meeting shall state the place, if any, date and hour of the meeting, and the means of remote communication, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such meeting. The notice of a special meeting shall state, in addition, the purpose or purposes for which the meeting is called. If mailed, notice is given when deposited in the United States mail, postage prepaid, directed to the stockholder at his address as it appears on the records of the corporation.

(b) Notice to stockholders may be given by personal delivery, mail, or, with the consent of the stockholder entitled to receive notice, by facsimile or other means of electronic transmission. If mailed, such notice shall be delivered by postage prepaid envelope directed to each stockholder at such stockholder's address as it appears in the records of the corporation and shall be deemed given when deposited in the United States mail. Without limiting the manner by which notice otherwise may be given effectively to stockholders, any notice to stockholders may be given by electronic mail or other electronic transmission, in the manner provided in Section 232 of the Delaware General Corporation Law. An affidavit of the secretary or an assistant secretary or of the transfer agent or other agent of the corporation that the notice has been given by personal delivery, by mail, or by a form of electronic transmission shall, in the absence of fraud, be prima facie evidence of the facts stated therein.

(c) Notice of any meeting of stockholders need not be given to any stockholder if waived by such stockholder either in a writing signed by such stockholder or by electronic transmission, whether such waiver is given before or after such meeting is held. If such a waiver is given by electronic transmission, the electronic transmission must either set forth or be submitted with information from which it can be determined that the electronic transmission was authorized by the stockholder.

1.5 Record Date for Stockholder Notice.

(a) In order that the corporation may determine the stockholders entitled to notice of any meeting of stockholders or any adjournment thereof, or entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of stock or for the purpose of any other lawful action, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors, and which record date: (1) in the case of determination of stockholders entitled to notice of any meeting of stockholders or any adjournment thereof, shall, unless otherwise required by law, not be more than 60 nor less than 10 days before the date of such meeting and, unless the Board of Directors determines, at the time it fixes such record date, that a later date on or before the date of the meeting shall be the date for determining the stockholders entitled to vote at such meeting, the record date for determining the stockholders entitled to notice of such meeting shall also be the record date for determining the stockholders entitled to vote at such meeting; and (2) in the case of any other action, shall not be more than 60 days prior to such other action.

(b) If the Board of Directors does not so fixed a record date: (1) the record date for determining stockholders entitled to notice of and to vote at a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given, or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held; and (2) the record date for determining stockholders for any other purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating thereto.

A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board of Directors may fix a new record date for the determination of stockholders entitled to vote at the adjourned meeting, and in such case shall also fix as the record date for the stockholders entitled to notice of such adjourned meeting the same or an earlier date as that fixed for the determination of stockholders entitled to vote in accordance with the foregoing provisions of this Section 1.5 at the adjourned meeting.

1.6 Voting List. The officer who has charge of the stock ledger of the corporation shall prepare, at least 10 days before each meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting, arranged in alphabetical order for each class of stock and showing the address of each stockholder and the number of shares registered in the name of each stockholder. Such list shall be open to the examination of any such stockholder, for any purpose germane to the meeting, during ordinary business hours, for a period of at least 10 days prior to the meeting, in the manner provided by law. The list shall also be produced and kept at the time and place of the meeting during the whole time of the meeting, and may be inspected by any stockholder who is present. This list shall determine the identity of the stockholders entitled to vote at the meeting and the number of shares held by each of them.

1.7 Quorum. Except as otherwise provided by law or these Bylaws, the holders of a majority of the shares of the capital stock of the corporation issued and outstanding and entitled to vote at the meeting, present in person or represented by proxy, shall constitute a quorum at all meetings for the transaction of business except as otherwise provided by statute or by the certificate of incorporation. If, however, such quorum is not present or represented at any meeting of the stockholders, then either (a) the chairperson of the meeting or (b) holders of a majority of the shares of stock entitled to vote who are present, in person or by proxy, shall have the power to adjourn the meeting to another place, if any, date or time. Where a separate class vote by a class or classes or series is required, a majority of the shares of such class or classes or series present in person or represented by proxy shall constitute a quorum entitled to take action with respect to that vote on that matter.

1.8 Adjournments. When a meeting is adjourned to another place, date or time, written notice need not be given of the adjourned meeting if the date, time, and place, if any, thereof, and the means of remote communication, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such adjourned meeting, are announced at the meeting at which the adjournment is taken; provided, however, that if the date of any adjourned meeting is more than 30 days after the date for which the meeting was originally noticed, or if a new record date is fixed for the adjourned meeting, written notice of the place, if any, date, and time of the adjourned meeting and the means of remote communications, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such adjourned meeting, shall be given in conformity herewith. At the adjourned meeting, the corporation may transact any business which might have been transacted at the original meeting.

1.9 Voting and Proxies. Each stockholder shall have one vote for each share of stock entitled to vote held of record by such stockholder unless otherwise provided by law or in the Certificate of Incorporation. Each stockholder of record entitled to vote at a meeting of stockholders may vote in person or may authorize any other person or persons to vote or act for him by written proxy executed by the stockholder or his authorized agent or by a transmission permitted by law and delivered to the Secretary of the corporation. A proxy shall be deemed signed if the stockholder's name is placed on the proxy (whether by manual signature, typewriting, facsimile, electronic or telegraphic transmission or otherwise) by the stockholder or the stockholder's attorney-in-fact, provided that such copy, facsimile transmission or other reproduction shall be a complete reproduction of the entire original writing or transmission. The revocability of a proxy that states on its face that it is irrevocable shall be governed by the provisions of Section 212(e) of the Delaware General Corporation Law.

1.10 Action at Meeting. When a quorum is present at any meeting, all elections of directors shall be determined by a plurality of the votes cast by the stockholders entitled to vote at the election, and any other matter shall be determined by a majority in voting power of the shares entitled to vote on the matter (or if there are two or more classes of stock entitled to vote as separate classes, then in the case of each such class, a majority of the shares of each such class entitled to vote on the matter) shall decide such matter, except when a different vote is required by express provision of law, the Certificate of Incorporation or these Bylaws.

All voting, including on the election of directors, but excepting where otherwise required by law, may be by a voice vote; provided, however, that upon demand therefor by a stockholder entitled to vote or his or her proxy, a vote by ballot shall be taken. Each ballot shall state the name of the stockholder or proxy voting and such other information as may be required under the procedure established for the meeting. The corporation may, and to the extent required by law, shall, in advance of any meeting of stockholders, appoint one or more inspectors to act at the meeting and make a written report thereof. The corporation may designate one or more persons as an alternate inspector to replace any inspector who fails to act. If no inspector or alternate is able to act at a meeting of stockholders, the person presiding at the meeting may, and to the extent required by law, shall, appoint one or more inspectors to act at the meeting. Each inspector, before entering upon the discharge of his duties, shall take and sign an oath to faithfully execute the duties of inspector with strict impartiality and according to the best of his or her ability.

1.11 Conduct of Business. At every meeting of the stockholders, the Chairman of the Board, or, in his or her absence, the President, or, in his or her absence, such other person as may be appointed by the Board of Directors, shall act as chairman. The Secretary of the corporation or a person designated by the chairman of the meeting shall act as secretary of the meeting. Unless otherwise approved by the chairman of the meeting, attendance at the stockholders' meeting is restricted to stockholders of record, persons authorized in accordance with Section 1.9 of these Bylaws to act by proxy, and officers of the corporation.

The chairman of the meeting shall call the meeting to order, establish the agenda, and conduct the business of the meeting in accordance therewith or, at the chairman's discretion, it may be conducted otherwise in accordance with the wishes of the stockholders in attendance. The date and time of the opening and closing of the polls for each matter upon which the stockholders will vote at the meeting shall be announced at the meeting.

The chairman shall also conduct the meeting in an orderly manner, rule on the precedence of, and procedure on, motions and other procedural matters, and exercise discretion with respect to such procedural matters with fairness and good faith toward all those entitled to take part. Without limiting the foregoing, the chairman may (a) restrict attendance at any time to bona fide stockholders of record and their proxies and other persons in attendance at the invitation of the presiding officer or Board of Directors, (b) restrict use of audio or video recording devices at the meeting, and (c) impose reasonable limits on the amount of time taken up at the meeting on discussion in general or on remarks by any one stockholder. Should any person in attendance become unruly or obstruct the meeting proceedings, the chairman shall have the power to have such person removed from the meeting. Notwithstanding anything in the Bylaws to the contrary, no business shall be conducted at a meeting except in accordance with the procedures set forth in this Section 1.11. The chairman of a meeting may determine and declare to the meeting that any proposed item of business was not brought before the meeting in accordance with the provisions of this Section 1.11 and Section 1.10, and if he should so determine, he shall so declare to the meeting and any such business not properly brought before the meeting shall not be transacted.

1.12 Stockholder Action Without Meeting. Subject to the terms of any series of Preferred Stock or unless otherwise approved in advance by the Board, any action required or permitted to be taken by the stockholders of the corporation must be effected at an annual or special meeting of the stockholders called in accordance with the Bylaws and may not be effected by written consent in lieu of a meeting.

1.13 Meetings by Remote Communication. If authorized by the Board of Directors, and subject to such guidelines and procedures as the Board may adopt, stockholders and proxy holders not physically present at a meeting of stockholders may, by means of remote communication, participate in the meeting and be deemed present in person and vote at the meeting, whether such meeting is to be held at a designated place or solely by means of remote communication, provided that (i) the corporation shall implement reasonable measures to verify that each person deemed present and permitted to vote at the meeting by means of remote communication is a stockholder or proxy holder, (ii) the corporation shall implement reasonable measures to provide such stockholders and proxy holders a reasonable opportunity to participate in the meeting and to vote on matters submitted to the stockholders, including an opportunity to read or hear the proceedings of the meeting substantially concurrently with such proceedings, and (iii) if any stockholder or proxy holder votes or takes other action at the meeting by means of remote communication, a record of such vote or other action shall be maintained by the corporation.

ARTICLE II
BOARD OF DIRECTORS

2.1 General Powers. The business and affairs of the corporation shall be managed by or under the direction of a Board of Directors, who may exercise all of the powers of the corporation except as otherwise provided by law or the Certificate of Incorporation. In the event of a vacancy in the Board of Directors, the remaining directors, except as otherwise provided by law, may exercise the powers of the full Board until the vacancy is filled.

2.2 Number and Term of Office. The Board of Directors shall consist of one (1) or more members. Subject to the rights of the holders of any series of preferred stock to elect directors under specified circumstances, the number of directors shall be fixed from time to time solely by resolution of the majority of the Board of Directors. All directors shall hold office until the expiration of the term for which elected and until their respective successors are elected, except in the case of the death, resignation or removal of any director.

2.3 Vacancies and Newly Created Directorships. Subject to the rights of the holders of any series of Preferred Stock then outstanding, newly created directorships resulting from any increase in the authorized number of directors or any vacancies in the Board of Directors resulting from death, resignation, retirement, disqualification or other cause (including removal from office by a vote of the stockholders) may be filled only by the affirmative vote of a majority of the total number of directors then in office, though less than a quorum (and not by stockholders), or by the sole remaining director, or, to the extent required by the Certificate of Incorporation, and directors so chosen shall hold office for a term expiring at the next annual meeting of stockholders at which the term of office of the class to which they have been elected expires or until such director's successor shall have been duly elected and qualified. No decrease in the number of authorized directors shall shorten the term of any incumbent director.

2.4 Resignation. Any director may resign by delivering notice in writing or by electronic transmission to the President, Chairman of the Board or Secretary. Such resignation shall be effective upon receipt unless it is specified to be effective at some other time or upon the happening of some other event.

2.5 Removal. Any director or the entire Board may be removed from office at any time, but only for cause and only by the affirmative vote of the holders of at least 66 2/3% in voting power of the capital stock of the corporation entitled to vote thereon..

2.6 Regular Meetings. Regular meetings of the Board of Directors may be held without notice at such time and place, either within or without the State of Delaware, as shall be determined from time to time by the Board of Directors; provided that any director who is absent when such a determination is made shall be given notice of the determination. A regular meeting of the Board of Directors may be held without notice immediately after and at the same place as the annual meeting of stockholders.

2.7 Special Meetings. Special meetings of the Board of Directors may be called by the Chairman of the Board, the President or two or more directors and may be held at any time and place, within or without the State of Delaware.

2.8 Notice of Special Meetings. Notice of any special meeting of directors shall be given to each director by whom it is not waived by the Secretary or by the officer or one of the directors calling the meeting. Notice shall be duly given to each director by (i) giving notice to such director in person or by telephone, electronic transmission or voice message system at least 24 hours in advance of the meeting, (ii) sending a facsimile to his last known facsimile number, or delivering written notice by hand to his last known business or home address, at least 24 hours in advance of the meeting, or (iii) mailing written notice to his last known business or home address at least three days in advance of the meeting. A notice or waiver of notice of a meeting of the Board of Directors need not specify the purposes of the meeting. Unless otherwise indicated in the notice thereof, any and all business may be transacted at a special meeting.

2.9 Participation in Meetings by Telephone Conference Calls or Other Methods of Communication. Directors or any members of any committee designated by the directors may participate in a meeting of the Board of Directors or such committee by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and participation by such means shall constitute presence in person at such meeting.

2.10 Quorum. A majority of the total number of authorized directors shall constitute a quorum at any meeting of the Board of Directors. In the absence of a quorum at any such meeting, a majority of the directors present may adjourn the meeting from time to time without further notice other than announcement at the meeting, until a quorum shall be present. Interested directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors or at a meeting of a committee which authorizes a particular contract or transaction.

2.11 Action at Meeting. At any meeting of the Board of Directors at which a quorum is present, the vote of a majority of those present shall be sufficient to take any action, unless a different vote is specified by law, the Certificate of Incorporation or these Bylaws. A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for that meeting.

2.12 Action by Written Consent. Any action required or permitted to be taken at any meeting of the Board of Directors or of any committee of the Board of Directors may be taken without a meeting if all members of the Board or committee, as the case may be, consent to the action in writing or by electronic transmission, and the writings or electronic transmissions are filed with the minutes of proceedings of the Board or committee. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

2.13 Committees. The Board of Directors may designate one or more committees, each committee to consist of one or more of the directors of the corporation, with such lawfully delegated powers and duties as it therefor confers, to serve at the pleasure of the Board. The Board may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of a member of a committee, the member or members of the committee present at any meeting and not disqualified from voting, whether or not he or they constitute a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in the place of any such absent or disqualified member. Any such committee, to the extent provided in the resolution of the Board of Directors and subject to the provisions of the Delaware General Corporation Law, shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the corporation and may authorize the seal of the corporation to be affixed to all papers which may require it. Each such committee shall keep minutes and make such reports as the Board of Directors may from time to time request. Except as the Board of Directors may otherwise determine, any committee may make rules for the conduct of its business, but unless otherwise provided by such rules, its business shall be conducted as nearly as possible in the same manner as is provided in these Bylaws for the Board of Directors.

2.14 Compensation of Directors. Directors may be paid such compensation for their services and such reimbursement for expenses of attendance at meetings as the Board of Directors may from time to time determine. No such payment shall preclude any director from serving the corporation or any of its parent or subsidiary corporations in any other capacity and receiving compensation for such service.

2.15 Nomination of Director Candidates. Subject to the rights of holders of any class or series of Preferred Stock then outstanding, nominations for the election of Directors may be made by (i) the Board of Directors or a duly authorized committee thereof or (ii) any stockholder entitled to vote in the election of Directors.

ARTICLE III
OFFICERS

3.1 Enumeration. The officers of the corporation shall consist of a Chief Executive Officer, a President, a Secretary, a Treasurer, a Chief Financial Officer and such other officers with such other titles as the Board of Directors shall determine, including, at the discretion of the Board of Directors, a Chairman of the Board and one or more Vice Presidents and Assistant Secretaries. The Board of Directors may appoint such other officers as it may deem appropriate.

3.2 Election. Officers shall be elected annually by the Board of Directors at its first meeting following the annual meeting of stockholders. Officers may be appointed by the Board of Directors at any other meeting.

3.3 Qualification. No officer need be a stockholder. Any two or more offices may be held by the same person.

3.4 Tenure. Except as otherwise provided by law, by the Certificate of Incorporation or by these Bylaws, each officer shall hold office until his successor is elected and qualified, unless a different term is specified in the vote appointing him, or until his earlier death, resignation or removal.

3.5 Resignation and Removal. Subject to the rights (if any) of an officer under any contract of employment, any officer may be removed, either with or without cause, by an affirmative vote of the majority of the Board of Directors at any regular or special meeting of the board or, except in the case of an officer chosen by the Board of Directors, by any officer upon whom the power of removal is conferred by the Board of Directors.

Any officer may resign by delivering his written resignation to the corporation at its principal office or to the President or Secretary. Such resignation shall be effective upon receipt unless it is specified to be effective at some other time or upon the happening of some other event.

3.6 Chairman of the Board. The Board of Directors may appoint a Chairman of the Board. If the Board of Directors appoints a Chairman of the Board, he shall perform such duties and possess such powers as are assigned to him by the Board of Directors. Unless otherwise provided by the Board of Directors, he shall preside at all meetings of the Board of Directors.

3.7 Chief Executive Officer. The Chief Executive Officer of the corporation shall, subject to the direction of the Board of Directors, have general supervision, direction and control of the business and the officers of the corporation. He shall preside at all meetings of the stockholders and, in the absence or nonexistence of a Chairman of the Board, at all meetings of the Board of Directors. He shall have the general powers and duties of management usually vested in the chief executive officer of a corporation, including general supervision, direction and control of the business and supervision of other officers of the corporation, and shall have such other powers and duties as may be prescribed by the Board of Directors or these Bylaws.

3.8 President. Subject to the direction of the Board of Directors and such supervisory powers as may be given by these Bylaws or the Board of Directors to the Chairman of the Board or the Chief Executive Officer, if such titles be held by other officers, the President shall have general supervision, direction and control of the business and supervision of other officers of the corporation. Unless otherwise designated by the Board of Directors, the President shall be the Chief Executive Officer of the corporation. The President shall have such other powers and duties as may be prescribed by the Board of Directors or these Bylaws. He or she shall have power to sign stock certificates, contracts and other instruments of the corporation which are authorized and shall have general supervision and direction of all of the other officers, employees and agents of the corporation, other than the Chairman of the Board and the Chief Executive Officer.

3.9 Vice Presidents. Any Vice President shall perform such duties and possess such powers as the Board of Directors or the President may from time to time prescribe. In the event of the absence, inability or refusal to act of the President, the Vice President (or if there shall be more than one, the Vice Presidents in the order determined by the Board of Directors) shall perform the duties of the President and when so performing shall have at the powers of and be subject to all the restrictions upon the President. The Board of Directors may assign to any Vice President the title of Executive Vice President, Senior Vice President or any other title selected by the Board of Directors.

3.10 Secretary and Assistant Secretaries. The Secretary shall perform such duties and shall have such powers as the Board of Directors or the President may from time to time prescribe. In addition, the Secretary shall perform such duties and have such powers as are incident to the office of the Secretary, including, without limitation, the duty and power to give notices of all meetings of stockholders and special meetings of the Board of Directors, to keep a record of the proceedings of all meetings of stockholders and the Board of Directors, to maintain a stock ledger and prepare lists of stockholders and their addresses as required, to be custodian of corporate records and the corporate seal and to affix and attest to the same on documents.

Any Assistant Secretary shall perform such duties and possess such powers as the Board of Directors, the Chief Executive Officer, the President or the Secretary may from time to time prescribe. In the event of the absence, inability or refusal to act of the Secretary, the Assistant Secretary (or if there shall be more than one, the Assistant Secretaries in the order determined by the Board of Directors) shall perform the duties and exercise the powers of the Secretary.

In the absence of the Secretary or any Assistant Secretary at any meeting of stockholders or directors, the person presiding at the meeting shall designate a temporary secretary to keep a record of the meeting.

3.11 Treasurer. The Treasurer shall perform such duties and have such powers as are incident to the office of treasurer, including without limitation, the duty and power to keep and be responsible for all funds and securities of the corporation, to maintain the financial records of the corporation, to deposit funds of the corporation in depositories as authorized, to disburse such funds as authorized, to make proper accounts of such funds, and to render as required by the Board of Directors accounts of all such transactions and of the financial condition of the corporation.

3.12 Chief Financial Officer. The Chief Financial Officer shall perform such duties and shall have such powers as may from time to time be assigned to him by the Board of Directors, the Chief Executive Officer or the President. Unless otherwise designated by the Board of Directors, the Chief Financial Officer shall be the Treasurer of the corporation.

3.13 Salaries. Officers of the corporation shall be entitled to such salaries, compensation or reimbursement as shall be fixed or allowed from time to time by the Board of Directors.

3.14 Authority and Duties of Officers. In addition to the foregoing authority and duties, all officers of the corporation shall respectively have such authority and perform such duties in the management of the business of the corporation as may be designated from time to time by the Board of Directors or the stockholders

3.15 Delegation of Authority. The Board of Directors may from time to time delegate the powers or duties of any officer to any other officers or agents, notwithstanding any provision hereof.

ARTICLE IV
CAPITAL STOCK

4.1 Issuance of Stock. Subject to the provisions of the Certificate of Incorporation, the whole or any part of any unissued balance of the authorized capital stock of the corporation or the whole or any part of any unissued balance of the authorized capital stock of the corporation held in its treasury may be issued, sold, transferred or otherwise disposed of by vote of the Board of Directors in such manner, for such consideration and on such terms as the Board of Directors may determine.

4.2 Certificates of Stock. The shares of the corporation may be certificated or uncertificated, as provided under Delaware law, and shall be entered in the books of the corporation and recorded as they are issued. Any duly appointed officer of the corporation is authorized to sign share certificates. Any or all of the signatures on any certificate may be a facsimile or electronic signature. In case any officer, transfer agent or registrar who has signed or whose facsimile or electronic signature has been placed upon a certificate has ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the corporation with the same effect as if he or she were such officer, transfer agent or registrar at the date of issue.

Each certificate for shares of stock which are subject to any restriction on transfer pursuant to the Certificate of Incorporation, the Bylaws, applicable securities laws or any agreement among any number of shareholders or among such holders and the corporation shall have conspicuously noted on the face or back of the certificate either the full text of the restriction or a statement of the existence of such restriction.

4.3 Transfers. Except as otherwise established by rules and regulations adopted by the Board of Directors, and subject to applicable law, shares of stock may be transferred on the books of the corporation: (i) in the case of shares represented by a certificate, by the surrender to the corporation or its transfer agent of the certificate representing such shares properly endorsed or accompanied by a written assignment or power of attorney properly executed, and with such proof of authority or authenticity of signature as the corporation or its transfer agent may reasonably require; and (ii) in the case of uncertificated shares, upon the receipt of proper transfer instructions from the registered owner thereof. Except as may be otherwise required by law, the Certificate of Incorporation or the Bylaws, the corporation shall be entitled to treat the record holder of stock as shown on its books as the owner of such stock for all purposes, including the payment of dividends and the right to vote with respect to such stock, regardless of any transfer, pledge or other disposition of such stock until the shares have been transferred on the books of the corporation in accordance with the requirements of these Bylaws.

4.4 Lost, Stolen or Destroyed Certificates. The corporation may issue a new certificate of stock in place of any previously issued certificate alleged to have been lost, stolen, or destroyed, or it may issue uncertificated shares if the shares represented by such certificate have been designated as uncertificated shares in accordance with Section 4.2, upon such terms and conditions as the Board of Directors may prescribe, including the presentation of reasonable evidence of such loss, theft or destruction and the giving of such indemnity as the Board of Directors may require for the protection of the corporation or any transfer agent or registrar.

4.5 Dividends. The directors of the corporation, subject to any restrictions contained in (a) the Delaware General Corporation Law or (b) the certificate of incorporation, may declare and pay dividends upon the shares of its capital stock. Dividends may be paid in cash, in property, or in shares of the corporation's capital stock. The directors of the corporation may set apart out of any of the funds of the corporation available for dividends a reserve or reserves for any proper purpose and may abolish any such reserve. Such purposes shall include but not be limited to equalizing dividends, repairing or maintaining any property of the corporation, and meeting contingencies.

4.6 Employee Stock Purchase and Option Plans. The corporation may adopt and carry out a stock purchase plan or agreement or stock option plan or agreement providing for the issue and sale for such consideration as may be fixed of its unissued shares, or of issued shares acquired or to be acquired, to one or more of the employees, officers or directors of the corporation or of a subsidiary or parent thereof or to a trustee on their behalf and for the payment for such shares in installments or at one time, and may provide for aiding any such persons in paying for such shares by compensation for services rendered, promissory notes or otherwise.

A stock purchase plan or agreement or stock option plan or agreement may include, among other features, the fixing of eligibility for participation therein, the class and price of shares to be issued or sold under the plan or agreement, the number of shares which may be subscribed for, the method of payment therefore, the reservation of title until full payment therefore, the effect of the termination of employment, an option or obligation on the part of the corporation to repurchase the shares upon termination of employment, subject to Delaware General Corporation Law, restrictions upon transfer of the shares and the time limits of and termination of the plan.

ARTICLE V
GENERAL PROVISIONS

5.1 Fiscal Year. The fiscal year of the corporation shall be as fixed by the Board of Directors.

5.2 Waiver of Notice. Whenever any notice whatsoever is required to be given by law, by the Certificate of Incorporation or by these Bylaws, a waiver of such notice either in writing signed by the person entitled to such notice or such person's duly authorized attorney, or by electronic transmission or any other method permitted under the Delaware General Corporation Law, whether before, at or after the time stated in such waiver, or the appearance of such person or persons at such meeting in person or by proxy, shall be deemed equivalent to such notice. Neither the business nor the purpose of any meeting need be specified in such a waiver. Attendance at any meeting shall constitute waiver of notice except attendance for the sole purpose of objecting to the timeliness of notice.

5.3 Actions with Respect to Securities of Other Corporations. Except as the Board of Directors may otherwise designate, the Chief Executive Officer or President or any officer of the corporation authorized by the Chief Executive Officer or President shall have the power to vote and otherwise act on behalf of the corporation, in person or proxy, and may waive notice of, and act as, or appoint any person or persons to act as, proxy or attorney-in-fact to this corporation (with or without power of substitution) at any meeting of stockholders or shareholders (or with respect to any action of stockholders) of any other corporation or organization, the securities of which may be held by this corporation and otherwise to exercise any and all rights and powers which this corporation may possess by reason of this corporation's ownership of securities in such other corporation or other organization.

5.4 Evidence of Authority. A certificate by the Secretary, or an Assistant Secretary, or a temporary Secretary, as to any action taken by the stockholders, directors, a committee or any officer or representative of the corporation shall as to all persons who rely on the certificate in good faith be conclusive evidence of such action.

5.5 Certificate of Incorporation. All references in these Bylaws to the Certificate of Incorporation shall be deemed to refer to the Certificate of Incorporation of the corporation, as amended and in effect from time to time.

5.6 Severability. Any determination that any provision of these Bylaws is for any reason inapplicable, illegal or ineffective shall not affect or invalidate any other provision of these Bylaws.

5.7 Pronouns. All pronouns used in these Bylaws shall be deemed to refer to the masculine, feminine or neuter, singular or plural, as the identity of the person or persons may require.

5.8 Notices. Except as otherwise specifically provided herein or required by law, all notices required to be given to any stockholder, director, officer, employee or agent shall be in writing and may in every instance be effectively given by hand delivery to the recipient thereof, by depositing such notice in the mails, postage paid, or by sending such notice by commercial courier service, or by facsimile or other electronic transmission, provided that notice to stockholders by electronic transmission shall be given in the manner provided in Section 232 of the Delaware General Corporation Law. Any such notice shall be addressed to such stockholder, director, officer, employee or agent at his or her last known address as the same appears on the books of the corporation. The time when such notice shall be deemed to be given shall be the time such notice is received by such stockholder, director, officer, employee or agent, or by any person accepting such notice on behalf of such person, if delivered by hand, facsimile, other electronic transmission or commercial courier service, or the time such notice is dispatched, if delivered through the mails. Without limiting the manner by which notice otherwise may be given effectively, notice to any stockholder shall be deemed given: (1) if by facsimile, when directed to a number at which the stockholder has consented to receive notice; (2) if by electronic mail, when directed to an electronic mail address at which the stockholder has consented to receive notice; (2) if by a posting on an electronic network together with separate notice to the stockholder of such specific posting, upon the later of (A) such posting and (B) the giving of such separate notice; (4) if by any other form of electronic transmission, when directed to the stockholder; and (5) if by mail, when deposited in the mail, postage prepaid, directed to the stockholder at such stockholder's address as it appears on the records of the corporation.

5.9 Reliance Upon Books, Reports and Records. Each director, each member of any committee designated by the Board of Directors, and each officer of the corporation shall, in the performance of his duties, be fully protected in relying in good faith upon the books of account or other records of the corporation as provided by law, including reports made to the corporation by any of its officers, by an independent certified public accountant, or by an appraiser selected with reasonable care.

5.10 Time Periods. In applying any provision of these Bylaws which require that an act be done or not done a specified number of days prior to an event or that an act be done during a period of a specified number of days prior to an event, calendar days shall be used, the day of the doing of the act shall be excluded, and the day of the event shall be included.

5.11 Facsimile Signatures. In addition to the provisions for use of facsimile signatures elsewhere specifically authorized in these Bylaws, facsimile signatures of any officer or officers of the corporation may be used whenever and as authorized by the Board of Directors or a committee thereof.

5.12 Maintenance and Inspection of Records. The corporation shall, either at its principal executive offices or at such place or places as designated by the Board of Directors, keep a record of its stockholders listing their names and addresses and the number and class of shares held by each stockholder, a copy of these bylaws as amended to date, accounting books, and other records. Any director shall have the right to examine the corporation's stock ledger, a list of its stockholders, and its other books and records for a purpose reasonably related to his or her position as a director. The Court of Chancery is hereby vested with the exclusive jurisdiction to determine whether a director is entitled to the inspection sought. The Court may summarily order the corporation to permit the director to inspect any and all books and records, the stock ledger, and the stock list and to make copies or extracts therefrom. The Court may, in its discretion, prescribe any limitations or conditions with reference to the inspection, or award such other and further relief as the Court may deem just and proper.

ARTICLE VI
INDEMNIFICATION OF DIRECTORS AND OFFICERS

6.1 Right to Indemnification. Each person who was or is made a party or is threatened to be made a party to or is involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative ("Proceeding"), by reason of the fact that he or she or a person of whom he or she is the legal representative, is or was a director or officer of the corporation or is or was serving at the request of the corporation as a director or officer of another corporation, or as a controlling person of a partnership, joint venture, trust or other enterprise, including service with respect to employee benefit plans, whether the basis of such proceeding is alleged action in an official capacity as a director or officer, or in any other capacity while serving as a director or officer, shall be indemnified and held harmless by the corporation to the fullest extent authorized by the Delaware General Corporation Law, as the same exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the corporation to provide broader indemnification rights than said Law permitted the corporation to provide prior to such amendment) against all expenses, liability and loss reasonably incurred or suffered by such person in connection therewith and such indemnification shall continue as to a person who has ceased to be a director or officer and shall inure to the benefit of his or her heirs, executors and administrators; provided, however, that except as provided in Section 6.2 of this Article VI, the corporation shall indemnify any such person seeking indemnity in connection with a proceeding (or part thereof) initiated by such person only if (a) such indemnification is expressly required to be made by law, (b) the proceeding (or part thereof) was authorized by the Board of Directors of the corporation, (c) such indemnification is provided by the corporation, in its sole discretion, pursuant to the powers vested in the corporation under the Delaware General Corporation Law, or (d) the proceeding (or part thereof) is brought to establish or enforce a right to indemnification or advancement under an indemnity agreement or any other statute or law or otherwise as required under Section 145 of the Delaware General Corporation Law. The rights hereunder shall be contract rights and shall include the right to be paid expenses incurred in defending any such proceeding in advance of its final disposition; provided, however, that the payment of such expenses incurred by a director or officer of the corporation in his or her capacity as a director or officer (and not in any other capacity in which service was or is tendered by such person while a director or officer, including, without limitation, service to an employee benefit plan) in advance of the final disposition of such proceeding, shall be made only upon delivery to the corporation of an undertaking, by or on behalf of such director or officer, to repay all amounts so advanced if it should be determined ultimately by final judicial decision from which there is no further right to appeal that such director or officer is not entitled to be indemnified under this Section or otherwise.

6.2 Right of Claimant to Bring Suit. If a claim under Section 6.1 is not paid in full by the corporation within 60 days after a written claim has been received by the corporation, or 20 days in the case of a claim for advancement of expenses, the claimant may at any time thereafter bring suit against the corporation to recover the unpaid amount of the claim and, if such suit is not frivolous or brought in bad faith, the claimant shall be entitled to be paid also the expense of prosecuting such claim. It shall be a defense to any such action (other than an action brought to enforce a claim for expenses incurred in defending any proceeding in advance of its final disposition where the required undertaking, if any, has been tendered to this corporation) that the claimant has not met the standards of conduct which make it permissible under the Delaware General Corporation Law for the corporation to indemnify the claimant for the amount claimed. Neither the failure of the corporation (including its Board of Directors, independent legal counsel, or its stockholders) to have made a determination prior to the commencement of such action that indemnification of the claimant is proper in the circumstances because he or she has met the applicable standard of conduct set forth in the Delaware General Corporation Law, nor an actual determination by the corporation (including its Board of Directors, independent legal counsel or its stockholders) that the claimant has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that claimant has not met the applicable standard of conduct. In any suit brought by the corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the corporation shall be entitled to recover such expenses upon a final judicial decision from which there is no further right to appeal that the indemnitee has not

met any applicable standard for indemnification set forth in the Delaware General Corporation Law. In any suit brought by the indemnitee to enforce a right to indemnification or to an advancement of expenses hereunder, or brought by the corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the burden of proving that the indemnitee is not entitled to be indemnified, or to such advancement of expenses, shall be on the corporation.

6 . 3 Indemnification of Employees and Agents. The corporation may, to the extent authorized from time to time by the Board of Directors, grant rights to indemnification, and to the advancement of related expenses, to any employee or agent of the corporation to the fullest extent of the provisions of this Article with respect to the indemnification of and advancement of expenses to directors and officers of the corporation.

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6 . 4 Non-Exclusivity of Rights. The rights conferred on any person in this Article VI shall not be exclusive of any other right which such persons may have or hereafter acquire under any statute, provision of the Certificate of Incorporation, bylaw, agreement, vote of stockholders or disinterested directors or otherwise.

6.5 Indemnification Contracts. The Board of Directors is authorized to enter into a contract with any director, officer, employee or agent of the corporation, or any person serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, including employee benefit plans, providing for indemnification rights equivalent to or, if the Board of Directors so determines, greater than, those provided for in this Article VI.

6.6 Insurance. The corporation may maintain insurance to the extent reasonably available, at its expense, to protect itself and any such director, officer, employee or agent of the corporation or another corporation, partnership, joint venture, trust or other enterprise against any such expense, liability or loss, whether or not the corporation would have the power to indemnify such person against such expense, liability or loss under the Delaware General Corporation Law.

6 . 7 Effect of Amendment. Any amendment, repeal or modification of any provision of this Article VI shall not adversely affect any right or protection of an indemnitee or his successor existing at the time of such amendment, repeal or modification.

ARTICLE VII
AMENDMENTS

7 . 1 By the Board of Directors. Except as otherwise set forth in these Bylaws or the Certificate of Incorporation, and subject to the rights of the holders of any series of Preferred Stock then outstanding, these Bylaws may be altered, amended or repealed or new Bylaws may be adopted by the affirmative vote of a majority of the directors present at any regular or special meeting of the Board of Directors at which a quorum is present.

7.2 By the Stockholders. Except as otherwise set forth in these Bylaws, and subject to the rights of the holders of any series of Preferred Stock then outstanding, these Bylaws may be altered, amended or repealed or new Bylaws may be adopted by the affirmative vote of the holders of at least 66 2/3% of the voting power of all of the shares of capital stock of the corporation issued and outstanding and entitled to vote generally in any election of directors, voting together as a single class. Such vote may be held at any annual meeting of stockholders, or at any special meeting of stockholders provided that notice of such alteration, amendment, repeal or adoption of new Bylaws shall have been stated in the notice of such special meeting.

NUMBER

*****

Digital Brands Group, Inc.

SHARES

*****

INCORPORATED UNDER THE LAWS OF THE STATE OF DELAWARE

$0.0001 PAR VALUE COMMON STOCK

CUSIP 25401N101

COMMON STOCK

THIS CERTIFIES THAT * SPECIMEN *

Is The Owner of *****

FULLY PAID AND NON-ASSESSABLE SHARES OF COMMON STOCK OF

Digital Brands Group, Inc.

Transferable on the books of the Corporation in person or by duly authorized attorney upon surrender of this Certificate properly endorsed. This Certificate is not valid until countersigned by the Transfer Agent and registered by the Registrar.

Dated: *****

COUNTERSIGNED AND REGISTERED:

VSTOCK TRANSFER, LLC

Transfer Agent and Registrar

By:_____

AUTHORIZED SIGNATURE

Co-Chief Executive Officer

The following abbreviations, when used in the inscription on the face of this certificate, shall be construed as though they were written out in full according to applicable laws or regulations.

TEN COM	- as tenants in common	UNIF GIFT MIN ACT.....Custodian.....
TEN ENT	- as tenants by the entireties	(Cust) (Minor)
JT TEN	- as joint tenants with the right of survivorship and not as tenants in common	Act..... (State)

Additional abbreviations may also be used though not in the above list.

For value received, _____ *hereby sell, assign and transfer unto*

PLEASE INSERT SOCIAL SECURITY OR OTHER IDENTIFYING NUMBER OF ASSIGNEE:

_____

(PLEASE PRINT OR TYPEWRITE NAME AND ADDRESS, INCLUDING ZIP CODE, OF ASSIGNEE)

_____

_____

_____

_____ *shares*

of the capital stock represented by the within Certificate, and do hereby irrevocably constitute and appoint

_____, *Attorney*

to transfer the said stock on the books of the within named Corporation with full power of substitution in the premises.

*Dated*_____

X _____

THE SIGNATURE TO THIS ASSIGNMENT MUST CORRESPOND WITH THE NAME AS WRITTEN UPON THE FACE OF THIS CERTIFICATE. THE SIGNATURE(S) MUST BE GUARANTEED BY AN ELIGIBLE GUARANTOR INSTITUTION (Banks, Stockbrokers, Savings and Loan Associations and Credit Unions).

SIGNATURE GUARANTEED:

TRANSFER FEE WILL APPLY

Exhibit 4.2

WARRANT AGENT AGREEMENT

WARRANT AGENT AGREEMENT (this "Warrant Agreement") dated as of April ___, 2021 (the "Issuance Date") between Digital Brands Group, Inc., a Delaware corporation (the "Company"), and VStock Transfer, LLC (the "Warrant Agent").

WHEREAS, pursuant to the terms of that certain Underwriting Agreement ("Underwriting Agreement"), dated April ___, 2021, by and among the Company and Kingswood Capital Markets, division of Benchmark Investments, Inc., as representative of the underwriters set forth therein, the Company is engaged in a public offering (the "Offering") of up to 2,300,000 shares (the "Shares") of common stock, par value $0.0001 per share (the "Common Stock") of the Company and up to 2,460,000 Warrants (the "Warrants") to purchase shares of Common Stock (the "Warrant Shares"), including Shares and Warrants issuable pursuant to the underwriters' over-allotment option;

WHEREAS, the Company has filed with the Securities and Exchange Commission (the "Commission") a Registration Statement, No. _____, on Form S-1 (as the same may be amended from time to time, the "Registration Statement"), for the registration under the Securities Act of 1933, as amended (the "Securities Act"), of the Shares, Warrants and Warrant Shares, and such Registration Statement was declared effective on _____ __, 2021;

WHEREAS, the Company desires the Warrant Agent to act on behalf of the Company, and the Warrant Agent is willing to so act, in accordance with the terms set forth in this Warrant Agreement in connection with the issuance, registration, transfer, exchange and exercise of the Warrants;

WHEREAS, the Company desires to provide for the provisions of the Warrants, the terms upon which they shall be issued and exercised, and the respective rights, limitation of rights, and immunities of the Company, the Warrant Agent, and the holders of the Warrants; and

WHEREAS, all acts and things have been done and performed which are necessary to make the Warrants the valid, binding and legal obligations of the Company, and to authorize the execution and delivery of this Warrant Agreement.

NOW, THEREFORE, in consideration of the mutual agreements herein contained, the parties hereto agree as follows:

1. Appointment of Warrant Agent. The Company hereby appoints the Warrant Agent to act as agent for the Company with respect to the Warrants, and the Warrant Agent hereby accepts such appointment and agrees to perform the same in accordance with the express terms and conditions set forth in this Warrant Agreement (and no implied terms or conditions).

2. Warrants.

2.1 Form of Warrants. The Warrants shall be registered securities and shall be initially evidenced by a global Warrant certificate ("Global Certificate") in the form of Annex A to this Warrant Agreement, which shall be deposited on behalf of the Company with a custodian for The Depository Trust Company ("DTC") and registered in the name of Cede & Co., as nominee of DTC. If DTC subsequently ceases to make its settlement system available for the Warrants, the Company may instruct the Warrant Agent regarding making arrangements for book-entry settlement. In the event that the Warrants are not eligible for, or it is no longer necessary to have the Warrants available in, registration in the name of Cede & Co., as nominee of DTC, the Company may instruct the Warrant Agent to provide written instructions to DTC to deliver to the Warrant Agent for cancellation the Global Certificate, and the Company shall instruct the Warrant Agent to deliver to each Holder (as defined below) separate certificates evidencing the Warrants ("Definitive Certificates" and, together with the Global Certificate, "Warrant Certificates"), in the form of Annex B to this Warrant Agreement. The Warrants represented by the Global Certificate are referred to as "Global Warrants".

2.2 Issuance and Registration of Warrants.

2.2.1 Warrant Register. The Warrant Agent shall maintain books ("Warrant Register") for the registration of original issuance and the registration of transfer of the Warrants. Any person in whose name ownership of a beneficial interest in the Warrants evidenced by a Global Certificate is recorded in the records maintained by DTC or its nominee shall be deemed the "beneficial owner" thereof, provided that all such beneficial interests shall be held through a Participant (as defined below), which shall be the registered holder of such Warrants.

2.2.2 Issuance of Warrants. Upon the initial issuance of the Warrants, the Warrant Agent shall issue the Global Certificate and deliver the Warrants in the DTC settlement system in accordance with written instructions delivered to the Warrant Agent by the Company. Ownership of beneficial interests in the Warrants shall be shown on, and the transfer of such ownership shall be effected through, records maintained (i) by DTC and (ii) by institutions that have accounts with DTC (each, a "Participant"), subject to a Holder's right to elect to receive a Definitive Certificate. Any Holder desiring to elect to receive a Warrant in certificated form shall make such request in writing delivered to the Warrant Agent pursuant to Section 2.2.8, and shall surrender to the Warrant Agent the interest of the Holder on the books of the Participant evidencing the Warrants which are to be represented by a Definitive Certificate through the DTC settlement system. Thereupon, the Warrant Agent shall countersign and deliver to the person entitled thereto a Definitive Certificate or Definitive Certificates, as the case may be, as so requested. Alternatively, non-certificated warrants may be issued and the Warrant Agent will deliver a statement representing the book-entry position to the Holder upon written instructions from the Company, the Holder, or DTC.

2.2.3 Beneficial Owner; Holder. Prior to due presentment for registration of transfer of any Warrant, the Company and the Warrant Agent may deem and treat the person in whose name that Warrant shall be registered on the Warrant Register (the "Holder") as the absolute owner of such Warrant for purposes of any exercise thereof, and for all other purposes, and neither the Company nor the Warrant Agent shall be affected by any notice to the contrary. Notwithstanding the foregoing, nothing herein shall prevent the Company, the Warrant Agent or any agent of the Company or the Warrant Agent from giving effect to any written certification, proxy or other authorization furnished by DTC governing the exercise of the rights of a holder of a beneficial interest in any Warrant. The rights of beneficial owners in a Warrant evidenced by the Global Certificate shall be exercised by the Holder or a Participant through the DTC system, except to the extent set forth herein or in the Global Certificate.

2.2.4 Execution. The Warrant Certificates shall be executed on behalf of the Company by any authorized officer of the Company (an "Authorized Officer"), which need not be the same authorized signatory for all of the Warrant Certificates, either manually or by facsimile signature. The Warrant Certificates shall be countersigned by an authorized signatory of the Warrant Agent, which need not be the same signatory for all of the Warrant Certificates, and no Warrant Certificate shall be valid for any purpose unless so countersigned. In case any Authorized Officer of the Company that signed any of the Warrant Certificates ceases to be an Authorized Officer of the Company before countersignature by the Warrant Agent and issuance and delivery by the Company, such Warrant Certificates, nevertheless, may be countersigned by the Warrant Agent, issued and delivered with the same force and effect as though the person who signed such Warrant Certificates had not ceased to be such officer of the Company; and any Warrant Certificate may be signed on behalf of the Company by any person who, at the actual date of the execution of such Warrant Certificate, shall be an Authorized Officer of the Company authorized to sign such Warrant Certificate, although at the date of the execution of this Warrant Agreement any such person was not such an Authorized Officer.

2.2.5 Registration of Transfer. At any time at or prior to the Expiration Date (as defined below), a transfer of any Warrants may be registered and any Warrant Certificate or Warrant Certificates may be split up, combined or exchanged for another Warrant Certificate or Warrant Certificates evidencing the same number of Warrants as the Warrant Certificate or Warrant Certificates surrendered. Any Holder desiring to register the transfer of Warrants or to split up, combine or exchange

any Warrant Certificate shall make such request in writing delivered to the Warrant Agent, and shall surrender to the Warrant Agent the Warrant Certificate or Warrant Certificates evidencing the Warrants the transfer of which is to be registered or that is or are to be split up, combined or exchanged. Thereupon, the Warrant Agent shall countersign and deliver to the person entitled thereto a Warrant Certificate or Warrant Certificates, as the case may be, as so requested. The Warrant Agent may require reasonable and customary payment, by the Holder requesting a registration of transfer of Warrants or a split-up, combination or exchange of a Warrant Certificate (but, for purposes of clarity, not upon the exercise of the Warrants and issuance of Warrant Shares to the Holder), of a sum sufficient to cover any tax or governmental charge that may be imposed in connection with such registration of transfer, split-up, combination or exchange, together with reimbursement to the Warrant Agent of all reasonable expenses incidental thereto.

2.2.6 Loss, Theft and Mutilation of Warrant Certificates. Upon receipt by the Company and the Warrant Agent of evidence reasonably satisfactory to them of the loss, theft, destruction or mutilation of a Warrant Certificate, and, in case of loss, theft or destruction, of indemnity or security in customary form and amount, and reimbursement to the Company and the Warrant Agent of all reasonable expenses incidental thereto, and upon surrender to the Warrant Agent and cancellation of the Warrant Certificate if mutilated, the Warrant Agent shall, on behalf of the Company, countersign and deliver a new Warrant Certificate of like tenor to the Holder in lieu of the Warrant Certificate so lost, stolen, destroyed or mutilated. The Warrant Agent may charge the Holder an administrative fee for processing the replacement of lost Warrant Certificates, which shall be charged only once in instances where a single surety bond obtained covers multiple certificates. The Warrant Agent may receive compensation from the surety companies or surety bond agents for administrative services provided to them.

2.2.7 Proxies. The Holder of a Warrant may grant proxies or otherwise authorize any person, including the Participants and beneficial holders that may own interests through the Participants, to take any action that a Holder is entitled to take under this Agreement or the Warrants; provided, however, that at all times that Warrants are evidenced by a Global Certificate, exercise of those Warrants shall be effected on their behalf by Participants through DTC in accordance the procedures administered by DTC.

2.2.8 Warrant Certificate Request. A Holder has the right to elect at any time or from time to time a Warrant Exchange (as defined below) pursuant to a Warrant Certificate Request Notice (as defined below). Upon written notice by a Holder to the Warrant Agent for the exchange of some or all of such Holder's Global Warrants for a Definitive Certificate evidencing the same number of Warrants, which request shall be in the form attached hereto as Exhibit A (a "Warrant Certificate Request Notice" and the date of delivery of such Warrant Certificate Request Notice by the Holder, the "Warrant Certificate Request Notice Date" and the deemed surrender upon delivery by the Holder of a number of Global Warrants for the same number of Warrants evidenced by a Definitive Certificate, a "Warrant Exchange"), the Warrant Agent shall promptly effect the Warrant Exchange and shall promptly issue and deliver to the Holder a Definitive Certificate for such number of Warrants in the name set forth in the Warrant Certificate Request Notice. Such Definitive Certificate shall be dated the original issue date of the Warrants, shall be manually executed by an authorized signatory of the Company, shall be in the form attached hereto as Annex B, and shall be reasonably acceptable in all respects to such Holder. In connection with a Warrant Exchange, the Company agrees to deliver, or to direct the Warrant Agent to deliver, the Definitive Certificate to the Holder within the earlier of (i) two (2) Trading Days and (ii) the number of Trading Days comprising the Standard Settlement Period of the Warrant Certificate Request Notice pursuant to the delivery instructions in the Warrant Certificate Request Notice ("Warrant Certificate Delivery Date"). If the Company fails for any reason to deliver to the Holder the Definitive Certificate subject to the Warrant Certificate Request Notice by the Warrant Certificate Delivery Date, the Company shall pay to the Holder, in cash, as liquidated damages and not as a penalty, for each $1,000 of Warrant Shares evidenced by such Definitive Certificate (based on the VWAP (as defined in the Warrants) of the Common Stock on the Warrant Certificate Request Notice Date), $10 per Business Day for each Business Day after such Warrant Certificate Delivery Date until such Definitive Certificate is delivered or, prior to delivery of such Warrant Certificate, the Holder rescinds such Warrant Exchange. The Company covenants and agrees that, upon the date of delivery of the Warrant Certificate Request Notice, the Holder shall be deemed to be the holder of the Definitive Certificate and, notwithstanding anything to the contrary set forth herein, the Definitive Certificate shall be deemed for all purposes to contain all of the terms and conditions of the Warrants evidenced by such Warrant Certificate and the terms of this Warrant Agreement.

2.2.9 For purposes of clarity, if there is a conflict between the express terms of this Warrant Agreement and the Warrant certificate in the form of Annex B hereto with respect to terms of the Warrants, the terms of the Warrant certificate shall govern and control.

3. Terms and Exercise of Warrants.

3.1 Exercise Price. Each Warrant shall entitle the Holder, subject to the provisions of the applicable Warrant Certificate and of this Warrant Agreement, to purchase from the Company the number of shares of Common Stock stated therein, at the price of $5.50 per whole share, subject to the subsequent adjustments provided in Section 4 hereof. The term "Exercise Price" as used in this Warrant Agreement refers to the price per share at which shares of Common Stock may be purchased at the time a Warrant is exercised.

3.2 Duration of Warrants. Warrants may be exercised only during the period ("Exercise Period") commencing on the Issuance Date and terminating at 5:00 P.M., New York City time (the "close of business") on [ ], 2026 ("Expiration Date"). Each Warrant not exercised on or before the Expiration Date shall become void, and all rights thereunder and all rights in respect thereof under this Warrant Agreement shall cease at the close of business on the Expiration Date.

3.3 Exercise of Warrants.

3.3.1 Exercise and Payment.

(a) Exercise of the purchase rights represented by a Warrant may be made, in whole or in part, at any time or times during the Exercise Period by delivery to the Warrant Agent (with a copy to the Company) of the Notice of Exercise in the form annexed as Exhibit A hereto (the "Notice of Exercise"). Within the earlier of (i) two (2) Trading Days and (ii) the number of Trading Days comprising the Standard Settlement Period following the date the Holder delivers the Notice of Exercise as aforesaid, the Holder shall deliver the aggregate Exercise Price for the shares specified in the applicable Notice of Exercise by wire transfer or cashier's check drawn on a United States bank unless the cashless exercise procedure specified in Section 3.3.6 below is specified in the applicable Notice of Exercise. No ink-original Notice of Exercise shall be required, nor shall any medallion guarantee (or other type of guarantee or notarization) of any Notice of Exercise form be required. Notwithstanding anything herein to the contrary, the Holder shall surrender such Warrant to the Warrant Agent for cancellation within three (3) Trading Days of the date the Notice of Exercise is delivered to the Warrant Agent. Partial exercises of a Warrant resulting in purchases of a portion of the total number of Warrant Shares available thereunder shall have the effect of lowering the outstanding number of Warrant Shares purchasable hereunder in an amount equal to the applicable number of Warrant Shares purchased. The Holder and the Warrant Agent shall maintain records showing the number of Warrant Shares purchased and the date of such purchases. The Warrant Agent shall deliver any objection to any Notice of Exercise within one (1) Business Day of receipt of such notice. **The Holder and any assignee, by acceptance of a Warrant, acknowledge and agree that, by reason of the provisions of this paragraph, following the purchase of a portion of the Warrant Shares under a Warrant, the number of Warrant Shares available for purchase thereunder at any given time may be less than the amount stated on the face thereof.**

(b) Notwithstanding the foregoing in this Section 3.3.1, a holder whose interest in a Warrant is a beneficial interest in certificate(s) representing such Warrant held in registered form through DTC (or another established clearing corporation performing similar functions), shall effect exercises

made pursuant to this Section 3.3.1 by delivering to DTC (or such other clearing corporation, as applicable) the appropriate instruction form for exercise, complying with the procedures to effect exercise that are required by DTC (or such other clearing corporation, as applicable), subject to a holder's right to elect to receive a Definitive Warrant pursuant to the terms of this Warrant Agreement, in which case this sentence shall not apply. Upon giving irrevocable instructions to its Participant to exercise Warrants, solely for purposes of Regulation SHO, the holder whose interest in the Warrant is a beneficial interest shall be deemed to have exercised such Warrant, regardless of when the applicable Warrant Shares are delivered to such holder.

3.3.2 Issuance of Warrant Shares.

(a) The Warrant Agent shall, on the Trading Day following the date it receives a Notice of Exercise, advise the Company and the transfer agent and registrar for the Company's Common Stock (if the Warrant Agent is not the transfer agent), in respect of (i) the number of Warrant Shares indicated on the Notice of Exercise as issuable upon such exercise with respect to such exercised Warrants, (ii) the instructions of the Holder or Participant, as the case may be, provided to the Warrant Agent with respect to the delivery of the Warrant Shares and the number of Warrants that remain outstanding after such exercise and (iii) such other information as the Company or such transfer agent and registrar shall reasonably request.

(b) The Company shall cause the Warrant Shares purchased hereunder to be transmitted by the Transfer Agent to the Holder by crediting the account of the Holder's or its designee's balance account with DTC through its Deposit or Withdrawal at Custodian system ("DWAC") if the Company is then a participant in such system and either (A) there is an effective registration statement permitting the issuance of the Warrant Shares to or resale of the Warrant Shares by the Holder or (B) the Warrant is being exercised via cashless exercise, and otherwise by physical delivery of a certificate, registered in the Company's share register in the name of the Holder or its designee, for the number of Warrant Shares to which the Holder is entitled pursuant to such exercise to the address specified by the Holder in the Notice of Exercise by the date that is the earlier of (i) two (2) Trading Days and (ii) the number of Trading Days comprising the Standard Settlement Period after the delivery to the Company of the Notice of Exercise (such date, the "Warrant Share Delivery Date"). Upon delivery of the Notice of Exercise, the Holder shall be deemed for all corporate purposes to have become the holder of record of the Warrant Shares with respect to which a Warrant has been exercised, irrespective of the date of delivery of the Warrant Shares, provided that payment of the aggregate Exercise Price (other than in the case of a cashless exercise) is received within the earlier of (i) two (2) Trading Days of and (ii) the number of Trading Days comprising the Standard Settlement Period following delivery of the Notice of Exercise. If the Company fails for any reason to deliver to the Holder the Warrant Shares subject to a Notice of Exercise by the Warrant Share Delivery Date, the Company shall pay to the Holder, in cash, as liquidated damages and not as a penalty, for each $1,000 of Warrant Shares subject to such exercise (based on the VWAP of the Common Stock on the date of the applicable Notice of Exercise), $10 per Trading Day (increasing to $20 per Trading Day on the fifth Trading Day after such liquidated damages begin to accrue) for each Trading Day after such Warrant Share Delivery Date until such Warrant Shares are delivered or Holder rescinds such exercise. The Company agrees to maintain a transfer agent that is a participant in the FAST program so long as the Warrants remain outstanding and exercisable. As used herein, "Standard Settlement Period" means the standard settlement period, expressed in a number of Trading Days, on the Company's primary Trading Market with respect to the Common Stock as in effect on the date of delivery of the Notice of Exercise.

3.3.3 Valid Issuance. All Warrant Shares issued by the Company upon the proper exercise of a Warrant in conformity with this Warrant Agreement shall be validly issued, fully paid and non-assessable.

3.3.4 No Fractional Exercise. No fractional Warrant Shares will be issued upon the exercise of the Warrant. If, by reason of any adjustment made pursuant to Section 4, a Holder would be entitled, upon the exercise of such Warrant, to receive a fractional interest in a share, the Company shall, upon such exercise, round up or down, as applicable, to the nearest whole number the number of Warrant Shares to be issued to such Holder.

3.3.5 No Transfer Taxes. Issuance of Warrant Shares shall be made without charge to the Holder for any issue or transfer tax or other incidental expense in respect of the issuance of such Warrant Shares, all of which taxes and expenses shall be paid by the Company, and such Warrant Shares shall be issued in the name of the Holder or in such name or names as may be directed by the Holder; provided, however, that in the event Warrant Shares are to be issued in a name other than the name of the Holder, the Warrant when surrendered for exercise shall be accompanied by the Assignment Form attached hereto duly executed by the Holder and the Company may require, as a condition thereto, the payment of a sum sufficient to reimburse it for any transfer tax incidental thereto. The Company shall pay all Transfer Agent fees required for same-day processing of any Notice of Exercise and all fees to the DTC (or another established clearing corporation performing similar functions) required for same-day electronic delivery of the Warrant Shares.

3.3.6 Restrictive Legend Events; Cashless Exercise Under Certain Circumstances

(i) The Company shall use its reasonable best efforts to maintain the effectiveness of the Registration Statement and the current status of the prospectus included therein or to file and maintain the effectiveness of another registration statement and another current prospectus covering the Warrants and the Warrant Shares at any time that the Warrants are exercisable. The Company shall provide to the Warrant Agent and each Holder prompt written notice of any time that the Company is unable to deliver the Warrant Shares via DTC transfer or otherwise without restrictive legend because (A) the Commission has issued a stop order with respect to the Registration Statement, (B) the Commission otherwise has suspended or withdrawn the effectiveness of the Registration Statement, either temporarily or permanently, (C) the Company has suspended or withdrawn the effectiveness of the Registration Statement, either temporarily or permanently, (D) the prospectus contained in the Registration Statement is not available for the issuance of the Warrant Shares to the Holder or (E) otherwise (each a "Restrictive Legend Event"). To the extent that the Warrants cannot be exercised as a result of a Restrictive Legend Event or a Restrictive Legend Event occurs after a Holder has exercised Warrants in accordance with the terms of the Warrants but prior to the delivery of the Warrant Shares, the Company shall, at the election of the Holder, which shall be given within five (5) days of receipt of such notice of the Restrictive Legend Event, either (A) rescind the previously submitted Notice of Exercise and the Company shall return all consideration paid by registered holder for such shares upon such rescission or (B) treat the attempted exercise as a cashless exercise as described in paragraph (ii) below and refund the cash portion of the exercise price to the Holder.

(ii) If a Restrictive Legend Event has occurred and is continuing, the Warrants may also be exercisable on a cashless basis. Notwithstanding anything herein to the contrary, the Company shall not be required to make any cash payments or net cash settlement to the Holder in lieu of delivery of the Warrant Shares. Upon a "cashless exercise", the Holder shall be entitled to receive the number of Warrant Shares equal to the quotient (if such quotient would be a positive number) obtained by dividing (A-B) (X) by (A), where:

(A) = As applicable: (i) the VWAP on the Trading Day immediately preceding the date of the applicable Notice of Exercise if such Notice of Exercise is (1) both executed and delivered pursuant to Section 2(a) hereof on a day that is not a Trading Day or (2) both executed and delivered pursuant to Section 2(a) hereof on a Trading Day prior to the opening of "regular trading hours" (as defined in Rule 600(b)(68) of Regulation NMS promulgated under the federal securities laws) on such Trading Day, (ii) at the option of the Holder, either (y) the VWAP on the Trading Day immediately preceding the date of the applicable Notice of Exercise or (z) the Bid Price of the Common Shares on the principal Trading Market as reported by Bloomberg L.P. as of the time of the Holder's execution of the applicable Notice of Exercise if such Notice of Exercise is executed during

"regular trading hours" on a Trading Day and is delivered within two (2) hours thereafter (including until two (2) hours after the close of "regular trading hours" on a Trading Day) pursuant to Section 2(a) hereof, or (iii) the VWAP on the date of the applicable Notice of Exercise if the date of such Notice of Exercise is a Trading Day and such Notice of Exercise is both executed and delivered pursuant to Section 2(a) hereof after the close of "regular trading hours" on such Trading Day.

(B) = The Exercise Price then in effect for the applicable Warrant Shares at the time of such exercise.

(X) = the number of Warrant Shares that would be issuable upon exercise of the Warrant in accordance with the terms of the Warrant if such exercise were by means of a cash exercise rather than a cashless exercise.

If the Warrant Shares are issued in such a cashless exercise, the Company acknowledges and agrees that, in accordance with Section 3(a)(9) of the Securities Act, the Warrant Shares shall take on the registered characteristics of the Warrants being exercised and the holding period of the Warrants being exercised may be tacked to the holding period of the Warrant Shares, and the Company agrees not to take any position contrary thereto, except as required by applicable law based on additional facts and circumstances. Upon receipt of a Notice of Exercise for a cashless exercise, the Warrant Agent will promptly deliver a copy of the Notice of Exercise to the Company to confirm the number of Warrant Shares issuable in connection with the cashless exercise. The Company shall calculate and transmit to the Warrant Agent in a written notice, and the Warrant Agent shall have no duty, responsibility or obligation under this section to calculate, the number of Warrant Shares issuable in connection with any cashless exercise. The Warrant Agent shall be entitled to rely conclusively on any such written notice provided by the Company, and the Warrant Agent shall not be liable for any action taken, suffered or omitted to be taken by it in accordance with such written instructions or pursuant to this Warrant Agreement.

3.3.7 Disputes. In the case of a dispute as to the determination of the Exercise Price or the arithmetic calculation of the number of Warrant Shares issuable in connection with any exercise, the Company shall promptly deliver to the Holder the number of Warrant Shares that are not disputed.

3.3.8 Compensation for Buy-In on Failure to Timely Deliver Warrant Shares Upon Exercise. In addition to any other rights available to the Holder, if the Company fails to cause the Transfer Agent to transmit to the Holder the Warrant Shares in accordance with the provisions of Section 3.3.2(b) above pursuant to an exercise on or before the Warrant Share Delivery Date, and if after such date the Holder is required by its broker to purchase (in an open market transaction or otherwise) or the Holder's brokerage firm otherwise purchases, shares of Common Stock to deliver in satisfaction of a sale by the Holder of the Warrant Shares which the Holder anticipated receiving upon such exercise (a "Buy-In"), then the Company shall (A) pay in cash to the Holder the amount, if any, by which (x) the Holder's total purchase price (including brokerage commissions, if any) for the shares of Common Stock so purchased exceeds (y) the amount obtained by multiplying (1) the number of Warrant Shares that the Company was required to deliver to the Holder in connection with the exercise at issue times (2) the price at which the sell order giving rise to such purchase obligation was executed, and (B) at the option of the Holder, either reinstate the portion of the Warrant and equivalent number of Warrant Shares for which such exercise was not honored (in which case such exercise shall be deemed rescinded) or deliver to the Holder the number of shares of Common Stock that would have been issued had the Company timely complied with its exercise and delivery obligations hereunder. For example, if the Holder purchases Common Stock having a total purchase price of $11,000 to cover a Buy-In with respect to an attempted exercise of shares of Common Stock with an aggregate sale price giving rise to such purchase obligation of $10,000, under clause (A) of the immediately preceding sentence the Company shall be required to pay the Holder $1,000. The Holder shall provide the Company written notice indicating the amounts payable to the Holder in respect of the Buy-In and, upon request of the Company, evidence of the amount of such loss. Nothing herein shall limit a Holder's right to pursue any other remedies available to it hereunder, at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief with respect to the Company's failure to timely deliver shares of Common Stock upon exercise of the Warrant as required pursuant to the terms hereof.

3.3.9 Beneficial Ownership Limitation. The Company shall not be required to effect any exercise of a Warrant, and a Holder shall not have the right to exercise any portion of a Warrant, pursuant to Section 3 or otherwise, to the extent that after giving effect to such issuance after exercise as set forth on the applicable Notice of Exercise, the Holder (together with the Holder's Affiliates (as defined below), and any other persons acting as a group together with the Holder or any of the Holder's Affiliates (such persons, "Attribution Parties")), would beneficially own in excess of the Beneficial Ownership Limitation (as defined below). For purposes of the foregoing sentence, the number of shares of Common Stock beneficially owned by the Holder and its Affiliates and Attribution Parties shall include the number of shares of Common Stock issuable upon exercise of such Warrant with respect to which such determination is being made, but shall exclude the number of shares of Common Stock which would be issuable upon (i) exercise of the remaining, non-exercised portion of such Warrant beneficially owned by the Holder or any of its Affiliates or Attribution Parties and (ii) exercise or conversion of the unexercised or non-converted portion of any other securities of the Company (including, without limitation, any other securities of the Company which would entitle the holder thereof to acquire at any time shares of Common Stock, including, without limitation, any debt, preferred stock, right, option, warrant or other instrument that is at any time convertible into or exercisable or exchangeable for, or otherwise entitles the holder thereof to receive, shares of Common Stock ("Common Stock Equivalents")) subject to a limitation on conversion or exercise analogous to the limitation contained herein beneficially owned by the Holder or any of its Affiliates or Attribution Parties. Except as set forth in the preceding sentence, for purposes of this Section 3.3.9, beneficial ownership shall be calculated in accordance with Section 13(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and the rules and regulations promulgated thereunder, it being acknowledged by the Holder that the Company is not representing to the Holder that such calculation is in compliance with Section 13(d) of the Exchange Act and the Holder is solely responsible for any schedules required to be filed in accordance therewith. To the extent that the limitation contained in this Section 3.3.9 applies, the determination of whether a Warrant is exercisable (in relation to other securities owned by the Holder together with any Affiliates and Attribution Parties) and of which portion of a Warrant is exercisable shall be in the sole discretion of the Holder, and the submission of a Notice of Exercise shall be deemed to be the Holder's determination of whether a Warrant is exercisable (in relation to other securities owned by the Holder together with any Affiliates and Attribution Parties) and of which portion of a Warrant is exercisable, in each case subject to the Beneficial Ownership Limitation, and the Company shall have no obligation to verify or confirm the accuracy of such determination. In addition, a determination as to any group status as contemplated above shall be determined in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder. For purposes of this Section 3.3.9, in determining the number of outstanding shares of Common Stock, a Holder may rely on the number of outstanding shares of Common Stock as reflected in (A) the Company's most recent periodic or annual report filed with the Commission, as the case may be, (B) a more recent public announcement by the Company or (C) a more recent written notice by the Company or the Transfer Agent setting forth the number of shares of Common Stock outstanding. Upon the written or oral request of a Holder, the Company shall within two Trading Days confirm orally and in writing to the Holder the number of shares of Common Stock then outstanding. In any case, the number of outstanding shares of Common Stock shall be determined after giving effect to the conversion or exercise of securities of the Company, including such Warrant, by the Holder or its Affiliates or Attribution Parties since the date as of which such number of outstanding shares of Common Stock was reported. The "Beneficial Ownership Limitation" shall be 4.99% (or, upon election by a Holder prior to the issuance of any Warrants, 9.99%) of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock issuable upon exercise of a Warrant. The Holder, upon written notice to the Company and the Warrant Agent, may increase or decrease the Beneficial Ownership Limitation provisions of this Section 3.3.9, provided that the Beneficial Ownership Limitation in no event exceeds 9.99% of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock upon exercise of a Warrant held by the Holder and the provisions of this Section 3.3.9 shall continue to apply. Any increase in the Beneficial Ownership Limitation will not be effective until the 61 st day after such notice is delivered to the Company. The provisions of this paragraph shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this Section 3.3.9 to correct this paragraph (or any portion hereof) which may be defective or inconsistent with the intended Beneficial Ownership Limitation herein contained or to make changes or supplements necessary or desirable to properly give effect to such limitation. The limitations contained in this paragraph shall apply to a successor holder of a Warrant.

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4. Adjustments.

4.1 Adjustment upon Subdivisions or Combinations. If the Company, at any time while the Warrants are outstanding: (i) pays a stock dividend or otherwise makes a distribution or distributions on shares of its Common Stock or any other equity or equity equivalent securities payable in shares of Common Stock (which, for avoidance of doubt, shall not include any shares of Common Stock issued by the Company upon exercise of the Warrants), (ii) subdivides outstanding shares of Common Stock into a larger number of shares, (iii) combines (including by way of reverse stock split) outstanding shares of Common Stock into a smaller number of shares, or (iv) issues by reclassification of shares of the Common Stock any shares of capital stock of the Company, then in each case the Exercise Price shall be multiplied by a fraction of which the numerator shall be the number of shares of Common Stock (excluding treasury shares, if any) outstanding immediately before such event and of which the denominator shall be the number of shares of Common Stock (excluding treasury shares, if any) outstanding immediately after such event, and the number of shares issuable upon exercise of each Warrant shall be proportionately adjusted such that the aggregate Exercise Price of such Warrant shall remain unchanged. Any adjustment made pursuant to this Section 4.1 shall become effective immediately after the record date for the determination of stockholders entitled to receive such dividend or distribution and shall become effective immediately after the effective date in the case of a subdivision, combination or re-classification.

4.2 Adjustment for Other Distributions.

(a) Subsequent Rights Offerings. In addition to any adjustments pursuant to Section 4.1 above, if at any time the Company grants, issues or sells any Common Stock Equivalents or rights to purchase stock, warrants, securities or other property pro rata to the record holders of any class of shares of Common Stock (the "Purchase Rights"), then the Holder will be entitled to acquire, upon the terms applicable to such Purchase Rights, the aggregate Purchase Rights which the Holder could have acquired if the Holder had held the number of shares of Common Stock acquirable upon complete exercise of a Warrant (without regard to any limitations on exercise hereof, including without limitation, the Beneficial Ownership Limitation) immediately before the date on which a record is taken for the grant, issuance or sale of such Purchase Rights, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the grant, issue or sale of such Purchase Rights (provided, however, to the extent that the Holder's right to participate in any such Purchase Right would result in the Holder exceeding the Beneficial Ownership Limitation, then the Holder shall not be entitled to participate in such Purchase Right to such extent (or beneficial ownership of such shares of Common Stock as a result of such Purchase Right to such extent) and such Purchase Right to such extent shall be held in abeyance for the Holder until such time, if ever, as its right thereto would not result in the Holder exceeding the Beneficial Ownership Limitation).

(b) Dividends. If the Company, at any time during the Exercise Period, shall pay a dividend in cash, securities or other assets to all holders of Common Stock (or other shares of the Company's capital stock for which the Warrants are exercisable), other than a transaction described in Sections 4.1, 4.2(a) or 4.3 (any such non-excluded event being referred to herein as a "Dividend"), then the Exercise Price shall be decreased, effective immediately after the effective date of such Dividend, by the quotient of (i) the gross amount of cash and/or fair market value (as determined by the Company's Board of Directors, in good faith) of all securities or other assets paid to the holders of Common Stock (or other shares of the Company's capital stock for which the Warrants are exercisable) in respect of such Dividend divided by (ii) the sum of the number of shares of Common Stock (or other shares of the Company's capital stock into which the Warrants are exercisable) outstanding at the time of the Dividend plus the number of shares of Common Stock then issuable upon exercise of all outstanding Warrants, provided, that the Exercise Price shall not be reduced below zero.

4.3 Fundamental Transaction. If, at any time while the Warrants are outstanding, (i) the Company, directly or indirectly, in one or more related transactions effects any merger or consolidation of the Company with or into another person, (ii) the Company, directly or indirectly, effects any sale, lease, license, assignment, transfer, conveyance or other disposition of all or substantially all of its assets in one or a series of related transactions, (iii) any, direct or indirect, purchase offer, tender offer or exchange offer (whether by the Company or another person) is completed pursuant to which all holders of Common Stock are permitted to sell, tender or exchange their shares for other securities, cash or property and has been accepted by the holders of 50% or more of the outstanding Common Stock, (iv) the Company, directly or indirectly, in one or more related transactions effects any reclassification, reorganization or recapitalization of the Common Stock or any compulsory share exchange pursuant to which all outstanding shares of Common Stock are effectively converted into or exchanged for other securities, cash or property, or (v) the Company, directly or indirectly, in one or more related transactions consummates a stock or share purchase agreement or other business combination (including, without limitation, a reorganization, recapitalization, spin-off or scheme of arrangement) with another person or group of persons whereby such other person or group acquires more than 50% of the outstanding shares of Common Stock (not including any shares of Common Stock held by the other person or other persons making or party to, or associated or affiliated with the other Persons making or party to, such stock or share purchase agreement or other business combination) (each a "Fundamental Transaction"), then, upon any subsequent exercise of a Warrant, the Holder shall have the right to receive, for each Warrant Share that would have been issuable upon such exercise immediately prior to the occurrence of such Fundamental Transaction (without regard to any limitation in Section 3.3.9 on the exercise of a Warrant), the number of shares of Common Stock of the successor or acquiring corporation or of the Company, if it is the surviving corporation, and such amount of cash or any other consideration (collectively, the "Alternate Consideration") receivable as a result of such Fundamental Transaction by a holder of the number of shares of Common Stock for which a Warrant is exercisable immediately prior to such Fundamental Transaction (without regard to any limitation in Section 3.3.9 on the exercise of a Warrant). For purposes of any such exercise, the determination of the Exercise Price shall be appropriately adjusted to apply to such Alternate Consideration based on the amount of Alternate Consideration issuable in respect of one share of Common Stock in such Fundamental Transaction, and the Company shall apportion the Exercise Price among the Alternate Consideration in a reasonable manner reflecting the relative value of any different components of the Alternate Consideration. If holders of Common Stock are given any choice as to the securities, cash or property to be received in a Fundamental Transaction, then the Holder shall be given the same choice as to the Alternate Consideration it receives upon any exercise of a Warrant following such Fundamental Transaction. The Company shall cause any successor entity in a Fundamental Transaction in which the Company is not the survivor (the "Successor Entity") to assume in writing all of the obligations of the Company under the Warrants in accordance with the provisions of this Section 4.3 pursuant to written agreements prior to or during such Fundamental Transaction. Upon the occurrence of any such Fundamental Transaction, the Successor Entity shall succeed to, and be substituted for (so that from and after the date of such Fundamental Transaction, the provisions of the Warrants referring to the "Company" shall refer instead to the Successor Entity), and may exercise every right and power of the Company and shall assume all of the obligations of the Company under the Warrants with the same effect as if such Successor Entity had been named as the Company therein.

The Company shall instruct the Warrant Agent in writing to mail by first class mail, postage prepaid, to each Holder, written notice of the execution of any such amendment, supplement or agreement with the Successor Entity. Any supplemented or amended agreement entered into by the successor corporation or transferee shall provide for adjustments, which shall be as nearly equivalent as may be practicable to the adjustments provided for in this Section 4.3. The Warrant Agent shall have no duty, responsibility or obligation to determine the correctness of any provisions contained in such agreement or such notice, including but not limited to any provisions relating either to the kind or amount of securities or other property receivable upon exercise of warrants or with respect to the method employed and provided therein for any adjustments, and shall be entitled to rely conclusively for all purposes upon the provisions contained in any such agreement. The provisions of this Section 4.3 shall similarly apply to successive reclassifications, changes, consolidations, mergers, sales and conveyances of the kind described above.

4.4 Notices to Holder.

(a) Adjustment to Exercise Price. Whenever the Exercise Price is adjusted pursuant to any provision of this Section 4, the Company

shall promptly deliver to the Holder by facsimile or email a notice setting forth the Exercise Price after such adjustment and any resulting adjustment to the number of Warrant Shares and setting forth a brief statement of the facts requiring such adjustment.

(b) Notice to Allow Exercise by Holder. If (A) the Company shall declare a dividend (or any other distribution in whatever form) on the Common Stock, (B) the Company shall declare a special nonrecurring cash dividend on or a redemption of the Common Stock, (C) the Company shall authorize the granting to all holders of the Common Stock rights or warrants to subscribe for or purchase any shares of capital stock of any class or of any rights, (D) the approval of any stockholders of the Company shall be required in connection with any reclassification of the Common Stock, any consolidation or merger to which the Company is a party, any sale or transfer of all or substantially all of the assets of the Company, or any compulsory share exchange whereby the Common Stock is converted into other securities, cash or property, or (E) the Company shall authorize the voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Company, then, in each case, the Company shall cause to be delivered by facsimile or email to the Holder at its last facsimile number or email address as it shall appear upon the Warrant Register of the Company, at least 20 calendar days prior to the applicable record or effective date hereinafter specified, a notice stating (x) the date on which a record is to be taken for the purpose of such dividend, distribution, redemption, rights or warrants, or if a record is not to be taken, the date as of which the holders of the Common Stock of record to be entitled to such dividend, distributions, redemption, rights or warrants are to be determined or (y) the date on which such reclassification, consolidation, merger, sale, transfer or share exchange is expected to become effective or close, and the date as of which it is expected that holders of the Common Stock of record shall be entitled to exchange their shares of the Common Stock for securities, cash or other property deliverable upon such reclassification, consolidation, merger, sale, transfer or share exchange; provided that the failure to deliver such notice or any defect therein or in the delivery thereof shall not affect the validity of the corporate action required to be specified in such notice. To the extent that any notice required by this Warrant Agreement constitutes, or contains, material, non-public information regarding the Company or any of its Subsidiaries, the Company shall simultaneously file such notice with the Commission pursuant to a Current Report on Form 8-K. Provided such notice occurs within the Exercise Period, the Holder shall remain entitled to exercise a Warrant during the period commencing on the date of such notice to the effective date of the event triggering such notice except as may otherwise be expressly set forth herein.

4.5 Other Events. If any event occurs of the type contemplated by the provisions of Section 4.1 or 4.2 but not expressly provided for by such provisions (including, without limitation, the granting of stock appreciation rights, Adjustment Rights, phantom stock rights or other rights with equity features to all holders of Common Stock for no consideration), then the Company's Board of Directors will, at its discretion and in good faith, make an adjustment in the Exercise Price and the number of Warrant Shares or designate such additional consideration to be deemed issuable upon exercise of a Warrant, so as to protect the rights of the registered Holder. No adjustment to the Exercise Price will be made pursuant to more than one sub-section of this Section 4 in connection with a single issuance.

4.6 Notices of Changes in Warrant. Upon every adjustment of the Exercise Price or the number of Warrant Shares issuable upon exercise of a Warrant, the Company shall give written notice thereof to the Warrant Agent, which notice shall state the Exercise Price resulting from such adjustment and the increase or decrease, if any, in the number of Warrant Shares purchasable at such price upon the exercise of a Warrant, setting forth in reasonable detail the method of calculation and the facts upon which such calculation is based. Upon the occurrence of any event specified in Sections 4.1 or 4.2, then, in any such event, the Company shall give written notice to each Holder, at the last address set forth for such holder in the Warrant Register, as of the record date or the effective date of the event. Failure to give such notice, or any defect therein, shall not affect the legality or validity of such event. The Warrant Agent shall be entitled to rely conclusively on, and shall be fully protected in relying on, any certificate, notice or instructions provided by the Company with respect to any adjustment of the Exercise Price or the number of shares issuable upon exercise of a Warrant, or any related matter, and the Warrant Agent shall not be liable for any action taken, suffered or omitted to be taken by it in accordance with any such certificate, notice or instructions or pursuant to this Warrant Agreement. The Warrant Agent shall not be deemed to have knowledge of any such adjustment unless and until it shall have received written notice thereof from the Company.

5 . Restrictive Legends; Fractional Warrants. In the event that a Warrant Certificate surrendered for transfer bears a restrictive legend, the Warrant Agent shall not register that transfer until the Warrant Agent has received an opinion of counsel for the Company stating that such transfer may be made and indicating whether the Warrants must also bear a restrictive legend upon that transfer. The Warrant Agent shall not be required to effect any registration of transfer or exchange which will result in the transfer of or delivery of a Warrant Certificate for a fraction of a Warrant.

6. Other Provisions Relating to Rights of Holders of Warrants.

6 . 1 No Rights as Stockholder. Except as otherwise specifically provided herein, a Holder, solely in its capacity as a holder of Warrants, shall not be entitled to vote or receive dividends or be deemed the holder of share capital of the Company for any purpose, nor shall anything contained in this Warrant Agreement be construed to confer upon a Holder, solely in its capacity as the registered holder of Warrants, any of the rights of a stockholder of the Company or any right to vote, give or withhold consent to any corporate action (whether any reorganization, issue of stock, reclassification of share capital, consolidation, merger, conveyance or otherwise), receive notice of meetings, receive dividends or subscription rights or rights to participate in new issues of shares, or otherwise, prior to the issuance to the Holder of the Warrant Shares which it is then entitled to receive upon the due exercise of Warrants.

6 . 2 Reservation of Common Stock. The Company shall at all times reserve and keep available a number of its authorized but unissued shares of Common Stock that will be sufficient to permit the exercise in full of all outstanding Warrants issued pursuant to this Warrant Agreement.

7. Concerning the Warrant Agent and Other Matters.

7.1 Any instructions given to the Warrant Agent orally, as permitted by any provision of this Warrant Agreement, shall be confirmed in writing by the Company as soon as practicable. The Warrant Agent shall not be liable or responsible and shall be fully authorized and protected for acting, or failing to act, in accordance with any oral instructions which do not conform with the written confirmation received in accordance with this Section 7.1.

7.2 (a) Whether or not any Warrants are exercised, for the Warrant Agent’s services as agent for the Company hereunder, the Company shall pay to the Warrant Agent such fees as may be separately agreed between the Company and Warrant Agent and the Warrant Agent’s out of pocket expenses in connection with this Warrant Agreement, including, without limitation, the reasonable fees and expenses of the Warrant Agent’s counsel. While the Warrant Agent endeavors to maintain out-of-pocket charges (both internal and external) at competitive rates, these charges may not reflect actual out-of-pocket costs, and may include handling charges to cover internal processing and use of the Warrant Agent’s billing systems.

(b) All amounts owed by the Company to the Warrant Agent under this Warrant Agreement are due within 30 days of the Company’s receipt of an invoice.

(c) No provision of this Warrant Agreement shall require Warrant Agent to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties under this Warrant Agreement or in the exercise of its rights.

7.3 As agent for the Company hereunder, the Warrant Agent:

(a) shall have no duties or obligations other than those specifically set forth herein or as may subsequently be agreed to in writing by the Warrant Agent and the Company;

(b) shall be regarded as making no representations and having no responsibilities as to the validity, sufficiency, value, or genuineness of the Warrants or any Warrant Shares;

(c) shall not be obligated to take any legal action hereunder; if, however, the Warrant Agent determines to take any legal action hereunder, and where the taking of such action might, in its judgment, subject or expose it to any expense or liability it shall not be required to act unless it has been furnished with an indemnity reasonably satisfactory to it;

(d) may rely on and shall be fully authorized and protected in acting or failing to act upon any certificate, instrument, opinion, notice, letter, telegram, telex, facsimile transmission or other document or security delivered to the Warrant Agent and believed by it to be genuine and to have been signed by the proper party or parties;

(e) shall not be liable or responsible for any recital or statement contained in the Registration Statement or any other documents relating thereto;

(f) shall not be liable or responsible for any failure on the part of the Company to comply with any of its covenants and obligations relating to the Warrants, including without limitation obligations under applicable securities laws;

(g) may rely on and shall be fully authorized and protected in acting or failing to act upon the written, telephonic or oral instructions with respect to any matter relating to its duties as Warrant Agent covered by this Warrant Agreement (or supplementing or qualifying any such actions) of officers of the Company, and is hereby authorized and directed to accept instructions with respect to the performance of its duties hereunder from the Company or counsel to the Company, and may apply to the Company, for advice or instructions in connection with the Warrant Agent's duties hereunder, and the Warrant Agent shall not be liable for any delay in acting while waiting for those instructions; any applications by the Warrant Agent for written instructions from the Company may, at the option of the Warrant Agent, set forth in writing any action proposed to be taken or omitted by the Warrant Agent under this Warrant Agreement and the date on or after which such action shall be taken or such omission shall be effective; the Warrant Agent shall not be liable for any action taken by, or omission of, the Warrant Agent in accordance with a proposal included in such application on or after the date specified in such application (which date shall not be less than five business days after the date such application is sent to the Company, unless the Company shall have consented in writing to any earlier date) unless prior to taking any such action, the Warrant Agent shall have received written instructions in response to such application specifying the action to be taken or omitted;

(h) may consult with counsel satisfactory to the Warrant Agent, including its in-house counsel, and the advice of such counsel shall be full and complete authorization and protection in respect of any action taken, suffered, or omitted by it hereunder in good faith and in accordance with the advice of such counsel;

(i) may perform any of its duties hereunder either directly or by or through nominees, correspondents, designees, or subagents, and it shall not be liable or responsible for any misconduct or negligence on the part of any nominee, correspondent, designee, or subagent appointed with reasonable care by it in connection with this Warrant Agreement;

(j) is not authorized, and shall have no obligation, to pay any brokers, dealers, or soliciting fees to any person and

(k) shall not be required hereunder to comply with the laws or regulations of any country other than the United States of America or any political subdivision thereof.

7.4 (a) In the absence of gross negligence or willful or illegal misconduct on its part, the Warrant Agent shall not be liable for any action taken, suffered, or omitted by it or for any error of judgment made by it in the performance of its duties under this Warrant Agreement. Anything in this Warrant Agreement to the contrary notwithstanding, in no event shall Warrant Agent be liable for special, indirect, incidental, consequential or punitive losses or damages of any kind whatsoever (including but not limited to lost profits), even if the Warrant Agent has been advised of the possibility of such losses or damages and regardless of the form of action. Any liability of the Warrant Agent will be limited in the aggregate to the amount of fees paid by the Company hereunder. The Warrant Agent shall not be liable for any failures, delays or losses, arising directly or indirectly out of conditions beyond its reasonable control including, but not limited to, acts of government, exchange or market ruling, suspension of trading, work stoppages or labor disputes, fires, civil disobedience, riots, rebellions, storms, electrical or mechanical failure, computer hardware or software failure, communications facilities failures including telephone failure, war, terrorism, insurrection, earthquakes, floods, acts of God or similar occurrences.

(b) In the event any question or dispute arises with respect to the proper interpretation of the Warrants or the Warrant Agent's duties under this Warrant Agreement or the rights of the Company or of any Holder, the Warrant Agent shall not be required to act and shall not be held liable or responsible for its refusal to act until the question or dispute has been judicially settled (and, if appropriate, it may file a suit in interpleader or for a declaratory judgment for such purpose) by final judgment rendered by a court of competent jurisdiction, binding on all persons interested in the matter which is no longer subject to review or appeal, or settled by a written document in form and substance satisfactory to Warrant Agent and executed by the Company and each such Holder. In addition, the Warrant Agent may require for such purpose, but shall not be obligated to require, the execution of such written settlement by all the Holders and all other persons that may have an interest in the settlement.

7.5 The Company covenants to indemnify the Warrant Agent and hold it harmless from and against any loss, liability, claim or expense ("Loss") arising out of or in connection with the Warrant Agent's duties under this Warrant Agreement, including the costs and expenses of defending itself against any Loss, unless such Loss shall have been determined by a court of competent jurisdiction to be a result of the Warrant Agent's gross negligence or willful misconduct.

7.6 Unless terminated earlier by the parties hereto, this Warrant Agreement shall terminate 90 days after the earlier of the Expiration Date and the date on which no Warrants remain outstanding (the "Termination Date"). On the business day following the Termination Date, the Warrant Agent shall deliver to the Company any entitlements, if any, held by the Warrant Agent under this Warrant Agreement. The Warrant Agent's right to be reimbursed for fees, charges and out-of-pocket expenses as provided in this Section 7 shall survive the termination of this Warrant Agreement.

7.7 If any provision of this Warrant Agreement shall be held illegal, invalid, or unenforceable by any court, this Warrant Agreement shall be construed and enforced as if such provision had not been contained herein and shall be deemed an agreement among the parties to it to the full extent permitted by applicable law.

7.8 The Company represents and warrants that (a) it is duly incorporated and validly existing under the laws of its jurisdiction of incorporation, (b) the offer and sale of the Warrants and the execution, delivery and performance of all transactions contemplated thereby (including this Warrant Agreement) have been duly authorized by all necessary corporate action and will not result in a breach of or constitute a default under the articles of association, bylaws or any similar document of the Company or any indenture, agreement or instrument to which it is a party or is bound, (c) this Warrant Agreement has been duly executed and delivered by the Company and constitutes the legal, valid, binding and enforceable obligation of the Company, (d) the Warrants will comply in all material respects with all applicable requirements of law and

(e) to the best of its knowledge, there is no litigation pending or threatened as of the date hereof in connection with the offering of the Warrants.

7.9 In the event of inconsistency between this Warrant Agreement and the descriptions in the Registration Statement, as they may from time to time be amended, the terms of this Warrant Agreement shall control.

7.10 Any notice, statement or demand authorized by this Warrant Agreement to be given or made by the Warrant Agent or by the holder of any Warrant to or on the Company, including, without limitation, the copy of any Notice of Exercise, shall be in writing and delivered by e-mail, hand or sent by a nationally recognized overnight courier service, addressed (until another address is filed in writing by the Company with the Warrant Agent) as set forth below and if to any holder any notice, statement or demand shall be given to the last address set forth for such holder (if any) in the Warrant Register:

Digital Brands Group, Inc.
1400 Lavaca Street
Austin, Texas 78701
Attn: Chief Executive Officer
Email: hil@dstld.la

with a copy (which shall not constitute notice) to:

Manatt, Phelps and Phillips, LLP
695 Town Center Drive, 14th Floor
Costa Mesa, CA 92626
Attention: Thomas Poletti
Phone No: +1 714 371 2501
Email: tpoletti@manatt.com

Any notice, statement or demand authorized by this Warrant Agreement to be given or made by the holder of any Warrant or by the Company to or on the Warrant Agent, including, without limitation, any Notice of Exercise, shall be in writing and delivered by facsimile, hand or sent by a nationally recognized overnight courier service, addressed (until another address is filed in writing by the Warrant Agent with the Company), as follows:

VStock Transfer, LLC
[Address]
Fax No: [ ]
Email: [ ]

Any notice or other communication or deliveries hereunder shall be deemed given and effective on the earliest of (i) the time of transmission, if such notice or communication is delivered via facsimile at the facsimile number or e-mail at the e-mail address set forth above in this Section 7.11 prior to 5:30 p.m. (New York City time) on any date, (ii) the next Trading Day after the date of transmission, if such notice or communication is delivered via facsimile at the facsimile number or e-mail at the e-mail address set forth in this Section on a day that is not a Trading Day or later than 5:30 p.m. (New York City time) on any Trading Day, (iii) the second Trading Day following the date of mailing, if sent by U.S. nationally recognized overnight courier service, or (iv) upon actual receipt by the party to whom such notice is required to be given. Notwithstanding any other provision of this Warrant Agreement, where this Warrant Agreement provides for notice of any event to the Holder, if a Warrant is held in global form by DTC (or any successor depositary), such notice shall be sufficiently given if given to DTC (or any successor depositary) pursuant to the procedures of DTC (or such successor depositary).

7.11 (a) This Warrant Agreement shall be governed by and construed in accordance with the laws of the State of New York. All actions and proceedings relating to or arising from, directly or indirectly, this Warrant Agreement may be litigated in courts located within the Borough of Manhattan in the City and State of New York. The Company hereby submits to the personal jurisdiction of such courts and consents that any service of process may be made by certified or registered mail, return receipt requested, directed to the Company at its address last specified for notices hereunder.

(b) This Warrant Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto. This Warrant Agreement may not be assigned, or otherwise transferred, in whole or in part, by either party without the prior written consent of the other party, which the other party will not unreasonably withhold, condition or delay; except that (i) consent is not required for an assignment or delegation of duties by Warrant Agent to any Affiliate of Warrant Agent and (ii) any reorganization, merger, consolidation, sale of assets or other form of business combination by Warrant Agent or the Company shall not be deemed to constitute an assignment of this Warrant Agreement.

(c) No provision of this Warrant Agreement may be amended, modified or waived, except in a written document signed by both parties. The Company and the Warrant Agent may amend or supplement this Warrant Agreement without the consent of any Holder for the purpose of curing any ambiguity, or curing, correcting or supplementing any defective provision contained herein or adding or changing any other provisions with respect to matters or questions arising under this Warrant Agreement as the parties may deem necessary or desirable and that the parties determine, in good faith, shall not adversely affect the interest of the Holders. All other amendments and supplements shall require the vote or written consent of Holders of at least 50.1% of the then outstanding Warrants, provided that adjustments may be made to the Warrant terms and rights in accordance with Section 4 without the consent of the Holders.

7.12 Payment of Taxes. The Company will from time to time promptly pay all taxes and charges that may be imposed upon the Company or the Warrant Agent in respect of the issuance or delivery of Warrant Shares upon the exercise of Warrants, but the Company may require the Holders to pay any transfer taxes in respect of the Warrants or such shares. The Warrant Agent may refrain from registering any transfer of Warrants or any delivery of any Warrant Shares unless or until the persons requesting the registration or issuance shall have paid to the Warrant Agent for the account of the Company the amount of such tax or charge, if any, or shall have established to the reasonable satisfaction of the Company and the Warrant Agent that such tax or charge, if any, has been paid.

7.13 Resignation of Warrant Agent.

7.13.1 Appointment of Successor Warrant Agent . The Warrant Agent, or any successor to it hereafter appointed, may resign its duties and be discharged from all further duties and liabilities hereunder after giving thirty (30) days' notice in writing to the Company, or such shorter period of time agreed to by the Company. The Company may terminate the services of the Warrant Agent, or any successor Warrant Agent, after giving thirty (30) days' notice in writing to the Warrant Agent or successor Warrant Agent, or such shorter period of time as agreed. If the office of the Warrant Agent becomes vacant by resignation, termination or incapacity to act or otherwise, the Company shall appoint in writing a successor Warrant Agent in place of the Warrant Agent. If the Company shall fail to make such appointment within a period

of 30 days after it has been notified in writing of such resignation or incapacity by the Warrant Agent, then the Warrant Agent or any Holder may apply to any court of competent jurisdiction for the appointment of a successor Warrant Agent at the Company's cost. Pending appointment of a successor to such Warrant Agent, either by the Company or by such a court, the duties of the Warrant Agent shall be carried out by the Company. Any successor Warrant Agent (but not including the initial Warrant Agent), whether appointed by the Company or by such court, shall be a person organized and existing under the laws of any state of the United States of America, in good standing, and authorized under such laws to exercise corporate trust powers and subject to supervision or examination by federal or state authority. After appointment, any successor Warrant Agent shall be vested with all the authority, powers, rights, immunities, duties, and obligations of its predecessor Warrant Agent with like effect as if originally named as Warrant Agent hereunder, without any further act or deed, and except for executing and delivering documents as provided in the sentence that follows, the predecessor Warrant Agent shall have no further duties, obligations, responsibilities or liabilities hereunder, but shall be entitled to all rights that survive the termination of this Warrant Agreement and the resignation or removal of the Warrant Agent, including but not limited to its right to indemnity hereunder. If for any reason it becomes necessary or appropriate or at the request of the Company, the predecessor Warrant Agent shall execute and deliver, at the expense of the Company, an instrument transferring to such successor Warrant Agent all the authority, powers, and rights of such predecessor Warrant Agent hereunder; and upon request of any successor Warrant Agent the Company shall make, execute, acknowledge, and deliver any and all instruments in writing for more fully and effectually vesting in and confirming to such successor Warrant Agent all such authority, powers, rights, immunities, duties, and obligations.

7.13.2 Notice of Successor Warrant Agent. In the event a successor Warrant Agent shall be appointed, the Company shall give notice thereof to the predecessor Warrant Agent and the transfer agent for the Common Stock not later than the effective date of any such appointment.

7.13.3 Merger or Consolidation of Warrant Agent. Any person into which the Warrant Agent may be merged or converted or with which it may be consolidated or any person resulting from any merger, conversion or consolidation to which the Warrant Agent shall be a party or any person succeeding to the shareowner services business of the Warrant Agent or any successor Warrant Agent shall be the successor Warrant Agent under this Warrant Agreement, without any further act or deed.

8. Miscellaneous Provisions.

8.1 Persons Having Rights under this Warrant Agreement. Nothing in this Warrant Agreement expressed and nothing that may be implied from any of the provisions hereof is intended, or shall be construed, to confer upon, or give to, any person or corporation other than the parties hereto and the Holders any right, remedy, or claim under or by reason of this Warrant Agreement or of any covenant, condition, stipulation, promise, or agreement hereof.

8.2 Examination of the Warrant Agreement. A copy of this Warrant Agreement shall be available at all reasonable times at the office of the Warrant Agent designated for such purpose for inspection by any Holder. Prior to such inspection, the Warrant Agent may require any such holder to provide reasonable evidence of its interest in the Warrants.

8.3 Counterparts. This Warrant Agreement may be executed in any number of original, facsimile or electronic counterparts and each of such counterparts shall for all purposes be deemed to be an original, and all such counterparts shall together constitute but one and the same instrument.

8.4 Effect of Headings. The Section headings herein are for convenience only and are not part of this Warrant Agreement and shall not affect the interpretation thereof.

9. Certain Definitions. As used herein, the following terms shall have the following meanings:

(i) "Adjustment Right" means any right granted with respect to any securities issued in connection with, or with respect to, any issuance, sale or delivery (or deemed issuance, sale or delivery in accordance with Section 4) of Common Stock (other than rights of the type described in Section 4.2 and 4.3 hereof) that could result in a decrease in the net consideration received by the Company in connection with, or with respect to, such securities (including, without limitation, any cash settlement rights, cash adjustment or other similar rights) but excluding anti-dilution and other similar rights (including pursuant to Section 4.4 of this Agreement).

(ii) "Affiliate" means any Person that, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with a Person, as such terms are used in and construed under Rule 405 under the Securities Act.

(iii) "person" shall mean any individual, firm, corporation, partnership, limited liability company, joint venture, association, trust or other entity, and shall include any successor (by merger or otherwise) thereof or thereto.

(iv) "Trading Day" means any day on which the Common Stock is traded on the Trading Market, or, if the Trading Market is not the principal trading market for the Common Stock, then on the principal securities exchange or securities market in the United States on which the Common Stock is then traded, provided that "Trading Day" shall not include any day on which the Common Stock is scheduled to trade on such exchange or market for less than 4.5 hours or any day that the Common Stock is suspended from trading during the final hour of trading on such exchange or market (or if such exchange or market does not designate in advance the closing time of trading on such exchange or market, then during the hour ending at 4:00 P.M., New York City time)

(v) "Trading Market" means the NYSE American, the Nasdaq Capital Market, the Nasdaq Global Market, the Nasdaq Global Select Market or the New York Stock Exchange (or any successors to any of the foregoing).

(vi) "VWAP" means, for any date, the price determined by the first of the following clauses that applies: (a) if the Common Stock is then listed or quoted on a Trading Market, the daily volume weighted average price of the Common Stock for such date (or the nearest preceding date) on the Trading Market on which the Common Stock is then listed or quoted as reported by Bloomberg L.P. (based on a Trading Day from 9:30 a.m. (New York City time) to 4:02 p.m. (New York City time)), (b) if OTCQB or OTCQX is not a Trading Market, the volume weighted average price of the Common Stock for such date (or the nearest preceding date) on OTCQB or OTCQX as applicable, (c) if the Common Stock is not then listed or quoted for trading on OTCQB or OTCQX and if prices for the Common Stock are then reported in the "Pink Open Market" published by OTC Markets Group, Inc. (or a similar organization or agency succeeding to its functions of reporting prices), the most recent bid price per share of the Common Stock so reported, or (d) in all other cases, the fair market value of a share of Common Stock as determined by an independent appraiser selected in good faith by the holders of a majority in interest of the Warrants then outstanding and reasonably acceptable to the Company, the fees and expenses of which shall be paid by the Company.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, this Warrant Agreement has been duly executed by the parties hereto as of the day and year first above written.

DIGITAL BRANDS GROUP, INC.

By: _____
Name: John "Hil" Davis
Title: President and Chief Executive Officer

VSTOCK TRANSFER, LLC,
as Warrant Agent

By: _____
Name:
Title:

Annex A Form of Global Certificate
Annex B Form of Certificated Warrant

ANNEX A

[FORM OF GLOBAL CERTIFICATE]

UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION ("DTC"), TO ISSUER OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE, OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

DIGITAL BRANDS GROUP, INC.
WARRANT CERTIFICATE
NOT EXERCISABLE AFTER [ ], 2026

This certifies that the person whose name and address appears below, or registered assigns, is the registered owner of the number of Warrants set forth below. Each Warrant entitles its registered holder to purchase from Digital Brands Group, Inc., a company incorporated under the laws of the State of Delaware (the "**Company**"), at any time prior to 5:00 P.M. (New York City time) on [ ], 2026, one share of common stock, par value $0.0001 per share, of the Company (each, a "**Warrant Share**" and collectively, the "**Warrant Shares**"), at an exercise price of $5.50 per share, subject to possible adjustments as provided in the Warrant Agreement (as defined below).

This Warrant Certificate, with or without other Warrant Certificates, upon surrender at the designated office of the Warrant Agent, may be exchanged for another Warrant Certificate or Warrant Certificates evidencing the same number of Warrants as the Warrant Certificate or Warrant Certificates surrendered. A transfer of the Warrants evidenced hereby may be registered upon surrender of this Warrant Certificate at the designated office of the Warrant Agent by the registered holder in person or by a duly authorized attorney, properly endorsed or accompanied by proper instruments of transfer, a signature guarantee, and such other and further documentation as the Warrant Agent may reasonably request and duly stamped as may be required by the laws of the State of New York and of the United States of America.

The terms and conditions of the Warrants and the rights and obligations of the holder of this Warrant Certificate are set forth in the Warrant Agency Agreement dated as of April __, 2021 (the "**Warrant Agreement**") between the Company and VStock Transfer, LLC, as Warrant Agent (the "**Warrant Agent**"). A copy of the Warrant Agreement is available for inspection during business hours at the office of the Warrant Agent.

This Warrant Certificate shall not be valid or obligatory for any purpose until it shall have been countersigned by an authorized signatory of the Warrant Agent.

WITNESS the facsimile signature of a proper officer of the Company.

DIGITAL BRANDS GROUP, INC.

By: _____
Name:
Title:

Dated: [ ], 2021
Countersigned:
VSTOCK TRANSFER, LLC,
as Warrant Agent
By: _____
Name:
Title:

PLEASE DETACH HERE

Certificate No.:____1_____ Number of Warrants:_[ ]__

WARRANT CUSIP NO.: _____

DIGITAL BRANDS GROUP, INC.

[Name & Address of Holder]

VSTOCK TRANSFER, LLC, Warrant Agent
By Mail:
By hand or overnight courier:

ANNEX B

[FORM OF CERTIFICATED WARRANT]

THE NUMBER OF COMMON SHARES ISSUABLE UPON EXERCISE OF THIS WARRANT MAY BE LESS THAN THE AMOUNTS SET FORTH ON THE FACE HEREOF PURSUANT TO SECTION 1(d) OF THIS WARRANT.

DIGITAL BRANDS GROUP, INC.

Warrant To Purchase Common Shares

Warrant No.:
Date of Issuance: [ ], 2021 ("**Issuance Date**")

Digital Brands Group, Inc., a Delaware corporation (the "**Company**"), hereby certifies that, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, [BUYER], the registered holder hereof or its permitted assigns (the "**Holder**"), is entitled, subject to the terms set forth below, to purchase from the Company, at the Exercise Price (as defined below) then in effect, upon exercise of this Warrant to Purchase Common Shares (including any Warrants to Purchase Common Shares issued in exchange, transfer or replacement hereof, the "**Warrant**"), at any time or times on or after the Issuance Date, but not after 11:59 p.m., New York time, on the Expiration Date (as defined below), _____ [1] (subject to adjustment as provided herein) fully paid and non-assessable shares of Common Stock (as defined below) (the "**Warrant Shares**", and such number of Warrant Shares, the "**Warrant Number**"). Except as otherwise defined herein, capitalized terms in this Warrant shall have the meanings set forth in Section 17. This Warrant is one of the Warrants to Purchase Common Shares (the "**Registered Warrants**") issued pursuant to (i) Section 1 of that certain Underwriting Agreement, dated as of [ ], 2021 (the "**Subscription Date**"), by and among the Company and the underwriter(s) referred to therein, as amended from time to time (the "**Underwriting Agreement**") and (ii) the Company's Registration Statement on Form S-1 (File number 333-*) (the "**Registration Statement**").

[1] 100% Warrant coverage

1. EXERCISE OF WARRANT.

(a) Mechanics of Exercise. Subject to the terms and conditions hereof (including, without limitation, the limitations set forth in Section 1(f)), this Warrant may be exercised by the Holder on any day on or after the Issuance Date (an "**Exercise Date**"), in whole or in part, by delivery (whether via facsimile, electronic mail or otherwise) of a written notice, in the form attached hereto as **Exhibit A** (the "**Exercise Notice**"), of the Holder's election to exercise this Warrant. Within one (1) Trading Day following an exercise of this Warrant as aforesaid, the Holder shall deliver payment to the Company of an amount equal to the Exercise Price in effect on the date of such exercise multiplied by the number of Warrant Shares as to which this Warrant was so exercised (the "**Aggregate Exercise Price**") in cash or via wire transfer of immediately available funds if the Holder did not notify the Company in such Exercise Notice that such exercise was made pursuant to a Cashless Exercise (as defined in Section 1(d)). The Holder shall not be required to deliver the original of this Warrant in order to effect an exercise hereunder. Execution and delivery of an Exercise Notice with respect to less than all of the Warrant Shares shall have the same effect as cancellation of the original of this Warrant and issuance of a new Warrant evidencing the right to purchase the remaining number of Warrant Shares. Execution and delivery of an Exercise Notice for all of the then-remaining Warrant Shares shall have the same effect as cancellation of the original of this Warrant after delivery of the Warrant Shares in accordance with the terms hereof. On or before the first (1st) Trading Day following the date on which the Company has received an Exercise Notice, the Company shall transmit by facsimile or electronic mail an acknowledgment of confirmation of receipt of such Exercise Notice, in the form attached hereto as **Exhibit B**, to the Holder and the Company's transfer agent (the "**Transfer Agent**"), which confirmation shall constitute an instruction to the Transfer Agent to process such Exercise Notice in accordance with the terms herein. On or before the second (2nd) Trading Day following the date on which the Company has received such Exercise Notice (or such earlier date as required pursuant to the 1934 Act or other applicable law, rule or regulation for the settlement of a trade of such Warrant Shares initiated on the applicable Exercise Date), the Company shall (i) provided that the Transfer Agent is participating in The Depository Trust Company ("**DTC**") Fast Automated Securities Transfer Program ("**FAST Program**"), upon the request of the Holder, credit such aggregate number of Common Shares to which the Holder is entitled pursuant to such exercise to the Holder's or its designee's balance account with DTC through its Deposit/Withdrawal at Custodian system, or (ii) if the Transfer Agent is not participating in the DTC FAST Program, upon the request of the Holder, issue and deliver (via reputable overnight courier) to the address as specified in the Exercise Notice, a certificate, registered in the name of the Holder or its designee, for the number of Common Shares to which the Holder shall be entitled pursuant to such exercise, which Common Shares shall be freely tradeable pursuant to all applicable securities laws. Upon delivery of an Exercise Notice, the Holder shall be deemed for all corporate purposes to have become the holder of record of the Warrant Shares with respect to which this Warrant has been exercised, irrespective of the date such Warrant Shares are credited to the Holder's DTC account or the date of delivery of the certificates evidencing such Warrant Shares (as the case may be). If this Warrant is submitted in connection with any exercise pursuant to this Section 1(a) and the number of Warrant Shares represented by this Warrant submitted for exercise is greater than the number of Warrant Shares being acquired upon an exercise and upon surrender of this Warrant to the Company by the Holder, then, at the request of the Holder, the Company shall as soon as practicable and in no event later than two (2) Business Days after any exercise and at its own expense, issue and deliver to the Holder (or its designee) a new Warrant (in accordance with Section 7(d)) representing the right to purchase the number of Warrant Shares purchasable immediately prior to such exercise under this Warrant, less the number of Warrant Shares with respect to which this Warrant is exercised. No fractional Common Shares are to be issued upon the exercise of this Warrant, but rather the number of Common Shares to be issued shall be rounded up to the nearest whole number. The Company shall pay any and all transfer, stamp, issuance and similar taxes, costs and expenses (including, without limitation, fees and expenses of the Transfer Agent) that may be payable with respect to the issuance and delivery of Warrant Shares upon exercise of this Warrant. Notwithstanding the foregoing, except in the case where an exercise of this Warrant is validly made pursuant to a Cashless Exercise, the Company's failure to deliver Warrant Shares to the Holder on or prior to the later of (A) two (2) Trading Days after receipt of the applicable Exercise Notice (or such earlier date as required pursuant to the 1934 Act or other applicable law, rule or regulation for the settlement of a trade of such Warrant Shares initiated on the applicable Exercise Date) and (B) one (1) Trading Day after the Company's receipt of the Aggregate Exercise Price (or valid notice of a Cashless Exercise) (such later date, the "**Share Delivery Date**") shall not be deemed to be a breach of this Warrant. From the Issuance Date through and including the Expiration Date, the Company shall maintain a transfer agent that participates in the DTC FAST Program. Notwithstanding any other provision in this Agreement, the Holder may elect, at its sole discretion, to receive unregistered Warrant Shares issued in response to an Exercise Notice instead of Warrant Shares (i) registered pursuant to the Registration Statement or any other registration statement or (ii) issued pursuant to Section 1(c).

(b) Exercise Price. For purposes of this Warrant, "**Exercise Price**" means $5.50 subject to adjustment as provided herein.

(c) Company's Failure to Timely Deliver Securities. If the Company shall fail, for any reason or for no reason, on or prior to the Share Delivery Date, either (I) if the Transfer Agent is not participating in the DTC FAST Program, to issue and deliver to the Holder (or its designee) a certificate for the number of Warrant Shares to which the Holder is entitled and register such Warrant Shares on the Company's share register or, if the Transfer Agent is participating in the DTC FAST Program, to credit the balance account of the Holder or the Holder's designee with DTC for such number of Warrant Shares to which the Holder is entitled upon the Holder's exercise of this Warrant (as the case may be) or (II) if the Registration Statement (or prospectus contained therein) covering the issuance of the Warrant Shares that are the subject of the Exercise Notice (the "**Unavailable Warrant Shares**") is not available for the issuance of such Unavailable Warrant Shares and the Company fails to promptly (x) so notify the Holder and (y) deliver the Warrant Shares electronically without any restrictive legend by crediting such aggregate number of Warrant Shares to which the Holder is entitled pursuant to such exercise to the Holder's or its designee's balance account with DTC through its Deposit/Withdrawal At Custodian system (the event described in the immediately foregoing clause (II) is hereinafter referred as a "**Notice Failure**" and together with the event described in clause (I) above, a "**Delivery Failure**"), and if on or after such Share Delivery Date the Holder purchases (in an open market transaction or otherwise) Common Shares to deliver in satisfaction of a sale by the Holder of all or any portion of the number of Common Shares issuable upon such exercise that the Holder is entitled to receive from the Company (a "**Buy-In**"), then, in addition to all other remedies available to the Holder, the Company shall, within two (2) Business Days after the Holder's request and in the Holder's discretion, either (i) as an indemnity for loss hereunder, pay cash to the Holder in an amount equal to the Holder's total purchase price (including brokerage commissions and other out-of-pocket expenses, if any) for the Common Shares so purchased (including, without limitation, by any other Person in respect, or on behalf, of the Holder) (the "**Buy-In Price**"), at which point the Company's obligation to so issue and deliver such certificate (and to issue such Common Shares) or credit the balance account of such Holder or such Holder's designee, as applicable, with DTC for the number of Warrant Shares to which the Holder is entitled upon the Holder's exercise hereunder (as the case may be) (and to issue such Warrant Shares) shall terminate, or (ii) promptly honor its obligation to so issue and deliver to the Holder a certificate or certificates representing such Warrant Shares or credit the balance account of such Holder or such Holder's designee, as applicable, with DTC for the number of Warrant Shares to which the Holder is entitled upon the Holder's exercise hereunder (as the case may be) and, as an indemnity for loss hereunder, pay cash to the Holder in an amount equal to the excess (if any) of the Holder's total purchase price (including brokerage commissions and other out-of-pocket expenses, if any) for the Common Shares so purchased (including, without limitation, by any other Person in respect, or on behalf, of the Holder) (the "**Buy-In Price**") over the product of (A) such number of Warrant Shares multiplied by (B) the lowest Closing Sale Price of the Common Shares on any Trading Day during the period commencing on the date of the applicable Exercise Notice and ending on the date of such issuance and payment under this clause (ii) (the "**Buy-In Payment Amount**"). Nothing shall limit the Holder's right to pursue any other remedies available to it hereunder, at law or in equity, including, without limitation, a decree of specific performance and/or injunctive relief with respect to the Company's failure to timely deliver certificates representing Common Shares (or to electronically deliver such Common Shares) upon the exercise of this Warrant as required pursuant to the terms hereof. While this Warrant is outstanding, the Company shall cause its transfer agent to participate in the DTC FAST Program. In addition to the foregoing rights, (i) if the Company fails to deliver the applicable number of Warrant Shares upon an exercise pursuant to Section 1 by the applicable Share Delivery Date, then the Holder shall have the right to rescind such exercise in whole or in part and retain and/or have the Company return, as the case may be, any portion of this Warrant that has not been exercised pursuant to such Exercise Notice; provided that the rescission of an exercise shall not affect the Company's obligation to make any payments that have accrued prior to the date of such notice pursuant to this Section 1(c) or otherwise except with respect to any returned portion of an exercise under this subclause (i), and (ii) if a registration statement (which may be the Registration Statement) covering the issuance or resale of the Warrant Shares that are subject to an Exercise Notice is not available for the issuance or resale, as applicable, of such Exercise Notice Warrant Shares and the Holder has submitted an Exercise Notice prior to receiving notice of the non-availability of such registration statement and the Company has not already delivered the Warrant Shares underlying such Exercise Notice electronically without any restrictive legend by crediting such aggregate number of Warrant Shares to which the Holder is entitled pursuant to such exercise to the Holder's or its designee's balance account with DTC through its Deposit / Withdrawal At Custodian system, the Holder shall have the option, by delivery of notice to the Company, to (x) rescind such Exercise Notice in whole or in part and retain or have returned, as the case may be, any portion of this Warrant that has not been exercised pursuant to such Exercise Notice; provided that the rescission of an Exercise Notice shall not affect the Company's obligation to make any payments that have accrued prior to the date of such notice pursuant to this Section 1(c) or otherwise, and/or (y) switch some or all of such Exercise Notice from a cash exercise to a Cashless Exercise.

(d) Cashless Exercise. Notwithstanding anything contained herein to the contrary (other than Section 1(f) below), if at the time of exercise hereof the Registration Statement is not effective (or the prospectus contained therein is not available for use) for the issuance of all of the Warrant Shares, then the Holder may, in its sole discretion, exercise this Warrant in whole or in part and, in lieu of making the cash payment otherwise contemplated to be made to the Company upon such exercise in payment of the Aggregate Exercise Price, elect instead to receive upon such exercise the "Net Number" of Warrant Shares determined according to the following formula (a "**Cashless Exercise**"):

$$\text{Net Number} = \frac{[(A-B) \times (X)]}{A}$$

For purposes of the foregoing formula:

A=As applicable: (i) the VWAP on the Trading Day immediately preceding the date of the applicable Notice of Exercise if such Notice of Exercise is (1) both executed and delivered pursuant to Section 2(a) hereof on a day that is not a Trading Day or (2) both executed and delivered pursuant to Section 2(a) hereof on a Trading Day prior to the opening of "regular trading hours" (as defined in Rule 600(b)(68) of Regulation NMS promulgated under the federal securities laws) on such Trading Day, (ii) at the option of the Holder, either (y) the VWAP on the Trading Day immediately preceding the date of the applicable Notice of Exercise or (z) the Bid Price of the Common Shares on the principal Trading Market as reported by Bloomberg L.P. as of the time of the Holder's execution of the applicable Notice of Exercise if such Notice of Exercise is executed during "regular trading hours" on a Trading Day and is delivered within two (2) hours thereafter (including until two (2) hours after the close of "regular trading hours" on a Trading Day) pursuant to Section 2(a) hereof, or (iii) the VWAP on the date of the applicable Notice of Exercise if the date of such Notice of Exercise is a Trading Day and such Notice of Exercise is both executed and delivered pursuant to Section 2(a) hereof after the close of "regular trading hours" on such Trading Day.

B=The Exercise Price then in effect for the applicable Warrant Shares at the time of such exercise.

X=The number of Warrant Shares that would be issuable upon exercise of this Warrant in accordance with the terms of this Warrant if such exercise were by means of a cash exercise rather than a cashless exercise.

If the Warrant Shares are issued in a Cashless Exercise, the parties acknowledge and agree that in accordance with Section 3(a)(9) of the 1933 Act, the Warrant Shares take on the registered characteristics of the Warrants being exercised. For purposes of Rule 144(d) promulgated under the 1933 Act, as in effect on the Initial Exercise Date, it is intended that the Warrant Shares issued in a Cashless Exercise shall be deemed to have been acquired by the Holder, and the holding period for the Warrant Shares shall be deemed to have commenced, on the date this Warrant was originally issued pursuant to the Underwriting Agreement. Notwithstanding anything herein to the contrary, on the Expiration Date, this Warrant shall be automatically exercised via cashless exercise pursuant to this Section 1(d).

(e) Disputes. In the case of a dispute as to the determination of the Exercise Price or the arithmetic calculation of the number of Warrant Shares to be issued pursuant to the terms hereof, the Company shall promptly issue to the Holder the number of Warrant Shares that are not disputed and resolve such dispute in accordance with Section 13.

(f) Limitations on Exercises. The Company shall not effect the exercise of any portion of this Warrant, and the Holder shall not have the right to exercise any portion of this Warrant, pursuant to the terms and conditions of this Warrant and any such exercise shall be null and void and treated as if never made, to the extent that after giving

effect to such exercise, the Holder together with the other Attribution Parties collectively would beneficially own in excess of 4.99% (the "**Maximum Percentage**") of the Common Shares outstanding immediately after giving effect to such exercise. For purposes of the foregoing sentence, the aggregate number of Common Shares beneficially owned by the Holder and the other Attribution Parties shall include the number of Common Shares held by the Holder and all other Attribution Parties plus the number of Common Shares issuable upon exercise of this Warrant with respect to which the determination of such sentence is being made, but shall exclude Common Shares which would be issuable upon (A) exercise of the remaining, unexercised portion of this Warrant beneficially owned by the Holder or any of the other Attribution Parties and (B) exercise or conversion of the unexercised or unconverted portion of any other securities of the Company (including, without limitation, any convertible notes or convertible preferred shares or warrants, including other Registered Warrants) beneficially owned by the Holder or any other Attribution Party subject to a limitation on conversion or exercise analogous to the limitation contained in this Section 1(f)(i). For purposes of this Section 1(f)(i), beneficial ownership shall be calculated in accordance with Section 13(d) of the 1934 Act. For purposes of determining the number of outstanding Common Shares the Holder may acquire upon the exercise of this Warrant without exceeding the Maximum Percentage, the Holder may rely on the number of outstanding Common Shares as reflected in (x) the Company's most recent Annual Report on Form 10-K, Quarterly Report on Form 10-Q, Current Report on Form 8-K or other public filing with the SEC, as the case may be, (y) a more recent public announcement by the Company or (z) any other written notice by the Company or the Transfer Agent, if any, setting forth the number of Common Shares outstanding (the "**Reported Outstanding Share Number**"). If the Company receives an Exercise Notice from the Holder at a time when the actual number of outstanding Common Shares is less than the Reported Outstanding Share Number, the Company shall (i) notify the Holder in writing of the number of Common Shares then outstanding and, to the extent that such Exercise Notice would otherwise cause the Holder's beneficial ownership, as determined pursuant to this Section 1(f)(i), to exceed the Maximum Percentage, the Holder must notify the Company of a reduced number of Warrant Shares to be acquired pursuant to such Exercise Notice (the number of shares by which such purchase is reduced, the "**Reduction Shares**") and (ii) as soon as reasonably practicable, the Company shall return to the Holder any exercise price paid by the Holder for the Reduction Shares. For any reason at any time, upon the written or oral request of the Holder, the Company shall within one (1) Business Day confirm orally and in writing or by electronic mail to the Holder the number of Common Shares then outstanding. In any case, the number of outstanding Common Shares shall be determined after giving effect to the conversion or exercise of securities of the Company, including this Warrant, by the Holder and any other Attribution Party since the date as of which the Reported Outstanding Share Number was reported. In the event that the issuance of Common Shares to the Holder upon exercise of this Warrant results in the Holder and the other Attribution Parties being deemed to beneficially own, in the aggregate, more than the Maximum Percentage of the number of outstanding Common Shares (as determined under Section 13(d) of the 1934 Act), the number of shares so issued by which the Holder's and the other Attribution Parties' aggregate beneficial ownership exceeds the Maximum Percentage (the "**Excess Shares**") shall be deemed null and void and shall be cancelled ab initio, and the Holder shall not have the power to vote or to transfer the Excess Shares. As soon as reasonably practicable after the issuance of the Excess Shares has been deemed null and void, the Company shall return to the Holder the exercise price paid by the Holder for the Excess Shares. Upon delivery of a written notice to the Company, the Holder may from time to time increase (with such increase not effective until the sixty-first (61^{st}) day after delivery of such notice) or decrease the Maximum Percentage to any other percentage not in excess of 9.99% as specified in such notice; provided that (i) any such increase in the Maximum Percentage will not be effective until the sixty-first (61^{st}) day after such notice is delivered to the Company and (ii) any such increase or decrease will apply only to the Holder and the other Attribution Parties and not to any other holder of Registered Warrants that is not an Attribution Party of the Holder. For purposes of clarity, the Common Shares issuable pursuant to the terms of this Warrant in excess of the Maximum Percentage shall not be deemed to be beneficially owned by the Holder for any purpose including for purposes of Section 13(d) or Rule 16a-1(a)(1) of the 1934 Act. No prior inability to exercise this Warrant pursuant to this paragraph shall have any effect on the applicability of the provisions of this paragraph with respect to any subsequent determination of exercisability. The provisions of this paragraph shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this Section 1(f)(i) to the extent necessary to correct this paragraph or any portion of this paragraph which may be defective or inconsistent with the intended beneficial ownership limitation contained in this Section 1(f)(i) or to make changes or supplements necessary or desirable to properly give effect to such limitation. The limitation contained in this paragraph may not be waived and shall apply to a successor holder of this Warrant.

(g) Reservation of Shares.

(i) Required Reserve Amount. So long as this Warrant remains outstanding, the Company shall at all times keep reserved for issuance under this Warrant a number of Common Shares at least equal to 100% of the maximum number of Common Shares as shall be necessary to satisfy the Company's obligation to issue Common Shares under the Registered Warrants then outstanding (without regard to any limitations on exercise) (the "**Required Reserve Amount**"); provided that at no time shall the number of Common Shares reserved pursuant to this Section 1(g)(i) be reduced other than proportionally in connection with any exercise or redemption of Registered Warrants or such other event covered by Section 2(a) below. The Required Reserve Amount (including, without limitation, each increase in the number of shares so reserved) shall be allocated pro rata among the holders of the Registered Warrants based on number of Common Shares issuable upon exercise of Registered Warrants held by each holder on the Issuance Date (without regard to any limitations on exercise) or increase in the number of reserved shares, as the case may be (the "**Authorized Share Allocation**"). In the event that a holder shall sell or otherwise transfer any of such holder's Registered Warrants, each transferee shall be allocated a pro rata portion of such holder's Authorized Share Allocation. Any Common Shares reserved and allocated to any Person which ceases to hold any Registered Warrants shall be allocated to the remaining holders of Registered Warrants, pro rata based on the number of Common Shares issuable upon exercise of the Registered Warrants then held by such holders (without regard to any limitations on exercise).

(ii) Insufficient Authorized Shares. If, notwithstanding Section 1(g)(i) above, and not in limitation thereof, at any time while any of the Registered Warrants remain outstanding, the Company does not have a sufficient number of authorized and unreserved Common Shares to satisfy its obligation to reserve the Required Reserve Amount (an "**Authorized Share Failure**"), then the Company shall immediately take all action necessary to increase the Company's authorized Common Shares to an amount sufficient to allow the Company to reserve the Required Reserve Amount for all the Registered Warrants then outstanding. Without limiting the generality of the foregoing sentence, as soon as practicable after the date of the occurrence of an Authorized Share Failure, but in no event later than sixty (60) days after the occurrence of such Authorized Share Failure, the Company shall hold a meeting of its shareholders for the approval of an increase in the number of authorized Common Shares. In connection with such meeting, the Company shall provide each shareholder with a proxy statement and shall use its best efforts to solicit its shareholders' approval of such increase in authorized Common Shares and to cause its board of directors to recommend to the shareholders that they approve such proposal. In the event that the Company is prohibited from issuing Common Shares upon an exercise of this Warrant due to the failure by the Company to have sufficient Common Shares available out of the authorized but unissued Common Shares (such unavailable number of Common Shares, the "**Authorization Failure Shares**"), in lieu of delivering such Authorization Failure Shares to the Holder, the Company shall pay cash in exchange for the cancellation of such portion of this Warrant exercisable into such Authorization Failure Shares at a price equal to the sum of (i) the product of (x) such number of Authorization Failure Shares and (y) the greatest Closing Sale Price of the Common Shares on any Trading Day during the period commencing on the date the Holder delivers the applicable Exercise Notice with respect to such Authorization Failure Shares to the Company and ending on the date of such issuance and payment under this Section 1(f); and (ii) to the extent the Holder purchases (in an open market transaction or otherwise) Common Shares to deliver in satisfaction of a sale by the Holder of Authorization Failure Shares, any Buy-In Payment Amount, brokerage commissions and other out-of-pocket expenses, if any, of the Holder incurred in connection therewith.

(h) Warrant Agency Agreement. If this Warrant is held in global form through DTC (or any successor depositary), this Warrant is issued subject to the Warrant Agency Agreement, dated [on or about the Issuance Date] with VStock Transfer LLC (the "**Warrant Agency Agreement**"). To the extent any provision of this Warrant conflicts with the express provisions of the Warrant Agency Agreement, the provisions of this Warrant shall govern and be controlling.

2. ADJUSTMENT OF EXERCISE PRICE AND NUMBER OF WARRANT SHARES. The Exercise Price and number of Warrant Shares issuable upon exercise of this Warrant are subject to adjustment from time to time as set forth in this Section 2.

(a) Share Dividends and Splits. Without limiting any provision of Section 4, if the Company, at any time on or after the Subscription Date, (i) pays a share dividend on one or more classes of its then outstanding Common Shares or otherwise makes a distribution on any class of capital shares that is payable in Common Shares, (ii) subdivides (by any share split, share dividend, recapitalization or otherwise) one or more classes of its then outstanding Common Shares into a larger number of shares or (iii) combines (by combination, reverse share split or otherwise) one or more classes of its then outstanding Common Shares into a smaller number of shares, then in each such case the Exercise Price shall be multiplied by a fraction of which the numerator shall be the number of Common Shares outstanding immediately before such event and of which the denominator shall be the number of Common Shares outstanding immediately after such event. Any adjustment made pursuant to clause (i) of this paragraph shall become

effective immediately after the record date for the determination of shareholders entitled to receive such dividend or distribution, and any adjustment pursuant to clause (ii) or (iii) of this paragraph shall become effective immediately after the effective date of such subdivision or combination.

(b) Number of Warrant Shares. Simultaneously with any adjustment to the Exercise Price pursuant to this Section 2, the number of Warrant Shares that may be purchased upon exercise of this Warrant shall be increased or decreased proportionately, so that after such adjustment the aggregate Exercise Price payable hereunder for the adjusted number of Warrant Shares shall be the same as the aggregate Exercise Price in effect immediately prior to such adjustment (without regard to any limitations on exercise contained herein).

(c) Other Events. In the event that the Company (or any Subsidiary (as defined in the Underwriting Agreement)) shall take any action to which the provisions hereof are not strictly applicable, or, if applicable, would not operate to protect the Holder from dilution or if any event occurs of the type contemplated by the provisions of this Section 2 but not expressly provided for by such provisions (including, without limitation, the granting of share appreciation rights, phantom share rights or other rights with equity features), then the Company's board of directors shall in good faith determine and implement an appropriate adjustment in the Exercise Price and the number of Warrant Shares (if applicable) so as to protect the rights of the Holder, provided that no such adjustment pursuant to this Section 2(c) will increase the Exercise Price or decrease the number of Warrant Shares as otherwise determined pursuant to this Section 2, provided further that if the Holder does not accept such adjustments as appropriately protecting its interests hereunder against such dilution, then the Company's board of directors and the Holder shall agree, in good faith, upon an independent investment bank of nationally recognized standing to make such appropriate adjustments, whose determination shall be final and binding absent manifest error and whose fees and expenses shall be borne by the Company.

(d) Calculations. All calculations under this Section 2 shall be made by rounding to the nearest cent or the nearest 1/100th of a share, as applicable. The number of Common Shares outstanding at any given time shall not include shares owned or held by or for the account of the Company, and the disposition of any such shares shall be considered an issuance or sale of Common Shares.

(e) Voluntary Adjustment By Company. The Company may at any time during the term of this Warrant, subject to the prior consent of the Principal Market if less than $[ ][2] (as adjusted for share splits, share dividends, share combinations, recapitalizations or other similar transactions), with the prior written consent of the holders of a majority of the Registered Warrants then outstanding, reduce the then current Exercise Price to any amount and for any period of time deemed appropriate by the board of directors of the Company.

3. RIGHTS UPON DISTRIBUTION OF ASSETS. In addition to any adjustments pursuant to Section 2 above, if the Company shall declare or make any dividend or other distribution of its assets (or rights to acquire its assets) to holders of Common Shares, by way of return of capital or otherwise (including, without limitation, any distribution of cash, shares or other securities, property, options, evidence of indebtedness or any other assets by way of a dividend, spin off, reclassification, corporate rearrangement, plan of arrangement or other similar transaction) (a "**Distribution**"), at any time after the issuance of this Warrant, then, in each such case, the Holder shall be entitled to participate in such Distribution to the same extent that the Holder would have participated therein if the Holder had held the number of Common Shares acquirable upon complete exercise of this Warrant (without regard to any limitations or restrictions on exercise of this Warrant, including without limitation, the Maximum Percentage) immediately before the date on which a record is taken for such Distribution, or, if no such record is taken, the date as of which the record holders of Common Shares are to be determined for the participation in such Distribution (provided, however, that to the extent that the Holder's right to participate in any such Distribution would result in the Holder and the other Attribution Parties exceeding the Maximum Percentage, then the Holder shall not be entitled to participate in such Distribution to the extent of the Maximum Percentage (and shall not be entitled to beneficial ownership of such Shares Common Shares as a result of such Distribution (and beneficial ownership) to the extent of any such excess) and the portion of such Distribution shall be held in abeyance for the benefit of the Holder until such time or times, if ever, as its right thereto would not result in the Holder and the other Attribution Parties exceeding the Maximum Percentage, at which time or times the Holder shall be granted such Distribution (and any Distributions declared or made on such initial Distribution or on any subsequent Distribution held similarly in abeyance) to the same extent as if there had been no such limitation).

4. PURCHASE RIGHTS; FUNDAMENTAL TRANSACTIONS.

(a) Purchase Rights. In addition to any adjustments pursuant to Section 2 above, if at any time the Company grants, issues or sells any Options, Convertible Securities or rights to purchase shares, warrants, securities or other property pro rata to the record holders of any class of Common Shares (the "**Purchase Rights**"), then the Holder will be entitled to acquire, upon the terms applicable to such Purchase Rights, the aggregate Purchase Rights which the Holder could have acquired if the Holder had held the number of Common Shares acquirable upon complete exercise of this Warrant (without regard to any limitations or restrictions on exercise of this Warrant, including without limitation, the Maximum Percentage) immediately before the date on which a record is taken for the grant, issuance or sale of such Purchase Rights, or, if no such record is taken, the date as of which the record holders of Common Shares are to be determined for the grant, issuance or sale of such Purchase Rights (provided, however, that to the extent that the Holder's right to participate in any such Purchase Right would result in the Holder and the other Attribution Parties exceeding the Maximum Percentage, then the Holder shall not be entitled to participate in such Purchase Right to the extent of the Maximum Percentage (and shall not be entitled to beneficial ownership of such Common Shares as a result of such Purchase Right (and beneficial ownership) to the extent of any such excess) and such Purchase Right to such extent shall be held in abeyance for the benefit of the Holder until such time or times, if ever, as its right thereto would not result in the Holder and the other Attribution Parties exceeding the Maximum Percentage, at which time or times the Holder shall be granted such right (and any Purchase Right granted, issued or sold on such initial Purchase Right or on any subsequent Purchase Right held similarly in abeyance) to the same extent as if there had been no such limitation).

[2] Insert 20% of the IPO Price

(b) Fundamental Transactions. The Company shall not enter into or be party to a Fundamental Transaction unless (i) the Successor Entity assumes in writing all of the obligations of the Company under this Warrant in accordance with the provisions of this Section 4(b) pursuant to written agreements in form and substance satisfactory to the Holder and approved by the Holder prior to such Fundamental Transaction, including agreements to deliver to the Holder in exchange for this Warrant a security of the Successor Entity evidenced by a written instrument substantially similar in form and substance to this Warrant, including, without limitation, which is exercisable for a corresponding number of capital shares equivalent to of Common Shares acquirable and receivable upon exercise of this Warrant (without regard to any limitations on the exercise of this Warrant) prior to such Fundamental Transaction, and with an exercise price which applies the exercise price hereunder to such capital shares (but taking into account the relative value of the Common Shares pursuant to such Fundamental Transaction and the value of such capital shares, such adjustments to the number of capital shares and such exercise price being for the purpose of protecting the economic value of this Warrant immediately prior to the consummation of such Fundamental Transaction) and (ii) the Successor Entity (including its Parent Entity) is a publicly traded corporation whose common shares are quoted on or listed for trading on an Eligible Market. Upon the consummation of each Fundamental Transaction, the Successor Entity shall succeed to, and be substituted for (so that from and after the date of the applicable Fundamental Transaction, the provisions of this Warrant referring to the "Company" shall refer instead to the Successor Entity), and may exercise every right and power of the Company and shall assume all of the obligations of the Company under this Warrant with the same effect as if such Successor Entity had been named as the Company herein. Upon consummation of each Fundamental Transaction, the Successor Entity shall deliver to the Holder confirmation that there shall be issued upon exercise of this Warrant at any time after the consummation of the applicable Fundamental Transaction, in lieu of the Common Shares (or other securities, cash, assets or other property (except such items still issuable under Sections 3 and 4(a) above, which shall continue to be receivable thereafter)) issuable upon the exercise of this Warrant prior to the applicable Fundamental Transaction, such publicly traded common shares (or its equivalent) of the Successor Entity (including its Parent Entity) which the Holder would have been entitled to receive upon the happening of the applicable Fundamental Transaction had this Warrant been exercised immediately prior to the applicable Fundamental Transaction (without regard to

any limitations on the exercise of this Warrant), as adjusted in accordance with the provisions of this Warrant. Notwithstanding the foregoing, and without limiting Section 1(f) hereof, the Holder may elect, at its sole option, by delivery of written notice to the Company to waive this Section 4(b) to permit the Fundamental Transaction without the assumption of this Warrant. In addition to and not in substitution for any other rights hereunder, prior to the consummation of each Fundamental Transaction pursuant to which holders of Common Shares are entitled to receive securities or other assets with respect to or in exchange for Common Shares (a "**Corporate Event**"), the Company shall make appropriate provision to insure that the Holder will thereafter have the right to receive upon an exercise of this Warrant at any time after the consummation of the applicable Fundamental Transaction but prior to the Expiration Date, in lieu of the Common Shares (or other securities, cash, assets or other property (except such items still issuable under Sections 3 and 4(a) above, which shall continue to be receivable thereafter)) issuable upon the exercise of the Warrant prior to such Fundamental Transaction, such shares, securities, cash, assets or any other property whatsoever (including warrants or other purchase or subscription rights) which the Holder would have been entitled to receive upon the happening of the applicable Fundamental Transaction had this Warrant been exercised immediately prior to the applicable Fundamental Transaction (without regard to any limitations on the exercise of this Warrant). Provision made pursuant to the preceding sentence shall be in a form and substance reasonably satisfactory to the Holder.

(c) Black Scholes Value. Notwithstanding the foregoing and the provisions of Section 4(b) above, at the request of the Holder delivered at any time commencing on the earliest to occur of (x) the public disclosure of any Fundamental Transaction, (y) the consummation of any Fundamental Transaction and (z) the Holder first becoming aware of any Fundamental Transaction through the date that is thirty (30) days after the public disclosure of the consummation of such Fundamental Transaction by the Company pursuant to a Current Report on Form 8-K filed with the SEC, the Company or the Successor Entity (as the case may be) shall purchase this Warrant from the Holder on the date of such request by paying to the Holder cash in an amount equal to the Black Scholes Value. Payment of such amounts shall be made by the Company (or at the Company's direction) to the Holder on or prior to the later of (x) the second (2nd) Trading Day after the date of such request and (y) the date of consummation of such Fundamental Transaction; provided, however, if the Fundamental Transaction is not within the Company's control, including not approved by the Company's Board of Directors or the consideration is not in all shares of the Successor Entity, the Holder shall only be entitled to receive from the Company or any Successor Entity, as of the date of consummation of such Fundamental Transaction, the same type or form of consideration (and in the same proportion), at the Black Scholes Value (as defined below) of the unexercised portion of this Warrant, that is being offered and paid to the holders of Common Shares of the Company in connection with the Fundamental Transaction, whether that consideration be in the form of cash, shares or any combination thereof, or whether the holders of Common Shares are given the choice to receive from among alternative forms of consideration in connection with the Fundamental Transaction.

(d) Application. The provisions of this Section 4 shall apply similarly and equally to successive Fundamental Transactions and Corporate Events and shall be applied as if this Warrant (and any such subsequent warrants) were fully exercisable and without regard to any limitations on the exercise of this Warrant (provided that the Holder shall continue to be entitled to the benefit of the Maximum Percentage, applied however with respect to capital shares registered under the 1934 Act and thereafter receivable upon exercise of this Warrant (or any such other warrant)).

5. NONCIRCUMVENTION. The Company hereby covenants and agrees that the Company will not, by amendment of its certificate of incorporation or other organizational documents or through any reorganization, transfer of assets, consolidation, merger, amalgamation, plan of arrangement, dissolution, issuance or sale of securities, or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Warrant, and will at all times in good faith carry out all the provisions of this Warrant and take all action as may be required to protect the rights of the Holder. Without limiting the generality of the foregoing, the Company (a) shall not increase the par value of any Common Shares receivable upon the exercise of this Warrant above the Exercise Price then in effect, and (b) shall take all such actions as may be necessary or appropriate in order that the Company may validly and legally issue fully paid and non-assessable Common Shares upon the exercise of this Warrant, which Common Shares shall be freely tradeable pursuant to all applicable securities laws. Notwithstanding anything herein to the contrary, if after the sixty (60) calendar day anniversary of the Issuance Date, the Holder is not permitted to exercise this Warrant in full for any reason (other than pursuant to restrictions set forth in Section 1(f) hereof), the Company shall use its best efforts to promptly remedy such failure, including, without limitation, obtaining such consents or approvals as necessary to permit such exercise into Common Shares.

6. WARRANT HOLDER NOT DEEMED A SHAREHOLDER. Except as otherwise specifically provided herein, the Holder, solely in its capacity as a holder of this Warrant, shall not be entitled to vote or receive dividends or be deemed the holder of share capital of the Company for any purpose, nor shall anything contained in this Warrant be construed to confer upon the Holder, solely in its capacity as the Holder of this Warrant, any of the rights of a shareholder of the Company or any right to vote, give or withhold consent to any corporate action (whether any reorganization, issue of shares, reclassification of shares, consolidation, merger, conveyance or otherwise), receive notice of meetings, receive dividends or subscription rights, or otherwise, prior to the issuance to the Holder of the Warrant Shares which it is then entitled to receive upon the due exercise of this Warrant. In addition, nothing contained in this Warrant shall be construed as imposing any liabilities on the Holder to purchase any securities (upon exercise of this Warrant or otherwise) or as a shareholder of the Company, whether such liabilities are asserted by the Company or by creditors of the Company. Notwithstanding this Section 6, the Company shall provide the Holder with copies of the same notices and other information given to the shareholders of the Company generally, contemporaneously with the giving thereof to the shareholders.

7 . REISSUANCE OF WARRANTS.

(a) Transfer of Warrant. If this Warrant is to be transferred, the Holder shall surrender this Warrant to the Company, whereupon the Company will forthwith issue and deliver upon the order of the Holder a new Warrant (in accordance with Section 7(d)), registered as the Holder may request, representing the right to purchase the number of Warrant Shares being transferred by the Holder and, if less than the total number of Warrant Shares then underlying this Warrant is being transferred, a new Warrant (in accordance with Section 7(d)) to the Holder representing the right to purchase the number of Warrant Shares not being transferred.

(b) Lost, Stolen or Mutilated Warrant. Upon receipt by the Company of evidence reasonably satisfactory to the Company of the loss, theft, destruction or mutilation of this Warrant (as to which a written certification and the indemnification contemplated below shall suffice as such evidence), and, in the case of loss, theft or destruction, of any indemnification undertaking by the Holder to the Company in customary and reasonable form and, in the case of mutilation, upon surrender and cancellation of this Warrant, the Company shall execute and deliver to the Holder a new Warrant (in accordance with Section 7(d)) representing the right to purchase the Warrant Shares then underlying this Warrant.

(c) Exchangeable for Multiple Warrants. This Warrant is exchangeable, upon the surrender hereof by the Holder at the principal office of the Company, for a new Warrant or Warrants (in accordance with Section 7(d)) representing in the aggregate the right to purchase the number of Warrant Shares then underlying this Warrant, and each such new Warrant will represent the right to purchase such portion of such Warrant Shares as is designated by the Holder at the time of such surrender; provided, however, no warrants for fractional Common Shares shall be given.

(d) Issuance of New Warrants. Whenever the Company is required to issue a new Warrant pursuant to the terms of this Warrant, such new Warrant (i) shall be of like tenor with this Warrant, (ii) shall represent, as indicated on the face of such new Warrant, the right to purchase the Warrant Shares then underlying this Warrant (or in the case of a new Warrant being issued pursuant to Section 7(a) or Section 7(c), the Warrant Shares designated by the Holder which, when added to the number of Common Shares underlying the other new Warrants issued in connection with such issuance, does not exceed the number of Warrant Shares then underlying this Warrant), (iii) shall have an issuance date, as indicated on the face of such new Warrant which is the same as the Issuance Date, and (iv) shall have the same rights and conditions as this Warrant.

8. NOTICES. (a) General. Whenever notice is required to be given under this Warrant, unless otherwise provided herein, such notice shall be given in writing, (i) if delivered (a) from within the domestic United States, by first-class registered or certified airmail, or nationally recognized overnight express courier, postage prepaid, electronic mail or by facsimile or (b) from outside the United States, by International Federal Express, electronic mail or facsimile, and (ii) will be deemed given (A) if delivered by first-class registered or certified mail domestic, three (3) Business Days after so mailed, (B) if delivered by nationally recognized overnight carrier, one (1) Business Day after so mailed, (C) if delivered by International Federal Express, two (2) Business Days after so mailed and (D) if delivered by electronic mail, when sent (provided that such sent email is kept on file (whether electronically or otherwise) by the sending party and the sending party does not receive an automatically generated message from the recipient's email server that such e-mail could not be delivered to such recipient) and (E) if delivered by facsimile, upon electronic confirmation of receipt of such facsimile, and will be delivered and addressed as follows:

(i) if to the Company, to:

Digital Brands Group, Inc.
1400 Lavaca Street
Austin, Texas 78701
Attn: Chief Executive Officer
Email: hil@dstld.la

with a copy (which shall not constitute notice) to:

Manatt, Phelps & Phillips, LLP
2049 Century Park East, 17th Floor
Los Angeles, CA 90067
Attn: Veronica Lah, Esq.
Email: vlah@manatt.com

(ii) if to the Holder, at such address or other contact information delivered by the Holder to Company or as is on the books and records of the Company.

(b) Required Notices. The Company shall provide the Holder with prompt written notice of all actions taken pursuant to this Warrant (other than the issuance of Common Shares upon exercise in accordance with the terms hereof), including in reasonable detail a description of such action and the reason therefor. Without limiting the generality of the foregoing, the Company will give written notice to the Holder (i) immediately upon each adjustment of the Exercise Price and the number of Warrant Shares, setting forth in reasonable detail, and certifying, the calculation of such adjustment(s), (ii) at least ten Trading Days prior to the date on which the Company closes its books or takes a record (A) with respect to any dividend or distribution upon the Common Shares, (B) with respect to any grants, issuances or sales of any Options, Convertible Securities or rights to purchase shares, warrants, securities or other property to holders of Common Shares or (C) for determining rights to vote with respect to any Fundamental Transaction, dissolution or liquidation, provided in each case that such information shall be made known to the public prior to or in conjunction with such notice being provided to the Holder, and (iii) at least ten (10) Trading Days prior to the consummation of any Fundamental Transaction. To the extent that any notice provided hereunder constitutes, or contains, material, non-public information regarding the Company or any of its Subsidiaries, the Company shall simultaneously file such notice with the SEC pursuant to a Current Report on Form 8-K. It is expressly understood and agreed that the time of execution specified by the Holder in each Exercise Notice shall be definitive and may not be disputed or challenged by the Company.

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9. AMENDMENT AND WAIVER. Except as otherwise provided herein, the provisions of this Warrant (other than Section 1(f)) may be amended and the Company may take any action herein prohibited, or omit to perform any act herein required to be performed by it, only if the Company has obtained the written consent of the Holder. No waiver shall be effective unless it is in writing and signed by an authorized representative of the waiving party.

10. SEVERABILITY. If any provision of this Warrant is prohibited by law or otherwise determined to be invalid or unenforceable by a court of competent jurisdiction, the provision that would otherwise be prohibited, invalid or unenforceable shall be deemed amended to apply to the broadest extent that it would be valid and enforceable, and the invalidity or unenforceability of such provision shall not affect the validity of the remaining provisions of this Warrant so long as this Warrant as so modified continues to express, without material change, the original intentions of the parties as to the subject matter hereof and the prohibited nature, invalidity or unenforceability of the provision(s) in question does not substantially impair the respective expectations or reciprocal obligations of the parties or the practical realization of the benefits that would otherwise be conferred upon the parties. The parties will endeavor in good faith negotiations to replace the prohibited, invalid or unenforceable provision(s) with a valid provision(s), the effect of which comes as close as possible to that of the prohibited, invalid or unenforceable provision(s).

11. GOVERNING LAW. This Warrant shall be governed by and construed and enforced in accordance with, and all questions concerning the construction, validity, interpretation and performance of this Warrant shall be governed by, the internal laws of the State of New York, without giving effect to any choice of law or conflict of law provision or rule (whether of the State of New York or any other jurisdictions) that would cause the application of the laws of any jurisdictions other than the State of New York. The Company hereby irrevocably waives personal service of process and consents to process being served in any such suit, action or proceeding by mailing a copy thereof to the Company at its principal executive office and agrees that such service shall constitute good and sufficient service of process and notice thereof. The Company hereby irrevocably submits to the exclusive jurisdiction of the state and federal courts sitting in The City of New York, Borough of Manhattan, for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein, and hereby irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of any such court, that such suit, action or proceeding is brought in an inconvenient forum or that the venue of such suit, action or proceeding is improper. Nothing contained herein shall be deemed to limit in any way any right to serve process in any manner permitted by law. Nothing contained herein shall be deemed or operate to preclude the Holder from bringing suit or taking other legal action against the Company in any other jurisdiction to collect on the Company's obligations to the Holder, to realize on any collateral or any other security for such obligations, or to enforce a judgment or other court ruling in favor of the Holder. **THE COMPANY HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE TO, AND AGREES NOT TO REQUEST, A JURY TRIAL FOR THE ADJUDICATION OF ANY DISPUTE HEREUNDER OR IN CONNECTION WITH OR ARISING OUT OF THIS WARRANT OR ANY TRANSACTION CONTEMPLATED HEREBY.**

12. CONSTRUCTION; HEADINGS. This Warrant shall be deemed to be jointly drafted by the Company and the Holder and shall not be construed against any Person as the drafter hereof. The headings of this Warrant are for convenience of reference and shall not form part of, or affect the interpretation of, this Warrant.

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13 . DISPUTE RESOLUTION.

(a) Submission to Dispute Resolution.

(i) In the case of a dispute relating to the Exercise Price, the Closing Sale Price, the Bid Price, Black Scholes Value or fair market value or the arithmetic

calculation of the number of Warrant Shares (as the case may be) (including, without limitation, a dispute relating to the determination of any of the foregoing), the Company or the Holder (as the case may be) shall submit the dispute to the other party via facsimile or electronic mail (A) if by the Company, within two (2) Business Days after the occurrence of the circumstances giving rise to such dispute or (B) if by the Holder, at any time after the Holder learned of the circumstances giving rise to such dispute. If the Holder and the Company are unable to promptly resolve such dispute relating to such Exercise Price, such Closing Sale Price, such Bid Price, Black Scholes Value or such fair market value or such arithmetic calculation of the number of Warrant Shares (as the case may be), at any time after the second (2^{nd}) Business Day following such initial notice by the Company or the Holder (as the case may be) of such dispute to the Company or the Holder (as the case may be), then the Holder may, at its sole option, select an independent, reputable investment bank to resolve such dispute.

(ii) The Holder and the Company shall each deliver to such investment bank (A) a copy of the initial dispute submission so delivered in accordance with the first sentence of this Section 13 and (B) written documentation supporting its position with respect to such dispute, in each case, no later than 5:00 p.m. (New York time) by the fifth (5^{th}) Business Day immediately following the date on which the Holder selected such investment bank (the "**Dispute Submission Deadline**") (the documents referred to in the immediately preceding clauses (A) and (B) are collectively referred to herein as the "**Required Dispute Documentation**") (it being understood and agreed that if either the Holder or the Company fails to so deliver all of the Required Dispute Documentation by the Dispute Submission Deadline, then the party who fails to so submit all of the Required Dispute Documentation shall no longer be entitled to (and hereby waives its right to) deliver or submit any written documentation or other support to such investment bank with respect to such dispute and such investment bank shall resolve such dispute based solely on the Required Dispute Documentation that was delivered to such investment bank prior to the Dispute Submission Deadline). Unless otherwise agreed to in writing by both the Company and the Holder or otherwise requested by such investment bank, neither the Company nor the Holder shall be entitled to deliver or submit any written documentation or other support to such investment bank in connection with such dispute (other than the Required Dispute Documentation).

(iii) The Company and the Holder shall cause such investment bank to determine the resolution of such dispute and notify the Company and the Holder of such resolution no later than ten (10) Business Days immediately following the Dispute Submission Deadline. The fees and expenses of such investment bank shall be borne solely by the Company, and such investment bank's resolution of such dispute shall be final and binding upon all parties absent manifest error.

(b) Miscellaneous. The Company expressly acknowledges and agrees that (i) this Section 13 constitutes an agreement to arbitrate between the Company and the Holder (and constitutes an arbitration agreement) under the rules then in effect under § 7501, et seq. of the New York Civil Practice Law and Rules ("**CPLR**") and that the Holder is authorized to apply for an order to compel arbitration pursuant to CPLR § 7503(a) in order to compel compliance with this Section 13, (ii) the terms of this Warrant shall serve as the basis for the selected investment bank's resolution of the applicable dispute, such investment bank shall be entitled (and is hereby expressly authorized) to make all findings, determinations and the like that such investment bank determines are required to be made by such investment bank in connection with its resolution of such dispute and in resolving such dispute such investment bank shall apply such findings, determinations and the like to the terms of this Warrant, (iii) the Holder (and only the Holder), in its sole discretion, shall have the right to submit any dispute described in this Section 13 to any state or federal court sitting in The City of New York, Borough of Manhattan in lieu of utilizing the procedures set forth in this Section 13 and (iv) nothing in this Section 13 shall limit the Holder from obtaining any injunctive relief or other equitable remedies (including, without limitation, with respect to any matters described in this Section 13).

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14. REMEDIES, CHARACTERIZATION, OTHER OBLIGATIONS, BREACHES AND INJUNCTIVE RELIEF. The remedies provided in this Warrant shall be cumulative and in addition to all other remedies available under this Warrant, at law or in equity (including a decree of specific performance and/or other injunctive relief), and nothing herein shall limit the right of the Holder to pursue actual and consequential damages for any failure by the Company to comply with the terms of this Warrant. The Company covenants to the Holder that there shall be no characterization concerning this instrument other than as expressly provided herein. Amounts set forth or provided for herein with respect to payments, exercises and the like (and the computation thereof) shall be the amounts to be received by the Holder and shall not, except as expressly provided herein, be subject to any other obligation of the Company (or the performance thereof). The Company acknowledges that a breach by it of its obligations hereunder will cause irreparable harm to the Holder and that the remedy at law for any such breach may be inadequate. The Company therefore agrees that, in the event of any such breach or threatened breach, the holder of this Warrant shall be entitled, in addition to all other available remedies, to specific performance and/or temporary, preliminary and permanent injunctive or other equitable relief from any court of competent jurisdiction in any such case without the necessity of proving actual damages and without posting a bond or other security. The Company shall provide all information and documentation to the Holder that is requested by the Holder to enable the Holder to confirm the Company's compliance with the terms and conditions of this Warrant (including, without limitation, compliance with Section 2 hereof). The issuance of shares and certificates for shares as contemplated hereby upon the exercise of this Warrant shall be made without charge to the Holder or such shares for any issuance tax or other costs in respect thereof, provided that the Company shall not be required to pay any tax which may be payable in respect of any transfer involved in the issuance and delivery of any certificate in a name other than the Holder or its agent on its behalf.

15. PAYMENT OF COLLECTION, ENFORCEMENT AND OTHER COSTS. If (a) this Warrant is placed in the hands of an attorney for collection or enforcement or is collected or enforced through any legal proceeding or the holder otherwise takes action to collect amounts due under this Warrant or to enforce the provisions of this Warrant or (b) there occurs any bankruptcy, reorganization, receivership of the company or other proceedings affecting company creditors' rights and involving a claim under this Warrant, then the Company shall pay the costs incurred by the Holder for such collection, enforcement or action or in connection with such bankruptcy, reorganization, receivership or other proceeding, including, without limitation, attorneys' fees and disbursements.

16. TRANSFER. This Warrant may be offered for sale, sold, transferred or assigned without the consent of the Company.

17. CERTAIN DEFINITIONS. For purposes of this Warrant, the following terms shall have the following meanings:

(a) "**1933 Act**" means the Securities Act of 1933, as amended, and the rules and regulations thereunder.

(b) "**1934 Act**" means the Securities Exchange Act of 1934, as amended, and the rules and regulations thereunder.

(c) "**Affiliate**" means, with respect to any Person, any other Person that directly or indirectly controls, is controlled by, or is under common control with, such Person, it being understood for purposes of this definition that "control" of a Person means the power directly or indirectly either to vote 10% or more of the shares having ordinary voting power for the election of directors of such Person or direct or cause the direction of the management and policies of such Person whether by contract or otherwise.

(d) "**Attribution Parties**" means, collectively, the following Persons and entities: (i) any investment vehicle, including, any funds, feeder funds or managed accounts, currently, or from time to time after the Issuance Date, directly or indirectly managed or advised by the Holder's investment manager or any of its Affiliates or principals, (ii) any direct or indirect Affiliates of the Holder or any of the foregoing, (iii) any Person acting or who could be deemed to be acting as a Group together with the Holder or any of the foregoing and (iv) any other Persons whose beneficial ownership of the Company's Common Shares would or could be aggregated with the Holder's and the other Attribution Parties for purposes of Section 13(d) of the 1934 Act. For clarity, the purpose of the foregoing is to subject collectively the Holder and all other Attribution Parties to the Maximum Percentage.

(e) "**Bid Price**" means, for any security as of the particular time of determination, the bid price for such security on the Principal Market as reported by Bloomberg as of such time of determination, or, if the Principal Market is not the principal securities exchange or trading market for such security, the bid price of such security on the principal securities exchange or trading market where such security is listed or traded as reported by Bloomberg as of such time of determination, or if the foregoing does not apply, the bid price of such security in the over-the-counter market on the electronic bulletin board for such security as reported by Bloomberg as of such time of determination, or, if no bid price is reported for such security by Bloomberg as of such time of determination, the average of the bid prices of any market makers for such security as reported in the "pink sheets" by OTC Markets Group Inc. (formerly Pink Sheets LLC) as of such time of determination. If the Bid Price cannot be calculated for a security as of the particular time of determination on any of the foregoing bases, the Bid Price of such security as of such time of determination shall be the fair market value as mutually

determined by the Company and the Holder. If the Company and the Holder are unable to agree upon the fair market value of such security, then such dispute shall be resolved in accordance with the procedures in Section 13. All such determinations shall be appropriately adjusted for any shares dividend, share split, share combination or other similar transaction during such period.

(f) "**Black Scholes Value**" means the value of the unexercised portion of this Warrant remaining on the date of the Holder's request pursuant to Section 4(c), which value is calculated using the greater of the Black Scholes Option Pricing Model obtained from the "OV" function on Bloomberg, as a put option or a call option, utilizing (i) an underlying price per share equal to, at the Holder's election, either, (1) the highest or lowest (at the Holder's election) Closing Sale Price of the Common Shares during the period beginning on the Trading Day immediately preceding the announcement of the applicable Fundamental Transaction (or the consummation of the applicable Fundamental Transaction, if earlier) and ending on the Trading Day of the Holder's request pursuant to Section 4(c) or the sum of the price per share being offered in cash in the applicable Fundamental Transaction (if any) plus the value of the non-cash consideration being offered in the applicable Fundamental Transaction (if any), (ii) (1) if calculating as a call option, a strike price equal to the Exercise Price in effect on the date of the Holder's request pursuant to Section 4(c) if calculating as a put option, a strike price equal to $____[3] (as adjusted for share splits, share dividends, share combinations, recapitalizations or other similar events), (iii) a risk-free interest rate corresponding to the U.S. Treasury rate for a period equal to the greater of (1) the remaining term of this Warrant as of the date of the Holder's request pursuant to Section 4(c) the remaining term of this Warrant as of the date of consummation of the applicable Fundamental Transaction or as of the date of the Holder's request pursuant to Section 4(c) if such request is prior to the date of the consummation of the applicable Fundamental Transaction, (iv) a zero cost of borrow and (v) an expected volatility equal to the greater of 100% and the 30 day volatility obtained from the "HVT" function on Bloomberg (determined utilizing a 365 day annualization factor) as of the Trading Day immediately following the earliest to occur of (A) the public disclosure of the applicable Fundamental Transaction, (B) the consummation of the applicable Fundamental Transaction and (C) the date on which the Holder first became aware of the applicable Fundamental Transaction.

(g) "**Bloomberg**" means Bloomberg, L.P.

(h) "**Business Day**" means any day other than Saturday, Sunday or other day on which commercial banks in The City of New York are authorized or required by law to remain closed; provided, however, for clarification, commercial banks shall not be deemed to be authorized or required by law to remain closed due to "stay at home", "shelter-in-place", "non-essential employee" or any other similar orders or restrictions or the closure of any physical branch locations at the direction of any governmental authority so long as the electronic funds transfer systems (including for wire transfers) of commercial banks in The City of New York generally are open for use by customers on such day.

(i) "**Closing Sale Price**" means, for any security as of any date, the last closing trade price for such security on the Principal Market, as reported by Bloomberg, or, if the Principal Market begins to operate on an extended hours basis and does not designate the closing trade price, then the last trade price of such security prior to 4:00:00 p.m., New York time, as reported by Bloomberg, or, if the Principal Market is not the principal securities exchange or trading market for such security, the last trade price of such security on the principal securities exchange or trading market where such security is listed or traded as reported by Bloomberg, or if the foregoing does not apply, the last trade price of such security in the over-the-counter market on the electronic bulletin board for such security as reported by Bloomberg, or, if no last trade price is reported for such security by Bloomberg, the average of the ask prices of any market makers for such security as reported in the "pink sheets" by OTC Markets Group Inc. (formerly Pink Sheets LLC). If the Closing Sale Price cannot be calculated for a security on a particular date on any of the foregoing bases, the Closing Sale Price of such security on such date shall be the fair market value as mutually determined by the Company and the Holder. If the Company and the Holder are unable to agree upon the fair market value of such security, then such dispute shall be resolved in accordance with the procedures in Section 13. All such determinations shall be appropriately adjusted for any share dividend, share split, share combination or other similar transaction during such period.

[3] Insert Warrant Exercise Price

(j) "**Common Shares**" means (i) the Company's common shares, no par value per share, and (ii) any capital shares into which such common shares shall have been changed or any share capital resulting from a reclassification of such common shares.

(k) "**Convertible Securities**" means any shares or other security (other than Options) that is at any time and under any circumstances, directly or indirectly, convertible into, exercisable or exchangeable for, or which otherwise entitles the holder thereof to acquire, any Common Shares.

(l) "**Eligible Market**" means The New York Stock Exchange, the NYSE American, the Nasdaq Global Select Market, the Nasdaq Global Market, the Nasdaq Capital Market or the Principal Market.

(m) "**Expiration Date**" means the date that is the fifth (5th) anniversary of the Issuance Date or, if such date falls on a day other than a Business Day or on which trading does not take place on the Principal Market (a "**Holiday**"), the next date that is not a Holiday.

(n) "**Fundamental Transaction**" means (A) that the Company shall, directly or indirectly, including through subsidiaries, Affiliates or otherwise, in one or more related transactions, (i) consolidate, amalgamate, enter into a plan of arrangement, or merge with or into (whether or not the Company is the surviving corporation) another Subject Entity, or (ii) sell, assign, transfer, convey or otherwise dispose of all or substantially all of the properties or assets of the Company or any of its "significant subsidiaries" (as defined in Rule 1-02 of Regulation S-X) to one or more Subject Entities, or (iii) make, or allow one or more Subject Entities to make, or allow the Company to be subject to or have its Common Shares be subject to or party to one or more Subject Entities making, a purchase, takeover bid, tender or exchange offer that is accepted by the holders of at least either (x) 50% of the outstanding Common Shares, (y) 50% of the outstanding Common Shares calculated as if any Common Shares held by all Subject Entities making or party to, or Affiliated with any Subject Entities making or party to, such purchase, tender or exchange offer were not outstanding; or (z) such number of Common Shares such that all Subject Entities making or party to, or Affiliated with any Subject Entity making or party to, such purchase, tender or exchange offer, become collectively the beneficial owners (as defined in Rule 13d-3 under the 1934 Act) of at least 50% of the outstanding Common Shares, or (iv) consummate a share purchase agreement or other business combination (including, without limitation, a reorganization, recapitalization, redesignation, reclassification, spin-off or plan of arrangement) with one or more Subject Entities whereby all such Subject Entities, individually or in the aggregate, acquire, either (x) at least 50% of the outstanding shares of Common Shares, (y) at least 50% of the outstanding Common Shares calculated as if any Common Shares held by all the Subject Entities making or party to, or Affiliated with any Subject Entity making or party to, such share purchase agreement or other business combination were not outstanding; or (z) such number of Common Shares such that the Subject Entities become collectively the beneficial owners (as defined in Rule 13d-3 under the 1934 Act) of at least 50% of the outstanding Common Shares, or (v) reorganize, recapitalize, redesignate, or reclassify its Common Shares, (B) that the Company shall, directly or indirectly, including through subsidiaries, Affiliates or otherwise, in one or more related transactions, allow any Subject Entity individually or the Subject Entities in the aggregate to be or become the "beneficial owner" (as defined in Rule 13d-3 under the 1934 Act), directly or indirectly, whether through acquisition, purchase, assignment, transfer, license, conveyance, tender, tender offer, takeover bid, exchange, reduction in outstanding Common Shares, merger, consolidation, amalgamation, business combination, spin-off, plan of arrangement, reorganization, recapitalization or reclassification or otherwise in any manner whatsoever, of either (x) at least 50% of the aggregate ordinary voting power represented by issued and outstanding Common Shares, (y) at least 50% of the aggregate ordinary voting power represented by issued and outstanding Common Shares not held by all such Subject Entities as of the date of this Warrant calculated as if any Common Shares held by all such Subject Entities were not outstanding, or (z) a percentage of the aggregate ordinary voting power represented by issued and outstanding Common Shares or other equity securities of the Company sufficient to allow such Subject Entities to effect a statutory short form merger or other transaction requiring other shareholders of the Company to surrender their Common Shares without approval of the shareholders of the Company or (C) directly or indirectly, including through

subsidiaries, Affiliates or otherwise, in one or more related transactions, the issuance of or the entering into any other instrument or transaction structured in a manner to circumvent, or that circumvents, the intent of this definition in which case this definition shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this definition to the extent necessary to correct this definition or any portion of this definition which may be defective or inconsistent with the intended treatment of such instrument or transaction.

(o) "**Group**" means a "group" as that term is used in Section 13(d) of the 1934 Act and as defined in Rule 13d-5 thereunder.

(p) "**Options**" means any rights, warrants or options to subscribe for or purchase Common Shares or Convertible Securities.

(q) "**Parent Entity**" of a Person means an entity that, directly or indirectly, controls the applicable Person and whose common stock or equivalent equity security is quoted or listed on an Eligible Market, or, if there is more than one such Person or Parent Entity, the Person or Parent Entity with the largest public market capitalization as of the date of consummation of the Fundamental Transaction.

(r) "**Person**" means an individual, a limited liability company, a partnership, a joint venture, a corporation, a trust, an unincorporated organization, any other entity or a government or any department or agency thereof.

(s) "**Principal Market**" means the Nasdaq Capital Market.

(t) "**SEC**" means the United States Securities and Exchange Commission or the successor thereto.

(u) "**Spot Price**" means, as applicable: (i) the Closing Sale Price of the Common Shares on the Trading Day immediately preceding the date of the applicable Exercise Notice if such Exercise Notice is (1) both executed and delivered pursuant to Section 1(a) hereof on a day that is not a Trading Day or (2) both executed and delivered pursuant to Section 1(a) hereof on a Trading Day prior to the opening of "regular trading hours" (as defined in Rule 600(b)(64) of Regulation NMS promulgated under the federal securities laws) on such Trading Day, (ii) the Bid Price of the Common Shares as of the time of the Holder's execution of the applicable Exercise Notice if such Exercise Notice is executed during "regular trading hours" on a Trading Day and is delivered within two (2) hours thereafter pursuant to Section 1(a) hereof, or (iii) the Closing Sale Price of the Common Shares on the date of the applicable Exercise Notice if the date of such Exercise Notice is a Trading Day and such Exercise Notice is both executed and delivered pursuant to Section 1(a) hereof after the close of "regular trading hours" on such Trading Day.

(v) "**Subject Entity**" means any Person, Persons or Group or any Affiliate or associate of any such Person, Persons or Group.

(w) "**Successor Entity**" means the Person (or, if so elected by the Holder, the Parent Entity) formed by, resulting from or surviving any Fundamental Transaction or the Person (or, if so elected by the Holder, the Parent Entity) with which such Fundamental Transaction shall have been entered into.

(x) "**Trading Day**" means, as applicable, (x) with respect to all price or trading volume determinations relating to the Common Shares, any day on which the Common Shares is traded on the Principal Market, or, if the Principal Market is not the principal trading market for the Common Shares, then on the principal securities exchange or securities market on which the Common Shares is then traded, provided that "Trading Day" shall not include any day on which the Common Shares is scheduled to trade on such exchange or market for less than 4.5 hours or any day that the Common Shares is suspended from trading during the final hour of trading on such exchange or market (or if such exchange or market does not designate in advance the closing time of trading on such exchange or market, then during the hour ending at 4:00:00 p.m., New York time) unless such day is otherwise designated as a Trading Day in writing by the Holder or (y) with respect to all determinations other than price determinations relating to the Common Shares, any day on which The New York Stock Exchange (or any successor thereto) is open for trading of securities.

(y) "**VWAP**" means, for any security as of any date, the dollar volume-weighted average price for such security on the Principal Market (or, if the Principal Market is not the principal trading market for such security, then on the principal securities exchange or securities market on which such security is then traded) during the period beginning at 9:30:01 a.m., New York time, and ending at 4:00:00 p.m., New York time, as reported by Bloomberg through its "HP" function (set to weighted average) or, if the foregoing does not apply, the dollar volume-weighted average price of such security in the over-the-counter market on the electronic bulletin board for such security during the period beginning at 9:30:01 a.m., New York time, and ending at 4:00:00 p.m., New York time, as reported by Bloomberg, or, if no dollar volume-weighted average price is reported for such security by Bloomberg for such hours, the average of the highest closing bid price and the lowest closing ask price of any of the market makers for such security as reported in the "pink sheets" by OTC Markets Group Inc. (formerly Pink Sheets LLC). If the VWAP cannot be calculated for such security on such date on any of the foregoing bases, the VWAP of such security on such date shall be the fair market value as mutually determined by the Company and the Holder. If the Company and the Holder are unable to agree upon the fair market value of such security, then such dispute shall be resolved in accordance with the procedures in Section 13. All such determinations shall be appropriately adjusted for any share dividend, share split, share combination, recapitalization or other similar transaction during such period.

(Signature Page Follows)

IN WITNESS WHEREOF, the Company has caused this Warrant to be executed by its officer thereunto duly authorized as of the date first above indicated.

DIGITAL BRANDS GROUP, INC.

By: _____
Name:
Title:

EXHIBIT A

NOTICE OF EXERCISE

TO: DIGITAL BRANDS GROUP, INC.

(1) The undersigned hereby elects to purchase _____ Warrant Shares of the Company pursuant to the terms of the attached Warrant (only if exercised in full), and

tenders herewith payment of the exercise price in full, together with all applicable transfer taxes, if any.

(2) Payment shall take the form of (check applicable box):

☐ in lawful money of the United States; or

☐ if permitted the cancellation of such number of Warrant Shares as is necessary, in accordance with the formula set forth in subsection 2(c), to exercise this Warrant with respect to the maximum number of Warrant Shares purchasable pursuant to the cashless exercise procedure set forth in subsection 2(c).

(3) Please issue said Warrant Shares in the name of the undersigned or in such other name as is specified below:

_____

The Warrant Shares shall be delivered to the following DWAC Account Number:

_____

[SIGNATURE OF HOLDER]

Name of Investing Entity: _____

Signature of Authorized Signatory of Investing Entity: _____

Name of Authorized Signatory: _____

Title of Authorized Signatory: _____

NOTICE OF EXERCISE

TO BE EXECUTED BY THE REGISTERED HOLDER TO EXERCISE THIS WARRANT TO PURCHASE COMMON SHARES

Date: _____ __, 20__

TO: DIGITAL BRANDS GROUP, INC.

The undersigned holder hereby exercises the right to purchase _____ of Common Shares ("**Warrant Shares**") of Digital Brands Group, Inc., a Delaware corporation (the "**Company**"), evidenced by Warrant to Purchase Common Shares No. _____ (the "**Warrant**"). Capitalized terms used herein and not otherwise defined shall have the respective meanings set forth in the Warrant.

1. Form of Exercise Price. The Holder intends that payment of the Aggregate Exercise Price shall be made as:

_____ a "Cash Exercise" with respect to _____ Warrant Shares; and/or

_____ a "Cashless Exercise" with respect to _____ Warrant Shares.

In the event that the Holder has elected a Cashless Exercise with respect to some or all of the Warrant Shares to be issued pursuant hereto, the Holder hereby represents and warrants that (i) this Exercise Notice was executed by the Holder at _____ [a.m.][p.m.] on the date set forth below and (ii) if applicable, the Bid Price as of such time of execution of this Exercise Notice was $_____.

2. Payment of Exercise Price. In the event that the Holder has elected a Cash Exercise with respect to some or all of the Warrant Shares to be issued pursuant hereto, the Holder shall pay the Aggregate Exercise Price in the sum of $_____ to the Company in accordance with the terms of the Warrant.

3. Delivery of Warrant Shares. The Company shall deliver to Holder, or its designee or agent as specified below, _____ Warrant Shares in accordance with the terms of the Warrant. Delivery shall be made to Holder, or for its benefit, as follows:

[ ] Check here if requesting delivery as a certificate to the following name and to the following address:

Issue to: _____

_____

[ ] Check here if requesting delivery by Deposit/Withdrawal at Custodian as follows:

DTC Participant: _____
DTC Number: _____
Account Number: _____

_____
Name of Registered Holder

By: _____
Name: _____
Title: _____

Tax ID: _____
Email: _____
Telephone: _____
Facsimile: _____

EXHIBIT B

ACKNOWLEDGMENT

The Company hereby acknowledges this Exercise Notice and hereby directs _____to issue the above indicated number of Common Shares in accordance with the Transfer Agent Instructions dated _____, 20__, from the Company and acknowledged and agreed to by_____.

DIGITAL BRANDS GROUP, INC.

By: _____
Name:
Title:

ASSIGNMENT FORM

(To assign the foregoing Warrant, execute this form and supply required information. Do not use this form to purchase shares.)

FOR VALUE RECEIVED, the foregoing Warrant and all rights evidenced thereby are hereby assigned to

Name: _____
(Please Print)

Address: _____
_____
(Please Print)

Phone Number: _____
Email Address: _____
Dated: _____
Holder's Signature: _____
Holder's Address: _____
_____
_____

Form of Warrant Certificate Request Notice

WARRANT CERTIFICATE REQUEST NOTICE

To: VStock Transfer, LLC, as Warrant Agent for Digital Brands Group, Inc. (the "Company")

The undersigned Holder of Common Stock Purchase Warrants ("Warrants") in the form of Global Warrants issued by the Company hereby elects to receive a Definitive Certificate evidencing the Warrants held by the Holder as specified below:

1) Name of Holder of Warrants in form of Global Warrants:

2) Name of Holder in Definitive Certificate (if different from name of Holder of Warrants in form of Global Warrants):

3) Number of Warrants in name of Holder in form of Global Warrants:

4) Number of Warrants for which Definitive Certificate shall be issued:

5) Number of Warrants in name of Holder in form of Global Warrants after issuance of Definitive Certificate, if any:

6) Definitive Certificate shall be delivered to the following address:

The undersigned hereby acknowledges and agrees that, in connection with this Warrant Exchange and the issuance of the Definitive Certificate, the Holder is deemed to have surrendered the number of Warrants in form of Global Warrants in the name of the Holder equal to the number of Warrants evidenced by the Definitive Certificate.

[SIGNATURE OF HOLDER]

Name of Investing Entity: _____
Signature of Authorized Signatory of Investing Entity: _____
Name of Authorized Signatory: _____
Title of Authorized Signatory: _____
Date: _____

UNDERWRITING AGREEMENT

between

DIGITAL BRANDS GROUP, INC.

and

KINGSWOOD CAPITAL MARKETS,
division of Benchmark Investments, Inc.,

as Representative of the Several Underwriters

DIGITAL BRANDS GROUP, INC.

UNDERWRITING AGREEMENT

New York, New York
[●], 2021

Kingswood Capital Markets,
division of Benchmark Investments, Inc.
as Representative of the several Underwriters named on Schedule 1 attached hereto
17 Battery Place, Suite 625
New York, New York 10004

Ladies and Gentlemen:

The undersigned, Digital Brands Group, Inc., a corporation formed under the laws of the State of Delaware (collectively with its subsidiaries and affiliates, including, without limitation, all entities disclosed or described in the Registration Statement (as hereinafter defined) as being subsidiaries, the "**Company**"), hereby confirms its agreement (this "**Agreement**") with Kingswood Capital Markets, division of Benchmark Investments, Inc. (hereinafter referred to as "you" (including its correlatives) or the "**Representative**"), and with the other underwriters named on Schedule 1 hereto for which the Representative is acting as representative (the Representative and such other underwriters being collectively called the "**Underwriters**" or, individually, an "**Underwriter**") as follows:

1. PURCHASE AND SALE OF SHARES.

1.1. Firm Securities.

1.1.1. Nature and Purchase of Firm Securities.

(i)On the basis of the representations and warranties herein contained, but subject to the terms and conditions herein set forth, the Company agrees to issue and sell to the several Underwriters, an aggregate of 2,000,000 authorized but unissued shares (the "**Firm Shares**") of common stock of the Company, par value $0.0001 per share (the "**Common Stock**"), together with warrants to purchase an aggregate of 2,000,000 shares of Common Stock each at an exercise price of $5.50 (110% of the public offering price per Firm Share in the Offering), in the form filed as an exhibit to the Registration Statement (as hereinafter defined) (the "**Firm Warrants**," and collectively with the Common Stock, the "**Firm Securities**").

(ii)Each Firm Share will be sold together with one Firm Warrant and will be immediately separable upon issuance. The Underwriters, severally and not jointly, agree to purchase from the Company the number of Firm Shares and accompanying Firm Warrants set forth opposite their respective names on Schedule 1 attached hereto and made a part hereof, at a purchase price of $4.60 per Firm Share and accompanying Firm Warrant (92% of the public offering price for each Firm Share and accompanying Firm Warrant). The Firm Securities are to be offered initially to the public at the offering price set forth on the cover page of the Prospectus (as defined in Section 2.1.1 hereof).

1.1.2. Payment and Delivery of Securities.

(i)Delivery and payment for the Firm Securities shall be made at 10:00 a.m., Eastern time, on the second (2nd) Business Day following the effective date (the "**Effective Date**") of the Registration Statement (as defined in Section 2.1.1 below) (or the third (3rd) Business Day following the Effective Date if the Registration Statement is declared effective after 4:01 p.m., Eastern time) or at such earlier time as shall be agreed upon by the Representative and the Company, at the offices of Nelson Mullins Riley & Scarborough LLP, 101 Constitution Avenue NW, Suite 900, Washington, DC 20001 (" **Representative Counsel**"), or at such other place (or remotely by facsimile or other electronic transmission) as shall be agreed upon by the Representative and the Company. The hour and date of delivery and payment for the Firm Securities is called the "**Closing Date**."

(ii)Payment for the Firm Securities shall be made on the Closing Date by wire transfer in Federal (same day) funds, payable to the order of the Company upon delivery of the certificates (in form and substance satisfactory to the Underwriters) representing the Firm Securities (or through the facilities of the Depository Trust Company ("**DTC**")) for the account of the Underwriters. The Firm Securities shall be registered in such name or names and in such authorized denominations as the Representative may request in writing at least one (1) Business Day prior to the Closing Date. The Company shall not be obligated to sell or deliver the Firm Securities except upon tender of payment by the Representative for all of the Firm Securities. The term "**Business Day**" means any day other than Saturday, Sunday or other day on which commercial banks in The City of New York are authorized or required by law to remain closed; provided, however, for clarification, commercial banks shall not be deemed to be authorized or required by law to remain closed due to "stay-at-home," "shelter-in-place," "non-essential employee" or any other similar orders or restrictions or the closure of any physical branch locations at the direction of any governmental authority so long as the electronic funds transfer systems (including for wire transfers) of commercial banks in The City of New York generally are open for use by customers on such day.

1.2. Over-allotment Option.

1.2.1. Option Securities. For the purposes of covering any over-allotments in connection with the distribution and sale of the Firm Securities, the Company hereby grants to the Underwriters an option to purchase up to 300,000 additional shares of Common Stock (the "**Option Shares**") and accompanying warrants to purchase an aggregate of 300,000 shares of Common Stock (the "**Option Warrants**," and collectively with the Option Shares, the "**Option Securities**"), representing fifteen percent (15%) of the Firm Shares and Firm Warrants sold in the offering, from the Company (the "**Over-allotment Option**"). The purchase price to be paid per Option Share and accompanying Option Warrant shall be equal to the price per Firm Share and accompanying Firm Warrant set forth in Section 1.1.1 hereof. The Firm Warrants and the Options Warrants are hereinafter collectively referred to as the "**Warrants**." The shares of Common Stock into which the Warrants are exercisable are hereinafter referred to as the "**Warrant Shares**." The Firm Securities and the Option Securities are hereinafter collectively referred to as the "**Primary Securities**." The Primary Securities and Warrant Shares are hereinafter collectively referred to as the "**Public Securities**." The offering and sale of the Primary Securities is hereinafter referred to as the "**Offering**."

1.2.2. Exercise of Option. The Over-allotment Option granted pursuant to Section 1.2.1 hereof may be exercised by the Representative as to all (at any time) or any part (from time to time) of the Option Securities within 45 days after the Effective Date. The purchase price to be paid per Option Share and accompanying Option Warrants shall be equal to the Firm Share purchase price set forth in Section 1.1.1(ii) hereof. The Underwriters shall not be under any obligation to purchase any Option Securities prior to the exercise of the Over-allotment Option. The Over-allotment Option granted hereby may be exercised by the giving of oral notice to the Company from the Representative, which must be confirmed in writing by overnight mail or facsimile or other electronic transmission setting forth the number of Option Shares and accompanying Option Warrants to be purchased and the date and time for delivery of and payment for the Option Securities (the "**Option Closing Date**"), which shall not be later than one (1) Business Day after the date of the notice or such other time as shall be agreed upon by the Company and the Representative, at the offices of Representative Counsel or at such other place (including remotely by facsimile or other electronic transmission) as shall be agreed upon by the Company and the Representative. If such delivery and payment for the Option Securities does not occur on the Closing Date, the Option Closing Date will be as set forth in the notice. Upon exercise of the Over-allotment Option with respect to all or any portion of the Option Securities, subject to the terms and conditions set forth herein, (i) the Company shall become obligated to sell to the Underwriters the number of Option Shares and accompanying Option Warrants specified in such notice and (ii) each of the Underwriters, acting severally and not jointly, shall purchase that portion of the total number of Option Shares and accompanying Option Warrants then being purchased as set forth in Schedule 1 opposite the name of such Underwriter.

1.2.3. Payment and Delivery. Payment for the Option Securities shall be made on the Option Closing Date by wire transfer in Federal (same day) funds, payable to the order of the Company upon delivery to you of certificates (in form and substance satisfactory to the Underwriters) representing the Option Shares and accompanying Option Warrants (or through the facilities of DTC) for the account of the Underwriters. The Option Securities shall be registered in such name or names and in such authorized denominations as the Representative may request in writing at least one (1) Business Day prior to the Option Closing Date. The Company shall not be obligated to sell or deliver the Option Securities except upon tender of payment by the Representative for applicable Option Securities.

1.3. Representative's Warrants.

1.3.1. Purchase Warrants. The Company hereby agrees to issue and sell to the Representative (and/or its designees) on the Closing Date a warrant ("**Representative's Warrants**") for the purchase of an aggregate of 100,000 shares of Common Stock, representing 5.0% of the number of Firm Shares, for an aggregate purchase price of $100.00. The agreement(s) representing the Representative's Warrants, in the form attached hereto as Exhibit A (the "**Representative's Warrant Agreement**"), shall be exercisable, in whole or in part, commencing on a date which is six (6) months after the Effective Date and expiring on the five-year anniversary of the Effective Date at an initial exercise price per share of Common Stock of $6.25, which is equal to 125.0% of the initial public offering price of the Firm Shares. The Representative's Warrant Agreement and the shares of Common Stock issuable upon exercise thereof are hereinafter referred to together as the "**Representative's Securities**." The Representative understands and agrees that there are significant restrictions pursuant to FINRA Rule 5110 against transferring the Representative's Warrant Agreement and the underlying shares of Common Stock during the three hundred sixty (360) days after the Effective Date and by its acceptance thereof shall agree that it will not sell, transfer, assign, pledge or hypothecate the Representative's Warrant Agreement, or any portion thereof, or be the subject of any hedging, short sale, derivative, put or call transaction that would result in the effective economic disposition of such securities for a period of three hundred sixty (360) days following the Effective Date to anyone other than (i) an Underwriter or a selected dealer in connection with the Offering, or (ii) a bona fide officer or partner of the Representative or of any such Underwriter or selected dealer; and only if any such transferee agrees to the foregoing lock-up restrictions.

1.3.2. Delivery. Delivery of the Representative's Warrant Agreement shall be made on the Closing Date, and shall be issued in the name or names and in such authorized denominations as the Representative may request.

2. REPRESENTATIONS AND WARRANTIES OF THE COMPANY.

The Company represents and warrants to the Underwriters as of the Applicable Time (as defined below), as of the Closing Date and as of the Option Closing Date, if any, as follows:

2.1. Filing of Registration Statement.

2.1.1. Pursuant to the Securities Act. The Company has filed with the U.S. Securities and Exchange Commission (the "**Commission**") a registration statement, and an amendment or amendments thereto, on Form S-1 (File No. 333-255193), including any related prospectus or prospectuses, for the registration of the Public Securities and the Representative's Securities under the Securities Act of 1933, as amended (the "**Securities Act**").Except as the context may otherwise require, such registration statement, as amended, on file with the Commission at the time the registration statement became effective (including the Preliminary Prospectus included in the registration statement, financial statements, schedules, exhibits and all other documents filed as a part thereof or incorporated therein and all information deemed to be a part thereof as of the Effective Date pursuant to paragraph (b) of Rule 430A (the "**Rule 430A Information**") of the the rules and regulations of the Commission promulgated thereunder (the "**Securities Act Regulations**"), is referred to herein as the "**Registration Statement**." If the Company files any registration statement pursuant to Rule 462(b) of the Securities Act Regulations, then after such filing, the term "**Registration Statement**" shall include such registration statement filed pursuant to Rule 462(b). The Registration Statement has been declared effective by the Commission on the date hereof.

Each prospectus used prior to the effectiveness of the Registration Statement, and each prospectus that omitted the Rule 430A Information that was used after such effectiveness and prior to the execution and delivery of this Agreement, is herein called a "**Preliminary Prospectus**." The Preliminary Prospectus, subject to completion, dated [●], 2021, that was included in the Registration Statement immediately prior to the Applicable Time is hereinafter called the "**Pricing Prospectus**." The final prospectus in the form first furnished to the Underwriters for use in the Offering, that includes the Rule 430A Information, is hereinafter called the "**Prospectus**." Any reference to the "most recent Preliminary Prospectus" shall be deemed to refer to the latest Preliminary Prospectus included in the Registration Statement.

"**Applicable Time**" means 4:30 p.m., Eastern time, on the date of this Agreement.

"**Issuer Free Writing Prospectus**" means any "issuer free writing prospectus," as defined in Rule 433 of the Securities Act Regulations ("**Rule 433**"), including without limitation any "free writing prospectus" (as defined in Rule 405 of the Securities Act Regulations) relating to the Public Securities that is (i) required to be filed with the Commission by the Company, (ii) a "road show that is a written communication" within the meaning of Rule 433(d)(8)(i), whether or not required to be filed with the Commission, or (iii) exempt from filing with the Commission pursuant to Rule 433(d)(5)(i) because it contains a description of the Public Securities or of the Offering that does not reflect the final terms, in each case in the form filed or required to be filed with the Commission or, if not required to be filed, in the form retained in the Company's records pursuant to Rule 433(g).

"**Issuer General Use Free Writing Prospectus**" means any Issuer Free Writing Prospectus that is intended for general distribution to prospective investors (other than a "*bona fide* electronic road show," as defined in Rule 433 (the "**Bona Fide Electronic Road Show**")), as evidenced by its being specified in Schedule 2-B hereto.

"**Issuer Limited Use Free Writing Prospectus**" means any Issuer Free Writing Prospectus that is not an Issuer General Use Free Writing Prospectus.

"**Pricing Disclosure Package**" means any Issuer General Use Free Writing Prospectus issued at or prior to the Applicable Time, the Pricing Prospectus and the information included on Schedule 2-A hereto, all considered together.

2.1.2. Pursuant to the Exchange Act. The Company has filed with the Commission a Form 8-A (File Number [●]) providing for the registration of the Common Stock and the Warrants (the "**Form 8-A Registration Statement**"). The Common Stock and the Warrants are registered pursuant to Section 12(b) under the Securities Exchange Act of 1934, as amended (the "**Exchange Act**"). The registration of Common Stock and Warrants under the Exchange Act has been declared effective by the Commission on or prior to the date hereof. The Company has taken no action designed to, or likely to have the effect of, terminating the registration of the shares of Common Stock and Warrants under the Exchange Act, nor has the Company received any notification that the Commission is contemplating terminating such registration.

2.2. Stock Exchange Listing. The shares of Common Stock and Warrants have each been approved for listing on the Nasdaq Capital Market (the "**Exchange**"), subject only to official notice of issuance, and the Company has taken no action designed to, or likely to have the effect of, delisting the shares of Common Stock or Warrants from the Exchange, nor has the Company received any notification that the Exchange is contemplating terminating such listing except as described in the Registration Statement, the Pricing Disclosure Package and the Prospectus.

2.3. No Stop Orders, etc. Neither the Commission nor, to the Company's knowledge, any state regulatory authority has issued any order preventing or suspending the use of the Registration Statement, any Preliminary Prospectus or the Prospectus or has instituted or, to the Company's knowledge, threatened to institute, any proceedings with respect to such an order. The Company has complied with each request (if any) from the Commission for additional information.

2.4. Disclosures in Registration Statement.

2.4.1. Compliance with Securities Act and 10b-5 Representation.

(i)Each of the Registration Statement and any post-effective amendment thereto, at the time it became effective, complied in all material respects with the requirements of the Securities Act and the Securities Act Regulations. Each Preliminary Prospectus, including the prospectus filed as part of the Registration Statement as originally filed or as part of any amendment or supplement thereto, and the Prospectus, at the time each was filed with the Commission, complied in all material respects with the requirements of the Securities Act and the Securities Act Regulations. Each Preliminary Prospectus delivered to the Underwriters for use in connection with this Offering and the Prospectus was or will be identical to the electronically transmitted copies thereof filed with the Commission pursuant to the Commission's EDGAR filing system ("**EDGAR**"), except to the extent permitted by Regulation S-T promulgated under the Securities Act ("**Regulation S-T**").

(ii)Neither the Registration Statement nor any amendment thereto, at its effective time, as of the Applicable Time, at the Closing Date or at any Option Closing Date (if any), contained, contains or will contain an untrue statement of a material fact or omitted, omits or will omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading.

(iii)The Pricing Disclosure Package, as of the Applicable Time, at the Closing Date or at any Option Closing Date (if any), did not, does not and will not include an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; and each Issuer Limited Use Free Writing Prospectus hereto does not conflict in any material respect with the information contained in the Registration Statement, any Preliminary Prospectus, the Pricing Prospectus or the Prospectus, and each such Issuer Limited Use Free Writing Prospectus, as supplemented by and taken together with the Pricing Prospectus as of the Applicable Time, did not include an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading; provided, however, that this representation and warranty shall not apply to statements made or statements omitted in reliance upon and in conformity with written information furnished to the Company with respect to the Underwriters by the Representative expressly for use in the Registration Statement, the Pricing Prospectus or the Prospectus or any amendment thereof or supplement thereto. The parties acknowledge and agree that such information provided by or on behalf of any Underwriter consists solely of the following disclosure contained in the "Underwriting" section of the Prospectus: the names of the Underwriters, the information in the first paragraph under the subheading titled "Commissions and Discounts" and the information under the subheadings titled "Price Stabilization, Short Positions, and Penalty Bids" and "Electronic Distribution" (the "**Underwriters' Information**").

(iv)Neither the Prospectus nor any amendment or supplement thereto (including any prospectus wrapper), as of its issue date, at the time of any filing with the Commission pursuant to Rule 424(b), at the Closing Date or at any Option Closing Date, included, includes or will include an untrue statement of a material fact or omitted, omits or will omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided, however, that this representation and warranty shall not apply to the Underwriters' Information.

2.4.2. Disclosure of Agreements. The agreements and documents described in the Registration Statement, the Pricing Disclosure Package and the Prospectus conform in all material respects to the descriptions thereof contained therein and there are no agreements or other documents required by the Securities Act and the Securities Act Regulations to be described in the Registration Statement, the Pricing Disclosure Package and the Prospectus or to be filed with the Commission as exhibits to the Registration Statement, that have not been so described or filed. Each agreement or other instrument (however characterized or described) to which the Company is a party or by which it is or may be bound or affected and (i) that is referred to in the Registration Statement, the Pricing Disclosure Package and the Prospectus, or (ii) is material to the Company's business, has been duly authorized and validly executed by the Company, is in full force and effect in all material respects and is enforceable against the Company and, to the Company's knowledge, the other parties thereto, in accordance with its terms, except (x) as such enforceability may be limited by bankruptcy, insolvency, reorganization or similar laws affecting creditors' rights generally, (y) as enforceability of any indemnification or contribution provision may be limited under the federal and state securities laws, and (z) that the remedy of specific performance and injunctive and other forms of equitable relief may be subject to the equitable defenses and to the discretion of the court before which any proceeding therefor may be brought, and except for any unenforceability that, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Change (as defined in Section 2.5.1 below). None of such agreements or instruments has been assigned by the Company, and neither the Company nor, to the Company's knowledge, any other party is in material default thereunder and, to the Company's knowledge, no event has occurred that, with the lapse of time or the giving of notice, or both, would constitute a default thereunder except for such defaults that would not reasonably be expected to result in a Material Adverse Change (as defined in Section 2.5.1 below). To the Company's knowledge, performance by the Company of the material provisions of such agreements or instruments will not result in a violation of any existing applicable law, rule,

regulation, judgment, order or decree of any governmental or regulatory agency, authority, body, entity or court, domestic or foreign, having jurisdiction over the Company or any of its assets or businesses (each, a "**Governmental Entity**"), including, without limitation, those relating to environmental laws and regulations, that, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Change as defined in Section 2.5.1 below.

2.4.3. Reserved.

2.4.4. Regulations. The disclosures in the Registration Statement, the Pricing Disclosure Package and the Prospectus concerning the effects of federal, state, local and all foreign laws, rules and regulations relating to the Offering and the Company's business as currently conducted or contemplated are correct and complete in all material respects and no other such laws, rules or regulations are required under the Securities Act and the Securities Act Regulations to be disclosed in the Registration Statement, the Pricing Disclosure Package and the Prospectus which are not so disclosed.

2.4.5. No Other Distribution of Offering Materials. The Company has not, directly or indirectly, distributed and will not distribute any offering material in connection with the Offering other than any Preliminary Prospectus, any Issuer Free Writing Prospectus, the Prospectus and other materials, if any, permitted under the Securities Act and consistent with Section 3.2 below.

2.5. Changes After Dates in Registration Statement.

2.5.1. No Material Adverse Change. Since the respective dates as of which information is given in the Registration Statement, the Pricing Disclosure Package and the Prospectus, except as otherwise specifically stated therein: (i) there has been no material adverse change in the financial position or results of operations of the Company or its Subsidiaries taken as a whole, nor to the Company's knowledge, any change or development that, singularly or in the aggregate, would involve a material adverse change or a prospective material adverse change, in or affecting the condition (financial or otherwise), results of operations, business, assets or prospects of the Company or its Subsidiaries taken as a whole (a "**Material Adverse Change**"); (ii) there have been no material transactions entered into by the Company or its Subsidiaries, other than as contemplated pursuant to this Agreement; and (iii) no officer or director of the Company has resigned from any position with the Company.

2.5.2. Recent Securities Transactions, etc. Subsequent to the respective dates as of which information is given in the Registration Statement, the Pricing Disclosure Package and the Prospectus, and except as may otherwise be indicated or contemplated herein or disclosed in the Registration Statement, the Pricing Disclosure Package and the Prospectus, the Company has not: (i) issued any securities or incurred any liability or obligation, direct or contingent, for borrowed money; or (ii) declared or paid any dividend or made any other distribution on or in respect to its capital stock.

2.6. Reserved**.**

2.7. Independent Accountants. To the knowledge of the Company, dbb*mckennon* (the "**Auditor**"), whose report is filed with the Commission as part of the Registration Statement, the Pricing Disclosure Package and the Prospectus, is an independent registered public accounting firm as required by the Securities Act and the Securities Act Regulations and the Public Company Accounting Oversight Board. The Auditor has not, during the periods covered by the financial statements included in the Registration Statement, the Pricing Disclosure Package and the Prospectus, provided to the Company any non-audit services, as such term is used in Section 10A(g) of the Exchange Act.

2.8. Financial Statements, etc. The financial statements, including the notes thereto and supporting schedules included in the Registration Statement, the Pricing Disclosure Package and the Prospectus, fairly present in all material respects the financial position and the results of operations of the Company at the dates and for the periods to which they apply; and such financial statements have been prepared in conformity with U.S. generally accepted accounting principles ("**GAAP**"), consistently applied throughout the periods involved (provided that unaudited interim financial statements are subject to year-end audit adjustments that are not expected to be material in the aggregate and do not contain all footnotes required by GAAP); and the supporting schedules included in the Registration Statement present fairly in all material respects the information required to be stated therein. Except as included therein, no historical or pro forma financial statements are required to be included in the Registration Statement, the Pricing Disclosure Package or the Prospectus under the Securities Act or the Securities Act Regulations. The pro forma and pro forma as adjusted financial information and the related notes, if any, included in the Registration Statement, the Pricing Disclosure Package and the Prospectus have been properly compiled and prepared in accordance with the applicable requirements of the Securities Act and the Securities Act Regulations and present fairly in all material respects the information shown therein, and the assumptions used in the preparation thereof are reasonable and the adjustments used therein are appropriate to give effect to the transactions and circumstances referred to therein. All disclosures contained in the Registration Statement, the Pricing Disclosure Package or the Prospectus regarding "non-GAAP financial measures" (as such term is defined by the rules and regulations of the Commission), if any, comply in all material respects with Regulation G of the Exchange Act and Item 10 of Regulation S-K of the Securities Act, to the extent applicable. Each of the Registration Statement, the Pricing Disclosure Package and the Prospectus discloses all material off-balance sheet transactions, arrangements, obligations (including contingent obligations), and other relationships of the Company with unconsolidated entities or other persons that may have a material current or future effect on the Company's financial condition, changes in financial condition, results of operations, liquidity, capital expenditures, capital resources, or significant components of revenues or expenses. Except as disclosed in the Registration Statement, the Pricing Disclosure Package and the Prospectus, (a) since the date of the last balance sheet included in the Registration Statement, the Pricing Disclosure Package and the Prospectus, neither the Company nor any of its direct and indirect subsidiaries, including each entity disclosed or described in the Registration Statement, the Pricing Disclosure Package and the Prospectus as being a subsidiary of the Company (each, a "**Subsidiary**" and, collectively, the "**Subsidiaries**"), has incurred any material liabilities or obligations, direct or contingent, or entered into any material transactions other than in the ordinary course of business, (b) the Company has not declared or paid any dividends or made any distribution of any kind with respect to its capital stock, (c) there has not been any change in the capital stock of the Company or any of its Subsidiaries, or, other than in the ordinary course of business, any grants under any stock compensation plan, and (d) there has not been any material adverse change in the Company's long-term or short-term debt. The Company represents that it has no direct or indirect subsidiaries other than those listed in Exhibit 21.1 to the Registration Statement.

2.9. Authorized Capital; Options, etc. The Company had, at the date or dates indicated in the Registration Statement, the Pricing Disclosure Package and the Prospectus, the duly authorized, issued and outstanding capitalization as set forth therein. Based on the assumptions stated in the Registration Statement, the Pricing Disclosure Package and the Prospectus, the Company will have on the Closing Date the adjusted capitalization set forth therein. Except as set forth in, or contemplated by, the Registration Statement, the Pricing Disclosure Package and the Prospectus, on the Effective Date, as of the Applicable Time and on the Closing Date and any Option Closing Date, there will be no stock options, warrants, or other rights to purchase or otherwise acquire any authorized, but unissued shares of Common Stock of the Company or any security convertible or exercisable into shares of Common Stock of the Company, or any contracts or commitments to issue or sell shares of Common Stock or any such options, warrants, rights or convertible securities.

2.10. Valid Issuance of Securities, etc.

2.10.1. Outstanding Securities. All issued and outstanding securities of the Company issued prior to the transactions contemplated by this Agreement have been duly authorized and validly issued and are fully paid and non-assessable; the holders thereof have no rights of rescission or the ability to force the Company or any of its Subsidiaries to repurchase such securities with respect thereto, and are not subject to personal liability by reason of being such holders; and none of such securities were issued in violation of the preemptive rights, rights of first refusal or rights of participation of any holders of any security of the Company or similar contractual

rights granted by the Company. The authorized shares of Common Stock conform in all material respects to all statements relating thereto contained in the Registration Statement, the Pricing Disclosure Package and the Prospectus. The offers and sales of the outstanding shares of Common Stock, options, warrants and other outstanding securities convertible into or exercisable for shares of Common Stock, were at all relevant times either registered under the Securities Act and the applicable state securities or "blue sky" laws or, based in part on the representations and warranties of the purchasers of such shares of Common Stock, exempt from such registration requirements. The description of the Company's stock option, stock bonus and other related plans or arrangements, and options and/or other rights granted thereunder, as described in the Registration Statement, the Pricing Disclosure Package and the Prospectus, accurately and fairly present, in all material respects, the information required to be shown with respect to such plans, arrangements, options and rights.

2.10.2. Securities Sold Pursuant to this Agreement. The Public Securities and Representative's Securities have been duly authorized for issuance and sale and, when issued and paid for, will be validly issued, fully paid and non-assessable; the holders thereof are not and will not be subject to personal liability by reason of being such holders; the Public Securities and Representative's Securities are and will be free from all preemptive rights of any holders of any security of the Company, or similar contractual rights granted by the Company; and all corporate action required to be taken for the authorization, issuance and sale of the Public Securities and Representative's Securities has been duly and validly taken. The Warrants, when issued and paid for pursuant to this Agreement and the Warrant Agency Agreement (as defined below), will constitute valid and binding obligations of the Company to issue and sell, upon exercise thereof and payment therefor, the Warrant Shares. The Representative's Warrant Agreement, when issued and paid for pursuant to this Agreement, will constitute valid and binding obligations of the Company to issue and sell, upon exercise thereof and payment therefor, the underlying shares of Common Stock. The Public Securities and Representative's Securities conform in all material respects to all statements with respect thereto contained in the Registration Statement, the Pricing Disclosure Package and the Prospectus. All corporate action required to be taken for the authorization, issuance and sale of the Representative's Warrant Agreement has been duly and validly taken; the shares of Common Stock issuable upon exercise of the Representative's Warrant have been duly authorized and reserved for issuance by all necessary corporate action on the part of the Company and when paid for and issued in accordance with the Representative's Warrant and the Representative's Warrant Agreement, such shares of Common Stock will be validly issued, fully paid and nonassessable; the holders thereof are not and will not be subject to personal liability by reason of being such holders; and such shares of Common Stock are not and will not be subject to the preemptive rights of any holders of any security of the Company or similar contractual rights granted by the Company.

2.11. Registration Rights of Third Parties. Except as set forth in the Registration Statement, the Pricing Disclosure Package and the Prospectus, no holders of any securities of the Company or any options, warrants, rights or other securities exercisable for or convertible or exchangeable into securities of the Company have the right to require the Company to register any such securities of the Company under the Securities Act or to include any such securities in the Registration Statement or any other registration statement to be filed by the Company.

2.12. Validity and Binding Effect of Agreements. The execution, delivery and performance of this Agreement, the Warrants, and the Representative's Warrant Agreement have been duly and validly authorized by the Company, and, when executed and delivered, will constitute, the valid and binding agreements of the Company, enforceable against the Company in accordance with their respective terms, except: (i) as such enforceability may be limited by bankruptcy, insolvency, reorganization or similar laws affecting creditors' rights generally; (ii) as enforceability of any indemnification or contribution provision may be limited under the federal and state securities laws; and (iii) that the remedy of specific performance and injunctive and other forms of equitable relief may be subject to the equitable defenses and to the discretion of the court before which any proceeding therefor may be brought.

2.13. No Conflicts, etc. The execution, delivery and performance by the Company of this Agreement, the Warrants, the Representative's Warrant Agreement, and all ancillary documents, the consummation by the Company of the transactions herein and therein contemplated and the compliance by the Company with the terms hereof and thereof do not and will not, with or without the giving of notice or the lapse of time or both: (i) result in a material breach of, or conflict with any of the terms and provisions of, or constitute a material default under, or result in the creation, modification, termination or imposition of any lien, charge or encumbrance upon any property or assets of the Company pursuant to the terms of any indenture, mortgage, deed of trust, loan agreement or any other agreement or instrument to which the Company is a party or as to which any property of the Company is a party except breaches, conflicts or defaults that would not reasonably be expected to result in a Material Adverse Change; (ii) result in any violation of the provisions of the Company's Certificate of Incorporation (as the same have been amended or restated from time to time, the "**Charter**") or the by-laws of the Company; or (iii) violate in any material respect any existing applicable law, rule, regulation, judgment, order or decree of any Governmental Entity as of the date hereof having jurisdiction over the Company.

2.14. No Defaults; Violations. Except as set forth in the Registration Statement, the Pricing Disclosure Package and the Prospectus, no material default exists in the due performance and observance of any term, covenant or condition of any material license, contract, indenture, mortgage, deed of trust, note, loan or credit agreement, or any other agreement or instrument evidencing an obligation for borrowed money, or any other material agreement or instrument to which the Company is a party or by which the Company may be bound or to which any of the properties or assets of the Company is subject except for any such default that would not be reasonably expected to result in a Material Adverse Change. The Company is not in violation of any term or provision of its Charter or by-laws, or in violation of any material franchise, license, permit, applicable law, rule, regulation, judgment or decree of any Governmental Entity, except for such violations that would not be reasonably expected to result in a Material Adverse Change.

2.15. Corporate Power; Licenses; Consents.

2.15.1. Conduct of Business. Except as described in the Registration Statement, the Pricing Disclosure Package and the Prospectus, the Company has all requisite corporate power and authority, and has all material consents, authorizations, approvals, licenses, certificates, clearances, permits and orders and supplements and amendments thereto (collectively, "**Authorizations**") of and from all Governmental Entities that it needs as of the date hereof to conduct its business purpose as described in the Registration Statement, the Pricing Disclosure Package and the Prospectus, except for such Authorizations, the absence of which would reasonably be expected to have a Material Adverse Change.

2.15.2. Transactions Contemplated Herein. The Company has all corporate power and authority to enter into this Agreement and to carry out the provisions and conditions hereof, and all Authorizations required in connection therewith have been obtained. No Authorization of, and no filing with, any Governmental Entity, the Exchange or another body is required for the valid issuance, sale and delivery of the Public Securities and the consummation of the transactions and agreements contemplated by this Agreement and the Representative's Warrant Agreement and as contemplated by the Registration Statement, the Pricing Disclosure Package and the Prospectus, except with respect to applicable Securities Act Regulations, state securities laws and the rules and regulations of the Financial Industry Regulatory Authority, Inc. ("**FINRA**").

2.16. D&O Questionnaires. To the Company's knowledge, all information contained in the questionnaires (the "**Questionnaires**") completed by each of the Company's directors and officers immediately prior to the Offering (the "**Insiders**") as supplemented by all information concerning the Insiders as described in the Registration Statement, the Pricing Disclosure Package and the Prospectus provided to the Underwriters, is true and correct in all material respects and the Company has not become aware of any information which would cause the information disclosed in the Questionnaires to become materially inaccurate and incorrect.

2.17. Litigation; Governmental Proceedings. There is no action, suit, proceeding, inquiry, arbitration, investigation, litigation or governmental proceeding pending or, to the Company's knowledge, threatened against, or involving the Company or, to the Company's knowledge, any executive officer or director which has not been disclosed in the Registration Statement, the Pricing Disclosure Package and the Prospectus, or in connection with the Company's listing application for the listing of the Public

Securities on the Exchange.

2.18. Good Standing. The Company has been duly incorporated and is validly existing as a corporation and is in good standing under the laws of the State of Delaware as of the date hereof, and is duly qualified to do business and is in good standing in each other jurisdiction in which its ownership or lease of property or the conduct of business requires such qualification, except where the failure to qualify, singularly or in the aggregate, would not have or reasonably be expected to result in a Material Adverse Change.

2.19. Insurance. The Company carries or is entitled to the benefits of insurance (including, without limitation, as to directors and officers insurance coverage), with reputable insurers, in such amounts and covering such risks which the Company believes are adequate as are customary for companies engaged in similar business, and to the Company's knowledge all such insurance is in full force and effect. The Company has no reason to believe that it will not be able (i) to renew its existing insurance coverage as and when such policies expire or (ii) to obtain comparable coverage from similar institutions as may be necessary or appropriate to conduct its business as now conducted and at a cost that would not reasonably be expected to result in a Material Adverse Change.

2.20. Transactions Affecting Disclosure to FINRA.

2.20.1. Finder's Fees. Except as described in the Registration Statement, the Pricing Disclosure Package and the Prospectus, there are no claims, payments, arrangements, agreements or understandings relating to the payment of a finder's, consulting or origination fee by the Company or any Insider with respect to the sale of the Public Securities hereunder or any other arrangements, agreements or understandings of the Company or, to the Company's knowledge, any of its stockholders that may affect the Underwriters' compensation, as determined by FINRA.

2.20.2. Payments Within Twelve (12) Months . Except as described in the Registration Statement, the Pricing Disclosure Package and the Prospectus, the Company has not made any direct or indirect payments in connection with the Offering (in cash, securities or otherwise) to: (i) any person, as a finder's fee, consulting fee or otherwise, in consideration of such person raising capital for the Company or introducing to the Company persons who raised or provided capital to the Company; (ii) any FINRA member; or (iii) any person or entity that has any direct or indirect affiliation or association with any FINRA member, within the twelve (12) months prior to the Effective Date, other than the payment to the Underwriters as provided hereunder in connection with the Offering.

2.20.3. Use of Proceeds. None of the net proceeds of the Offering will be paid by the Company to any participating FINRA member or its affiliates, except as specifically authorized herein.

2.20.4. FINRA Affiliation. There is no (i) officer or director of the Company, (ii) beneficial owner of 5% or more of any class of the Company's securities or (iii) beneficial owner of the Company's unregistered equity securities which were acquired during the 180-day period immediately preceding the filing of the Registration Statement that is an affiliate or associated person of a FINRA member participating in the Offering (as determined in accordance with the rules and regulations of FINRA).

2.20.5. Information. All information provided by the Company in its FINRA questionnaire to Representative Counsel specifically for use by Representative Counsel in connection with its Public Offering System filings (and related disclosure) with FINRA is true, correct and complete in all material respects.

2.21. Foreign Corrupt Practices Act. None of the Company and its Subsidiaries or, to the Company's knowledge, any director, officer, agent, employee or affiliate of the Company and its Subsidiaries or any other person acting on behalf of, and with authority from, the Company and its Subsidiaries, has, directly or indirectly, given or agreed to give any money, gift or similar benefit (other than legal price concessions to customers in the ordinary course of business) to any customer, supplier, employee or agent of a customer or supplier, or official or employee of any Governmental Entity (domestic or foreign) or any political party or candidate for office (domestic or foreign) or other person who was, is, or may be in a position to help or hinder the business of the Company (or assist it in connection with any actual or proposed transaction) that (i) might subject the Company to any damage or penalty in any civil, criminal or governmental litigation or proceeding, (ii) if not given in the past, might have had a Material Adverse Change or (iii) if not continued in the future, might adversely affect the assets, business, operations or prospects of the Company. The Company has taken reasonable steps to ensure that its accounting controls and procedures are sufficient to cause the Company to comply in all material respects with the Foreign Corrupt Practices Act of 1977, as amended.

2.22. Compliance with OFAC. None of the Company and its Subsidiaries or, to the Company's knowledge, any director, officer, agent, employee or affiliate of the Company and its Subsidiaries or any other person acting on behalf of, and with authority from, the Company and its Subsidiaries, is currently subject to any U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury ("**OFAC**"), and the Company will not, directly or indirectly, use the proceeds of the Offering hereunder, or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or other person or entity, for the purpose of financing the activities of any person currently subject to any U.S. sanctions administered by OFAC.

2.23. Money Laundering Laws. The operations of the Company and its Subsidiaries are and have been conducted at all times in compliance in all material respects with applicable financial recordkeeping and reporting requirements of the Currency and Foreign Transactions Reporting Act of 1970, as amended, the money laundering statutes of all applicable jurisdictions, the rules and regulations thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any Governmental Entity (collectively, the "**Money Laundering Laws**"); and no action, suit or proceeding by or before any Governmental Entity involving the Company with respect to the Money Laundering Laws is pending or, to the best knowledge of the Company, threatened.

2.24. Officers' Certificate. Any certificate signed by any duly authorized officer of the Company and delivered to you or to Representative Counsel on the Closing Date or on the Option Closing Date shall be deemed a representation and warranty by the Company to the Underwriters as to the matters covered thereby.

2.25. Lock-Up Agreements. Schedule 3 hereto contains a complete and accurate list of the Company's officers, directors and each owner of 5% or more of the Company's outstanding shares of Common Stock (or securities convertible or exercisable into shares of Common Stock) (collectively, the "**Lock-Up Parties**"). The Company has caused each of the Lock-Up Parties to deliver to the Representative an executed Lock-Up Agreement, in a form substantially similar to that attached hereto as Exhibit B **(**the "**Lock-Up Agreement**"), prior to the execution of this Agreement.

2.26. Subsidiaries. All direct and indirect Subsidiaries of the Company are duly organized and in good standing under the laws of the place of organization or incorporation, and each Subsidiary is in good standing in each jurisdiction in which its ownership or lease of property or the conduct of business requires such qualification, except where the failure to qualify would not have a material adverse effect on the assets, business or operations of the Company taken as a whole. The Company's ownership and control of each Subsidiary is as described in the Registration Statement, the Pricing Disclosure Package and the Prospectus.

2.27. Related Party Transactions. There are no business relationships or related party transactions involving the Company or any other person required to be described in the Registration Statement, the Pricing Disclosure Package and the Prospectus that have not been described as required under the Securities Act and the Securities Act Regulations.

2.28. Board of Directors. The Board of Directors of the Company is comprised of the persons set forth under the heading of the Pricing Prospectus and the Prospectus captioned "Management." The qualifications of the persons serving as board members and the overall composition of the board comply with the Exchange Act, the rules and regulations of the Commission promulgated thereunder (the "**Exchange Act Regulations**"), the Sarbanes-Oxley Act of 2002 and the rules promulgated thereunder (the "**Sarbanes-Oxley Act**") applicable to the Company and the listing rules of the Exchange. At least one member of the Audit Committee of the Board of Directors of the Company qualifies as an "audit committee financial expert," as such term is defined under Regulation S-K and the listing rules of the Exchange. In addition, at least a majority of the persons serving on the Board of Directors qualify as "independent," as defined under the listing rules of the Exchange.

2.29. Sarbanes-Oxley Compliance.

2.29.1. Disclosure Controls. The Company has developed and currently maintains disclosure controls and procedures that will comply in all material respects with Rule 13a-15 or 15d-15 under the Exchange Act Regulations, and such controls and procedures are effective to ensure that all material information concerning the Company will be made known on a timely basis to the individuals responsible for the preparation of the Company's Exchange Act filings and other public disclosure documents.

2.29.2. Compliance. The Company is and at the Applicable Time and on the Closing Date will be, in material compliance with the provisions of the Sarbanes-Oxley Act applicable to it, and has implemented or will implement such programs and has taken reasonable steps to ensure the Company's future compliance (not later than the relevant statutory and regulatory deadlines therefor) with all of the material provisions of the Sarbanes-Oxley Act.

2.30. Accounting Controls. The Company and its Subsidiaries maintain systems of "internal control over financial reporting" (as defined under Rules 13a-15 and 15d-15 under the Exchange Act Regulations) that comply in all material respects with the requirements of the Exchange Act and have been designed by, or under the supervision of, their respective principal executive and principal financial officers, or persons performing similar functions, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with GAAP, including, but not limited to, internal accounting controls sufficient to provide reasonable assurance that (i) transactions are executed in accordance with management's general or specific authorizations; (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP and to maintain asset accountability; (iii) access to assets is permitted only in accordance with management's general or specific authorization; and (iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences. Except as disclosed in the Registration Statement, the Pricing Disclosure Package and the Prospectus, the Company is not aware of any material weaknesses in its internal controls. The Company's auditors and the Audit Committee of the Board of Directors of the Company have been advised of: (i) all significant deficiencies and material weaknesses in the design or operation of internal controls over financial reporting which are known to the Company's management and that have adversely affected or are reasonably likely to adversely affect the Company's ability to record, process, summarize and report financial information; and (ii) any fraud known to the Company's management, whether or not material, that involves management or other employees who have a significant role in the Company's internal controls over financial reporting.

2.31. No Investment Company Status. The Company is not and, after giving effect to the Offering and the application of the proceeds thereof as described in the Registration Statement, the Pricing Disclosure Package and the Prospectus, will not be, required to register as an "investment company," as defined in the Investment Company Act of 1940, as amended.

2.32. No Labor Disputes. No labor dispute with the employees of the Company or any of its Subsidiaries exists or, to the knowledge of the Company, is imminent. The Company is not aware that any officer, key employee or significant group of employees of the Company plans to terminate employment with the Company.

2.33. Intellectual Property Rights. The Company and each of its Subsidiaries owns or possesses or has valid rights to use all patents, patent applications, trademarks, service marks, trade names, trademark registrations, service mark registrations, copyrights, licenses, inventions, trade secrets and similar rights ("**Intellectual Property Rights**") and necessary for the conduct of the business of the Company and each of its Subsidiaries as currently carried on and as described in the Registration Statement, the Pricing Disclosure Package and the Prospectus. To the knowledge of the Company, no action or use by the Company or any of its Subsidiaries necessary for the conduct of its business as currently carried on and as described in the Registration Statement and the Prospectus will involve or give rise to any infringement of, or license or similar fees for, any Intellectual Property Rights of others. Neither the Company nor any of its Subsidiaries has received any notice alleging any such infringement, fee or conflict with asserted Intellectual Property Rights of others. Except as would not reasonably be expected to result, individually or in the aggregate, in a Material Adverse Change: (A) to the knowledge of the Company, there is no infringement, misappropriation or violation by third parties of any of the Intellectual Property Rights owned by the Company; (B) there is no pending or, to the knowledge of the Company, threatened action, suit, proceeding or claim by others challenging the rights of the Company in or to any such Intellectual Property Rights, and the Company is unaware of any facts which would form a reasonable basis for any such claim, that would, individually or in the aggregate, together with any other claims in this Section 2.33, reasonably be expected to result in a Material Adverse Change; (C) the Intellectual Property Rights owned by the Company and, to the knowledge of the Company, the Intellectual Property Rights licensed to the Company have not been adjudged by a court of competent jurisdiction invalid or unenforceable, in whole or in part, and there is no pending or, to the Company's knowledge, threatened action, suit, proceeding or claim by others challenging the validity or scope of any such Intellectual Property Rights, and the Company is unaware of any facts which would form a reasonable basis for any such claim that would, individually or in the aggregate, together with any other claims in this Section 2.33, reasonably be expected to result in a Material Adverse Change; (D) there is no pending or, to the Company's knowledge, threatened action, suit, proceeding or claim by others that the Company infringes, misappropriates or otherwise violates any Intellectual Property Rights or other proprietary rights of others, the Company has not received any written notice of such claim and the Company is unaware of any other facts which would form a reasonable basis for any such claim that would, individually or in the aggregate, together with any other claims in this Section 2.33, reasonably be expected to result in a Material Adverse Change; and (E) to the Company's knowledge, no employee of the Company is in or has ever been in violation in any material respect of any term of any employment contract, patent disclosure agreement, invention assignment agreement, non-competition agreement, non-solicitation agreement, nondisclosure agreement or any restrictive covenant to or with a former employer where the basis of such violation relates to such employee's employment with the Company, or actions undertaken by the employee while employed with the Company and could reasonably be expected to result, individually or in the aggregate, in a Material Adverse Change. To the Company's knowledge, all material technical information developed by and belonging to the Company which has not been patented has been kept confidential. The Company is not a party to or bound by any options, licenses or agreements with respect to the Intellectual Property Rights of any other person or entity that are required to be set forth in the Registration Statement, the Pricing Disclosure Package and the Prospectus and are not described therein. The Registration Statement, the Pricing Disclosure Package and the Prospectus contain in all material respects the same description of the matters set forth in the preceding sentence. None of the technology employed by the Company has been obtained or is being used by the Company in violation of any contractual obligation binding on the Company or, to the Company's knowledge, any of its officers, directors or employees, or otherwise in violation of the rights of any persons.

2.34. Taxes. Each of the Company and its Subsidiaries has filed all returns (as hereinafter defined) required to be filed with taxing authorities prior to the date hereof or has duly obtained extensions of time for the filing thereof. Each of the Company and its Subsidiaries has paid all taxes (as hereinafter defined) shown as due on such returns that were filed and has paid all taxes imposed on or assessed against the Company or such respective Subsidiary except those that are being contested in good faith or as would not have, individually or in the aggregate, result in a Material Adverse Change. The provisions for taxes payable, if any, shown on the financial statements filed with or as part of the Registration Statement are sufficient for all accrued and unpaid taxes, whether or not disputed, and for all periods to and including the dates of such consolidated financial statements. Except as disclosed in writing to the Underwriters, (i) no material issues have been raised (and are currently pending) by any taxing authority in connection with any of the returns or taxes asserted as due from the Company or its Subsidiaries, and (ii) no waivers of statutes of limitation with respect to the returns or collection of taxes have been given by or requested from the Company or its Subsidiaries. To the Company's knowledge, there are no tax liens against the assets, properties or business of the

Company or its Subsidiaries. The term "**taxes**" means all federal, state, local, foreign and other net income, gross income, gross receipts, sales, use, ad valorem, transfer, franchise, profits, license, lease, service, service use, withholding, payroll, employment, excise, severance, stamp, occupation, premium, property, windfall profits, customs, duties or other taxes, fees, assessments or charges of any kind whatever, together with any interest and any penalties, additions to tax or additional amounts with respect thereto. The term "**returns**" means all returns, declarations, reports, statements and other documents required to be filed in respect to taxes.

2.35. ERISA Compliance. The Company and any "employee benefit plan" (as defined under the Employee Retirement Income Security Act of 1974, as amended, and the regulations and published interpretations thereunder (collectively, "**ERISA**")) established or maintained by the Company or its "ERISA Affiliates" (as defined below) are in compliance in all material respects with ERISA. "**ERISA Affiliate**" means, with respect to the Company, any member of any group of organizations described in Sections 414(b), (c), (m) or (o) of the Internal Revenue Code of 1986, as amended, and the regulations and published interpretations thereunder (the "**Code**") of which the Company is a member. No "reportable event" (as defined under ERISA) has occurred or is reasonably expected to occur with respect to any "employee benefit plan" established or maintained by the Company or any of its ERISA Affiliates. No "employee benefit plan" established or maintained by the Company or any of its ERISA Affiliates, if such "employee benefit plan" were terminated, would have any "amount of unfunded benefit liabilities" (as defined under ERISA). Neither the Company nor any of its ERISA Affiliates has incurred or reasonably expects to incur any material liability under (i) Title IV of ERISA with respect to termination of, or withdrawal from, any "employee benefit plan" or (ii) Sections 412, 4971, 4975 or 4980B of the Code. Each "employee benefit plan" established or maintained by the Company or any of its ERISA Affiliates that is intended to be qualified under Section 401(a) of the Code is so qualified and, to the knowledge of the Company, nothing has occurred, whether by action or failure to act, which would cause the loss of such qualification.

2.36. Compliance with Laws. Each of the Company and each Subsidiary: (A) is and at all times has been in compliance with all statutes, rules, or regulations applicable to the business of the Company as currently conducted ("**Applicable Laws**"), except as could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Change; (B) has not received any warning letter, untitled letter or other correspondence or notice from any Governmental Entity alleging or asserting noncompliance with any Applicable Laws or any Authorizations; (C) possesses all material Authorizations and such Authorizations are valid and in full force and effect and are not in material violation of any term of any such Authorizations , except where the invalidity of such Authorizations or the failure of such Authorizations to be in full force and effect would not result in a Material Adverse Change; (D) has not received notice of any claim, action, suit, proceeding, hearing, enforcement, investigation, arbitration or other action from any Governmental Entity or third party alleging that any activity conducted by the Company is in violation of any Applicable Laws or Authorizations and has no knowledge that any such Governmental Entity or third party is considering any such claim, litigation, arbitration, action, suit, investigation or proceeding; (E) has not received notice that any Governmental Entity has taken, is taking or intends to take action to limit, suspend, modify or revoke any Authorizations and has no knowledge that any such Governmental Entity is considering such action; and (F) has filed, obtained, maintained or submitted all material reports, documents, forms, notices, applications, records, claims, submissions and supplements or amendments as required by any Applicable Laws or Authorizations and that all such reports, documents, forms, notices, applications, records, claims, submissions and supplements or amendments were complete and correct in all material respects on the date filed (or were corrected or supplemented by a subsequent submission), , except where the failure to be so in compliance would not, individually or in the aggregate, result in a Material Adverse Change.

2.37. Emerging Growth Company. From the time of the initial submission of the Registration Statement to the Commission (or, if earlier, the first date on which the Company engaged directly in or through any Person authorized to act on its behalf in any Testing-the Waters Communication) through the date hereof, the Company has been and is an "emerging growth company," as defined in Section 2(a) of the Securities Act (an " **Emerging Growth Company**"). "Testing-the-Waters Communication" means any oral or written communication with potential investors undertaken in reliance on Section 5(d) of the Securities Act. The Company has not (i) alone engaged in any Testing-the-Waters Communications, other than Testing-the-Waters Communications with the written consent of the Representative and with entities that are qualified institutional buyers within the meaning of Rule 144A under the Securities Act or institutions that are accredited investors within the meaning of Rule 501 under the Securities Act and (ii) authorized anyone other than the Representative to engage in Testing-the-Waters Communications. The Company confirms that the Representative has been authorized to act on its behalf in undertaking Testing-the-Waters Communications.

2.38. Environmental Laws. The Company is in compliance with all foreign, federal, state and local rules, laws and regulations relating to the use, treatment, storage and disposal of hazardous or toxic substances or waste and protection of health and safety or the environment which are applicable to their businesses ("**Environmental Laws**"), except where the failure to comply would not, singularly or in the aggregate, result in a Material Adverse Change. There has been no storage, generation, transportation, handling, treatment, disposal, discharge, emission, or other release of any kind of toxic or other wastes or other hazardous substances by, due to, or caused by the Company (or, to the Company's knowledge, any other entity for whose acts or omissions the Company is or may otherwise be liable) upon any of the property now or previously owned or leased by the Company, or upon any other property, in violation of any law, statute, ordinance, rule, regulation, order, judgment, decree or permit or which would, under any law, statute, ordinance, rule (including rule of common law), regulation, order, judgment, decree or permit, give rise to any liability, except for any violation or liability which would not have, singularly or in the aggregate with all such violations and liabilities, a Material Adverse Change; and there has been no disposal, discharge, emission or other release of any kind onto such property or into the environment surrounding such property of any toxic or other wastes or other hazardous substances with respect to which the Company has knowledge, except for any such disposal, discharge, emission, or other release of any kind which would not have, singularly or in the aggregate with all such discharges and other releases, a Material Adverse Change. In the ordinary course of business, the Company conducts periodic reviews of the effect of Environmental Laws on its business and assets, in the course of which they identify and evaluate associated costs and liabilities (including, without limitation, any capital or operating expenditures required for clean-up, closure of properties or compliance with Environmental Laws or governmental permits issued thereunder, any related constraints on operating activities and any potential liabilities to third parties). On the basis of such reviews, the Company has reasonably concluded that such associated costs and liabilities would not have, singularly or in the aggregate, a Material Adverse Change.

2.39. Title to Property. Except as set forth in the Registration Statement, the Pricing Disclosure Package and the Prospectus, the Company and its Subsidiaries have good and marketable title in fee simple to, or have valid rights to lease or otherwise use, all items of real or personal property which are material to the business of the Company and its Subsidiaries taken as a whole, in each case free and clear of all liens, encumbrances, security interests, claims and defects that do not, singly or in the aggregate, materially affect the value of such property and do not interfere with the use made and proposed to be made of such property by the Company or its Subsidiaries; and all of the leases and subleases material to the business of the Company and its Subsidiaries, considered as one enterprise, and under which the Company or any of its Subsidiaries holds properties described in the Registration Statement, the Pricing Disclosure Package and the Prospectus, are, to the Company's knowledge, in full force and effect, and neither the Company nor any Subsidiary has received any notice of any material claim of any sort that has been asserted by anyone adverse to the rights of the Company or any Subsidiary under any of the leases or subleases mentioned above, or affecting or questioning the rights of the Company or any Subsidiary to the continued possession of the leased or subleased premises under any such lease or sublease.

2.40.Contracts Affecting Capital. There are no transactions, arrangements or other relationships between and/or among the Company, any of its affiliates (as such term is defined in Rule 405 of the Securities Act Regulations) and any unconsolidated entity, including, but not limited to, any structured finance, special purpose or limited purpose entity that could reasonably be expected to materially affect the Company's or its Subsidiaries' liquidity or the availability of or requirements for their capital resources required to be described or incorporated by reference in the Registration Statement, the Pricing Disclosure Package and the Prospectus which have not been described or incorporated by reference as required.

2.41.Loans to Directors or Officers. There are no outstanding loans, advances (except normal advances for business expenses in the ordinary course of business) or guarantees or indebtedness by the Company or its Subsidiaries to or for the benefit of any of the officers or directors of the Company, its Subsidiaries, or any of their respective family members, except as disclosed in the Registration Statement, the Pricing Disclosure Package and the Prospectus.

2.42.Ineligible Issuer. At the time of filing the Registration Statement and any post-effective amendment thereto, at the Effective Date and at the time of any amendment thereto, at the earliest time thereafter that the Company or another offering participant made a bona fide offer (within the meaning of Rule 164(h)(2) of the Securities Act Regulations) of the Public Securities and at the Effective Date, the Company was not and is not an "ineligible issuer," as defined in Rule 405, without taking account of any determination by the Commission pursuant to Rule 405 that it is not necessary that the Company be considered an ineligible issuer.

2.43.Smaller Reporting Company. As of the time of filing of the Registration Statement, the Company was a "smaller reporting company," as defined in Rule 12b-2 of the Exchange Act Regulations.

2.44. Industry Data. The statistical and market-related data included in each of the Registration Statement, the Pricing Disclosure Package and the Prospectus are based on or derived from sources that the Company reasonably and in good faith believes are reliable and accurate or represent the Company's good faith estimates that are made on the basis of data derived from such sources.

2.45.Electronic Road Show. The Company has made available a Bona Fide Electronic Road Show in compliance with Rule 433(d)(8)(ii) of the Securities Act Regulations such that no filing of any "road show" (as defined in Rule 433(h) of the Securities Act Regulations) is required in connection with the Offering.

2.46.Margin Securities. The Company owns no "margin securities" as that term is defined in Regulation U of the Board of Governors of the Federal Reserve System (the "**Federal Reserve Board**"), and none of the proceeds of Offering will be used, directly or indirectly, for the purpose of purchasing or carrying any margin security, for the purpose of reducing or retiring any indebtedness which was originally incurred to purchase or carry any margin security or for any other purpose which might cause any of the Public Securities to be considered a "purpose credit" within the meanings of Regulation T, U or X of the Federal Reserve Board.

2.47.Dividends and Distributions. Except as disclosed in the Pricing Disclosure Package, Registration Statement and the Prospectus, no Subsidiary of the Company is currently prohibited or restricted, directly or indirectly, from paying any dividends to the Company, from making any other distribution on such Subsidiary's capital stock (to the extent that any such prohibition or restriction on dividends and/or distributions would have a material effect to the Company), from repaying to the Company any loans or advances to such Subsidiary from the Company or from transferring any of such Subsidiary's property or assets to the Company or any other Subsidiary of the Company, except as may otherwise be provided in current loan or mortgage-related documents.

2.48.Forward-Looking Statements. No forward-looking statement (within the meaning of Section 27A of the Securities Act and Section 21E of the Exchange Act) contained in the Registration Statement, the Pricing Disclosure Package or the Prospectus has been made or reaffirmed without a reasonable basis or has been disclosed other than in good faith.

2.49. Integration. Neither the Company, nor any of its affiliates, nor any person acting on its or their behalf has, directly or indirectly, made any offers or sales of any security or solicited any offers to buy any security, under circumstances that would cause the Offering to be integrated with prior offerings by the Company for purposes of the Securities Act that would require the registration of any such securities under the Securities Act.

2.50. Confidentiality and Non-Competitions. To the Company's knowledge, no director, officer, key employee or consultant of the Company or any Subsidiary is subject to any confidentiality, non-disclosure, non-competition agreement or non-solicitation agreement with any employer (other than the Company) or prior employer that could materially affect his or her ability to be and act in his or her respective capacity of the Company or such Subsidiary or be expected to result in a Material Adverse Change.

2.51.Corporate Records. The minute books of the Company have been made available to the Representative and Representative Counsel and such books (i) contain minutes of all material meetings and actions of the Board of Directors (including each board committee) and stockholders of the Company, and (ii) reflect all material transactions referred to in such minutes.

2.52.Diligence Materials. The Company has provided to the Representative and Representative Counsel all materials required or necessary to respond in all material respects to the diligence request submitted to the Company or Company Counsel by the Representative.

2.53. Stabilization. Neither the Company nor, to its knowledge, any of its employees, directors or stockholders (without the consent of the Representative) has taken, directly or indirectly, any action designed to or that has constituted or that might reasonably be expected to cause or result in, under Regulation M of the Exchange Act, or otherwise, stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of the Public Securities.

3. COVENANTS OF THE COMPANY.

The Company covenants and agrees as follows:

3.1.Amendments to Registration Statement. The Company shall deliver to the Representative, at least one (1) Business Day (or such shorter time mutually agreed by the parties hereto) prior to filing, any amendment or supplement to the Registration Statement or Prospectus proposed to be filed after the Effective Date and not file any such amendment or supplement to which the Representative shall reasonably object in writing.

3.2. Federal Securities Laws.

3.2.1. Compliance. The Company, subject to Section 3.2.2, shall comply with the requirements of Rule 430A of the Securities Act Regulations, and will notify the Representative promptly, and confirm the notice in writing, (i) when any post-effective amendment to the Registration Statement shall become effective or any amendment or supplement to the Prospectus shall have been filed; (ii) of its receipt of any comments from the Commission; (iii) of any request by the Commission for any amendment to the Registration Statement or any amendment or supplement to the Prospectus or for additional information; (iv) of the issuance by the Commission of any stop order suspending the effectiveness of the Registration Statement or any post-effective amendment or of any order preventing or suspending the use of any Preliminary Prospectus or the Prospectus, or of the suspension of the qualification of the Public Securities and Representative's Securities for offering or sale in any jurisdiction, or of the initiation or threatening of any proceedings for any of such purposes or of any examination pursuant to Section 8(d) or 8(e) of the Securities Act concerning the Registration Statement; or (v) if the Company becomes the subject of a proceeding under Section 8A of the Securities Act in connection with the Offering of the Public Securities and Representative's Securities. The Company shall effect all filings required under Rule 424(b) of the Securities Act Regulations, in the manner and within the time period required by Rule 424(b) (without reliance on Rule 424(b)(8)), and shall take such steps as it deems necessary to ascertain promptly whether the form of prospectus transmitted for filing under Rule 424(b) was received for filing by the Commission and, in the event that it was not, it will promptly file such prospectus. The Company shall use its best efforts to prevent the issuance of any stop order, prevention or suspension and, if any such order is issued, to obtain the lifting thereof at the earliest possible moment.

3.2.2. Continued Compliance. The Company shall comply with the Securities Act, the Securities Act Regulations, the Exchange Act and the Exchange Act Regulations so as to permit the completion of the distribution of the Public Securities as contemplated in this Agreement and in the Registration Statement, the Pricing

Disclosure Package and the Prospectus. If at any time when a prospectus relating to the Public Securities is (or, but for the exception afforded by Rule 172 of the Securities Act Regulations ("**Rule 172**"), would be) required by the Securities Act to be delivered in connection with sales of the Public Securities, any event shall occur or condition shall exist as a result of which it is necessary, in the opinion of Representative Counsel or Company Counsel, to (i) amend the Registration Statement in order that the Registration Statement will not include an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading; (ii) amend or supplement the Pricing Disclosure Package or the Prospectus in order that the Pricing Disclosure Package or the Prospectus, as the case may be, will not include any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein not misleading in the light of the circumstances existing at the time it is delivered to a purchaser; or (iii) amend the Registration Statement or amend or supplement the Pricing Disclosure Package or the Prospectus, as the case may be, in order to comply with the requirements of the Securities Act or the Securities Act Regulations, the Company will promptly (A) give the Representative notice of such event; (B) prepare any amendment or supplement as may be necessary to correct such statement or omission or to make the Registration Statement, the Pricing Disclosure Package or the Prospectus comply with such requirements and, a reasonable amount of time prior to any proposed filing or use, furnish the Representative with copies of any such amendment or supplement; and (C) file with the Commission any such amendment or supplement; provided that the Company shall not file or use any such amendment or supplement to which the Representative or Representative Counsel shall reasonably object. The Company will furnish to the Underwriters such number of copies of such amendment or supplement as the Underwriters may reasonably request. The Company shall give the Representative notice of its intention to make any such filing from the Applicable Time until the later of the Closing Date and the exercise in full or expiration of the Over-allotment Option specified in Section 1.2 hereof and will furnish the Representative with copies of the related document(s) a reasonable amount of time prior to such proposed filing, as the case may be, and will not file or use any such document to which the Representative or Representative Counsel shall reasonably object.

3.2.3. Exchange Act Registration. For a period of three (3) years after the date of this Agreement, the Company shall use its reasonable best efforts to maintain the registration of the Common Stock and Warrants under the Exchange Act. For a period of two (2) years after the date of this Agreement, the Company shall not deregister the Common Stock or Warrants under the Exchange Act without the prior written consent of the Representative.

3.2.4. Free Writing Prospectuses. The Company agrees that, unless it obtains the prior written consent of the Representative, it shall not make any offer relating to the Public Securities that would constitute an Issuer Free Writing Prospectus or that would otherwise constitute a "free writing prospectus," or a portion thereof, required to be filed by the Company with the Commission or retained by the Company under Rule 433; provided that the Representative shall be deemed to have consented to each Issuer General Use Free Writing Prospectus set forth in Schedule 2-B. The Company represents that it has treated or agrees that it will treat each such free writing prospectus consented to, or deemed consented to, by the Representative as an "issuer free writing prospectus," as defined in Rule 433, and that it has complied and will comply with the applicable requirements of Rule 433 with respect thereto, including timely filing with the Commission where required, legending and record keeping. If at any time following issuance of an Issuer Free Writing Prospectus there occurred or occurs an event or development as a result of which such Issuer Free Writing Prospectus conflicted or would conflict with the information contained in the Registration Statement or included or would include an untrue statement of a material fact or omitted or would omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances existing at that subsequent time, not misleading, the Company will promptly notify the Representative and will promptly amend or supplement, at its own expense, such Issuer Free Writing Prospectus to eliminate or correct such conflict, untrue statement or omission.

3.2.5. Testing-the-Waters Communications. If at any time following the distribution of any Written Testing-the-Waters Communication there occurred or occurs an event or development as a result of which such Written Testing-the-Waters Communication included or would include an untrue statement of a material fact or omitted or would omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances existing at that subsequent time, not misleading, the Company shall promptly notify the Representative and shall promptly amend or supplement, at its own expense, such Written Testing-the-Waters Communication to eliminate or correct such untrue statement or omission.

3.3.Delivery to the Underwriters of Registration Statements. The Company has delivered or made available or shall deliver or make available to the Representative and Representative Counsel, without charge, conformed copies of the Registration Statement as originally filed and each amendment thereto (including exhibits filed therewith) and signed copies of all consents and certificates of experts, and will also deliver to each Underwriter, without charge, a conformed copy of the Registration Statement as originally filed and each amendment thereto (without exhibits) upon receipt of a written request therefor from such Underwriter. The copies of the Registration Statement and each amendment thereto furnished to the Underwriters will be identical to the electronically transmitted copies thereof filed with the Commission pursuant to EDGAR, except to the extent permitted by Regulation S-T.

3.4.Delivery to the Underwriters of Prospectuses. The Company has delivered or made available or will deliver or make available to each Underwriter, without charge, as many copies of each Preliminary Prospectus as such Underwriter reasonably requested, and the Company hereby consents to the use of such copies for purposes permitted by the Securities Act. The Company will furnish to each Underwriter, without charge, during the period when a prospectus relating to the Public Securities is (or, but for the exception afforded by Rule 172 of the Securities Act Regulations, would be) required to be delivered under the Securities Act, such number of copies of the Prospectus (as amended or supplemented) as such Underwriter may reasonably request. The Prospectus and any amendments or supplements thereto furnished to the Underwriters will be identical to the electronically transmitted copies thereof filed with the Commission pursuant to EDGAR, except to the extent permitted by Regulation S-T.

3.5.Effectiveness and Events Requiring Notice to the Representative. The Company shall use its best efforts to cause the Registration Statement to remain effective with a current prospectus for at least nine (9) months after the Applicable Time, and shall notify the Representative promptly and confirm the notice in writing: (i) of the effectiveness of the Registration Statement and any amendment thereto; (ii) of the issuance by the Commission of any stop order or of the initiation, or the threatening, of any proceeding for that purpose; (iii) of the issuance by any state securities commission of any proceedings for the suspension of the qualification of the Public Securities for offering or sale in any jurisdiction or of the initiation, or the threatening, of any proceeding for that purpose; (iv) of the mailing and delivery to the Commission for filing of any amendment or supplement to the Registration Statement or Prospectus; (v) of the receipt of any comments or request for any additional information from the Commission; and (vi) of the happening of any event during the period described in this Section 3.5 that, in the judgment of the Company, makes any statement of a material fact made in the Registration Statement, the Pricing Disclosure Package or the Prospectus untrue or that requires the making of any changes in (a) the Registration Statement in order to make the statements therein not misleading, or (b) in the Pricing Disclosure Package or the Prospectus in order to make the statements therein, in light of the circumstances under which they were made, not misleading. If the Commission or any state securities commission shall enter a stop order or suspend such qualification at any time, the Company shall use its commercially reasonable efforts to obtain promptly the lifting of such order.

3.6.Review of Financial Statements. For a period of three (3) years after the date of this Agreement, the Company, at its expense, shall cause its regularly engaged independent registered public accounting firm to review (but not audit) the Company's financial statements for each of the three fiscal quarters immediately preceding the announcement of any quarterly financial information.

3.7. Listing. The Company shall use its reasonable best efforts to maintain the listing of the Securities on the Exchange until at least three (3) years after the date of this Agreement.

3.8.Financial Public Relations. Within six (6) months from the Effective Date, the Company shall have retained a financial public relations firm reasonably acceptable to the Representative and the Company, , which firm shall be experienced in assisting issuers in initial public offerings of securities and in their relations with their security holders, and shall retain such firm or another firm reasonably acceptable to the Representative for a period of not less than two (2) years after the Effective Date.

3.9. Reports to the Representative.

3.9.1. Periodic Reports, etc. For a period of three (3) years after the date of this Agreement, the Company shall furnish or make available to the

Representative copies of such financial statements and other periodic and special reports as the Company from time to time furnishes generally to holders of any class of its securities and also promptly furnish to the Representative: (i) a copy of each periodic report the Company shall be required to file with the Commission under the Exchange Act and the Exchange Act Regulations; (ii) a copy of every press release and every news item and article with respect to the Company or its affairs which was released by the Company; (iii) a copy of each Form 8-K prepared and filed by the Company; (iv) a copy of each registration statement filed by the Company under the Securities Act; (v) a copy of each report or other communication furnished to stockholders and (vi) such additional documents and information with respect to the Company and the affairs of any future subsidiaries of the Company as the Representative may from time to time reasonably request. Documents filed with the Commission pursuant to its EDGAR system or press releases shall be deemed to have been delivered to the Representative pursuant to this Section 3.9.1. Any documents not filed with the Commission pursuant to its EDGAR system shall be delivered to jrallo@kingswoodcm.com, with a copy to dboral@kingswoodcm.com.

3.9.2. Transfer Agent; Transfer Sheets. For a period of three (3) years after the date of this Agreement, the Company shall retain a transfer agent and registrar acceptable to the Representative (the "**Transfer Agent**") and shall furnish to the Representative at the Company's sole cost and expense such transfer sheets of the Company's securities as the Representative may reasonably request, including the daily and monthly consolidated transfer sheets of the Transfer Agent and DTC. VStock Transfer, LLC is acceptable to the Representative to act as Transfer Agent for the shares of Common Stock and Warrants.

3.9.3. Trading Reports. For a period of three (3) years after the date of this Agreement, during such time as any of the Public Securities are listed on the Exchange, the Company shall provide to the Representative, at the Company's expense, such reports published by the Exchange relating to price trading of the Public Securities, as the Representative shall reasonably request.

3.10. Payment of Expenses

3.10.1. General Expenses Related to the Offering. The Company hereby agrees to pay on each of the Closing Date and the Option Closing Date, if any, to the extent not paid at the Closing Date, all expenses related to the Offering or otherwise incident to the performance of the obligations of the Company under this Agreement, including, but not limited to: (a) all filing fees and communication expenses relating to the registration of the Public Securities and Representative's Securities with the Commission; (b) all Public Filing System filing fees associated with the review of the Offering by FINRA; (c) all fees and expenses relating to the listing of such Public Securities and Representative's Securities on the Exchange and such other stock exchanges as the Company and the Representative together determine, including any fees charged by DTC; (d) all fees, expenses and disbursements relating to background checks of the Company's officers and directors; (e) all fees, expenses and disbursements relating to the registration or qualification of the Public Securities under the "blue sky" securities laws of such states and other jurisdictions as the Representative may reasonably designate ; (f) all fees, expenses and disbursements relating to the registration, qualification or exemption of the Public Securities under the securities laws of such foreign jurisdictions as the Representative may reasonably designate; (g) the costs of all mailing and printing of the underwriting documents (including, without limitation, the Underwriting Agreement, any Blue Sky Surveys and, if appropriate, any Agreement Among Underwriters, Selected Dealers' Agreement, Underwriters' Questionnaire and Power of Attorney), Registration Statements, Prospectuses and all amendments, supplements and exhibits thereto and as many preliminary and final Prospectuses as the Representative may reasonably deem necessary; (h) the costs and expenses of a public relations firm; (i) the costs of preparing, printing and delivering certificates representing the Public Securities; (j) fees and expenses of the transfer agent for the shares of Common Stock; (k) fees and expenses of the warrant agent under the Warrant Agency Agreement; (l) stock transfer and/or stamp taxes, if any, payable upon the transfer of securities from the Company to the Underwriters; (m) the costs associated with one set of bound volumes of the public offering materials as well as commemorative mementos and lucite tombstones, each of which the Company or its designee shall provide within a reasonable time after the Closing Date in such quantities as the Representative may reasonably request; (n) the fees and expenses of the Company's accountants; (o) the fees and expenses of the Company's legal counsel and other agents and representatives; (p) the fees and expenses of Representative Counsel; (q) the cost associated with the Underwriters' use of Ipreo's book-building, prospectus tracking and compliance software for the Offering; (r) to the extent approved by the Company in writing, the costs associated with post-Closing advertising the Offering in the national editions of the Wall Street Journal and New York Times; and (s) the Underwriters' actual accountable expenses for the Offering, including, without limitation related to the "road show." Notwithstanding the foregoing, the Company's obligations to reimburse the Representative for any out-of-pocket expenses actually incurred as set forth in the preceding sentence shall not exceed $150,000 in the aggregate for legal fees and related expenses. The Representative may deduct from the net proceeds of the Offering payable to the Company on the Closing Date, or the Option Closing Date, if any, the expenses set forth herein to be paid by the Company to the Underwriters, less the Advance (as such term is defined in Section 8.3 hereof).

3.11.Application of Net Proceeds. The Company shall apply the net proceeds from the Offering received by it in a manner consistent with the application thereof described under the caption "Use of Proceeds" in the Registration Statement, the Pricing Disclosure Package and the Prospectus.

3.12.Delivery of Earnings Statements to Security Holders. The Company shall make generally available to its security holders as soon as practicable, but not later than the first day of the fifteenth (15^{th}) full calendar month following the date of this Agreement, an earnings statement (which need not be certified by an independent registered public accounting firm unless required by the Securities Act or the Securities Act Regulations, but which shall satisfy the provisions of Rule 158(a) under Section 11(a) of the Securities Act) covering a period of at least twelve (12) consecutive months beginning after the date of this Agreement.

3.13. Stabilization. Neither the Company nor, to its knowledge, any of its employees, directors or stockholders has taken or shall take, directly or indirectly, any action designed to or that has constituted or that might reasonably be expected to cause or result in, under Regulation M of the Exchange Act, or otherwise, stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of the Public Securities.

3.14.Internal Controls. For a period of one (1) year after the date of this Agreement, the Company shall maintain a system of internal accounting controls sufficient to provide reasonable assurances that: (i) transactions are executed in accordance with management's general or specific authorization; (ii) transactions are recorded as necessary in order to permit preparation of financial statements in accordance with GAAP and to maintain accountability for assets; (iii) access to assets is permitted only in accordance with management's general or specific authorization; and (iv) the recorded accountability for assets is compared with existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

3.15. Accountants. As of the date of this Agreement, the Company has retained an independent registered public accounting firm, as required by the Securities Act and the Securities Act Regulations and the Public Company Accounting Oversight Board, reasonably acceptable to the Representative, and the Company shall continue to retain a nationally recognized independent registered public accounting firm for a period of at least three (3) years after the date of this Agreement. The Representative acknowledges that the Auditor is acceptable to the Representative.

3.16.FINRA. For a period of 90 days from the later of the Closing Date or the Option Closing Date, the Company shall advise the Representative (who shall make an appropriate filing with FINRA) if it is or becomes aware that (i) any officer or director of the Company, (ii) any beneficial owner of 5% or more of any class of the Company's securities or (iii) any beneficial owner of the Company's unregistered equity securities which were acquired during the 180 days immediately preceding the filing of the Registration Statement is or becomes an affiliate or associated person of a FINRA member participating in the Offering (as determined in accordance with the rules and regulations of FINRA).

3.17.No Fiduciary Duties. The Company acknowledges and agrees that the Underwriters' responsibility to the Company is solely contractual in nature and that none of the Underwriters or their affiliates or any selling agent shall be deemed to be acting in a fiduciary capacity, or otherwise owes any fiduciary duty to the Company or any

of its affiliates in connection with the Offering and the other transactions contemplated by this Agreement.

3.18.Company Lock-Up Agreements. The Company, on behalf of itself and any successor entity, agrees that, without the prior written consent of the Representative, it will not, for a period of three hundred sixty (360) days after the date of this Agreement (the "**Lock-Up Period**"), (i) offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase, lend, or otherwise transfer or dispose of, directly or indirectly, any shares of capital stock of the Company or any securities convertible into or exercisable or exchangeable for shares of capital stock of the Company; (ii) file or cause to be filed any registration statement with the Commission relating to the offering of any shares of capital stock of the Company or any securities convertible into or exercisable or exchangeable for shares of capital stock of the Company other than a registration statement on Form S-4 or S-8; (iii) complete any offering of debt securities of the Company, other than entering into a line of credit or senior credit facility with a traditional bank or other lending institution; or (iv) enter into any swap or other arrangement that transfers to another, in whole or in part, any of the economic consequences of ownership of capital stock of the Company, whether any such transaction described in clause (i), (ii), (iii), or (iv) above is to be settled by delivery of shares of capital stock of the Company or such other securities, in cash or otherwise.

The restrictions contained in this Section 3.18 shall not apply to (i) the Primary Securities to be sold hereunder, as well as the Representative's Warrants and any shares of Common Stock into which the Warrants and Representative's Warrants are exercisable; (ii) the issuance by the Company of shares of Common Stock upon the exercise of a stock option or warrant or the conversion of a security, in each case outstanding on the date hereof, provided that such options, warrants, securities are disclosed in the Registration Statement, the Pricing Disclosure Package or the Prospectus and have not been amended since the date of this Agreement to increase the number of such securities or to decrease the exercise price, exchange price or conversion price of such securities or to extend the term of such securities, (iii) the issuance of shares of Common Stock issued as part of the purchase price in connection with the acquisitions or strategic transactions, provided certain conditions are met, or (iv) the issuance by the Company of any shares of Common Stock or standard options to purchase Common Stock to directors, officers or employees of the Company in their capacity as such pursuant to an Approved Stock Plan (as defined below). "**Approved Stock Plan**" means any employee benefit plan which has been approved by the board of directors of the Company prior to or subsequent to the date hereof pursuant to which shares of Common Stock and standard options to purchase Common Stock may be issued to any employee, officer or director for services provided to the Company in their capacity as such.

3.19.Release of D&O Lock-up Period. If the Representative, in its sole discretion, agrees to release or waive the restrictions set forth in the Lock-Up Agreements described in Section 2.25 hereof for an officer or director of the Company and provides the Company with notice of the impending release or waiver at least three (3) Business Days before the effective date of the release or waiver, the Company agrees to announce the impending release or waiver by a press release substantially in the form of Exhibit C hereto through a major news service at least two (2) Business Days before the effective date of the release or waiver.

3.20.Blue Sky Qualifications. The Company shall use its best efforts, in cooperation with the Underwriters, if necessary, to qualify the Public Securities for offering and sale under the applicable securities laws of such states and other jurisdictions (domestic or foreign) as the Representative may designate and to maintain such qualifications in effect so long as required to complete the distribution of the Public Securities; provided, however, that the Company shall not be obligated to file any general consent to service of process or to qualify as a foreign corporation or as a dealer in securities in any jurisdiction in which it is not so qualified or to subject itself to taxation in respect of doing business in any jurisdiction in which it is not otherwise so subject.

3.21.Reporting Requirements. The Company, during the period when a prospectus relating to the Public Securities is (or, but for the exception afforded by Rule 172, would be) required to be delivered under the Securities Act, will file all documents required to be filed with the Commission pursuant to the Exchange Act within the time periods required by the Exchange Act and Exchange Act Regulations. Additionally, the Company shall report the use of proceeds from the issuance of the Public Securities as may be required under Rule 463 under the Securities Act Regulations.

3.22.Emerging Growth Company Status. The Company shall promptly notify the Representative if the Company ceases to be an Emerging Growth Company at any time prior to the later of (i) completion of the distribution of the Public Securities within the meaning of the Securities Act and (ii) fifteen (15) days following the completion of the Lock-Up Period.

3.23.Press Releases. Prior to the Closing Date and any Option Closing Date, the Company shall not issue any press release or other communication directly or indirectly or hold any press conference with respect to the Company, its condition, financial or otherwise, or earnings, business affairs or business prospects (except for routine oral marketing communications in the ordinary course of business and consistent with the past practices of the Company and of which the Representative is notified), without the prior written consent of the Representative, which consent shall not be unreasonably withheld, unless in the judgment of the Company and its counsel, and after notification to the Representative, such press release or communication is required by law.

3.25.Sarbanes-Oxley. For a period of one (1) year after the date of this Agreement, the Company shall at all times comply in all material respects with all applicable provisions of the Sarbanes-Oxley Act in effect from time to time.

3.26.IRS Forms. If requested by the Representative, the Company shall deliver to each Underwriter (or its agent), prior to or at the Closing Date, a properly completed and executed Internal Revenue Service ("**IRS**") Form W-9 or an IRS Form W-8, as appropriate, together with all required attachments to such form.

3.27.Warrant Agent. For so long as the Warrants are outstanding, the Company will maintain the Warrant Agency Agreement in full force and effect with VStock Transfer, LLC or a transfer agent of similar competence and quality. The Firm Warrants, and, if applicable, Option Warrants, will be issued in accordance with the Warrant Agency Agreement.

4. CONDITIONS OF UNDERWRITERS' OBLIGATIONS.

The obligations of the Underwriters to purchase and pay for the Public Securities, as provided herein, shall be subject to (i) the continuing accuracy of the representations and warranties of the Company as of the date hereof and as of each of the Closing Date and the Option Closing Date, if any; (ii) the accuracy of the statements of officers of the Company made pursuant to the provisions hereof; (iii) the performance by the Company of its obligations hereunder; and (iv) the following conditions:

4.1. Regulatory Matters.

4.1.1. Effectiveness of Registration Statement; Rule 430A Information. The Registration Statement has become effective not later than 5:30 p.m., Eastern time, on the date of this Agreement or such later date and time as shall be consented to in writing by the Representative, and, at each of the Closing Date and any Option Closing Date, no stop order suspending the effectiveness of the Registration Statement or any post-effective amendment thereto shall have been issued under the Securities Act, no order preventing or suspending the use of any Preliminary Prospectus or the Prospectus shall have been issued and no proceedings for any of those purposes shall have been instituted or are pending or, to the Company's knowledge, contemplated by the Commission. The Company has complied with each request (if any) from the Commission for additional information. A prospectus containing the Rule 430A Information shall have been filed with the Commission in the manner and within the time frame required by Rule 424(b) under the Securities Act Regulations (without reliance on Rule 424(b)(8)) or a post-effective amendment providing such information shall have been filed with, and declared effective by, the Commission in accordance with the requirements of Rule 430A under the Securities Act Regulations.

4.1.2. FINRA Clearance. On or before the date of this Agreement, the Representative shall have received clearance from FINRA as to the amount of compensation allowable or payable to the Underwriters as described in the Registration Statement.

4.1.3. Exchange Clearance. On the Closing Date, the Common Stock and Warrants shall have been approved for listing on the Exchange, subject only to official notice of issuance.

4.2. Company Counsel Matters.

4.2.1. Closing Date Opinion of Counsel. On the Closing Date, the Representative shall have received the favorable opinion and negative assurance letter of Manatt, Phelps & Phillips, LLP ("**Company Counsel**"), counsel to the Company, dated the Closing Date and addressed to the Representative, in form and substance satisfactory to the Representative.

4.2.2. Option Closing Date Opinions of Counsel. On the Option Closing Date, if any, the Representative shall have received the favorable opinion and negative assurance letter of Company Counsel listed in Section 4.2.1, dated the Option Closing Date, addressed to the Representative and in form and substance reasonably satisfactory to the Representative, confirming as of the Option Closing Date, the statements made by such counsel in its opinion delivered on the Closing Date.

4.2.3. Reliance. The opinion of Manatt, Phelps & Phillips, LLP and any opinion relied upon by Manatt, Phelps & Phillips, LLP shall include a statement to the effect that it may be relied upon by Representative Counsel in its opinion delivered to the Underwriters.

4.3. Comfort Letters.

4.3.1. Comfort Letter. At the time this Agreement is executed the Representative shall have received a cold comfort letter from the Auditor containing statements and information of the type customarily included in accountants' comfort letters with respect to the financial statements and certain financial information contained in the Registration Statement, the Pricing Disclosure Package and the Prospectus, addressed to the Representative and in form and substance satisfactory in all respects to the Representative and to Representative Counsel from the Auditor, dated as of the date of this Agreement.

4.3.2. Bring-down Comfort Letter. At each of the Closing Date and the Option Closing Date, if any, the Representative shall have received from the Auditor a letter, dated as of the Closing Date or the Option Closing Date, as applicable, to the effect that the Auditor reaffirms the statements made in the letter furnished pursuant to Section 4.3.1.

4.4. Officers' Certificates.

4.4.1. Officers' Certificate. The Company shall have furnished to the Representative a certificate, dated the Closing Date and any Option Closing Date (if such date is other than the Closing Date), of its Chief Executive Officer or President, and its Chief Financial Officer stating that on behalf of the Company and not in an individual capacity that (i) such officers have examined the Registration Statement, the Pricing Disclosure Package, any Issuer Free Writing Prospectus and the Prospectus and, in their opinion, the Registration Statement and each amendment thereto after the Effective Date, as of the Applicable Time and as of the Closing Date (or any Option Closing Date if such date is other than the Closing Date) did not include any untrue statement of a material fact and did not omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading, and the Pricing Disclosure Package, as of the Applicable Time and as of the Closing Date (or any Option Closing Date if such date is other than the Closing Date), any Issuer Free Writing Prospectus as of its date and as of the Closing Date (or any Option Closing Date if such date is other than the Closing Date), the Prospectus and each amendment or supplement thereto after the Effective Date, as of the respective date thereof and as of the Closing Date, did not include any untrue statement of a material fact and did not omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances in which they were made, not misleading, (ii) to their knowledge after reasonable investigation, as of the Closing Date (or any Option Closing Date if such date is other than the Closing Date), the representations and warranties of the Company in this Agreement are true and correct and the Company has complied with all agreements and satisfied all conditions on its part to be performed or satisfied hereunder at or prior to the Closing Date (or any Option Closing Date if such date is other than the Closing Date), and (iii) there has not been, subsequent to the date of the most recent audited financial statements included in the Pricing Disclosure Package, a Material Adverse Change.

4.4.2. Secretary's Certificate. At each of the Closing Date and the Option Closing Date, if any, the Representative shall have received a certificate of the Company signed by the Secretary of the Company, dated the Closing Date or the Option Closing Date, as the case may be, respectively, certifying on behalf of the Company and not in an individual capacity: (i) that each of the Charter and Bylaws is true and complete, has not been modified and is in full force and effect; (ii) that the resolutions of the Company's Board of Directors relating to the Offering are in full force and effect and have not been modified; (iii) as to the accuracy and completeness of all correspondence between the Company or its counsel and the Commission; and (iv) as to the incumbency of the officers of the Company. The documents referred to in such certificate shall be attached to such certificate.

4.5. No Material Changes. Prior to and on each of the Closing Date and each Option Closing Date, if any: (i) there shall have been no Material Adverse Change in the condition or prospects or the business activities, financial or otherwise, of the Company from the latest dates as of which such condition is set forth in the Registration Statement, the Pricing Disclosure Package and the Prospectus; (ii) no action, suit or proceeding, at law or in equity, shall have been pending or threatened against the Company or any Insider before or by any court or federal or state commission, board or other administrative agency wherein an unfavorable decision, ruling or finding may reasonably be expected to cause a Material Adverse Change, except as set forth in the Registration Statement, the Pricing Disclosure Package and the Prospectus; (iii) no stop order shall have been issued under the Securities Act and no proceedings therefor shall have been initiated or threatened by the Commission; and (iv) the Registration Statement, the Pricing Disclosure Package and the Prospectus and any amendments or supplements thereto shall contain all material statements which are required to be stated therein in accordance with the Securities Act and the Securities Act Regulations and shall conform in all material respects to the requirements of the Securities Act and the Securities Act Regulations, and neither the Registration Statement, the Pricing Disclosure Package nor the Prospectus nor any amendment or supplement thereto shall contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.

4.6.No Material Misstatement or Omission. The Underwriters shall not have discovered and disclosed to the Company on or prior to the Closing Date and any Option Closing Date that the Registration Statement or any amendment or supplement thereto contains an untrue statement of a fact which, in the opinion of Representative Counsel, is material or omits to state any fact which, in the opinion of such counsel, is material and is required to be stated therein or is necessary to make the statements therein not misleading, or that the Registration Statement, the Pricing Disclosure Package, any Issuer Free Writing Prospectus or the Prospectus or any amendment or supplement thereto contains an untrue statement of fact which, in the opinion of Representative Counsel, is material or omits to state any fact which, in the opinion of Representative Counsel, is material and is necessary in order to make the statements, in the light of the circumstances under which they were made, not misleading.

4.7.Corporate Proceedings. All corporate proceedings and other legal matters incident to the authorization, form and validity of each of this Agreement, the

Public Securities, the Registration Statement, the Pricing Disclosure Package, each Issuer Free Writing Prospectus, if any, and the Prospectus and all other legal matters relating to this Agreement and the transactions contemplated hereby shall be reasonably satisfactory in all material respects to Representative Counsel, and the Company shall have furnished to such counsel all documents and information that they may reasonably request to enable them to pass upon such matters.

4.8.Lock-Up Agreements. On or before the date of this Agreement, the Company shall have delivered to the Representative executed copies of the Lock-Up Agreements from each of the persons listed in Schedule 3 hereto.

4.9.Warrant Agency Agreement. On or before the date of this Agreement, the Company shall have entered into a Warrant Agency Agreement between the Company and VStock Transfer, LLC, as warrant agent with respect to the Warrants, in the form filed as an exhibit to the Registration Statement (the "**Warrant Agency Agreement**"), or if applicable, as otherwise directed by the Underwriters.

4.10.Additional Documents. At the Closing Date and at each Option Closing Date (if any) Representative Counsel shall have been furnished with such documents and opinions as they may require for the purpose of enabling Representative Counsel to deliver an opinion to the Underwriters, or in order to evidence the accuracy of any of the representations or warranties, or the fulfillment of any of the conditions, herein contained; and all proceedings taken by the Company in connection with the issuance and sale of the Public Securities and Representative's Securities as herein contemplated shall be satisfactory in form and substance to the Representative and Representative Counsel.

5. INDEMNIFICATION.

5.1. Indemnification of the Underwriters.

5.1.1. General. The Company shall indemnify and hold harmless each Underwriter, its affiliates and each of its and their respective directors, officers, members, employees, representatives, partners, shareholders, affiliates, counsel and agents and each person, if any, who controls any such Underwriter within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act (collectively the "**Underwriter Indemnified Parties**," and each an "**Underwriter Indemnified Party**"), against any and all loss, liability, claim, damage and expense whatsoever (including but not limited to any and all legal or other expenses reasonably incurred in investigating, preparing or defending against any litigation, commenced or threatened, or any claim whatsoever, whether arising out of any action between any of the Underwriter Indemnified Parties and the Company or between any of the Underwriter Indemnified Parties and any third party, or otherwise) to which they or any of them may become subject under the Securities Act, the Exchange Act or any other statute or at common law or otherwise or under the laws of foreign countries, arising out of or based upon any untrue statement or alleged untrue statement of a material fact contained in (i) the Registration Statement, the Pricing Disclosure Package, the Preliminary Prospectus, the Prospectus or any Issuer Free Writing Prospectus (as from time to time each may be amended and supplemented); (ii) any materials or information provided to investors by, or with the approval of, the Company in connection with the marketing of the Offering, including any "road show" or investor presentations made to investors by the Company (whether in person or electronically); or (iii) any application or other document or written communication (in this Section 5, collectively called "**application**") executed by the Company or based upon written information furnished by the Company in any jurisdiction in order to qualify the Public Securities and the Representative's Warrant Shares under the securities laws thereof or filed with the Commission, any state securities commission or agency, the Exchange or any other national securities exchange; or the omission or alleged omission therefrom of a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, unless such statement or omission was made in reliance upon, and in conformity with, the Underwriters' Information. With respect to any untrue statement or omission or alleged untrue statement or omission made in the Pricing Disclosure Package, the indemnity agreement contained in this Section 5.1.1 shall not inure to the benefit of any Underwriter Indemnified Party to the extent that any loss, liability, claim, damage or expense of such Underwriter Indemnified Party (a) is based on the Underwriters' Information, (b) results from the fact that a copy of the Prospectus was not given or sent to the person asserting any such loss, liability, claim or damage at or prior to the written confirmation of sale of the Public Securities to such person as required by the Securities Act and the Securities Act Regulations, and if the untrue statement or omission has been corrected in the Prospectus, unless such failure to deliver the Prospectus was a result of non-compliance by the Company with its obligations under Section 3.3 hereof, or (c) is found in a final, non-appealable judgment of a court of competent jurisdiction to have resulted primarily from the willful misconduct or gross negligence of such Underwriter Indemnified Party.

5.1.2. Procedure. If any action is brought against an Underwriter Indemnified Party in respect of which indemnity may be sought against the Company pursuant to Section 5.1.1, such Underwriter Indemnified Party shall promptly notify the Company in writing of the institution of such action and the Company shall be entitled to participate therein and, to the extent that it wishes, jointly with any other similarly notified indemnifying party, to assume the defense of such action, including the employment and fees of counsel (subject to the reasonable approval of such Underwriter Indemnified Party) and payment of actual expenses. Such Underwriter Indemnified Party shall have the right to employ its or their own counsel in any such case, but the fees and expenses of such counsel shall be at the expense of such Underwriter Indemnified Party unless (i) the employment of such counsel at the expense of the Company shall have been authorized in writing by the Company in connection with the defense of such action, or (ii) the Company shall not have employed counsel to have charge of the defense of such action, or (iii) the action includes both the Company and the indemnified party as defendants and such indemnified party or parties shall have been advised by its counsel that there may be defenses available to it or them which are different from or additional to those available to the Company which makes it impossible or inadvisable for the Company and such indemnified party to be represented in the action by the same counsel (in which case the Company shall not have the right to direct the defense of such action on behalf of the indemnified party), in any of which events the reasonable fees and expenses of not more than one additional firm of attorneys selected by the Underwriter Indemnified Parties who are party to such action (in addition to local counsel) shall be borne by the Company. Notwithstanding anything to the contrary contained herein, if any Underwriter Indemnified Party shall assume the defense of such action as provided above, the Company shall have the right to approve the terms of any settlement of such action, which approval shall not be unreasonably withheld.

5.2.Indemnification of the Company. Each Underwriter, severally and not jointly, shall indemnify and hold harmless the Company, its directors, its officers who signed the Registration Statement and persons who control the Company within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act against any and all loss, liability, claim, damage and expense described in the foregoing indemnity from the Company to the several Underwriters, as incurred, but only with respect to such losses, liabilities, claims, damages and expenses (or actions in respect thereof) which arise out of or are based upon untrue statements or omissions made in the Registration Statement, any Preliminary Prospectus, the Pricing Disclosure Package or Prospectus or any amendment or supplement thereto or in any application, in reliance upon, and in strict conformity with, the Underwriters' Information. In case any action shall be brought against the Company or any other person so indemnified based on any Preliminary Prospectus, the Registration Statement, the Pricing Disclosure Package or Prospectus or any amendment or supplement thereto or any application, and in respect of which indemnity may be sought against any Underwriter, such Underwriter shall have the rights and duties given to the Company, and the Company and each other person so indemnified shall have the rights and duties given to the several Underwriters by the provisions of Section 5.1.2. The Company agrees promptly to notify the Representative of the commencement of any litigation or proceedings against the Company or any of its officers, directors or any person, if any, who controls the Company within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act, in connection with the issuance and sale of the Public Securities or in connection with the Registration Statement, the Pricing Disclosure Package, the Prospectus or any Issuer Free Writing Prospectus.

5.3. Contribution.

5.3.1. Contribution Rights. If the indemnification provided for in this Section 5 shall for any reason be unavailable to or insufficient to hold harmless an

indemnified party under Section 5.1 or 5.2 in respect of any loss, claim, damage or liability, or any action in respect thereof, referred to therein, then each indemnifying party shall, in lieu of indemnifying such indemnified party, contribute to the amount paid or payable by such indemnified party as a result of such loss, claim, damage or liability, or action in respect thereof, (i) in such proportion as shall be appropriate to reflect the relative benefits received by the Company, on the one hand, and each of the Underwriters, on the other hand, from the Offering, or (ii) if the allocation provided by clause (i) above is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (i) above but also the relative fault of the Company, on the one hand, and the Underwriters, on the other, with respect to the statements or omissions that resulted in such loss, claim, damage or liability, or action in respect thereof, as well as any other relevant equitable considerations. The relative benefits received by the Company, on the one hand, and the Underwriters, on the other, with respect to such Offering shall be deemed to be in the same proportion as the total proceeds from the Offering purchased under this Agreement (before deducting expenses) received by the Company bear to the total underwriting discount and commissions received by the Underwriters in connection with the Offering, in each case as set forth in the table on the cover page of the Prospectus. The relative fault of the Company, on the one hand, and the Underwriters, on the other, shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Company, on the one hand, or the Underwriters, on the other, the intent of the parties and their relative knowledge, access to information and opportunity to correct or prevent such untrue statement, omission, act or failure to act; provided that the parties hereto agree that the written information furnished to the Company through the Representative by or on behalf of any Underwriter for use in any Preliminary Prospectus, any Registration Statement or the Prospectus, or in any amendment or supplement thereto, consists solely of the Underwriters' Information. The Company and the Underwriters agree that it would not be just and equitable if contributions pursuant to this Section 5.3.1 were to be determined by pro rata allocation or by any other method of allocation that does not take into account the equitable considerations referred to herein. The amount paid or payable by an indemnified party as a result of the loss, claim, damage, expense, liability, action, investigation or proceeding referred to above in this Section 5.3.1 shall be deemed to include, for purposes of this Section 5.3.1, any legal or other expenses reasonably incurred by such indemnified party in connection with investigating, preparing to defend or defending against or appearing as a third party witness in respect of, or otherwise incurred in connection with, any such loss, claim, damage, expense, liability, action, investigation or proceeding. Notwithstanding the provisions of this Section 5.3.1 no Underwriter shall be required to contribute any amount in excess of the total discount and commission received by such Underwriter in connection with the Offering less the amount of any damages which such Underwriter has otherwise paid or becomes liable to pay by reason of any untrue or alleged untrue statement, omission or alleged omission, act or alleged act or failure to act or alleged failure to act. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation.

5.3.2. Contribution Procedure. Within fifteen (15) days after receipt by any party to this Agreement (or its representative) of notice of the commencement of any action, suit or proceeding, such party will, if a claim for contribution in respect thereof is to be made against another party ("contributing party"), notify the contributing party of the commencement thereof, but the failure to so notify the contributing party will not relieve it from any liability which it may have to any other party other than for contribution hereunder. In case any such action, suit or proceeding is brought against any party, and such party notifies a contributing party or its representative of the commencement thereof within the aforesaid 15 days, the contributing party will be entitled to participate therein with the notifying party and any other contributing party similarly notified. Any such contributing party shall not be liable to any party seeking contribution on account of any settlement of any claim, action or proceeding affected by such party seeking contribution without the written consent of such contributing party. The contribution provisions contained in this Section 5.3.2 are intended to supersede, to the extent permitted by law, any right to contribution under the Securities Act, the Exchange Act or otherwise available. The Underwriters' obligations to contribute as provided in this Section 5.3 are several and in proportion to their respective underwriting obligation, and not joint.

6. DEFAULT BY AN UNDERWRITER.

6.1.Default Not Exceeding 10% of Firm Securities or Option Securities. If any Underwriter or Underwriters shall default in its or their obligations to purchase the Firm Securities or the Option Securities, if the Over-allotment Option is exercised hereunder, and if the number of the Firm Securities or Option Securities with respect to which such default relates does not exceed in the aggregate 10% of the number of Firm Shares and accompanying Firm Warrants or Option Shares and accompanying Option Warrants that all Underwriters have agreed to purchase hereunder, then such Firm Securities or Option Securities to which the default relates shall be purchased by the non-defaulting Underwriters in proportion to their respective commitments hereunder.

6.2.Default Exceeding 10% of Firm Securities or Option Securities. In the event that the default addressed in Section 6.1 relates to more than 10% of the number of Firm Shares and accompanying Firm Warrants or Option Shares and accompanying Option Warrants, the Representative may in its discretion arrange for itself or for another party or parties to purchase such Firm Securities or Option Securities to which such default relates on the terms contained herein. If, within one (1) Business Day after such default relating to more than 10% of the number of Firm Shares and accompanying Firm Warrants or Option Shares and accompanying Option Warrants, the Representative does not arrange for the purchase of such Firm Securities or Option Securities, then the Company shall be entitled to a further period of one (1) Business Day within which to procure another party or parties satisfactory to the Representative to purchase said Firm Securities or Option Securities on such terms. In the event that neither the Representative nor the Company arrange for the purchase of the Firm Securities or Option Securities to which a default relates as provided in this Section 6, this Agreement will automatically be terminated by the Representative or the Company without liability on the part of the Company (except as provided in Sections 3.10 and 5 hereof) or the several Underwriters (except as provided in Section 5 hereof); provided, however, that if such default occurs with respect to the Option Securities, this Agreement will not terminate as to the Firm Securities; and provided, further, that nothing herein shall relieve a defaulting Underwriter of its liability, if any, to the other Underwriters and to the Company for damages occasioned by its default hereunder.

6.3.Postponement of Closing Date. In the event that the Firm Securities or Option Securities to which the default relates are to be purchased by the non-defaulting Underwriters, or are to be purchased by another party or parties as aforesaid, you or the Company shall have the right to postpone the Closing Date or Option Closing Date for a reasonable period, but not in any event exceeding five (5) Business Days, in order to effect whatever changes may thereby be made necessary in the Registration Statement, the Pricing Disclosure Package or the Prospectus or in any other documents and arrangements, and the Company agrees to file promptly any amendment to the Registration Statement, the Pricing Disclosure Package or the Prospectus that in the opinion of Representative Counsel may thereby be made necessary. The term "**Underwriter**" as used in this Agreement shall include any party substituted under this Section 6 with like effect as if it had originally been a party to this Agreement with respect to such Firm Securities or Option Securities.

7. ADDITIONAL COVENANTS.

7.1.Prohibition on Press Releases and Public Announcements. The Company shall not issue press releases or engage in any other publicity, without the Representative's prior written consent, for a period ending at 5:00 p.m., Eastern time, on the first (1st) Business Day following the fortieth (40th) day after the Closing Date, other than normal and customary releases issued in the ordinary course of the Company's business.

8. 8. EFFECTIVE DATE OF THIS AGREEMENT AND TERMINATION THEREOF.

8.1.Effective Date. This Agreement shall become effective when both the Company and the Representative have executed the same and delivered counterparts of such signatures to the other party.

8.2. Termination. The Representative shall have the right to terminate this Agreement at any time prior to any Closing Date, (i) if any domestic or international event or act or occurrence has materially disrupted, or in the Representative's opinion will in the immediate future materially disrupt, general securities markets in the United

States; or (ii) if trading on the New York Stock Exchange or the Nasdaq Stock Market LLC shall have been suspended or materially limited, or minimum or maximum prices for trading shall have been fixed, or maximum ranges for prices for securities shall have been required by FINRA or by order of the Commission or any other government authority having jurisdiction; or (iii) if the United States shall have become involved in a new war or an increase in major hostilities; or (iv) if a banking moratorium has been declared by a New York State or federal authority; or (v) if a moratorium on foreign exchange trading has been declared which materially adversely impacts the United States securities markets; or (vi) if the Company shall have sustained a material loss by fire, flood, accident, hurricane, earthquake, theft, sabotage or other calamity or malicious act which, whether or not such loss shall have been insured, will, in your opinion, make it inadvisable to proceed with the delivery of the Firm Securities or Option Securities; or (vii) if the Company is in material breach of any of its representations, warranties or covenants hereunder; or (viii) if the Representative shall have become aware after the date hereof of a Material Adverse Change, or an adverse material change in general market conditions as in the Representative's judgment would make it impracticable to proceed with the offering, sale and/or delivery of the Public Securities or to enforce contracts made by the Underwriters for the sale of the Public Securities.

8.3. Expenses. Notwithstanding anything to the contrary in this Agreement, except in the case of a default by the Underwriters, pursuant to Section 6.2 above, in the event that this Agreement shall not be carried out for any reason whatsoever, within the time specified herein or any extensions thereof pursuant to the terms herein, the Company shall be obligated to pay to the Underwriters their actual and accountable out-of-pocket expenses related to the transactions contemplated herein then due and payable (including the fees and disbursements of Representative Counsel) up to $50,000, inclusive of the $50,000 advance for accountable expenses previously paid by the Company to the Representative (the "**Advance**"), and upon demand the Company shall pay the full amount thereof to the Representative on behalf of the Underwriters; provided, however, that such expense cap in no way limits or impairs the indemnification and contribution provisions of this Agreement.

Notwithstanding the foregoing, any advance received by the Representative will be reimbursed to the Company to the extent not actually incurred in compliance with FINRA Rule 5110(g)(4)(A).

8.4.Indemnification. Notwithstanding any contrary provision contained in this Agreement, any election hereunder or any termination of this Agreement, and whether or not this Agreement is otherwise carried out, the provisions of Section 5 shall remain in full force and effect and shall not be in any way affected by, such election or termination or failure to carry out the terms of this Agreement or any part hereof.

8.5.Representations, Warranties, Agreements to Survive. All representations, warranties and agreements contained in this Agreement or in certificates of officers of the Company submitted pursuant hereto, shall remain operative and in full force and effect regardless of (i) any investigation made by or on behalf of any Underwriter or its affiliates or selling agents, any person controlling any Underwriter, its officers or directors or any person controlling the Company or (ii) delivery of and payment for the Public Securities.

9. MISCELLANEOUS.

9.1. Notices. All communications hereunder, except as herein otherwise specifically provided, shall be in writing and shall be mailed (registered or certified mail, return receipt requested), personally delivered or sent by facsimile transmission and confirmed and shall be deemed given when so delivered or emailed and confirmed (which may be by email) or if mailed, two (2) days after such mailing.

If to the Representative:

Kingswood Capital Markets
17 Battery Place, Suite 625
New York, New York 10004
Attn: Joseph T. Rallo

with a copy (which shall not constitute notice) to:

Nelson Mullins Riley & Scarborough LLP
101 Constitution Avenue NW, Suite 900
Washington, DC 20001
Attn: Andrew M. Tucker, Esq.
Fax No.: (202) 689-2860

If to the Company:

Digital Brands Group, Inc.
1400 Lavaca Street
Austin, Texas 78701
Attn: John Hilburn Davis IV
Email: hil@dstld.la

with a copy (which shall not constitute notice) to:

Manatt, Phelps & Phillips, LLP
695 Town Center Drive, 14th Floor
Costa Mesa, CA 92646
Attn: Thomas J. Poletti, Esq.
Fax No.: (714) 371-2551

9.2.Headings. The headings contained herein are for the sole purpose of convenience of reference, and shall not in any way limit or affect the meaning or interpretation of any of the terms or provisions of this Agreement.

9.3. Amendment. This Agreement may only be amended by a written instrument executed by each of the parties hereto.

9.4.Entire Agreement. This Agreement (together with the other agreements and documents being delivered pursuant to or in connection with this Agreement) constitutes the entire agreement of the parties hereto with respect to the subject matter hereof and thereof, and supersedes all prior agreements and understandings of the parties, oral and written, with respect to the subject matter hereof.

9.5.Binding Effect. This Agreement shall inure solely to the benefit of and shall be binding upon the Representative, the Underwriters, the Company and the controlling persons, directors and officers referred to in Section 5 hereof, and their respective successors, legal representatives, heirs and assigns, and no other person shall have or be construed to have any legal or equitable right, remedy or claim under or in respect of or by virtue of this Agreement or any provisions herein contained. The term "successors and assigns" shall not include a purchaser, in its capacity as such, of securities from any of the Underwriters.

9.6.Governing Law; Consent to Jurisdiction; Trial by Jury. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of New York, without giving effect to conflict of laws principles thereof. The Company hereby agrees that any action, proceeding or claim against it arising out of, or relating in any way to this Agreement shall be brought and enforced in the New York Supreme Court, County of New York, or in the United States District Court for the Southern District of New York, and irrevocably submits to such jurisdiction, which jurisdiction shall be exclusive. The Company hereby waives any objection to such exclusive jurisdiction and that such courts represent an inconvenient forum. Any such process or summons to be served upon the Company may be served by transmitting a copy thereof by registered or certified mail, return receipt requested, postage prepaid, addressed to it at the address set forth in Section 9.1 hereof. Such mailing shall be deemed personal service and shall be legal and binding upon the Company in any action, proceeding or claim. The Company agrees that the prevailing party(ies) in any such action shall be entitled to recover from the other party(ies) all of its reasonable attorneys' fees and expenses relating to such action or proceeding and/or incurred in connection with the preparation therefor. The Company (on its behalf and, to the extent permitted by applicable law, on behalf of its stockholders and affiliates) and each of the Underwriters hereby irrevocably waives, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal proceeding arising out of or relating to this Agreement or the transactions contemplated hereby.

9.7. Execution in Counterparts. This Agreement may be executed in one or more counterparts, and by the different parties hereto in separate counterparts, each of which shall be deemed to be an original, but all of which taken together shall constitute one and the same agreement, and shall become effective when one or more counterparts has been signed by each of the parties hereto and delivered to each of the other parties hereto. Delivery of a signed counterpart of this Agreement by facsimile or email/pdf transmission shall constitute valid and sufficient delivery thereof.

9.8. Waiver, etc. The failure of any of the parties hereto to at any time enforce any of the provisions of this Agreement shall not be deemed or construed to be a waiver of any such provision, nor to in any way effect the validity of this Agreement or any provision hereof or the right of any of the parties hereto to thereafter enforce each and every provision of this Agreement. No waiver of any breach, non-compliance or non-fulfillment of any of the provisions of this Agreement shall be effective unless set forth in a written instrument executed by the party or parties against whom or which enforcement of such waiver is sought; and no waiver of any such breach, non-compliance or non-fulfillment shall be construed or deemed to be a waiver of any other or subsequent breach, non-compliance or non-fulfillment.

[Signature Page Follows]

If the foregoing correctly sets forth the understanding between the Underwriters and the Company, please so indicate in the space provided below for that purpose, whereupon this letter shall constitute a binding agreement between us.

Very truly yours,

DIGITAL BRANDS GROUP, INC.

By: _____
Name:
Title:

Confirmed as of the date first written above mentioned, on behalf of itself and as Representative of the several Underwriters named on Schedule 1 hereto:

KINGSWOOD CAPITAL MARKETS,
division of Benchmark Investments, Inc.

By: _____
Name:
Title:

SCHEDULE 1

Underwriter	Total Number of Firm Shares and Accompanying Firm Warrants to be Purchased	Number of Additional Option Shares and Accompanying Option Warrants to be Purchased if the Over-Allotment Option is Fully Exercised
Kingswood Capital Markets, division of Benchmark Investments, Inc.	[●]	[●]
TOTAL	[●]	[●]

SCHEDULE 2-A
Pricing Information

Number of Firm Shares: 2,000,000
Number of Firm Warrants: 2,000,000

Number of Option Shares: 300,000
Number of Option Warrants: 300,000
Public Offering Price per Firm Share and Firm Warrant: $5.00
Public Offering Price per Option Share and Option Warrant: $5.00
Underwriting Discount per Firm Share and Firm Warrant: $0.40
Underwriting Discount per Option Share and Option Warrant: $0.40
Proceeds to Company per Firm Share and Firm Warrant (before expenses): $4.60
Proceeds to Company per Option Share and Option Warrant (before expenses): $4.60

SCHEDULE 2-B

Issuer General Use Free Writing Prospectuses

FWP filed with the Commission on April 28, 2021

SCHEDULE 3

List of Lock-Up Parties

1. John "Hil" Davis
2. Laura Dowling
3. Reid Yeoman
4. Mark Lynn
5. Trevor Pettennude
6. Jameeka Aaron
7. Moise Emquies
8. Drew Jones

EXHIBIT A

Form of Representative's Warrant Agreement

THE REGISTERED HOLDER OF THIS PURCHASE WARRANT BY ITS ACCEPTANCE HEREOF, AGREES THAT IT WILL NOT SELL, TRANSFER OR ASSIGN THIS PURCHASE WARRANT EXCEPT AS HEREIN PROVIDED AND THE REGISTERED HOLDER OF THIS PURCHASE WARRANT AGREES THAT IT WILL NOT SELL, TRANSFER, ASSIGN, PLEDGE OR HYPOTHECATE THIS PURCHASE WARRANT FOR A PERIOD OF ONE HUNDRED EIGHTY DAYS FOLLOWING THE EFFECTIVE DATE (DEFINED BELOW) TO ANYONE OTHER THAN (I) KINGSWOOD CAPITAL MARKETS, DIVISION OF BENCHMARK INVESTMENTS, INC. OR AN UNDERWRITER OR A SELECTED DEALER IN CONNECTION WITH THE OFFERING, OR (II) A BONA FIDE OFFICER OR PARTNER OF KINGSWOOD CAPITAL MARKETS, DIVISION OF BENCHMARK INVESTMENTS, INC. OR OF ANY SUCH UNDERWRITER OR SELECTED DEALER.

THIS PURCHASE WARRANT IS NOT EXERCISABLE PRIOR TO [_____] [**DATE THAT IS SIX MONTHS FROM THE EFFECTIVE DATE OF THE OFFERING**]. VOID AFTER 5:00 P.M., EASTERN TIME, [_____] [**DATE THAT IS FIVE YEARS FROM THE EFFECTIVE DATE OF THE OFFERING**].

COMMON STOCK PURCHASE WARRANT

For the Purchase of 100,000 Shares of Common Stock
of
DIGITAL BRANDS GROUP, INC.

1 . Purchase Warrant. THIS CERTIFIES THAT, in consideration of funds duly paid by or on behalf of Kingswood Capital Markets, division of Benchmark Investments, Inc. ("**Holder**"), as registered owner of this Purchase Warrant, Digital Brands Group, Inc., a Delaware corporation (the "**Company**"), Holder is entitled, at any time or from time to time from [_____] [**DATE THAT IS SIX MONTHS FROM THE EFFECTIVE DATE OF THE OFFERING**] (the "**Commencement Date**"), and at or before 5:00 p.m., Eastern time, [_____] [**DATE THAT IS FIVE YEARS FROM THE EFFECTIVE DATE OF THE OFFERING**] (the "**Expiration Date**"), but not thereafter, to subscribe for, purchase and receive, in whole or in part, up to 100,000 shares of common stock of the Company, par value $0.0001 per share (the "**Shares**"), subject to adjustment as provided in Section 6 hereof. If the Expiration Date is a day on which banking institutions are authorized by law to close, then this Purchase Warrant may be exercised on the next succeeding day which is not such a day in accordance with the terms herein. During the period ending on the Expiration Date, the Company agrees not to take any action that would terminate this Purchase Warrant. This Purchase Warrant is initially exercisable at $6.25 per Share ; provided, however, that upon the occurrence of any of the events specified in Section 6 hereof, the rights granted by this Purchase Warrant, including the exercise price per Share and the number of Shares to be received upon such exercise, shall be adjusted as therein specified. The term "**Exercise Price**" shall mean the initial exercise price or the adjusted exercise price, depending on the context. The term "**Effective Date**" shall mean [ ], the date on which the Registration Statement on Form S-1 (File No. 333- 255193) of the Company was declared effective by the Securities and Exchange Commission.

2. Exercise.

2 . 1 Exercise Form. In order to exercise this Purchase Warrant, the exercise form attached hereto must be duly executed and completed and delivered to the Company, together with this Purchase Warrant and payment of the Exercise Price for the Shares being purchased payable in cash by wire transfer of immediately available funds to an account designated by the Company or by certified check or official bank check. If the subscription rights represented hereby shall not be exercised at or before 5:00 p.m., Eastern time, on the Expiration Date, this Purchase Warrant shall become and be void without further force or effect, and all rights represented hereby shall cease and expire.

2.2 Cashless Exercise. If at any time after the Commencement Date there is no effective registration statement registering, or no current prospectus available for, the resale of the Shares by the Holder, then in lieu of exercising this Purchase Warrant by payment of cash or check payable to the order of the Company pursuant to Section 2.1 above, Holder may elect to receive the number of Shares equal to the value of this Purchase Warrant (or the portion thereof being exercised), by surrender of this Purchase Warrant to the Company, together with the exercise form attached hereto, in which event the Company shall issue to Holder, Shares in accordance with the following formula:

$$X = \frac{Y(A-B)}{A}$$

Where,

X = The number of Shares to be issued to Holder;
Y = The number of Shares for which the Purchase Warrant is being exercised;
A = The fair market value of one Share; and
B = The Exercise Price.

For purposes of this Section 2.2, the fair market value of a Share is defined as follows:

(i) if the Company's common stock is traded on a securities exchange, the value shall be deemed to be the closing price on such exchange prior to the exercise form being submitted in connection with the exercise of the Purchase Warrant; or

(ii) if the Company's common stock is actively traded over-the-counter, the value shall be deemed to be the closing bid price prior to the exercise form being submitted in connection with the exercise of the Purchase Warrant; if there is no active public market, the value shall be the fair market value thereof, as determined in good faith by the Company's Board of Directors.

2.3 Legend. Each certificate for the securities purchased under this Purchase Warrant shall bear a legend as follows unless such securities have been registered under the Securities Act of 1933, as amended (the "**Securities Act**"):

"THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR APPLICABLE STATE LAW. NEITHER THE SECURITIES NOR ANY INTEREST THEREIN MAY BE OFFERED FOR SALE, SOLD OR OTHERWISE TRANSFERRED EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT, OR PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT AND APPLICABLE STATE LAW WHICH, IN THE OPINION OF COUNSEL TO THE COMPANY, IS AVAILABLE."

3. Transfer.

3.1 General Restrictions. The registered Holder of this Purchase Warrant agrees by his, her or its acceptance hereof, that such Holder will not: (a) sell, transfer, assign, pledge or hypothecate this Purchase Warrant or the securities issuable hereunder for a period of three hundred sixty (360) days following the Effective Date to anyone other than: (i) Kingswood Capital Markets, division of Benchmark Investments, Inc. ("**Kingswood**") or an underwriter or a selected dealer participating in the Offering, or (ii) a bona fide officer or partner of Kingswood or of any such underwriter or selected dealer, in each case in accordance with FINRA Conduct Rule 5110(e)(1), or (b) for a period of three hundred sixty (360) days following the Effective Date, cause this Purchase Warrant or the securities issuable hereunder to be the subject of any hedging, short sale, derivative, put or call transaction that would result in the effective economic disposition of this Purchase Warrant or the securities hereunder, except as provided for in FINRA Rule 5110(e)(2). On and after 360 days after the Effective Date, transfers to others may be made subject to compliance with or exemptions from applicable securities laws. In order to make any permitted assignment, the Holder must deliver to the Company the assignment form attached hereto duly executed and completed, together with the Purchase Warrant and payment of all transfer taxes, if any, payable in connection therewith. The Company shall within five (5) business days transfer this Purchase Warrant on the books of the Company and shall execute and deliver a new Purchase Warrant or Purchase Warrants of like tenor to the appropriate assignee(s) expressly evidencing the right to purchase the aggregate number of Shares purchasable hereunder or such portion of such number as shall be contemplated by any such assignment.

3.2 Restrictions Imposed by the Securities Act. The securities evidenced by this Purchase Warrant shall not be transferred unless and until: (i) the Company has received the opinion of counsel for the Holder that the securities may be transferred pursuant to an exemption from registration under the Securities Act and applicable state securities laws, the availability of which is established to the reasonable satisfaction of the Company (the Company hereby agreeing that the opinion of Manatt, Phelps & Phillips, LLP shall be deemed satisfactory evidence of the availability of an exemption), or (ii) a registration statement or a post-effective amendment to the Registration Statement relating to the offer and sale of such securities has been filed by the Company and declared effective by the U.S. Securities and Exchange Commission (the "**Commission**") and compliance with applicable state securities law has been established.

4 Registration Rights.

4.1 Demand Registration.

4.1.1 Grant of Right. The Company, upon written demand (a "**Demand Notice**") of the Holders of at least 51% of the Purchase Warrants and/or the underlying Shares, agrees to register, on one (1) occasion, all or any portion of the Shares underlying the Purchase Warrants (collectively, the " **Registrable Securities**"). On such occasion, the Company will file a registration statement with the Commission covering the Registrable Securities within sixty (60) days after receipt of a Demand Notice and use its reasonable best efforts to have the registration statement declared effective promptly thereafter, subject to compliance with review by the Commission; provided, however, that the Company shall not be required to comply with a Demand Notice if the Company has filed a registration statement with respect to which the Holder is entitled to piggyback registration rights pursuant to Section 4.2 hereof and either: (i) the Holder has elected to participate in the offering covered by such registration statement or (ii) if such registration statement relates to an underwritten primary offering of securities of the Company, until the offering covered by such registration statement has been withdrawn or until thirty (30) days after such offering is consummated. The Company covenants and agrees to give written notice of its receipt of any Demand Notice by any Holders to all other registered Holders of the Purchase Warrants and/or the Registrable Securities within ten (10) days after the date of the receipt of any such Demand Notice.

4.1.2 Terms. The Company shall bear all fees and expenses attendant to the registration of the Registrable Securities pursuant to Section 4.1.1, but the Holders shall pay any and all underwriting commissions and the expenses of any legal counsel selected by the Holders to represent them in connection with the sale of the Registrable Securities. The Company agrees to use its reasonable best efforts to cause the filing required herein to become effective promptly and to qualify or register the Registrable Securities in such states as are reasonably requested by the Holders; provided, however, that in no event shall the Company be required to register the Registrable Securities in a State in which such registration would cause: (i) the Company to be obligated to register or license to do business in such State or submit to general service of process in such State, or (ii) the principal stockholders of the Company to be obligated to escrow their shares of capital stock of the Company. The Company shall cause any registration statement filed pursuant to the demand right granted under Section 4.1.1 to remain effective for a period of at least twelve (12) consecutive months after the date that the Holders of the Registrable Securities covered by such registration statement are first given the opportunity to sell all of such securities. The Holders shall only use the prospectuses provided by the Company to sell the shares covered by such registration statement, and will immediately cease to use any prospectus furnished by the Company if the Company advises the Holder that such prospectus may no longer be used due to a material misstatement or omission. Notwithstanding the provisions of this Section 4.1.2, the Holder shall be entitled to a demand registration under this Section 4.1.2 on only one (1) occasion and such demand registration right shall terminate on the fifth anniversary

of the Effective Date in accordance with FINRA Rule 5110(g)(8)(C).

4.2 "Piggy-Back" Registration.

4.2.1 Grant of Right. In addition to the demand right of registration described in Section 4.1 hereof, the Holder shall have the right, for a period of no more than five (5) years from the Effective Date in accordance with FINRA Rule 5110(g)(8)(D), to include the Registrable Securities as part of any other registration of securities filed by the Company (other than in connection with a transaction contemplated by Rule 145(a) promulgated under the Securities Act or pursuant to Form S-8 or Form S-4 or any equivalent form); provided, however, that if, solely in connection with any primary underwritten public offering for the account of the Company, the managing underwriter(s) thereof shall, in its reasonable discretion, impose a limitation on the number of shares of common stock which may be included in the Registration Statement because, in such underwriter(s)' judgment, marketing or other factors dictate such limitation is necessary to facilitate public distribution, then the Company shall be obligated to include in such Registration Statement only such limited portion of the Registrable Securities with respect to which the Holder requested inclusion hereunder as the underwriter shall reasonably permit. Any exclusion of Registrable Securities shall be made pro rata among the Holders seeking to include Registrable Securities in proportion to the number of Registrable Securities sought to be included by such Holders; provided, however, that the Company shall not exclude any Registrable Securities unless the Company has first excluded all outstanding securities, the holders of which are not entitled to inclusion of such securities in such Registration Statement or are not entitled to pro rata inclusion with the Registrable Securities.

4.2.2 Terms. The Company shall bear all fees and expenses attendant to registering the Registrable Securities pursuant to Section 4.2.1 hereof, but the Holders shall pay any and all underwriting commissions and the expenses of any legal counsel selected by the Holders to represent them in connection with the sale of the Registrable Securities. In the event of such a proposed registration, the Company shall furnish the then Holders of outstanding Registrable Securities with not less than thirty (30) days' written notice prior to the proposed date of filing of such registration statement. Such notice to the Holders shall continue to be given for each registration statement filed by the Company until such time as all of the Registrable Securities have been sold by the Holder. The holders of the Registrable Securities shall exercise the "piggy-back" rights provided for herein by giving written notice within ten (10) days of the receipt of the Company's notice of its intention to file a registration statement. Except as otherwise provided in this Purchase Warrant, there shall be no limit on the number of times the Holder may request registration under this Section 4.2.2; provided, however, that such registration rights shall terminate on the fifth anniversary of the Commencement Date.

4.3 General Terms.

4.3.1 Indemnification. The Company shall indemnify the Holders of the Registrable Securities to be sold pursuant to any registration statement hereunder and each person, if any, who controls such Holders within the meaning of Section 15 of the Securities Act or Section 20(a) of the Securities Exchange Act of 1934, as amended ("**Exchange Act**"), against all loss, claim, damage, expense or liability (including all reasonable attorneys' fees and other expenses reasonably incurred in investigating, preparing or defending against any claim whatsoever) to which any of them may become subject under the Securities Act, the Exchange Act or otherwise, arising from such registration statement but only to the same extent and with the same effect as the provisions pursuant to which the Company has agreed to indemnify the Underwriters contained in Section 5.1 of the Underwriting Agreement between the Underwriters and the Company, dated as of [_____], 2021. The Holders of the Registrable Securities to be sold pursuant to such registration statement, and their successors and assigns, shall severally, and not jointly, indemnify the Company, against all loss, claim, damage, expense or liability (including all reasonable attorneys' fees and other expenses reasonably incurred in investigating, preparing or defending against any claim whatsoever) to which they may become subject under the Securities Act, the Exchange Act or otherwise, arising from information furnished by or on behalf of such Holders, or their successors or assigns, in writing, for specific inclusion in such registration statement to the same extent and with the same effect as the provisions contained in Section 5.2 of the Underwriting Agreement pursuant to which the Underwriters have agreed to indemnify the Company.

4.3.2 Exercise of Purchase Warrants. Nothing contained in this Purchase Warrant shall be construed as requiring the Holders to exercise their Purchase Warrants prior to or after the initial filing of any registration statement or the effectiveness thereof.

4.3.3 Documents Delivered to Holders. The Company shall furnish to each Holder participating in any of the foregoing offerings and to each underwriter of any such offering, if any, a signed counterpart, addressed to such Holder or underwriter, of: (i) an opinion of counsel to the Company, dated the effective date of such registration statement (and, if such registration includes an underwritten public offering, an opinion dated the date of the closing under any underwriting agreement related thereto), and (ii) a "cold comfort" letter dated the effective date of such registration statement (and, if such registration includes an underwritten public offering, a letter dated the date of the closing under the underwriting agreement) signed by the independent registered public accounting firm which has issued a report on the Company's financial statements included in such registration statement, in each case covering substantially the same matters with respect to such registration statement (and the prospectus included therein) and, in the case of such accountants' letter, with respect to events subsequent to the date of such financial statements, as are customarily covered in opinions of issuer's counsel and in accountants' letters delivered to underwriters in underwritten public offerings of securities. The Company shall also deliver promptly to each Holder participating in the offering requesting the correspondence and memoranda described below and to the managing underwriter, if any, copies of all correspondence between the Commission and the Company, its counsel or auditors and all memoranda relating to discussions with the Commission or its staff with respect to the registration statement and permit each Holder and underwriter to do such investigation, upon reasonable advance notice, with respect to information contained in or omitted from the registration statement as it deems reasonably necessary to comply with applicable securities laws or rules of FINRA. Such investigation shall include access to books, records and properties and opportunities to discuss the business of the Company with its officers and independent auditors, all to such reasonable extent and at such reasonable times as any such Holder shall reasonably request.

4.3.4 Underwriting Agreement. The Company shall enter into an underwriting agreement with the managing underwriter(s), if any, selected by any Holders whose Registrable Securities are being registered pursuant to this Section 4, which managing underwriter shall be reasonably satisfactory to the Company. Such agreement shall be reasonably satisfactory in form and substance to the Company, each Holder and such managing underwriters, and shall contain such representations, warranties and covenants by the Company and such other terms as are customarily contained in agreements of that type used by the managing underwriter. The Holders shall be parties to any underwriting agreement relating to an underwritten sale of their Registrable Securities and may, at their option, require that any or all the representations, warranties and covenants of the Company to or for the benefit of such underwriters shall also be made to and for the benefit of such Holders. Such Holders shall not be required to make any representations or warranties to or agreements with the Company or the underwriters except as they may relate to such Holders, their Shares and their intended methods of distribution.

4.3.5 Documents to be Delivered by Holders. Each of the Holders participating in any of the foregoing offerings shall furnish to the Company a completed and executed questionnaire provided by the Company requesting information customarily sought of selling security holders.

4.3.6 Damages. Should the registration or the effectiveness thereof required by Sections 4.1 and 4.2 hereof be delayed by the Company or the Company otherwise fails to comply with such provisions, the Holders shall, in addition to any other legal or other relief available to the Holders, be entitled to obtain specific performance or other equitable (including injunctive) relief against the threatened breach of such provisions or the continuation of any such breach, without the necessity of proving actual damages and without the necessity of posting bond or other security.

4.4 Termination of Registration Rights. The registration rights afforded to the Holders under this Section 4 shall terminate on the earliest date when all

Registrable Securities of such Holder either: (i) have been publicly sold by such Holder pursuant to a Registration Statement, (ii) have been covered by an effective Registration Statement on Form S-1 or Form S-3 (or successor form), which may be kept effective as an evergreen Registration Statement, or (iii) may be sold by the Holder within a 90 day period without registration pursuant to Rule 144 or consistent with applicable SEC interpretive guidance (including CD&I no. 201.04 (April 2, 2007) or similar interpretive guidance).

5. New Purchase Warrants to be Issued.

5.1 Partial Exercise or Transfer. Subject to the restrictions in Section 3 hereof, this Purchase Warrant may be exercised or assigned in whole or in part. In the event of the exercise or assignment hereof in part only, upon surrender of this Purchase Warrant for cancellation, together with the duly executed exercise or assignment form and funds sufficient to pay any Exercise Price and/or transfer tax if exercised pursuant to Section 2.1 hereto, the Company shall cause to be delivered to the Holder without charge a new Purchase Warrant of like tenor to this Purchase Warrant in the name of the Holder evidencing the right of the Holder to purchase the number of Shares purchasable hereunder as to which this Purchase Warrant has not been exercised or assigned.

5.2 Lost Certificate. Upon receipt by the Company of evidence satisfactory to it of the loss, theft, destruction or mutilation of this Purchase Warrant and of reasonably satisfactory indemnification or the posting of a bond, the Company shall execute and deliver a new Purchase Warrant of like tenor and date. Any such new Purchase Warrant executed and delivered as a result of such loss, theft, mutilation or destruction shall constitute a substitute contractual obligation on the part of the Company.

6. Adjustments.

6.1 Adjustments to Exercise Price and Number of Securities. The Exercise Price and the number of Shares underlying the Purchase Warrant shall be subject to adjustment from time to time as hereinafter set forth:

6.1.1 Share Dividends; Split Ups. If, after the date hereof, and subject to the provisions of Section 6.3 below, the number of outstanding Shares is increased by a stock dividend payable in Shares or by a split up of Shares or other similar event, then, on the effective day thereof, the number of Shares purchasable hereunder shall be increased in proportion to such increase in outstanding Shares, and the Exercise Price shall be proportionately decreased.

6.1.2 Aggregation of Shares. If, after the date hereof, and subject to the provisions of Section 6.3 below, the number of outstanding Shares is decreased by a consolidation, combination or reclassification of Shares or other similar event, then, on the effective date thereof, the number of Shares purchasable hereunder shall be decreased in proportion to such decrease in outstanding Shares, and the Exercise Price shall be proportionately increased.

6.1.3 Replacement of Securities upon Reorganization, etc. In case of any reclassification or reorganization of the outstanding Shares other than a change covered by Section 6.1.1 or 6.1.2 hereof or that solely affects the par value of such Shares, or in the case of any share reconstruction or amalgamation or consolidation of the Company with or into another corporation (other than a consolidation or share reconstruction or amalgamation in which the Company is the continuing corporation and that does not result in any reclassification or reorganization of the outstanding Shares), or in the case of any sale or conveyance to another corporation or entity of the property of the Company as an entirety or substantially as an entirety in connection with which the Company is dissolved, the Holder of this Purchase Warrant shall have the right thereafter (until the expiration of the right of exercise of this Purchase Warrant) to receive upon the exercise hereof, for the same aggregate Exercise Price payable hereunder immediately prior to such event, the kind and amount of shares of stock or other securities or property (including cash) receivable upon such reclassification, reorganization, share reconstruction or amalgamation, or consolidation, or upon a dissolution following any such sale or transfer, by a Holder of the number of Shares of the Company obtainable upon exercise of this Purchase Warrant immediately prior to such event; and if any reclassification also results in a change in Shares covered by Section 6.1.1 or 6.1.2, then such adjustment shall be made pursuant to Sections 6.1.1, 6.1.2 and this Section 6.1.3. The provisions of this Section 6.1.3 shall similarly apply to successive reclassifications, reorganizations, share reconstructions or amalgamations, or consolidations, sales or other transfers.

6.1.4 Changes in Form of Purchase Warrant. This form of Purchase Warrant need not be changed because of any change pursuant to this Section 6.1, and Purchase Warrants issued after such change may state the same Exercise Price and the same number of Shares as are stated in the Purchase Warrants initially issued pursuant to this Agreement. The acceptance by any Holder of the issuance of new Purchase Warrants reflecting a required or permissive change shall not be deemed to waive any rights to an adjustment occurring after the Commencement Date or the computation thereof.

6.2 Substitute Purchase Warrant. In case of any consolidation of the Company with, or share reconstruction or amalgamation of the Company with or into, another corporation (other than a consolidation or share reconstruction or amalgamation which does not result in any reclassification or change of the outstanding Shares), the corporation formed by such consolidation or share reconstruction or amalgamation shall execute and deliver to the Holder a supplemental Purchase Warrant providing that the holder of each Purchase Warrant then outstanding or to be outstanding shall have the right thereafter (until the stated expiration of such Purchase Warrant) to receive, upon exercise of such Purchase Warrant, the kind and amount of shares of stock and other securities and property receivable upon such consolidation or share reconstruction or amalgamation, by a holder of the number of Shares for which such Purchase Warrant might have been exercised immediately prior to such consolidation, share reconstruction or amalgamation, sale or transfer. Such supplemental Purchase Warrant shall provide for adjustments which shall be identical to the adjustments provided for in this Section 6. The above provision of this Section shall similarly apply to successive consolidations or share reconstructions or amalgamations.

6.3 Elimination of Fractional Interests. The Company shall not be required to issue certificates representing fractions of Shares upon the exercise of the Purchase Warrant, nor shall it be required to issue scrip or pay cash in lieu of any fractional interests, it being the intent of the parties that all fractional interests shall be eliminated by rounding any fraction up or down, as the case may be, to the nearest whole number of Shares or other securities, properties or rights.

7. Reservation and Listing. The Company shall at all times reserve and keep available out of its authorized Shares, solely for the purpose of issuance upon exercise of the Purchase Warrants, such number of Shares or other securities, properties or rights as shall be issuable upon the exercise thereof. The Company covenants and agrees that, upon exercise of the Purchase Warrants and payment of the Exercise Price therefor, in accordance with the terms hereby, all Shares and other securities issuable upon such exercise shall be duly and validly issued, fully paid and non-assessable and not subject to preemptive rights of any stockholder. The Company further covenants and agrees that upon exercise of the Purchase Warrants and payment of the exercise price therefor, all Shares and other securities issuable upon such exercise shall be duly and validly issued, fully paid and non-assessable and not subject to preemptive rights of any stockholder. As long as the Purchase Warrants shall be outstanding, the Company shall use its commercially reasonable efforts to cause all Shares issuable upon exercise of the Purchase Warrants to be listed (subject to official notice of issuance) on all national securities exchanges (or, if applicable, on the OTC Bulletin Board or any successor trading market) on which the Shares issued to the public in the Offering may then be listed and/or quoted.

8. Certain Notice Requirements.

8.1 Holder's Right to Receive Notice. Nothing herein shall be construed as conferring upon the Holders the right to vote or consent or to receive notice as a stockholder for the election of directors or any other matter, or as having any rights whatsoever as a stockholder of the Company. If, however, at any time prior to the expiration of the Purchase Warrants and their exercise, any of the events described in Section 8.2 shall occur, then, in one or more of said events, the Company shall give written notice of such event at least fifteen (15) days prior to the date fixed as a record date or the date of closing the transfer books for the determination of the stockholders entitled to such

dividend, distribution, conversion or exchange of securities or subscription rights, or entitled to vote on such proposed dissolution, liquidation, winding up or sale. Such notice shall specify such record date or the date of the closing of the transfer books, as the case may be. Notwithstanding the foregoing, the Company shall deliver to each Holder a copy of each notice given to the other stockholders of the Company at the same time and in the same manner that such notice is given to the stockholders.

8.2 Events Requiring Notice. The Company shall be required to give the notice described in this Section 8 upon one or more of the following events: (i) if the Company shall take a record of the holders of its Shares for the purpose of entitling them to receive a dividend or distribution payable otherwise than in cash, or a cash dividend or distribution payable otherwise than out of retained earnings, as indicated by the accounting treatment of such dividend or distribution on the books of the Company; (ii) the Company shall offer to all the holders of its Shares any additional shares of capital stock of the Company or securities convertible into or exchangeable for shares of capital stock of the Company, or any option, right or warrant to subscribe therefor; or (iii) a dissolution, liquidation or winding up of the Company (other than in connection with a consolidation or share reconstruction or amalgamation) or a sale of all or substantially all of its property, assets and business shall be proposed.

8.3 Notice of Change in Exercise Price. The Company shall, promptly after an event requiring a change in the Exercise Price pursuant to Section 6 hereof, send notice to the Holders of such event and change ("**Price Notice**"). The Price Notice shall describe the event causing the change and the method of calculating same and shall be certified as being true and accurate by the Company's Chief Financial Officer.

8.4 Transmittal of Notices. All notices, requests, consents and other communications under this Purchase Warrant shall be in writing and shall be deemed to have been duly made when hand delivered or mailed by express mail or private courier service: (i) if to the registered Holder of the Purchase Warrant, to the address of such Holder as shown on the books of the Company, or (ii) if to the Company, to following address or to such other address as the Company may designate by notice to the Holders:

If to the Holder:

Kingswood Capital Markets
17 Battery Place, Suite 625
New York, New York 10004
Attn: Joseph T. Rallo

with a copy (which shall not constitute notice) to:

Nelson Mullins Riley & Scarborough LLP
101 Constitution Avenue NW, Suite 900
Washington, DC 20001
Attn: Andrew M. Tucker, Esq.
Fax No.: (202) 689-2860

If to the Company:

Digital Brands Group, Inc.
1400 Lavaca Street
Austin, Texas 78701
Attn: John Hilburn Davis IV
Email: hil@dstld.la

with a copy (which shall not constitute notice) to:

Manatt, Phelps & Phillips, LLP
695 Town Center Drive, 14th Floor
Costa Mesa, CA 92646
Attn: Thomas J. Poletti, Esq.
Fax No.: (714) 371-2551

9. Miscellaneous.

9.1 Amendments. The Company and Kingswood may from time to time supplement or amend this Purchase Warrant without the approval of any of the Holders in order to cure any ambiguity, to correct or supplement any provision contained herein that may be defective or inconsistent with any other provisions herein, or to make any other provisions in regard to matters or questions arising hereunder that the Company and Kingswood may deem necessary or desirable and that the Company and Kingswood deem shall not adversely affect the interest of the Holders. All other modifications or amendments shall require the written consent of and be signed by the party against whom enforcement of the modification or amendment is sought.

9.2 Headings. The headings contained herein are for the sole purpose of convenience of reference, and shall not in any way limit or affect the meaning or interpretation of any of the terms or provisions of this Purchase Warrant.

9.3 Entire Agreement. This Purchase Warrant (together with the other agreements and documents being delivered pursuant to or in connection with this Purchase Warrant) constitutes the entire agreement of the parties hereto with respect to the subject matter hereof, and supersedes all prior agreements and understandings of the parties, oral and written, with respect to the subject matter hereof.

9.4 Binding Effect. This Purchase Warrant shall inure solely to the benefit of and shall be binding upon, the Holder and the Company and their permitted assignees, respective successors, legal representative and assigns, and no other person shall have or be construed to have any legal or equitable right, remedy or claim under or in respect of or by virtue of this Purchase Warrant or any provisions herein contained.

9.5 Governing Law; Submission to Jurisdiction; Trial by Jury. This Purchase Warrant shall be governed by and construed and enforced in accordance with the laws of the State of New York, without giving effect to conflict of laws principles thereof. The Company hereby agrees that any action, proceeding or claim against it arising out of, or relating in any way to this Purchase Warrant shall be brought and enforced in the New York Supreme Court, County of New York, or in the United States District Court for the Southern District of New York, and irrevocably submits to such jurisdiction, which jurisdiction shall be exclusive. The Company hereby waives any objection to such exclusive jurisdiction and that such courts represent an inconvenient forum. Any process or summons to be served upon the Company may be served by transmitting a copy thereof by registered or certified mail, return receipt requested, postage prepaid, addressed to it at the address set forth in Section 8 hereof. Such mailing shall be deemed

personal service and shall be legal and binding upon the Company in any action, proceeding or claim. The Company and the Holder agree that the prevailing party(ies) in any such action shall be entitled to recover from the other party(ies) all of its reasonable attorneys' fees and expenses relating to such action or proceeding and/or incurred in connection with the preparation therefor. The Company (on its behalf and, to the extent permitted by applicable law, on behalf of its stockholders and affiliates) and the Holder hereby irrevocably waive, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal proceeding arising out of or relating to this Agreement or the transactions contemplated hereby.

9.6 Waiver, etc. The failure of the Company or the Holder to at any time enforce any of the provisions of this Purchase Warrant shall not be deemed or construed to be a waiver of any such provision, nor to in any way affect the validity of this Purchase Warrant or any provision hereof or the right of the Company or any Holder to thereafter enforce each and every provision of this Purchase Warrant. No waiver of any breach, non-compliance or non-fulfillment of any of the provisions of this Purchase Warrant shall be effective unless set forth in a written instrument executed by the party or parties against whom or which enforcement of such waiver is sought; and no waiver of any such breach, non-compliance or non-fulfillment shall be construed or deemed to be a waiver of any other or subsequent breach, non-compliance or non-fulfillment.

9.7 Execution in Counterparts. This Purchase Warrant may be executed in one or more counterparts, and by the different parties hereto in separate counterparts, each of which shall be deemed to be an original, but all of which taken together shall constitute one and the same agreement, and shall become effective when one or more counterparts has been signed by each of the parties hereto and delivered to each of the other parties hereto. Such counterparts may be delivered by facsimile transmission or other electronic transmission.

9.8 Exchange Agreement. As a condition of the Holder's receipt and acceptance of this Purchase Warrant, Holder agrees that, at any time prior to the complete exercise of this Purchase Warrant by Holder, if the Company and Kingswood enter into an agreement ("**Exchange Agreement**") pursuant to which they agree that all outstanding Purchase Warrants will be exchanged for securities or cash or a combination of both, then Holder shall agree to such exchange and become a party to the Exchange Agreement.

[*Signature Page Follows*]

IN WITNESS WHEREOF, the Company has caused this Purchase Warrant to be signed by its duly authorized officer as of the ____ day of _____, 2021.

DIGITAL BRANDS GROUP, INC.

By: _____
Name:
Title:

[*Form to be used to exercise Purchase Warrant*]

Date: _____, 20___

The undersigned hereby elects irrevocably to exercise the Purchase Warrant for _____ shares of common stock, par value $0.0001 per share (the "**Shares**"), of Digital Brands Group, Inc., a Delaware corporation (the "**Company**"), and hereby makes payment of $____ (at the rate of $____ per Share) in payment of the Exercise Price pursuant thereto. Please issue the Shares as to which this Purchase Warrant is exercised in accordance with the instructions given below and, if applicable, a new Purchase Warrant representing the number of Shares for which this Purchase Warrant has not been exercised.

or

The undersigned hereby elects irrevocably to convert its right to purchase ___ Shares of the Company under the Purchase Warrant for _____ Shares, as determined in accordance with the following formula:

$$X = \frac{Y(A-B)}{A}$$

Where,

X = The number of Shares to be issued to Holder;
Y = The number of Shares for which the Purchase Warrant is being exercised;
A = The fair market value of one Share which is equal to $_____; and
B = The Exercise Price which is equal to $_____ per share

The undersigned agrees and acknowledges that the calculation set forth above is subject to confirmation by the Company and any disagreement with respect to the calculation shall be resolved by the Company in its sole discretion.

Please issue the Shares as to which this Purchase Warrant is exercised in accordance with the instructions given below and, if applicable, a new Purchase Warrant representing the number of Shares for which this Purchase Warrant has not been converted.

Signature _____

Signature Guaranteed _____

INSTRUCTIONS FOR REGISTRATION OF SECURITIES

Name: _____
(Print in Block Letters)

Address: _____

_____

_____

NOTICE: The signature to this form must correspond with the name as written upon the face of the Purchase Warrant without alteration or enlargement or any change whatsoever, and must be guaranteed by a bank, other than a savings bank, or by a trust company or by a firm having membership on a registered national securities exchange.

[*Form to be used to assign Purchase Warrant*]

ASSIGNMENT

(To be executed by the registered Holder to effect a transfer of the within Purchase Warrant):

FOR VALUE RECEIVED, _____ does hereby sell, assign and transfer unto the right to purchase shares of common stock, par value $0.0001 per share, of Digital Brands Group, Inc., a Delaware corporation (the "**Company**"), evidenced by the Purchase Warrant and does hereby authorize the Company to transfer such right on the books of the Company.

Dated: _____, 20__

Signature _____

Signature Guaranteed _____

NOTICE: The signature to this form must correspond with the name as written upon the face of the within Purchase Warrant without alteration or enlargement or any change whatsoever, and must be guaranteed by a bank, other than a savings bank, or by a trust company or by a firm having membership on a registered national securities exchange.

EXHIBIT B

Form of Lock-Up Agreement

Lock-Up Agreement

_____, 2021

Kingswood Capital Markets,
division of Benchmark Investments, Inc.
as Representative of the Underwriters
17 Battery Place, Suite 625
New York, New York 10004

Ladies and Gentlemen:

The undersigned understands that Kingswood Capital Markets, division of Benchmark Investments, Inc. (the "**Representative**") proposes to enter into an Underwriting Agreement (the "**Underwriting Agreement**") with Digital Brands Group, Inc., a Delaware corporation (the "**Company**"), providing for the public offering (the "**Public Offering**") of shares of common stock of the Company, par value $0.0001 per share (the "**Common Stock**"), and warrants to purchase shares of Common Stock (the "**Warrants**," and collectively with the Common Stock, the "**Securities**").

To induce the Representative to continue its efforts in connection with the Public Offering, the undersigned hereby agrees that, without the prior written consent of the Representative, the undersigned will not, during the period commencing on the date hereof and ending 180 days after the date of the final prospectus (the "**Prospectus**") relating to the Public Offering (the "**Lock-Up Period**"), (1) offer, pledge, sell, contract to sell, grant, lend, or otherwise transfer or dispose of, directly or indirectly, any Securities or any securities convertible into or exercisable or exchangeable for the Securities, whether now owned or hereafter acquired by the undersigned or with respect to which the undersigned has or hereafter acquires the power of disposition (collectively, the "**Lock-Up Securities**"); (2) enter into any swap or other arrangement that transfers to another, in whole or in part, any of the economic consequences of ownership of the Lock-Up Securities, whether any such transaction described in clause (1) or (2) above is to be settled by delivery of Lock-Up Securities, in cash or otherwise; (3) make any demand for or exercise any right with respect to the registration of any Lock-Up Securities; or (4) publicly disclose the intention to make any offer, sale, pledge or disposition, or to enter into any transaction, swap, hedge or other arrangement relating to any Lock-Up Securities. Notwithstanding the foregoing, and subject to the conditions below, the undersigned may transfer Lock-Up Securities without the prior written consent of the Representative in connection with (a) transactions relating to Lock-Up Securities acquired in open market transactions after the completion of the Public Offering; provided that no filing under Section 13 or Section 16(a) of the Securities Exchange Act of 1934, as amended (the "**Exchange Act**"), or other public announcement shall be required or shall be voluntarily made during the Lock-Up Period in connection with subsequent sales of Lock-Up Securities acquired in such open market transactions; (b) transfers of Lock-Up Securities as a *bona fide* gift, by will or intestacy or to a family member or trust for the benefit of a family member (for purposes of this lock-up agreement, "family member" means any relationship by blood, marriage or adoption, not more remote than first cousin); (c) transfers of Lock-Up Securities to a charity or educational institution; or (d) if the undersigned, directly or indirectly, controls a corporation, partnership, limited liability company or other business entity, any transfers of Lock-Up Securities to any shareholder, partner or member of, or owner of similar equity interests in, the undersigned, as the case may be; provided that in the case of any transfer pursuant to the foregoing clauses (b), (c) or (d), (i) it shall be a condition to any such transfer that (i) the transferee/donee agrees to be bound by the terms of this lock-up agreement (including, without limitation, the restrictions set forth in the preceding sentence) to the same extent as if the transferee/donee were a party hereto; (ii) each party (donor, donee, transferor or transferee) shall not be required by law (including without limitation the disclosure requirements of the Securities Act of 1933, as amended (the "**Securities Act**"), and the Exchange Act) to make, and shall agree to not voluntarily make, any filing or public announcement of the transfer or disposition prior to the expiration of the Lock-Up Period; and (iii) the undersigned notifies the Representative at least two (2) business days prior to the proposed transfer or disposition.

In addition, the foregoing restrictions shall not apply to (i) the exercise or vesting of stock options or other equity awards granted pursuant to the Company's equity incentive plans; provided that it shall apply to any of the undersigned's Common Stock issued upon such exercise, (ii) the conversion or exercise of convertible debt or warrants; provided that it shall apply to any of the undersigned's Common Stock issued upon such exercise, or (iii) the establishment of any new plan (a "**Plan**") that satisfies all of the requirements of Rule 10b5-1(c)(1)(i)(B) under the Exchange Act; provided that no sales of the undersigned's Securities shall be made pursuant to such new Plan prior to

the expiration of the Lock-Up Period (as such may have been extended pursuant to the provisions hereof), and such a Plan may only be established if no public announcement of the establishment or existence thereof and no filing with the Securities and Exchange Commission or other regulatory authority in respect thereof or transactions thereunder or contemplated thereby, by the undersigned, the Company or any other person, shall be required, and no such announcement or filing is made voluntarily, by the undersigned, the Company or any other person, prior to the expiration of the Lock-Up Period (as such may have been extended pursuant to the provisions hereof).

The undersigned also agrees and consents to the entry of stop transfer instructions with the Company's transfer agent and registrar against the transfer of the undersigned's securities subject to this this lock-up agreement except in compliance with this this lock-up agreement.

If the undersigned is an officer or director of the Company, (i) the undersigned agrees that the foregoing restrictions shall be equally applicable to any Securities that the undersigned may purchase in the Public Offering; (ii) the Representative agrees that, at least three (3) business days before the effective date of any release or waiver of the foregoing restrictions in connection with a transfer of Lock-Up Securities, the Representative will notify the Company of the impending release or waiver; and (iii) the Company has agreed in the Underwriting Agreement to announce the impending release or waiver by press release through a major news service at least two (2) business days before the effective date of the release or waiver. Any release or waiver granted by the Representative hereunder to any such officer or director shall only be effective two (2) business days after the publication date of such press release. The provisions of this paragraph will not apply if (a) the release or waiver is effected solely to permit a transfer of Lock-Up Securities not for consideration and (b) the transferee has agreed in writing to be bound by the same terms described in this lock-up agreement to the extent and for the duration that such terms remain in effect at the time of such transfer.

The undersigned understands that the Company and the Representative are relying upon this lock-up agreement in proceeding toward consummation of the Public Offering. The undersigned further understands that this lock-up agreement is irrevocable and shall be binding upon the undersigned's heirs, legal representatives, successors and assigns.

The undersigned understands that, if the Underwriting Agreement does not become effective, or if the Underwriting Agreement (other than the provisions thereof which survive termination) shall terminate or be terminated prior to payment for and delivery of the Securities to be sold thereunder, the undersigned shall be released from all obligations under this lock-up agreement.

This lock-up agreement shall be governed by, and construed in accordance with, the laws of the State of New York.

Very truly yours,

_____
(Name - Please Print)

_____
(Signature)

_____
(Name of Signatory, in the case of entities - Please Print)

_____
(Title of Signatory, in the case of entities - Please Print)

Address: _____

_____

_____

EXHIBIT C

Form of Press Release

DIGITAL BRANDS GROUP, INC.

[Date]

Digital Brands Group, Inc. (the "Company") announced today that Kingswood Capital Markets, division of Benchmark Investments, Inc., acting as representative for the underwriters in the Company's recent public offering of _____ shares of the Company's Common Stock, and warrants to purchase _____ shares of the Company's Common Stock, is [waiving] [releasing] a lock-up restriction with respect to _____ shares of Common Stock and accompanying Warrants held by [certain officers or directors] [an officer or director] of the Company. The [waiver] [release] will take effect on _____, 20___, and such shares of Common Stock and Warrants may be sold on or after such date.

This press release is not an offer or sale of the securities in the United States or in any other jurisdiction where such offer or sale is prohibited, and such securities may not be offered or sold in the United States absent registration or an exemption from registration under the Securities Act of 1933, as amended.

THIS WARRANT AND THE SECURITIES ISSUABLE HEREUNDER HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR APPLICABLE STATE SECURITIES LAWS AND MAY NOT BE TRANSFERRED OR OTHERWISE DISPOSED OF UNLESS THEY HAVE BEEN REGISTERED UNDER THE SECURITIES ACT AND SUCH LAWS OR (1) REGISTRATION UNDER APPLICABLE STATE SECURITIES LAWS IS NOT REQUIRED, AND (2) AN OPINION OF COUNSEL SATISFACTORY TO THE COMPANY IS FURNISHED TO THE COMPANY TO THE EFFECT THAT REGISTRATION UNDER THE SECURITIES ACT IS NOT REQUIRED. TRANSFER OF THIS WARRANT AND THE SECURITIES ISSUABLE HEREUNDER ARE ALSO SUBJECT TO ADDITIONAL TRANSFER RESTRICTIONS SET FORTH HEREIN.

Warrant No. 2017-CS003 **_____ __, 201_**

DENIM.LA, INC.
STOCK PURCHASE WARRANT

Denim.LA, Inc., a Delaware corporation (the "Company"), hereby certifies that, for value received, bocm3-DSTLD- Senior Debt, LLC, a Utah limited liability company, or its successors (the "Holder"), is entitled, subject to the terms set forth below, to purchase from the Company at any time or from time to time before the earlier of (a) the closing date of an Acquisition, (b) the consummation of an IPO, or (c) 5:00 p.m., Salt Lake City, Utah time, on the tenth (10^{th}) anniversary of the date first set forth above (the earlier of (a), (b) or (c), the "Expiration Date"), the Warrant Stock at the Purchase Price (as hereinafter defined).

This Warrant is to be issued by the Company and grants to the Holder the right to purchase Common Stock of the Company under the terms and conditions set forth herein.

As used herein the following terms, unless the context otherwise requires, have the following respective meanings:

(a) The term "IPO" shall mean the Company's offering of its Common Stock in a firm-commitment underwritten public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended, resulting in at least $50,000,000 of proceeds.

(b) The term "Purchase Price" shall mean $0.16, subject to adjustment as set forth herein.

(c) The term "Warrant Stock" shall mean __ shares of the Common Stock of the Company.

2 . Exercise of Warrant. This Warrant may be exercised in full or in part at any time or from time to time until the Expiration Date by the Holder hereof by surrender of this Warrant and the subscription form annexed hereto (duly completed and executed) by Holder, to the Company at its principal office at _____ Attn: Chief Executive Officer (or such other principal office as is the Company's office of record), accompanied by payment of the Purchase Price. Payment may be paid in cash, by bank or cashiers check, by electronic wire transfer of immediately available funds. On any partial exercise the Company, at its expense, will forthwith issue and deliver to or upon the order of the Holder hereof a new Warrant or Warrants of like tenor, in the name of the Holder hereof, providing in the aggregate on the face or faces thereof for the Warrant Stock for which such Warrant or Warrants may still be exercised, and subject to all terms and conditions (including without limitation exercise limitations) set forth in this Warrant.

3 . Automatic Exercise. To the extent that there has not been an exercise by the Holder pursuant to Section1 or a conversion by the Holder pursuant to Section 14, unless Holder provides written notice to the contrary, any portion of the Warrant that remains unexercised or unconverted shall be exercised automatically in whole (not in part) upon the Expiration Date. Payment by the Holder shall be made within ten (10) days of demand by the Company.

4. Record of Warrant Stock on Exercise. As soon as practicable after the exercise of this Warrant and delivery of the purchase price for the Warrant Stock as set forth in Section 1, above, and in any event within ten (10) days thereafter, the Company at its expense will cause the records of the Company to reflect the issuance of the Warrant Stock acquired pursuant to exercise hereunder in the name of the Holder hereof.

5 . Covenants as to Warrant Stock. The Company covenants and agrees that the Warrant Stock which may be issued upon the exercise of this Warrant will, upon issuance and payment therefore, be validly issued, fully paid and free from all taxes, liens and charges with respect to the issue thereof. The Company further covenants and agrees that it will have authorized and reserved, free from preemptive rights, a sufficient number of its Common Stock to provide for the exercise of this Warrant. In addition, the Company agrees to provide no less than seven (7) days' prior written notice to Holder before making any dividends to holders of its Common Stock, whether in cash, property, stock, or other securities and whether or not a regular cash dividend.

6 . No Stockholder Rights. This Warrant shall not entitle the Holder to any voting rights or other rights as a stockholder of the Company. Notwithstanding the foregoing, from the date hereof, the Company shall grant the Holder the rights granted to Major Investors under Section 3 and 4 of the Amended and Restated Investors' Rights Agreement, dated as of [_____], 2016, between the Company and holders of its Preferred Stock ("Investors' Rights Agreement"); provided, however, that Holder shall not have the rights granted to Fully Exercising Investors (as defined in the Investors' Rights Agreement).

7. Restrictions on Transfer.

(a) Neither this Warrant nor any of the Warrant Stock issuable upon the exercise of all or any portion of this Warrant may be transferred except in accordance with, and subject to, the provisions of this Warrant.

(b) Neither this Warrant nor any Warrant Stock issuable upon exercise of all or any portion of this Warrant may be transferred or assigned by the Holder hereof in whole or in part, unless (i) the transferor provides, at the Company's request, an opinion of counsel satisfactory to the Company that such transfer does not require registration under the Securities Act and the securities law applicable with respect to any other applicable jurisdiction, and (ii) the transferee agrees in writing (in a form satisfactory to the Company) that such transferee shall receive and hold this Warrant and the Warrant Stock subject to the terms and conditions set forth herein.

(c) The Holder acknowledges that this Warrant and the securities issuable upon exercise of the Warrant have not been registered under the Securities Act, or applicable state securities laws and may not be transferred or otherwise disposed of unless it has been registered under that Act and is in compliance with applicable state securities laws or an exemption from registration is available. Any securities issuable upon conversion of the Warrant shall be imprinted with an appropriate legend relating to the transfer restrictions applicable to such securities.

8 . Transfer of Warrant. Subject to the provisions of Section 7 above, any transfers of this Warrant and any rights hereunder shall be effectuated at the office of

the Company referred to in Section 1, upon surrender of this Warrant properly endorsed and upon registration of such transfer with the Company. The Company shall treat the registered Holder hereof as the owner hereof for all purposes.

9 . Adjustments. The number of shares of Common Stock issuable hereunder and the Purchase Price shall be subject to adjustments from time to time in accordance with the following provisions:

(a) In the event the Company at any time after the issuance of this Warrant subdivides its outstanding shares of Common Stock or issues a stock dividend with respect to its Common Stock, the Purchase Price in effect immediately prior to such subdivision or the issuance of such dividend shall be proportionately decreased and the number of shares of Common Stock issuable hereunder proportionately increased and in the event the Company at any time combines the outstanding shares of its Common Stock, the Purchase Price in effect immediately prior to such combination shall be proportionately increased and the number of shares of Common Stock issuable hereunder proportionately decreased, effective at the close of such subdivision, dividend or combination, as the case may be.

(b) Upon any reclassification, exchange, substitution, or other event that results in a change of the number and/or class of the securities issuable upon exercise or conversion of this Warrant or upon the payment of a dividend in securities or property other than Common Stock, the Holder shall be entitled to receive, upon exercise or conversion of this Warrant, the number and kind of securities and property the Holder would have received for the securities issuable upon exercise of this Warrant if this Warrant had been exercised immediately before the record date for such reclassification, exchange, substitution, or other event or immediately prior to the record date for such dividend. The Company or its successor shall promptly issue to Holder a new Warrant for such new securities or other property. The new Warrant shall provide for adjustments which shall be as nearly equivalent as may be practicable to the adjustments provided for in this Section 9 including, without limitation, adjustments to the Purchase Price and to the number of shares of Warrant Stock issuable upon exercise of the new Warrant. The provisions of this Section 9(b) shall similarly apply to successive reclassifications, exchanges, substitutions, or other events and successive dividends.

(c) The Company shall not, by amendment of its Certificate of Incorporation or through a reorganization, transfer of assets, consolidation, merger, dissolution, issue, or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms to be observed or performed under this Warrant by the Company, but shall at all times in good faith assist in carrying out of all the provisions of this Section 9 and in taking all such action as may be necessary or appropriate to protect the Holder's rights under this Section 9 against impairment. If the Company takes any action affecting the Warrant Stock other than as described above that adversely affects Holder's rights under this Warrant, the Purchase Price shall be adjusted downward.

(d) Upon any adjustment of the Purchase Price and any increase or decrease in the number of shares of Common Stock issuable upon the exercise of this Warrant, then, and in each such case, the Company, as promptly as practicable thereafter, shall give written notice thereof to the Holder of this Warrant which notice shall state the Purchase Price as adjusted and the increased or decreased number of shares issuable upon the exercise of this Warrant, setting forth in reasonable detail the method of calculation of each.

(e) No fractional shares shall be issuable upon exercise of this Warrant and the number of shares to be issued shall be rounded down to the nearest whole share. If a fractional share interest arises upon any exercise of the Warrant, the Company shall eliminate such fractional share interest by paying the Holder an amount computed by multiplying the fractional interest by the fair market value of a full share.

1 0 . Observation Rights. Holder will be permitted to send one representative to all meetings of Company's Board of Directors. The Company shall provide Holder a schedule of at least four meetings of the Board of Directors of the Company during each calendar year.

1 1 . Acquisition. The Company shall provide Holder with written notice of an Acquisition (as defined below) (together with such reasonable information as Holder may reasonably require regarding the treatment of this Warrant in connection with such contemplated Acquisition giving rise to such notice), which is to be delivered to Holder not less than ten (10) days prior to the closing of the proposed Acquisition. For the purpose of this Warrant, "Acquisition" means any transaction or series of related transactions involving: (1) the sale, lease, exclusive license, or other disposition of all or a majority of the assets of the Company (other than a transfer or lease by pledge or mortgage to a bona fide lender); (2) any merger or consolidation of the Company into or with another person or entity (other than a merger or consolidation effected exclusively to change the Company's domicile), or any other corporate reorganization, in each case in which the members of the Company in their capacity as such immediately prior to such merger, consolidation or reorganization, own less than a majority of the Company's (or the surviving or successor entity's) outstanding voting power immediately after such merger, consolidation or reorganization; or (3) any sale or other transfer by the members of the Company of stock representing at least a majority of the Company's then-total outstanding combined voting power.

12. Dissolution. Upon any proposed distribution of the assets of the Company in dissolution or liquidation, the Company shall mail notice of such distribution to Holder and shall make no distribution to its members until the expiration of thirty (30) days from the date of mailing of such notice. Upon receipt of such notice, Holder may exercise the Warrants at any time prior to the expiration of such 30-day period and thereafter receive, in its capacity as a holder of Common Stock of the Company, any distributions made to holders of the Common Stock of the Company, if any, in connection with such dissolution or liquidation.

13. Exchange of Warrant. This Warrant is exchangeable upon the surrender hereof by the Holder at the office or agency of the Company designated in Section 1 hereof, for new Warrants of like tenor representing in the aggregate the rights to subscribe for and purchase the Warrant Stock which may be subscribed for and purchased hereunder, each of such new Warrant to represent the right to subscribe for and purchase the Warrant Stock as shall be designated by the Holder hereof at the time of such surrender.

1 4 . Conversion. In lieu of exercising this Warrant or any portion hereof, the Holder shall have the right to convert this Warrant or any portion hereof into Warrant Stock, by executing and delivering to the Company at its principal office the written Notice of Conversion annexed hereto, specifying the portion of the Warrant to be converted, and accompanied by this Warrant. The number of shares of Warrant Stock to be issued to Holder upon such conversion shall be computed using the following formula:

$$X = (P)(Y)(A-B)/A$$

Where X = the number of shares of Warrant Stock to be issued to the Holder for the portion of the Warrant being converted.

P = the portion of the Warrant being converted expressed as a decimal fraction.

Y = the total number of shares of Warranty Stock issuable upon exercise of the Warrant in full.

A = the fair market value of one share of Warrant Stock which shall mean (i) the fair market value of the Company's stock issuable upon conversion of

such share as of the last business day immediately prior to the date the notice of conversion is received by the Company, as determined in good faith by the Company's Board of Directors, or (ii) if this Warrant is being converted in conjunction with a public offering of stock the price to the public per share pursuant to the offering.

B = the Purchase Price on the date of conversion.

Any portion of this Warrant that is converted shall be immediately cancelled. This Warrant or any portion hereof shall be deemed to have been converted immediately prior to the close of business on the date of its surrender for conversion as provided above, and the person entitled to receive the shares of Warrant Stock issuable upon such conversion shall be treated for all purposes as a holder of such shares of record as of the close of business on such date. As promptly as practicable after such date, the Company shall issue and deliver to the person or persons entitled to receive the same a certificate or certificates for the number of full shares of Warrant Stock issuable upon such conversion. If the Warrant shall be converted for less than the total number of shares of Warrant Stock then issuable upon conversion, promptly after surrender of the Warrant upon such conversion, the Company will execute and deliver a new Warrant, dated the date hereof, evidencing the right of the Holder to the balance of the Warrant Stock purchasable hereunder upon the same terms and conditions set forth herein.

15. Lost, Stolen, Mutilated or Destroyed Warrant. If this Warrant is lost, stolen, mutilated or destroyed, the Company may, on such terms as to indemnity or otherwise as it may in its discretion impose (which shall, in the case of a mutilated Warrant, include the surrender thereof), issue a new Warrant of like denomination and tenor as the Warrant so lost, stolen, mutilated or destroyed. Any such new Warrant shall constitute an original contractual obligation of the Company, whether or not the allegedly lost, stolen, mutilated or destroyed Warrant shall be at any time enforceable by anyone.

16. Governing Law. THIS WARRANT SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF DELAWARE WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAWS. BORROWER AND THE LENDER HEREBY WAIVE, TO THE EXTENT PERMITTED BY APPLICABLE LAW, TRIAL BY JURY IN ANY LITIGATION IN ANY COURT WITH RESPECT TO, IN CONNECTION WITH, OR ARISING OUT OF THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE VALIDITY, PROTECTION, INTERPRETATION, COLLECTION OR ENFORCEMENT THEREOF. Each party hereto hereby irrevocably submits and consents to the exclusive jurisdiction of the state and federal courts located in the County of Salt Lake, State of Utah and waives any objection it may now or hereafter have to venue or to convenience of forum with respect to any matter arising out of this Warrant. Any final judgment rendered against a party in any action or proceeding shall be conclusive as to the subject of such final judgment and may be enforced in other jurisdictions.

17. Miscellaneous. The headings in this Warrant are for purposes of reference only, and shall not limit or otherwise affect any of the terms hereof. This Warrant is being executed as an instrument under seal. The invalidity or unenforceability of any provision hereof shall in no way affect the validity or enforceability of any other provision. Neither this Warrant nor any term hereof may be changed or waived orally, but only by an instrument in writing signed by the Company and the Holder of this Warrant. Any notice or other communications from the Company to the Holder of this Warrant may be delivered personally, mailed by United States mail, by facsimile or by electronic mail, in each case to the address furnished to the Company in writing by the last Holder of this Warrant who shall have furnished an address to the Company in writing, and shall be deemed given upon deposit in the United States mail or in the case of other methods of delivery, immediately upon sending by the Company.

18. No Effect on Lending Relationships. Notwithstanding any contrary provision of this Warrant, nothing contained in this Warrant shall affect, limit or impair the rights and remedies of Holder, any of its affiliates, funding or financing sources or any other lenders in their capacities as lenders to the Company or any of its subsidiaries pursuant to any agreement under which the Company or any of its subsidiaries has or from time to time will have borrowed money. Without limiting the generality of the foregoing, no Holder that is a lender to or creditor of the Company or any of its subsidiaries, in exercising its rights as a lender or other creditor, including making its decision on whether to foreclose on any collateral security, shall have any duty to consider (i) its status as a direct or indirect equityholder of the Company or any of its subsidiaries, (ii) the interests of the Company or any of its subsidiaries or (iii) any duty it may have to any other direct or indirect equityholder of the Company, except as may be required under the applicable loan documents or by commercial law applicable to creditors generally. Subject to the other provisions of this Warrant, this Warrant and the Warrant Stock shall be transferable by the Holder without regard to whether the transferee is a lender to the Company.

19. Representations and Warranties of Holder. By acceptance of this Warrant, the Holder hereby represents to the Company as follows:

(a) This Warrant will be acquired for investment for the Holder's own account, not as a nominee or agent, and not with a view to the sale or distribution of any part thereof, and the Holder has no present intention of selling, granting participation in or otherwise distributing the same, but subject, nevertheless, to any requirement of law that the disposition of its property shall at all times be within its control. By executing this Warrant, the Holder further represents that it does not have any contract, undertaking, agreement or arrangement with any person to sell, transfer, or grant participations to such person or to any third person, with respect to the Warrant or the Warrant Stock.

(b) The Holder understands that this Warrant at the time of issuance may not be registered under the Securities Act, and applicable state securities laws, on the ground that the issuance of such securities is exempt pursuant to Section 4(a)(2) of the Securities Act and state law exemptions relating to offers and sales not by means of a public offering, and that the Company's reliance on such exemptions is predicated on the Holder's representations set forth herein.

(c) The Holder (i) has such knowledge and experience in financial and business matters as to be capable of evaluating the merits and substantial risks of such Holder's prospective investment in the Securities; (ii) has the ability to bear the economic risks (including the risk of a total loss) of such Holder's prospective investment in the Securities; (iii) has not been offered the Securities by any form of "general solicitation" or "general advertising" within the meaning of Regulation D promulgated under the Securities Act; and (iv) is an "accredited investor" within the meaning of Regulation D. The Holder represents that it has had the opportunity to ask questions of the Company concerning the Company's business and assets and to obtain any additional information which it considered necessary to verify the accuracy of or to amplify the Company's disclosures, and has had all questions which have been asked by it satisfactorily answered by the Company.

(d) The Holder acknowledges that this Warrant must be held indefinitely unless subsequently registered under the Securities Act or an exemption from such registration is available. The Holder is aware of the provisions of Rule 144 promulgated under the Securities Act which permit limited resale of shares purchased in a private placement subject to the satisfaction of certain conditions, including, among other things, the existence of a public market for the shares, the availability of certain current public information about the Company, the resale occurring not less than one year after a party has purchased and paid for the security to be sold, the sale being through a "broker's transaction" or in transactions directly with a "market makers" (as provided by Rule 144(f)) and the number of shares being sold during any three-month period not exceeding specified limitations.

2 0 . Standoff Agreement. Holder hereby agrees that Holder will not, without the prior written consent of the managing underwriter, during the period commencing on the date of the final prospectus relating to the registration by the Company of shares of its Common Stock or any other equity securities under the Securities Act on a registration statement on Form S-1 or Form S-3, and ending on the date specified by the Company and the managing underwriter (such period not to exceed (x) one hundred eighty (180) days in the case of the Company's initial public offering, or such other period as may be requested by the Company or an underwriter to accommodate regulatory restrictions on (1) the publication or other distribution of research reports and (2) analyst recommendations and opinions, including, but not limited to, the restrictions contained in FINRA Rule 2711(f)(4) or NYSE Rule 472(f)(4), or any successor provisions or amendments thereto), or (y) ninety (90) days in the case of any registration other than the Company's initial public offering, or such other period as may be requested by the Company or an underwriter to accommodate regulatory restrictions on (1) the publication or other distribution of research reports and (2) analyst recommendations and opinions, including, but not limited to, the restrictions contained in FINRA Rule 2711(f)(4) or NYSE Rule 472(f)(4), or any successor provisions or amendments thereto), (i) lend; offer; pledge; sell; contract to sell; sell any option or contract to purchase; purchase any option or contract to sell; grant any option, right, or warrant to purchase; or otherwise transfer or dispose of, directly or indirectly, any shares of Common Stock or any securities convertible into or exercisable or exchangeable (directly or indirectly) for Common Stock (whether such shares or any such securities are then owned by the Holder or are thereafter acquired) or (ii) enter into any swap or other arrangement that transfers to another, in whole or in part, any of the economic consequences of ownership of such securities, whether any such transaction described in clause (i) or (ii) above is to be settled by delivery of Common Stock or other securities, in cash, or otherwise. The foregoing provisions of this Section 11 shall not apply to the sale of any shares to an underwriter pursuant to an underwriting agreement, and shall be applicable to the Holders only if all officers, directors and holders of more than five percent (5%) of the outstanding Common Stock (after giving effect to the conversion into Common Stock of all then-outstanding Preferred Stock) are subject to the same restrictions. The underwriters in connection with such registration are intended third- party beneficiaries of this Section 20 and shall have the right, power, and authority to enforce the provisions hereof as though they were a party hereto. Holder further agrees to execute such agreements as may be reasonably requested by the underwriters in connection with such registration that are consistent with this Section 20 or that are necessary to give further effect thereto. In order to enforce the covenant under this Section 20, the Company may impose stop-transfer instructions with respect to the Common Stock or any securities convertible into or exercisable or exchangeable for Common Stock of Holder (and the shares or securities of each transferee and assignee thereof and every other person subject to the foregoing restriction) until the end of such period.

IN WITNESS WHEREOF, the Company has caused this Warrant to be issued as of the date first written above.

Denim.LA, Inc.

By: _____
Name: _____
Title: _____

Acknowledged and Accepted:

bocm3-DSTLD-Senior Debt, LLC

By: _____
Name: _____
Its: _____

Address:_____

_____

_____

Facsimile:_____

Email Address:_____

[Signature Page to Warrant]

FORM OF SUBSCRIPTION

(To be signed only on exercise of Warrant)

TO DENIM.LA, INC.:

The undersigned, the holder of the within Warrant, hereby irrevocably elects to exercise this Warrant for, and to purchase thereunder, _____ shares of _____ Common Stock in Denim.LA, Inc. (the "Company") and herewith makes payment of $_____ therefor in cash.

In exercising the Warrant, the undersigned hereby represents and warrants to the Company as follows:

(a) The securities to be received upon the exercise of the Warrant (the "Securities") will be acquired for investment for its own account, not as a nominee or agent, and not with a view to the sale or distribution of any part thereof, and the undersigned has no present intention of selling, granting participation in or otherwise distributing the same, but subject, nevertheless, to any requirement of law that the disposition of its property shall at all times be within its control. By executing this Form of

Subscription, the undersigned further represents that it does not have any contract, undertaking, agreement or arrangement with any person to sell, transfer, or grant participations to such person or to any third person, with respect to any Securities issuable upon exercise of the Warrant.

(b) The undersigned understands that the Securities issuable upon exercise of the Warrant at the time of issuance may not be registered under the Securities Act of 1933, as amended (the "Securities Act"), and applicable state securities laws, on the ground that the issuance of such securities is exempt pursuant to Section 4(a)(2) of the Securities Act and state law exemptions relating to offers and sales not by means of a public offering, and that the Company's reliance on such exemptions is predicated on the undersigned's representations set forth herein.

(c) This Securities issuable upon exercise of the Warrant may not be transferred or assigned by the Holder hereof in whole or in part, other than in compliance with the terms and conditions of the Warrant.

(d) The undersigned acknowledges that an investment in the Company is highly speculative and represents that it is able to fend for itself in the transactions contemplated by this Form of Subscription, has such knowledge and experience in financial and business matters as to be capable of evaluating the merits and risks of its investments, and has the ability to bear the economic risks (including the risk of a total loss) of its investment. The undersigned (i) has such knowledge and experience in financial and business matters as to be capable of evaluating the merits and substantial risks of the undersigned's investment contemplated by this Form of Subscription; (ii) has the ability to bear the economic risks (including the risk of a total loss) of the investment; (iii) has not been offered the Securities by any form of "general solicitation" or "general advertising" within the meaning of Regulation D promulgated under the Securities Act; and (iv) is an "accredited investor" within the meaning of Regulation D. The undersigned represents that it has had the opportunity to ask questions of the Company concerning the Company's business and assets and to obtain any additional information which it considered necessary to verify the accuracy of or to amplify the Company's disclosures, and has had all questions which have been asked by it satisfactorily answered by the Company.

(e) The undersigned acknowledges that the Securities issuable upon exercise of the Warrant must be held indefinitely unless subsequently registered under the Securities Act or an exemption from such registration is available. The undersigned is aware of the provisions of Rule 144 promulgated under the Securities Act which permit limited resale of shares purchased in a private placement subject to the satisfaction of certain conditions, including, among other things, the existence of a public market for the shares, the availability of certain current public information about the Company, the resale occurring not less than one year after a party has purchased and paid for the security to be sold, the sale being through a "broker's transaction" or in transactions directly with a "market makers" (as provided by Rule 144(f)) and the number of shares being sold during any three-month period not exceeding specified limitations.

Dated: _____

(Signature must conform to name of holder as specified on the face of the Warrant)

_____

_____

(Address)

NOTICE OF CONVERSION

TO: DENIM.LA, INC.

1. The undersigned hereby elects to acquire shares of Common stock of Denim.LA, Inc. pursuant to the terms of the attached Warranty, by conversion of ____ percent (__%) of the Warrant.

2. Please issue a certificate representing said shares of Common Stock in the name of the undersigned or in such other name as is specified below:

_____

(Name)

_____

(Address)

Dated: _____

By: _____

Name: _____

Title: _____

SERIES SEED PREFERRED STOCK PURCHASE AGREEMENT

THIS SERIES SEED PREFERRED STOCK PURCHASE AGREEMENT (this "**Agreement**"), is made as of October 10, 2014 by and among Denim.LA, a Delaware corporation (the "**Company**"), the investors listed on Exhibit A attached to this Agreement (each a "**Purchaser**" and together the "**Purchasers**").

The parties hereby agree as follows:

1. Purchase and Sale of Preferred Stock.

1.1 Sale and Issuance of Series Seed Preferred Stock.

(a) The Company shall adopt and file with the Secretary of State of the State of Delaware on or before the Initial Closing (as defined below) the Amended and Restated Certificate of Incorporation in the form of Exhibit B attached to this Agreement (the "**Restated Certificate**").

(b) Subject to the terms and conditions of this Agreement, each Purchaser agrees to purchase at the Closing and the Company agrees to sell and issue to each Purchaser at the Closing that number of shares of Series Seed Preferred Stock, $0.0001 par value per share (the **"Series Seed Preferred Stock**"), set forth opposite each Purchaser's name on Exhibit A, at a purchase price of $0.271976161108161 per share. The shares of Series Seed Preferred Stock issued to the Purchasers pursuant to this Agreement (including any shares issued at the Initial Closing and any Additional Shares, as defined below) shall be referred to in this Agreement as the "**Shares**."

1.2 Closing; Delivery.

(a) The initial purchase and sale of the Shares shall take place remotely via the exchange of documents and signatures, at such time and place as the Company and the Purchasers mutually agree upon, orally or in writing (which time and place are designated as the "**Initial Closing**"). In the event there is more than one closing, the term "**Closing**" shall apply to each such closing unless otherwise specified.

(b) At each Closing, the Company shall deliver to each Purchaser a certificate representing the Shares being purchased by such Purchaser at such Closing against payment of the purchase price therefor by check payable to the Company, by wire transfer to a bank account designated by the Company, by cancellation or conversion of indebtedness of the Company to Purchaser, including interest, or by any combination of such methods.

1.3 Sale of Additional Shares of Preferred Stock. After the Initial Closing, the Company may sell, on the same terms and conditions as those contained in this Agreement, additional shares of Series Seed Preferred Stock (the "**Additional Shares**"), to one or more purchasers (the "**Additional Purchasers**"), provided that each Additional Purchaser shall become a party to the Transaction Agreements (as defined below), by executing and delivering a counterpart signature page to each of the Transaction Agreements, and provided further that the aggregate number of Shares (including Additional Shares) sold in all Closings shall not exceed 21,209,487 (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or similar recapitalization affecting such shares). Exhibit A to this Agreement shall be updated to reflect the number of Additional Shares purchased at each such Closing and the parties purchasing such Additional Shares. In the event that payment by a Purchaser is made, in whole or in part, by cancellation of indebtedness, then such Purchaser shall surrender to the Company for cancellation at the Closing any evidence of indebtedness or shall execute an instrument of cancellation and lost promissory note and indemnity agreement in form and substance acceptable to the Company.

1.4 Defined Terms Used in this Agreement. In addition to the terms defined above, the following terms used in this Agreement shall be construed to have the meanings set forth or referenced below.

(a) "**Affiliate**" means, with respect to any specified Person, any other Person who, directly or indirectly, controls, is controlled by, or is under common control with such Person, including, without limitation, any general partner, managing member, officer or director of such Person or any venture capital fund now or hereafter existing that is controlled by one or more general partners or managing members of, or shares the same management company with, such Person.

(b) "**Code**" means the Internal Revenue Code of 1986, as amended.

(c) "**Company Covered Person**" means, with respect to the Company as an "issuer" for purposes of Rule 506 promulgated under the Securities Act, any Person listed in the first paragraph of Rule 506(d)(1).

(d) "**Company Intellectual Property**" means all patents, patent applications, trademarks, trademark applications, service marks, service mark applications, tradenames, copyrights, trade secrets, domain names, mask works, information and proprietary rights and processes, similar or other intellectual property rights, subject matter of any of the foregoing, tangible embodiments of any of the foregoing, licenses in, to and under any of the foregoing, and any and all such cases that are owned or used by the Company in the conduct of the Company's business as now conducted.

(e) "**Indemnification Agreement**" means the agreement between the Company and the director designated by any Purchaser entitled to designate a member of the Board of Directors pursuant to the Voting Agreement, dated as of the date of the Initial Closing, in the form of Exhibit D attached to this Agreement.

(f) "**Investors' Rights Agreement**" means the agreement among the Company and the Purchasers and certain other stockholders of the Company dated as of the date of the Initial Closing, in the form of Exhibit E attached to this Agreement.

(g) "**Key Employee**" means Corey Epstein and Mark Lynn.

(h) "**Knowledge**" including the phrase "**to the Company's knowledge**" shall mean the actual knowledge after reasonable investigation of the Key Employees.

(i) "**Material Adverse Effect**" means a material adverse effect on the business, assets (including intangible assets), liabilities, financial condition, property or results of operations of the Company.

(j) "**Person**" means any individual, corporation, partnership, trust, limited liability company, association or other entity.

(k) "**Purchaser**" means each of the Purchasers who is initially a party to this Agreement and any Additional Purchaser who becomes a party to this Agreement at a subsequent Closing under Subsection 1.3.

(l) "**Right of First Refusal and Co-Sale Agreement**" means the agreement among the Company, the Purchasers, and certain other stockholders of the Company, dated as of the date of the Initial Closing, in the form of Exhibit G attached to this Agreement.

(m) "**Securities Act**" means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

(n) "**Shares**" means the shares of Series Seed Preferred Stock issued at the Initial Closing and any Additional Shares issued at a subsequent Closing under Subsection 1.3.

(o) "**Transaction Agreements**" means this Agreement, the Investors' Rights Agreement, the Right of First Refusal and Co-Sale Agreement and the Voting Agreement.

(p) "**Voting Agreement**" means the Amended and Restated Voting Agreement among the Company, the Purchasers and certain other stockholders of the Company, dated as of the date of the Initial Closing, in the form of Exhibit H attached to this Agreement.

2. Representations and Warranties of the Company. The Company hereby represents and warrants to each Purchaser that, except as set forth on the Disclosure Schedule attached as Exhibit C to this Agreement (and subject to the provisions set forth on the first page of such Disclosure Schedule), which exceptions shall be deemed to be part of the representations and warranties made hereunder, the following representations are true and complete as of the date of the Initial Closing, except as otherwise indicated.

For purposes of these representations and warranties (other than those in Subsections 2.2, 2.3, 2.4, 2.5, and 2.6), the term the "**Company**" shall include any subsidiaries of the Company, unless otherwise noted herein.

2.1 Organization, Good Standing, Corporate Power and Qualification. The Company is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and has all requisite corporate power and authority to carry on its business as presently conducted. The Company is duly qualified to transact business and is in good standing in each jurisdiction in which the failure to so qualify would have a Material Adverse Effect.

2.2 Capitalization.

(a) The authorized capital of the Company consists, immediately prior to the Initial Closing, of:

(i) 49,000,000 shares of common stock, $0.0001 par value per share (the "**Common Stock**"), 9,396,362 shares of which are issued and outstanding immediately prior to the Initial Closing. All of the outstanding shares of Common Stock have been duly authorized, are fully paid and nonassessable and were issued in compliance with all applicable federal and state securities laws.

(ii) 21,209,487 shares of Preferred Stock, all of which shares have been designated Series Seed Preferred Stock, none of which are issued and outstanding immediately prior to the Initial Closing. The rights, privileges and preferences of the Preferred Stock are as stated in the Restated Certificate and as provided by the Delaware General Corporation Law.

(b) The Company has reserved 12,742,395 shares of Common Stock for issuance to officers, directors, employees and consultants of the Company pursuant to its 2013 Stock Plan duly adopted by the Board of Directors and approved by the Company stockholders (the "**Stock Plan**"). Of such reserved shares of Common Stock, 88,000 shares have been issued pursuant to restricted stock purchase agreements, options to purchase 4,629,319 shares have been granted and are currently outstanding, and 8,025,076 shares of Common Stock remain available for issuance to officers, directors, employees and consultants pursuant to the Stock Plan. The Company has furnished to the Purchasers complete and accurate copies of the Stock Plan and forms of agreements used thereunder.

(c) Except for (A) the conversion privileges of the Shares to be issued under this Agreement, (B) the rights provided in Section 4 of the Investors' Rights Agreement, and (C) the securities and rights described in Subsections 2.2(a) and 2.2(b) of this Agreement (including without limitation any securities and rights described in Subsections 2.2(a) and 2.2(b) of the Disclosure Schedule), there are no outstanding options, warrants, rights (including conversion or preemptive rights and rights of first refusal or similar rights) or agreements, orally or in writing, to purchase or acquire from the Company any shares of Common Stock or Series Seed Preferred Stock, or any securities convertible into or exchangeable for shares of Common Stock or Series Seed Preferred Stock. All outstanding shares of the Company's Common Stock and all shares of the Company's Common Stock underlying outstanding options are subject to (i) a right of first refusal in favor of the Company upon any proposed transfer (other than transfers for estate planning purposes); and (ii) a lock-up or market standoff agreement of not less than one hundred eighty (180) days following the Company's initial public offering pursuant to a registration statement filed with the Securities and Exchange Commission under the Securities Act.

(d) None of the Company's stock purchase agreements or stock option documents contains a provision for acceleration of vesting (or lapse of a repurchase right) or other changes in the vesting provisions or other terms of such agreement or understanding upon the occurrence of any event or combination of events, including without limitation in the case where the Company's Stock Plan is not assumed in an acquisition. The Company has never adjusted or amended the exercise price of any stock options previously awarded, whether through amendment, cancellation, replacement grant, repricing, or any other means. Except as set forth in the Restated Certificate, the Company has no obligation (contingent or otherwise) to purchase or redeem any of its capital stock.

(e) The Company has obtained valid waivers of any rights by other parties to purchase any of the Shares covered by this Agreement.

2.3 Subsidiaries. The Company does not currently own or control, directly or indirectly, any interest in any other corporation, partnership, trust, joint venture, limited liability company, association, or other business entity. The Company is not a participant in any joint venture, partnership or similar arrangement.

2.4 Authorization. All corporate action required to be taken by the Company's Board of Directors and stockholders in order to authorize the Company to enter into the Transaction Agreements, and to issue the Shares at the Closing and the Common Stock issuable upon conversion of the Shares pursuant to the Restated Certificate (the "**Conversion Shares**"), has been taken or will be taken prior to the Closing. All action on the part of the officers of the Company necessary for the execution and delivery of the Transaction Agreements, the performance of all obligations of the Company under the Transaction Agreements to be performed as of the Closing, and the issuance and delivery of the Shares has been taken or will be taken prior to the Closing. The Transaction Agreements, when executed and delivered by the Company, shall constitute valid and legally binding obligations of the Company, enforceable against the Company in accordance with their respective terms except (i) as limited by applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance, or other laws of general application relating to or affecting the enforcement of creditors' rights generally, (ii) as

limited by laws relating to the availability of specific performance, injunctive relief, or other equitable remedies, or (iii) to the extent the indemnification provisions contained in the Investors' Rights Agreement and the Indemnification Agreement may be limited by applicable federal or state securities laws.

2.5 Valid Issuance of Shares.

(a) The Shares, when issued, sold and delivered in accordance with the terms and for the consideration set forth in this Agreement, will be validly issued, fully paid and nonassessable and free of restrictions on transfer other than restrictions on transfer under the Transaction Agreements, applicable state and federal securities laws and liens or encumbrances created by or imposed by a Purchaser. Assuming the accuracy of the representations of the Purchasers in Section 3 of this Agreement and subject to the filings described in Subsection 2.6(ii) below, the Shares will be issued in compliance with all applicable federal and state securities laws. The Common Stock issuable upon conversion of the Shares pursuant to the Restated Certificate has been duly reserved for issuance, and upon issuance in accordance with the terms of the Restated Certificate, will be validly issued, fully paid and nonassessable and free of restrictions on transfer other than restrictions on transfer under the Transaction Agreements, applicable federal and state securities laws and liens or encumbrances created by or imposed by a Purchaser. Based in part upon the representations of the Purchasers in Section 3 of this Agreement, and subject to Subsection 2.6 below, the Common Stock issuable upon conversion of the Shares will pursuant to the Restated Certificate be issued in compliance with all applicable federal and state securities laws.

(b) No "bad actor" disqualifying event described in Rule 506(d)(1)(i)-(viii) of the Securities Act (a "**Disqualification Event**") is applicable to the Company or, to the Company's knowledge, any Company Covered Person, except for a Disqualification Event as to which Rule 506(d)(2)(ii–iv) or (d)(3), is applicable.

2.6 Governmental Consents and Filings. Assuming the accuracy of the representations made by the Purchasers in Section 3 of this Agreement, no consent, approval, order or authorization of, or registration, qualification, designation, declaration or filing with, any federal, state or local governmental authority is required on the part of the Company in connection with the consummation of the transactions contemplated by this Agreement, except for (i) the filing of the Restated Certificate, which will have been filed as of the Initial Closing, and (ii) filings pursuant to Regulation D of the Securities Act, and applicable state securities laws, which have been made or will be made in a timely manner.

2.7 Litigation. There is no claim, action, suit, proceeding, arbitration, complaint, charge or (to the Company's knowledge) investigation pending or to the Company's knowledge, currently threatened (i) against the Company or, to the Company's knowledge, any officer, director or Key Employee of the Company arising out of their employment or board relationship with the Company; (ii) to the Company's knowledge, that questions the validity of the Transaction Agreements or the right of the Company to enter into them, or to consummate the transactions contemplated by the Transaction Agreements; or (iii) to the Company's knowledge, that would reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect. Neither the Company nor, to the Company's knowledge, any of its officers, directors or Key Employees is a party or is named as subject to the provisions of any order, writ, injunction, judgment or decree of any court or government agency or instrumentality (in the case of officers, directors or Key Employees, such as would affect the Company). There is no action, suit, proceeding or investigation by the Company pending or which the Company intends to initiate. The foregoing sentence includes, without limitation, actions, suits, proceedings or investigations pending or threatened in writing involving the prior employment of any of the Company's employees, their services provided in connection with the Company's business, or any information or techniques allegedly proprietary to any of their former employers, or their obligations under any agreements with prior employers.

2.8 Intellectual Property. To the Company's knowledge (other than with respect to patents, patent applications, trademarks, trademark applications), the Company owns or possesses or can acquire on commercially reasonable terms sufficient legal rights to all Company Intellectual Property without any known conflict with, or infringement of, the rights of others. To the Company's knowledge, no product or service marketed or sold by the Company violates any license or infringes any intellectual property rights of any other party. Other than with respect to commercially available software products under standard end-user object code license agreements, there are no outstanding options, licenses, agreements, claims, encumbrances or shared ownership interests of any kind relating to the Company Intellectual Property, nor is the Company bound by or a party to any options, licenses or agreements of any kind with respect to the patents, trademarks, service marks, trade names, copyrights, trade secrets, licenses, information, proprietary rights and processes of any other Person. The Company has not received any communications alleging that the Company has violated, or by conducting its business, would violate any of the patents, trademarks, service marks, tradenames, copyrights, trade secrets, mask works or other proprietary rights or processes of any other Person. The Company owns, or has obtained and possesses valid licenses to use, all of the software programs present on the computers and other software-enabled electronic devices that it owns or leases or that it has otherwise provided to its employees for their use in connection with the Company's business. To the Company's knowledge, it will not be necessary to use any inventions of any of its employees or consultants (or Persons it currently intends to hire) made prior to their employment by the Company, except for inventions that have been assigned to the Company. Each employee and consultant has assigned to the Company all intellectual property rights he or she owns that are related to the Company's business as now conducted. Subsection 2.8 of the Disclosure Schedule lists all registered patents, patent applications, trademarks, trademark applications, service marks, service mark applications, trade names and copyrights owned by the Company. The Company has not embedded in any of its publicly-released products any open source, copyleft or community source code distributed under any license that imposes specified obligations upon the Company, including but not limited to any libraries or code licensed under any General Public License or Lesser General Public License. For purposes of this Subsection 2.8, the Company shall be deemed to have knowledge of a patent right if the Company has actual knowledge (as defined in Section 1.4(h) of this Agreement) of the patent right.

2.9 Compliance with Other Instruments. The Company is not in violation or default (i) of any provisions of its Restated Certificate or Bylaws, (ii) of any judgment, order, writ or decree, (iii) under any note, indenture or mortgage, (iv) under any lease, agreement, contract, instrument or purchase order to which it is a party or by which it is bound that is required to be listed on the Disclosure Schedule, or, (v) any provision of federal or state statute, rule or regulation applicable to the Company, in the case of each of subsections (i) through (v) the violation of which would have a Material Adverse Effect. The execution, delivery and performance of the Transaction Agreements on the part of the Company and the consummation of the transactions contemplated by the Transaction Agreements on the part of the Company will not result in any such violation or be in conflict with or constitute, with or without the passage of time and giving of notice, either (i) a default under any such provision, instrument, contract, agreement, judgment, order, writ or decree, or (ii) an event which results in the creation of any lien, charge or encumbrance upon any assets of the Company or the suspension, revocation, forfeiture, or nonrenewal of any material permit or license applicable to the Company.

2.10 Agreements; Actions.

(a) Except for the Transaction Agreements, there are no agreements, understandings, instruments, contracts or transactions to which the Company is a party or by which it is bound that involve (i) obligations (contingent or otherwise) of, or payments to, the Company individually in excess of $50,000 per annum, (ii) the license of any patent, copyright, trademark, trade secret or other proprietary right to or from the Company, (iii) the grant of rights to manufacture, produce, assemble, license, market, or sell its products to any other Person that limit the Company's exclusive right to develop, manufacture, assemble, distribute, market or sell its products, or (iv) indemnification by the Company with respect to infringements of proprietary rights.

(b) The Company has not (i) declared or paid any dividends, or authorized or made any distribution upon or with respect to any class or series of its capital stock, (ii) incurred any indebtedness for money borrowed or incurred any other liabilities individually in excess of $50,000 or in excess of $250,000 in the aggregate, (iii) made any loans or advances to any Person, other than ordinary advances for travel expenses, or (iv) sold, exchanged or otherwise disposed of any of its assets or rights, other than the sale of its inventory in the ordinary course of business. For the purposes of (a) and (b) of this Subsection 2.10, all indebtedness, liabilities, agreements, understandings, instruments, contracts and transactions involving the same Person (including Persons the Company has reason to believe are affiliated with each other) shall be aggregated for the purpose of meeting the individual minimum dollar amounts of such subsection.

(c) The Company is not a guarantor or indemnitor of any indebtedness of any other Person.

2.11 Certain Transactions.

(a) Other than (i) standard employment offer letters and consulting services agreements, (ii) standard employee benefits generally made available to all employees, (iii) standard director and officer indemnification agreements approved by the Board of Directors, and (iv) the purchase of shares of the Company's capital stock and the issuance of options to purchase shares of the Company's Common Stock, in each instance, approved in the written minutes of the Board of Directors, there are no agreements, understandings or transactions between the Company and any of its officers, directors, consultants or Key Employees, or any Affiliate thereof.

(b) The Company is not indebted, directly or indirectly, to any of its directors, officers or employees or to their respective spouses or children or to any Affiliate of any of the foregoing, other than in connection with expenses or advances of expenses incurred in the ordinary course of business or employee relocation expenses and for other customary employee benefits made generally available to all employees. None of the Company's directors, officers or employees, or to the Company's knowledge any members of their immediate families, or to the Company's knowledge any Affiliate of the foregoing are, directly or indirectly, indebted to the Company.

2.12 Rights of Registration and Voting Rights. Except as provided in the Investors' Rights Agreement, the Company is not under any obligation to register under the Securities Act any of its currently outstanding securities or any securities issuable upon exercise or conversion of its currently outstanding securities. To the Company's knowledge, except as contemplated in the Voting Agreement, no stockholder of the Company has entered into any agreements with respect to the voting of capital shares of the Company.

2.13 Property. The property and assets that the Company owns are free and clear of all mortgages, deeds of trust, liens, loans and encumbrances, except for statutory liens for the payment of current taxes that are not yet delinquent and encumbrances and liens that arise in the ordinary course of business and do not materially impair the Company's ownership or use of such property or assets. With respect to the property and assets it leases, the Company is in compliance with such leases and, to its knowledge, holds a valid leasehold interest free of any liens, claims or encumbrances other than those of the lessors of such property or assets. The Company does not own any real property.

2.14 Financial Statements. The Company has delivered to each Purchaser its unaudited financial statements as of August 30, 2014 (the "**Balance Sheet Date**") and for the fiscal year ended December 31, 2013 (collectively, the "**Financial Statements**"). The Financial Statements have been prepared in accordance with generally accepted accounting principles ("**GAAP**") applied on a consistent basis throughout the periods indicated, except that the unaudited Financial Statements may not contain all footnotes required by GAAP. The Financial Statements fairly present in all material respects the financial condition and operating results of the Company as of the dates, and for the periods, indicated therein, subject in the case of the unaudited Financial Statements to normal year-end audit adjustments. Except as set forth in the Financial Statements, the Company has no material liabilities or obligations, contingent or otherwise, other than (i) liabilities incurred in the ordinary course of business subsequent to the Balance Sheet Date; (ii) obligations under contracts and commitments incurred in the ordinary course of business; and (iii) liabilities and obligations of a type or nature not required under GAAP to be reflected in the Financial Statements, which, in all such cases, individually and in the aggregate would not have a Material Adverse Effect. The Company maintains and will continue to maintain a standard system of accounting established and administered in accordance with GAAP.

2.15 Changes. Since the Balance Sheet Date there has not been:

(a) any change in the assets, liabilities, financial condition or operating results of the Company from that reflected in the Financial Statements, except changes in the ordinary course of business that have not caused, in the aggregate, a Material Adverse Effect;

(b) any damage, destruction or loss, whether or not covered by insurance, that would have a Material Adverse Effect;

(c) any waiver or compromise by the Company of a valuable right or of a material debt owed to it;

(d) any satisfaction or discharge of any lien, claim, or encumbrance or payment of any obligation by the Company, except in the ordinary course of business and the satisfaction or discharge of which would not have a Material Adverse Effect;

(e) any material change to a material contract or agreement by which the Company or any of its assets is bound or subject;

(f) any material change in any compensation arrangement or agreement with any Key Employee, officer, director or stockholder;

(g) any resignation or termination of employment of any officer or Key Employee of the Company;

(h) any mortgage, pledge, transfer of a security interest in, or lien, created by the Company, with respect to any of its material properties or assets, except liens for taxes not yet due or payable and liens that arise in the ordinary course of business and do not materially impair the Company's ownership or use of such property or assets;

(i) any loans or guarantees made by the Company to or for the benefit of its employees, officers or directors, or any members of their immediate families, other than travel advances and other advances made in the ordinary course of its business;

(j) any declaration, setting aside or payment or other distribution in respect of any of the Company's capital stock, or any direct or indirect redemption, purchase, or other acquisition of any of such stock by the Company;

(k) any sale, assignment or transfer of any Company Intellectual Property that could reasonably be expected to result in a Material Adverse Effect; or

(l) any arrangement or commitment by the Company to do any of the things described in this Subsection 2.15.

2.16 Employee Matters.

To the Company's knowledge, none of its employees is obligated under any contract (including licenses, covenants or commitments of any nature) or other agreement, or subject to any judgment, decree or order of any court or administrative agency, that would materially interfere with such employee's ability to promote the interest of the Company or that would conflict with the Company's business. Neither the execution or delivery of the Transaction Agreements, nor the carrying on of the Company's business by the employees of the Company, nor the conduct of the Company's business as now conducted and as presently proposed to be conducted, will, to the Company's knowledge, conflict with or result in a breach of the terms, conditions, or provisions of, or constitute a default under, any contract, covenant or instrument under which any such employee is now obligated. The Company has complied in all material respects with all applicable state and federal equal employment opportunity laws and with other laws related to employment, including those related to wages, hours, worker classification and collective bargaining.

To the Company's knowledge, no Key Employee intends to terminate employment with the Company or is otherwise likely to become unavailable to continue as a Key Employee, nor does the Company have a present intention to terminate the employment of any of the foregoing. The employment of each employee of the Company is terminable at the will of the Company.

To the Company's knowledge, none of the Key Employees or directors of the Company has been (a) convicted in a criminal proceeding or named as a subject of a pending criminal proceeding (excluding traffic violations and other minor offenses); (b) subject to any order, judgment or decree (not subsequently reversed, suspended, or vacated) of any court of competent jurisdiction permanently or temporarily enjoining him from engaging, or otherwise imposing limits or conditions on his engagement in any securities, investment advisory, banking, insurance, or other type of business or acting as an officer or director of a public company; or (c) found by a court of competent jurisdiction in a civil action or by the Securities and Exchange Commission or the Commodity Futures Trading Commission to have violated any federal or state securities, commodities, or unfair trade practices law, which such judgment or finding has not been subsequently reversed, suspended, or vacated.

2.17 Tax Returns and Payments. There are no federal, state, county, local or foreign taxes due and payable by the Company which have not been timely paid (other than in an aggregate amount not material to the Company). There are no accrued and unpaid federal, state, country, local or foreign taxes of the Company which are due, whether or not assessed or disputed (other than in an aggregate amount not material to the Company). There have been no examinations or audits of any tax returns or reports by any applicable federal, state, local or foreign governmental agency. The Company has duly and timely filed, or has obtained presently effective extensions with respect to, all federal, state, county, local and foreign tax returns required to have been filed by it, and there are in effect no waivers of applicable statutes of limitations with respect to taxes for any year.

2.18 Insurance. The Company has in full force and effect fire and casualty insurance policies with extended coverage, sufficient in amount (subject to reasonable deductions) to allow it to replace any of its properties that might be damaged or destroyed.

2.19 Employee Agreements. Each current and former employee, consultant and officer of the Company has executed an agreement with the Company regarding confidentiality and proprietary information substantially in the form or forms delivered to the counsel for the Purchasers (the "**Confidential Information Agreements**"). No current or former Key Employee has excluded works or inventions from his or her assignment of inventions pursuant to such Key Employee's Confidential Information Agreement. Each current and former Key Employee has executed a non-solicitation agreement substantially in the form or forms delivered to counsel for the Purchasers. To the Company's knowledge, none of the Key Employees is in violation of any agreement covered by this Subsection 2.19.

2.20 Permits. The Company has all franchises, permits, licenses and any similar authority necessary for the conduct of its business as now being conducted, the lack of which could reasonably be expected to have a Material Adverse Effect. The Company is not in default in any material respect under any of such franchises, permits, licenses or other similar authority.

2.21 Corporate Documents. The Restated Certificate and Bylaws of the Company are in the form provided to the Purchasers. The copy of the minute books of the Company provided to the Purchasers contains minutes of all meetings of directors and stockholders and all actions by written consent without a meeting by the directors and stockholders since the date of incorporation and accurately reflects in all material respects all actions by the directors (and any committee of directors) and stockholders with respect to all transactions referred to in such minutes.

2.22 83(b) Elections. To the Company's knowledge, all elections and notices under Section 83(b) of the Code have been or will be timely filed by all individuals who have acquired unvested shares of the Company's Common Stock at or before the Initial Closing.

2.23 Real Property Holding Corporation. The Company is not now and has never been a "United States real property holding corporation" as defined in the Code and any applicable regulations promulgated thereunder. The Company has filed with the Internal Revenue Service all statements, if any, with its United States income tax returns which are required under such regulations.

2.24 Environmental and Safety Laws. Except as could not reasonably be expected to have a Material Adverse Effect, to the best of its knowledge, (a) the Company is and has been in compliance with all Environmental Laws; (b) there has been no release or, to the Company's knowledge, threatened release of any pollutant, contaminant or toxic or hazardous material, substance or waste or petroleum or any fraction thereof (each a "**Hazardous Substance**"), on, upon, into or from any site currently or heretofore owned, leased or otherwise used by the Company; (c) there have been no Hazardous Substances generated by the Company that have been disposed of or come to rest at any site that has been included in any published U.S. federal, state or local "superfund" site list or any other similar list of hazardous or toxic waste sites published by any governmental authority in the United States; and (d) there are no underground storage tanks located on, no polychlorinated biphenyls ("**PCBs**") or PCB-containing equipment used or stored on, and no hazardous waste as defined by the Resource Conservation and Recovery Act, as amended, stored on, any site owned or operated by the Company, except for the storage of hazardous waste in compliance with Environmental Laws. The Company has made available to the Purchasers true and complete copies of all material environmental records, reports, notifications, certificates of need, permits, pending permit applications, correspondence, engineering studies and environmental studies or assessments.

For purposes of this Subsection 2.24, "**Environmental Laws**" means any law, regulation, or other applicable requirement relating to (a) releases or threatened release of Hazardous Substance; (b) pollution or protection of employee health or safety, public health or the environment; or (c) the manufacture, handling, transport, use, treatment, storage, or disposal of Hazardous Substances.

2.25 Disclosure. No representation or warranty of the Company contained in this Agreement, as qualified by the Disclosure Schedule, and no certificate furnished or to be furnished to Purchasers at the Closing, contains any untrue statement of a material fact or, to the Company's knowledge, omits to state a material fact

necessary in order to make the statements contained herein or therein not misleading in light of the circumstances under which they were made. It is understood that this representation is qualified by the fact that the Company has not delivered to the Purchasers, and has not been requested to deliver, a private placement or similar memorandum or any written disclosure of the types of information customarily furnished to purchasers of securities.

2.26 Foreign Corrupt Practices Act. Neither the Company nor, to the Company's knowledge, any of the Company's directors, officers, employees or agents have, directly or indirectly, made, offered, promised or authorized any payment or gift of any money or anything of value to or for the benefit of any "foreign official" (as such term is defined in the U.S. Foreign Corrupt Practices Act of 1977, as amended (the "FCPA")), foreign political party or official thereof or candidate for foreign political office for the purpose of (i) influencing any official act or decision of such official, party or candidate, (ii) inducing such official, party or candidate to use his, her or its influence to affect any act or decision of a foreign governmental authority, or (iii) securing any improper advantage, in the case of (i), (ii) and (iii) above in order to assist the Company or any of its affiliates in obtaining or retaining business for or with, or directing business to, any person. Neither the Company nor, to the Company's knowledge, any of its directors, officers, employees or agents have made or authorized any bribe, rebate, payoff, influence payment, kickback or other unlawful payment of funds or received or retained any funds in violation of any law, rule or regulation. The Company further represents that it has maintained, and has caused each of its subsidiaries and affiliates to maintain, systems of internal controls (including, but not limited to, accounting systems, purchasing systems and billing systems) to ensure compliance with the FCPA or any other applicable anti-bribery or anti-corruption law. Neither the Company nor, to the Company's knowledge, any of its officers, directors or employees are the subject of any allegation, voluntary disclosure, investigation, prosecution or other enforcement action related to the FCPA or any other anti-corruption law (collectively, "Enforcement Action").

2.27 Data Privacy. In connection with its collection, storage, transfer (including, without limitation, any transfer across national borders) and/or use of any personally identifiable information from any individuals, including, without limitation, any customers, prospective customers, employees and/or other third parties (collectively "**Personal Information**"), the Company is, and has been, to the Company's knowledge, in material compliance with all applicable laws in all relevant jurisdictions, the Company's privacy policies and the requirements of any contract or codes of conduct to which the Company is a party. The Company has commercially reasonable security measures in place to protect Personal Information collected by it or on its behalf from and against unauthorized access, use and/or disclosure. The Company is and has been, to the Company's knowledge, in compliance in all material respects with all laws relating to notification obligations with respect to unauthorized disclosure of private Personal Information.

3. Representations and Warranties of the Purchasers. Each Purchaser hereby represents and warrants to the Company, severally and not jointly, that:

3.1 Authorization. The Purchaser has full power and authority to enter into the Transaction Agreements. The Transaction Agreements to which the Purchaser is a party, when executed and delivered by the Purchaser, will constitute valid and legally binding obligations of the Purchaser, enforceable in accordance with their terms, except (a) as limited by applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance and any other laws of general application affecting enforcement of creditors' rights generally, and as limited by laws relating to the availability of specific performance, injunctive relief or other equitable remedies, or (b) to the extent the indemnification provisions contained in the Investors' Rights Agreement may be limited by applicable federal or state securities laws.

3.2 Purchase Entirely for Own Account. This Agreement is made with the Purchaser in reliance upon the Purchaser's representation to the Company, which by the Purchaser's execution of this Agreement, the Purchaser hereby confirms, that the Shares and the Conversion Shares (collectively, the " **Securities**") to be acquired by the Purchaser will be acquired for investment for the Purchaser's own account, not as a nominee or agent, and not with a view to the resale or distribution of any part thereof, and that the Purchaser has no present intention of selling, granting any participation in, or otherwise distributing the same. By executing this Agreement, the Purchaser further represents that the Purchaser does not presently have any contract, undertaking, agreement or arrangement with any Person to sell, transfer or grant participations to such Person or to any third Person, with respect to any of the Securities. The Purchaser has not been formed for the specific purpose of acquiring the Securities.

3.3 Disclosure of Information. The Purchaser has had an opportunity to discuss the Company's business, management, financial affairs and the terms and conditions of the offering of the Securities with the Company's management and has had an opportunity to review the Company's facilities and such books and records and material contracts as the Purchaser deemed necessary to its determination to purchase the Securities. The Purchaser has relied only upon the information provided to him or her in writing by the Company, or information from books and records of the Company. No oral representations have been made to Purchaser or his or her advisor(s) by the Company in connection with the offering of Securities which were not contained in, or were inconsistent with, Section 2 of this Agreement. The foregoing, however, does not limit or modify the representations and warranties of the Company in Section 2 of this Agreement or the right of the Purchasers to rely thereon.

3.4 Restricted Securities. The Purchaser understands that the Securities have not been, and will not be, registered under the Securities Act, by reason of a specific exemption from the registration provisions of the Securities Act which depends upon, among other things, the bona fide nature of the investment intent and the accuracy of the Purchaser's representations as expressed herein. The Purchaser understands that the Securities are "restricted securities" under applicable U.S. federal and state securities laws and that, pursuant to these laws, the Purchaser must hold the Securities indefinitely unless they are registered with the Securities and Exchange Commission and qualified by state authorities, or an exemption from such registration and qualification requirements is available. The Purchaser acknowledges that the Company has no obligation to register or qualify the Securities for resale except as set forth in the Investors' Rights Agreement. The Purchaser further acknowledges that (a) there is no assurance that any exemption from registration or qualification will be available, and (b) if an exemption from registration or qualification is available, it may be conditioned on various requirements including, but not limited to, the time and manner of sale, the holding period for the Securities, and on requirements relating to the Company which are outside of the Purchaser's control, and which the Company is under no obligation and may not be able to satisfy, and therefore that there is no assurance that any such exemption will allow the Purchaser to dispose of, or otherwise transfer, all or any portion of the Securities.

3.5 No Public Market. The Purchaser understands that no public market now exists for the Securities, and that the Company has made no assurances that a public market will ever exist for the Securities.

3.6 Legends. The Purchaser understands that the Securities and any securities issued in respect of or exchange for the Securities, may bear one or all of the following legends:

"THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND HAVE BEEN ACQUIRED FOR INVESTMENT AND NOT WITH A VIEW TO, OR IN CONNECTION WITH, THE SALE OR DISTRIBUTION THEREOF. NO SALE, TRANSFER, ASSIGNMENT, PLEDGE OR HYPOTHOCATION OF SUCH SECURITIES MAY BE EFFECTED WITHOUT AN EFFECTIVE REGISTRATION

STATEMENT RELATED THERETO OR AN OPINION OF COUNSEL IN A FORM SATISFACTORY TO THE COMPANY STATING THAT SUCH SALE, TRANSFER, ASSIGNMENT, PLEDGE OR HYPOTHOCATION IS EXEMPT FROM THE REGISTRATION AND PROSPECTUS DELIVERY REQUIREMENTS UNDER THE SECURITIES ACT OF 1933, AS AMENDED."

(a) Any legend set forth in, or required by, the other Transaction Agreements.

(b) Any legend required by the securities laws of any state to the extent such laws are applicable to the Securities represented by the certificate so legended.

3.7 Relationship to Company; Sophistication; Experience. The Purchaser either (i) has a preexisting business or personal relationship with the Company and/or any of its officers, directors or controlling persons or (ii) such Purchaser, either alone or with his or her purchaser representative(s), has such knowledge and experience in financial and business matters that he is capable of evaluating the merits and risks of the prospective investment in the Securities. Each purchaser representative, if any, in connection with the Purchaser's investment in the Securities, has confirmed in writing the specific details of any and all past, present or future relationships, actual or contemplated, between the Purchaser or the Purchaser's affiliates and the Company or any of the Company's affiliates.

3.8 Accredited Investor. The Purchaser is an accredited investor as defined in Rule 501(a) of Regulation D promulgated under the Securities Act.

3.9 Purchaser's Liquidity. The Purchaser (i) has no need for liquidity in the Purchaser's investment, (ii) is able to bear the substantial economic risks of an investment in the Securities for an indefinite period and (iii) at the present time, can afford a complete loss of such investment. The Purchaser's current commitments to illiquid investments is not disproportionate to the Purchaser's net worth, and the Purchaser's investment in the Securities will not cause such commitment to become disproportionate.

3.10 Risks. The Purchaser is aware that the Securities are highly speculative and that there can be no assurance as to what return, if any, there may be. The Purchaser is aware that the Company may issue additional securities in the future which could result in the dilution of the Purchaser's ownership interest in the Company.

3.11 Foreign Investors. If the Purchaser is not a United States person (as defined by Section 7701(a)(30) of the Code), the Purchaser hereby represents that it has satisfied itself as to the full observance of the laws of its jurisdiction in connection with any invitation to subscribe for the Securities or any use of this Agreement, including (i) the legal requirements within its jurisdiction for the purchase of the Securities, (ii) any foreign exchange restrictions applicable to such purchase, (iii) any governmental or other consents that may need to be obtained, and (iv) the income tax and other tax consequences, if any, that may be relevant to the purchase, holding, redemption, sale, or transfer of the Securities. The Purchaser's subscription and payment for and continued beneficial ownership of the Securities will not violate any applicable securities or other laws of the Purchaser's jurisdiction

3.12 No General Solicitation. Neither the Purchaser, nor any of its officers, directors, employees, agents, stockholders or partners has either directly or indirectly, including through a broker or finder (a) engaged in any general solicitation, or (b) published any advertisement in connection with the offer and sale of the Securities. Further, the Purchaser was not offered or sold the Securities, directly or indirectly, by means of any form of general solicitation or general advertisement, including (i) any advertisement, article, notice or other communication published in any newspaper, magazine or similar medium or broadcast over television, radio or the Internet or (ii) any seminar or other meeting whose attendees had been invited by general solicitation or general advertising.

3.13 Exculpation Among Purchasers. The Purchaser acknowledges that it is not relying upon any Person, other than the Company and its officers and directors, in making its investment or decision to invest in the Company. The Purchaser agrees that neither any Purchaser nor the respective controlling Persons, officers, directors, partners, agents, or employees of any Purchaser shall be liable to any other Purchaser for any action heretofore taken or omitted to be taken by any of them in connection with the purchase of the Securities.

3.14 Residence. If the Purchaser is an individual, then the Purchaser is at least 21 years of age and resides in the state or province identified in the address of the Purchaser set forth on Exhibit A; if the Purchaser is a partnership, corporation, limited liability company or other entity, then the Purchaser is authorized and otherwise duly qualified to purchase and hold the Securities, and the office or offices of the Purchaser in which its principal place of business is identified in the address or addresses of the Purchaser set forth on Exhibit A.

3.15 Consent to Promissory Note Conversion and Termination. Each Purchaser, to the extent that such Purchaser, as set forth on the Schedule of Purchasers, is a holder of any promissory note of the Company being converted and/or cancelled in consideration of the issuance hereunder of Shares to such Purchaser, hereby agrees that the entire amount owed to such Purchaser under such note is being tendered to the Company in exchange for the applicable Shares set forth on the Schedule of Purchasers, and effective upon the Company's and such Purchaser's execution and delivery of this Agreement, without any further action required by the Company or such Purchaser, such note and all obligations set forth therein shall be immediately deemed repaid in full and terminated in their entirety, including, but not limited to, any security interest effected therein.

4. Conditions to the Purchasers' Obligations at Closing. The obligations of each Purchaser to purchase Shares at the Initial Closing are subject to the fulfillment, on or before such Initial Closing, of each of the following conditions, unless otherwise waived by the Purchasers of more than fifty percent (50%) of the Shares sold at the Closing, which consent may be given by written, email, oral or telephone communication to the Company or its counsel:

4.1 Representations and Warranties. The representations and warranties of the Company contained in Section 2 shall be true and correct in all respects as of such Closing.

4.2 Performance. The Company shall have performed and complied with all covenants, agreements, obligations and conditions contained in this Agreement that are required to be performed or complied with by the Company on or before such Closing.

4.3 Qualifications. All authorizations, approvals or permits, if any, of any governmental authority or regulatory body of the United States or of any state that are required in connection with the lawful issuance and sale of the Shares pursuant to this Agreement shall be obtained and effective as of such Closing, other than those filings pursuant to Regulation D of the Securities Act and applicable state securities laws that are permitted to be made after the Closing, which will be made in a timely manner.

4.4 Board of Directors. As of the Initial Closing, the authorized size of the Board shall be five (5), and the Board shall be comprised of Corey Epstein, Mark Lynn, Trevor Pettennude, John Tomich and one vacancy.

4.5 Indemnification Agreement. The Company shall have executed and delivered the Indemnification Agreements.

4.6 Investors' Rights Agreement. The Company and each Purchaser (other than the Purchaser relying upon this condition to excuse such Purchaser's performance hereunder) and the other stockholders of the Company named as parties thereto shall have executed and delivered the Investors' Rights Agreement.

4.6 Right of First Refusal and Co-Sale Agreement. The Company, each Purchaser (other than the Purchaser relying upon this condition to excuse such Purchaser's performance hereunder), and the other stockholders of the Company named as parties thereto shall have executed and delivered the Right of First Refusal and Co-Sale Agreement.

4.7 Voting Agreement. The Company, each Purchaser (other than the Purchaser relying upon this condition to excuse such Purchaser's performance hereunder), and the other stockholders of the Company named as parties thereto shall have executed and delivered the Voting Agreement.

4.8 Restated Certificate. The Company shall have filed the Restated Certificate with the Secretary of State of Delaware on or prior to the Closing, which shall continue to be in full force and effect as of the Closing.

4.9 Proceedings and Documents. All corporate and other proceedings in connection with the transactions contemplated at the Closing and all documents incident thereto shall be reasonably satisfactory in form and substance to each Purchaser, and each Purchaser (or its counsel) shall have received all such counterpart original and certified or other copies of such documents as reasonably requested.

5. Conditions of the Company's Obligations at Closing. The obligations of the Company to sell Shares to the Purchasers at the Initial Closing or any subsequent Closing are subject to the fulfillment, on or before the Closing, of each of the following conditions, unless otherwise waived by the Company, which consent may be given by written, email, oral or telephone communication to the Purchasers of more than fifty percent (50%) of the Shares sold at the Closing or their counsel:

5.1 Representations and Warranties. The representations and warranties of each Purchaser contained in Section 3 shall be true and correct in all respects as of such Closing.

5.2 Performance. The Purchasers shall have performed and complied in all material respects with all covenants, agreements, obligations and conditions contained in this Agreement that are required to be performed or complied with by them on or before such Closing.

5.3 Qualifications. All authorizations, approvals or permits, if any, of any governmental authority or regulatory body of the United States or of any state that are required in connection with the lawful issuance and sale of the Shares pursuant to this Agreement shall be obtained and effective as of the Closing, other than those filings pursuant to Regulation D of the Securities Act and applicable state securities laws that are permitted to be made after the Closing, which will be made in a timely manner.

5.4 Investors' Rights Agreement. Each Purchaser shall have executed and delivered the Investors' Rights Agreement.

5.5 Right of First Refusal and Co-Sale Agreement. Each Purchaser and the other stockholders of the Company named as parties thereto shall have executed and delivered the Right of First Refusal and Co-Sale Agreement.

5.6 Voting Agreement. Each Purchaser and the other stockholders of the Company named as parties thereto shall have executed and delivered the Voting Agreement.

5.7 Restated Certificate. The Company, using its reasonable best efforts, shall have filed the Restated Certificate with the Secretary of State of Delaware on or prior to the Closing, which shall continue to be in full force and effect as of the Closing.

6. Miscellaneous.

6.1 Survival of Warranties. Unless otherwise set forth in this Agreement, the representations and warranties of the Company and the Purchasers contained in or made pursuant to this Agreement shall survive the execution and delivery of this Agreement and the Closing and shall in no way be affected by any investigation or knowledge of the subject matter thereof made by or on behalf of the Purchasers or the Company.

6.2 Successors and Assigns. Except as otherwise set forth herein, the terms and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the parties hereto. Nothing in this Agreement, express or implied, is intended to confer upon any party other than the parties hereto or their respective successors and assigns any rights, remedies, obligations or liabilities under or by reason of this Agreement, except as expressly provided in this Agreement.

6.3 Governing Law. This Agreement and any controversy arising out of or relating to this Agreement shall be governed by and construed in accordance with the internal law of the State of Delaware, without regard to conflict of law principles.

6.4 Counterparts. This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Counterparts may be delivered via facsimile, electronic mail (including pdf or any electronic signature complying with the U.S. federal ESIGN Act of 2000, *e.g.*, www.docusign.com) or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes, and enforceable against the parties actually executing such counterparts.

6.5 Titles and Subtitles; References. The titles and subtitles used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement. All references in this Agreement to sections, paragraphs, exhibits and schedules shall, unless otherwise provided, refer to sections and paragraphs hereof and exhibits and schedules attached hereto, all of which exhibits and schedules are incorporated herein by this reference

6.6 Notices. All notices and other communications given or made pursuant to this Agreement shall be in writing and shall be deemed effectively given upon the earlier of actual receipt, or (a) personal delivery to the party to be notified, (b) when sent, if sent by electronic mail or facsimile during normal business hours of the recipient, and if not sent during normal business hours, then on the recipient's next business day, (c) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (d) one (1) business day after deposit with a nationally recognized overnight courier, freight prepaid, specifying next business day delivery, with written verification of receipt. All communications shall be sent to the respective parties at their address as set forth on the signature page or Exhibit A or to such e-mail address, facsimile number or address as subsequently modified by written notice given in accordance with this Subsection 6.6.

6.7 No Finder's Fees. Each party represents that it neither is nor will be obligated for any finder's fee or commission in connection with this

transaction. Each Purchaser agrees to indemnify and to hold harmless the Company from any liability for any commission or compensation in the nature of a finder's or broker's fee arising out of this transaction (and the costs and expenses of defending against such liability or asserted liability) for which each Purchaser or any of its officers, employees or representatives is responsible. The Company agrees to indemnify and hold harmless each Purchaser from any liability for any commission or compensation in the nature of a finder's or broker's fee arising out of this transaction (and the costs and expenses of defending against such liability or asserted liability) for which the Company or any of its officers, employees or representatives is responsible.

6.8 Fees and Expenses. Each party to this Agreement shall pay its own fees, expenses and administrative costs related to the preparation, negotiation, execution and delivery of the Transaction Agreements and the other agreements contemplated therein, and the consummation of the transactions contemplated therein, except as otherwise expressly set forth in the Transaction Agreements.

6.9 Costs and Attorneys' Fees . Notwithstanding any other provision herein, if any action at law or in equity (including arbitration) is instituted under or in relation to the Transaction Agreements, including without limitation to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to recover from the losing party all fees, costs and expenses of enforcing or interpreting the terms of the Transaction Agreements, including without limitation reasonable attorneys' and accountants' fees, costs and necessary disbursements (including with respect to appeals) in addition to any other relief to which such party may be entitled.

6.10 Amendments and Waivers. Except as set forth in Subsection 1.3 of this Agreement, any term of this Agreement may be amended, terminated or waived (either generally or in a particular instance and either retroactively or prospectively) only with the written consent of the Company, and (i) the holders of at least a majority of the then-outstanding Shares, or (ii) for an amendment, termination or waiver effected prior to the Initial Closing, Purchasers obligated to purchase at least a majority of the Shares to be issued at the Initial Closing. Any amendment or waiver effected in accordance with this Subsection 6.10 shall be binding upon the Purchasers and each transferee of the Shares (or any Common Stock issuable upon conversion thereof), each future holder of all such securities, and the Company.

6.11 Severability. The invalidity or unenforceability of any provision hereof shall in no way affect the validity or enforceability of any other provision.

6.12 Delays or Omissions. No delay or omission to exercise any right, power or remedy accruing to any party under this Agreement, upon any breach or default of any other party under this Agreement, shall impair any such right, power or remedy of such non-breaching or non-defaulting party nor shall it be construed to be a waiver of any such breach or default, or an acquiescence therein, or of or in any similar breach or default thereafter occurring; nor shall any waiver of any single breach or default be deemed a waiver of any other breach or default theretofore or thereafter occurring. Any waiver, permit, consent or approval of any kind or character on the part of any party of any breach or default under this Agreement, or any waiver on the part of any party of any provisions or conditions of this Agreement, must be in writing and shall be effective only to the extent specifically set forth in such writing. All remedies, either under this Agreement or by law or otherwise afforded to any party, shall be cumulative and not alternative.

6.13 Entire Agreement. This Agreement (including the Exhibits hereto), the Restated Certificate and the other Transaction Agreements constitute the full and entire understanding and agreement between the parties with respect to the subject matter hereof, and any other written or oral agreement relating to the subject matter hereof existing between the parties are expressly canceled.

6.14 Corporate Securities Law. THE SALE OF THE SECURITIES WHICH ARE THE SUBJECT OF THIS AGREEMENT HAS NOT BEEN QUALIFIED WITH THE COMMISSIONER OF CORPORATIONS OF THE STATE OF CALIFORNIA AND THE ISSUANCE OF THE SECURITIES OR THE PAYMENT OR RECEIPT OF ANY PART OF THE CONSIDERATION THEREFOR PRIOR TO THE QUALIFICATION IS UNLAWFUL, UNLESS THE SALE OF SECURITIES IS EXEMPT FROM THE QUALIFICATION BY SECTION 25100, 25102 OR 25105 OF THE CALIFORNIA CORPORATIONS CODE. THE RIGHTS OF ALL PARTIES TO THIS AGREEMENT ARE EXPRESSLY CONDITIONED UPON THE QUALIFICATION BEING OBTAINED UNLESS THE SALE IS SO EXEMPT.

6.15 Dispute Resolution. Any unresolved controversy or claim arising out of or relating to this Agreement, except as (i) otherwise provided in this Agreement, or (ii) any such controversies or claims arising out of either party's intellectual property rights for which a provisional remedy or equitable relief is sought, shall be submitted to arbitration by one arbitrator mutually agreed upon by the parties, and if no agreement can be reached within thirty (30) days after names of potential arbitrators have been proposed by the American Arbitration Association (the "**AAA**"), then by one arbitrator having reasonable experience in corporate finance transactions of the type provided for in this Agreement and who is chosen by the AAA. The arbitration shall take place in Los Angeles, California, in accordance with the AAA rules then in effect, and judgment upon any award rendered in such arbitration will be binding and may be entered in any court having jurisdiction thereof. There shall be limited discovery prior to the arbitration hearing as follows: (a) exchange of witness lists and copies of documentary evidence and documents relating to or arising out of the issues to be arbitrated, (b) depositions of all party witnesses, and (c) such other depositions as may be allowed by the arbitrators upon a showing of good cause. Depositions shall be conducted in accordance with the California Code of Civil Procedure, the arbitrator shall be required to provide in writing to the parties the basis for the award or order of such arbitrator, and a court reporter shall record all hearings, with such record constituting the official transcript of such proceedings.

6.16 No Commitment for Additional Financing. The Company acknowledges and agrees that no Purchaser has made any representation, undertaking, commitment or agreement to provide or assist the Company in obtaining any financing, investment or other assistance, other than the purchase of the Shares as set forth herein and subject to the conditions set forth herein. In addition, the Company acknowledges and agrees that (i) no statements, whether written or oral, made by any Purchaser or its representatives on or after the date of this Agreement shall create an obligation, commitment or agreement to provide or assist the Company in obtaining any financing or investment, (ii) the Company shall not rely on any such statement by any Purchaser or its representatives, and (iii) an obligation, commitment or agreement to provide or assist the Company in obtaining any financing or investment may only be created by a written agreement, signed by such Purchaser and the Company, setting forth the terms and conditions of such financing or investment and stating that the parties intend for such writing to be a binding obligation or agreement. Each Purchaser shall have the right, in its sole and absolute discretion, to refuse or decline to participate in any other financing of or investment in the Company, and shall have no obligation to assist or cooperate with the Company in obtaining any financing, investment or other assistance.

6.17 Waiver of Conflicts. Each party to this Agreement acknowledges that Strategic Law Partners, LLP ("**SLP**"), outside legal counsel to the Company, has in the past performed and is or may now or in the future represent one or more Purchasers or their Affiliates in matters unrelated to the transactions contemplated by this Agreement (the "**Financing**"), including representation of such Purchasers or their Affiliates in matters of a similar nature to the Financing. SLP believes that its representation of the Company in the Financing will not adversely affect its relationship with those of the Purchasers who are clients of SLP, and that its representation of those Purchasers in matters unrelated to the Financing will not adversely affect SLP's representation of the Company in the Financing. The applicable rules of professional conduct require that SLP inform the parties hereunder of this dual representation and obtain their consent to SLP's representation of the Company, and their waiver of the conflict of interest which arises from their representation of the Company adverse to any of the Purchaser who are clients of SLP. SLP has served as outside legal counsel to the Company and has negotiated the terms of the Financing solely on behalf of the Company. The Company and each Purchaser hereby (a) acknowledge that they have had an opportunity to ask for and have obtained information relevant to such representation, including disclosure of the reasonably foreseeable adverse consequences of such representation; (b) acknowledge that with respect to the Financing, SLP has represented solely the Company, and not any Purchaser or any stockholder, director or employee of the Company or any Purchaser; (c) gives its informed consent to SLP's representation of the Company in the Financing; and (d) represents that it has had the opportunity to be, or has been,

represented by independent counsel in giving the waivers contained in this Section 6.17.

[*signature pages follow*]

IN WITNESS WHEREOF, the parties have executed this Series Seed Preferred Stock Purchase Agreement as of the date first written above.

COMPANY:

By: _____

Name: _____
(print)

Title: _____

Address:

_____

_____

with a copy to (which shall not constitute notice):

Strategic Law Partners, LLP
Attn: Bradley Schwartz
500 S. Grand Avenue, Suite 2050
Los Angeles, California 90071

Signature Page to Stock Purchase Agreement

IN WITNESS WHEREOF, the parties have executed this Series Seed Preferred Stock Purchase Agreement as of the date first written above.

PURCHASERS:

_____
(Print Name of Purchaser)

By: _____

Name: _____
(print)

Title: _____

Address: _____

_____

Signature Page to Stock Purchase Agreement

EXHIBITS

Exhibit A – SCHEDULE OF PURCHASERS

Exhibit B – FORM OF AMENDED AND RESTATED CERTIFICATE OF INCORPORATION

Exhibit C – DISCLOSURE SCHEDULE

Exhibit D – FORM OF INDEMNIFICATION AGREEMENT

Exhibit E – FORM OF INVESTORS' RIGHTS AGREEMENT

Exhibit F – FORM OF RIGHT OF FIRST REFUSAL AND CO-SALE AGREEMENT

Exhibit G – FORM OF AMENDED AND RESTATED VOTING AGREEMENT

Exhibit 4.6

SUBSCRIPTION AGREEMENT

THIS INVESTMENT INVOLVES A HIGH DEGREE OF RISK. THIS INVESTMENT IS SUITABLE ONLY FOR PERSONS WHO CAN BEAR THE ECONOMIC RISK FOR AN INDEFINITE PERIOD OF TIME AND WHO CAN AFFORD TO LOSE THEIR ENTIRE INVESTMENT. FURTHERMORE, INVESTORS MUST UNDERSTAND THAT SUCH INVESTMENT IS ILLIQUID AND IS EXPECTED TO CONTINUE TO BE ILLIQUID FOR AN INDEFINITE PERIOD OF TIME. NO PUBLIC MARKET EXISTS FOR THE SECURITIES, AND NO PUBLIC MARKET IS EXPECTED TO DEVELOP FOLLOWING THIS OFFERING.

THE SECURITIES OFFERED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "***SECURITIES ACT***"), OR ANY STATE SECURITIES OR BLUE SKY LAWS AND ARE BEING OFFERED AND SOLD IN RELIANCE ON EXEMPTIONS FROM THE REGISTRATION REQUIREMENTS OF THE ACT AND STATE SECURITIES OR BLUE SKY LAWS. ALTHOUGH AN OFFERING STATEMENT HAS BEEN FILED WITH THE SECURITIES AND EXCHANGE COMMISSION (THE "***SEC***"), THAT OFFERING STATEMENT DOES NOT INCLUDE THE SAME INFORMATION THAT WOULD BE INCLUDED IN A REGISTRATION STATEMENT UNDER THE ACT. THE SECURITIES HAVE NOT BEEN APPROVED OR DISAPPROVED BY THE SEC, ANY STATE SECURITIES COMMISSION OR OTHER REGULATORY AUTHORITY, NOR HAVE ANY OF THE FOREGOING AUTHORITIES PASSED UPON THE MERITS OF THIS OFFERING OR THE ADEQUACY OR ACCURACY OF THE SUBSCRIPTION AGREEMENT OR ANY OTHER MATERIALS OR INFORMATION MADE AVAILABLE TO INVESTOR IN CONNECTION WITH THIS OFFERING, OVER THE WEB-BASED PLATFORM MAINTAINED BY SEEDINVEST TECHNOLOGY, LLC (THE "PLATFORM") OR THROUGH NORTH CAPITAL PRIVATE SECURITIES CORPORATION (THE "BROKER"). ANY REPRESENTATION TO THE CONTRARY IS UNLAWFUL.

THE SECURITIES CANNOT BE SOLD OR OTHERWISE TRANSFERRED EXCEPT IN COMPLIANCE WITH THE SECURITIES ACT. IN ADDITION, THE SECURITIES CANNOT BE SOLD OR OTHERWISE TRANSFERRED EXCEPT IN COMPLIANCE WITH APPLICABLE STATE SECURITIES OR "BLUE SKY" LAWS.

INVESTORS WHO ARE NOT "ACCREDITED INVESTORS" (AS THAT TERM IS DEFINED IN SECTION 501 OF REGULATION D PROMULGATED UNDER THE SECURITIES ACT) ARE SUBJECT TO LIMITATIONS ON THE AMOUNT THEY MAY INVEST, AS SET OUT IN SECTION 4(g). THE COMPANY IS RELYING ON THE REPRESENTATIONS AND WARRANTIES SET FORTH BY EACH INVESTOR IN THIS SUBSCRIPTION AGREEMENT AND THE OTHER INFORMATION PROVIDED BY INVESTOR IN CONNECTION WITH THIS OFFERING TO DETERMINE THE APPLICABILITY TO THIS OFFERING OF EXEMPTIONS FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.

PROSPECTIVE INVESTORS MAY NOT TREAT THE CONTENTS OF THE SUBSCRIPTION AGREEMENT, THE OFFERING CIRCULAR OR ANY OF THE OTHER MATERIALS AVAILIBLE ON THE PLATFORM OR PROVIDED BY THE COMPANY AND/OR BROKER (COLLECTIVELY, THE " ***OFFERING MATERIALS***"), OR ANY PRIOR OR SUBSEQUENT COMMUNICATIONS FROM THE COMPANY OR ANY OF ITS OFFICERS, EMPLOYEES OR AGENTS (INCLUDING "TESTING THE WATERS" MATERIALS) AS INVESTMENT, LEGAL OR TAX ADVICE. IN MAKING AN INVESTMENT DECISION, INVESTORS MUST RELY ON THEIR OWN EXAMINATION OF THE COMPANY AND THE TERMS OF THIS OFFERING, INCLUDING THE MERITS AND THE RISKS INVOLVED.

EACH PROSPECTIVE INVESTOR SHOULD CONSULT THE INVESTOR'S OWN COUNSEL, ACCOUNTANTS AND OTHER PROFESSIONAL ADVISORS AS TO INVESTMENT, LEGAL, TAX AND OTHER RELATED MATTERS CONCERNING THE INVESTOR'S PROPOSED INVESTMENT.

THE OFFERING MATERIALS MAY CONTAIN FORWARD-LOOKING STATEMENTS AND INFORMATION RELATING TO, AMONG OTHER THINGS, THE COMPANY, ITS BUSINESS PLAN AND STRATEGY, AND ITS INDUSTRY. THESE FORWARD-LOOKING STATEMENTS ARE BASED ON THE BELIEFS OF, ASSUMPTIONS MADE BY, AND INFORMATION CURRENTLY AVAILABLE TO THE COMPANY'S MANAGEMENT. WHEN USED IN THE OFFERING MATERIALS, THE WORDS "ESTIMATE," "PROJECT," "BELIEVE," "ANTICIPATE," "INTEND," "EXPECT" AND SIMILAR EXPRESSIONS ARE INTENDED TO IDENTIFY FORWARD-LOOKING STATEMENTS, WHICH CONSTITUTE FORWARD LOOKING STATEMENTS. THESE STATEMENTS REFLECT MANAGEMENT'S CURRENT VIEWS WITH RESPECT TO FUTURE EVENTS AND ARE SUBJECT TO RISKS AND UNCERTAINTIES THAT COULD CAUSE THE COMPANY'S ACTUAL RESULTS TO DIFFER MATERIALLY FROM THOSE CONTAINED IN THE FORWARD-LOOKING STATEMENTS. INVESTORS ARE CAUTIONED NOT TO PLACE UNDUE RELIANCE ON THESE FORWARD-LOOKING STATEMENTS, WHICH SPEAK ONLY AS OF THE DATE ON WHICH THEY ARE MADE. THE COMPANY DOES NOT UNDERTAKE ANY OBLIGATION TO REVISE OR UPDATE THESE FORWARD-LOOKING STATEMENTS TO REFLECT EVENTS OR CIRCUMSTANCES AFTER SUCH DATE OR TO REFLECT THE OCCURRENCE OF UNANTICIPATED EVENTS.

THE COMPANY MAY NOT BE OFFERING THE SECURITIES IN EVERY STATE. THE OFFERING MATERIALS DO NOT CONSTITUTE AN OFFER OR SOLICITATION IN ANY STATE OR JURISDICTION IN WHICH THE SECURITIES ARE NOT BEING OFFERED.

THE INFORMATION PRESENTED IN THE OFFERING MATERIALS WAS PREPARED BY THE COMPANY SOLELY FOR THE USE BY PROSPECTIVE INVESTORS IN CONNECTION WITH THIS OFFERING. NO REPRESENTATIONS OR WARRANTIES ARE MADE AS TO THE ACCURACY OR COMPLETENESS OF THE INFORMATION CONTAINED IN ANY OFFERING MATERIALS, AND NOTHING CONTAINED IN THE OFFERING MATERIALS IS OR SHOULD BE RELIED UPON AS A PROMISE OR REPRESENTATION AS TO THE FUTURE PERFORMANCE OF THE COMPANY.

THE COMPANY RESERVES THE RIGHT IN ITS SOLE DISCRETION AND FOR ANY REASON WHATSOEVER TO MODIFY, AMEND AND/OR WITHDRAW ALL OR A PORTION OF THE OFFERING AND/OR ACCEPT OR REJECT IN WHOLE OR IN PART ANY PROSPECTIVE INVESTMENT IN THE SECURITIES OR TO ALLOT TO ANY PROSPECTIVE INVESTOR LESS THAN THE AMOUNT OF SECURITIES SUCH INVESTOR DESIRES TO PURCHASE. EXCEPT AS OTHERWISE INDICATED, THE OFFERING MATERIALS SPEAK AS OF THEIR DATE. NEITHER THE DELIVERY NOR THE PURCHASE OF THE SECURITIES SHALL, UNDER ANY CIRCUMSTANCES, CREATE ANY IMPLICATION THAT THERE HAS BEEN NO CHANGE IN THE AFFAIRS OF THE COMPANY SINCE THAT DATE.

To: Denim.LA, Inc.
899 Beverly Blvd., Suite 600
West Hollywood, CA 90069

Ladies and Gentlemen:

1. **Subscription**.

(a) The Investor hereby irrevocably subscribes for and agrees to purchase shares (the "***Shares***") of Series A Preferred Stock, par value $0.0001 per share (the "***Series A Preferred Stock***"), of Denim.LA, Inc., a Delaware corporation (the "***Company***"), at a purchase price of $0.48 per share of Series A Preferred Stock (the "***Per Security Price***"), rounded down to the nearest whole share based on Investor's subscription amount, upon the terms and conditions set forth herein. The purchase price of each Share is payable in the manner provided in Section 2(a) below. The Shares being subscribed for under this Subscription Agreement and the Common Stock issuable upon the conversion of such Shares are sometimes referred to herein as the "***Securities***."

(b) Investor understands that the Shares are being offered pursuant to the Offering Circular dated May __, 2016 and its exhibits (the "***Offering Circular***") as filed with the Securities and Exchange Commission (the "***SEC***"). By subscribing to the Offering, Investor acknowledges that Investor has received and reviewed a copy of the Offering Circular Statement and any other information required by Investor to make an investment decision with respect to the Shares.

(c) This Subscription may be accepted or rejected in whole or in part, at any time prior to the Termination Date (as hereinafter defined), by the Company at its sole discretion. In addition, the Company, at its sole discretion, may allocate to Investor only a portion of the number of the Shares that Investor has subscribed to purchase hereunder. The Company will notify Investor whether this subscription is accepted (whether in whole or in part) or rejected. If Investor's subscription is rejected, Investor's payment (or portion thereof if partially rejected) will be returned to Investor without interest and all of Investor's obligations hereunder shall terminate.

(d) The aggregate number of shares of Series A Preferred that may be sold by the Company in this offering shall not exceed 14,481,413 shares (the "***Maximum Shares***"). The Company may accept subscriptions until May ___, 2017, unless otherwise extended by the Company in its sole discretion in accordance with applicable SEC regulations for such additional period as may be required to sell the Maximum Shares (the "***Termination Date***"). The Company may elect at any time to close all or any portion of this offering on various dates at or prior to the Termination Date (each a "***Closing***").

(e) In the event of rejection of this subscription in its entirety, or in the event the sale of the Shares (or any portion thereof) to Investor is not consummated for any reason, this Subscription Agreement shall have no force or effect, except for Section 5 hereof, which shall remain in force and effect.

(f) The terms of this Subscription Agreement shall be binding upon Investor and its transferees, heirs, successors and assigns (collectively, "***Transferees***"); provided that for any such transfer to be deemed effective, the Transferee shall have executed and delivered to the Company in advance an instrument in form acceptable to the Company in its sole discretion, pursuant to which the proposed Transferee shall be acknowledge, agree, and be bound by the representations and warranties of Investor, terms of this Subscription Agreement, and the Company consents to the transfer in its sole discretion.

2. **Joinder to Investment Agreements**. By subscribing to the Offering and executing this Subscription Agreement, Investor (and, if Investor is purchasing the Shares subscribed for hereby in a fiduciary capacity, the person or persons for whom Investor is so purchasing) hereby joins as a party that is designated (a) as an "Investor" under each of (i) the Amended and Restated Investors' Rights Agreement to be dated as of the initial Closing, in substantially the form attached hereto as Exhibit A (the "***Investors' Rights Agreement***"), and (ii) the Amended and Restated Right of First Refusal Agreement and Co-Sale Agreement to be dated as of the initial Closing, in substantially the form attached hereto as Exhibit B (the "***First Refusal Agreement***"), and (b) as a "Rights Holder" under the Amended and Restated Voting Agreement to be dated as of the initial Closing, in substantially the form attached hereto as Exhibit C (the ***"Voting Agreement"***), in each case as entered into by and among the Company, the investors in the Company's Series Seed Preferred Stock and Series A Preferred Stock, and certain other stockholders of the Company. The Investors' Rights Agreement, First Refusal Agreement and Voting Agreement collectively are referred to herein as the "***Investment Agreements***". Any notice required or permitted to be given to Investor under any of the Investment Agreements shall be given to Investor at the address provided with Investor's subscription. Investor confirms that Investor has reviewed the Investment Agreements and will be bound by the terms thereof as a party who is designated as an "Investor" under the Investors' Rights Agreement and the First Refusal Agreement, and as a "Rights Holder" under the Voting Agreement.

3. **Purchase Procedure**.

(a) Payment. The purchase price for the Shares shall be paid simultaneously with Investor's subscription. Investor shall deliver payment for the aggregate purchase price of the Securities by ACH electronic transfer or by wire transfer to an account designated by the Company.

(b) Escrow Arrangements. Payment for the Securities by Investor shall be received by The Bryn Mawr Trust Company of Delaware (the "***Escrow Agent***") from Investor by transfer of immediately available funds via wire or ACH prior to the applicable Closing in the amount of Investor's subscription using the instructions below. Upon such Closing, the Escrow Agent shall release such funds to the Company. Investor shall receive notice and evidence of the digital entry of the number of the Securities owned by Investor reflected in their investor account.

Bank Name	Bryn Mawr Trust Company
Address	801 Lancaster Ave, Bryn Mawr PA 19010
ABA No.	031908485
Account Number	
Account Name	
FFC	
TEL	(302) 798-1792
Email	readdy@bmtc.com

4. **Representations and Warranties of the Company**. The Company represents and warrants to Investor that the following representations and warranties are true and complete in all material respects as of the date of each Closing:

(a) Organization and Standing. The Company is a corporation duly formed, validly existing and in good standing under the laws of the State of Delaware. The Company has all requisite power and authority to own and operate its properties and assets, to execute and deliver this Subscription Agreement, the Securities and any other agreements or instruments required hereunder. The Company is duly qualified and is authorized to do business and is in good standing as a foreign corporation in all jurisdictions in which the nature of its activities and of its properties (both owned and leased) makes such qualification necessary, except for those jurisdictions in which failure to do so would not have a material adverse effect on the Company or its business.

(b) Issuance of the Securities. The issuance, sale and delivery of the Shares in accordance with this Subscription Agreement have been duly authorized by all necessary corporate action on the part of the Company. The Shares, when issued, sold and delivered against payment therefor in accordance with the provisions of this Subscription Agreement, will be duly and validly issued, fully paid and non-assessable.

(c) Authority for Agreement. The acceptance by the Company of this Subscription Agreement and of Investor's joinder as a party to each of the Investment Agreements, and the consummation of the transactions contemplated hereby and thereby, are within the Company's powers and have been duly authorized by all necessary corporate action on the part of the Company. Upon the Company's acceptance of this Subscription Agreement, each of this Subscription Agreement and the Investment Agreements, shall constitute a valid and binding agreement of the Company, enforceable against the Company in accordance with its terms, except (i) as limited by applicable bankruptcy, insolvency, reorganization, moratorium, and other laws of general application affecting enforcement of creditors' rights generally, (ii) as limited by laws relating to the availability of specific performance, injunctive relief, or other equitable remedies and (iii) with respect to provisions relating to indemnification and contribution, as limited by considerations of public policy and by federal or state securities laws.

(d) No Filings. Assuming the accuracy of Investor's representations and warranties set forth in Section 4 hereof, no order, license, consent, authorization or approval of, or exemption by, or action by or in respect of, or notice to, or filing or registration with, any governmental body, agency or official is required by or with respect to the Company in connection with the acceptance, delivery and performance by the Company of this Subscription Agreement except (i) for such filings as may be required under Regulation A or under any applicable state securities laws, (ii) for such other filings and approvals as have been made or obtained, or (iii) where the failure to obtain any such order, license, consent, authorization, approval or exemption or give any such notice or make any filing or registration would not have a material adverse effect on the ability of the Company to perform its obligations hereunder.

(e) Capitalization. The outstanding shares of Common Stock, Series Seed Preferred Stock, options, warrants and other securities of the Company immediately prior to the initial Closing is as set forth in "***Security Ownership***" in the Offering Circular. Except as set forth in the Offering Circular, there are no outstanding options, warrants, rights (including conversion or preemptive rights and rights of first refusal), or agreements of any kind (oral or written) for the purchase or acquisition from the Company of any of its securities.

(f) Financial Statements. Complete copies of the Company's financial statements, consisting of the statement of financial position of the Company as of its fiscal year end on December 31, 2014 and December 31, 2015, and the related consolidated statements of income and cash flows for the respective periods then ended (collectively, the "***Financial Statements***"), have been made available to Investor and appear in the Offering Circular. The Financial Statements are based on the books and records of the Company and fairly present the financial condition of the Company as of the respective dates they were prepared and the results of the operations and cash flows of the Company for the respective periods indicated. Artesian CPA, LLC, which has audited the Financial Statements at December 31, 2014 and December 31, 2015, and for each fiscal year then ended, is an independent accounting firm within the rules and regulations adopted by the SEC.

(g) Proceeds. The Company shall use the proceeds from the issuance and sale of the shares of Series A Preferred sold in the offering as set forth in "Use of Proceeds" in the Offering Circular.

(h) Litigation. Except as disclosed in the Offering Circular, there is no pending action, suit, proceeding, arbitration, mediation, complaint, claim, charge or investigation before any court, arbitrator, mediator or governmental body, or to the Company's knowledge, currently threatened in writing (a) against the Company or (b) to the Company's knowledge, against any consultant, officer, manager, director or key employee of the Company arising out of his or her consulting, employment or board relationship with the Company or that could otherwise materially impact the Company.

5. **Representations and Warranties of Investor**. By subscribing to the Offering, Investor (and, if Investor is purchasing the Shares subscribed for hereby in a fiduciary capacity, the person or persons for whom Investor is so purchasing) represents and warrants, which representations and warranties are true and complete in all material respects as of the date of each Closing:

(a) Requisite Power and Authority. Investor has all necessary power and authority under all applicable provisions of law to subscribe to the Offering, to execute and deliver this Subscription Agreement, to join as a party to each of the Investment Agreements, and to carry out the provisions of such respective agreements. All action on Investor's part required for the lawful subscription to the offering have been or will be effectively taken prior to the Closing. Upon subscribing to the Offering, this Subscription Agreement and each of the Investment Agreements will be valid and binding obligations of Investor, enforceable in accordance with their respective terms, except (i) as limited by applicable bankruptcy, insolvency, reorganization, moratorium or other laws of general application affecting enforcement of creditors' rights and (ii) as limited by general principles of equity that restrict the availability of equitable remedies.

(b) Company Information. Investor has had an opportunity to discuss the Company's business, management and financial affairs with directors, officers and management of the Company and has had the opportunity to review the Company's operations and facilities. Investor has also had the opportunity to ask questions of and receive answers from the Company and its management regarding the terms and conditions of this investment. Investor acknowledges that except as set forth herein, no representations or warranties have been made to Investor, or to Investor's advisors or representative, by the Company or others with respect to the business or prospects of the Company or its financial condition.

(c) Investment Experience. Investor has sufficient experience in financial and business matters to be capable of utilizing such information to evaluate the merits and risks of Investor's investment in the Shares, and to make an informed decision relating thereto; or Investor has utilized the services of a purchaser representative and together they have sufficient experience in financial and business matters that they are capable of utilizing such information to evaluate the merits and risks of Investor's investment in the Shares, and to make an informed decision relating thereto.

(d) Investor Determination of Suitability. Investor has evaluated the risks of an investment in the Shares, including those described in the section of the Offering Circular captioned "Risk Factors", and has determined that the investment is suitable for Investor. Investor has adequate financial resources for an investment of this character, and at this time Investor could bear a complete loss of Investor's investment in the Company.

(e) No Registration. Investor understands that the Shares are not being registered under the Securities Act of 1933, as amended (the "***Securities Act***"), on the ground that the issuance thereof is exempt under Regulation A of Section 3(b) of the Securities Act, and that reliance on such exemption is predicated in part on the truth and accuracy of Investor's representations and warranties, and those of the other purchasers of the shares of Series A Preferred in the offering. Investor further understands that the Shares are not being registered under the securities laws of any states on the basis that the issuance thereof is exempt as an offer and sale not involving a registerable public offering in such state, since the Shares are "covered securities" under the National Securities Market Improvement Act of 1996. Investor covenants not to sell, transfer or otherwise dispose of any Shares unless such Shares have been registered under the Securities Act and under applicable state securities laws, or exemptions from such registration requirements are available.

(f) Illiquidity and Continued Economic Risk. Investor acknowledges and agrees that there is no ready public market for the Securities and that there is no guarantee that a market for their resale will ever exist. The Company has no obligation to list any of the Securities on any market or take any steps (including registration under the Securities Act or the Securities Exchange Act of 1934, as amended) with respect to facilitating trading or resale of the Securities. Investor must bear the economic risk of this investment indefinitely and Investor acknowledges that Investor is able to bear the economic risk of losing Investor's entire investment in the Shares.

(g) Accredited Investor Status or Investment Limits. Investor represents that either:

(i) Investor is an "accredited investor" within the meaning of Rule 501 of Regulation D under the Securities Act; or

(ii) The purchase price, together with any other amounts previously used to purchase Shares in this offering, does not exceed 10% of the greater of Investor's annual income or net worth (or in the case where Investor is a non-natural person, their revenue or net assets for such Investor's most recently completed fiscal year end).

Investor represents that to the extent it has any questions with respect to its status as an accredited investor, or the application of the investment limits, it has sought professional advice.

(h) Stockholder Information. Within five days after receipt of a request from the Company, Investor hereby agrees to provide such information with respect to its status as a stockholder (or potential stockholder) and to execute and deliver such documents as may reasonably be necessary to comply with any and all laws and regulations to which the Company is or may become subject, including, without limitation, the need to determine the accredited status of the Company's stockholders. Investor further agrees that in the event it transfers any Securities, it will require the transferee of such Securities to agree to provide such information to the Company as a condition of such transfer.

(i) Valuation. Investor acknowledges that the price of the shares of Series A Preferred to be sold in this offering was set by the Company on the basis of the Company's internal valuation and no warranties are made as to value. Investor further acknowledges that future offerings of securities of the Company6 may be made at lower valuations, with the result that Investor's investment will bear a lower valuation.

(j) Domicile. Investor maintains Investor's domicile (and is not a transient or temporary resident) at the address provided with Investors subscription.

(k) Foreign Investors. If Investor is not a United States person (as defined by Section 7701(a)(30) of the Internal Revenue Code of 1986, as amended), Investor hereby represents that it has satisfied itself as to the full observance of the laws of its jurisdiction in connection with any invitation to subscribe for the Shares or any use of this Subscription Agreement, including (i) the legal requirements within its jurisdiction for the purchase of the Shares, (ii) any foreign exchange restrictions applicable to such purchase, (iii) any governmental or other consents that may need to be obtained, and (iv) the income tax and other tax consequences, if any, that may be relevant to the purchase, holding, redemption, sale, or transfer of the Shares. Investor's subscription and payment for and continued beneficial ownership of the Shares will not violate any applicable securities or other laws of Investor's jurisdiction.

5 . **Indemnity**. The representations, warranties and covenants made by Investor herein shall survive the closing of this Subscription Agreement. Investor agrees to indemnify and hold harmless the Company and its respective officers, directors and affiliates, and each other person, if any, who controls the Company within the meaning of Section 15 of the Securities Act against any and all loss, liability, claim, damage and expense whatsoever (including, but not limited to, any and all reasonable attorneys' fees, including attorneys' fees on appeal) and expenses reasonably incurred in investigating, preparing or defending against any false representation or warranty or breach of failure by Investor to comply with any covenant or agreement made by Investor herein or in any other document furnished by Investor to any of the foregoing in connection with this transaction.

6. **Governing Law; Jurisdiction**. This Subscription Agreement shall be governed and construed in accordance with the laws of the State of Delaware.

EACH OF INVESTOR AND THE COMPANY CONSENTS TO THE JURISDICTION OF ANY STATE OR FEDERAL COURT OF COMPETENT JURISDICTION LOCATED WITHIN THE STATE OF CALIFORNIA AND NO OTHER PLACE AND IRREVOCABLY AGREES THAT ALL ACTIONS OR PROCEEDINGS RELATING TO THIS SUBSCRIPTION AGREEMENT MAY BE LITIGATED IN SUCH COURTS. EACH OF INVESTORS AND THE COMPANY ACCEPTS FOR ITSELF AND HIMSELF AND IN CONNECTION WITH ITS AND HIS RESPECTIVE PROPERTIES, GENERALLY AND UNCONDITIONALLY, THE EXCLUSIVE JURISDICTION OF THE AFORESAID COURTS AND WAIVES ANY DEFENSE OF FORUM NON CONVENIENS, AND IRREVOCABLY AGREES TO BE BOUND BY ANY JUDGMENT RENDERED THEREBY IN CONNECTION WITH THIS SUBSCRIPTION AGREEMENT. INVESTOR AND THE COMPANY FURTHER IRREVOCABLY CONSENTS TO THE SERVICE OF PROCESS OUT OF ANY OF THE AFOREMENTIONED COURTS IN THE MANNER AND IN THE ADDRESS SPECIFIED IN SECTION 7 AND PROVIDED WITH INVESTORS SUBSCRIPTION.

EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED IN CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THIS SUBSCRIPTION AGREEMENT OR THE ACTIONS OF EITHER PARTY IN THE NEGOTIATION, ADMINISTRATION, PERFORMANCE AND ENFORCEMENT THEREOF, EACH OF THE PARTIES HERETO ALSO WAIVES ANY BOND OR SURETY OR SECURITY UPON SUCH BOND WHICH MIGHT, BUT FOR THIS WAIVER, BE REQUIRED OF SUCH PARTY. EACH OF THE PARTIES HERETO FURTHER WARRANTS AND REPRESENTS THAT IT HAS REVIEWED THIS WAIVER WITH ITS LEGAL COUNSEL, AND THAT IT KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL. THIS WAIVER IS IRREVOCABLE, MEANING THAT IT MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING, AND THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO THIS SUBSCRIPTION AGREEMENT. IN THE EVENT OF LITIGATION, THIS SUBSCRIPTION AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT.

7. **Notices**. Notice, requests, demands and other communications relating to this Subscription Agreement and the transactions contemplated herein shall be in writing and shall be deemed to have been duly given if and when (a) delivered personally, on the date of such delivery; or (b) mailed by registered or certified mail, postage prepaid, return receipt requested, in the third day after the posting thereof; or (c) emailed on the date of such delivery to the address of the respective parties as follows:

If to the Company, to:

Denim.LA, Inc.
899 Beverly Blvd., Suite 600
West Hollywood, CA 90069

If to Investor, at Investor's address supplied in connection with this subscription, or to such other address as may be specified by written notice from time to time by the party entitled to receive such notice. Any notices, requests, demands or other communications by email shall be confirmed by letter given in accordance with (a) or (b) above.

8. **Miscellaneous**.

(a) All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine, neuter, singular or plural, as the identity of the person or persons or entity or entities may require.

(b) This Subscription Agreement is not transferable or assignable by Investor.

(c) The representations, warranties and agreements contained herein shall be deemed to be made by and be binding upon Investor and its heirs, executors, administrators and successors and shall inure to the benefit of the Company and its successors and assigns.

(d) None of the provisions of this Subscription Agreement may be waived, changed or terminated orally or otherwise, except as specifically set forth herein or except by a writing signed by the Company and Investor.

(e) In the event any part of this Subscription Agreement is found to be void or unenforceable, the remaining provisions are intended to be separable and binding with the same effect as if the void or unenforceable part were never the subject of agreement.

(f) The invalidity, illegality or unenforceability of one or more of the provisions of this Subscription Agreement in any jurisdiction shall not affect the validity, legality or enforceability of the remainder of this Subscription Agreement in such jurisdiction or the validity, legality or enforceability of this Subscription Agreement, including any such provision, in any other jurisdiction, it being intended that all rights and obligations of the parties hereunder shall be enforceable to the fullest extent permitted by law.

(g) This Subscription Agreement supersedes all prior discussions and agreements between the parties with respect to the subject matter hereof and contains the sole and entire agreement between the parties hereto with respect to the subject matter hereof.

(h) The terms and provisions of this Subscription Agreement are intended solely for the benefit of each party hereto and their respective successors and assigns, and it is not the intention of the parties to confer, and no provision hereof shall confer, third-party beneficiary rights upon any other person.

(i) The headings used in this Subscription Agreement have been inserted for convenience of reference only and do not define or limit the provisions hereof.

(j) If any recapitalization or other transaction affecting the stock of the Company is effected, then any new, substituted or additional securities or other property which is distributed with respect to the Securities shall be immediately subject to this Subscription Agreement, to the same extent that the Securities, immediately prior thereto, shall have been covered by this Subscription Agreement.

(k) No failure or delay by any party in exercising any right, power or privilege under this Subscription Agreement shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or
further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by law.

Exhibit 4.7

SUBSCRIPTION AGREEMENT

THIS INVESTMENT INVOLVES A HIGH DEGREE OF RISK. THIS INVESTMENT IS SUITABLE ONLY FOR PERSONS WHO CAN BEAR THE ECONOMIC RISK FOR AN INDEFINITE PERIOD OF TIME AND WHO CAN AFFORD TO LOSE THEIR ENTIRE INVESTMENT. FURTHERMORE, INVESTORS MUST UNDERSTAND THAT SUCH INVESTMENT IS ILLIQUID AND IS EXPECTED TO CONTINUE TO BE ILLIQUID FOR AN INDEFINITE PERIOD OF TIME. NO PUBLIC MARKET EXISTS FOR THE SECURITIES, AND NO PUBLIC MARKET IS EXPECTED TO DEVELOP FOLLOWING THIS OFFERING.

THE SECURITIES OFFERED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "***SECURITIES ACT***"), OR ANY STATE SECURITIES OR BLUE SKY LAWS AND ARE BEING OFFERED AND SOLD IN RELIANCE ON EXEMPTIONS FROM THE REGISTRATION REQUIREMENTS OF THE ACT AND STATE SECURITIES OR BLUE SKY LAWS. ALTHOUGH AN OFFERING STATEMENT HAS BEEN FILED WITH THE SECURITIES AND EXCHANGE COMMISSION (THE "***SEC***"), THAT OFFERING STATEMENT DOES NOT INCLUDE THE SAME INFORMATION THAT WOULD BE INCLUDED IN A REGISTRATION STATEMENT UNDER THE ACT. THE SECURITIES HAVE NOT BEEN APPROVED OR DISAPPROVED BY THE SEC, ANY STATE SECURITIES COMMISSION OR OTHER REGULATORY AUTHORITY, NOR HAVE ANY OF THE FOREGOING AUTHORITIES PASSED UPON THE MERITS OF THIS OFFERING OR THE ADEQUACY OR ACCURACY OF THE SUBSCRIPTION AGREEMENT OR ANY OTHER MATERIALS OR INFORMATION MADE AVAILABLE TO INVESTOR IN CONNECTION WITH THIS OFFERING, OVER THE WEB-BASED PLATFORM MAINTAINED BY SEEDINVEST TECHNOLOGY, LLC (THE "PLATFORM") OR THROUGH SI SECURITIES, LLC (THE "BROKER"). ANY REPRESENTATION TO THE CONTRARY IS UNLAWFUL.

THE SECURITIES CANNOT BE SOLD OR OTHERWISE TRANSFERRED EXCEPT IN COMPLIANCE WITH THE SECURITIES ACT. IN ADDITION, THE SECURITIES CANNOT BE SOLD OR OTHERWISE TRANSFERRED EXCEPT IN COMPLIANCE WITH APPLICABLE STATE SECURITIES OR "BLUE SKY" LAWS.

INVESTORS WHO ARE NOT "ACCREDITED INVESTORS" (AS THAT TERM IS DEFINED IN SECTION 501 OF REGULATION D PROMULGATED UNDER THE SECURITIES ACT) ARE SUBJECT TO LIMITATIONS ON THE AMOUNT THEY MAY INVEST, AS SET OUT IN SECTION 4(g). THE COMPANY IS RELYING ON THE REPRESENTATIONS AND WARRANTIES SET FORTH BY EACH INVESTOR IN THIS SUBSCRIPTION AGREEMENT AND THE OTHER INFORMATION PROVIDED BY INVESTOR IN CONNECTION WITH THIS OFFERING TO DETERMINE THE APPLICABILITY TO THIS OFFERING OF EXEMPTIONS FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.

PROSPECTIVE INVESTORS MAY NOT TREAT THE CONTENTS OF THE SUBSCRIPTION AGREEMENT, THE OFFERING CIRCULAR OR ANY OF THE OTHER MATERIALS AVAILIBLE ON THE PLATFORM OR PROVIDED BY THE COMPANY AND/OR BROKER (COLLECTIVELY, THE " ***OFFERING MATERIALS***"), OR ANY PRIOR OR SUBSEQUENT COMMUNICATIONS FROM THE COMPANY OR ANY OF ITS OFFICERS, EMPLOYEES OR AGENTS (INCLUDING "TESTING THE WATERS" MATERIALS) AS INVESTMENT, LEGAL OR TAX ADVICE. IN MAKING AN INVESTMENT DECISION, INVESTORS MUST RELY ON THEIR OWN EXAMINATION OF THE COMPANY AND THE TERMS OF THIS OFFERING, INCLUDING THE MERITS AND THE RISKS INVOLVED.

EACH PROSPECTIVE INVESTOR SHOULD CONSULT THE INVESTOR'S OWN COUNSEL, ACCOUNTANTS AND OTHER PROFESSIONAL ADVISORS AS TO INVESTMENT, LEGAL, TAX AND OTHER RELATED MATTERS CONCERNING THE INVESTOR'S PROPOSED INVESTMENT.

THE OFFERING MATERIALS MAY CONTAIN FORWARD-LOOKING STATEMENTS AND INFORMATION RELATING TO, AMONG OTHER THINGS, THE COMPANY, ITS BUSINESS PLAN AND STRATEGY, AND ITS INDUSTRY. THESE FORWARD-LOOKING STATEMENTS ARE BASED ON THE BELIEFS OF, ASSUMPTIONS MADE BY, AND INFORMATION CURRENTLY AVAILABLE TO THE COMPANY'S MANAGEMENT. WHEN USED IN THE OFFERING MATERIALS, THE WORDS "ESTIMATE," "PROJECT," "BELIEVE," "ANTICIPATE," "INTEND," "EXPECT" AND SIMILAR EXPRESSIONS ARE INTENDED TO IDENTIFY FORWARD-LOOKING STATEMENTS, WHICH CONSTITUTE FORWARD LOOKING STATEMENTS. THESE STATEMENTS REFLECT MANAGEMENT'S CURRENT VIEWS WITH RESPECT TO FUTURE EVENTS AND ARE SUBJECT TO RISKS AND UNCERTAINTIES THAT COULD CAUSE THE COMPANY'S ACTUAL RESULTS TO DIFFER MATERIALLY FROM THOSE CONTAINED IN THE FORWARD-LOOKING STATEMENTS. INVESTORS ARE CAUTIONED NOT TO PLACE UNDUE RELIANCE ON THESE FORWARD-LOOKING STATEMENTS, WHICH SPEAK ONLY AS OF THE DATE ON WHICH THEY ARE MADE. THE COMPANY DOES NOT UNDERTAKE ANY OBLIGATION TO REVISE OR UPDATE THESE FORWARD-LOOKING STATEMENTS TO REFLECT EVENTS OR CIRCUMSTANCES AFTER SUCH DATE OR TO REFLECT THE OCCURRENCE OF UNANTICIPATED EVENTS.

THE COMPANY MAY NOT BE OFFERING THE SECURITIES IN EVERY STATE. THE OFFERING MATERIALS DO NOT CONSTITUTE AN OFFER OR SOLICITATION IN ANY STATE OR JURISDICTION IN WHICH THE SECURITIES ARE NOT BEING OFFERED.

THE INFORMATION PRESENTED IN THE OFFERING MATERIALS WAS PREPARED BY THE COMPANY SOLELY FOR THE USE BY PROSPECTIVE INVESTORS IN CONNECTION WITH THIS OFFERING. NOTHING CONTAINED IN THE OFFERING MATERIALS IS OR SHOULD BE RELIED UPON AS A PROMISE OR REPRESENTATION AS TO THE FUTURE PERFORMANCE OF THE COMPANY.

THE COMPANY RESERVES THE RIGHT IN ITS SOLE DISCRETION AND FOR ANY REASON WHATSOEVER TO MODIFY, AMEND AND/OR WITHDRAW ALL OR A PORTION OF THE OFFERING AND/OR ACCEPT OR REJECT IN WHOLE OR IN PART ANY PROSPECTIVE INVESTMENT IN THE SECURITIES OR TO ALLOT TO ANY PROSPECTIVE INVESTOR LESS THAN THE AMOUNT OF SECURITIES SUCH INVESTOR DESIRES TO PURCHASE. EXCEPT AS OTHERWISE INDICATED, THE OFFERING MATERIALS SPEAK AS OF THEIR DATE. NEITHER THE DELIVERY NOR THE PURCHASE OF THE SECURITIES SHALL, UNDER ANY CIRCUMSTANCES, CREATE ANY IMPLICATION THAT THERE HAS BEEN NO CHANGE IN THE AFFAIRS OF THE COMPANY SINCE THAT DATE.

To: Denim.LA, Inc.
8899 Beverly Blvd., Suite 600
West Hollywood, CA 90069

Ladies and Gentlemen:

1. **Subscription**.

(a) The Investor hereby irrevocably subscribes for and agrees to purchase shares (the "***Shares***") of Series A-2 Preferred Stock convertible into Common Stock, par value $0.0001 per share (the "***Series A-2 Preferred Stock***"), of Denim.LA, Inc., a Delaware corporation (the "***Company***"), at a purchase price of $0.50 per share of Series A-2 Preferred Stock (the "***Per Security Price***"), rounded down to the nearest whole share based on Investor's subscription amount, upon the terms and conditions set forth herein. The purchase price of each Share is payable in the manner provided in Section 3(a) below. The Shares being subscribed for under this Subscription Agreement and the Common Stock issuable upon the conversion of such Shares are sometimes referred to herein as the "***Securities***." The rights and preferences of the Securities are as set forth in the Amended and Restated Certificate of Incorporation of the Company, available in the Exhibits to the Offering Statement of the Company filed with the SEC (the "***Offering Statement***").

(b) Investor understands that the Securities are being offered pursuant to the Offering Circular dated August __, 2017 and its exhibits (the "***Offering Circular***") as filed with the Securities and Exchange Commission (the "***SEC***"). By subscribing to the Offering, Investor acknowledges that Investor has received and reviewed a copy of the Offering Circular and Offering Statement and any other information required by Investor to make an investment decision with respect to the Securities.

(c) This Subscription may be accepted or rejected in whole or in part, at any time prior to the Termination Date (as hereinafter defined), by the Company at its sole discretion. In addition, the Company, at its sole discretion, may allocate to Investor only a portion of the number of the Shares that Investor has subscribed to purchase hereunder. The Company will notify Investor whether this subscription is accepted (whether in whole or in part) or rejected. If Investor's subscription is rejected, Investor's payment (or portion thereof if partially rejected) will be returned to Investor without interest and all of Investor's obligations hereunder shall terminate.

(d) The aggregate number of shares of Series A-2 Preferred that may be sold by the Company in this offering shall not exceed 20,000,000 shares (the "***Maximum Shares***"). The Company may accept subscriptions until [DATE], unless otherwise extended by the Company in its sole discretion in accordance with applicable SEC regulations for such additional period as may be required to sell the Maximum Shares (the "***Termination Date***"). Providing that subscriptions for 1,000,000 Securities are received (the "***Minimum Offering***"), the Company may elect at any time to close all or any portion of this offering on various dates at or prior to the Termination Date (each a "***Closing***").

(e) In the event of rejection of this subscription in its entirety, or in the event the sale of the Shares (or any portion thereof) to Investor is not consummated for any reason, this Subscription Agreement shall have no force or effect, except for Section 5 hereof, which shall remain in force and effect.

(f) The terms of this Subscription Agreement shall be binding upon Investor and its transferees, heirs, successors and assigns (collectively, "***Transferees***"); provided that for any such transfer to be deemed effective, the Transferee shall have executed and delivered to the Company in advance an instrument in form acceptable to the Company in its sole discretion, pursuant to which the proposed Transferee shall be acknowledge, agree, and be bound by the representations and warranties of Investor, terms of this Subscription Agreement, and the Company consents to the transfer in its sole discretion.

2 . **Joinder to Investment Agreements**. By subscribing to the Offering and executing this Subscription Agreement, Investor (and, if Investor is purchasing the Shares subscribed for hereby in a fiduciary capacity, the person or persons for whom Investor is so purchasing) hereby joins as a party that is designated (a) as an "Investor" under each of (i) the Amended and Restated Investors' Rights Agreement to be dated as of the initial Closing, in substantially the form attached hereto as Exhibit A (the "***Investors' Rights Agreement***"), and (ii) the Amended and Restated Right of First Refusal Agreement and Co-Sale Agreement to be dated as of the initial Closing, in substantially the form attached hereto as Exhibit B (the "***First Refusal Agreement***"), and (b) as a "Rights Holder" under the Amended and Restated Voting Agreement to be dated as of the initial Closing, in substantially the form attached hereto as Exhibit C (the ***"Voting Agreement"***), in each case as entered into by and among the Company, the investors in the Company's Series Seed Preferred Stock and Series A Preferred Stock, and certain other stockholders of the Company. The Investors' Rights Agreement, First Refusal Agreement and Voting Agreement collectively are referred to herein as the " ***Investment Agreements***". Any notice required or permitted to be given to Investor under any of the Investment Agreements shall be given to Investor at the address provided with Investor's subscription. Investor confirms that Investor has reviewed the Investment Agreements and will be bound by the terms thereof as a party who is designated as an "Investor" under the Investors' Rights Agreement and the First Refusal Agreement, and as a "Rights Holder" under the Voting Agreement.

3. **Purchase Procedure**.

(a) Payment. The purchase price for the Shares shall be paid simultaneously with Investor's subscription. Investor shall deliver payment for the aggregate purchase price of the Securities by ACH electronic transfer or by wire transfer to an account designated by the Company.

(b) Escrow Arrangements. Payment for the Securities by Investor shall be received by The Bryn Mawr Trust Company of Delaware (the "***Escrow Agent***") from Investor by transfer of immediately available funds via wire or ACH, or other means approved by the Company at least two days prior to the applicable Closing in the amount of Investor's subscription using the instructions below. Tendered funds will remain in escrow until both the minimum offering amount of $200,000 has been reached and a Closing has occurred. In the event the minimum amount of shares has not been sold by the date that is one year from the qualification of this offering with the SEC, or sooner terminated by the company, any money tendered by Investor will be promptly returned by the Escrow Agent.

Upon a successful Closing, the Escrow Agent shall release Investor's funds to the Company. The Investor shall receive notice and evidence of the digital entry of the number of the Securities owned by Investor reflected on the books and records of the Company and verified by VStock Transfer, LLC (the "Transfer Agent"), which books and records shall bear a notation that the Securities were sold in reliance upon Regulation A of the Securities Act. Upon written instruction by the Investor, the Transfer Agent may record the Shares beneficially owned by the Investor on the books and records of the Company in the name of any other entity as designated by the Investor.

Bank Name	Bryn Mawr Trust Company
Address	801 Lancaster Ave, Bryn Mawr PA 19010
Routing Number	031908485
Account Number	069-6964
Account Name	Trust Funds
Further Instructions	SeedInvest - DSTLD

(c) Conversion of Promissory Notes. Notwithstanding the foregoing, Investor may pay the purchase price for the Shares by cancellation or conversion of indebtedness of the Company to the Investor. In the event that payment by Investor is made, in whole or in part, by cancellation of indebtedness, then such Investor shall surrender to the Company for cancellation at the applicable Closing any evidence of indebtedness or shall execute an instrument of cancellation and lost promissory note and indemnity agreement in form and substance acceptable to the Company. Each Investor, to the extent that such Investor is a holder of any promissory note of the Company being converted and/or cancelled in consideration of the issuance hereunder of Shares to such Investor, hereby agrees that the entire amount owed to such Investor under such note is being tendered to the Company in exchange for the applicable Shares, and effective upon the Company's and such Investor's execution and delivery of this Agreement (including without limitation pursuant to that certain Subscription Agreement Attachment), without any further action required by the Company or such Investor, such note and

all obligations set forth therein shall be immediately deemed repaid in full and terminated in their entirety, including, but not limited to, any security interest effected therein.

4. **Representations and Warranties of the Company**. The Company represents and warrants to Investor that the following representations and warranties are true and complete in all material respects as of the date of each Closing:

(a) Organization and Standing. The Company is a corporation duly formed, validly existing and in good standing under the laws of the State of Delaware. The Company has all requisite power and authority to own and operate its properties and assets, to execute and deliver this Subscription Agreement, the Securities and any other agreements or instruments required hereunder. The Company is duly qualified and is authorized to do business and is in good standing as a foreign corporation in all jurisdictions in which the nature of its activities and of its properties (both owned and leased) makes such qualification necessary, except for those jurisdictions in which failure to do so would not have a material adverse effect on the Company or its business.

(b) Issuance of the Securities. The issuance, sale and delivery of the Securities in accordance with this Subscription Agreement have been duly authorized by all necessary corporate action on the part of the Company. The Securities, when issued, sold and delivered against payment therefor in accordance with the provisions of this Subscription Agreement, will be duly and validly issued, fully paid and non-assessable.

(c) Authority for Agreement. The acceptance by the Company of this Subscription Agreement and of Investor's joinder as a party to each of the Investment Agreements, and the consummation of the transactions contemplated hereby and thereby, are within the Company's powers and have been duly authorized by all necessary corporate action on the part of the Company. Upon the Company's acceptance of this Subscription Agreement, each of this Subscription Agreement and the Investment Agreements, shall constitute a valid and binding agreement of the Company, enforceable against the Company in accordance with its terms, except (i) as limited by applicable bankruptcy, insolvency, reorganization, moratorium, and other laws of general application affecting enforcement of creditors' rights generally, (ii) as limited by laws relating to the availability of specific performance, injunctive relief, or other equitable remedies and (iii) with respect to provisions relating to indemnification and contribution, as limited by considerations of public policy and by federal or state securities laws.

(d) No Filings. Assuming the accuracy of Investor's representations and warranties set forth in Section 4 hereof, no order, license, consent, authorization or approval of, or exemption by, or action by or in respect of, or notice to, or filing or registration with, any governmental body, agency or official is required by or with respect to the Company in connection with the acceptance, delivery and performance by the Company of this Subscription Agreement except (i) for such filings as may be required under Regulation A or under any applicable state securities laws, (ii) for such other filings and approvals as have been made or obtained, or (iii) where the failure to obtain any such order, license, consent, authorization, approval or exemption or give any such notice or make any filing or registration would not have a material adverse effect on the ability of the Company to perform its obligations hereunder.

(e) Capitalization. The outstanding shares of Common Stock, Series Seed Preferred Stock, Series A Preferred Stock, options, warrants and other securities of the Company immediately prior to the initial Closing is as set forth in "***Security Ownership***" in the Offering Circular. Except as set forth in the Offering Circular, there are no outstanding options, warrants, rights (including conversion or preemptive rights and rights of first refusal), or agreements of any kind (oral or written) for the purchase or acquisition from the Company of any of its securities.

(f) Financial Statements. Complete copies of the Company's financial statements, consisting of the statement of financial position of the Company as of its fiscal year end on December 31, 2015 and December 31, 2016, and the related consolidated statements of income and cash flows for the respective periods then ended (collectively, the "***Financial Statements***"), have been made available to Investor and appear in the Offering Circular. The Financial Statements are based on the books and records of the Company and fairly present the financial condition of the Company as of the respective dates they were prepared and the results of the operations and cash flows of the Company for the respective periods indicated. Artesian CPA, LLC, which has audited the Financial Statements at December 31, 2015 and December 31, 2016, and for each fiscal year then ended, is an independent accounting firm within the rules and regulations adopted by the SEC.

(g) Proceeds. The Company shall use the proceeds from the issuance and sale of the shares of Series A-2 Preferred sold in the offering as set forth in "Use of Proceeds" in the Offering Circular.

(h) Litigation. Except as disclosed in the Offering Circular, there is no pending action, suit, proceeding, arbitration, mediation, complaint, claim, charge or investigation before any court, arbitrator, mediator or governmental body, or to the Company's knowledge, currently threatened in writing (a) against the Company or (b) to the Company's knowledge, against any consultant, officer, manager, director or key employee of the Company arising out of his or her consulting, employment or board relationship with the Company or that could otherwise materially impact the Company.

5. **Representations and Warranties of Investor**. By subscribing to the Offering, Investor (and, if Investor is purchasing the Shares subscribed for hereby in a fiduciary capacity, the person or persons for whom Investor is so purchasing) represents and warrants, which representations and warranties are true and complete in all material respects as of the date of each Closing:

(a) Requisite Power and Authority. Investor has all necessary power and authority under all applicable provisions of law to subscribe to the Offering, to execute and deliver this Subscription Agreement, to join as a party to each of the Investment Agreements, and to carry out the provisions of such respective agreements. All action on Investor's part required for the lawful subscription to the offering have been or will be effectively taken prior to the Closing. Upon subscribing to the Offering, this Subscription Agreement and each of the Investment Agreements will be valid and binding obligations of Investor, enforceable in accordance with their respective terms, except (i) as limited by applicable bankruptcy, insolvency, reorganization, moratorium or other laws of general application affecting enforcement of creditors' rights and (ii) as limited by general principles of equity that restrict the availability of equitable remedies.

(b) Company Information. Investor has had an opportunity to discuss the Company's business, management and financial affairs with directors, officers and management of the Company and has had the opportunity to review the Company's operations and facilities. Investor has also had the opportunity to ask questions of and receive answers from the Company and its management regarding the terms and conditions of this investment. Investor acknowledges that except as set forth herein, no representations or warranties have been made to Investor, or to Investor's advisors or representative, by the Company or others with respect to the business or prospects of the Company or its financial condition.

(c) Investment Experience. Investor has sufficient experience in financial and business matters to be capable of utilizing such information to evaluate the merits and risks of Investor's investment in the Securities, and to make an informed decision relating thereto; or Investor has utilized the services of a purchaser representative and together they have sufficient experience in financial and business matters that they are capable of utilizing such information to evaluate the merits and risks of Investor's investment in the Securities, and to make an informed decision relating thereto.

(d) Investor Determination of Suitability. Investor has evaluated the risks of an investment in the Securities, including those described in the section of the

Offering Circular captioned “Risk Factors”, and has determined that the investment is suitable for Investor. Investor has adequate financial resources for an investment of this character, and at this time Investor could bear a complete loss of Investor’s investment in the Company.

(e) No Registration. Investor understands that the Securities are not being registered under the Securities Act of 1933, as amended (the "***Securities Act***"), on the ground that the issuance thereof is exempt under Regulation A of Section 3(b) of the Securities Act, and that reliance on such exemption is predicated in part on the truth and accuracy of Investor's representations and warranties, and those of the other purchasers of the shares of Series A Preferred in the offering. Investor further understands that the Securities are not being registered under the securities laws of any states on the basis that the issuance thereof is exempt as an offer and sale not involving a registerable public offering in such state, since the Shares are "covered securities" under the National Securities Market Improvement Act of 1996. Investor covenants not to sell, transfer or otherwise dispose of any Securities unless such Securities have been registered under the Securities Act and under applicable state securities laws, or exemptions from such registration requirements are available.

(f) Illiquidity and Continued Economic Risk. Investor acknowledges and agrees that there is no ready public market for the Securities and that there is no guarantee that a market for their resale will ever exist. The Company has no obligation to list any of the Securities on any market or take any steps (including registration under the Securities Act or the Securities Exchange Act of 1934, as amended) with respect to facilitating trading or resale of the Securities. Investor must bear the economic risk of this investment indefinitely and Investor acknowledges that Investor is able to bear the economic risk of losing Investor’s entire investment in the Securities.

(g) Accredited Investor Status or Investment Limits. Investor represents that either:

(i) Investor is an “accredited investor” within the meaning of Rule 501 of Regulation D under the Securities Act; or

(ii) The purchase price, together with any other amounts previously used to purchase Shares in this offering, does not exceed 10% of the greater of Investor’s annual income or net worth (or in the case where Investor is a non-natural person, their revenue or net assets for such Investor's most recently completed fiscal year end).

Investor represents that to the extent it has any questions with respect to its status as an accredited investor, or the application of the investment limits, it has sought professional advice.

(h) Stockholder Information. Within five days after receipt of a request from the Company, Investor hereby agrees to provide such information with respect to its status as a stockholder (or potential stockholder) and to execute and deliver such documents as may reasonably be necessary to comply with any and all laws and regulations to which the Company is or may become subject, including, without limitation, the need to determine the accredited status of the Company’s stockholders. Investor further agrees that in the event it transfers any Securities, it will require the transferee of such Securities to agree to provide such information to the Company as a condition of such transfer.

(i) Valuation. Investor acknowledges that the price of the shares of Series A Preferred to be sold in this offering was set by the Company on the basis of the Company’s internal valuation and no warranties are made as to value. Investor further acknowledges that future offerings of securities of the Company6 may be made at lower valuations, with the result that Investor’s investment will bear a lower valuation.

(j) Domicile. Investor maintains Investor’s domicile (and is not a transient or temporary resident) at the address provided with Investors subscription.

(k) Foreign Investors. If Investor is not a United States person (as defined by Section 7701(a)(30) of the Internal Revenue Code of 1986, as amended), Investor hereby represents that it has satisfied itself as to the full observance of the laws of its jurisdiction in connection with any invitation to subscribe for the Shares or any use of this Subscription Agreement, including (i) the legal requirements within its jurisdiction for the purchase of the Shares, (ii) any foreign exchange restrictions applicable to such purchase, (iii) any governmental or other consents that may need to be obtained, and (iv) the income tax and other tax consequences, if any, that may be relevant to the purchase, holding, redemption, sale, or transfer of the Securities. Investor’s subscription and payment for and continued beneficial ownership of the Securities will not violate any applicable securities or other laws of Investor’s jurisdiction.

5. **Indemnity**. The representations, warranties and covenants made by Investor herein shall survive the closing of this Subscription Agreement. Investor agrees to indemnify and hold harmless the Company and its respective officers, directors and affiliates, and each other person, if any, who controls the Company within the meaning of Section 15 of the Securities Act against any and all loss, liability, claim, damage and expense whatsoever (including, but not limited to, any and all reasonable attorneys’ fees, including attorneys’ fees on appeal) and expenses reasonably incurred in investigating, preparing or defending against any false representation or warranty or breach of failure by Investor to comply with any covenant or agreement made by Investor herein or in any other document furnished by Investor to any of the foregoing in connection with this transaction.

6. **Governing Law; Jurisdiction**. This Subscription Agreement shall be governed and construed in accordance with the laws of the State of Delaware.

EACH OF INVESTOR AND THE COMPANY CONSENTS TO THE JURISDICTION OF ANY STATE OR FEDERAL COURT OF COMPETENT JURISDICTION LOCATED WITHIN THE STATE OF CALIFORNIA AND NO OTHER PLACE AND IRREVOCABLY AGREES THAT ALL ACTIONS OR PROCEEDINGS RELATING TO THIS SUBSCRIPTION AGREEMENT MAY BE LITIGATED IN SUCH COURTS. EACH OF INVESTORS AND THE COMPANY ACCEPTS FOR ITSELF AND HIMSELF AND IN CONNECTION WITH ITS AND HIS RESPECTIVE PROPERTIES, GENERALLY AND UNCONDITIONALLY, THE EXCLUSIVE JURISDICTION OF THE AFORESAID COURTS AND WAIVES ANY DEFENSE OF FORUM NON CONVENIENS, AND IRREVOCABLY AGREES TO BE BOUND BY ANY JUDGMENT RENDERED THEREBY IN CONNECTION WITH THIS SUBSCRIPTION AGREEMENT. INVESTOR AND THE COMPANY FURTHER IRREVOCABLY CONSENTS TO THE SERVICE OF PROCESS OUT OF ANY OF THE AFOREMENTIONED COURTS IN THE MANNER AND IN THE ADDRESS SPECIFIED IN SECTION 7 AND PROVIDED WITH INVESTORS SUBSCRIPTION.

EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED IN CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THIS SUBSCRIPTION AGREEMENT OR THE ACTIONS OF EITHER PARTY IN THE NEGOTIATION, ADMINISTRATION, PERFORMANCE AND ENFORCEMENT THEREOF, EACH OF THE PARTIES HERETO ALSO WAIVES ANY BOND OR SURETY OR SECURITY UPON SUCH BOND WHICH MIGHT, BUT FOR THIS WAIVER, BE REQUIRED OF SUCH PARTY. EACH OF THE PARTIES HERETO FURTHER WARRANTS AND REPRESENTS THAT IT HAS REVIEWED THIS WAIVER WITH ITS LEGAL COUNSEL, AND THAT IT KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL. THIS WAIVER IS IRREVOCABLE, MEANING THAT IT MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING, AND THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO THIS SUBSCRIPTION AGREEMENT. IN THE EVENT OF LITIGATION, THIS SUBSCRIPTION AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT.

7 . **Notices**. Notice, requests, demands and other communications relating to this Subscription Agreement and the transactions contemplated herein shall be in writing and shall be deemed to have been duly given if and when (a) delivered personally, on the date of such delivery; or (b) mailed by registered or certified mail, postage prepaid, return receipt requested, in the third day after the posting thereof; or (c) emailed on the date of such delivery to the address of the respective parties as follows:

If to the Company, to:

Denim.LA, Inc.
8899 Beverly Blvd., Suite 600
West Hollywood, CA 90069

If to Investor, at Investor's address supplied in connection with this subscription, or to such other address as may be specified by written notice from time to time by the party entitled to receive such notice. Any notices, requests, demands or other communications by email shall be confirmed by letter given in accordance with (a) or (b) above.

8. **Miscellaneous**.

(a) All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine, neuter, singular or plural, as the identity of the person or persons or entity or entities may require.

(b) This Subscription Agreement is not transferable or assignable by Investor.

(c) The representations, warranties and agreements contained herein shall be deemed to be made by and be binding upon Investor and its heirs, executors, administrators and successors and shall inure to the benefit of the Company and its successors and assigns.

(d) None of the provisions of this Subscription Agreement may be waived, changed or terminated orally or otherwise, except as specifically set forth herein or except by a writing signed by the Company and Investor.

(e) In the event any part of this Subscription Agreement is found to be void or unenforceable, the remaining provisions are intended to be separable and binding with the same effect as if the void or unenforceable part were never the subject of agreement.

(f) The invalidity, illegality or unenforceability of one or more of the provisions of this Subscription Agreement in any jurisdiction shall not affect the validity, legality or enforceability of the remainder of this Subscription Agreement in such jurisdiction or the validity, legality or enforceability of this Subscription Agreement, including any such provision, in any other jurisdiction, it being intended that all rights and obligations of the parties hereunder shall be enforceable to the fullest extent permitted by law.

(g) This Subscription Agreement supersedes all prior discussions and agreements between the parties with respect to the subject matter hereof and contains the sole and entire agreement between the parties hereto with respect to the subject matter hereof.

(h) The terms and provisions of this Subscription Agreement are intended solely for the benefit of each party hereto and their respective successors and assigns, and it is not the intention of the parties to confer, and no provision hereof shall confer, third-party beneficiary rights upon any other person.

(i) The headings used in this Subscription Agreement have been inserted for convenience of reference only and do not define or limit the provisions hereof.

(j) This Subscription Agreement may be executed in any number of counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

(k) If any recapitalization or other transaction affecting the stock of the Company is effected, then any new, substituted or additional securities or other property which is distributed with respect to the Securities shall be immediately subject to this Subscription Agreement, to the same extent that the Securities, immediately prior thereto, shall have been covered by this Subscription Agreement.

(l) No failure or delay by any party in exercising any right, power or privilege under this Subscription Agreement shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by law.

9. **Subscription Procedure**.

Each Investor, by providing his or her name and subscription amount and clicking "accept" and/or checking the appropriate box on the Platform ("Online Acceptance"), confirms such Investor's investment through the Platform and confirms such Investor's electronic signature to this Agreement. Investor agrees that his or her electronic signature as provided through Online Acceptance is the legal equivalent of his or her manual signature on this Agreement and Online Acceptance establishes such Investor's acceptance of the terms and conditions of this Agreement.

Exhibit 4.8

SUBSCRIPTION AGREEMENT

THIS INVESTMENT INVOLVES A HIGH DEGREE OF RISK. THIS INVESTMENT IS SUITABLE ONLY FOR PERSONS WHO CAN BEAR THE ECONOMIC RISK FOR AN INDEFINITE PERIOD OF TIME AND WHO CAN AFFORD TO LOSE THEIR ENTIRE INVESTMENT. FURTHERMORE, INVESTORS MUST UNDERSTAND THAT SUCH INVESTMENT IS ILLIQUID AND IS EXPECTED TO CONTINUE TO BE ILLIQUID FOR AN INDEFINITE PERIOD OF TIME. NO PUBLIC MARKET EXISTS FOR THE SECURITIES, AND NO PUBLIC MARKET IS EXPECTED TO DEVELOP FOLLOWING THIS OFFERING.

THE SECURITIES OFFERED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "***SECURITIES ACT***"), OR ANY STATE SECURITIES OR BLUE SKY LAWS AND ARE BEING OFFERED AND SOLD IN RELIANCE ON EXEMPTIONS FROM THE REGISTRATION REQUIREMENTS OF THE ACT AND STATE SECURITIES OR BLUE SKY LAWS. ALTHOUGH AN OFFERING STATEMENT HAS BEEN FILED WITH THE SECURITIES AND EXCHANGE COMMISSION (THE "***SEC***"), THAT OFFERING STATEMENT DOES NOT INCLUDE THE SAME INFORMATION THAT WOULD BE INCLUDED IN A REGISTRATION STATEMENT UNDER THE ACT. THE SECURITIES HAVE NOT BEEN APPROVED OR DISAPPROVED BY THE SEC, ANY STATE SECURITIES COMMISSION OR OTHER REGULATORY AUTHORITY, NOR HAVE ANY OF THE FOREGOING AUTHORITIES PASSED UPON THE MERITS OF THIS OFFERING OR THE ADEQUACY OR ACCURACY OF THE SUBSCRIPTION AGREEMENT OR ANY OTHER MATERIALS OR INFORMATION MADE AVAILABLE TO INVESTOR IN CONNECTION WITH THIS OFFERING, OVER THE WEB-BASED PLATFORM MAINTAINED BY SEEDINVEST TECHNOLOGY, LLC (THE "PLATFORM") OR THROUGH SI SECURITIES, LLC (THE "BROKER"). ANY REPRESENTATION TO THE CONTRARY IS UNLAWFUL.

THE SECURITIES CANNOT BE SOLD OR OTHERWISE TRANSFERRED EXCEPT IN COMPLIANCE WITH THE SECURITIES ACT. IN ADDITION, THE SECURITIES CANNOT BE SOLD OR OTHERWISE TRANSFERRED EXCEPT IN COMPLIANCE WITH APPLICABLE STATE SECURITIES OR "BLUE SKY" LAWS.

INVESTORS WHO ARE NOT "ACCREDITED INVESTORS" (AS THAT TERM IS DEFINED IN SECTION 501 OF REGULATION D PROMULGATED UNDER THE SECURITIES ACT) ARE SUBJECT TO LIMITATIONS ON THE AMOUNT THEY MAY INVEST, AS SET OUT IN SECTION 4(G). THE COMPANY IS RELYING ON THE REPRESENTATIONS AND WARRANTIES SET FORTH BY EACH INVESTOR IN THIS SUBSCRIPTION AGREEMENT AND THE OTHER INFORMATION PROVIDED BY INVESTOR IN CONNECTION WITH THIS OFFERING TO DETERMINE THE APPLICABILITY TO THIS OFFERING OF EXEMPTIONS FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.

PROSPECTIVE INVESTORS MAY NOT TREAT THE CONTENTS OF THE SUBSCRIPTION AGREEMENT, THE OFFERING CIRCULAR OR ANY OF THE OTHER MATERIALS AVAILIBLE ON THE PLATFORM OR PROVIDED BY THE COMPANY AND/OR BROKER (COLLECTIVELY, THE " ***OFFERING MATERIALS***"), OR ANY PRIOR OR SUBSEQUENT COMMUNICATIONS FROM THE COMPANY OR ANY OF ITS OFFICERS, EMPLOYEES OR AGENTS (INCLUDING "TESTING THE WATERS" MATERIALS) AS INVESTMENT, LEGAL OR TAX ADVICE. IN MAKING AN INVESTMENT DECISION, INVESTORS MUST RELY ON THEIR OWN EXAMINATION OF THE COMPANY AND THE TERMS OF THIS OFFERING, INCLUDING THE MERITS AND THE RISKS INVOLVED.

EACH PROSPECTIVE INVESTOR SHOULD CONSULT THE INVESTOR'S OWN COUNSEL, ACCOUNTANTS AND OTHER PROFESSIONAL ADVISORS AS TO INVESTMENT, LEGAL, TAX AND OTHER RELATED MATTERS CONCERNING THE INVESTOR'S PROPOSED INVESTMENT.

THE OFFERING MATERIALS MAY CONTAIN FORWARD-LOOKING STATEMENTS AND INFORMATION RELATING TO, AMONG OTHER THINGS, THE COMPANY, ITS BUSINESS PLAN AND STRATEGY, AND ITS INDUSTRY. THESE FORWARD-LOOKING STATEMENTS ARE BASED ON THE BELIEFS OF, ASSUMPTIONS MADE BY, AND INFORMATION CURRENTLY AVAILABLE TO THE COMPANY'S MANAGEMENT. WHEN USED IN THE OFFERING MATERIALS, THE WORDS "ESTIMATE," "PROJECT," "BELIEVE," "ANTICIPATE," "INTEND," "EXPECT" AND SIMILAR EXPRESSIONS ARE INTENDED TO IDENTIFY FORWARD-LOOKING STATEMENTS, WHICH CONSTITUTE FORWARD LOOKING STATEMENTS. THESE STATEMENTS REFLECT MANAGEMENT'S CURRENT VIEWS WITH RESPECT TO FUTURE EVENTS AND ARE SUBJECT TO RISKS AND UNCERTAINTIES THAT COULD CAUSE THE COMPANY'S ACTUAL RESULTS TO DIFFER MATERIALLY FROM THOSE CONTAINED IN THE FORWARD-LOOKING STATEMENTS. INVESTORS ARE CAUTIONED NOT TO PLACE UNDUE RELIANCE ON THESE FORWARD-LOOKING STATEMENTS, WHICH SPEAK ONLY AS OF THE DATE ON WHICH THEY ARE MADE. THE COMPANY DOES NOT UNDERTAKE ANY OBLIGATION TO REVISE OR UPDATE THESE FORWARD-LOOKING STATEMENTS TO REFLECT EVENTS OR CIRCUMSTANCES AFTER SUCH DATE OR TO REFLECT THE OCCURRENCE OF UNANTICIPATED EVENTS.

THE COMPANY MAY NOT BE OFFERING THE SECURITIES IN EVERY STATE. THE OFFERING MATERIALS DO NOT CONSTITUTE AN OFFER OR SOLICITATION IN ANY STATE OR JURISDICTION IN WHICH THE SECURITIES ARE NOT BEING OFFERED.

THE INFORMATION PRESENTED IN THE OFFERING MATERIALS WAS PREPARED BY THE COMPANY SOLELY FOR THE USE BY PROSPECTIVE INVESTORS IN CONNECTION WITH THIS OFFERING. NOTHING CONTAINED IN THE OFFERING MATERIALS IS OR SHOULD BE RELIED UPON AS A PROMISE OR REPRESENTATION AS TO THE FUTURE PERFORMANCE OF THE COMPANY.

THE COMPANY RESERVES THE RIGHT IN ITS SOLE DISCRETION AND FOR ANY REASON WHATSOEVER TO MODIFY, AMEND AND/OR WITHDRAW ALL OR A PORTION OF THE OFFERING AND/OR ACCEPT OR REJECT IN WHOLE OR IN PART ANY PROSPECTIVE INVESTMENT IN THE SECURITIES OR TO ALLOT TO ANY PROSPECTIVE INVESTOR LESS THAN THE AMOUNT OF SECURITIES SUCH INVESTOR DESIRES TO PURCHASE. EXCEPT AS OTHERWISE INDICATED, THE OFFERING MATERIALS SPEAK AS OF THEIR DATE. NEITHER THE DELIVERY NOR THE PURCHASE OF THE SECURITIES SHALL, UNDER ANY CIRCUMSTANCES, CREATE ANY IMPLICATION THAT THERE HAS BEEN NO CHANGE IN THE AFFAIRS OF THE COMPANY SINCE THAT DATE.

To: Denim.LA, Inc.
8899 Beverly Blvd., Suite 600
West Hollywood, CA 90069

Ladies and Gentlemen:

1. **Subscription**.

(a) The Investor hereby irrevocably subscribes for and agrees to purchase shares (the "***Shares***") of Series A-3 Preferred Stock (the "***Series A-3 Preferred Stock***"), par value $0.0001 per share, of Denim.LA, Inc., a Delaware corporation (the "***Company***"), which shares of Series A-3 Preferred Stock are convertible into shares of Common Stock of the Company, par value $0.0001 per share (the "***Common Stock***"). Such purchases shall be made at a purchase price of $0.53 per share of Series A-3 Preferred Stock (the "***Per Security Price***"), rounded down to the nearest whole share based on Investor's subscription amount, upon the terms and conditions set forth herein. The purchase price of each Share is payable in the manner provided in Section 3(a) below. The Shares being subscribed for under this Subscription Agreement and the Common Stock issuable upon the conversion of the shares of Series A-3 Preferred Stock subscribed for herein are sometimes referred to herein as the "***Securities***." The rights and preferences of the Securities are as set forth in the Amended and Restated Certificate of Incorporation of the Company, available in the Exhibits to the Offering Statement of the Company filed with the SEC (the "***Offering Statement***").

(b) Investor understands that the Securities are being offered pursuant to the Offering Circular dated [___], 2018, and its exhibits (the "***Offering Circular***") as filed with the Securities and Exchange Commission (the "***SEC***"). By subscribing to the Offering, Investor acknowledges that Investor has received and reviewed a copy of the Offering Circular and Offering Statement and any other information required by Investor to make an investment decision with respect to the Securities.

(c) This Subscription may be accepted or rejected in whole or in part, at any time prior to the Termination Date (as hereinafter defined), by the Company at its sole discretion. In addition, the Company, at its sole discretion, may allocate to Investor only a portion of the number of the Shares that Investor has subscribed to purchase hereunder. The Company will notify Investor whether this subscription is accepted (whether in whole or in part) or rejected. If Investor's subscription is rejected, Investor's payment (or portion thereof if partially rejected) will be returned to Investor without interest and all of Investor's obligations hereunder shall terminate.

(d) The aggregate number of shares of Series A-3 Preferred Stock that may be sold by the Company in this offering shall not exceed 18,867,925 shares (the "***Maximum Shares***"). The Company may accept subscriptions until [DATE], unless otherwise extended by the Company in its sole discretion in accordance with applicable SEC regulations for such additional period as may be required to sell the Maximum Shares (the "***Termination Date***"). Provided that subscriptions for at least 754,716 shares of Series A-3 Preferred Stock are received (the "***Minimum Offering***"), the Company may elect at any time to close all or any portion of this offering on various dates at or prior to the Termination Date (each a "***Closing***").

(e) In the event of rejection of this subscription in its entirety, or in the event the sale of the Shares (or any portion thereof) to Investor is not consummated for any reason, this Subscription Agreement shall have no force or effect, except for Section 6 hereof, which shall remain in force and effect.

(f) The terms of this Subscription Agreement shall be binding upon Investor and its transferees, heirs, successors and assigns (collectively, "***Transferees***"); provided that for any such transfer to be deemed effective, the Transferee shall have executed and delivered to the Company in advance an instrument in form acceptable to the Company in its sole discretion, pursuant to which the proposed Transferee shall be acknowledge, agree, and be bound by the representations and warranties of Investor, terms of this Subscription Agreement, and the Company consents to the transfer in its sole discretion.

2. **Joinder to Investment Agreements**. By subscribing to the Offering and executing this Subscription Agreement, Investor (and, if Investor is purchasing the Shares subscribed for hereby in a fiduciary capacity, the person or persons for whom Investor is so purchasing) hereby joins as a party that is designated (a) as an "Investor" under each of (i) the Amended and Restated Investors' Rights Agreement to be dated as of the initial Closing, in substantially the form attached hereto as Exhibit A (the "***Investors' Rights Agreement***"), and (ii) the Amended and Restated Right of First Refusal Agreement and Co-Sale Agreement to be dated as of the initial Closing, in substantially the form attached hereto as Exhibit B (the "***First Refusal Agreement***"), and (b) as a "Rights Holder" under the Amended and Restated Voting Agreement to be dated as of the initial Closing, in substantially the form attached hereto as Exhibit C (the ***"Voting Agreement"***), in each case as entered into by and among the Company, the investors in the Company's Series Seed Preferred Stock, Series A Preferred Stock Series A-2 Preferred Stock, Series CF Preferred Stock and Series A-3 Preferred Stock and certain other stockholders of the Company. The Investors' Rights Agreement, First Refusal Agreement and Voting Agreement collectively are referred to herein as the " ***Investment Agreements***". Any notice required or permitted to be given to Investor under any of the Investment Agreements shall be given to Investor at the address provided with Investor's subscription. Investor confirms that Investor has reviewed the Investment Agreements and will be bound by the terms thereof as a party who is designated as an "Investor" under the Investors' Rights Agreement and the First Refusal Agreement, and as a "Rights Holder" under the Voting Agreement.

3. **Purchase Procedure**.

(a) Payment. The purchase price for the Shares shall be paid simultaneously with Investor's subscription. Investor shall deliver payment for the aggregate purchase price of the Securities by ACH electronic transfer or by wire transfer to an account designated by the Company.

(b) Escrow Arrangements. Payment for the Securities by Investor shall be received by The Bryn Mawr Trust Company of Delaware (the "***Escrow Agent***") from Investor by transfer of immediately available funds via wire or ACH, or other means approved by the Company at least two days prior to the applicable Closing in the amount of Investor's subscription using the instructions below. Tendered funds will remain in escrow until both the Minimum Offering amount of $400,000 has been reached and a Closing has occurred. In the event the Minimum Offering amount of shares has not been sold by the date that is one year from the qualification of this offering with the SEC, or sooner terminated by the company, any money tendered by Investor will be promptly returned by the Escrow Agent.

Upon a successful Closing, the Escrow Agent shall release Investor's funds to the Company. The Investor shall receive notice and evidence of the digital entry of the number of the Securities owned by Investor reflected on the books and records of the Company and verified by [VStock Transfer, LLC] (the "***Transfer Agent***"), which books and records shall bear a notation that the Securities were sold in reliance upon Regulation A of the Securities Act. Upon written instruction by the Investor, the Transfer Agent may record the Shares beneficially owned by the Investor on the books and records of the Company in the name of any other entity as designated by the Investor.

Bank Name	[Bryn Mawr Trust Company]
Address	[801 Lancaster Ave, Bryn Mawr PA 19010]
Routing Number	[031908485]
Account Number	[069-6964]
Account Name	[Trust Funds]
Further Instructions	[SeedInvest – DSTLD]

(c) Conversion of Promissory Notes. Notwithstanding the foregoing, Investor may pay the purchase price for the Shares by cancellation or conversion of indebtedness of the Company to the Investor. In the event that payment by Investor is made, in whole or in part, by cancellation of indebtedness, then such Investor shall surrender to the Company for cancellation at the applicable Closing any evidence of indebtedness or shall execute an instrument of cancellation and lost promissory note and indemnity agreement in form and substance acceptable to the Company. Each Investor, to the extent that such Investor is a holder of any promissory note of the Company being converted and/or cancelled in consideration of the issuance hereunder of Shares to such Investor, hereby agrees that the entire amount owed to such Investor under such note is being tendered to the Company in exchange for the applicable Shares, and effective upon the Company's and such Investor's execution and delivery of this Agreement

(including without limitation pursuant to that certain Subscription Agreement Attachment), without any further action required by the Company or such Investor, such note and all obligations set forth therein shall be immediately deemed repaid in full and terminated in their entirety, including, but not limited to, any security interest effected therein.

4. **Representations and Warranties of the Company**. The Company represents and warrants to Investor that the following representations and warranties are true and complete in all material respects as of the date of each Closing:

(a) Organization and Standing. The Company is a corporation duly formed, validly existing and in good standing under the laws of the State of Delaware. The Company has all requisite power and authority to own and operate its properties and assets, to execute and deliver this Subscription Agreement, the Securities and any other agreements or instruments required hereunder. The Company is duly qualified and is authorized to do business and is in good standing as a foreign corporation in all jurisdictions in which the nature of its activities and of its properties (both owned and leased) makes such qualification necessary, except for those jurisdictions in which failure to do so would not have a material adverse effect on the Company or its business.

(b) Issuance of the Securities. The issuance, sale and delivery of the Securities in accordance with this Subscription Agreement have been duly authorized by all necessary corporate action on the part of the Company. The Securities, when issued, sold and delivered against payment therefor in accordance with the provisions of this Subscription Agreement, will be duly and validly issued, fully paid and non-assessable.

(c) Authority for Agreement. The acceptance by the Company of this Subscription Agreement and of Investor's joinder as a party to each of the Investment Agreements, and the consummation of the transactions contemplated hereby and thereby, are within the Company's powers and have been duly authorized by all necessary corporate action on the part of the Company. Upon the Company's acceptance of this Subscription Agreement, each of this Subscription Agreement and the Investment Agreements, shall constitute a valid and binding agreement of the Company, enforceable against the Company in accordance with its terms, except (i) as limited by applicable bankruptcy, insolvency, reorganization, moratorium, and other laws of general application affecting enforcement of creditors' rights generally, (ii) as limited by laws relating to the availability of specific performance, injunctive relief, or other equitable remedies and (iii) with respect to provisions relating to indemnification and contribution, as limited by considerations of public policy and by federal or state securities laws.

(d) No Filings. Assuming the accuracy of Investor's representations and warranties set forth in Section 4 hereof, no order, license, consent, authorization or approval of, or exemption by, or action by or in respect of, or notice to, or filing or registration with, any governmental body, agency or official is required by or with respect to the Company in connection with the acceptance, delivery and performance by the Company of this Subscription Agreement except (i) for such filings as may be required under Regulation A or under any applicable state securities laws, (ii) for such other filings and approvals as have been made or obtained, or (iii) where the failure to obtain any such order, license, consent, authorization, approval or exemption or give any such notice or make any filing or registration would not have a material adverse effect on the ability of the Company to perform its obligations hereunder.

(e) Capitalization. The outstanding shares of Common Stock, Series Seed Preferred Stock, Series A Preferred Stock, Series A-2 Preferred Stock, Series CF Preferred Stock, options, warrants and other securities of the Company immediately prior to the initial Closing is as set forth in "***Security Ownership***" in the Offering Circular. Except as set forth in the Offering Circular, there are no outstanding options, warrants, rights (including conversion or preemptive rights and rights of first refusal), or agreements of any kind (oral or written) for the purchase or acquisition from the Company of any of its securities.

(f) Financial Statements. Complete copies of the Company's financial statements, consisting of the statement of financial position of the Company as of its fiscal year end on December 31, 2016 and December 31, 2017, and the related consolidated statements of income and cash flows for the respective periods then ended (collectively, the "***Financial Statements***"), have been made available to Investor and appear in the Offering Circular. The Financial Statements are based on the books and records of the Company and fairly present the financial condition of the Company as of the respective dates they were prepared and the results of the operations and cash flows of the Company for the respective periods indicated. Artesian CPA, LLC, which has audited the Financial Statements at December 31, 2016 and December 31, 2017, and for each fiscal year then ended, is an independent accounting firm within the rules and regulations adopted by the SEC.

(g) Proceeds. The Company shall use the proceeds from the issuance and sale of the shares of Series A-3 Preferred sold in the offering as set forth in "Use of Proceeds" in the Offering Circular.

(h) Litigation. Except as disclosed in the Offering Circular, there is no pending action, suit, proceeding, arbitration, mediation, complaint, claim, charge or investigation before any court, arbitrator, mediator or governmental body, or to the Company's knowledge, currently threatened in writing (a) against the Company or (b) to the Company's knowledge, against any consultant, officer, manager, director or key employee of the Company arising out of his or her consulting, employment or board relationship with the Company or that could otherwise materially impact the Company.

5. **Representations and Warranties of Investor**. By subscribing to the Offering, Investor (and, if Investor is purchasing the Shares subscribed for hereby in a fiduciary capacity, the person or persons for whom Investor is so purchasing) represents and warrants, which representations and warranties are true and complete in all material respects as of the date of each Closing:

(a) Requisite Power and Authority. Investor has all necessary power and authority under all applicable provisions of law to subscribe to the Offering, to execute and deliver this Subscription Agreement, to join as a party to each of the Investment Agreements, and to carry out the provisions of such respective agreements. All action on Investor's part required for the lawful subscription to the offering have been or will be effectively taken prior to the Closing. Upon subscribing to the Offering, this Subscription Agreement and each of the Investment Agreements will be valid and binding obligations of Investor, enforceable in accordance with their respective terms, except (i) as limited by applicable bankruptcy, insolvency, reorganization, moratorium or other laws of general application affecting enforcement of creditors' rights and (ii) as limited by general principles of equity that restrict the availability of equitable remedies.

(b) Company Information. Investor has had an opportunity to discuss the Company's business, management and financial affairs with directors, officers and management of the Company and has had the opportunity to review the Company's operations and facilities. Investor has also had the opportunity to ask questions of and receive answers from the Company and its management regarding the terms and conditions of this investment. Investor acknowledges that except as set forth herein, no

representations or warranties have been made to Investor, or to Investor's advisors or representative, by the Company or others with respect to the business or prospects of the Company or its financial condition.

(c) Investment Experience. Investor has sufficient experience in financial and business matters to be capable of utilizing such information to evaluate the merits and risks of Investor's investment in the Securities, and to make an informed decision relating thereto; or Investor has utilized the services of a purchaser representative and together they have sufficient experience in financial and business matters that they are capable of utilizing such information to evaluate the merits and risks of Investor's investment in the Securities, and to make an informed decision relating thereto.

(d) Investor Determination of Suitability. Investor has evaluated the risks of an investment in the Shares, including those described in the section of the Offering Circular captioned "Risk Factors", and has determined that the investment is suitable for Investor. Investor has adequate financial resources for an investment of this character, and at this time Investor could bear a complete loss of Investor's investment in the Company.

(e) No Registration. Investor understands that the Securities are not being registered under the Securities Act of 1933, as amended (the "***Securities Act***"), on the ground that the issuance thereof is exempt under Regulation A of Section 3(b) of the Securities Act, and that reliance on such exemption is predicated in part on the truth and accuracy of Investor's representations and warranties, and those of the other purchasers of the shares of Securities in the offering. Investor further understands that the Securities are not being registered under the securities laws of any states on the basis that the issuance thereof is exempt as an offer and sale not involving a registerable public offering in such state, since the Shares are "covered securities" under the National Securities Market Improvement Act of 1996. Investor covenants not to sell, transfer or otherwise dispose of any Securities unless such Securities have been registered under the Securities Act and under applicable state securities laws, or exemptions from such registration requirements are available.

(f) Illiquidity and Continued Economic Risk. Investor acknowledges and agrees that there is no ready public market for the Securities and that there is no guarantee that a market for their resale will ever exist. The Company has no obligation to list any of the Securities on any market or take any steps (including registration under the Securities Act or the Securities Exchange Act of 1934, as amended) with respect to facilitating trading or resale of the Securities. Investor must bear the economic risk of this investment indefinitely and Investor acknowledges that Investor is able to bear the economic risk of losing Investor's entire investment in the Securities.

(g) Accredited Investor Status or Investment Limits. Investor represents that either:

(i) Investor is an "accredited investor" within the meaning of Rule 501 of Regulation D under the Securities Act; or

(ii) The purchase price, together with any other amounts previously used to purchase Shares in this offering, does not exceed 10% of the greater of Investor's annual income or net worth (or in the case where Investor is a non-natural person, their revenue or net assets for such Investor's most recently completed fiscal year end).

Investor represents that to the extent it has any questions with respect to its status as an accredited investor, or the application of the investment limits, it has sought professional advice.

(h) Stockholder Information. Within five days after receipt of a request from the Company, Investor hereby agrees to provide such information with respect to its status as a stockholder (or potential stockholder) and to execute and deliver such documents as may reasonably be necessary to comply with any and all laws and regulations to which the Company is or may become subject, including, without limitation, the need to determine the accredited status of the Company's stockholders. Investor further agrees that in the event it transfers any Securities, it will require the transferee of such Securities to agree to provide such information to the Company as a condition of such transfer.

(i) Valuation. Investor acknowledges that the price of the shares of Securities to be sold in this offering was set by the Company on the basis of the Company's internal valuation and no warranties are made as to value. Investor further acknowledges that future offerings of securities of the Company may be made at lower valuations, with the result that Investor's investment will bear a lower valuation.

(j) Domicile. Investor maintains Investor's domicile (and is not a transient or temporary resident) at the address provided with Investors subscription.

(k) Foreign Investors. If Investor is not a United States person (as defined by Section 7701(a)(30) of the Internal Revenue Code of 1986, as amended), Investor hereby represents that it has satisfied itself as to the full observance of the laws of its jurisdiction in connection with any invitation to subscribe for the Shares or any use of this Subscription Agreement, including (i) the legal requirements within its jurisdiction for the purchase of the Shares, (ii) any foreign exchange restrictions applicable to such purchase, (iii) any governmental or other consents that may need to be obtained, and (iv) the income tax and other tax consequences, if any, that may be relevant to the purchase, holding, redemption, sale, or transfer of the Securities. Investor's subscription and payment for and continued beneficial ownership of the Securities will not violate any applicable securities or other laws of Investor's jurisdiction.

6. **Indemnity**. The representations, warranties and covenants made by Investor herein shall survive the closing of this Subscription Agreement. Investor agrees to indemnify and hold harmless the Company and its respective officers, directors and affiliates, and each other person, if any, who controls the Company within the meaning of Section 15 of the Securities Act against any and all loss, liability, claim, damage and expense whatsoever (including, but not limited to, any and all reasonable attorneys' fees, including attorneys' fees on appeal) and expenses reasonably incurred in investigating, preparing or defending against any false representation or warranty or breach of failure by Investor to comply with any covenant or agreement made by Investor herein or in any other document furnished by Investor to any of the foregoing in connection with this transaction.

7. **Governing Law; Jurisdiction**. This Subscription Agreement shall be governed and construed in accordance with the laws of the State of Delaware.

EACH OF INVESTOR AND THE COMPANY CONSENTS TO THE JURISDICTION OF ANY STATE OR FEDERAL COURT OF COMPETENT JURISDICTION LOCATED WITHIN THE STATE OF CALIFORNIA AND NO OTHER PLACE AND IRREVOCABLY AGREES THAT ALL ACTIONS OR PROCEEDINGS RELATING TO THIS SUBSCRIPTION AGREEMENT MAY BE LITIGATED IN SUCH COURTS. EACH OF INVESTORS AND THE COMPANY ACCEPTS FOR ITSELF AND HIMSELF AND IN CONNECTION WITH ITS AND HIS RESPECTIVE PROPERTIES, GENERALLY AND UNCONDITIONALLY, THE EXCLUSIVE JURISDICTION OF THE AFORESAID COURTS AND WAIVES ANY DEFENSE OF FORUM NON CONVENIENS, AND IRREVOCABLY AGREES TO BE BOUND BY ANY JUDGMENT RENDERED THEREBY IN CONNECTION WITH THIS SUBSCRIPTION AGREEMENT. INVESTOR AND THE COMPANY FURTHER IRREVOCABLY CONSENTS TO THE SERVICE OF PROCESS OUT OF ANY OF THE AFOREMENTIONED COURTS IN THE MANNER AND IN THE ADDRESS SPECIFIED IN SECTION 8 AND PROVIDED WITH INVESTORS SUBSCRIPTION.

EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM

(WHETHER BASED IN CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THIS SUBSCRIPTION AGREEMENT OR THE ACTIONS OF EITHER PARTY IN THE NEGOTIATION, ADMINISTRATION, PERFORMANCE AND ENFORCEMENT THEREOF, EACH OF THE PARTIES HERETO ALSO WAIVES ANY BOND OR SURETY OR SECURITY UPON SUCH BOND WHICH MIGHT, BUT FOR THIS WAIVER, BE REQUIRED OF SUCH PARTY. EACH OF THE PARTIES HERETO FURTHER WARRANTS AND REPRESENTS THAT IT HAS REVIEWED THIS WAIVER WITH ITS LEGAL COUNSEL, AND THAT IT KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL. THIS WAIVER IS IRREVOCABLE, MEANING THAT IT MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING, AND THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO THIS SUBSCRIPTION AGREEMENT. IN THE EVENT OF LITIGATION, THIS SUBSCRIPTION AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT.

8. **Notices**. Notice, requests, demands and other communications relating to this Subscription Agreement and the transactions contemplated herein shall be in writing and shall be deemed to have been duly given if and when (a) delivered personally, on the date of such delivery; or (b) mailed by registered or certified mail, postage prepaid, return receipt requested, in the third day after the posting thereof; or (c) emailed on the date of such delivery to the address of the respective parties as follows:

If to the Company, to:

Denim.LA, Inc.
8899 Beverly Blvd., Suite 600
West Hollywood, CA 90069

If to Investor, at Investor's address supplied in connection with this subscription, or to such other address as may be specified by written notice from time to time by the party entitled to receive such notice. Any notices, requests, demands or other communications by email shall be confirmed by letter given in accordance with (a) or (b) above.

9. **Miscellaneous**.

(a) All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine, neuter, singular or plural, as the identity of the person or persons or entity or entities may require.

(b) This Subscription Agreement is not transferable or assignable by Investor.

(c) The representations, warranties and agreements contained herein shall be deemed to be made by and be binding upon Investor and its heirs, executors, administrators and successors and shall inure to the benefit of the Company and its successors and assigns.

(d) None of the provisions of this Subscription Agreement may be waived, changed or terminated orally or otherwise, except as specifically set forth herein or except by a writing signed by the Company and Investor.

(e) In the event any part of this Subscription Agreement is found to be void or unenforceable, the remaining provisions are intended to be separable and binding with the same effect as if the void or unenforceable part were never the subject of agreement.

(f) The invalidity, illegality or unenforceability of one or more of the provisions of this Subscription Agreement in any jurisdiction shall not affect the validity, legality or enforceability of the remainder of this Subscription Agreement in such jurisdiction or the validity, legality or enforceability of this Subscription Agreement, including any such provision, in any other jurisdiction, it being intended that all rights and obligations of the parties hereunder shall be enforceable to the fullest extent permitted by law.

(g) This Subscription Agreement supersedes all prior discussions and agreements between the parties with respect to the subject matter hereof and contains the sole and entire agreement between the parties hereto with respect to the subject matter hereof.

(h) The terms and provisions of this Subscription Agreement are intended solely for the benefit of each party hereto and their respective successors and assigns, and it is not the intention of the parties to confer, and no provision hereof shall confer, third-party beneficiary rights upon any other person.

(i) The headings used in this Subscription Agreement have been inserted for convenience of reference only and do not define or limit the provisions hereof.

(j) This Subscription Agreement may be executed in any number of counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

(k) If any recapitalization or other transaction affecting the stock of the Company is effected, then any new, substituted or additional securities or other property which is distributed with respect to the Securities shall be immediately subject to this Subscription Agreement, to the same extent that the Securities, immediately prior thereto, shall have been covered by this Subscription Agreement.

(l) No failure or delay by any party in exercising any right, power or privilege under this Subscription Agreement shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by law.

10. **Subscription Procedure**.

Each Investor, by providing his or her name and subscription amount and clicking "accept" and/or checking the appropriate box on the Platform ("***Online Acceptance***"), confirms such Investor's investment through the Platform and confirms such Investor's electronic signature to this Agreement. Investor agrees that his or her electronic signature as provided through Online Acceptance is the legal equivalent of his or her manual signature on this Agreement and Online Acceptance establishes such Investor's acceptance of the terms and conditions of this Agreement.

Exhibit 4.9

StartEngine Capital LLC.

Subscription Agreement

THE SECURITIES ARE BEING OFFERED PURSUANT TO SECTION 4(A)(6) OF THE SECURITIES ACT OF 1933 (THE "ACT") AND HAVE NOT BEEN REGISTERED UNDER THE ACT OR THE SECURITIES LAWS OF ANY STATE OR ANY OTHER JURISDICTION. NO FEDERAL OR STATE SECURITIES ADMINISTRATOR HAS REVIEWED OR PASSED ON THE ACCURACY OR ADEQUACY OF THE OFFERING MATERIALS FOR THESE SECURITIES. THERE ARE SIGNIFICANT RESTRICTIONS ON THE TRANSFERABILITY OF THE SECURITIES DESCRIBED HEREIN AND NO RESALE MARKET MAY BE AVAILABLE AFTER RESTRICTIONS EXPIRE. THE PURCHASE OF THESE SECURITIES INVOLVES A HIGH DEGREE OF RISK AND SHOULD BE CONSIDERED ONLY BY PERSONS WHO CAN BEAR THE RISK OF THE LOSS OF THEIR ENTIRE INVESTMENT WITHOUT A CHANGE IN THEIR LIFESTYLE.

Denim.LA, Inc.
8899 Beverly Blvd., Suite 600
West Hollywood, CA 90069

Ladies and Gentlemen:

The undersigned understands that Denim.LA, Inc., a corporation organized under the laws of Delaware (the "Company"), is offering up to $1,070,000.00 of shares of Series CF Preferred Stock (the "Securities") in a Regulation Crowdfunding offering. This offering is made pursuant to the Form C, dated [DATE OF LAUNCH] the "Form C"). The undersigned further understands that the offering is being made pursuant to Section 4(a)(6) of the Act and Regulation Crowdfunding under the Act ("Regulation Crowdfunding") and without registration of the Securities under the Act.

1. Subscription.

(a) Subject to the terms and conditions hereof and the provisions of the Form C, the undersigned hereby subscribes for the Securities set forth on the signature page hereto for the aggregate purchase price set forth on the signature page hereto, which is payable as described in Section 4 hereof. Subscriber understands and acknowledges that the subscription may not be revoked within the 48 hour period prior to a closing (as described below) of the Offering. The undersigned acknowledges that the Securities will be subject to restrictions on transfer as set forth in this subscription agreement (the "Subscription Agreement").

(b) By executing this Subscription Agreement, the undersigned (and, if the undersigned is purchasing the Securities subscribed for hereby in a fiduciary capacity, the person or persons for whom the undersigned is so purchasing) hereby joins as a party that is designated (a) as an "Investor" under each of (i) the Amended and Restated Investors' Rights Agreement to be dated as of the initial Closing, in substantially the form attached hereto as Exhibit A (the "Investors' Rights Agreement"), and (ii) the Amended and Restated Right of First Refusal Agreement and Co-Sale Agreement to be dated as of the initial Closing, in substantially the form attached hereto as Exhibit B (the "First Refusal Agreement"), and (b) as a "Rights Holder" under the Amended and Restated Voting Agreement to be dated as of the initial Closing, in substantially the form attached hereto as Exhibit C (the "Voting Agreement"), in each case as entered into by and among the Company, the investors in the Company's Series Seed Preferred Stock, Series A Preferred Stock, Series A-2 Preferred Stock and Series CF Preferred Stock and certain other stockholders of the Company. The Investors' Rights Agreement, First Refusal Agreement and Voting Agreement collectively are referred to herein as the "Investment Agreements". Any notice required or permitted to be given to the undersigned under any of the Investment Agreements shall be given to the undersigned at the address provided with the undersigned's subscription. The undersigned confirms that the undersigned has reviewed the Investment Agreements and will be bound by the terms thereof as a party who is designated as an "Investor" under the Investors' Rights Agreement and the First Refusal Agreement, and as a "Rights Holder" under the Voting Agreement.

2. Acceptance of Subscription and Issuance of Securities. It is understood and agreed that the Company shall have the sole right, at its complete discretion, to accept or reject this subscription, in whole or in part, for any reason and that the same shall be deemed to be accepted by the Company only when it is signed by a duly authorized officer of the Company and delivered to the undersigned at the Closing referred to in Section 3 hereof. Subscriptions need not be accepted in the order received, and the Securities may be allocated among subscribers.

3. The Closing. The closing of the purchase and sale of the Securities (the "Closing") shall take place at [TIME] a.m. New York time on [EXPIRATION DATE], or at such other time and place as the Company may designate by notice to the undersigned.

4. Payment for Securities. Payment for the Securities shall be received by [NAME OF ESCROW] (the "Escrow Agent") from the undersigned by [%PaymentMethod%] of immediately available funds or other means approved by the Escrow Agent prior to the Offering campaign deadline, in the amount as set forth on the signature page hereto. Upon the Closing, the Escrow Agent shall release such funds to the Company. The undersigned shall receive notice and evidence of the entry of the number of the Securities owned by undersigned reflected on the books and records of the Company and verified by Fund America Stock Transfer (the "Transfer Agent"), which shall bear a notation that the Securities were sold in reliance upon an exemption from registration under the Securities Act.

5. Representations and Warranties of the Company. The Company represents and warrants to the undersigned that the following representations and warranties are true and complete in all material respects as of the date of each Closing:

a) The Company is duly formed and validly existing under the laws of Delaware, with full power and authority to conduct its business as it is currently being conducted and to own its assets; and has secured any other authorizations, approvals, permits and orders required by law for the conduct by the Company of its business as it is currently being conducted, except as would not have a material adverse effect on the Company or its business.

b) The Securities have been duly authorized and, when issued, delivered and paid for in the manner set forth in this Subscription Agreement, will be validly issued, fully paid and nonassessable, and will conform in all material respects to the description thereof set forth in the Form C.

c) The execution and delivery by the Company of this Subscription Agreement and the consummation of the transactions contemplated hereby (including the issuance, sale and delivery of the Securities) are within the Company's powers and have been duly authorized by all necessary corporate action on the part of the Company. Upon full execution hereof, this Subscription Agreement shall constitute a valid and binding agreement of the Company, enforceable against the Company in accordance with its terms, except (i) as limited by applicable bankruptcy, insolvency, reorganization, moratorium, and other laws of general application affecting enforcement of creditors' rights generally, (ii) as limited by laws relating to the availability of specific performance, injunctive relief, or other equitable remedies and (iii) with respect to provisions relating to indemnification and contribution, as limited by considerations of public policy and by federal or state securities laws.

d) Assuming the accuracy of the undersigned's representations and warranties set forth in Section 6 hereof, no order, license, consent, authorization or approval of, or exemption by, or action by or in respect of, or notice to, or filing or registration with, any governmental body, agency or official is required by or with respect to the Company in connection with the execution, delivery and performance by the Company of this Subscription Agreement except (i) for such filings as may be required under Regulation Crowdfunding, or under any applicable state securities laws, (ii) for such other filings and approvals as have been made or obtained, or (iii) where the failure to obtain any such

order, license, consent, authorization, approval or exemption or give any such notice or make any filing or registration would not have a material adverse effect on the ability of the Company to perform its obligations hereunder.

6. Representations and Warranties of the Undersigned. The undersigned hereby represents and warrants to and covenants with the Company that:

a) General.

i. The undersigned has all requisite authority (and in the case of an individual, the capacity) to purchase the Securities, enter into this Subscription Agreement, to join as a party to each of the Investment Agreements, and to perform all the obligations required to be performed by the undersigned hereunder and thereunder, and such purchase, such entry into this Subscription Agreement, and such joinder with such Investment Agreements will not contravene any law, rule or regulation binding on the undersigned or any investment guideline or restriction applicable to the undersigned. This Subscription Agreement and each of the Investment Agreements will be valid and binding obligations of the undersigned, enforceable in accordance with their respective terms, except (i) as limited by applicable bankruptcy, insolvency, reorganization, moratorium or other laws of general application affecting enforcement of creditors' rights and (ii) as limited by general principles of equity that restrict the availability of equitable remedies.

ii. The undersigned is a resident of the state set forth on the signature page hereto and is not acquiring the Securities as a nominee or agent or otherwise for any other person.

iii. The undersigned will comply with all applicable laws and regulations in effect in any jurisdiction in which the undersigned purchases or sells Securities and obtain any consent, approval or permission required for such purchases or sales under the laws and regulations of any jurisdiction to which the undersigned is subject or in which the undersigned makes such purchases or sales, and the Company shall have no responsibility therefor.

iv. Including the amount set forth on the signature page hereto, in the past 12 month period, the undersigned has not exceeded the investment limit as set forth in Rule 100(a)(2) of Regulation Crowdfunding.

b) Information Concerning the Company.

i. The undersigned has received and reviewed a copy of the Form C. With respect to information provided by the Company, the undersigned has relied solely on the information contained in the Form C to make the decision to purchase the Securities.

ii. The undersigned understands and accepts that the purchase of the Securities involves various risks, including the risks outlined in the Form C and in this Subscription Agreement. The undersigned represents that it is able to bear any and all loss associated with an investment in the Securities.

iii. The undersigned confirms that it is not relying and will not rely on any communication (written or oral) of the Company, StartEngine, or any of their respective affiliates, as investment advice or as a recommendation to purchase the Securities. It is understood that information and explanations related to the terms and conditions of the Securities provided in the Form C or otherwise by the Company, StartEngine or any of their respective affiliates shall not be considered investment advice or a recommendation to purchase the Securities, and that neither the Company, StartEngine nor any of their respective affiliates is acting or has acted as an advisor to the undersigned in deciding to invest in the Securities. The undersigned acknowledges that neither the Company, StartEngine nor any of their respective affiliates have made any representation regarding the proper characterization of the Securities for purposes of determining the undersigned's authority or suitability to invest in the Securities.

iv. The undersigned is familiar with the business and financial condition and operations of the Company, all as generally described in the Form C. The undersigned has had access to such information concerning the Company and the Securities as it deems necessary to enable it to make an informed investment decision concerning the purchase of the Securities.

v. The undersigned understands that, unless the undersigned notifies the Company in writing to the contrary at or before the Closing, each of the undersigned's representations and warranties contained in this Subscription Agreement will be deemed to have been reaffirmed and confirmed as of the Closing, taking into account all information received by the undersigned.

vi. The undersigned acknowledges that the Company has the right in its sole and absolute discretion to abandon this offering at any time prior to the completion of the offering. This Subscription Agreement and the Investment Agreements shall thereafter have no force or effect and the Company shall return any previously paid subscription price of the Securities, without interest thereon, to the undersigned.

vii. The undersigned understands that no federal or state agency has passed upon the merits or risks of an investment in the Securities or made any finding or determination concerning the fairness or advisability of this investment.

viii. Undersigned has up to 48 hours before a campaign close to cancel the purchase and get a full refund.

c) No Guaranty.

i. The undersigned confirms that the Company has not (A) given any guarantee or representation as to the potential success, return, effect or benefit (either legal, regulatory, tax, financial, accounting or otherwise) an of investment in the Securities or (B) made any representation to the undersigned regarding the legality of an investment in the Securities under applicable legal investment or similar laws or regulations. In deciding to purchase the Securities, the undersigned is not relying on the advice or recommendations of the Company and the undersigned has made its own independent decision, alone or in consultation with its investment advisors, that the investment in the Securities is suitable and appropriate for the undersigned.

d) Status of Undersigned.

i. The undersigned has such knowledge, skill and experience in business, financial and investment matters that the undersigned is capable of evaluating the merits and risks of an investment in the Securities. With the assistance of the undersigned's own professional advisors, to the extent that the undersigned has deemed appropriate, the undersigned has made its own legal, tax, accounting and financial evaluation of the merits and risks of an investment in the Securities and the consequences of this Subscription Agreement and the Investment Agreements. The undersigned has considered the suitability of the Securities as an investment in light of its own circumstances and financial condition and the undersigned is able to bear the risks associated with an investment in the Securities and its authority to invest in the Securities.

e) Restrictions on Transfer or Sale of Securities.

i. The undersigned is acquiring the Securities solely for the undersigned's own beneficial account, for investment purposes, and not with a view to, or for resale in connection with, any distribution of the Securities. The undersigned understands that the Securities have not been, and are not being, registered under the Securities Act or any state securities laws by reason of specific exemptions under the provisions thereof which depend in part upon the investment intent of the undersigned and of the other representations made by the undersigned in this Subscription Agreement. The undersigned understands that the Company is relying upon the representations and agreements contained in this

Subscription Agreement (and any supplemental information) for the purpose of determining whether this transaction meets the requirements for such exemptions.

ii. The undersigned understands that the Securities are restricted from transfer for a period of time under applicable federal securities laws and that the Securities Act and the rules of the U.S. Securities and Exchange Commission (the "Commission") provide in substance that the undersigned may dispose of the Securities only pursuant to an effective registration statement under the Securities Act, an exemption therefrom or as further described in Section 227.501 of Regulation Crowdfunding, after which certain state restrictions may apply. The undersigned understands that the Company has no obligation or intention to register any of the Securities, or to take action so as to permit sales pursuant to the Securities Act. Even when the Securities become freely transferrable, a secondary market in the Securities may not develop. Consequently, the undersigned understands that the undersigned must bear the economic risks of the investment in the Securities for an indefinite period of time.

iii. The undersigned agrees: (A) that the undersigned will not sell, assign, pledge, give, transfer or otherwise dispose of the Securities or any interest therein, or make any offer or attempt to do any of the foregoing, except pursuant to Section 227.501 of Regulation Crowdfunding.

7. Conditions to Obligations of the Undersigned and the Company. The obligations of the undersigned to purchase and pay for the Securities specified on the signature page hereto and of the Company to sell the Securities are subject to the satisfaction at or prior to the Closing of the following conditions precedent: the representations and warranties of the Company contained in Section 5 hereof and of the undersigned contained in Section 6 hereof shall be true and correct as of the Closing in all respects with the same effect as though such representations and warranties had been made as of the Closing.

8. Future Offerings under Regulation A of the Act.
In the event the Company elects to make an offering of securities (a) of the same class as the Securities, or (b) securities that the Board of Directors in its sole discretion determines to be the economic equivalent of the Securities ("Equivalent Securities") under Regulation A of the Act, the undersigned agrees that, at the sole discretion of the Board of Directors of the Company, the Securities (or some portion of the Securities) may be exchanged for an equivalent number of securities of the same class or Equivalent Securities of the Company, at no cost to the undersigned. The undersigned agrees to provide any information necessary to effect such exchange, and to hold the securities issued under Regulation A in the manner prescribed in such offering, including holding the securities to be issued in "street name" in a brokerage account. The undersigned agrees that in the event the undersigned does not provide information sufficient to effect such exchange in a timely manner, the Company may repurchase the Securities at a price to be determined by the Board of Directors.

9. Revisions to Manner of Holding.
In the event that statutory or regulatory changes are adopted such that it becomes possible for companies whose purpose is limited to acquiring, holding and disposing of securities issued by a single company ("Crowdfunding SPVs") to make offerings under Section 4(a)(6), the undersigned agrees to exchange the Securities for securities issued by a Crowdfunding SPV in a transaction complying with the requirements of Section 3(a)(9) of the Act. The undersigned agrees that in the event the undersigned does not provide information sufficient to effect such exchange in a timely manner, the Company may repurchase the Securities at a price to be determined by the Board of Directors.

10. Obligations Irrevocable. Following the Closing, the obligations of the undersigned shall be irrevocable.

11. Waiver, Amendment. Neither this Subscription Agreement nor any provisions hereof shall be modified, changed, discharged or terminated except by an instrument in writing, signed by the party against whom any waiver, change, discharge or termination is sought. No failure or delay by any party in exercising any right, power or privilege under this Subscription Agreement shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by law.

12. Assignability. Neither this Subscription Agreement nor any right, remedy, obligation or liability arising hereunder or by reason hereof shall be assignable by the undersigned without the prior written consent of the Company.

13. Waiver of Jury Trial. THE UNDERSIGNED IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY WITH RESPECT TO ANY LEGAL PROCEEDING ARISING OUT OF THE TRANSACTIONS CONTEMPLATED BY THIS SUBSCRIPTION AGREEMENT.

14. Submission to Jurisdiction. With respect to any suit, action or proceeding relating to any offers, purchases or sales of the Securities by the undersigned ("Proceedings"), the undersigned irrevocably submits to the jurisdiction of the federal or state courts located in Los Angeles, California, which submission shall be exclusive unless none of such courts has lawful jurisdiction over such Proceedings.

15. Governing Law. This Subscription Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, without regard to conflict of law principles thereof.

16. Section and Other Headings. The section and other headings contained in this Subscription Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Subscription Agreement.

17. Counterparts. This Subscription Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which together shall be deemed to be one and the same agreement.

18. Notices. All notices and other communications provided for herein shall be in writing and shall be deemed to have been duly given if delivered personally or sent by registered or certified mail, return receipt requested, postage prepaid or email to the following addresses (or such other address as either party shall have specified by notice in writing to the other):

If to the Company:	**Denim.LA, Inc.** **8899 Beverly Blvd., Suite 600** **West Hollywood, CA 90069** **E-mail: [E-MAIL ADDRESS]** **Attention: President**
with a copy to:	**Attention: [ATTORNEY NAME]** **E-mail: [E-MAIL ADDRESS]**
If to the Purchaser:	**[PURCHASER ADDRESS]** **E-mail: [E-MAIL ADDRESS]** **Attention: [TITLE OF OFFICER TO RECEIVE NOTICES]**

19. Binding Effect. The provisions of this Subscription Agreement shall be binding upon and accrue to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns, and it is not the intention of the parties to confer, and no provision hereof shall confer, third-party beneficiary rights upon any other person.

20. Survival. All representations, warranties and covenants contained in this Subscription Agreement shall survive (i) the acceptance of the subscription by the Company, (ii) changes in the transactions, documents and instruments described in the Form C which are not material or which are to the benefit of the undersigned and (iii) the death or disability of the undersigned.

21. Notification of Changes. The undersigned hereby covenants and agrees to notify the Company upon the occurrence of any event prior to the closing of the purchase of the Securities pursuant to this Subscription Agreement, which would cause any representation, warranty, or covenant of the undersigned contained in this Subscription Agreement to be false or incorrect.

22. Severability. If any term or provision of this Subscription Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Subscription Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

23. Entire Agreement. This Subscription Agreement and the Investment Agreements supersede all prior discussions and agreements between the parties with respect to the subject matter hereof and contains the sole and entire agreement between the parties hereto with respect to the subject matter hereof.

24. Recapitalization. If any recapitalization or other transaction affecting the stock of the Company is effected, then any new, substituted or additional securities or other property which is distributed with respect to the Securities shall be immediately subject to this Subscription Agreement, to the same extent that the Securities, immediately prior thereto, shall have been covered by this Subscription Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned has executed this Subscription Agreement this [DAY] OF [MONTH], [YEAR].

PURCHASER (if an individual):

By _____
Name:

PURCHASER (if an entity):

Legal Name of Entity

By _____
Name:

Title:

State/Country of Domicile or Formation: _____

The offer to purchase Securities as set forth above is confirmed and accepted by the Company as to [AMOUNT OF SECURITIES TO BE ACQUIRED BY PURCHASER] for [TOTAL AMOUNT TO BE PAID BY PURCHASER].

Denim.LA, Inc.

By _____
Name: Mark Lynn
Title: Co-President

Exhibit 4.10

THIS NOTE AND THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED. THEY MAY NOT BE SOLD OR OFFERED FOR SALE IN THE ABSENCE OF AN EFFECTIVE REGISTRATION STATEMENT AS TO THE SECURITIES UNDER SAID ACT OR AN OPINION OF COUNSEL SATISFACTORY TO THE COMPANY THAT SUCH REGISTRATION IS NOT REQUIRED.

CONVERTIBLE SUBORDINATED PROMISSORY NOTE

$___,000.00 _____,2019

Los Angeles, California

FOR VALUE RECEIVED, Denim.LA, Inc., a Delaware corporation (the "***Company***"), promises to pay to _____, or its registered assigns, (the "***Holder***") the principal sum of _____ Thousand Dollars ($_____,000.00), or such lesser amount as shall then equal the outstanding principal amount hereof, together with interest from the date of this Note on the unpaid principal balance at a rate per annum equal to 12.0% per annum. The interest rate shall be computed on the basis of the actual number of days elapsed and a year of 365 days. All unpaid principal under this Note, if not converted by the provisions of Section 6 below, shall be due and payable on demand at any time after the earlier of (i) the date thirty-six (36) months after the date of the issuance of this Note (the "***Maturity Date***"), or (ii) after the occurrence of an Event of Default (as defined below). The balance of unpaid and accrued interest under this Note and other amounts payable hereunder (but not the principal hereunder), shall be due and payable on demand at any time after the earlier of (i) the Maturity Date, (ii) after the occurrence of an Event of Default, or (iii) after the conversion of all then-outstanding principal under this Note into the Company's equity securities under Section 6 hereof.

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

1. Definitions. As used in this Note, the following capitalized terms have the following meanings:

(a) "***Cap Valuation***" means $9,000,000.00

(b) "***Change of Control***" means (i) a reorganization, merger or consolidation of the Company into or with another entity after which the stockholders of the Company immediately prior to such transaction do not own, immediately following the consummation of the transaction by virtue of their shares in the Company or securities received in exchange for such shares in connection with the transaction, a majority of the voting power of the surviving entity in proportions substantially identical to those that existed immediately prior to such transaction and with substantially the same rights, preferences, privileges and restrictions as the shares they held immediately prior to the transaction, (ii) the sale, transfer or other disposition (but not including a transfer or disposition by pledge or mortgage to a bona fide lender) of all or substantially all of the assets of the Company (other than to a wholly-owned subsidiary), or (iii) the sale or transfer by the Company or its stockholders of more than 50% of the voting power of the Company in a transaction or series of related transactions other than in a transaction or series of transactions effected by the Company primarily for financing purposes.

(c) "***Conversion Price***" means $0.14 per share of Common Stock of the Company.

(d) "***Initial Public Offering***" means the closing of the Company's first firm commitment underwritten initial public offering of the Company's Common Stock pursuant to a registration statement filed under the Securities Act.

(e) "***Majority Investors***" means the Holders (as defined below) holding more than 50% of the aggregate then-outstanding principal amount of all then-outstanding Notes.

(f) "***Notes***" means this Note issued to the Holder, collectively with other convertible promissory notes in a form substantially similar to this Note, issued in one or more closings by the Company to other purchasers of such other Notes (collectively with the Holder, the "Holders"), with an aggregate principal value of up to $3,000,000.00.

(g) "***Obligations***" means all principal and accrued interest due under this Note.

(h) "***Pre-Money Fully Diluted Capitalization***" means the number of shares of Common Stock of the Company outstanding immediately prior to the closing of any applicable transaction (such as an Initial Public Offering, , a Change of Control, or a conversion of this Note upon the Maturity Date), in each case, assuming conversion of all then-outstanding securities convertible into Common Stock, exercise of all then-outstanding options and warrants, and including the shares then-reserved and authorized for issuance under the Company's then-existing equity incentive plan, but excluding the shares issued in such applicable transaction or pursuant to the conversion of any portion of the Obligations under this Note or under any of the other Notes.

(i) "***Securities Act***" means the Securities Act of 1933, as amended.

(j) "***Senior Indebtedness***" means, unless expressly subordinated to or made on a parity with the amounts due under this Note, the principal of (and premium, if any), unpaid interest on and amounts reimbursed, fees, expenses, costs of enforcement and other amounts due in connection with, (i) existing indebtedness of Company on the effective date of this Note, excluding any and all of the other Notes, (ii) indebtedness of the Company, or with respect to which the Company is a guarantor, to banks, commercial finance lenders, insurance companies, leasing or equipment financing institutions or other lending institutions regularly engaged in the business of lending money (excluding venture capital, investment banking or similar institutions which sometimes engage in lending activities but which are primarily engaged in investments in equity securities), which is for money borrowed, or purchase or leasing of equipment in the case of lease or other equipment financing, by the Company, whether or not secured, and whether or not created or acquired before or after the indebtedness evidenced by this Note, and (iii) any debentures, notes or other evidence of indebtedness issued in exchange for such Senior Indebtedness, or any indebtedness arising from the satisfaction of such Senior Indebtedness by a guarantor.

(k) "***Total Number of Conversion Shares***" means the quotient obtained by dividing (i) the amount of then-outstanding principal (but none of the accrued interest) under this Note, by (ii) the Discounted Purchase Price.

(l) "***Undiscounted Purchase Price***" means the lowest price-per-share of the Qualified Equity Securities (in the event of a Qualified Equity Financing) or Nonqualified Equity Securities (in the event of a Nonqualified Equity Financing), as applicable, at which such Qualified Equity Securities or Nonqualified Equity Securities, as applicable, are sold to the purchasers in such Qualified Equity Financing or Nonqualified Equity Financing, as applicable.

2. Payments. The Company may prepay this Note, in whole or in part at any time, without premium or penalty, with the prior written consent of the Majority Investors. Any such prepayment will be applied first to the payment of expenses due under this Note, second to interest accrued on this Note and third, if the amount of prepayment exceeds the amount of all such expenses and accrued interest, to the payment of principal of this Note. If any payment on this Note shall become due on a Saturday, Sunday, or a public holiday under the laws of the State of California, such payment shall be made on the next succeeding business day and such extension of time shall be included in computing interest in connection with such payment. All payments shall be in lawful money of the United States of America.

3. Events of Default. The occurrence of any of the following shall constitute an "***Event of Default***" under this Note:

(a) Failure to Pay. The Company shall fail to pay (i) when due any principal payment on the due date hereunder or (ii) any interest or other payment required under the terms of this Note on the date due, and such payment shall not have been made within fifteen (15) days of the Company's receipt of the Holder's written notice to the Company of such failure to pay; or

(b) Voluntary Bankruptcy or Insolvency Proceedings. The Company shall (i) apply for or consent to the appointment of a receiver, trustee, liquidator or custodian of itself or of all or a substantial part of its property, (ii) make a general assignment for the benefit of its or any of its creditors, (iii) be dissolved or liquidated in full or in part, (iv) commence a voluntary case or other proceeding seeking liquidation, reorganization or other relief with respect to itself or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or consent to any such relief or to the appointment of or taking possession of its property by any official in an involuntary case or other proceeding commenced against it, or (v) take any action for the purpose of effecting any of the foregoing;

(c) Involuntary Bankruptcy or Insolvency Proceedings. Proceedings for the appointment of a receiver, trustee, liquidator or custodian of the Company or of all or a substantial part of the property thereof, or an involuntary case or other proceedings seeking liquidation, reorganization or other relief with respect to the Company or the debts thereof under any bankruptcy, insolvency or other similar law or hereafter in effect shall be commenced and an order for relief entered or such proceeding shall not be dismissed or discharged within sixty (60) days of commencement.

4. Rights of the Holder Upon Default. Upon the occurrence and during the continuance of any Event of Default, the Holder may, with the written consent of the Majority Investors, declare all outstanding Obligations payable by the Company hereunder to be immediately due and payable without presentment, demand, protest or any other notice of any kind, all of which are hereby expressly waived. In addition to the foregoing remedies, upon the occurrence or existence of any Event of Default, the Holder may, with the written consent of the Majority Investors, exercise any other right, power or remedy granted to it or otherwise permitted to it by law, either by suit in equity or by action at law, or both.

5. Subordination. The indebtedness evidenced by this Note is hereby expressly subordinated, to the extent and in the manner hereinafter set forth, in right of payment to the prior payment in full of all of the Company's Senior Indebtedness.

(a) Insolvency Proceedings. If there shall occur any receivership, insolvency, assignment for the benefit of creditors, bankruptcy, reorganization, or arrangements with creditors (whether or not pursuant to bankruptcy or other insolvency laws), sale of all or substantially all of the assets, dissolution, liquidation, or any other marshaling of the assets and liabilities of the Company, no amount shall be paid by the Company in respect of the principal of, interest on or other amounts due with respect to this Note at the time outstanding, unless and until the principal of and interest on the Senior Indebtedness then outstanding shall be paid in full.

(b) Subrogation. Subject to the payment in full of all Senior Indebtedness, the Holder of this Note shall be subrogated to the rights of the holder(s) of such Senior Indebtedness (to the extent of the payments or distributions made to the holder(s) of such Senior Indebtedness pursuant to the provisions of this Section 5) to receive payments and distributions of assets of the Company applicable to the Senior Indebtedness. No such payments or distributions applicable to the Senior Indebtedness shall, as between the Company and its creditors, other than the holders of Senior Indebtedness and the Holder, be deemed to be a payment by the Company to or on account of this Note; and for purposes of such subrogation, no payments or distributions to the holders of Senior Indebtedness to which the Holder would be entitled except for the provisions of this Section 5 shall, as between the Company and its creditors, other than the holders of Senior Indebtedness and the Holder, be deemed to be a payment by the Company to or on account of the Senior Indebtedness.

(c) No Impairment. Nothing contained in this Section 5 shall impair, as between the Company and the Holder, the obligation of the Company, subject to the terms and conditions hereof, to pay to the Holder the principal hereof and interest hereon as and when the same become due and payable, or shall prevent the Holder of this Note, upon default hereunder, from exercising all rights, powers and remedies otherwise provided herein or by applicable law.

(d) Reliance of Holders of Senior Indebtedness. The Holder, by its acceptance hereof, shall be deemed to acknowledge and agree that the foregoing subordination provisions are, and are intended to be, an inducement to and a consideration of each holder of Senior Indebtedness, whether such Senior Indebtedness was created or acquired before or after the creation of the indebtedness evidenced by this Note, and each such holder of Senior Indebtedness shall be deemed conclusively to have relied on such subordination provisions in acquiring and holding, or in continuing to hold, such Senior Indebtedness.

(e) *Pari Passu* Notes. Holder acknowledges and agrees that the payment of all or any portion of the outstanding principal amount of this Note and all interest hereon shall be *pari passu* in right of payment and in all other respects to the other Notes. In the event Holder receives payments in excess of its pro rata share of the Company's payments to the holder of the Holders of all of the other Notes, then Holder shall hold in trust all such excess payments for the benefit of the Holders of the other Notes and shall pay such amounts held in trust to the holder of such other Holders of the other Notes upon demand by the holder of such Holders of the other Notes, as applicable.

6. Conversion.

(a) Automatic Conversion.

(i) Initial Public Offering. Upon the closing of an Initial Public Offering, if such closing occurs before the Maturity Date and before any prior conversion of this Note under this Section 6, then this Note shall convert into that number of fully paid and nonassessable shares of the Company's Common Stock determined by dividing the then-outstanding Obligations by the Conversion Price, , rounded down to the nearest whole share.

(ii) Procedure for Automatic Conversion. The Company shall provide written notice to the Holder at least 5 business days prior to the closing of any Initial Public Offering, notifying the Holder of such pending transaction, including a reasonable summary of the price and terms under which such Initial Public Offering is then-proposed. In the event that the Company notifies the Holder in writing of the occurrence or proposed occurrence of a conversion under this Section 6(a), including the proposed date of such conversion, the Holder of this Note shall immediately deliver this Note to the Company at the address set forth under Section 12 below, or such other address communicated to the Holder by the Company in writing. Upon the delivery by the Holder of the Note to the Company and the completion of all conditions to such conversion (for example, the closing of the Initial Public Offering), the Company shall cancel this Note and issue to the Holder the number of shares of Common Stock as required by Section 6(a)(i) above. In the event that the Holder fails to deliver this Note to the Company prior to the completion of all conditions to such conversion, this Note will nevertheless be deemed cancelled and converted into shares of the Company's stock hereunder upon the completion of all such conditions to such conversion. Further, the Holder hereby agrees to execute and deliver to the Company all transaction documents related to the Initial Public Offering; provided, however, that such transaction documents are the same documents to be entered into with all other purchasers of the Common Stock of the Company in connection with the Initial Public Offering (subject to a 180-day lock-up agreement).

(b) Optional Conversion.

(i) Change of Control. Upon the closing of a Change of Control, if such closing occurs before the Maturity Date and before any prior conversion of this Note under this Section 6, then in lieu of the principal and interest that would otherwise be payable on the Maturity Date, the Company will pay the Holder an aggregate amount equal to two times (2.0x) all outstanding principal due under the Note (it being understood that all accrued and unpaid interest under this Note shall be deemed waived in such event, in consideration of receiving such 2.0x principal payment); provided, however, that at the election of the Majority Investors, all or a portion of the then-outstanding principal (but none of the accrued interest) under this Note (but, for the avoidance of doubt, not two times (2.0x) any outstanding principal due under the Note) shall be convertible into that number of fully paid and nonassessable shares of the Company's Common Stock determined by dividing the then-outstanding principal elected to be so converted by the lesser of (A) the fair market value of the Company's Common Stock at the time of such conversion, as determined in good faith by the Company's Board of Directors, (B) the Conversion Price, or (C) the quotient, rounded down to the nearest whole share, obtained by dividing (1) the Cap Valuation by (2) the Pre-Money Fully Diluted Capitalization, with rights that are generally applicable to all other holders of the Company's Common Stock as of such conversion date under the Company's certificate of incorporation, as amended to date.

(ii) Maturity Date. Immediately prior to the Maturity Date, if any then-outstanding principal under this Note have not yet converted into the Company's stock under this Section 6, then at the option of the Majority Investors, all or a portion of the then-outstanding principal (but none of the accrued interest) under this Note may be converted into that number of fully paid and nonassessable shares of the Company's Common Stock determined by dividing the then-outstanding principal elected to be so converted by the quotient obtained by dividing (A) the Cap Valuation by (B) the then-current Pre-Money Fully Diluted Capitalization, with rights that are generally applicable to all other holders of the Company's Common Stock as of such conversion date under the Company's certificate of incorporation, as amended to date.

(iii) Procedure for Optional Conversion. The Company shall provide written notice to the Holder at least 5 business days prior to the closing of any Change of Control, notifying the Holder of such pending transaction, including a reasonable summary of the price and terms under which such transaction is then-proposed (but with no obligation to disclose the names of any other parties involved with any such transaction). In the event that the Company notifies the Holder in writing of the occurrence or proposed occurrence of an opportunity to convert under this Section 6(b), including the proposed date of such conversion, the Holder of this Note may deliver to the Company at the address set forth under Section 12 below, or such other address communicated to the Holder by the Company in writing, this Note and a written election to convert. Upon the delivery by the Holder of the Note to the Company, the delivery by the Majority Investors of their Notes to the Company, the delivery by the Majority Investors of a written notice electing to convert their Notes as applicable under this Section 6(b), and the completion of all conditions to such conversion (for example, the closing of the Change of Control or the occurrence of the Maturity Date), the Company shall cancel this Note and issue to the Holder the number and class of shares described in Section 6(b)(i) or (ii) above, as applicable. In the event that the Majority Investors deliver a written notice to the Company electing to convert their Notes as applicable under this Section 6(b), if the Holder fails to deliver this Note to the Company prior to the completion of all conditions to such conversion, this Note will nevertheless be deemed cancelled and converted into shares of the Company's stock hereunder upon the completion of all such conditions to such conversion. In the event of a conversion under Section 6(b)(i) or (ii) hereof, the Holder hereby agrees to execute and deliver to the Company a common stock purchase agreement reasonably acceptable to the Company containing customary representations and warranties and transfer restrictions.

(c) Fractional Shares. No fractional shares of Common Stock shall be issued upon conversion of this Note or any part hereof. Upon the conversion of any of the principal outstanding under this Note, in lieu of the Company issuing any fractional shares to the Holder, the Company shall pay to the Holder the amount of outstanding principal that is not so converted. Upon full conversion of this Note (including payment of the interest accrued hereunder in accordance with Section 6(d) below), the Company shall be forever released from all its obligations and liabilities under this Note, whether or not the original of this Note has been delivered to the Company for cancellation.

7. Representations and Warranties.

(a) Representations and Warranties of the Holder. The Holder represents and warrants to the Company as of the time of issuance of this Note as follows:

(i) Investment Intent: Authority. This Note is issued to the Holder in reliance upon such Holder's representation to the Company, evidenced by Holder's execution of this Note, that Holder is acquiring this Note for investment for such Holder's own account, not as nominee or agent, for investment and not with a view to, or for resale in connection with, any distribution or public offering thereof within the meaning of the Securities Act, or the California Corporate Securities Law of 1968, as amended (the "***California Law***"). Holder has the full right, power, authority and capacity to enter into and perform its obligations under this Note and this Note will constitute a valid and binding obligation upon Holder, except as the same may be limited by bankruptcy, insolvency, moratorium, and other laws of general application affecting the enforcement of creditors' rights.

(ii) Securities Not Registered. Holder understands and acknowledges that the offering of this Note pursuant to the terms hereunder will not be registered under the Securities Act or qualified under the California Law on the grounds that the offering and sale of this Note, the securities into which this Note may convert and (if such securities are convertible securities) the securities into which such securities may convert (collectively, the "***Securities***") are exempt from registration under the Securities Act and exempt from qualification pursuant to section 25102(f) of the California Law, and that the Company's reliance upon such exemptions is predicated upon such Holder's representations set forth in this Note. The Holder acknowledges and understands that resale of the Securities may be restricted indefinitely unless the Securities are subsequently registered under the Securities Act and qualified under the California Law or an exemption from such registration and such qualification is available.

(iii) No Transfer. Holder covenants that in no event will it dispose of any of the Securities other than in conjunction with an effective registration statement for the Securities under the Securities Act or pursuant to an exemption therefrom, or in compliance with Rule 144 promulgated under the Securities Act or

to an entity affiliated with said Holder and other than in compliance with the applicable securities regulation laws of any state. Notwithstanding the foregoing, the Securities may be transferred by a Holder which is a partnership to a limited or general partner of such partnership if (A) the transferee agrees in writing to be subject to the terms of this Note to the same extent as if he were an original Holder; (B) the Holder delivers written notice of such transfer to the Company; and (C) the transferee is not a competitor to the Company, as reasonably determined in the discretion of the Company's Board of Directors.

(iv) Knowledge and Experience. Holder (A) has such knowledge and experience in financial and business matters as to be capable of evaluating the merits and substantial risks of such Holder's prospective investment in the Securities; (B) has the ability to bear the economic risks of such Holder's prospective investment; (C) has not been offered the Securities by any form of advertisement, article, notice or other communication published in any newspaper, magazine, or similar media or broadcast over television or radio, or any seminar or meeting whose attendees have been invited by any such media; and (D) is an Accredited Investor within the meaning of Regulation D promulgated under the Securities Act. Holder acknowledges that the Company has given such Holder access to the corporate records and accounts of the Company and to all information in its possession relating to the Company, has made its officers and representatives available for interview by such Holder, and has furnished such Holder with all documents and other information required for such Holder to make an informed decision with respect to the purchase of the Note.

(b) Representations and Warranties of the Company. The Company represents and warrants to the Holder as of the time of issuance of this Note as follows:

(i) Organization and Standing. The Company is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and has all requisite corporate power and authority to carry on its business as now conducted and proposed to be conducted.

(ii) Corporate Power. The Company has all requisite legal and corporate power to enter into, execute and deliver this Note. This Note will be a valid and binding obligation of the Company, enforceable in accordance with its terms, except as the same may be limited by bankruptcy, insolvency, moratorium, and other laws of general application affecting the enforcement of creditors' rights.

(iii) Authorization.

(A) Corporate Action. All corporate and legal action on the part of the Company, its officers and directors necessary for the execution and delivery of this Note, and the sale and issuance of the Note and the performance of the Company's obligations hereunder, have been taken.

(B) Valid Issuance. This Note will be validly issued and will be free of any liens or encumbrances, provided, however, that the Note may be subject to restrictions on transfer under state and/or federal securities laws as set forth herein, and as may be required by future changes in such laws.

(iv) Government Consent, Etc. No consent, approval, order or authorization of, or designation, registration, declaration or filing with, any federal, state, local or provincial or other governmental authority on the part of the Company is required in connection with the valid execution and delivery of this Note other than, if required, filings or qualifications under applicable federal securities laws or state blue sky laws, which filings or qualifications, if required, will be timely filed or obtained by the Company.

8. Successors and Assigns. Subject to the restrictions on transfer described in Section 7 above and Section 9 below, the rights and obligations of the Company and the Holder of this Note shall be binding upon and benefit the successors, assigns, heirs, administrators and transferees of the parties.

9. Transfer of this Note. This Note may not be transferred in violation of any restrictive legend set forth hereon. Each new Note issued upon transfer of this Note shall bear a legend as to the applicable restrictions on transferability in order to ensure compliance with the Securities Act and any applicable state securities laws, unless in the opinion of counsel for the Company such legend is not required in order to ensure compliance with the Securities Act and any applicable state securities laws. The Company may issue stop transfer instructions to its transfer agent in connection with such restrictions. Prior to presentation of this Note for registration of transfer, the Company shall treat the registered holder hereof as the owner and holder of this Note for the purpose of receiving all payments of principal and interest hereon and for all other purposes whatsoever, whether or not this Note shall be overdue and the Company shall not be affected by notice to the contrary.

10. Assignment by the Company. Neither this Note nor any of the rights, interests or obligations hereunder may be assigned, by operation of law or otherwise, in whole or in part, by the Company, without the prior written consent of the Majority Investors; provided, however, that this Note and all rights, interests and obligations hereunder shall be assigned automatically to any successor entity of the Company upon a merger or consolidation of the Company consummated for the purpose of incorporating the Company in another jurisdiction.

11. No Rights as Stockholder. This Note, as such, shall not entitle the Holder to any rights as a stockholder of the Company, except as otherwise specified herein.

12. Notices. All notices and other communications required or permitted hereunder shall be in writing and shall be sent via facsimile, overnight courier service or mailed by certified or registered mail, postage prepaid, return receipt requested, addressed or sent (i) if to the Holder, then to the address listed below the Holder's signature on this Note, or at such other address or number as the Holder shall have furnished to the Company in writing, or (ii) if to the Company, then to the address listed below the Company's signature on this Note, or at such other address or number as the Company shall have furnished to the Holder in writing.

13. Expenses; Waivers. If action is instituted to collect this Note, the Company promises to pay all costs and expenses, including, without limitation, reasonable attorneys' fees and costs, incurred in connection with such action. The Company hereby waives notice of default, presentment or demand for payment, protest or notice of nonpayment or dishonor and all other notices or demands relative to this instrument.

14. Governing Law. This Note and all actions arising out of or in connection with this Note shall be governed by and construed in accordance with the laws of the State of Delaware, without regard to the conflicts of law provisions of the State of Delaware or of any other state.

15. Amendment. Any provision of this Note may be amended, waived or modified only upon the written consent of the Company and the Majority Investors; provided, however, that no such amendment, waiver or modification shall (i) reduce the principal amount of any Note with the affected Holder's written consent, or (ii) reduce the rate of interest of any Note without the affected Holder's written consent. Any amendment or waiver effected in accordance with this Section 15 shall be binding upon the Company, the Holder and each transferee of this Note.

16. Interest Savings Clause. If any interest payment due hereunder is determined to be in excess of the legal maximum rate, then that portion of each interest payment representing an amount in excess of the then legal maximum rate shall instead be deemed a payment of principal and shall be applied against the principal of the obligations evidenced by this Note.

17. Separability of Notes; Severability of the Terms. The Company's agreement with each of the Holders pursuant to each Note is a separate agreement, and the sale of the Notes to each of the Holders is a separate sale. Any invalidity, illegality or limitation on the enforceability of any of the other Notes or any part thereof, by any of the other Holders whether arising by reason of the law of the other respective Holders' domicile or otherwise, shall in no way affect or impair the validity, legality or enforceability of this Note with respect to the Holder of this Note. If any provision of this Note shall be judicially determined to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

18. Confidentiality. Holder hereby agrees, on behalf of itself and its affiliates (i) to hold confidential and in trust, and not to use or disclose, any Confidential Information (as defined below) provided to or learned by Holder or any affiliate of Holder in connection with the rights of Holder under this Note or as a holder of the Company's equity securities after any conversion of this Note (except (x) to the directors, officers, employees, agents or advisors of Holder who have a need to know such Confidential Information and agree in writing (or are otherwise bound by fiduciary or similar duties) to maintain the confidentiality and non-use thereof, (y) to the extent required by applicable law, regulation or legal process), and (ii) to take all reasonable measures to maintain the confidentiality of all Confidential Information in its possession or control, or in the possession or control of its affiliates, which will in no event be less than the measures that Holder uses to maintain the confidentiality of its own information of similar importance. For purposes of this Note, "***Confidential Information***" means information about the Company's business or activities that is proprietary and confidential, which shall include all business, financial, technical and other information of the Company that is (A) non-public information, trade secret or know-how of the Company, (B) marked or designated by the Company as "confidential" or "proprietary," or (C) information which, by the nature of the circumstances surrounding the disclosure, ought in good faith to be treated as confidential; provided, however, that "***Confidential Information***" will not include information that (I) is in or enters the public domain without breach of this Section 18 of this Note, (II) Holder lawfully receives from a third party without restriction on disclosure and without breach of a nondisclosure obligation, (III) Holder knew, without wrongful conduct of Holder, prior to receiving such Confidential Information from the Company, or (IV) Holder independently developed without reliance on any Confidential Information. At any time after Holder is no longer a holder of the Note or any other debt or equity securities of the Company, within 10 days of receipt of a written request from the Company (or any successor of the Company), Holder will return or destroy, at the Company's expense, all tangible and intangible manifestations of the Confidential Information, and deliver to the Company a certification, in writing and signed by Holder, that such materials have been returned or destroyed, and their use discontinued. All rights and obligations described in this Section 18 of this Note will survive the termination of any other provisions of this Note, including the conversion of the Note into any equity securities of the Company.

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IN WITNESS WHEREOF, the Company has caused this Convertible Subordinated Promissory Note to be issued as of the date first written above.

Denim.LA, Inc., a Delaware corporation

By: _____
Hil Davis
President and Chief Executive Officer

Address:

Denim.LA, Inc.
Attn: Chief Executive Officer
8899 Beverly Blvd., Suite 600
West Hollywood, CA 90048

AGREED AND ACKNOWLEDGED BY HOLDER:

Signature: _____

_____
Name of Holder

_____
Name and Title of Individual Signer (if Holder is an entity)

Address:

_____

_____

THIS NOTE AND THE SECURITIES ISSUABLE UPON THE CONVERSION HEREOF HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "*ACT*"), OR UNDER THE SECURITIES LAWS OF ANY STATES IN THE UNITED STATES. THESE SECURITIES ARE SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE AND MAY NOT BE TRANSFERRED OR RESOLD EXCEPT AS PERMITTED UNDER THE ACT AND THE APPLICABLE STATE SECURITIES LAWS, PURSUANT TO REGISTRATION OR EXEMPTION THEREFROM. THE ISSUER OF THESE SECURITIES MAY REQUIRE AN OPINION OF COUNSEL IN FORM AND SUBSTANCE SATISFACTORY TO THE ISSUER TO THE EFFECT THAT ANY PROPOSED TRANSFER OR RESALE IS IN COMPLIANCE WITH THE ACT AND ANY APPLICABLE STATE SECURITIES LAWS.

CONVERTIBLE PROMISSORY NOTE

Note Series: Nov 2020

Date of Note: November 5, 2020

Principle Amount of Note: Up to $1,000,000

For value received Denim.La Inc., a corporation (the "*Company*"), promises to pay to the undersigned holder or such party's assigns (the "*Holder*") the principal amount set forth above with simple interest on the outstanding principal amount at the rate of 6% per annum. Interest shall commence with the date hereof and shall continue on the outstanding principal amount until paid in full or converted. Interest shall be computed on the basis of a year of 365 days for the actual number of days elapsed. All unpaid interest and principal shall be due and payable upon request of the Majority Holders on or after November 5, 2022 (the "*Maturity Date*").

1. **BASIC TERMS.**

   a. **Series of Notes. This convertible promissory note (the "*Note*") is issued as part of a series of notes designated by the Note Series above (collectively, the "*Notes*") and issued in a series of multiple closings to certain persons and entities (collectively, the "*Holders*"). The Company shall maintain a ledger of all Holders.**

   b. **Payments. All payments of interest and principal shall be in lawful money of the United States of America and shall be made pro rata among all Holders. All payments shall be applied first to accrued interest, and thereafter to principal.**

   c. **Prepayment. The Company may not prepay this Note prior to the Maturity Date without the consent of the Holders of a majority of the outstanding principal amount of the Notes (the "*Majority Holders*").**

2. **CONVERSION AND REPAYMENT.**

   a. **Conversion upon a Qualified Financing. In the event that the Company issues and sells shares of its equity securities ("*Equity Securities*") to investors (the "*Investors*") while this Note remains outstanding in an equity financing with total proceeds to the Company of not less than $1,000,000 (excluding the conversion of the Notes) (a "*Qualified Financing*"), then the outstanding principal amount of this Note and any unpaid accrued interest shall automatically convert in whole without any further action by the Holder into Equity Securities sold in the Qualified Financing at a conversion price equal to the price paid per share for Equity Securities by the Investors in the Qualified Financing multiplied by 0.7. The issuance of Equity Securities pursuant to the conversion of this Note shall be upon and subject to the same terms and conditions applicable to Equity Securities sold in the Qualified Financing**

   b. **Change of Control. If the Company consummates a Change of Control (as defined below) while this Note remains outstanding, the Company shall repay the Holder in cash in an amount equal to the outstanding principal amount of this Note plus any unpaid accrued interest on the original principal. For purposes of this Note, a "*Change of Control*" means (i) a consolidation or merger of the Company with or into any other corporation or other entity or person, or any other corporate reorganization, other than any such consolidation, merger or reorganization in which the shares of capital stock of the Company immediately prior to such consolidation, merger or reorganization continue to represent a majority of the voting power of the surviving entity immediately after such consolidation, merger or reorganization; (ii) any transaction or series of related transactions to which the Company is a party in which in excess of 50% of the Company's voting power is transferred; or (iii) the sale or transfer of all or substantially all of the Company's assets, or the exclusive license of all or substantially all of the Company's material intellectual property; provided that a Change of Control shall not include any transaction or series of**

transactions principally for bona fide equity financing purposes in which cash is received by the Company or any successor, indebtedness of the Company is cancelled or converted or a combination thereof. The Company shall give the Holder notice of a Change of Control not less than 10 days prior to the anticipated date of consummation of the Change of Control. Any repayment pursuant to this paragraph in connection with a Change of Control shall be subject to any required tax withholdings, and may be made by the Company (or any party to such Change of Control or its agent) following the Change of Control in connection with payment procedures established in connection with such Change of Control.

c. Procedure for Conversion. In connection with any conversion of this Note into capital stock, the Holder shall surrender this Note to the Company and deliver to the Company any documentation reasonably required by the Company (including, in the case of a Qualified Financing, all financing documents executed by the Investors in connection with such Qualified Financing). The Company shall not be required to issue or deliver the capital stock into which this Note may convert until the Holder has surrendered this Note to the Company and delivered to the Company any such documentation. Upon the conversion of this Note into capital stock pursuant to the terms hereof, in lieu of any fractional shares to which the Holder would otherwise be entitled, the Company shall pay the Holder cash equal to such fraction multiplied by the price at which this Note converts.

d. Interest Accrual. If a Change of Control or Qualified Financing is consummated, all interest on this Note shall be deemed to have stopped accruing as of a date selected by the Company that is up to 10 days prior to the signing of the definitive agreement for the Change of Control or Qualified Financing.

3. REPRESENTATIONS AND WARRANTIES

a. Representaitons and Warranties of the Company

i. Organization, Good Standing and Qualification. The Company is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware. The Company has the requisite corporate power to own and operate its properties and assets and to carry on its business as now conducted and as proposed to be conducted. The Company is duly qualified and is authorized to do business and is in good standing as a foreign corporation in all jurisdictions in which the nature of its activities and of its properties (both owned and leased) makes such qualification necessary, except for those jurisdictions in which failure to do so would not have a material adverse effect on the Company or its business (a "*Material Adverse Effect*").

ii. Corporate Power. The Company has all requisite corporate power to issue this Note and to carry out and perform its obligations under this Note.

iii. Authorization. All corporate action on the part of the Company necessary for the issuance and delivery of this Note has been taken. This Note constitutes a valid and binding obligation of the Company enforceable in accordance with its terms, subject to laws of general application relating to bankruptcy, insolvency, the relief of debtors and, with respect to rights to indemnity, subject to federal and state securities laws. Any securities issued upon conversion of this Note (the "*Conversion Securities*"), when issued in compliance with the provisions of this Note, will be validly issued, fully paid, nonassessable, free of any liens or encumbrances and issued in compliance with all applicable federal and securities laws.

iv. Governmental Consents. All consents, approvals, orders or authorizations of, or registrations, qualifications, designations, declarations or filings with, any governmental authority required on the part of the Company in connection with issuance of this Note has been obtained.

v. Compliance with Laws. To its knowledge, the Company is not in violation of any applicable statute, rule, regulation, order or restriction of any domestic or foreign government or any instrumentality or agency thereof in respect of the conduct of its business or the ownership of its properties, which violation of which would have a Material Adverse Effect.

vi. Compliance with Other Instruments. The Company is not in violation or default of any term of its certificate of incorporation or bylaws, or of any provision of any mortgage, indenture or contract to which it is a party and by which it is bound or of any judgment, decree, order or writ, other than such violation(s) that would not have a Material Adverse Effect. The execution, delivery and performance of this Note will not result in any such violation or be in conflict with, or constitute, with or without the passage of time and giving of notice, either a default under any such provision, instrument, judgment, decree, order or writ or an event that results in the creation of any lien, charge or encumbrance upon any assets of the Company or the suspension, revocation, impairment, forfeiture or nonrenewal of any material permit, license, authorization or approval applicable to the Company, its business or operations or any of its assets or properties. Without limiting the foregoing, the Company has obtained all waivers reasonably necessary with respect to any preemptive rights, rights of first refusal or similar rights, including any notice or offering periods provided for as part of any such rights, in order for the Company to consummate the transactions contemplated hereunder without any third party obtaining any rights to cause the Company to offer or issue any securities of the Company as a result of the consummation of the transactions contemplated hereunder.

vii. No "Bad Actor" Disqualification. The Company has exercised reasonable care to determine whether any Company Covered Person (as defined below) is subject to any of the "bad actor" disqualifications described in Rule 506(d)(1)(i) through (viii), as modified by Rules 506(d)(2) and (d)(3), under the Act ("*Disqualification Events*"). To the Company's knowledge, no Company Covered Person is subject to a Disqualification Event. The Company has complied, to the extent

required, with any disclosure obligations under Rule 506(e) under the Act. For purposes of this Note, "*Company Covered Persons*" are those persons specified in Rule 506(d)(1) under the Act; provided, however, that Company Covered Persons do not include (a) any Holder, or (b) any person or entity that is deemed to be an affiliated issuer of the Company solely as a result of the relationship between the Company and any Holder.

viii. Offering. Assuming the accuracy of the representations and warranties of the Holder contained in subsection (b) below, the offer, issue and sale of this Note and the Conversion Securities (collectively, the "*Securities*") are and will be exempt from the registration and prospectus delivery requirements of the Act, and have been registered or qualified (or are exempt from registration and qualification) under the registration, permit or qualification requirements of all applicable state securities laws.

ix. Use of Proceeds. The Company shall use the proceeds of this Note solely for the operations of its business, and not for any personal, family or household purpose.

b. Representations and Warranties of the Holder. The Holder hereby represents and warrants to the Company as of the date hereof as follows:

i. Purchase for Own Account. The Holder is acquiring the Securities solely for the Holder's own account and beneficial interest for investment and not for sale or with a view to distribution of the Securities or any part thereof, has no present intention of selling (in connection with a distribution or otherwise), granting any participation in, or otherwise distributing the same, and does not presently have reason to anticipate a change in such intention.

ii. Information and Sophistication. Without lessening or obviating the representations and warranties of the Company set forth in subsection (a) above, the Holder hereby: (A) acknowledges that the Holder has received all the information the Holder has requested from the Company and the Holder considers necessary or appropriate for deciding whether to acquire the Securities, (B) represents that the Holder has had an opportunity to ask questions and receive answers from the Company regarding the terms and conditions of the offering of the Securities and to obtain any additional information necessary to verify the accuracy of the information given the Holder and (C) further represents that the Holder has such knowledge and experience in financial and business matters that the Holder is capable of evaluating the merits and risk of this investment.

iii. Ability to Bear Economic Risk. The Holder acknowledges that investment in the Securities involves a high degree of risk, and represents that the Holder is able, without materially impairing the Holder's financial condition, to hold the Securities for an indefinite period of time and to suffer a complete loss of the Holder's investment.

iv. Further Limitations on Disposition. Without in any way limiting the representations set forth above, the Holder further agrees not to make any disposition of all or any portion of the Securities unless and until:

1. There is then in effect a registration statement under the Act covering such proposed disposition and such disposition is made in accordance with such registration statement; or

2. The Holder shall have notified the Company of the proposed disposition and furnished the Company with a detailed statement of the circumstances surrounding the proposed disposition, and if reasonably requested by the Company, the Holder shall have furnished the Company with an opinion of counsel, reasonably satisfactory to the Company, that such disposition will not require registration under the Act or any applicable state securities laws; provided that no such opinion shall be required for dispositions in compliance with Rule 144 under the Act, except in unusual circumstances.

3. Notwithstanding the provisions of paragraphs (1) and (2) above, no such registration statement or opinion of counsel shall be necessary for a transfer by the Holder to a partner (or retired partner) or member (or retired member) of the Holder in accordance with partnership or limited liability company interests, or transfers by gift, will or intestate succession to any spouse or lineal descendants or ancestors, if all transferees agree in writing to be subject to the terms hereof to the same extent as if they were the Holders hereunder.

c. No "Bad Actor" Disqualification. The Holder represents and warrants that neither (A) the Holder nor (B) any entity that controls the Holder or is under the control of, or under common control with, the Holder, is subject to any Disqualification Event, except for Disqualification Events covered by Rule 506(d)(2)(ii) or (iii) or (d)(3) under the Act and disclosed in writing in reasonable detail to the Company. The Holder represents that the Holder has exercised reasonable care to determine the accuracy of the representation made by the Holder in this paragraph, and agrees to notify the Company if the Holder becomes aware of any fact that makes the representation given by the Holder hereunder inaccurate.

d. Foreign Investors. If the Holder is not a United States person (as defined by Section 7701(a)(30) of the Internal Revenue Code of 1986, as amended (the "*Code*")), the Holder hereby represents that he, she or it has satisfied itself as to the full observance of the laws of the Holder's jurisdiction in connection with any invitation to subscribe for the Securities or any use of this Note, including (A) the legal requirements within the Holder's jurisdiction for the purchase of the Securities, (B) any foreign exchange restrictions applicable to such purchase, (C) any governmental or other consents that may need to be obtained, and (D) the income tax and other tax consequences, if any, that may be relevant to the purchase, holding, redemption, sale or transfer of the Securities. The Holder's subscription, payment for and continued beneficial ownership of the Securities will not violate any applicable securities or other laws of the Holder's jurisdiction.

e. Forward-Looking Statements. With respect to any forecasts, projections of results and other forward-

looking statements and information provided to the Holder, the Holder acknowledges that such statements were prepared based upon assumptions deemed reasonable by the Company at the time of preparation. There is no assurance that such statements will prove accurate, and the Company has no obligation to update such statements.

1. EVENTS OF DEFAULTS

   a. If there shall be any Event of Default (as defined below) hereunder, at the option and upon the declaration of the Majority Holders and upon written notice to the Company (which election and notice shall not be required in the case of an Event of Default under subsection (ii) or (iii) below), this Note shall accelerate and all principal and unpaid accrued interest shall become due and payable. The occurrence of any one or more of the following shall constitute an "*Event of Default*":

      i. The Company fails to pay timely any of the principal amount due under this Note on the date the same becomes due and payable or any unpaid accrued interest or other amounts due under this Note on the date the same becomes due and payable;

      ii. The Company files any petition or action for relief under any bankruptcy, reorganization, insolvency or moratorium law or any other law for the relief of, or relating to, debtors, now or hereafter in effect, or makes any assignment for the benefit of creditors or takes any corporate action in furtherance of any of the foregoing; or

      iii. An involuntary petition is filed against the Company (unless such petition is dismissed or discharged within 60 days under any bankruptcy statute now or hereafter in effect, or a custodian, receiver, trustee or assignee for the benefit of creditors (or other similar official) is appointed to take possession, custody or control of any property of the Company).

   b. In the event of any Event of Default hereunder, the Company shall pay all reasonable attorneys' fees and court costs incurred by the Holder in enforcing and collecting this Note.

2. MISCELLANEOUS PROVISIONS

   a. Waivers. The Company hereby waives demand, notice, presentment, protest and notice of dishonor.

   b. Further Assurances. The Holder agrees and covenants that at any time and from time to time the Holder will promptly execute and deliver to the Company such further instruments and documents and take such further action as the Company may reasonably require in order to carry out the full intent and purpose of this Note and to comply with state or federal securities laws or other regulatory approvals.

   c. Transfers of Notes. This Note may be transferred only upon its surrender to the Company for registration of transfer, duly endorsed, or accompanied by a duly executed written instrument of transfer in form satisfactory to the Company. Thereupon, this Note shall be reissued to, and registered in the name of, the transferee, or a new Note for like principal amount and interest shall be issued to, and registered in the name of, the transferee. Interest and principal shall be paid solely to the registered holder of this Note. Such payment shall constitute full discharge of the Company's obligation to pay such interest and principal.

   d. Market Standoff. To the extent requested by the Company or an underwriter of securities of the Company, each Holder and any permitted transferee thereof shall not, without the prior written consent of the managing underwriters in the IPO (as hereafter defined), offer, sell, make any short sale of, grant or sell any option for the purchase of, lend, pledge, otherwise transfer or dispose of (directly or indirectly), enter into any swap or other arrangement that transfers to another, in whole or in part, any of the economic consequences of ownership (whether any such transaction is described above or is to be settled by delivery of Securities or other securities, in cash, or otherwise), any Securities or other shares of stock of the Company then owned by such Holder or any transferee thereof, or enter into an agreement to do any of the foregoing, for up to 180 days following the effective date of the registration statement of the initial public offering of the Company (the "*IPO*") filed under the Securities Act. For purposes of this paragraph, "*Company*" includes any wholly owned subsidiary of the Company into which the Company merges or consolidates. The Company may place restrictive legends on the certificates representing the shares subject to this paragraph and may impose stop transfer instructions with respect to the Securities and such other shares of stock of each Holder and any transferee thereof (and the shares or securities of every other person subject to the foregoing restriction) until the end of such period. Each Holder and any transferee thereof shall enter into any agreement reasonably required by the underwriters to the IPO to implement the foregoing within any reasonable timeframe so requested. The underwriters for any IPO are intended third party beneficiaries of this paragraph and shall have the right, power and authority to enforce the provisions of this paragraph as though they were parties hereto.

   e. Amendment and Waiver. Any term of this Note may be amended or waived with the written consent of the Company and the Holder. In addition, any term of this Note may be amended or waived with the written consent of the Company and the Majority Holders. Upon the effectuation of such waiver or amendment with the consent of the Majority Holders in conformance with this paragraph, such amendment or waiver shall be effective as to, and binding against the holders of, all of the Notes, and the Company shall promptly give written notice thereof to the Holder if the Holder has not previously consented to such amendment or waiver in writing; provided that the failure to give such notice shall not affect the validity of such amendment or waiver.

   f. Governing Law. This Note shall be governed by and construed under the laws of the State of Delaware, without giving effect to conflicts of laws principles.

   g. Binding Agreement. The terms and conditions of this Note shall inure to the benefit of and be binding upon the respective successors and assigns of the parties. Nothing in this Note, expressed or implied, is

intended to confer upon any third party any rights, remedies, obligations or liabilities under or by reason of this Note, except as expressly provided in this Note.

h. **Counterparts; Manner of Delivery.** This Note may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Counterparts may be delivered via facsimile, electronic mail (including pdf or any electronic signature complying with the U.S. federal ESIGN Act of 2000, Uniform Electronic Transactions Act or other applicable law) or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes.

i. **Titles and Subtitles.** The titles and subtitles used in this Note are used for convenience only and are not to be considered in construing or interpreting this Note.

j. **Notices.** All notices required or permitted hereunder shall be in writing and shall be deemed effectively given: (i) upon personal delivery to the party to be notified, (ii) when sent by confirmed electronic mail or facsimile if sent during normal business hours of the recipient, if not, then on the next business day, (iii) five days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (iv) one day after deposit with a nationally recognized overnight courier, specifying next day delivery, with written verification of receipt. All communications to a party shall be sent to the party's address in their Wefunder account at such other address(es) as such party may designate by 10 days' advance written notice to the other party hereto.

k. **Expenses.** The Company and the Holder shall each bear its respective expenses and legal fees incurred with respect to the negotiation, execution and delivery of this Note and the transactions contemplated herein.

l. **Delays or Omissions.** It is agreed that no delay or omission to exercise any right, power or remedy accruing to the Holder, upon any breach or default of the Company under this Note shall impair any such right, power or remedy, nor shall it be construed to be a waiver of any such breach or default, or any acquiescence therein, or of or in any similar breach or default thereafter occurring; nor shall any waiver of any single breach or default be deemed a waiver of any other breach or default theretofore or thereafter occurring. It is further agreed that any waiver, permit, consent or approval of any kind or character by the Holder of any breach or default under this Note, or any waiver by the Holder of any provisions or conditions of this Note, must be in writing and shall be effective only to the extent specifically set forth in writing and that all remedies, either under this Note, or by law or otherwise afforded to the Holder, shall be cumulative and not alternative. This Note shall be void and of no force or effect in the event that the Holder fails to remit the full principal amount to the Company within five calendar days of the date of this Note.

m. **Entire Agreement.** This Note constitutes the full and entire understanding and agreement between the parties with regard to the subjects hereof, and no party shall be liable or bound to any other party in any manner by any representations, warranties, covenants and agreements except as specifically set forth herein.

n. **Exculpation among Holders.** The Holder acknowledges that the Holder is not relying on any person, firm or corporation, other than the Company and its officers and Board members, in making its investment or decision to invest in the Company.

o. **Senior Indebtedness.** The indebtedness evidenced by this Note is subordinated in right of payment to the prior payment in full of any Senior Indebtedness in existence on the date of this Note or hereafter incurred. "*Senior Indebtedness*" shall mean, unless expressly subordinated to or made on a parity with the amounts due under this Note, all amounts due in connection with (i) indebtedness of the Company to banks or other lending institutions regularly engaged in the business of lending money (excluding venture capital, investment banking or similar institutions and their affiliates, which sometimes engage in lending activities but which are primarily engaged in investments in equity securities), and (ii) any such indebtedness or any debentures, notes or other evidence of indebtedness issued in exchange for such Senior Indebtedness, or any indebtedness arising from the satisfaction of such Senior Indebtedness by a guarantor.

p. **Broker's Fees.** Each party hereto represents and warrants that no agent, broker, investment banker, person or firm acting on behalf of or under the authority of such party hereto is or will be entitled to any broker's or finder's fee or any other commission directly or indirectly in connection with the transactions contemplated herein. Each party hereto further agrees to indemnify each other party for any claims, losses or expenses incurred by such other party as a result of the representation in this subsection being untrue.

q. **California Corporate Securities Law.** THE SALE OF THE SECURITIES WHICH ARE THE SUBJECT OF THIS NOTE HAS NOT BEEN QUALIFIED WITH THE COMMISSIONER OF CORPORATIONS OF THE STATE OF CALIFORNIA AND THE ISSUANCE OF SUCH SECURITIES OR THE PAYMENT OR RECEIPT OF ANY PART OF THE CONSIDERATION THEREFOR PRIOR TO SUCH QUALIFICATION OR IN THE ABSENCE OF AN EXEMPTION FROM SUCH QUALIFICATION IS UNLAWFUL. PRIOR TO ACCEPTANCE OF SUCH CONSIDERATION BY THE COMPANY, THE RIGHTS OF ALL PARTIES TO THIS NOTE ARE EXPRESSLY CONDITIONED UPON SUCH QUALIFICATION BEING OBTAINED OR AN EXEMPTION FROM SUCH QUALIFICATION BEING AVAILABLE.

[Signature pages follow]

IN WITNESS WHEREOF, the parties have executed this agreement as of _____.

Investment Amount: _____

COMPANY:

Denim.La Inc.

Signature

Name:

Title:

Read and Approved (For IRA Use Only):

SUBSCRIBER

By:

By: Investor Signature

Name: [INVESTOR NAME]

Title:

The Subscriber is an "accredited investor" as that term is defined in Regulation D promulgated by the Securities and Exchange Commission under the Securities Act.

Please indicate Yes or No by checking the appropriate box:

☐ **Accredited**

☐ **Not Accredited**

SIGNATURE PAGE

manatt
manatt | phelps | phillips

December 16, 2021

Digital Brands Group, Inc.
1400 Lavaca Street
Austin, TX 78701

Re: Registration Statement on Form S-1
Registration No. 333-261451

Ladies and Gentlemen:

We have acted as counsel to Digital Brands Group, Inc., a Delaware corporation (the "Company"), in connection with the preparation and filing of a Registration Statement on Form S-1 (File No. 333-261451) under the Securities Act of 1933, as amended (the "Securities Act"), including a related prospectus filed with the Registration Statement (the "Prospectus"), originally filed with the Securities and Exchange Commission (the "Commission") on December 1, 2021 (as amended through the date hereof and including all exhibits thereto, the "Registration Statement"), in connection with the sale or other disposition from time to time of up to 2,500,000 shares (the "Shares") of Common Stock, par value $0.0001 per share, of the Company (the "Common Stock"), issuable upon conversion of the Company's 6.0% Senior Secured Convertible Promissory Notes (the "Convertible Notes"), by the selling stockholders named in the Registration Statement, as more fully described therein. This opinion is being furnished in accordance with the requirements of Item 601(b)(5) of Regulation S-K under the Securities Act.

As such counsel and for purposes of our opinions set forth below, we have examined originals or copies, certified or otherwise identified to our satisfaction, of such documents, resolutions, certificates and instruments of the Company and corporate records furnished to us by the Company, certificates of public officials, statutes, records and such other instruments and documents as we have deemed necessary or appropriate as a basis for the opinion set forth below, including without limitation (i) the Sixth Amended and Restated Certificate of Incorporation of the Company dated May 18, 2021, (ii) the Amended and Restated Bylaws of the Company, and (iii) the Registration Statement.

manatt
manatt | phelps | phillips

In such examination and in rendering the opinions expressed below, we have assumed, without independent investigation or verification: (i) the genuineness of all signatures on all agreements, instruments, corporate records, certificates and other documents submitted to us, (ii) the legal capacity and authority of all persons or entities (other than the Company) executing all agreements, instruments, corporate records, certificates and other documents submitted to us, (iii) the authenticity and completeness of all agreements, instruments, corporate records, certificates and other documents submitted to us as originals, (iv) that all agreements, instruments, corporate records, certificates and other documents submitted to us as certified, electronic, facsimile, conformed, photostatic or other copies conform to authentic originals thereof, and that such originals are authentic and complete, (v) the due authorization, execution and delivery of all agreements, instruments, certificates and other documents by all parties thereto (other than the Company), (vi) that the statements contained in the certificates and comparable documents of public officials, officers and representatives of the Company and other persons on which we have relied for the purposes of this opinion set forth below are true and correct, and (vii) that the officers and directors of the Company have properly exercised their fiduciary duties. We also have obtained from the officers of the Company certificates as to certain factual matters necessary for the purpose of this opinion and, insofar as this opinion is based on such matters of fact, we have relied solely on such certificates without independent investigation.

Based upon and subject to the foregoing qualifications, assumptions and limitations and the further limitations set forth below, we are of the opinion that the Shares have been duly authorized by the Company and, upon conversion of the Convertible Notes, when the Shares are issued and sold in accordance with the terms of the Convertible Notes, with payment received by the Company in the manner described therein, the Shares will be validly issued, fully paid and nonassessable.

The opinions expressed in this opinion letter are limited to the General Corporation Law of the State of Delaware. We express no opinion as to whether the laws of any jurisdiction are applicable to the subject matter hereof. This opinion is expressly limited to the matters set forth above and we render no opinion, whether by implication or otherwise, as to any other matters relating to the Company or the Common Stock. We are not rendering any opinion as to compliance with any federal or state law, rule or regulation relating to securities, or to the sale or issuance thereof.

We hereby consent to the filing of this opinion with the Commission as an exhibit to theRegistration Statement and the use of our name therein under the caption "Legal Matters." In giving this consent, we do not thereby admit that we are experts with respect to any part of the Registration Statement or the Prospectus within the meaning of the term "expert" as used in Section 11 of the Securities Act or the rules and regulations promulgated thereunder by the Commission, nor we do not admit that we come within the category of persons whose consent is required under Section 7 of the Securities Act or the rules and regulations of the Commission adopted under the Securities Act.

2049 Century Park East, Suite 1700, Los Angeles, California 90067 Telephone: 310.312.4000 Fax: 310.312.4224
Albany | Boston | Chicago | Los Angeles | New York | Orange County | Palo Alto | Sacramento | San Francisco | Washington

The opinions included herein are expressed as of the date hereof unless otherwise expressly stated, and we disclaim any undertaking to advise you of any subsequent changes in the facts stated or assumed herein or of any subsequent changes in applicable laws.

Very truly yours,

/s/ MANATT, PHELPS & PHILLIPS, LLP

Manatt, Phelps & Phillips, LLP

Exhibit 10.1

INDEMNITY AGREEMENT

This Indemnity Agreement (this "Agreement"), effective as of _____, is made by and between Digital Brands Group, Inc., a Delaware corporation with executive offices located at _____ (the "Company"), and _____, _____of the Company residing at _____ (the "Indemnitee").

RECITALS

A. The Company is aware that competent and experienced persons are increasingly reluctant to serve as directors or officers of corporations unless they are protected by comprehensive liability insurance or indemnification, due to increased exposure to litigation costs and risks resulting from their service to such corporations, and due to the fact that the exposure frequently bears no reasonable relationship to the compensation of such directors and officers;

B. The statutes and judicial decisions regarding the duties of directors and officers are often difficult to apply, ambiguous, or conflicting, and therefore fail to provide such directors and officers with adequate, reliable knowledge of legal risks to which they are exposed or information regarding the proper course of action to take;

C. Plaintiffs often seek damages in such large amounts and the costs of litigation may be so substantial (whether or not the case is meritorious), that the defense and/or settlement of such litigation is often beyond the personal resources of officers and directors;

D. The Company believes that it is unfair for its directors and officers and the directors and officers of its subsidiaries to assume the risk of large judgments and other expense that may be incurred in cases in which the director or officer received no personal profit and in cases where the director or officer was not culpable;

E. The Company recognizes that the issues in controversy in litigation against a director or officer of a corporation such as the Company or a subsidiary of the Company are often related to the knowledge, motives and intent of such director or officer, that he or she is usually the only witness with knowledge of the essential facts and exculpating circumstances regarding such matters and that the long period of time which usually elapses before the trial or other disposition of which litigation often extends beyond the time that the director or officer can reasonably recall such matters; and may extend beyond the normal time for retirement or in the event of his or her death, his or her spouse, heirs, executors or administrators, may be faced with limited ability and undue hardship in maintaining an adequate defense, which may discourage such a director or officer from serving in that position;

F. Based upon their experience as business managers, the Board of Directors of the Company (the "Board") has concluded that, to retain and attract talented and experienced individuals to serve as officers and directors of the Company and its subsidiaries and to encourage such individuals to take the business risks necessary for the success of the Company and its subsidiaries, it is necessary for the Company to contractually indemnify its officers and directors and the officers and directors of its subsidiaries, and to assume for itself maximum liability for expenses and damages in connection with claims against such officers and directors in connection with their service to the Company and its subsidiaries, and has further concluded that the failure to provide such contractual indemnification could result in great harm to the Company and its subsidiaries and the Company's stockholders;

G. Section 145 of the General Corporation Law of Delaware, under which the Company is organized ("Section 145"), empowers the Company to indemnify by agreement its officers, directors, employees and agents, and persons who serve, at the request of the Company, as directors, officers, employees or agents of other corporations or enterprises, and expressly provides that the indemnification provided by Section 145 is not exclusive;

H. The Company, after reasonable investigation prior to the date hereof, has determined that the liability insurance coverage available to the Company and its subsidiaries as of the date hereof is inadequate and/or unreasonably expensive. The Company believes, therefore, that the interest of the Company's stockholders would best be served by a combination of such insurance as the Company may obtain, or request a subsidiary to obtain, pursuant to the Company's obligations hereunder, and the indemnification by the Company of the directors and officers of the Company and its subsidiaries;

I. The Company desires and has requested the Indemnitee to serve or continue to serve as a director or officer of the Company and/or the subsidiaries of the Company free from undue concern for claims for damages arising out of or related to such services to the Company and/or a subsidiary of the Company; and

J. The Indemnitee is willing to serve, or to continue to serve, the Company and/or the subsidiaries of the Company, provided that he or she is furnished the indemnity provided for herein.

AGREEMENT

NOW, THEREFORE, the parties hereto, intending to be legally bound, hereby agree as follows:

1. **Definitions.**

(a) *Agent*. For the purposes of this Agreement, "agent" of the Company means any person who is or was a director, officer, employee or other agent of the Company or a subsidiary of the Company; or is or was serving at the request of, for the convenience of or to represent the interest of the Company or a subsidiary of the Company as a director, officer, employee or agent of another foreign or domestic corporation, partnership, joint venture, trust or other enterprise; or was a director, officer, employee or agent of a foreign or domestic corporation which was a predecessor corporation of the Company or a subsidiary of the Company, or was a director, officer, employee or agent of another enterprise at the request of, for the convenience of or to represent the interests of such predecessor corporation.

(b) *Expenses.* For purposes of this Agreement, "expenses" includes all direct and indirect costs of any type or nature whatsoever (including, without limitation, all attorneys' fees and related disbursements, and other out-of-pocket costs) actually and reasonably incurred by the Indemnitee in connection with either the investigation, defense or appeal of a proceeding or establishing or enforcing a right to indemnification under this Agreement, Section 145 or otherwise; provided, however, that expenses shall not include any judgments, fines, ERISA excise taxes or penalties or amounts paid in settlement of a proceeding.

(c) *Proceeding.* For the purposes of this Agreement, "proceeding" means any threatened, pending, or completed action, suit or other proceeding, whether civil, criminal, administrative, investigative or any other type whatsoever.

(d) *Subsidiary.* For purposes of this Agreement, "subsidiary" means any corporation of which more than 50% of the outstanding voting securities is owned directly or indirectly by the Company, by the Company and one or more other subsidiaries, or by one or more other subsidiaries.

2. **Agreement to Serve**. The Indemnitee agrees to serve and/or continue to serve as an agent of the Company, at its will (or under separate agreement, if such agreement exists), in the capacity the Indemnitee currently serves as an agent of the Company, so long as he or she is duly appointed or elected and qualified in accordance with the applicable provisions of the Bylaws of the Company or any subsidiary of the Company or until such time as he or she tenders his or her resignation in writing or he or she is removed from such position, provided, however, that nothing contained in this Agreement is intended to create any right to continued employment by the Indemnitee.

3. **Maintenance of Liability Insurance.**

(a) The Company hereby covenants and agrees that, so long as the Indemnitee shall continue to serve as an agent of the Company and thereafter so long as the Indemnitee shall be subject to any possible proceeding by reason of the fact that the Indemnitee was an agent of the Company, the Company, subject to Section 3(b), shall use reasonable efforts to obtain and maintain in full force and effect directors' and officers' liability insurance ("D&O Insurance") in reasonable amounts from established and reputable insurers.

(b) Notwithstanding the foregoing, the Company shall have no obligation to obtain or maintain D&O Insurance if the Company determines in good faith that such insurance is not reasonably available, the premium costs for such insurance are disproportionate to the amount of coverage provided, the coverage is reduced by exclusions so as to provide an insufficient benefit, or the Indemnitee is covered by similar insurance maintained by a subsidiary of the Company.

4. **Mandatory Indemnification.** The Company shall indemnify the Indemnitee from:

(a) *Third Party Actions*. If the Indemnitee is a person who was or is a party or is threatened to be made a party to any proceeding (other than an action by or in the right of the Company) by reason of the fact that he or she is or was an agent of the Company, or by reason of anything done or not done by him or her in any such capacity, against any and all expenses and liabilities of any type whatsoever (including, but not limited to, judgments, fines, ERISA excise taxes or penalties, and amounts paid in settlement) actually and reasonably incurred by him or her in connection with the investigation, defense, settlement or appeal of such proceeding if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Company, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful; and

(b) *Derivative Actions.* If the Indemnitee is a person who was or is a party or is threatened to be made a party to any proceeding by or in the right of the Company to procure a judgment in its favor by reason of the fact that he or she is or was an agent of the Company, or by reason of anything done or not done by him or her in any such capacity, against any amounts paid in settlement of any such proceeding and all expenses actually and reasonably incurred by him or her in connection with the investigation, defense, settlement, or appeal of such proceeding if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Company; except that no indemnification under this subsection shall be made in respect of any claim, issue or matter as to which such person shall have been finally adjudged to be liable to the Company after the time for an appeal has expired by a court of competent jurisdiction due to willful misconduct of a culpable nature in the performance of his or her duty to the Company unless and only to the extent that the Court of Chancery or the court in which such proceeding was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such amounts which the Court of Chancery or such other court shall deem proper; and

(c) *Actions Where Indemnitee is Deceased.* If the Indemnitee is a person who was or is a party or is threatened to be made a party to any proceeding by reason of the fact that he or she is or was an agent of the Company, or by reason of anything done or not done by him or her in any such capacity, against any and all expenses and liabilities of any type whatsoever (including, but not limited to, judgments, fines, ERISA excise taxes or penalties, and amounts paid in settlement) actually and reasonably incurred by him or her in connection with the investigation, defense, settlement or appeal of such proceeding if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Company, and prior to, during the pendency or after completion of such proceeding the Indemnitee is deceased, except that in a proceeding by or in the right of the Company no indemnification shall be due under the provisions of this subsection in respect of any claim, issue or matter as to which such person shall have been finally adjudged to be liable to the Company after the time for an appeal has expired, by a court of competent jurisdiction due to willful misconduct of a culpable nature in the performance of his or her duty to the Company, unless and only to the extent that the Court of Chancery or the court in which such proceeding was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such amounts which the Court of Chancery or such other court shall deem proper; and

(d) *Exception for Amounts Covered by Insurance.* Notwithstanding the foregoing, the Company shall not be obligated to indemnify the Indemnitee for expenses or liabilities of any type whatsoever (including, but not limited to, judgments, fees, ERISA excise taxes or penalties, and amounts paid in settlement) which have been paid directly to Indemnitee under D&O Insurance.

5. **Partial Indemnification.** If the Indemnitee is entitled under any provision of this Agreement to indemnification by the Company for some or a portion of any expenses or liabilities of any type whatsoever (including, but not limited to, judgments, fines, ERISA excise taxes or penalties, and amounts paid in settlement) incurred by him or her in the investigation, defense, settlement or appeal of a proceeding but not entitled, however, to indemnification for all of the total amount thereof, the Company shall nevertheless indemnify the Indemnitee for such total amount except as to the portion thereof to which the Indemnitee is not entitled.

6. **Mandatory Advancement of Expenses.** Subject to Section 10 below, the Company shall advance all expenses incurred by the Indemnitee in connection with the investigation, defense, settlement or appeal of any proceeding to which the Indemnitee is a party or is threatened to be made a party by reason of the fact that the Indemnitee is or was an agent of the Company or by reason of anything done or not done by him or her in any such capacity. Indemnitee hereby undertakes to repay such amounts advanced only if, and to the extent that, it shall ultimately be determined that the Indemnitee is not entitled to be indemnified by the Company as authorized hereby. The advances to be made hereunder shall be paid by the Company to the Indemnitee within twenty (20) days following delivery of a written request therefor by the Indemnitee to the Company.

7. **Notice and Other Indemnification Procedures.**

(a) Promptly after receipt by the Indemnitee of notice of the commencement of or the threat of commencement of any proceeding, the Indemnitee shall, if the Indemnitee believes that indemnification with respect thereto may be sought from the Company under this Agreement, notify the Company of the commencement or threat of commencement thereof.

(b) If, at the time of the receipt of a notice of the commencement of a proceeding pursuant to Section 7(a) hereof, the Company has D&O Insurance in effect, the Company shall give prompt notice of the commencement of such proceeding to the insurers in accordance with the procedures set forth in the respective policies. The Company shall thereafter take all necessary or desirable action to cause such insurers to pay, on behalf of the Indemnitee, all amounts payable as a result of such proceeding in accordance with the terms of such policies.

(c) In the event the Company shall be obligated to advance the expenses for any proceeding against the Indemnitee, the Company, if appropriate, shall be entitled to assume the defense of such proceeding, with counsel approved by the Indemnitee, upon the delivery to the Indemnitee of written notice of its election so to do. After delivery of such

notice, approval of such counsel by the Indemnitee and the retention of such counsel by the Company, the Company will not be liable to the Indemnitee under this Agreement for any fees of counsel subsequently incurred by the Indemnitee with respect to the same proceeding, provided that (i) the Indemnitee shall have the right to employ his or her counsel in any such proceeding at the Indemnitee's expense; and (ii) if (A) the employment of counsel by the Indemnitee has been previously authorized by the Company, (B) the Indemnitee shall have reasonably concluded that there may be a conflict of interest between the Company and the Indemnitee in the conduct of any such defense or (C) the Company shall not, in fact, have employed counsel to assume the defense of such proceeding, the fees and expenses of the Indemnitee's counsel shall be at the expense of the Company.

8. **Determination of Right to Indemnification.**

(a) To the extent the Indemnitee has been successful on the merits or otherwise in defense of any proceeding referred to in Section 4(a), 4(b) or 4(c) of this Agreement or in the defense of any claim, issue or matter described therein, the Company shall indemnify the Indemnitee against expenses actually and reasonably incurred by him or her in connection therewith.

(b) In the event that Section 8(a) is inapplicable, the Company shall also indemnify the Indemnitee unless, and only to the extent that, the Company shall prove by clear and convincing evidence to a forum listed in Section 8(c) below that the Indemnitee has not met the applicable standard of conduct required to entitle the Indemnitee to such indemnification.

(c) The Indemnitee shall be entitled to select the forum in which the validity of the Company's claim under Section 8(b) hereof that the Indemnitee is not entitled to indemnification will be heard from among the following:

(1) A quorum of the Board consisting of directors who are not parties to the proceeding for which indemnification is being sought;

(2) The stockholders of the Company;

(3) Legal counsel selected by the Indemnitee and reasonably approved by the Board, which counsel shall make such determination in a written opinion;

(4) A panel of three arbitrators, one of whom is selected by the Company, another of whom is selected by the Indemnitee and the last of whom is selected by the first two arbitrators so selected.

(d) As soon as practicable, and in no event later than 30 days after written notice of the Indemnitee's choice of forum pursuant to Section 8(c) above, the Company shall, at its own expense, submit to the selected forum in such manner as the Indemnitee or the Indemnitee's counsel may reasonably request, its claim that the Indemnitee is not entitled to indemnification; and the Company shall act in the utmost good faith to assure the Indemnitee a complete opportunity to defend against such claim.

(e) Notwithstanding a determination by any forum listed in Section 8(c) hereof that the Indemnitee is not entitled to indemnification with respect to a specific proceeding, the Indemnitee shall have the right to apply to the Court of Chancery of Delaware, the court in which that proceeding is or was pending or any other court of competent jurisdiction, for the purpose of enforcing the Indemnitee's right to indemnification pursuant to the Agreement.

(f) The Company shall indemnify the Indemnitee against all expenses incurred by the Indemnitee in connection with any hearing or proceeding under this Section 8 involving the Indemnitee and against all expenses incurred by the Indemnitee in connection with any other proceeding between the Company and the Indemnitee involving the interpretation or enforcement of the rights of the Indemnitee under this Agreement unless a court of competent jurisdiction finds that each of the material claims and/or defenses of the Indemnitee in any such proceeding was frivolous or not made in good faith.

9. **Limitation of Actions and Release of Claims.** No proceeding shall be brought and no cause of action shall be asserted by or on behalf of the Company or any subsidiary against the Indemnitee, his or her spouse, heirs, estate, executors or administrators after the expiration of one year from the act or omission of the Indemnitee upon which such proceeding is based; however, in a case where the Indemnitee fraudulently conceals the facts underlying such cause of action, no proceeding shall be brought and no cause of action shall be asserted after the expiration of one year from the earlier of (i) the date the Company or any subsidiary of the Company discovers such facts, or (ii) the date the Company or any subsidiary of the Company could have discovered such facts by the exercise of reasonable diligence. Any claim or cause of action of the Company or any subsidiary of the Company, including claims predicated upon the negligent act or omission of the Indemnitee, shall be extinguished and deemed released unless asserted by filing of a legal action within such period. This Section 9 shall not apply to any cause of action which has accrued on the date hereof and of which the Indemnitee is aware on the date hereof, but as to which the Company has no actual knowledge apart from the Indemnitee's knowledge.

10. **Exceptions.** Any other provision herein to the contrary notwithstanding, the Company shall not be obligated pursuant to the terms of this Agreement:

(a) *Claims Initiated by Indemnitee.* To indemnify or advance expenses to the Indemnitee with respect to proceedings or claims initiated or brought voluntarily by the Indemnitee and not by way of defense, except with respect to proceedings brought to establish or enforce a right to indemnification under this Agreement or any other statute or law or otherwise as required under Section 145, but such indemnification or advancement of expenses may be provided by the Company in specific cases if the Board of Directors finds it to be appropriate; or

(b) *Lack of Good Faith.* To indemnify the Indemnitee for any expenses incurred by the Indemnitee with respect to any proceeding instituted by the Indemnitee to enforce or interpret this Agreement, if a court of competent jurisdiction determines that each of the material assertions made by the Indemnitee in such proceeding was not made in good faith or was frivolous; or

(c) *Unauthorized Settlements.* To indemnify the Indemnitee under this Agreement for any amounts paid in settlement of a proceeding unless the Company consents to such settlement; or

(d) *Claims by the Company for Willful Misconduct.* To indemnify or advance expenses to the Indemnitee under this Agreement for any expenses incurred by the Indemnitee with respect to any proceeding or claim brought by the Company against the Indemnitee for willful misconduct, unless a court of competent jurisdiction determines that each of such claims was not made in good faith or was frivolous; or

(e) *Section 16(b)*. To indemnify Indemnitee for expenses and the payment of profits arising from the purchase and sale by Indemnitee of securities in violation of Section 16(b) of the Securities Exchange Act of 1934, as amended, or any similar successor statute; or

(f) *Willful Misconduct.* To indemnify the Indemnitee on account of the Indemnitee's conduct which is finally adjudged to have been knowingly fraudulent or deliberately

dishonest, or to constitute willful misconduct; or

(g) *Unlawful Indemnification.* To indemnify the Indemnitee if a final decision by a court having jurisdiction in the matter shall determine that such indemnification is not lawful; or

(h) *Forfeiture of Certain Bonuses and Profits.* To indemnify Indemnitee for the payment of amounts required to be reimbursed to the Company pursuant to Section 304 of the Sarbanes-Oxley Act of 2002, as amended, or any similar successor statute.

11. **Nonexclusivity.** The provisions for indemnification and advancement of expenses set forth in this Agreement shall not be deemed exclusive of any other rights which the Indemnitee may have under any provision of law, the Company's Certificate of Incorporation or Bylaws, the vote of the Company's stockholders or disinterested directors, other agreements, or otherwise, both as to actions in his or her official capacity and to actions in another capacity while occupying his or her position as an agent of the Company, and the Indemnitee's rights hereunder shall continue after the Indemnitee has ceased acting as an agent of the Company and shall inure to the benefit of the heirs, executors and administrators of the Indemnitee.

12. **Interpretation of Agreement.** It is understood that the parties hereto intend this Agreement to be interpreted and enforced so as to provide indemnification to the Indemnitee to the fullest extent now or hereafter permitted by law.

13. **Severability.** If any provision or provisions of this Agreement shall be held to be invalid, illegal or unenforceable for any reason whatsoever, (i) the validity, legality and enforceability of the remaining provisions of the Agreement (including, without limitation, all portions of any paragraphs of this Agreement containing any such provision held to be invalid, illegal or unenforceable, that are not themselves invalid, illegal or unenforceable) shall not in any way be affected or impaired thereby, and (ii) to the fullest extent possible, the provisions of this Agreement (including, without limitation, all portions of any paragraphs of this Agreement containing any such provision held to be invalid, illegal or unenforceable, that are not themselves invalid, illegal or unenforceable) shall be construed so as to give effect to the intent manifested by the provision held invalid, illegal or unenforceable and to give effect to Section 12 hereof.

14. **Modification and Waiver.** No supplement, modification or amendment of this Agreement shall be binding unless executed in writing by both of the parties hereto. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision hereof (whether or not similar) nor shall such waiver constitute a continuing waiver.

15. **Successors and Assigns.** The terms of this Agreement shall bind, and shall inure to the benefit of, the successors, heirs, executors, and administrators and assigns of the parties hereto.

16. **Notice.** All notices, requests, demands and other communications under this Agreement shall be in writing and shall be deemed duly given (i) if delivered by hand and receipted for by the party addressee or (ii) if mailed by certified or registered mail with postage prepaid, on the third business day after the mailing date. Addresses for notice to either party are as shown on the signature page of this Agreement, or as subsequently modified by written notice.

17. **Governing Law.** This Agreement shall be governed exclusively by and construed according to the laws of the State of Delaware, as applied to contracts between Delaware residents entered into and to be performed entirely within Delaware.

18. **Consent to Jurisdiction.** The Company and the Indemnitee each hereby irrevocably consent to the jurisdiction of the courts of the State of Delaware for all purposes in connection with any action or proceeding which arises out of or relates to this Agreement.

The parties hereto have entered into this Indemnity Agreement effective as of the date first above written.

COMPANY:

Digital Brands Group, Inc.

By: _____

Its: _____

INDEMNITEE:

_____

NOTICE OF GRANT OF NON-QUALIFIED STOCK OPTION AWARD

DIGITAL BRANDS GROUP, INC.
2020 OMNIBUS INCENTIVE PLAN

FOR GOOD AND VALUABLE CONSIDERATION, Digital Brands Group, Inc. (the "Company") hereby grants, pursuant to the provisions of the Company's 2020 Omnibus Incentive Plan (the "Plan"), to the Participant designated in this Notice of Grant of Non-Qualified Stock Option Award (the "Notice") an option to purchase the number of shares of the common stock of the Company set forth in the Notice (the "Shares"), subject to certain restrictions as outlined below in this Notice and the additional provisions set forth in the attached Terms and Conditions of Stock Option Award (collectively, the "Agreement"). Also enclosed is a copy of the information statement describing important provisions of the Plan.

Optionee: **[_____]**

Date of Grant: _____	**Type of Option**: Non-Qualified Stock Option
Exercise Price per Share: $____	**Expiration Date**: _____
Total Number of Shares Granted: _____	**Total Exercise Price**: $_____
Vesting Schedule: 75% on the date of grant and the remaining 25% in equal monthly installments on the [___] day of each month for 36 months beginning with [first monthly vesting date]	
Exercise After Termination of Service: *Termination of Service for any reason*: any non-vested portion of the Option expires immediately; *Termination of Service due to death or Disability*: vested portion of the Option is exercisable by the Optionee (or, in the event of the Optionee's death, the Optionee's Beneficiary) for one year after the Optionee's Termination; *Termination of Service for any reason other than death or Disability*: vested portion of the Option is exercisable for a period of ninety days following the Optionee's Termination. **In no event may this Option be exercised after the Expiration Date as provided above**.	

By signing below, the Optionee agrees that this Non-Qualified Stock Option Award is granted under and governed by the terms and conditions of the Company's 2020 Omnibus Incentive Plan and the attached Terms and Conditions.

Participant	Digital Brands Group, Inc.
_____	By: _____
	Title: _____
Date: _____	Date: _____

TERMS AND CONDITIONS OF STOCK OPTION AWARD

1. Grant of Option. The Option granted to the Optionee and described in the Notice of Grant is subject to the terms and conditions of the Plan, which is incorporated by reference in its entirety into these Terms and Conditions of Stock Option Award.

The Board of Directors of the Company has authorized and approved the 2020 Omnibus Incentive Plan (the "Plan"), which has been approved by the stockholders of the Company. The Committee has approved an award to the Optionee of a number of shares of the Company's common stock, conditioned upon the Participant's acceptance of the provisions set forth in the Notice and these Terms and Conditions within 60 days after the Notice and these Terms and Conditions are presented to the Optionee for review. For purposes of the Notice and these Terms and Conditions, any reference to the Company shall include a reference to any Affiliate.

If designated in the Notice of Grant as an Incentive Stock Option ("ISO"), this Option is intended to qualify as an Incentive Stock Option as defined in Section 422 of the Code. Nevertheless, to the extent that the Option fails to meet the requirements of an ISO under Section 422 of the Code, this Option shall be treated as a Non-Qualified Stock Option ("NSO").

The Company intends that this Option not be considered to provide for the deferral of compensation under Section 409A of the Code and that this Agreement shall be so administered and construed. Further, the Company may modify the Plan and this Award to the extent necessary to fulfill this intent.

2. Exercise of Option.

(a) Right to Exercise. This Option shall be exercisable, in whole or in part, during its term in accordance with the Vesting Schedule set out in the Notice of Grant and with the applicable provisions of the Plan and this Option Agreement. No Shares shall be issued pursuant to the exercise of an Option unless the issuance and exercise comply with applicable laws. Assuming such compliance, for income tax purposes the Shares shall be considered transferred to the Optionee on the date on which the Option is exercised with respect to such Shares. The Committee may, in its discretion, (i) accelerate vesting of the Option, or (ii) extend the applicable exercise period to the extent permitted under Section 6.03 of the Plan.

(b) Method of Exercise. The Optionee may exercise the Option by delivering an exercise notice in a form approved by the Company (the "Exercise Notice") which shall state the election to exercise the Option, the number of Shares with respect to which the Option is being exercised, and such other representations and agreements as may be required by the Company. The Exercise Notice shall be accompanied by payment of the aggregate Exercise Price as to all Shares exercised. This Option shall be deemed to be exercised upon receipt by the Company of such fully executed Exercise Notice accompanied by the aggregate Exercise Price.

(c) Acceleration of Vesting on Change in Control. Unless otherwise specified in the Notice of Grant, in the event of a Change in Control, no accelerated vesting of any Options outstanding on the date of such Change in Control shall occur.

3. Method of Payment. If the Optionee elects to exercise the Option by submitting an Exercise Notice under Section 2(b) of this Agreement, the aggregate Exercise Price (as well as any applicable withholding or other taxes) shall be paid by cash or check; *provided, however*, that the Committee may consent, in its discretion, to payment in any of the following forms, or a combination of them:

(a) cash or check;

(b) a "net exercise" (as described in the Plan or such other consideration received by the Company under a cashless exercise program approved by the Company in connection with the Plan;

(c) surrender of other Shares owned by the Optionee which have a Fair Market Value on the date of surrender equal to the aggregate Exercise Price of the Exercised Shares and any applicable withholding; or

(d) any other consideration that the Committee deems appropriate and in compliance with applicable law.

4. Restrictions on Exercise. This Option may not be exercised until such time as the Plan has been approved by the stockholders of the Company, or if the issuance of the Shares upon exercise or the method of payment of consideration for those shares would constitute a violation of any applicable law or regulation.

5. Non-Transferability of Option. This Option may not be transferred in any manner otherwise than by will or by the laws of descent or distribution and may be exercised during the lifetime of the Optionee only by the Optionee; provided, however, that the Optionee may transfer the Options (i) pursuant to a qualified domestic relations order (as defined by the Code or the rules thereunder) or (ii) to any member of the Optionee's Immediate Family or to a trust, limited liability company, family limited partnership or other equivalent vehicle, established for the exclusive benefit of one or more members of his Immediate Family by delivering to the Company a Notice of Assignment in a form acceptable to the Company. No transfer or assignment of the Option to or on behalf of an Immediate Family member under this Section 5 shall be effective until the Company has acknowledged such transfer or assignment in writing. "Immediate Family" means the Optionee's parents, spouse, children, siblings, and grandchildren. Following transfer, the Options shall continue to be subject to the same terms and conditions as were applicable immediately prior to transfer. In the event an Option is transferred as contemplated in this Section 5, such Option may not be subsequently transferred by the transferee except by will or the laws of descent and distribution. The terms of the Plan and this Option Agreement shall be binding upon the executors, administrators, heirs, successors and assigns of the Optionee.

6. Term of Option. This Option may be exercised only within the term set out in the Notice of Grant, and may be exercised during such term only in accordance with the Plan and the terms of this Option Agreement.

7. Withholding.

(a) The Committee shall determine the amount of any withholding or other tax required by law to be withheld or paid by the Company with respect to any income recognized by the Optionee with respect to the Option Award.

(b) The Optionee shall be required to meet any applicable tax withholding obligation in accordance with the provisions of Section 11.05 of the Plan.

(c) Subject to any rules prescribed by the Committee, the Optionee shall have the right to elect to meet any withholding requirement (i) by having withheld from this Award at the appropriate time that number of whole shares of common stock whose fair market value is equal to the amount of any taxes required to be withheld with respect to such Award, (ii) by direct payment to the Company in cash of the amount of any taxes required to be withheld with respect to such Award or (iii) by a combination of shares and cash.

8. Defined Terms. Capitalized terms used but not defined in the Notice and these Terms and Conditions shall have the meanings set forth in the Plan, unless such term is defined in any Employment Agreement between the Optionee and the Company or an Affiliate. Any terms used in the Notice and these Terms and Conditions, but defined in the Optionee's Employment Agreement are incorporated herein by reference and shall be effective for purposes of the Notice and these Terms and Conditions without regard to the continued effectiveness of the Employment Agreement.

9. Optionee Representations. The Optionee hereby represents to the Company that the Optionee has read and fully understands the provisions of the Notice, these Terms and Conditions and the Plan and the Optionee's decision to participate in the Plan is completely voluntary. Further, the Optionee acknowledges that the Optionee is relying solely on his or her own advisors with respect to the tax consequences of this stock option award.

10. Regulatory Limitations on Exercises. Notwithstanding the other provisions of this Option Agreement, no option exercise or issuance of shares of Common Stock pursuant to this Option Agreement shall be effective if (i) the shares reserved under the Plan are not subject to an effective registration statement at the time of such exercise or issuance, or otherwise eligible for an exemption from registration, or (ii) the Company determines in good faith that such exercise or issuance would violate any applicable securities or other law or regulation.

11. Miscellaneous.

(a) Notices. All notices, requests, deliveries, payments, demands and other communications which are required or permitted to be given under these Terms and Conditions shall be in writing and shall be either delivered personally or sent by registered or certified mail, or by private courier, return receipt requested, postage prepaid to the parties at their respective addresses set forth herein, or to such other address as either shall have specified by notice in writing to the other. Notice shall be deemed duly given hereunder when delivered or mailed as provided herein.

(b) Waiver. The waiver by any party hereto of a breach of any provision of the Notice or these Terms and Conditions shall not operate or be construed as a waiver of any other or subsequent breach.

(c) Entire Agreement. These Terms and Conditions, the Notice and the Plan constitute the entire agreement between the parties with respect to the subject matter hereof.

(d) Binding Effect; Successors. These Terms and Conditions shall inure to the benefit of and be binding upon the parties hereto and to the extent not prohibited herein, their respective heirs, successors, assigns and representatives. Nothing in these Terms and Conditions, express or implied, is intended to confer on any person other than the parties hereto and as provided above, their respective heirs, successors, assigns and representatives any rights, remedies, obligations or liabilities.

(e) Governing Law. The Notice and these Terms and Conditions shall be governed by and construed in accordance with the laws of the State of Delaware.

(f) Headings. The headings contained herein are for the sole purpose of convenience of reference, and shall not in any way limit or affect the meaning or interpretation of any of the terms or provisions of these Terms and Conditions.

(g) Conflicts; Amendment. The provisions of the Plan are incorporated in these Terms and Conditions in their entirety. In the event of any conflict between the provisions of these Terms and Conditions and the Plan, the provisions of the Plan shall control. The Agreement may be amended at any time by written agreement of the parties hereto.

(h) No Right to Continued Employment. Nothing in the Notice or these Terms and Conditions shall confer upon the Optionee any right to continue in the employ or service of the Company or affect the right of the Company to terminate the Optionee's employment or service at any time.

(i) Further Assurances. The Optionee agrees, upon demand of the Company or the Committee, to do all acts and execute, deliver and perform all additional documents, instruments and agreements which may be reasonably required by the Company or the Committee, as the case may be, to implement the provisions and purposes of the Notice and these Terms and Conditions and the Plan.

Exhibit 10.3

AMENDMENT NO. 7 TO SENIOR CREDIT AGREEMENT

This Amendment No. 7 to Senior Credit Agreement (this "Amendment") is made and entered into as of March __, 2021, by and among Denim.LA, Inc., a Delaware corporation d/b/a DSTLD (the "Borrower"), the stockholders of the Borrower signatories below ("Stockholders"), bocm3-DSTLD-Senior Debt, LLC, a Utah limited liability company ("First Lender") and bocm3-DSTLD-Senior Debt 2, LLC, a Utah limited liability company ("Second Lender" and together with the First Lender, the "Lenders").

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:

ARTICLE I.
DEFINITIONS

When used herein, the following terms shall have the following specified meanings:

1.1 "Amendment" shall mean this Amendment No. 7 to Senior Credit Agreement, as amended, restated, supplemented or otherwise modified from time to time.

1.2 "Credit Agreement" shall mean that certain Senior Credit Agreement, dated as of March 10, 2017, by and among the Borrower, Stockholders and First Lender, as amended by that certain Amendment No. 1 to Senior Credit Agreement, dated as of July 1, 2017 (" Amendment No. 1"), that certain Amendment No. 2 to Credit Agreement, Security Agreement and Management, dated as of March 30, 2018 ("Amendment No. 2"), and that certain Limited Waiver and Amendment No. 3 to Senior Credit Agreement, dated as of April 30, 2018 ("Amendment No. 3"), that certain Amendment No. 4 to Senior Credit Agreement, dated as of February 28, 2019 ("Amendment No. 4"), that certain Amendment No. 5 to Senior Credit Agreement and Security Agreement, dated as of February 7, 2020 (" Amendment No. 5"), and that certain Amendment No. 6 to Senior Credit Agreement, dated as of September 9, 2020 ("Amendment No. 6" and, together with Amendment No. 1, Amendment No. 2, Amendment No. 3 Amendment No. 4 and Amendment No. 5, collectively, the "Amendments"), and as further amended, modified, supplemented, extended or restated from time to time.

1.3 Other Capitalized Terms. All capitalized terms used in this Amendment and not specifically defined herein shall have the definitions assigned to such terms in the Credit Agreement.

ARTICLE II.
AMENDMENTS TO CREDIT AGREEMENT

2.1 Amendments. The Credit Agreement is hereby amended as follows:

(a) Section 1.1. The following definition is added to Section 1.1 of the Credit Agreement:

"Public Offering" means a secondary public offering of Borrower stock in which Borrower receives at least $5,000,000.

(b) Section 1.1. The definition of "Note Maturity Date" in Section 1.1 of the Credit Agreement is hereby deleted and replaced with the following:

"Note Maturity Date" means December 31, 2022.

(c) Section 2.3(a)(ii). The following is hereby appended to the end of Section 2.3(a)(ii) of the Credit Agreement:

Provided that the Public Offering occurs on or before July 31, 2021, Borrower shall pay the Lenders $3,000,000 (the "Public Offering Payment") within five (5) Business Days of the Public Offering in partial repayment of the Loans. If Borrower has an additional public offering of stock on or before September 30, 2021 in which the Company raises at least $3,000,000, Borrower shall repay the Loans within five (5) Business Days of such additional public offering of stock. If after timely making the Public Offering Payment Borrower does not have an additional public offering of stock on or before September 30, 2021 in which the Company raises at least $3,000,000, Borrower shall repay $300,000 of the Loans on or before September 30, 2021.

(d) Section 2.3(b). The following shall be added as the last sentence of Section 2.3(b) of the Credit Agreement:

Borrower shall pay to the Lenders $337,744.88 on or before April 30, 2021, which shall be allocated to prior payments of accrued interest and the Monitoring Fee.

2.2 Limited Waiver. From March 1, 2021 until the Note Maturity Date, provided no Event of Default has occurred and is continuing, the Lenders waive Borrower's obligations under Sections 5.1(a)-5.1(e) of the Credit Agreement.

2.3 Miscellaneous Amendments. The Credit Agreement, the Notes, and all other agreements and instruments executed and delivered heretofore or hereafter pursuant to the Credit Agreement are amended hereby so that any reference therein to the Credit Agreement shall be deemed to be a reference to such agreements and instruments as amended by or pursuant to this Amendment.

ARTICLE III.
REPRESENTATIONS AND WARRANTIES OF THE BORROWERS

The Borrower hereby represents and warrants to the Lenders that:

3.1 Credit Agreement. All of the representations and warranties made by Borrower in the Credit Agreement are true and correct on the date of this Amendment, except to the extent such representation or warranty relates to a specified earlier date, in which case it continues to be true and correct as of such date. No Event of Default under the Credit Agreement has occurred and is continuing as of the date of this Amendment.

3 . 2 Authorization; Enforceability. The making, execution and delivery of this Amendment and performance of and compliance with the terms of this Amendment and the terms of the Credit Agreement, as amended hereby, has been duly authorized by all necessary company action by Borrower. This Amendment is the valid and binding obligation of Borrower, enforceable against Borrower in accordance with its terms subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

3 . 3 Absence of Conflicting Obligations. The making, execution and delivery of this Amendment and performance of and compliance with the terms of this Amendment and the terms of the Credit Agreement, as amended hereby, do not violate any presently existing provision of law or the articles or certificate of formation, certificate of organization or operating agreement of Borrower or any agreement to which Borrower is a party or by which it or any of its assets is bound.

ARTICLE IV.
MISCELLANEOUS

4.1 Continuance of Credit Agreement. Except as specifically amended by this Amendment, the Credit Agreement shall remain in full force and effect.

4.2 Survival. All agreements, representations and warranties made in this Amendment or in any documents delivered pursuant to this Amendment shall survive the execution of this Amendment and the delivery of any such document.

4.3 Governing Law. This Amendment shall be governed by, and construed and interpreted in accordance with, the laws of the State of Utah applicable to agreements made and wholly performed within such state. The parties hereto acknowledge that this Amendment was negotiated with the assistance of counsel and, accordingly, such laws shall be applied without reference to any rules of construction regarding the draftsman hereof.

4 . 4 Counterparts; Headings. This Amendment may be executed in several counterparts, each of which shall be deemed an original, but such counterparts shall together constitute but one and the same agreement. Article and section headings in this Amendment are inserted for convenience of reference only and shall not constitute a part hereof.

4 . 5 Severability. Any provision of this Amendment which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this Amendment in such jurisdiction or affecting the validity or enforceability of any provision in any other jurisdiction.

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4 . 6 Conditions. The effectiveness of this Amendment is subject to Lender having received from Borrower such documents and other materials as Lender shall request, in form and substance satisfactory to Lender and its counsel, including without limitation duly executed copies of this Amendment, and the payment of all fees and expenses pursuant to Section 4.9 of this Amendment.

4 . 7 Course of Dealing; Consent. Borrower acknowledges that neither previous waivers, extensions, and amendments granted to Borrower by Lender, nor the amendments and waivers granted herein, create any course of dealing or expectation with respect to any further waivers, extensions, or amendments, and Borrower further acknowledges that Lender has no obligation whatsoever to grant any additional waivers, extensions, amendments, or forbearance.

4 . 8 No Defenses. Borrower acknowledges it has no defenses, rights of setoff, or rights of recoupment to the enforceability or payment of any of its obligations under the Credit Agreement as amended hereby.

4.9 Expenses and Attorneys' Fees . Borrower shall pay (a) all fees and expenses (including attorney's fees) incurred by Lender in connection with the preparation, execution, and delivery of this Amendment, and all prior legal fees and expenses (including attorney's fees) incurred by each Lender in connection with the Credit Agreement and (b) all fees and expenses (including attorney's fees) incurred by Borrower in connection with the preparation, execution, and delivery of this Amendment on the date hereof, all subject to the restriction set forth in Section 2.4 of the Credit Agreement.

4.10 Further Assurances. Borrower shall promptly execute and deliver or cause to be executed and delivered to Lenders within a reasonable time following Lender's request, and at the expense of Borrower, such other documents or instruments as Lender may reasonably require to in order to give effect to the intent and purposes of this Amendment.

[*Signature page follows*]

IN WITNESS WHEREOF, the parties have executed this Amendment No. 7 to Senior Credit Agreement as of the date first written above.

DENIM.LA, INC. d/b/a DSTLD

By: Hil Darvis
Name: Hil Darvis
Title: CEO

BOCM3-DSTLD-SENIOR DEBT, LLC

By: Gregory D. Seare
Name: Gregory D. Seare
Title: Manager

BOCM3-DSTLD-SENIOR DEBT 2, LLC

By: Gregory D. Seare

Name: Gregory D. Seare
Title: Manager

STOCKHOLDERS

Mark Lynn

/s/ Mark Lynn

Corey Epstein

/s/ Corey Epstein

Dear Reid:

This letter is to confirm our offer to you as Chief Financial Officer, Denim.la Inc. ("the Company" or "Denim.la Inc."). You will report directly to the Company's Chief Executive Officer and be given such duties, authorities, and responsibilities commensurate with that of Chief Financial Officers of public companies of comparable size and such other duties, responsibilities and authorities, not inconsistent with your position, assigned to you by the Chief Executive Officer.

Start Date: The effective date of your new position has been ongoing.

Salary: Effective at the IPO, your annual salary will be $250,000, payable every two weeks. You are scheduled to receive a compensation review in November 2021 as it relates to the Company's revenues, EBITDA and market capitalization, especially relative to your peer group.

Annual Bonus: You will be eligible for an annual bonus based on Denim.la Inc. and/or Division financial and operational objectives as well as individual performance. Effective January 1, 2021, your annual target bonus will be 50% of your base salary. Depending on results and your individual performance, your actual bonus can range from 0 – 75% of target. Bonuses for fiscal 2021 are scheduled for payment in March 2022. Bonus payments are subject to supplemental income tax withholding.

Stock Option Awards: You will be eligible to participate in the Company's stock option plan. The Company's Board of Directors (the "Board") has approved an option grant of 2,000,000. 75% of the option grant will be vested at issuance, and 25% of the option grant will vest according to the Company's 2020 stock plan.

Benefits: You will be eligible to participate in the Company's employee benefit plans on terms and conditions generally applicable to other senior executives of the Company.

Termination/Severance: In the event that your employment is involuntarily terminated by the Company for reasons other than For Cause (as defined below) prior to June 30, 2021, the Company will provide you the following after your "separation from service" within the meaning of Section 409A of the Internal Revenue Code (the "Separation from Service"), provided you sign a general release of claims in the form requested by the Company and it becomes effective within 45 calendar days after such Separation from Service (such 45th day, the "Release Deadline"):

(1) Your then current salary, at regular pay cycle intervals, for six months commencing in the first regular pay cycle following the Release Deadline (the "severance period"). Payments will cease if you accept other employment or professional relationship with a competitor of the Company (defined as another company primarily engaged in the apparel design or apparel retail business or any retailer with apparel sales in excess of $250 million annually), or if you breach your remaining obligations to the Company (e.g., your duty to protect confidential information, agreement not to solicit Company employees). Payments will be reduced by any compensation you receive (as received) during the severance period from other employment or professional relationship with a non-competitor. Each payment will be treated as a separate payment for purposes of Section 409A of the Internal Revenue Code, to the maximum extent possible.

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(2) Through the end of the period in which you are receiving payments under paragraph (1) above, if you properly elect and maintain COBRA coverage, payment of a portion of your COBRA premium in a method as determined by the Company. This payment may be taxable income to you and subject to tax withholding. Notwithstanding the foregoing, the Company's payment of the monthly COBRA premium shall cease immediately if the Company determines in its discretion that paying such monthly COBRA premium would result in the Company being in violation of, or incurring any fine, penalty, or excise tax under, applicable law (including, without limitation, any penalty imposed for violation of the nondiscrimination requirements under the Patient Protection and Affordable Care Act or guidance issued thereunder).

(3) Prorated Annual Bonus for the fiscal year in which the termination occurs, on the condition that you have worked at least 1 month of the fiscal year in which you are terminated, based on actual financial results and 100% standard for the individual component. Such bonus will paid in March of the year following termination at the time Annual Bonuses for the year of termination are paid, but in no event later than the 15th day of the third month following the later of the end of the Company's taxable year or the end of the calendar year in which such termination occurs.

(4) Accelerated vesting (but not settlement) of stock options that remain subject only to time vesting conditions, regardless of the vesting schedule. Shares of the Company stock in settlement of any stock options under this section will be delivered on the applicable regularly scheduled vesting dates subject to the terms and conditions of the applicable award agreement including, without limitation, the Internal Revenue Code Section 409A six-month delay language thereunder to the extent necessary to avoid taxation under Section 409A of the Internal Revenue Code.

The payments in (1), (3) and (4) above are, and the payment described in (2) above may be, taxable income to you and are subject to tax withholding. If the aggregate amount that would be payable to you under paragraphs (1), (2) and (3) above through the date which is six months after your Separation from Service (excluding amounts exempt from Section 409A of the Internal Revenue Code under the short-term deferral rule thereunder or Treas. Reg. Section 1.409A-1(b)(9)(v)) exceeds the limit under Treas. Reg. Section 1.409A-1(b)(9)(iii)(A) and you are a "specified employee" under Treas. Reg. Section 1.409A-1(i) on the date of your Separation from Service, then the excess will be paid to you no earlier than the date which is six months after the date of such separation (or such earlier time permitted under Section 409A(a)(2)(B)(i) of the Internal Revenue Code). This delay will only be imposed to the extent required to avoid the tax for which you would otherwise be liable under Section 409A(a)(1)(B) of the Internal Revenue Code. Any delayed payment instead will be made on the first business day following the expiration of the six-month period, as applicable (or such earlier time permitted under Section 409A(a)(2)(B)(i) of the Internal Revenue Code). Payments that are not delayed will be paid in accordance with their terms determined without regard to such delay.

The term "For Cause" shall mean a good faith determination by the Company that your employment be terminated for any of the following reasons: (1) indictment, conviction or admission of any crimes involving theft, fraud or moral turpitude or (2) engaging in gross neglect of duties, including willfully failing or refusing to implement or follow direction of the Company.

At any time, if you voluntarily resign your employment from Denim.la Inc. or your employment is terminated For Cause, you will receive no compensation, payment or benefits after your last day of employment. If your employment terminates for any reason, you will not be entitled to any payments, benefits or compensation other than as provided in this letter.

After June 30, 2021, you will be eligible for severance, if any, as approved by the Committee under the same terms as similarly situated executive officers.

Recoupment Policy: The Company's recoupment policy will apply to you. Under the current policy, subject to the discretion and approval of the Board, Denim.la Inc. will, to the extent permitted by governing law, in all appropriate cases as determined by the Board, require reimbursement and/or cancellation of any bonus or other incentive compensation, including stock-based compensation, awarded to an executive officer or other member of the Denim.la Inc.'s executive leadership team where all of the following factors are present: (a) the award was predicated upon the achievement of certain financial results that were subsequently the subject of a restatement, (b) in the

Board's view, the executive engaged in fraud or intentional misconduct that was a substantial contributing cause to the need for the restatement, and (c) a lower award would have been made to the executive based upon the restated financial results. In each such instance, Denim.la Inc. will seek to recover the individual executive's entire annual bonus or award for the relevant period, plus a reasonable rate of interest.

Abide by Denim.la Inc. Policies: You agree to abide by all Denim.la Inc. policies including, but not limited to, policies contained in the Code of Business Conduct. Following your employment, you agree to cooperate with the Company to: (i) provide information reasonably requested by the Company in order to respond to disclosure or other obligations; and (ii) testify truthfully regarding any matters involving the Company about which you have any relevant information, or which arise from your employment with the Company.

Insider Trading Policies: This position will subject you to the requirements of Section 16 of the United States Securities and Exchange Act of 1934, as amended.

Confidentiality: You acknowledge that you will be in a relationship of confidence and trust with Denim.la Inc. As a result, during your employment with Denim.la Inc., you will acquire "Confidential Information," which is information (whether in electronic or any other format) that people outside Denim.la Inc. never see, such as unannounced product information or designs, business or strategic plans, financial information and organizational charts, and other materials.

You agree that you will keep the Confidential Information in strictest confidence and trust. You will not, without the prior written consent of Denim.la Inc.'s Legal Counsel, directly or indirectly use or disclose to any person or entity any Confidential Information, during or after your employment, except as is necessary in the ordinary course of performing your duties while employed by Denim.la Inc., or if required to be disclosed by order of a court of competent jurisdiction, administrative agency or governmental body, or by subpoena, summons or other legal process, provided that prior to such disclosure, Denim.la Inc. is given reasonable advance notice of such order and an opportunity to object to such disclosure. Notwithstanding this agreement, nothing in this letter prevents you from reporting, in confidence, potential violations of law to relevant governmental authorities or courts.

You agree that in the event your employment terminates for any reason, you will immediately deliver to Denim.la Inc. all company property, including all documents, materials or property of any description, or any reproduction of such materials, containing or pertaining to any Confidential Information.

Non-Solicitation of Employees: In order to protect Confidential Information, you agree that so long as you are employed by Denim.la Inc., and for a period of one year thereafter, you will not directly or indirectly, on behalf of yourself, any other person or entity, solicit, call upon, recruit, or attempt to solicit any of Denim.la Inc.'s employees or in any way encourage any Denim.la Inc. employee to leave their employment with Denim.la Inc. You further agree that you will not directly or indirectly, on behalf of yourself, any other person or entity, interfere or attempt to interfere with Denim.la Inc.'s relationship with any person who at any time was an employee, consultant, customer or vendor or otherwise has or had a business relationship with Denim.la Inc.

Non-disparagement: You agree now, and after your employment with the Denim.la Inc. terminates not to, directly or indirectly, disparage Denim.la Inc. in any way or to make negative, derogatory or untrue statements about Denim.la Inc., its business activities, or any of its directors, managers, officers, employees, affiliates, agents or representatives to any person or entity.

Employment Status: You understand that your employment is "at-will". This means that you do not have a contract of employment for any particular duration or limiting the grounds for your termination in any way. You are free to resign at any time. Similarly, Denim.la Inc. is free to terminate your employment at any time for any reason. The only way your at-will status can be changed is through a written agreement with Denim.la Inc., signed by an authorized officer of Denim.la Inc. In the event that there is any dispute over the terms, enforcement or obligations in this letter, the prevailing party shall be entitled to recover from the other party reasonable attorney fees and costs incurred to enforce any agreements.

Please note that except for those agreements or plans referenced in this letter and attachments, this letter contains the entire understanding of the parties with respect to this offer of employment and supersedes any other agreements, representations or understandings (whether oral or written and whether express or implied) with respect to this offer. Please review and sign this letter. You may keep one original for your personal records.

Reid, welcome to your new position and congratulations on this latest achievement in your career path at Denim.la Inc.

Original Issue Discount Promissory Note

Original Issue Date: April 8, 2021
Subscription Amount: $850,000
Principal Amount: $1,000,000
Original Issue Discount (OID): 15%

FOR VALUE RECEIVED, Digital Brands Group, Inc., a Delaware corporation with offices at 1400 Lavaca Street, Austin, TX 78701 (herein "**Borrower**"), hereby promises to pay to the order of Target Capital 2 LLC, an Arizona LLC with offices at 13600 Carr 968, apt 64, Rio Grande, PR 00745 (collectively with any and all of its permitted successors and assigns, herein "**Lender**"), without offset, in immediately available funds in lawful money of the United States of America, without counterclaim or setoff and free and clear of, and without any deduction or withholding for, any taxes or other payments), the Principal Amount of One Million Dollars ($1,000,000) (the "Principal Amount"). The loan evidenced by this note(this "**Note**") is referred to herein as the "**Loan**".

Section 1. Payment Schedule and Maturity Date. The entire Principal Amount of this Note then unpaid, together with any accrued and unpaid interest and all other amounts payable hereunder, if any, shall be due and payable in full as a balloon payment on July 8, 2021 (the "**Maturity Date**"), or such earlier date as this Note is required or permitted to be repaid as provided hereunder, including if the Borrower completes its initial public offering (the "IPO"), before the Maturity Date then the Principal Amount will be repaid immediately and in full from the proceeds received by the Borrower from the net proceeds of the IPO.

Section 2. Interest. The imputed interest rate is encompassed within the original issue discount of this Note. No additional cash interest shall be due. Borrower acknowledges the effective annual simple rate of interest stemming from the original issue discount of this Note is sixty percent (60%).

Section 3. Equity Incentive. Immediately prior to the effective date of the IPO, Borrower will issue Lender a warrant, in form and substance satisfactory to the Borrower (the "Warrant"), for a number of shares equal to 50% of the Principal Amount divided by the Exercise Price, where Exercise Price will be set at the time of IPO pricing and will be equal to the IPO price to the public per one share of the common stock of the Borrower, and will be issued to the Lender in conjunction with accepting this Note. Specifically, the number of shares underlying the Warrant (the "Warrant Shares") shall be equal to [(1,000,000)(.5)]/[the IPO price to the public of one share of Borrower's common stock].

Section 4. Prepayment. Borrower may prepay the Principal Amount in full at any time or in part from time to time.

Section 5. Events of Default. The occurrence of any one or more of the following shall constitute an "**Event of Default**" under this Note:

a) **Event of Default means**, wherever used herein, any of the following events (whatever the reason for such event and whether such event shall be voluntary or involuntary or effected by operation of law or pursuant to any judgment, decree or order of any court, or any order, rule or regulation of any administrative or governmental body):

i. Failure to pay all amounts due under this Note within five business days after the closing of the IPO, or if such IPO has not yet occurred, to pay off all amounts due under this Note in full on the Maturity Date;

ii. the Borrower shall fail to observe or perform any other covenant or agreement contained in this Note, which failure is not cured, if possible to cure, within the earlier to occur of (A) 5 Trading Days after notice of such failure sent by the Lender to the Borrower and (B) 10 Trading Days after the Borrower has become or should have become aware of such failure;

iii. the Borrower or any Significant Subsidiary (as such term is defined in Rule 1-02(w) of Regulation S-X) shall be subject to a Bankruptcy Event;

iv. the Borrower shall default on any of its obligations under any mortgage, credit agreement or other facility, indenture agreement, factoring agreement or other instrument under which there may be issued, or by which there may be secured or evidenced, any indebtedness for borrowed money or money due under any long term leasing or factoring arrangement that (a) involves an obligation greater than $250,000, whether such indebtedness now exists or shall hereafter be created, and (b) results in such indebtedness becoming or being declared due and payable prior to the date on which it would otherwise become due and payable;

v. the Borrower shall agree to sell or dispose of all or substantially all of its assets in one transaction or a series of related transactions out of the ordinary course of business and

vi. any monetary judgment, writ or similar final process shall be entered or filed against the Borrower, any subsidiary or any of their respective property or other assets for more than $250,000, and such judgment, writ or similar final process shall remain unvacated, unbonded or unstayed for a period of 30 calendar days.

b) **Remedies Upon Event of Default**. If any Event of Default occurs, the outstanding Principal Amount of this Note, plus accrued but unpaid interest through the date of acceleration, shall become, at the Lender's election, immediately due and payable in cash. Commencing 5 days after the occurrence of any Event of Default that results in the eventual acceleration of this Note, the Default Interest Rate on this Note shall accrue at an interest rate equal to the lesser of 15% per annum or the maximum rate permitted under applicable law. Upon the payment in full of the Principal Amount of this Note, plus accrued but unpaid interest, , the Lender shall promptly surrender this Note to or as directed by the Borrower. In connection with such acceleration described herein, the Lender need not provide, and the

Borrower hereby waives, any presentment, demand, protest or other notice of any kind, and the Lender may immediately and without expiration of any grace period enforce any and all of its rights and remedies hereunder and all other remedies available to it under applicable law. Such acceleration may be rescinded and annulled by Lender at any time prior to payment hereunder and the Lender shall have all rights as a holder of the Note until such time, if any, as the Lender receives full payment. No such rescission or annulment shall affect any subsequent Event of Default or impair any right consequent thereon. Additionally, if any Event of Default occurs, the number of Warrants issuable to the Lender under Section 3 shall be increased to 75% of the Principal Amount and the exact number of Warrant Shares issuable to the Lender shall be equal to [(1,000,000)(.75)]/[the price of one share of Borrower's common stock in the Borrower's initial public offering].

Section 6. Costs and Expenses of Enforcement. Borrower agrees to pay to Lender on demand all costs and expenses incurred by Lender in seeking to collect this Note or to enforce any of Lender's rights and remedies under this Note, including court costs and reasonable attorneys' fees and expenses, whether or not suit is filed hereon, or whether in connection with bankruptcy, insolvency or appeal.

Section 7. Heirs, Successors and Assigns. The terms of this Note shall bind and inure to the benefit of the heirs, devisees, representatives, successors and assigns of the parties. The foregoing sentence shall not be construed to permit Borrower to, and Borrower shall not assign the Loan, or its rights and obligations under this Note without the express written consent of the Lender.

Section 8. Notices. Any and all notices or other communications or deliveries to be provided by the Lender hereunder, shall be in writing and delivered personally, by facsimile, by email attachment, or sent by a nationally recognized courier service, addressed to the Borrower, at the address set forth above. Any and all notices or other communications or deliveries to be provided by the Borrower hereunder, shall be in writing and delivered personally, by facsimile, by email attachment, or sent by a nationally recognized courier service, addressed to the Lender, at the address set forth above.

Section 9. Absolute Obligation. Except as expressly provided herein, no provision of this Note shall alter or impair the obligation of the Borrower, which is absolute and unconditional, to pay the principal of, liquidated damages and accrued interest, as applicable, on this Note at the time, place, and rate, and in the coin or currency, herein prescribed. This Note is a direct debt obligation of the Borrower.

Section 10. Lost or Mutilated Note. If this Note shall be mutilated, lost, stolen or destroyed, the Borrower shall execute and deliver, in exchange and substitution for and upon cancellation of a mutilated Note, or in lieu of or in substitution for a lost, stolen or destroyed Note, a new Note for the principal amount of this Note so mutilated, lost, stolen or destroyed, but only upon receipt of evidence of such loss, theft or destruction of such Note, and of the ownership hereof, reasonably satisfactory to the Borrower.

Section 11. No Usury. It is expressly stipulated and agreed to be the intent of Borrower and Lender at all times to comply with applicable state law or applicable United States federal law (to the extent that it

permits Lender to contract for, charge, take, reserve, or receive a greater amount of interest than under state law) and that this Section shall control every other covenant and agreement in this Note and the Warrant Agreement. If applicable state or federal law should at any time be judicially interpreted so as to render usurious any amount called for under this Note, or contracted for, charged, taken, reserved, or received with respect to the Loan, or if Lender's exercise of the option to accelerate the Maturity Date, or if any prepayment by Borrower results in Borrower having paid any interest in excess of that permitted by applicable law, then it is Lender's express intent that all excess amounts theretofore collected by Lender shall be credited on the principal balance of this Note, and the provisions of this Note shall immediately be deemed reformed and the amounts thereafter collectible hereunder and thereunder reduced, without the necessity of the execution of any new documents, so as to comply with the applicable law, but so as to permit the recovery of the fullest amount otherwise called for hereunder or thereunder. All sums paid or agreed to be paid to Lender for the use of forbearance of the Loan shall, to the extent permitted by applicable law, be amortized, prorated, allocated, and spread throughout the full stated term of the Loan. The Borrower covenants (to the extent that it may lawfully do so) that it shall not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension or usury law or other law which would prohibit or forgive the Borrower from paying all or any portion of the principal of or interest on this Note as contemplated herein, wherever enacted, now or at any time hereafter in force, or which may affect the covenants or the performance of this Note, and the Borrower (to the extent it may lawfully do so) hereby expressly waives all benefits or advantage of any such law, and covenants that it will not, by resort to any such law, hinder, delay or impede the execution of any power herein granted to the Borrower, but will suffer and permit the execution of every such as though no such law has been enacted.

Section 12. Governing Law. All questions concerning the construction, validity, enforcement and interpretation of this Note shall be governed by and construed and enforced in accordance with the internal laws of the State of Arizona, without regard to the principles of conflict of laws thereof. Each party agrees that all legal proceedings concerning the interpretation, enforcement and defense of the transactions contemplated by this Note (whether brought against a party hereto or its respective Affiliates, directors, officers, shareholders, employees or agents) shall be commenced in the state and federal courts sitting in the City of Peoria, in the State of Arizona (the "Arizona Courts"). Each party hereto hereby irrevocably submits to the exclusive jurisdiction of the Arizona Courts for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein (including with respect to the enforcement of this Note), and hereby irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of such Arizona Courts, or such Arizona Courts are improper or inconvenient venue for such proceeding. Each party hereby irrevocably waives personal service of process and consents to process being served in any such suit, action or proceeding by mailing a copy thereof via registered or certified mail or overnight delivery (with evidence of delivery) to such party at the address in effect for notices to it under this Note and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any other manner permitted by applicable law. Each party hereto hereby irrevocably waives, to the fullest extent permitted by applicable law, any and all right to trial by

jury in any legal proceeding arising out of or relating to this Note or the transactions contemplated hereby.

Section 13. Waiver. Any waiver by the Borrower or the Lender of a breach of any provision of this Note shall not operate as or be construed to be a waiver of any other breach of such provision or of any breach of any other provision of this Note. The failure of the Borrower or the Lender to insist upon strict adherence to any term of this Note on one or more occasions shall not be considered a waiver or deprive that party of the right thereafter to insist upon strict adherence to that term or any other term of this Note on any other occasion. Any waiver by the Borrower or the Lender must be in writing.

Section 14. Severability. If any provision of this Note is invalid, illegal or unenforceable, the balance of this Note shall remain in effect, and if any provision is inapplicable to any person or circumstance, it shall nevertheless remain applicable to all other persons and circumstances.

Section 15. Headings. The headings contained herein are for convenience only, do not constitute a part of this Note and shall not be deemed to limit or affect any of the provisions hereof.

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(Signature Pages Follow)

IN WITNESS WHEREOF, the Borrower has caused this Note to be duly executed by a duly authorized officer as of the date first above indicated.

DIGITAL BRANDS GROUP, INC.

By: Hil Davis

Name: Hil Davis

Title: CEO

Email: hildavishj.lg

[LENDER SIGNATURE PAGE TO ORIGINAL ISSUE DISCOUNT PROMISSORY NOTE]

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

Name of Lender: Target Capital 2 LLC
Signature of Authorized Signatory of Lender: Shapiro
Name of Authorized Signatory: Dmitriy Shapiro
Title of Authorized Signatory: Manager
Email Address of Authorized Signatory: shapiro.dmitriy@gmail.com
Address for Notice to Lender: 13600 Carr 968, apt 64
Rio Grande, PR 00745

Address for Delivery of Securities to Lender (if not same as address for notice):

SSN/TIN, if any: 86-2910104

Subscription Amount: $ 850,000

Number of Warrants: [(1,000,000)(.5)]/[the IPO price to the public of one share of Borrower's common stock]

CONSULTING AGREEMENT

This Consulting Agreement (the "Agreement") is entered into as of this 8th day of April, 2021 (the "Effective Date"), by and between Alchemy Advisory LLC, a Limited Liability Company organized under the laws of Puerto Rico (the "Consultant") and located at 13600 Carr 968, Apt 64, Rio Grande, PR 00745, and Digital Brands Group, Inc., a Delaware corporation (the "Company") and having its principal place of business at 1400 Lavaca Street, Austin, TX 78701. The Company and Consultant are collectively referred to herein as the "Parties".

WHEREAS, the Company is an apparel company that sells both direct to consumer and wholesale by focusing on a customer's "closet share" and leveraging their data and personalized customer cohorts to create targeted content.

WHEREAS, Consultant is operating as a financial and business consultant;

WHEREAS, the Company desires to retain Consultant, and Consultant desire to be retained by the Company;

NOW, THEREFORE, in consideration of the premises and promises, warranties and representations herein contained, it is agreed as follows:

1. DUTIES. (a) The Company hereby engages the Consultant and the Consultant hereby accepts engagement as a strategy business consultant. It is understood and agreed, and it is the express intention of the parties to this Agreement, that the Consultant is an independent contractor, and not an employee or agent of the Company for any purpose whatsoever. Consultant shall perform all duties and obligations as described in this Section and agrees to be available at such times as may be scheduled by the Company. It is understood, however, that the Consultant will maintain Consultant's own business in addition to providing services to the Company. The Consultant agrees to promptly perform all services required of the Consultant hereunder in an efficient, professional, trustworthy and businesslike manner. In such capacity, Consultant will utilize only materials, reports, financial information or other documentation that is approved in writing in advance by the Company.

(b) Description of Consulting Services. The Consultant agrees, to the extent reasonably required in the conduct of its business with the Company, to place at the disposal of the Company its judgment and experience and to provide financial and business advice to the Company including, but not limited, to (a) building and maintaining a financial model for the Company, (b) help drafting marketing materials and presentations, (c) reviewing the Company's business requirements and discuss financing and businesses opportunities, (d) look for potential investors and ways of growing the business, (e) anything else the Company may reasonably require from the Consultant.

2. TERM. The Term of this contract is for 6 months, at which point the contract can be extended for another 6 months with the consent of both parties in writing.

3. COMPENSATION. For services rendered hereunder, the Company shall pay to the Consultant a sum of Forty Four Thousand Dollars ($44,000). The cash payment is due within 10 days of the signing of this Agreement. In addition to the cash payment, the Company shall issue Fifty Thousand (50,000) restricted shares of the Company's common stock (the "Shares") to the Consultant within five (5) business days of executing this Agreement. For all relevant purposes,

the number of shares to be issued and delivered to the Consultant, shall be appropriately adjusted to take into account any stock split, stock dividend, reverse stock split, recapitalization, or similar change in the Company's common stock, which may occur between the date of the execution of this agreement and the Company's initial public offering. If, after six (6) months from the date of issuance the average per share trading price of the Common Stock of the Company over the trailing seven (7) day period before such date (the "Six Month Price") multiplied by the number of Shares is below $250,000, the Company shall issue additional shares of the Company's Common Stock to the Consultant to make up the valuation difference at the Six Month Price. For avoidance of doubt, if the Six Month Price is $4.00, the valuation shortfall would be $50,000 (50,000 multiplied by $4.00 is $50,000 less than $250,000) and the Consultant would receive 12,500 additional shares from the Company.

4. EXPENSES. The Company agrees to reimburse the Consultant from time to time, for reasonable and pre-approved in writing, including via email, out-of-pocket expenses incurred by Consultant in connection with its activities under this Agreement.

5. INVESTOR REPRESENTATIONS. The Consultant represents and warrants to the Company that:

(a) The Consultant represents that it is an "accredited investor" as such term is defined in Rule 501(a) of Regulation D under the Securities Act of 1933, as amended (the "**Securities Act**"), and acknowledges that the sale contemplated hereby is being made in reliance, among other things, on a private placement exemption to "accredited investors" under the Securities Act and similar exemptions under state law.

(b) The Consultant is acquiring the Shares solely for investment purposes, for the Consultant's own account (and/or for the account or benefit of its members or affiliates, as permitted, and not with a view to the distribution thereof and the Consultant has no present arrangement to sell the Shares to or through any person or entity.

(c) The Consultant acknowledges and understands the Shares are being transferred to it by the Company in a transaction not involving a public offering in the United States within the meaning of the Securities Act. The Shares have not been registered under the Securities Act and, if in the future the Consultant decides to offer, resell, pledge or otherwise transfer the Shares, such Shares may be offered, resold, pledged or otherwise transferred only (A) pursuant to an effective registration statement filed under the Securities Act, (B) pursuant to an exemption from registration under Rule 144 promulgated under the Securities Act, if available, or (C) pursuant to any other available exemption from the registration requirements of the Securities Act, and in each case in accordance with any applicable Shares laws of any state or any other jurisdiction. Consultant agrees that if any transfer of its Shares or any interest therein is proposed to be made, as a condition precedent to any such transfer, the Consultant may be required to deliver to the Company an opinion of counsel satisfactory to the Company with respect to such transfer. Absent registration or another available exemption from registration, the Consultant agrees it will not resell the Shares.

(d) The Consultant is sophisticated in financial matters and is able to evaluate the risks and benefits of the investment in the Shares.

(e) The Consultant is aware that an investment in the Shares is highly speculative and subject to substantial risks because, among other things, the Shares are subject to transfer restrictions and have not been registered under the Securities Act and therefore cannot be sold unless subsequently registered under the Securities Act or an exemption from such registration is available. The Consultant is able to bear the economic risk of its investment in the Shares for an indefinite period of time.

(f) The Consultant, in making the decision to acquire the Shares, has relied upon an independent investigation of the Company and has not relied upon any information or representations made by any third parties or upon any oral or written representations or assurances from the Company, its officers, directors or employees or any other representatives or agents of the Company. The Consultant is familiar with the business, operations and financial condition of the Company and has had an opportunity to ask questions of, and receive answers from the Company's officers and directors concerning the Company has had full access to such other information concerning the Company as the Consultant has requested.

6. CONFIDENTIALITY. All knowledge and information of a proprietary and confidential nature relating to the Company which the Consultant obtains during the Consulting period, from the Company or the Company's employees, agents or Consultants shall be for all purposes regarded and treated as strictly confidential for so long as such information remains proprietary and confidential and shall be held in trust by the Consultant solely for the Company's benefit and use and shall not be directly or indirectly disclosed by the Consultant to any person without the prior written consent of the Company, which consent may be withhold by the Company in its sole discretion.

7. INDEPENDENT CONTRACTOR STATUS. Consultant understands that since the Consultant is not an employee of the Company, the Company will not withhold income taxes or pay any employee taxes on its behalf, nor will it receive any fringe benefits. The Consultant shall not have any authority to assume or create any obligations, express or implied, on behalf of the Company and shall have no authority to represent the Company as agent, employee or in any other capacity that as herein provided.

8. TERMINATION. This Agreement may be terminated by mutual consent of both parties at any time, provided, however, that termination shall not relieve the Company from paying the compensation already accrued.

9. NO THIRD-PARTY RIGHTS. The parties warrant and represent that they are authorized to enter into this Agreement and that no third parties, other than the parties hereto, have any interest in any of the services contemplated hereby.

10. ABSENCE OF WARRANTIES AND REPRESENTATIONS. Each party hereto acknowledges that they have signed this Agreement without having relied upon or being induced by any agreement, warranty or representation of fact or opinion of any person not expressly set forth herein. All representations and warranties of either party contained herein shall survive its signing and delivery.

11. GOVERNING LAW. This Agreement shall be governed by and construed in accordance with the law of the State of New York.

12. ATTORNEY'S FEES. In the event of any controversy, claim or dispute between the parties hereto, arising out of or in any manner relating to this Agreement, including an attempt to rescind or set aside, the prevailing party in any action brought to settle such controversy, claim or dispute shall be entitled to recover reasonable attorney's fees and costs.

13. VALIDITY. If any paragraph, sentence, term or provision hereof shall be held to be invalid or unenforceable for any reason, such invalidity or unenforceability shall not affect the validity enforceability of any other paragraph, sentence, term and provision hereof. To the extent required, any paragraph, sentence, term or provision of this Agreement may be modified by the parties hereto by written amendment to preserve its validity.

14. NO-DISCLOSURE OF TERMS. The terms of this Agreement shall be kept confidential, and no party, representative, attorney or family member shall reveal its contents to any third party except as required by law or as necessary to comply with law or preexisting contractual commitments.

15. ENTIRE AGREEMENT. This Agreement contains the entire understanding of the parties and cannot be altered or amended except by an amendment duly executed by all parties hereto. This Agreement supersedes and replaces any and all previous agreements between the parties. This Agreement shall be binding upon and inure to the benefit of the successors, assigns and personal representatives of the parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the date first written above.

The Company

Digital Brands Group, Inc.
a Delaware Corporation

By: Hil Davis
CEO

The Consultant

Alchemy Advisory LLC
a Puerto Rico Limited Liability Company

By: Dmitriy Shapiro
Founder

DENIM.LA, INC.

2013 STOCK PLAN

ADOPTED ON JANUARY 30, 2013

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DENIM.LA, INC. 2013 STOCK PLAN

SECTION 1. ESTABLISHMENT AND PURPOSE.

The purpose of this Plan is to offer persons selected by the Company an opportunity to acquire a proprietary interest in the success of the Company, or to increase such interest, by acquiring Shares of the Company's Stock. The Plan provides both for the direct award or sale of Shares and for the grant of Options to purchase Shares. Options granted under the Plan may be ISOs intended to qualify under Code Section 422 or Nonstatutory Options which are not intended to so qualify.

Capitalized terms are defined in Section 12.

SECTION 2. ADMINISTRATION.

(a) Committees of the Board of Directors. The Plan may be administered by one or more Committees. Each Committee shall consist, as required by applicable law, of one or more members of the Board of Directors who have been appointed by the Board of Directors. Each Committee shall have such authority and be responsible for such functions as the Board of Directors has assigned to it. If no Committee has been appointed, the entire Board of Directors shall administer the Plan. Any reference to the Board of Directors in the Plan shall be construed as a reference to the Committee (if any) to whom the Board of Directors has assigned a particular function.

(b) Authority of the Board of Directors. Subject to the provisions of the Plan, the Board of Directors shall have full authority and discretion to take any actions it deems necessary or advisable for the administration of the Plan. Notwithstanding anything to the contrary in the Plan, with respect to the terms and conditions of awards granted to Participants outside the United States, the Board of Directors may vary from the provisions of the Plan to the extent it determines it necessary and appropriate to do so; provided that it may not vary from those Plan terms requiring stockholder approval pursuant to Section 11(d) below. All decisions, interpretations and other actions of the Board of Directors shall be final and binding on all Purchasers, all Optionees and all persons deriving their rights from a Purchaser or Optionee.

SECTION 3. ELIGIBILITY.

(a) General Rule. Only Employees, Outside Directors and Consultants shall be eligible for the grant of Nonstatutory Options or the direct award or sale of Shares. Only Employees shall be eligible for the grant of ISOs.

(b) Ten-Percent Stockholders. A person who owns more than 10% of the total combined voting power of all classes of outstanding stock of the Company, its Parent or any of its Subsidiaries shall not be eligible for the grant of an ISO unless (i) the Exercise Price is at least 110% of the Fair Market Value of a Share on the Date of Grant and (ii) such ISO by its

terms is not exercisable after the expiration of five years from the Date of Grant. For purposes of this Subsection (b), in determining stock ownership, the attribution rules of Code Section 424(d) shall be applied.

SECTION 4. STOCK SUBJECT TO PLAN.

(a) Basic Limitation. Not more than 1,500,000 Shares may be issued under the Plan, subject to Subsection (b) below and Section 8(a).[1] All of these Shares may be issued upon the exercise of ISOs. The number of Shares that are subject to Options or other rights outstanding at any time under the Plan may not exceed the number of Shares that then remain available for issuance under the Plan. The Company, during the term of the Plan, shall at all times reserve and keep available sufficient Shares to satisfy the requirements of the Plan. Shares offered under the Plan may be authorized but unissued Shares or treasury Shares.

(b) Additional Shares. In the event that Shares previously issued under the Plan are reacquired by the Company, such Shares shall be added to the number of Shares then available for issuance under the Plan. In the event that Shares that otherwise would have been issuable under the Plan are withheld by the Company in payment of the Purchase Price, Exercise Price or withholding taxes, such Shares shall remain available for issuance under the Plan. In the event that an outstanding Option or other right for any reason expires or is canceled, the Shares allocable to the unexercised portion of such Option or other right shall be added to the number of Shares then available for issuance under the Plan.

SECTION 5. TERMS AND CONDITIONS OF AWARDS OR SALES.

(a) Stock Grant or Purchase Agreement. Each award of Shares under the Plan shall be evidenced by a Stock Grant Agreement between the Grantee and the Company. Each sale of Shares under the Plan (other than upon exercise of an Option) shall be evidenced by a Stock Purchase Agreement between the Purchaser and the Company. Such award or sale shall be subject to all applicable terms and conditions of the Plan and may be subject to any other terms and conditions which are not inconsistent with the Plan and which the Board of Directors deems appropriate for inclusion in a Stock Grant Agreement or Stock Purchase Agreement. The provisions of the various Stock Grant Agreements and Stock Purchase Agreements entered into under the Plan need not be identical.

(b) Duration of Offers and Nontransferability of Rights. Any right to purchase Shares under the Plan (other than an Option) shall automatically expire if not exercised by the Purchaser within 30 days (or such other period as may be specified in the Award Agreement) after the grant of such right was communicated to the Purchaser by the Company. Such right is not transferable and may be exercised only by the Purchaser to whom such right was granted.

(c) Purchase Price. The Board of Directors shall determine the Purchase Price of Shares to be offered under the Plan at its sole discretion. The Purchase Price shall be payable in a form described in Section 7.

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[1] Please refer to Exhibit A for a schedule of the initial share reserve and any subsequent increases in the reserve.

SECTION 6. TERMS AND CONDITIONS OF OPTIONS.

(a) Stock Option Agreement. Each grant of an Option under the Plan shall be evidenced by a Stock Option Agreement between the Optionee and the Company. The Option shall be subject to all applicable terms and conditions of the Plan and may be subject to any other terms and conditions that are not inconsistent with the Plan and that the Board of Directors deems appropriate for inclusion in a Stock Option Agreement. The provisions of the various Stock Option Agreements entered into under the Plan need not be identical.

(b) Number of Shares. Each Stock Option Agreement shall specify the number of Shares that are subject to the Option and shall provide for the adjustment of such number in accordance with Section 8. The Stock Option Agreement shall also specify whether the Option is an ISO or a Nonstatutory Option.

(c) Exercise Price. Each Stock Option Agreement shall specify the Exercise Price. The Exercise Price of an Option shall not be less than 100% of the Fair Market Value of a Share on the Date of Grant, and in the case of an ISO a higher percentage may be required by Section 3(b). Subject to the preceding sentence, the Exercise Price shall be determined by the Board of Directors at its sole discretion. The Exercise Price shall be payable in a form described in Section 7. This Subsection (c) shall not apply to an Option granted pursuant to an assumption of, or substitution for, another option in a manner that complies with Code Section 424(a) (whether or not the Option is an ISO).

(d) Exercisability. Each Stock Option Agreement shall specify the date when all or any installment of the Option is to become exercisable. No Option shall be exercisable unless the Optionee (i) has delivered an executed copy of the Stock Option Agreement to the Company or (ii) otherwise agrees to be bound by the terms of the Stock Option Agreement. The Board of Directors shall determine the exercisability provisions of the Stock Option Agreement at its sole discretion.

(e) Basic Term. The Stock Option Agreement shall specify the term of the Option. The term shall not exceed 10 years from the Date of Grant, and in the case of an ISO, a shorter term may be required by Section 3(b). Subject to the preceding sentence, the Board of Directors at its sole discretion shall determine when an Option is to expire.

(f) Termination of Service (Except by Death). If an Optionee's Service terminates for any reason other than the Optionee's death, then the Optionee's Options shall expire on the earliest of the following dates:

(i) The expiration date determined pursuant to Subsection (e) above;

(ii) The date three months after the termination of the Optionee's Service for any reason other than Disability, or such earlier or later date as the Board of Directors may determine (but in no event earlier than 30 days after the termination of the Optionee's Service); or

(iii) The date six months after the termination of the Optionee's Service by reason of Disability, or such later date as the Board of Directors may determine.

The Optionee may exercise all or part of the Optionee's Options at any time before the expiration of such Options under the preceding sentence, but only to the extent that such Options had become exercisable before the Optionee's Service terminated (or became exercisable as a result of the termination) and the underlying Shares had vested before the Optionee's Service terminated (or vested as a result of the termination). The balance of such Options shall lapse when the Optionee's Service terminates. In the event that the Optionee dies after the termination of the Optionee's Service but before the expiration of the Optionee's Options, all or part of such Options may be exercised (prior to expiration) by the executors or administrators of the Optionee's estate or by any person who has acquired such Options directly from the Optionee by beneficiary designation, bequest or inheritance, but only to the extent that such Options had become exercisable before the Optionee's Service terminated (or became exercisable as a result of the termination) and the underlying Shares had vested before the Optionee's Service terminated (or vested as a result of the termination).

(g) Leaves of Absence. For purposes of Subsection (f) above, Service shall be deemed to continue while the Optionee is on a bona fide leave of absence, if such leave was approved by the Company in writing and if continued crediting of Service for this purpose is expressly required by the terms of such leave or by applicable law (as determined by the Company).

(h) Death of Optionee. If an Optionee dies while the Optionee is in Service, then the Optionee's Options shall expire on the earlier of the following dates:

(i) The expiration date determined pursuant to Subsection (e) above; or

(ii) The date 12 months after the Optionee's death, or such earlier or later date as the Board of Directors may determine (but in no event earlier than six months after the Optionee's death).

All or part of the Optionee's Options may be exercised at any time before the expiration of such Options under the preceding sentence by the executors or administrators of the Optionee's estate or by any person who has acquired such Options directly from the Optionee by beneficiary designation, bequest or inheritance, but only to the extent that such Options had become exercisable before the Optionee's death (or became exercisable as a result of the death) and the underlying Shares had vested before the Optionee's death (or vested as a result of the Optionee's death). The balance of such Options shall lapse when the Optionee dies.

(i) Pre-Exercise Restrictions on Transfer of Options or Shares. An Option shall be transferable by the Optionee only by (i) a beneficiary designation, (ii) a will or (iii) the laws of descent and distribution, except as provided in the next sentence. If the applicable Stock Option Agreement so provides, a Nonstatutory Option shall also be transferable by gift or domestic relations order to a Family Member of the Optionee. An ISO may be

exercised during the lifetime of the Optionee only by the Optionee or by the Optionee's guardian or legal representative. In addition, an Option shall comply with all conditions of Rule 12h-1(f)(1) under the Exchange Act until the Company becomes subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act. Such conditions include, without limitation, the transferability restrictions set forth in Rule 12h-1(f)(1)(iv) and (v) under the Exchange Act, which shall apply to an Option and, prior to exercise, to the Shares to be issued upon exercise of such Option during the period commencing on the Date of Grant and ending on the earlier of (i) the date when the Company becomes subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act or (ii) the date when the Company makes a determination that it will cease to rely on the exemption afforded by Rule 12h-1(f)(1) under the Exchange Act. During such period, an Option and, prior to exercise, the Shares to be issued upon exercise of such Option shall be restricted as to any pledge, hypothecation or other transfer by the Optionee, including any short position, any "put equivalent position" (as defined in Rule 16a-1(h) under the Exchange Act) or any "call equivalent position" (as defined in Rule 16a-1(b) under the Exchange Act).

(j) No Rights as a Stockholder. An Optionee, or a transferee of an Optionee, shall have no rights as a stockholder with respect to any Shares covered by the Optionee's Option until such person becomes entitled to receive such Shares by filing a notice of exercise and paying the Exercise Price pursuant to the terms of such Option.

(k) Modification, Extension and Assumption of Options. Within the limitations of the Plan, the Board of Directors may modify, extend or assume outstanding Options or may accept the cancellation of outstanding Options (whether granted by the Company or another issuer) in return for the grant of new Options or a different type of award for the same or a different number of Shares and at the same or a different Exercise Price (if applicable). The foregoing notwithstanding, no modification of an Option shall, without the consent of the Optionee, impair the Optionee's rights or increase the Optionee's obligations under such Option.

(l) Company's Right to Cancel Certain Options. Any other provision of the Plan or a Stock Option Agreement notwithstanding, the Company shall have the right at any time to cancel an Option that was not granted in compliance with Rule 701 under the Securities Act. Prior to canceling such Option, the Company shall give the Optionee not less than 30 days' notice in writing. If the Company elects to cancel such Option, it shall deliver to the Optionee consideration with an aggregate Fair Market Value equal to the excess of (i) the Fair Market Value of the Shares subject to such Option as of the time of the cancellation over (ii) the Exercise Price of such Option. The consideration may be delivered in the form of cash or cash equivalents, in the form of Shares, or a combination of both. If the consideration would be a negative amount, such Option may be cancelled without the delivery of any consideration.

SECTION 7. PAYMENT FOR SHARES.

(a) General Rule. The entire Purchase Price or Exercise Price of Shares issued under the Plan shall be payable in cash or cash equivalents at the time when such Shares are purchased, except as otherwise provided in this Section 7. In addition, the Board of Directors in its sole discretion may also permit payment through any of the methods described in (b) through (g) below:

(b) Services Rendered. Shares may be awarded under the Plan in consideration of services rendered to the Company, a Parent or a Subsidiary prior to the award.

(c) Promissory Note. All or a portion of the Purchase Price or Exercise Price (as the case may be) of Shares issued under the Plan may be paid with a full-recourse promissory note. The Shares shall be pledged as security for payment of the principal amount of the promissory note and interest thereon. The interest rate payable under the terms of the promissory note shall not be less than the minimum rate (if any) required to avoid the imputation of additional interest under the Code. Subject to the foregoing, the Board of Directors (at its sole discretion) shall specify the term, interest rate, amortization requirements (if any) and other provisions of such note.

(d) Surrender of Stock. All or any part of the Exercise Price may be paid by surrendering, or attesting to the ownership of, Shares that are already owned by the Optionee. Such Shares shall be surrendered to the Company in good form for transfer and shall be valued at their Fair Market Value as of the date when the Option is exercised.

(e) Exercise/Sale. If the Stock is publicly traded, all or part of the Exercise Price and any withholding taxes may be paid by the delivery (on a form prescribed by the Company) of an irrevocable direction to a securities broker approved by the Company to sell Shares and to deliver all or part of the sales proceeds to the Company.

(f) Net Exercise. An Option may permit exercise through a "net exercise" arrangement pursuant to which the Company will reduce the number of Shares issued upon exercise by the largest whole number of Shares having an aggregate Fair Market Value (determined by the Board of Directors as of the exercise date) that does not exceed the aggregate Exercise Price or the sum of the aggregate Exercise Price plus all or a portion of the minimum amount required to be withheld under applicable tax law (with the Company accepting from the Optionee payment of cash or cash equivalents to satisfy any remaining balance of the aggregate Exercise Price and, if applicable, any additional withholding obligation not satisfied through such reduction in Shares); *provided* that to the extent Shares subject to an Option are withheld in this manner, the number of Shares subject to the Option following the net exercise will be reduced by the sum of the number of Shares withheld and the number of Shares delivered to the Optionee as a result of the exercise.

(g) Other Forms of Payment. To the extent that an Award Agreement so provides, the Purchase Price or Exercise Price of Shares issued under the Plan may be paid in any other form permitted by the Delaware General Corporation Law, as amended.

SECTION 8. ADJUSTMENT OF SHARES.

(a) General. In the event of a subdivision of the outstanding Stock, a declaration of a dividend payable in Shares, a combination or consolidation of the outstanding Stock into a lesser number of Shares, a reclassification, or any other increase or decrease in the number of issued shares of Stock effected without receipt of consideration by the Company, proportionate adjustments shall automatically be made in each of (i) the number and kind of Shares available for future grants under Section 4, (ii) the number and kind of Shares covered by

each outstanding Option and any outstanding and unexercised right to purchase Shares that has not yet expired pursuant to Section 5(b), (iii) the Exercise Price under each outstanding Option and the Purchase Price applicable to any unexercised stock purchase right described in clause (ii) above, and (iv) any repurchase price that applies to Shares granted under the Plan pursuant to the terms of a Company repurchase right under the applicable Award Agreement. In the event of a declaration of an extraordinary dividend payable in a form other than Shares in an amount that has a material effect on the Fair Market Value of the Stock, a recapitalization, a spin-off, or a similar occurrence, the Board of Directors at its sole discretion may make appropriate adjustments in one or more of the items listed in clauses (i) through (iv) above; provided, however, that the Board of Directors shall in any event make such adjustments as may be required by Section 25102(o) of the California Corporations Code. No fractional Shares shall be issued under the Plan as a result of an adjustment under this Section 8(a), although the Board of Directors in its sole discretion may make a cash payment in lieu of fractional Shares.

(b) Corporate Transactions. In the event that the Company is a party to a merger or consolidation, or in the event of a sale of all or substantially all of the Company's stock or assets, all Shares acquired under the Plan and all Options and other Plan awards outstanding on the effective date of the transaction shall be treated in the manner described in the definitive transaction agreement (or, in the event the transaction does not entail a definitive agreement to which the Company is party, in the manner determined by the Board of Directors in its capacity as administrator of the Plan, with such determination having final and binding effect on all parties), which agreement or determination need not treat all Options and awards (or all portions of an Option or an award) in an identical manner. The treatment specified in the transaction agreement may include (without limitation) one or more of the following with respect to each outstanding Option or award:

(i) Continuation of the Option or award by the Company (if the Company is the surviving corporation).

(ii) Assumption of the Option by the surviving corporation or its parent in a manner that complies with Code Section 424(a) (whether or not the Option is an ISO).

(iii) Substitution by the surviving corporation or its parent of a new option for the Option in a manner that complies with Code Section 424(a) (whether or not the Option is an ISO).

(iv) Cancellation of the Option and a payment to the Optionee with respect to each Share subject to the portion of the Option that is vested as of the transaction date equal to the excess of (A) the value, as determined by the Board of Directors in its absolute discretion, of the property (including cash) received by the holder of a share of Stock as a result of the transaction, over (B) the per-Share Exercise Price of the Option (such excess, the "Spread"). Such payment shall be made in the form of cash, cash equivalents, or securities of the surviving corporation or its parent having a value equal to the Spread. In addition, any escrow, holdback, earn-out or similar provisions in the transaction agreement may apply to such payment to the same extent and in the same manner

as such provisions apply to the holders of Stock. If the Spread applicable to an Option is zero or a negative number, then the Option may be cancelled without making a payment to the Optionee.

(v) Cancellation of the Option without the payment of any consideration; provided that the Optionee shall be notified of such treatment and given an opportunity to exercise the Option (to the extent the Option is vested or becomes vested as of the effective date of the transaction) during a period of not less than five (5) business days preceding the effective date of the transaction, unless (A) a shorter period is required to permit a timely closing of the transaction and (B) such shorter period still offers the Optionee a reasonable opportunity to exercise the Option. Any exercise of the Option during such period may be contingent upon the closing of the transaction.

(vi) Suspension of the Optionee's right to exercise the Option during a limited period of time preceding the closing of the transaction if such suspension is administratively necessary to permit the closing of the transaction.

(vii) Termination of any right the Optionee has to exercise the Option prior to vesting in the Shares subject to the Option (i.e., "early exercise"), such that following the closing of the transaction the Option may only be exercised to the extent it is vested.

For the avoidance of doubt, the Board of Directors has discretion to accelerate, in whole or part, the vesting and exercisability of an Option or other Plan award in connection with a corporate transaction covered by this Section 8(b).

(c) Reservation of Rights. Except as provided in this Section 8, a Participant shall have no rights by reason of (i) any subdivision or consolidation of shares of stock of any class, (ii) the payment of any dividend or (iii) any other increase or decrease in the number of shares of stock of any class. Any issuance by the Company of shares of stock of any class, or securities convertible into shares of stock of any class, shall not affect, and no adjustment by reason thereof shall be made with respect to, the number or Exercise Price of Shares subject to an Option. The grant of an Option pursuant to the Plan shall not affect in any way the right or power of the Company to make adjustments, reclassifications, reorganizations or changes of its capital or business structure, to merge or consolidate or to dissolve, liquidate, sell or transfer all or any part of its business or assets.

SECTION 9. PRE-EXERCISE INFORMATION REQUIREMENT.

(a) Application of Requirement. This Section 9 shall apply only during a period that (i) commences when the Company begins to rely on the exemption described in Rule 12h-1(f)(1) under the Exchange Act, as determined by the Company in its sole discretion, and (ii) ends on the earlier of (A) the date when the Company ceases to rely on such exemption, as determined by the Company in its sole discretion, or (B) the date when the Company becomes subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act. In addition,

this Section 9 shall in no event apply to an Optionee after he or she has fully exercised all of his or her Options.

(b) Scope of Requirement. The Company shall provide to each Optionee the information described in Rule 701(e)(3), (4) and (5) under the Securities Act. Such information shall be provided at six-month intervals, and the financial statements included in such information shall not be more than 180 days old. The foregoing notwithstanding, the Company shall not be required to provide such information unless the Optionee has agreed in writing, on a form prescribed by the Company, to keep such information confidential.

SECTION 10. MISCELLANEOUS PROVISIONS.

(a) Securities Law Requirements. Shares shall not be issued under the Plan unless, in the opinion of counsel acceptable to the Board of Directors, the issuance and delivery of such Shares comply with (or are exempt from) all applicable requirements of law, including (without limitation) the Securities Act, the rules and regulations promulgated thereunder, state securities laws and regulations, and the regulations of any stock exchange or other securities market on which the Company's securities may then be traded. The Company shall not be liable for a failure to issue Shares as a result of such requirements.

(b) No Retention Rights. Nothing in the Plan or in any right or Option granted under the Plan shall confer upon the Participant any right to continue in Service for any period of specific duration or interfere with or otherwise restrict in any way the rights of the Company (or any Parent or Subsidiary employing or retaining the Participant) or of the Participant, which rights are hereby expressly reserved by each, to terminate his or her Service at any time and for any reason, with or without cause.

(c) Treatment as Compensation. Any compensation that an individual earns or is deemed to earn under this Plan shall not be considered a part of his or her compensation for purposes of calculating contributions, accruals or benefits under any other plan or program that is maintained or funded by the Company, a Parent or a Subsidiary.

(d) Governing Law. The Plan and all awards, sales and grants under the Plan shall be governed by, and construed in accordance with, the laws of the State of Delaware, as such laws are applied to contracts entered into and performed in such State.

(e) Conditions and Restrictions on Shares. Shares issued under the Plan shall be subject to such forfeiture conditions, rights of repurchase, rights of first refusal, other transfer restrictions and such other terms and conditions as the Board of Directors may determine. Such conditions and restrictions shall be set forth in the applicable Award Agreement and shall apply in addition to any restrictions that may apply to holders of Shares generally. In addition, Shares issued under the Plan shall be subject to conditions and restrictions imposed either by applicable law or by Company policy, as adopted from time to time, designed to ensure compliance with applicable law or laws with which the Company determines in its sole discretion to comply including in order to maintain any statutory, regulatory or tax advantage.

(f) Tax Matters.

(i) As a condition to the award, grant, issuance, vesting, purchase, exercise or transfer of any award, or Shares issued pursuant to any award, granted under this Plan, the Participant shall make such arrangements as the Board of Directors may require or permit for the satisfaction of any federal, state, local or foreign withholding tax obligations that may arise in connection with such event.

(ii) Unless otherwise expressly set forth in an Award Agreement, it is intended that awards granted under the Plan shall be exempt from Code Section 409A, and any ambiguity in the terms of an Award Agreement and the Plan shall be interpreted consistently with this intent. To the extent an award is not exempt from Code Section 409A (any such award, a "**409A Award**"), any ambiguity in the terms of such award and the Plan shall be interpreted in a manner that to the maximum extent permissible supports the award's compliance with the requirements of that statute. Notwithstanding anything to the contrary permitted under the Plan, in no event shall a modification of an Award not already subject to Code Section 409A be given effect if such modification would cause the Award to become subject to Code Section 409A unless the parties explicitly acknowledge and consent to the modification as one having that effect. A 409A Award shall be subject to such additional rules and requirements as specified by the Board of Directors from time to time in order for it to comply with the requirements of Code Section 409A. In this regard, if any amount under a 409A Award is payable upon a "separation from service" to an individual who is considered a "specified employee" (as each term is defined under Code Section 409A), then no such payment shall be made prior to the date that is the earlier of (i) six months and one day after the Participant's separation from service or (ii) the Participant's death, but only to the extent such delay is necessary to prevent such payment from being subject to Section 409A(a)(1). In addition, if a transaction subject to Section 8(b) constitutes a payment event with respect to any 409A Award, then the transaction with respect to such award must also constitute a "change in control event" as defined in Treasury Regulation Section 1.409A-3(i)(5) to the extent required by Code Section 409A.

(iii) Neither the Company nor any member of the Board of Directors shall have any liability to a Participant in the event an award held by the Participant fails to achieve its intended characterization under applicable tax law.

SECTION 11. DURATION AND AMENDMENTS; STOCKHOLDER APPROVAL.

(a) Term of the Plan. The Plan, as set forth herein, shall become effective on the date of its adoption by the Board of Directors, subject to approval of the Company's stockholders under Subsection (d) below. The Plan shall terminate automatically 10 years after the later of (i) the date when the Board of Directors adopted the Plan or (ii) the date when the Board of Directors approved the most recent increase in the number of Shares reserved under

Section 4 that was also approved by the Company's stockholders. The Plan may be terminated on any earlier date pursuant to Subsection (b) below.

(b) Right to Amend or Terminate the Plan. Subject to Subsection (d) below, the Board of Directors may amend, suspend or terminate the Plan at any time and for any reason.

(c) Effect of Amendment or Termination. No Shares shall be issued or sold and no Option granted under the Plan after the termination thereof, except upon exercise of an Option (or any other right to purchase Shares) granted under the Plan prior to such termination. The termination of the Plan, or any amendment thereof, shall not affect any Share previously issued or any Option previously granted under the Plan.

(d) Stockholder Approval. To the extent required by applicable law, the Plan will be subject to approval of the Company's stockholders within 12 months of its adoption date. To the extent required by applicable law, any amendment of the Plan will be subject to the approval of the Company's stockholders within 12 months of the amendment date if it (i) increases the number of Shares available for issuance under the Plan (except as provided in Section 8), or (ii) materially changes the class of persons who are eligible for the grant of ISOs. In addition, an amendment effecting any other material change to the Plan terms will be subject to approval of the Company's stockholder only if required by applicable law. Stockholder approval shall not be required for any other amendment of the Plan.

SECTION 12. DEFINITIONS.

(a) "**Award Agreement**" means a Stock Grant Agreement, Stock Option Agreement or Stock Purchase Agreement.

(b) "**Board of Directors**" means the Board of Directors of the Company, as constituted from time to time.

(c) "**Code**" means the Internal Revenue Code of 1986, as amended.

(d) "**Committee**" means a committee of the Board of Directors, as described in Section 2(a).

(e) "**Company**" means Denim.LA, Inc., a Delaware corporation.

(f) "**Consultant**" means a person, excluding Employees and Outside Directors, who performs bona fide services for the Company, a Parent or a Subsidiary as a consultant or advisor and who qualifies as a consultant or advisor under Rule 701(c)(1) of the Securities Act or under Instruction A.1.(a)(1) of Form S-8 under the Securities Act.

(g) "**Date of Grant**" means the date of grant specified in the applicable Stock Option Agreement, which date shall be the later of (i) the date on which the Board of Directors resolved to grant the Option or (ii) the first day of the Optionee's Service.

(h) "**Disability**" means that the Optionee is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment.

(i) "**Employee**" means any individual who is a common-law employee of the Company, a Parent or a Subsidiary.

(j) "**Exchange Act**" means the Securities Exchange Act of 1934, as amended.

(k) "**Exercise Price**" means the amount for which one Share may be purchased upon exercise of an Option, as specified by the Board of Directors in the applicable Stock Option Agreement.

(l) "**Fair Market Value**" means the fair market value of a Share, as determined by the Board of Directors in good faith. Such determination shall be conclusive and binding on all persons.

(m) "**Family Member**" means (i) any child, stepchild, grandchild, parent, stepparent, grandparent, spouse, former spouse, sibling, niece, nephew, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law or sister-in-law, including adoptive relationships, (ii) any person sharing the Optionee's household (other than a tenant or employee), (iii) a trust in which persons described in Clause (i) or (ii) have more than 50% of the beneficial interest, (iv) a foundation in which persons described in Clause (i) or (ii) or the Optionee control the management of assets and (v) any other entity in which persons described in Clause (i) or (ii) or the Optionee own more than 50% of the voting interests.

(n) "**Grantee**" means a person to whom the Board of Directors has awarded Shares under the Plan.

(o) "**ISO**" means an Option that qualifies as an incentive stock option as described in Code Section 422(b). Notwithstanding its designation as an ISO, an Option that does not qualify as an ISO under applicable law shall be treated for all purposes as a Nonstatutory Option.

(p) "**Nonstatutory Option**" means an Option that does not qualify as an incentive stock option as described in Code Section 422(b) or 423(b).

(q) "**Option**" means an ISO or Nonstatutory Option granted under the Plan and entitling the holder to purchase Shares.

(r) "**Optionee**" means a person who holds an Option.

(s) "**Outside Director**" means a member of the Board of Directors who is not an Employee.

(t) "**Parent**" means any corporation (other than the Company) in an unbroken chain of corporations ending with the Company, if each of the corporations other than the Company owns stock possessing 50% or more of the total combined voting power of all classes

of stock in one of the other corporations in such chain. A corporation that attains the status of a Parent on a date after the adoption of the Plan shall be considered a Parent commencing as of such date.

(u) "**Participant**" means a Grantee, Optionee or Purchaser.

(v) "**Plan**" means this Denim.LA, Inc. 2013 Stock Plan.

(w) "**Purchase Price**" means the consideration for which one Share may be acquired under the Plan (other than upon exercise of an Option), as specified by the Board of Directors.

(x) "**Purchaser**" means a person to whom the Board of Directors has offered the right to purchase Shares under the Plan (other than upon exercise of an Option).

(y) "**Securities Act**" means the Securities Act of 1933, as amended.

(z) "**Service**" means service as an Employee, Outside Director or Consultant.

(aa) "**Share**" means one share of Stock, as adjusted in accordance with Section 8 (if applicable).

(bb) "**Stock**" means the Common Stock of the Company.

(cc) "**Stock Grant Agreement**" means the agreement between the Company and a Grantee who is awarded Shares under the Plan that contains the terms, conditions and restrictions pertaining to the award of such Shares.

(dd) "**Stock Option Agreement**" means the agreement between the Company and an Optionee that contains the terms, conditions and restrictions pertaining to the Optionee's Option.

(ee) "**Stock Purchase Agreement**" means the agreement between the Company and a Purchaser who purchases Shares under the Plan that contains the terms, conditions and restrictions pertaining to the purchase of such Shares.

(ff) "**Subsidiary**" means any corporation (other than the Company) in an unbroken chain of corporations beginning with the Company, if each of the corporations other than the last corporation in the unbroken chain owns stock possessing 50% or more of the total combined voting power of all classes of stock in one of the other corporations in such chain. A corporation that attains the status of a Subsidiary on a date after the adoption of the Plan shall be considered a Subsidiary commencing as of such date.

EXHIBIT A

SCHEDULE OF SHARES RESERVED FOR ISSUANCE UNDER THE PLAN

Date of Board Approval	Date of Stockholder Approval	Number of Shares Added	Cumulative Number of Shares
January 30, 2013	January 30, 2013	Not Applicable	1,500,000

SENIOR CREDIT AGREEMENT

This SENIOR CREDIT AGREEMENT (this "Agreement"), dated as of March 10, 2017 (the "Effective Date"), is by and among Denim.LA, Inc., a Delaware corporation d/b/a DSTLD ("Borrower"), the stockholders of Borrower signatories below (the "Stockholders"), and bocm3- DSTLD-Senior Debt, LLC, a Utah limited liability company ("Lender").

WHEREAS Borrower has requested that Lender lend to Borrower up to $4,000,000.00 to refinance existing debt and to provide working capital to maintain and expand the operations of Borrower and to pay fees and expenses, and Lender is willing to agree to lend such amount on the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the premises and the agreements, provisions and covenants herein contained, Borrower and Lender agree as follows:

ARTICLE 1. DEFINITIONS

SECTION 1.1 Certain Defined Terms.

The following terms used in this Agreement shall have the meanings set forth in the introductory paragraphs of this Agreement and the following meanings:

"Affiliate" of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, "control" (including, with correlative meanings, the terms "controlling," "controlled by," and "under common control with"), as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise; *provided*, that beneficial ownership of 15% or more of the voting securities (or the equivalents) of a Person shall be deemed to be control.

"Bankruptcy Code" means Title 11, U.S. Code or any similar federal or state law for the relief of debtors.

"Business Day" means any day other than a Saturday, Sunday or day on which banking institutions in Salt Lake City, Utah are authorized by law, regulation or executive order to remain closed.

"Capital Lease Obligations" means, at the time any determination thereof is to be made, the amount of the liability in respect of a capital lease that would at such time be required to be capitalized on a balance sheet in accordance with GAAP.

"Capital Stock" means common stock, preferred stock and any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person.

"Change of Control" means any event, transaction or occurrence as a result of which (a) the equity owners of Borrower on the date hereof shall cease to own and control, directly orindirectly, at least fifty percent (50%) of the economic or voting rights of the outstanding Capital Stock of Borrower on a fully-diluted basis, (b) any initial public offering in which the aggregate net proceeds received by Borrower is at least $10,000,000; or (c) Borrower shall have sold, issued, conveyed, transferred, leased, assigned or otherwise disposed to any Person (including by means of a sale and leaseback transaction or a merger or consolidation), in one transaction or a series of related transactions, any assets of Borrower other than in the ordinary course of business.

"Closing Date" means each of the Initial Closing Date and Second Closing Date, if any. "Default" means any event that is or with the passage of time or the giving of notice or
both would be an Event of Default.

"Employee Plan" shall mean any savings, profit sharing, or retirement plan or any deferred compensation contract or other plan maintained for employees of any Borrower and covered by Title IV of ERISA, including, without limitation, any "multiemployer plan" as defined in ERISA.

"ERISA" shall mean the Employee Retirement Income Security Act of 1974, as amended, and any successor statute, together with the regulations and published interpretations thereunder, in each case as in effect from time to time.

"GAAP" means U.S. generally accepted accounting principles consistently applied as set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as have been approved by a significant segment of the accounting profession, which are in effect from time to time.

"Guarantee" means a guarantee (other than by endorsement of negotiable instruments for collection in the ordinary course of business), direct or indirect, in any manner (including, without limitation, by way of pledge of assets or through letters of credit or reimbursement agreements in respect thereof), of all or any part of any Indebtedness.

"Holder" means any holder of a Note.

"Indebtedness" means, with respect to any Person on any date of determination (without duplication), any indebtedness of such Person, whether or not contingent, in respect of borrowed money or evidenced by bonds, notes, debentures or similar instruments or letters of credit (or reimbursement agreements in respect thereof) or bankers' acceptances or representing Capital Lease Obligations or the balance deferred and unpaid of the purchase price of any property, except any such balance that constitutes an accrued expense or trade payable, if and to the extent any of the foregoing indebtedness (other than letters of credit) would appear as a liability upon a balance sheet of such Person prepared in accordance with GAAP, as well as all indebtedness of others secured by a Lien on any asset of such Person (whether or not such indebtedness is assumed by such Person) and, to the extent not otherwise included, the Guarantee of any Indebtedness of such Person or any other Person. The amount of any indebtedness outstanding as of any date shall be (a) the accreted value thereof, in the case of any indebtedness issued with original issue discount, and (b) the principal amount thereof, together with any interest thereon that is more than 30 days past due, in the case of any other indebtedness.

"Initial Closing Date" means March 10, 2017.

"Interest Payment Date" means March 31, 2017, and the last day of each calendar month thereafter until the Note Maturity Date, when all amounts under this

Agreement are due.

"Law" shall mean as to any matter or Person, the organizational or governing documents of such Person, and any law (including, without limitation, any environmental law), ordinance, treaty, rule, regulation, order, decree, determination or other requirement having the force of law relating to such matter or Person and, where applicable, any interpretation thereof by any government authority.

"Lender" has the meaning assigned to that term in the introduction to this Agreement and shall include any assignees of a Loan or a Note pursuant to the terms and conditions of Section 8.1 hereof.

"Lien" means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected under Law (including any conditional sale or other title retention agreement, any lease in the nature thereof, any option or other agreement to sell or give a security interest in and any filing of or agreement to give any financing statement under the Uniform Commercial Code (or equivalent statutes) of any jurisdiction).

"Loan Collateral" means, collectively, the Collateral (as defined in the Security Agreement) and any other security or collateral provided from time to time by, or on behalf of, the Borrower or any other Person for the Obligations.

"Loan Documents" shall mean this Agreement, each of the Notes, the Security Documents and all other documents, instruments and agreements executed and/or delivered in connection therewith, each as amended, supplemented or modified from time to time.

"Material Adverse Effect" means (a) any material adverse effect upon, the operations, business, properties, prospects or condition (financial or otherwise) of Borrower taken as a whole, (b) a material impairment of the ability of Borrower to perform under any Loan Document, or (c) a material impairment of the right of Lender to enforce any Loan Document.

"Note" means each Note issued pursuant to the terms and conditions of Section 2.1 hereof, substantially in the form of Exhibit A hereto.

"Note Maturity Date" means the third anniversary of the Initial Closing Date.

"Obligations" means any principal, interest, penalties, fees, indemnifications, reimbursements, damages and other liabilities payable under the Loan Documents.

"Officer" means, with respect to any Person, a manager, the Chief Executive Officer, the President, the Chief Operating Officer, or the Chief Financial Officer of such Person.

"Officers' Certificate" means a certificate signed on behalf of Borrower by two Officers of Borrower, one of whom must be the principal executive officer or the principal financial officer of Borrower.

"Permitted Liens" means:

(a) Liens for taxes, fees, assessments or other government charges or levies, either (i) not due and payable or (ii) being contested in good faith and for which Borrower maintains adequate reserves on its financial statements;

(b) Liens of carriers, warehousemen, suppliers, or other Persons that are possessory in nature arising in the ordinary course of business so long as such Liens attach only to Borrower's inventory and which are not delinquent;

(c) Liens to secure payment of workers' compensation, employment insurance, old-age pensions, social security and other like obligations incurred by Borrower in the ordinary course of business (other than Liens imposed by ERISA);

(d) leases of real property granted in the ordinary course of Borrower's business (or, if referring to another Person, in the ordinary course of such Person's business), and leases, subleases, non-exclusive licenses or sublicenses of personal property (other than Intellectual Property) granted in the ordinary course of Borrower's business (or, if referring to another Person, in the ordinary course of such Person's business), if the leases, subleases, licenses and sublicenses do not prohibit granting Lender a security interest therein; and

(e) Liens in favor of Lender.

"Person" means any individual, corporation, partnership, joint venture, association, trust, unincorporated organization or government or agency or political subdivision thereof (including any subdivision or ongoing business of any such entity or substantially all of the assets of any such entity, subdivision or business).

"Second Closing Date" means the date on which Lender provides the proceeds of the Second Loan.

"Security Agreement" means the Security Agreement, between Lender and Borrower, dated of even date herewith.

"Security Documents" means, collectively, the Security Agreement, the Trademark Security Agreement, and all security agreements, pledge agreements, collateral assignments, mortgages, deeds of trust and other documents executed in connection with this Agreement and granting to Lender or Lender's Affiliates Liens on the Loan Collateral to secure the Obligations, together with all financing statements and other documents necessary to record or perfect the Liens granted by any of the foregoing, and "Security Document" means any one of the Security Documents, in each case as supplemented, restated, or otherwise changed or modified and any substitute or replacement agreements, instruments, or documents accepted by Lender or, as applicable, such Affiliate of Lender.

"Subsidiary" means, with respect to any Person, (i) any corporation, limited liability company, association or other business entity of which more than 50% of the total voting power of Capital Stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors or managers thereof is at the time owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of that Person (or a combination thereof) and (ii) any partnership (a) the sole general partner or the managing general partner of which is such Person or a Subsidiary of such Person or (b) the only general partners of which are such Person or of one or more Subsidiaries of such Person (or any combination thereof).

"Trademark Security Agreement" means the Trademark Security Agreement, between Lender and Borrower, dated of even date herewith.

"TTM Gross Revenue" means the grand total of all Borrower sale transactions, before returns and discounts for the prior twelve calendar months.

SECTION 1.2 Accounting Terms. For purposes of this Agreement, unless otherwise specified, all accounting terms used herein or in any other Loan Document shall be interpreted, all accounting determinations and computations hereunder or thereunder shall be made, and all financial statements required to be delivered hereunder or thereunder shall be prepared in accordance with GAAP.

ARTICLE 2. AMOUNT AND TERMS OF NOTES AND LOANS; WARRANTS

SECTION 2.1 Loans and Notes.

(a) First and Second Loan. Subject to the terms and conditions of this Agreement and in reliance upon the representations and warranties of Borrower herein set forth, Lender hereby agrees to lend to Borrower up to $2,000,000.00 (the "Initial Committed Amount"), with no less than $1,345,000.00 to be loaned on the Initial Closing Date. The dollar amount actually loaned on the Initial Closing Date shall be referred to herein as the "First Loan". Concurrent with the delivery by Lender of the First Loan proceeds to Borrower, Borrower shall execute and deliver to Lender a Note dated as of the date of such funding in the principal amount of the First Loan. On or before April 7, 2017 (the "Subsequent Initial Funding Date"), Lender hereby agrees, on a best-efforts basis, to lend Borrower an amount equal to the difference between the Initial Committed Amount and the First Loan (the "Second Loan"). Concurrent with the delivery by Lender of the Second Loan proceeds to Borrower, Borrower shall execute and deliver to Lender a Note dated as of the date of such funding in the principal amount of the Second Loan.

(b) Third Loan. Subject to the terms and conditions of this Agreement and in reliance upon the representations and warranties of Borrower herein set forth, Lender further may loan Borrower an amount such that the First Loan plus the Second Loan plus the additional loan total up to $4,000,000.00 (the "Third Loan", and together with the First Loan and the Second Loan, the "Loans") at any time after Borrower delivers to Lender a monthly financial statement showing that Borrower's TTM Gross Sales totaled at least $5,000,000.00 and upon Borrower providing Lender with at least forty-five (45) days' prior written notice of Borrower's request for the Third Loan, and provided that (i) Lender has funding for the Third Loan which Lender has sought on a best-efforts basis and (ii) Borrower has received an additional $1,000,000.00 from sales of Borrower equity after the Subsequent Initial Funding Date. Concurrent with the delivery by Lender of the Second Loan proceeds to Borrower, Borrower shall execute and deliver to Lender a Note dated as of the date of such funding in the principal amount of the Second Loan.

(c) Repayment. The unpaid principal amount of the Loans, plus all accrued and unpaid interest with respect thereto, and all other amounts owed hereunder with respect thereto shall be paid in full in cash on the Note Maturity Date.

SECTION 2.2 Interest on the Loans.

(a) Rate of Interest. Except as provided in Section 2.2(b) below, the Loans shall bear interest on the unpaid principal amount thereof from the applicable Closing Date through maturity (whether by acceleration or otherwise) at a rate equal to 12.50% *per annum*, compounded monthly; provided, however, that interest on the First Loan shall be calculated as though the First Loan were made on March 1, 2017.

(b) Post-Default Interest. Following the occurrence and during the continuance of an Event of Default, to the extent permitted by applicable law, the Loans shall bear interest at a rate equal to 18.00% *per annum,* compounded monthly, or the highest rate allowed by Applicable Law, if lower.

(c) Computation of Interest. Interest on the Loans shall be computed on the basis of a 360-day year. In computing such interest, the date of the making of the applicable Loan shall be included and the date of payment shall be excluded.

SECTION 2.3 Prepayments and Payments.

(a) Prepayments.

(i) Voluntary Prepayments. Borrower may, upon not less than forty- five (45) days prior written notice to Lender (which notice shall be irrevocable), at any time and from time to time, prepay the Loans in whole or in part, with a minimum prepayment amount of $250,000.00, and in additional increments of $50,000 thereafter. Voluntary prepayments permitted hereunder shall be credited against the Loans pursuant to the terms and conditions of Section 2.3(a)(iii). Amounts of a Loan so prepaid may not be reborrowed. If a prepayment is made on or before the first anniversary of the applicable Closing Date, such prepayment shall include a prepayment fee equal to the greater of (A) all interest that would have been paid on such amount prepaid on or prior to the first anniversary of the applicable Closing Date as if such prepayment had not been made or (B) the principal amount being repaid multiplied by 2.50%. If a prepayment is made after the first anniversary of a Closing Date but before the second anniversary of such Closing Date, such prepayment shall include a prepayment fee equal to the principal amount being repaid multiplied by 2.00%.

(ii) Mandatory Prepayments. Following the occurrence of a Change of Control (the date of such occurrence, the 'Change of Control Date"), Lender shall have the right, but not the obligation, to require Borrower to prepay the Loans in whole. No fewer than thirty (30) days prior to a Change of Control Date, Borrower shall give a written notice to Lender stating that a Change of Control will occur. Lender shall, within ten (10) Business Days of receipt of such notice, notify Borrower if it will require a prepayment hereunder. Such prepayment shall be due on the Change of Control Date.

(iii) Application of Prepayments. All prepayments permitted hereunder (whether voluntary or mandatory) shall include payment of accrued interest on the principal amount of the Loans so prepaid and shall be applied to payment of fees and costs, then interest before application to principal. All payments permitted or required under Section 2.3(a) shall include any applicable prepayment fee set forth in Section 2.3(a)(i).

(b) Interest and Reduction Payments. Interest shall be payable with respect to the Loans in arrears on each Interest Payment Date, commencing on the initial Interest Payment Date, and upon any prepayment of the Loans (to the extent of accrued interest on the principal amount of the Loans so prepaid) and at maturity of the Loans.

(c) Manner and Time of Payment. All payments by Borrower under the Loans of principal, interest, and fees shall be made without defense, set off, or counterclaim, in same day funds and delivered to Lender not later than 2:00 P.M. (Salt Lake City, Utah time) on the date due by wire transfer as instructed by Lender, or such other place designated in writing by Lender and delivered to Borrower, for the account of Lender. Funds received by Lender after such time shall be deemed to have been paid by Borrower on the next succeeding Business Day.

(d) Payments on Non-Business Days. Whenever any payment to be made hereunder or under the Loans shall be stated to be due on a day which is

not a Business Day, the payment shall be made on the next succeeding Business Day and such extension of time shall be included in the computation of the payment of interest hereunder or under the Loans.

SECTION 2.4 Fees. Borrower shall pay to bocm3, LLC a nonrefundable closing fee of 5% of the amount of the First Loan plus all accounting and legal fees arising out of the Loan and the preparation of this Agreement (the "First Closing Fee") to offset transaction costs of bocm3, LLC and its Affiliates; provided, however, that Lender's accounting and legal fees arising out of the Loan and the preparation of this Agreement prior to the Effective Date shall not exceed $40,000.00. The First Closing Fee shall be payable on the Initial Closing Date, and may be withheld from the proceeds of the First Loan. The First Closing Fee, once paid, shall be nonrefundable under all circumstances. Upon the funding of the Second Loan on the Second Closing Date and the funding of the Third Loan, if any, Borrower shall pay to bocm3, LLC a nonrefundable closing fee of 5% of the amount of the Second Loan and Third Loan, if any (the "Subsequent Closing Fees") to offset transaction costs of bocm3, LLC and its Affiliates. The Subsequent Closing Fees shall be payable on the applicable Closing Date, and may be withheld from the proceeds of the applicable Loan.

SECTION 2.5 Security Interest. Borrower shall maintain Lender's security interest in the Loan Collateral in first-priority position until the Loans are satisfied in full.

SECTION 2.6 Warrants. Borrower has duly authorized the issuance to Lender of warrants to purchase Borrower's common stock representing 1% of the Capital Stock of Borrower on a fully-diluted basis on the Closing Date of the Second Loan (the "First Warrant") for each $1 million of the principal amount of the Loans on the Closing Date of the Second Loan, which shall be pro rated based on the actual amount of the Loans, at an exercise price of $0.16 per share. The First Warrant shall be in the form attached hereto as Exhibit B and shall be issued even in the event the Initial Committed Amount is not loaned to Borrower in full. If the Third Loan is made in full, Borrower shall authorize the issuance to Lender of warrants to purchase Borrower's common stock such that Lender shall have warrants to purchase 1% of the Capital Stock of Borrower on a fully-diluted basis on the Closing Date of the Third Loan, if any (the "Second Warrant") for each $1 million of the principal amount of the Loans on the Closing Date of the Second Loan, which shall be pro rated based on the actual amount of the Third Loan, at an exercise price of $0.16 per share. The Second Warrant shall be in the form attached hereto as Exhibit B.

ARTICLE 3. CONDITIONS TO LOANS

SECTION 3.1 Conditions to Loans. The obligation of Lender to make each Loan hereunder is subject to the satisfaction of all of the following conditions as of the applicable Closing Date:

(a) Organizational Documents. On or before the Initial Closing Date, Lender shall have received the following items, each of which shall be in form and substance reasonably satisfactory to Lender and, unless otherwise noted, dated as of the Closing Date:

(i) a correct and complete copy of the certificate of incorporation of Borrower, such copy certified as of the Closing Date by an Officer of Borrower;

(ii) a copy of the bylaws of Borrower, such copy certified as of the Closing Date by an Officer of Borrower;

(iii) a copy of the Stockholders' Agreement of Borrower, if any, such copy certified as of the Closing Date by an Officer of Borrower;

(iv) a resolution of the board of directors of Borrower, approving and authorizing the execution, delivery and performance of the Loan Documents and any other documents, instruments, and certificates required to be executed by each party thereto in connection therewith, certified as of the Closing Date by an Officer of Borrower as being in full force and effect without modification or amendment; and

(v) executed copies of the Loan Documents and such other documents and information as Lender may reasonably request.

(b) Event of Default. No event shall have occurred and be continuing or would result from the consummation of the borrowing contemplated hereby which would constitute an Event of Default.

(c) No Injunction, etc. No order, judgment, or decree of any court, arbitrator or governmental authority shall enjoin or restrain Lender from making the Loans.

(d) Fees and Expenses. Lender shall have received payment in full for all expenses (including reasonable accountant and attorney's fees) incurred in connection with the negotiation and execution of this Agreement and the Loan Documents and the First Closing Fee or Second Closing Fee, if applicable (which fees and expenses are to be paid out of the proceeds of the applicable Loan).

(e) Due Diligence. Lender shall have completed its due diligence investigation to its satisfaction with respect to Borrower.

(f) Material Adverse Change. No change which could reasonably be expected to have a Material Adverse Effect shall have occurred since December 31, 2015.

(g) Access Agreement. The landlord for each location at which a material portion of Borrower's inventory or other assets may be located shall have executed a Landlord Waiver and Consent Agreement with Lender acceptable to Lender in Lender's sole discretion.

(h) Pledge Agreement. The Stockholders shall have executed a Pledge Agreement pledging all of their Capital Stock in Borrower in favor of Lender reasonably acceptable to Lender.

ARTICLE 4. REPRESENTATIONS AND WARRANTIES

In order to induce Lender to enter into this Agreement and to make each Loan and subject to the Disclosure Schedules, Borrower represents and warrants to Lender on each Closing Date, and Stockholders, severally but not jointly based on the percentages set forth by such Stockholder's signature to this Agreement, represent and warrant to Lender on each Closing Date, that:

SECTION 4.1 Organization and Good Standing. Borrower is a corporation duly organized and existing in good standing under the laws of Delaware. Borrower has the necessary power and authority to own its properties and assets and to transact the business in which it is engaged and is duly qualified as a foreign entity and in good standing in all states in which it is required to be so qualified, except where failure to be so qualified could not reasonably be expected to have a Material Adverse Effect. Borrower has no

Subsidiaries.

SECTION 4.2 Authorization and Power. Borrower has the power and requisite authority, and has taken all action necessary, to execute, deliver and perform its obligations under the Loan Documents.

SECTION 4.3 No Conflicts or Consents. The execution, delivery, and performance by Borrower of its obligations under the Loan Documents and the consummation of any of the transactions contemplated thereby (collectively, the "Transactions"), and compliance with the terms and provisions hereof or thereof will not contravene or conflict with any provision of Law to which any such Person is subject or any judgment, license, order, or permit, applicable to such Person, or any contractual obligations of such Person, or violate any provision of the charter, bylaw or other organizational document of such Person. Except as set forth in Schedule 4.3, no consent, approval, authorization, or order of any governmental authority or other Person is required in connection with the consummation of the Transactions, except for such required consents, approvals, and authorizations which have been obtained by Borrower or permanently waived in writing.

SECTION 4.4 Enforceable Obligations. The Loan Documents have been duly executed and delivered by Borrower and are, or will be, the legal and binding obligations of Borrower, enforceable in accordance with their respective terms, subject to applicable laws of bankruptcy, insolvency, and similar laws affecting creditors' rights and the application of general rules at equity.

SECTION 4.5 No Event of Default. No event has occurred and is continuing which constitutes an Event of Default.

SECTION 4.6 Use of Proceeds. The proceeds of the Loans will be used solely (i) to repay indebtedness to MBMJ Capital LLC dba Continental Business Credit, in an amount not to exceed $500,000 (ii) to fund expenses in connection with this Agreement and (iii) for general working capital purposes.

SECTION 4.7 Compliance with Law. Borrower is and has been in compliance with all applicable laws, including without limitation environmental, tax and employment laws. No notice has been served on Borrower claiming any violation of laws, asserting liability or demanding payment or contribution for liability or violation of laws.

SECTION 4.8 Capital Structure. As of the Closing Date, all outstanding Capital Stock of Borrower is held as set forth onSchedule 4.8(a). All outstanding shares of Capital Stock were duly authorized and validly issued, and are fully paid and nonassessable. As of the Closing Date, except as set forth on Schedule 4.8(a), there are no outstanding securities, options, warrants, rights, or other agreements of any nature that require Borrower to issue any additional Capital Stock.

SECTION 4.9 Financial Condition. Immediately after the consummation of the Transactions to occur on the Closing Date, (a) the fair value of the assets of Borrower at fair valuation, will exceed its debts and liabilities, subordinated, contingent or otherwise; (b) the present fair saleable value of the property of Borrower will be greater than the amount that will be required to pay the probable liability of its debts and other liabilities, subordinated, contingent or otherwise, as such debts and other liabilities become absolute and matured; (c) Borrower will be able to pay its debts and liabilities, subordinated, contingent or otherwise, as such debts and liabilities become absolute and matured; and (d) Borrower will not have unreasonably small capital with which to conduct the business in which it is engaged as such business is now conducted and is proposed to be conducted following the Closing Date.

SECTION 4.10 Disclosure. Borrower has provided Lender with all material information relating to Borrower. No Loan Document nor any other agreement, document, certificate, or statement furnished to Lender and prepared by or on behalf of Borrower in connection with the transactions contemplated by the Loan Documents, nor any representation or warranty made by Borrower in any Loan Document, contains any untrue statement of material fact or omits to state any fact necessary to make the factual statements therein taken as a whole not materially misleading in light of the circumstances under which it was furnished. There is no fact known to Borrower which has not been disclosed to Lender in writing that could constitute or is likely to give rise to a Material Adverse Effect.

SECTION 4.11 Litigation. There is no suit, action, proceeding, including, without limitation, any bankruptcy proceeding or governmental investigation pending or, to Borrower's knowledge, threatened against Borrower, or any judgment, decree, injunction, rule, or order of any court, government, department, commission, agency, instrumentality or arbitrator outstanding against Borrower, nor is Borrower in violation of any applicable law, regulation, ordinance, order, injunction, decree or requirement of any governmental body or court which could in any of the foregoing events reasonably be expected to have a Material Adverse Effect.

SECTION 4.12 Good Title; No Liens. Borrower has good and valid title (or, in the case of real property, if any, good and marketable title) to all assets owned by it, including, without limitation, all assets listed on the financial statements of Borrower, and Borrower has a valid leasehold or interest as a lessee or a licensee in all of its leased real property. There are no Liens on and no financing statements on file with respect to any of the assets owned by Borrower.

SECTION 4.13 No Defaults. Borrower is not in default under or with respect to any Material Contract to which is a party or by which it or any of its property is bound.

SECTION 4.14 Patents, Copyrights, Tradenames, etc. Borrower possesses all patents, copyrights, domain names, trademarks, trade names, copyrights, trade styles, trade secrets, know-how, technology, process, licenses and permits, and rights in respect of the foregoing ("Intellectual Property"), adequate for the conduct of its business as now conducted and as currently proposed to be conducted without conflict with any rights of others. All registered Intellectual Property of Borrower or used in its business is listed on Schedule 4.14.

SECTION 4.15 Security Interests. Lender has a legal, valid, perfected, first priority security interest in the Loan Collateral and the Loan Collateral is and at all times shall be free and clear of all other Liens, other than Permitted Liens.

SECTION 4.16 Financial Statements. Borrower's audited financial statements for year ended periods of December 31, 2014 and December 31, 2015, its unaudited financial statements for the year ended period of December 31, 2016, and the unaudited financial statements prepared by Borrower for the one month period ended January 31, 2017 are true and correct, were prepared in accordance with GAAP (except that the unaudited and interim financial statements are subject to normal year-end adjustments and the inclusion of financial statement notes) consistently applied throughout the applicable periods, and present fairly, in all material respects, the financial condition of Borrower as of such dates and the results of its operations and cash flows for the periods then ended. The financial forecasts furnished to Lender by Borrower have been prepared based upon information and assumptions prepared in good faith by Borrower; all material assumptions reflected in such forecasts are clearly set forth therein; the information and assumptions set forth therein are materially accurate and reasonable as of the date thereof and represent a reasonable range of possible results in light of Borrower's present and foreseeable conditions and the intentions of Borrower's management; and, Borrower has no knowledge that any such assumptions are materially inaccurate or that the results reflected in the forecasts are not reasonably attainable.

SECTION 4.17 No Undisclosed Liabilities. Except for (a) the liabilities reflected on, and to the extent adequately accrued or reserved against in, its balance sheets and (b) the liabilities set forth in Schedule 4.17, Borrower has no liabilities or obligations of any nature (whether accrued, absolute, contingent, known, unknown or otherwise, and whether or not of a nature required to be disclosed or reserved against in a balance sheet prepared in accordance with GAAP or Borrower's historic accounting practices).

SECTION 4.18 Governmental Authority. Borrower has received all licenses, permits, and approvals of all federal, state, and local governmental authorities, if any, necessary to conduct its business. No investigation or proceeding against or with respect to Borrower which, if adversely determined, could reasonably be expected to result in revocation or denial of any license, permit or approval of Borrower is pending or, to the knowledge of Borrower, threatened.

SECTION 4.19 Affiliate Transactions. Except as set forth on Schedule 4.19, Borrower is not a party to any contracts or agreements with any of its Affiliates, and each such contract or agreement is on terms and conditions which are no less favorable to Borrower than would be usual and customary in similar contracts or agreements between Persons not affiliated with each other. Except as set forth on Schedule 4.19, no current or former director, officer, employee or stockholder of Borrower (or any member of their immediate family or any of their Affiliates) is currently, or within the past year has been, a party to any transaction with Borrower (including but not limited to any contract, agreement or other arrangement providing for the furnishing of services by or rental of real or personal property from or otherwise requiring payments to any such manager, director, officer, employee or member), except for employment arrangements for the payment of cash compensation in the ordinary course of the business. No current manager, director, officer, employee or owner of Borrower is the direct or indirect owner of any interest in any corporation, firm, association or Person that is a competitor of Borrower.

SECTION 4.20 ERISA. Borrower is in compliance with the applicable provisions of ERISA and: (a) no "prohibited transaction" as defined in Section 406 of ERISA or Section 4975 of the Code has occurred; (b) no "reportable event" as defined in Section 4043 of ERISA has occurred; (c) no "accumulated funding deficiency" as defined in Section 302 of ERISA (whether or not waived) has occurred; (d) there are no unfunded vested liabilities of any Employee Plan administered by Borrower; and (e) Borrower or the plan sponsor has timely filed all returns and reports required to be filed for each Employee Plan.

SECTION 4.21 Taxes. Borrower has filed all federal, state, foreign and local tax returns which were required to be filed, except those returns for which the due date has been validly extended. Borrower has paid or made provisions for the payment of all taxes, assessments, fees and other governmental charges owed, and no tax deficiencies have been proposed, threatened or assessed against Borrower.

SECTION 4.22 Brokerage. If any broker, agent or finder acted on behalf of Borrower, the fees and expenses of such broker, agent or finder are the responsibility of and will be paid by Borrower.

SECTION 4.23 Employees. (a) Borrower is not subject to any collective bargaining agreement, (b) to Borrower's knowledge, no petition for certification or union election is pending with respect to the employees of Borrower and no union or collective bargaining unit has sought such certification or recognition with respect to the employees of Borrower and (c) there are no strikes, slowdowns, work stoppages or controversies pending or threatened between Borrower and its employees. Except as set forth on Schedule 4.23, Borrower is not party to an employment contract other than employee confidentiality agreements, invention agreements, non-competition agreements and offer letters in the ordinary course of business. The compensation paid to each Borrower employee in 2016 and the expected compensation for each Borrower employee in 2017 are set forth on Schedule 4.23.

SECTION 4.24 Insurance. Schedule 4.24 accurately summarizes all of the insurance policies or programs of Borrower. All such policies are in full force and effect, underwritten by financially sound and reputable insurers and, to Borrower's knowledge, sufficient for all applicable requirements of law.

SECTION 4.25 Material Contracts. Borrower has provided to Lender accurate and complete copies of all of the following agreements or documents to which it is subject as of each Closing Date (and each such agreement or document is listed in Schedule 4.25): (i) supply agreements and purchase agreements not terminable by Borrower within thirty (30) days following written notice issued by Borrower and involving transactions in excess of $50,000 per annum and with a remaining term of one year or longer; (ii) leases of equipment having a remaining term of one year or longer and requiring aggregate rental and other payments in excess of $50,000 per annum; and (iii) instruments and documents evidencing any Indebtedness with a remaining principal balance of $50,000 or more following the Closing Date; and (iv) instruments and agreements evidencing an obligation to issue any equity securities, warrants, rights or options to purchase equity securities of Borrower (collectively, the "Material Contracts"). Each of the Material Contracts is in full force and effect and Borrower is not in violation of or in default under any Material Contract to which it is a party or by which its assets are subject or bound, and, to Borrower's knowledge, the counter-party to each Material Contract is not in violation or in default under any Material Contract.

SECTION 4.26 Deposit Accounts. Schedule 4.26 hereto lists all banks, other financial institutions at which Borrower maintains deposit accounts or securities accounts as of the Closing Date, and identifies the name, address and telephone number of each such financial institution or securities intermediary, the name in which the account is held, a description of the purpose of the account, and the complete account number therefor.

SECTION 4.27 Locations. As of the Closing Date, Borrower has places of business or maintains its assets at the locations (including third party locations) set forth on Schedule 4.27, and Borrower's chief executive office is set forth on Schedule 4.27. As of the Closing Date, Schedule 4.27 correctly identifies the name and address of each third party location where assets of the Borrower is located.

SECTION 4.28 Inventory. Except for inventories which have been reserved or written off on Borrower's books in the ordinary course of business and consistent with past practice, Borrower's inventories of raw materials, work-in-process and finished goods are in saleable condition (and with respect only to finished goods, conform with Borrower's applicable specifications and warranties), are not obsolete or slow moving, and are usable or saleable without markdown or discount in the ordinary course of business. All finished goods inventory has been produced in compliance with Borrower's and its customers' quality control and safety requirements and procedures. Except as set forth in Schedule 4.28, Borrower has no liability or obligation, except for liabilities and obligations arising from Borrower's warranty obligations, with respect to the return of inventory in the possession of any third parties. Except as set forth in Schedule 4.28, none of the inventory of Borrower is held by any Person other than Borrower or held on consignment or consigned to or from any third party.

SECTION 4.29 Customer Warranties. Except as set forth on Schedule 4.29, Borrower has not given to any Person any product warranty, right of return, or other indemnity relating to the products manufactured, sold, leased, licensed, or delivered by Borrower. Except as set forth on Schedule 4.29, Borrower has not incurred any loss in excess of $25,000, as a result of any defect or other deficiency (whether of design, materials, workmanship, labeling, instructions, or otherwise) with respect to any product designed, manufactured, sold, or delivered by Borrower, whether such loss is incurred by reason of any express or implied warranty, any doctrine of common law (tort, contract, or other), any law, or otherwise. Borrower has not received notice that a governmental authority has alleged that any product designed, manufactured, sold, or delivered by Borrower is defective or unsafe or fails to meet any product warranty or any standards promulgated by any such governmental authority.

SECTION 4.30 Real Property. Borrower owns no real property. Schedule 4.30 is a true and complete list of all real property leased by Borrower, including each lease entered into with respect to such real property. All such leases are valid, binding and enforceable in accordance with their respective terms, and there does not exist under any such lease any default by Borrower, or any event that, with notice or lapse of time or both, would constitute a default.

SECTION 4.31 Limitations on Competition. Borrower is not a party to any written or oral contract which limits its right to freely engage in any line of business related or similar to its business, or to freely compete with any person anywhere in the world. Borrower has entered into written agreements with all of its senior executives prohibiting competition with Borrower, in forms provided to Lender.

SECTION 4.32 Accounts Receivable. All of Borrower's accounts receivable, notes and notes receivable, including all rights of Borrower to payment for goods supplied to customers, are (a) for sales actually made or services actually performed, and (b) reflected on Borrower's books and records in accordance with Borrower's standard practices in the ordinary course of business. There is no contest, claim or right of set-of, other than returns in the ordinary course of business, under any contract with any account debtor of an account receivable relating to the amount or validity of such account receivable. All sales made by Borrower has been made in the ordinary course of business.

SECTION 4.33 Reliance on Representations. All representations and warranties contained in this Agreement and any financial statements, instruments, certificates, schedules or other documents delivered in connection herewith, shall survive the execution and delivery of this Agreement, regardless of any investigation made by Lender or on Lender's behalf.

ARTICLE 5. AFFIRMATIVE COVENANTS

Borrower covenants and agrees that, until the Loans and all other amounts due under this Agreement have been paid in full, unless Lender shall otherwise give prior written consent, Borrower shall perform all covenants contained in this Article 5:

SECTION 5.1 Financial Statements and Other Reports. Borrower shall furnish to Lender:

(a) as soon as available, and in any event no later than 25 days after the last day of each calendar month, a copy of the balance sheet of Borrower as of the last day of such month and the statements of income, retained earnings, cash flows and written management description (in reasonable detail) on Borrower for the month and for the fiscal year to date period then ended, each in reasonable detail, prepared by Borrower in accordance with GAAP (subject to the absence of footnote disclosures and normal year end adjustments) and certified to by its chief financial officer or another officer of Borrower acceptable to Lender (collectively, the "Monthly Financial Statements");

(b) as soon as available, and in any event no later than 90 days after the last day of each fiscal year of Borrower, a copy of the audited balance sheet of Borrower as of the last day of the fiscal year then ended and the audited statement of income, statement of retained earnings, and cash flows for the fiscal year then ended, and accompanying notes thereto, showing in comparative form the figures for the previous fiscal year, accompanied in the case of the financial statements by an unqualified opinion of an independent public accountant firm of recognized standing, selected by Borrower and reasonably satisfactory to Lender, to the effect that such financial statements have been prepared in accordance with GAAP and present fairly in all material respects in accordance with GAAP the financial condition of Borrower as of the close of such fiscal year and the results of their operations and cash flows for the fiscal year then ended and that an examination of such accounts in connection with such financial statements has been made in accordance with generally accepted auditing standards;

(c) within the period provided in subsection (b) above, the written statement of the accountants who certified the audit report thereby required that in the course of their audit they have obtained no knowledge of any Default or Event of Default, or, if such accountants have obtained knowledge of any such Default or Event of Default, they shall disclose in such statement the nature and period of the existence thereof and all reports rendered by such accountants to Borrower's management, and such accountants shall be available for discussions with officers of Lender;

(d) promptly after receipt thereof, a copy of each audit made by any regulatory agency of the books and records of Borrower or of notice of any material noncompliance with any applicable law, regulation or guideline relating to Borrower, or its business;

(e) as soon as available, and in any event no later than 30 days prior to the end of each fiscal year of Borrower, a copy of Borrower's operating and financial budgets for the following fiscal year, such operating and financial budgets to show Borrower's projected balance sheet and statements of income, retained earnings and cash flows, each on a monthly basis, such business plan to be in reasonable detail prepared by Borrower and in form reasonably satisfactory to Lender (which shall include, without limitation, a summary of all material assumptions made in preparing such business plan); and

(f) as soon as available, and in any event no later than 25 days after the last day of each calendar month, a written certificate ("Compliance Certificate") signed by the chief financial officer of Borrower or another officer of Borrower acceptable to Lender to the effect that (i) to the best of such officer's knowledge and belief no Default or Event of Default has occurred during such period or, if any such Default or Event of Default has occurred during such period, setting forth a description of such Default or Event of Default and specifying the action, if any, taken by Borrower to remedy the same; (ii) a review of the activities of Borrower during the preceding fiscal quarter has been made under the supervision of the signing Officers with a view to determining whether Borrower has kept, observed, performed and fulfilled its obligations under this Agreement, (iii) to the best of his or her knowledge Borrower has kept, observed, performed and fulfilled each and every covenant contained in this Agreement and is not in default in the performance or observance of any of the terms, provisions and conditions of this Agreement.

SECTION 5.2 Existence. Borrower shall do or cause to be done all things necessary to preserve and keep in full force and effect (i) its existence, in accordance with its organizational documents (as the same may be amended from time to time) and (ii) the rights (charter and statutory), licenses and franchises of Borrower: *provided*, however, that Borrower shall not be required to preserve any such right, license or franchise, if Borrower shall determine that the preservation thereof is no longer desirable in the conduct of the business of Borrower, taken as a whole, and that the loss thereof is not adverse in any material respect to Lender.

SECTION 5.3 Payment of Obligations. Borrower shall pay, discharge or otherwise satisfy, at or before maturity or before they become delinquent, as the case may be, all of its obligations of whatever nature, including without limitation all assessments, governmental charges and taxes, claims for labor, supplies, rent or other obligations, except where the amount or validity thereof is currently being appropriately contested in good faith and reserves in conformity with GAAP with respect thereto have been provided on the books of Borrower.

SECTION 5.4 Compliance with Laws, Etc.

(a) Borrower shall comply in all respects with the requirements of all federal, state and local laws, rules, regulations, ordinances and orders applicable to Borrower.

(b) So long as not contrary to the then current recommendations of the American Institute of Certified Public Accountants, the year-end financial statements delivered pursuant to Section 5.1 above shall be accompanied by a written statement of Borrower' independent public accountants that in making the examination necessary of such financial statements, nothing has come to their attention that would lead them to believe that Borrower has violated any provisions of Article 5, 6 or 7, hereof or, if any such violation has occurred, specifying the nature and period of existence thereof, it being understood that such accountants shall not be liable directly or indirectly to any Person for any failure to obtain knowledge of any such violation.

(c) Borrower shall, so long as any portion of a Loan is outstanding, deliver to Lender, forthwith upon any Officer becoming aware of any Event of Default, an Officers' Certificate specifying such Event of Default and what action Borrower is taking or proposes to take with respect thereto.

SECTION 5.5 Maintenance of Accurate Records, Etc. Borrower shall maintain books of records and accounts consistent with past practices, in which complete and correct entries consistently applied shall be made of all financial transactions and matters involving the assets and business of Borrower.

SECTION 5.6 Lender Meeting; Observer. Borrower will participate in a meeting with Lender not less than once during each month to be held at a location and a time selected by Borrower and reasonably acceptable to Lender, which shall be attended by the Chief Executive Officer of Borrower; provided, however, that during the first three calendar months following the Initial Closing Date, Borrower will participate in up to two meetings per calendar month. Lender will be permitted to send one representative to all meetings of the board of directors of Borrower and Borrower shall pay the reasonable out-of-pocket expenses incurred in connection with attending such meetings. Borrower shall provide Lender a schedule of at least four meetings of the board of directors of Borrower during each calendar year.

SECTION 5.7 Inspection. Borrower shall permit representatives of Lender, from time to time, as often as may be reasonably requested, during normal business hours, to visit and inspect the properties and assets of Borrower, inspect and make extracts from its books and records, and discuss with its Officers, its employees and its accountants, Borrower's business, assets, liabilities, financial condition, business prospects and results of operations.

SECTION 5.8 Notice. Borrower shall promptly give written notice to Lender of: (a) the occurrence of any Default or Event of Default of which Borrower has knowledge; (b) the occurrence of any event which Borrower believes could reasonably be expected to have a Material Adverse Effect, promptly after concluding that such event could reasonably be expected to have such a Material Adverse Effect; and (c) any default or event of default by Borrower under any Indebtedness, concurrently with delivery or promptly after receipt (as the case may be) of any notice of default or event of default under the applicable document, as the case may be.

SECTION 5.9 Further Assurances. Borrower shall promptly execute and deliver or cause to be executed and delivered to Lender within a reasonable time following Lender's request, and at the expense of Borrower, such other documents or instruments as Lender may reasonably require to effectuate more fully the purposes of this Agreement or the other Loan Documents.

SECTION 5.10 Monitoring Fee. Borrower shall pay to bocm3, LLC an annual monitoring fee of $50,000.00 (the "Monitoring Fee") so long as any portion of a Loan is outstanding; provided, however, that if the Initial Committed Amount is not loaned in full, the annual Monitoring Fee shall be equal to the product of the following: (a) the aggregate principal amount of the Loans, multiplied by (b) $50,000.00, divided by (c) the Initial Committed Amount. The Monitoring Fee shall be payable monthly, with the first installment due on April 1, 2017, and continuing on the first day of each calendar month thereafter in equal installments of $4,166.67.

SECTION 5.11 Insurance. Borrower shall keep insured, with good and responsible insurance companies, all insurable property owned by it which is of a character usually insured by Persons similarly situated and operating like properties against loss or damage from such hazards and risks, and in such amounts, as are insured by persons similarly situated and operating like properties; and insure, such other hazards and risks (including, without limitation, business interruption, employers' and public liability risks) with good and responsible insurance companies as and to the extent usually insured by Persons similarly situated and conducting similar businesses. Borrower shall cause Lender to be named as "additional insured" or "lender's loss payee", as applicable, on each of its liability and property insurance policies, and shall provide Lender with certificates in a manner acceptable to Lender.

SECTION 5.12 Cash Balance. Borrower shall maintain a cash balance at all times of (a) at least 12% of the amount of all Loans made to Borrower or (b) if the aggregate amount of all Loans is $2.5 million, at least $300,000, provided that, if the aggregate amount of all Loans made to Borrower is more than $2.5 million, then such cash balance shall equal at least 10% of of such loaned balances.

SECTION 5.13 Minimum Current Ratio. Borrower shall not permit the ratio of total current assets of Borrower as of the last day of each calendar month to total current liabilities of Borrower as of the last day of such calendar month, to be less than 1.25 to 1.0.

SECTION 5.14 Stockholder Place of Residence. At all times prior to the repayment in full of the Loans, each Stockholder's principal residence shall be located within twenty-five (25) miles of Borrower's headquarters.

SECTION 5.15 Head Designer. In the event that Conrad Steenberg is no longer employed by Borrower on a full-time basis (a "Departure Event"), Borrower shall retain a replacement acceptable to Lender in Lender's reasonable discretion within three (3) months of such Departure Event.

ARTICLE 6. NEGATIVE COVENANTS

Borrower covenants and agrees that until the Loans and the Notes and all amounts due under this Agreement at the time of such termination or payment have been paid in full, unless Lender shall otherwise give prior written consent, Borrower shall perform all covenants in this Article 6:

SECTION 6.1 Indebtedness. Borrower shall not, directly or indirectly, create, incur, assume, or otherwise become directly or indirectly liable with respect to, any Indebtedness other than (i) Indebtedness under this Agreement, or (ii) Indebtedness incurred after the date hereof in the ordinary course of Borrower's operations, consistent with past practice, in an aggregate amount less than $25,000.

SECTION 6.2 Transactions with Affiliates. Borrower shall not, directly or indirectly, enter into or permit to exist any transaction (including, without limitation, the purchase, sale, lease or exchange of any property or the rendering of any service) with, or make loans or advances to any holder or holders of any of the stockholders of Borrower, or with any Affiliate of Borrower, on terms that are less favorable to Borrower, than those that might be obtained in an arm's length transaction at the time from Persons who are not such a holder or Affiliate.

SECTION 6.3 Restricted Payments. Borrower shall not: (i) declare or make, or agree to pay or make, directly or indirectly, any distribution (by reduction of capital or otherwise), whether in cash, property, securities or a combination thereof, to any owner of a beneficial or other interest in Borrower, (ii) redeem, purchase, retire or otherwise acquire for value any such beneficial or other interest in Borrower or other Person or (iii) set aside or otherwise segregate any amounts for any such purpose.

SECTION 6.4 Merger, Consolidation, or Sale of Assets. Borrower shall not enter into any merger or consolidation or convey, sell, lease, assign, transfer or otherwise dispose of any of its property, business or assets (including, without limitation, Capital Stock, receivables and leasehold interests), whether now owned or hereafter acquired or liquidate, wind up or dissolve, except:

(a) inventory leased or sold in the ordinary course of business;

(b) obsolete, damaged, uneconomic or worn out machinery, parts, property or equipment, or property or equipment no longer used or useful in the conduct of Borrower's business; and

(c) the sale or disposition of securities and other cash equivalents in the ordinary course of business.

SECTION 6.5 Successor Entity Substituted. Upon any consolidation or merger, or any sale, assignment, transfer, lease, conveyance or other disposition of all or substantially all of the assets of Borrower in accordance with the provisions hereof, the successor entity formed by such consolidation or into or with which Borrower is merged or to which such sale, assignment, transfer, lease, conveyance or other disposition is made shall succeed to, and be substituted for (so that from and after the date of such consolidation, merger, sale, lease, conveyance or other disposition, the provisions of this Agreement referring to "Borrower" shall refer instead to the successor entity and not to Borrower), and may exercise every right and power of Borrower under this Agreement with the same effect as if such successor Person had been named as Borrower herein: *provided,* however, that the predecessor company shall not be relieved from the obligation to pay the principal of and interest on the Loans.

SECTION 6.6 Changes of Control. Borrower shall not consummate a Change of Control.

SECTION 6.7 Limitation on Compensation. On or before March 31, 2017, the Borrower intends to compensate its officers as set forth on Schedule 6.7. Borrower shall not, directly or indirectly, raise the salaries, bonuses, benefits or other compensation of any of its officers by more than 10% per annum or other employees by more than 25% per annum.

SECTION 6.8 Limitation on Liens. Borrower shall not, directly or indirectly, create, incur, assume or suffer to exist any Lien securing Indebtedness or trade payables on any asset now owned or hereafter acquired, or any income or profits therefrom or assign or convey any right to receive income therefrom, other than Permitted Liens.

SECTION 6.9 Amendments of Certain Documents. Borrower shall not amend Borrower's Certificate of Incorporation, bylaws or Stockholders' Agreement, if any, all of which are attached as Exhibit C.

SECTION 6.10 Restrictions on Additional Indebtedness. Borrower will not create or suffer to exist any Indebtedness which is senior in right of payment to or*pari passu* with the Loans.

ARTICLE 7. EVENTS OF DEFAULT

If any of the following conditions or events ("Events of Default") shall occur and be continuing:

SECTION 7.1 Failure to Make Payments When Due. (i) Failure to pay any principal of the Loans when due, whether at the Note Maturity Date, by acceleration, by notice of prepayment, by operation of Section 2.3 or otherwise; or (ii) failure to pay any interest on the Loans or any other amount due under this Agreement, and such default continues for a period of five (5) days; or

SECTION 7.2 Default in Other Agreements. Failure of Borrower to pay when due any principal of or interest on any Indebtedness in excess of $5,000 in principal outstanding and the expiration of any applicable grace periods or waivers; or

SECTION 7.3 Breach of Certain Covenants and Agreements. Failure of Borrower to perform or comply with (a) any term or condition contained inSection 2.3(a), or Article 6, or (b) in any material respect with any other term contained in this Agreement, and (1) in the case of clause (a), such failure shall not have been remedied or waived within fifteen (15) days after receipt of written notice from Lender of such default (other than any occurrence described in the other provisions of this Article 7 for which a different grace or cure period is specified or which constitutes an immediate Event of Default), and (2) in the case of clause (b), such failure shall not have been remedied or waived within thirty (30) days after receipt of written notice from Lender of such default (other than any occurrence described in the other provisions of this Article 7 for which a different grace or cure period is specified or which constitutes an immediate Event of Default), or the failure to deliver Monthly Financial Statements within 30 days following the end of any calendar month; or

SECTION 7.4 Breach of Warranty. Any representation or warranty made by Borrower in any Loan Document or in any statement or certificate at any time given by Borrower in writing pursuant hereto or thereto or in connection herewith or therewith shall be false in any material respect on the date as of when made; or

SECTION 7.5 Involuntary Bankruptcy; Appointment of Receiver, Etc. (a) A court having jurisdiction shall enter a decree or order for relief in respect of Borrower in an involuntary case under the Bankruptcy Code or any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, which decree or order is not stayed: or any other similar relief shall be granted and remain unstayed under any applicable federal or state law; or (b) an involuntary case is commenced against Borrower under any applicable bankruptcy, insolvency, or other similar law now or hereafter in effect, or a decree or order of a court having, jurisdiction in the premises for the appointment of a receiver, liquidator, sequestrator, trustee, custodian or other officer having similar powers over Borrower or over all or a substantial part of any of its property, shall have been entered, or an interim receiver, trustee or other custodian of Borrower or all or a substantial part of its property is involuntarily appointed, or a warrant of attachment, execution or similar process is issued against any substantial part of the property of Borrower and the continuance of any such events in this clause (b) for sixty (60) days unless dismissed, bonded, stayed, vacated, or discharged; or

SECTION 7.6 Voluntary Bankruptcy; Appointment of Receiver, Etc. Borrower shall have an order for relief entered with respect to it or commence a voluntary case under the Bankruptcy Code or any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or shall consent to the entry of an order for relief in an involuntary case, or to the conversion of an involuntary case to a voluntary case, under any such law, or shall consent to the appointment of or taking possession by a receiver, trustee or other custodian for all or a substantial part of its property: the making by Borrower of any assignment for the benefit of creditors the admission by Borrower in writing of its inability to pay its debts as such debts become due; or Borrower (or any committee thereof) adopts any resolution or otherwise authorizes action to approve any of the foregoing; or

SECTION 7.7 Judgments and Attachments. Any money judgment, writ or warrant of attachment, or similar process involving in any individual case or in the aggregate at any time an amount in excess of $50,000 (not covered by insurance) shall be entered or filed against Borrower or any of its assets by a final, nonappealable order of a court of competent jurisdiction, shall remain outstanding, undischarged, unvacated, unbonded or unstayed for a period of sixty (60) days following such entry or filing; or

SECTION 7.8 Agreements. Any material provision of any Loan Document shall cease to be a valid and binding obligation against Borrower or Borrower shall so state in writing.

THEN (i) upon the occurrence of any Event of Default described in the foregoing Section 7.5 or 7.6 but expressly excluding the other Events of Default in this Article VII), the unpaid principal amount of and accrued interest on the Loans shall automatically become immediately due and payable, without presentment, demand, protest or other requirements of any kind, all of which are hereby expressly waived by Borrower, and the obligations of Lender hereunder shall, thereupon terminate, and (ii) upon the occurrence of any other Event of Default, Lender may, by written notice to Borrower, declare the Loans to be, and the same shall forthwith become, due and payable, as specified below, together with accrued interest thereon.

ARTICLE 8. MISCELLANEOUS

SECTION 8.1 Participations in Loans and Notes.

(a) Lender shall have the right at any time, to sell, assign, transfer, or negotiate all or any part of the Loans or Notes to one or more other Persons. In the case of any sale, assignment, transfer, or negotiation of all or part of the Loans or Notes as authorized under this Section 8.1(a), the assignee, transferee, or recipient shall have, to the extent of such sale, assignment, transfer, or negotiation, the same rights, benefits, and obligations as it would if it were a Lender with respect to the Loans or Notes, provided that no such participant shall have observer rights of the type set forth in Section 5.6 unless all Notes are transferred thereto

(b) Subject to Section 8.1(a) above, Lender may grant participations in all or any part of a Loan or Note to one or more Persons.

(c) In connection with any sales, assignments, or transfers of a Loan or Note referred to in Section 8.1(a), Lender shall give notice to Borrower of the identity of such parties and obtain agreements from the purchasers, assignees and transferees, as the case may be (the "Assignees"), that all information given to such parties will be held in strict confidence pursuant to a confidentiality agreement reasonably satisfactory to Borrower. Borrower shall maintain a register on which it will record the name and address of Lender and all Assignees and shall be entitled to treat the holder or holders of record as Lender for all purposes hereunder.

(d) In the event of an assignment by Lender, or any subsequent assignment, the term "Lender" herein shall be deemed to refer to each such Lender, the term "Note" shall be deemed to refer to each "Note", and any action requiring the consent of Lender shall be deemed to require the consent of Persons holding in excess of 50% of the outstanding principal amount of the applicable Note.

SECTION 8.2 Expenses. Whether or not the transactions contemplated hereby shall be consummated, Borrower agrees to pay promptly: (i) all the actual and reasonable costs and expenses of preparation of the Loan Documents, and of Borrower's performance of and compliance with all agreements and conditions contained herein on its part to be performed or complied with; (ii) the reasonable fees, expenses, and disbursements of counsel, accountants and other third-party consultants to Lender in connection with the negotiation, preparation, execution, and administration of the Loan Documents, and the Loans hereunder, and any amendments and waivers hereto or thereto (other than assignments of, or sales of participants in, a Note pursuant to Section 8.1) and Lender's fees incurred in connection with qualifying to do business in California; and (iii) after the occurrence of an Event of Default, all costs and expenses (including reasonable attorneys' fees) incurred by Lender in enforcing any Obligations of or in collecting any payments due from Borrower hereunder or under a Note by reason of such Event of Default or in connection with any refinancing or restructuring of the credit arrangements provided under this Agreement in the nature of a workout, or any insolvency or bankruptcy proceedings. In all circumstances, none of the expenses described in this Section 8.2 incurred by Lender in connection with the initial preparation of the Loan Documents, including without limitation, all documents relating to the First Loan, Second Loan and Third Loan as of the making of such Loans shall not, in the aggregate, exceed $40,000.00; provided, however, that such limitation shall not apply if an Event of Default, or an event that would become an Event of Default upon the giving of notice or the passage of time, has occurred.

SECTION 8.3 Indemnity. In addition to the payment of expenses pursuant to the terms and conditions of Section 8.2 hereof, whether or not the transactions contemplated hereby shall be consummated, Borrower (an "Indemnitor") agrees to indemnify, pay, and hold Lender and any holder of a Note, and the officers, directors, employees, agents, and Affiliates of Lender and such holders (collectively, the "Indemnitees") harmless from and against any and all other liabilities, obligations, losses, damages, penalties, actions, judgments, suits, claims, costs, expenses and disbursements of any kind or nature whatsoever (including, without limitation the reasonable fees and disbursements of one counsel for such Indemnitees in connection with any investigative, administrative or judicial proceeding commenced or threatened, whether or not such Indemnitee shall be designated a party thereto), which may be imposed on, incurred by, or asserted against that Indemnitee, in any manner relating to or arising out of this Agreement, the other Loan Documents, Lender's agreement to make the Loans or the use or intended use of the proceeds of the Loans hereunder (the "Indemnified Liabilities"), except to the extent that any such Indemnified Liabilities arose at the result of Lender's or any other Indemnitee's gross negligence or willful misconduct. Each Indemnitee shall give the Indemnitor prompt written notice of any claim that might give rise to Indemnified Liabilities setting forth a description of those elements of such claim of which such Indemnitee has knowledge: provided, that any failure to give such notice shall not affect the obligations of the Indemnitor unless (and then solely to the extent) the Indemnitor is prejudiced, The Indemnitor shall have the right at any time during which such claim is pending to select counsel to defend and control the defense thereof and settle any claims for which it is responsible for indemnification hereunder (provided that the Indemnitor will not settle any such claim without (i) the appropriate Indemnitee's prior written consent which consent shall not be unreasonably withheld or (ii) obtaining an unconditional release of the appropriate Indemnitee from all claims arising out of or in any way relating to the circumstances involving such claim) so long as in any such event, the Indemnitor shall have stated in a writing delivered to the Indemnitee that, as between the Indemnitor and the Indemnitee, the Indemnitor is responsible to the Indemnitee with respect to such claim to the extent and subject to the limitations set forth herein provided, that the Indemnitor shall not be entitled to control the defense of any claim in the event that in the reasonable opinion of counsel for the Indemnitee there arc one or more material defenses available to the Indemnitee which are not available to the Indemnitor. To the extent that the undertaking to indemnify, pay and hold harmless set forth in the preceding sentence may be unenforceable because it is violative of any Law or public policy, Borrower shall contribute the maximum portion which it is permitted to pay and satisfy under applicable law, to the payment, and satisfaction of all Indemnified Liabilities incurred by the Indemnitees or any of them.

SECTION 8.4 Amendments and Waivers. No amendment, modification, termination or waiver of any provision of this Agreement or of a Note, or consent to any departure by Borrower therefrom, shall in any event be effective without the written concurrence of the Borrower and holders of Persons holding in excess of 50% of the outstanding principal amount of the applicable Loan; *provided* that no amendment, modification, waiver, or consent shall, unless in writing and signed by Lender, any of the following: (a) increase or subject Lender to any additional obligations; (b) reduce the principal of, or interest on a Note or any fees, premiums, or other amounts payable hereunder; (c) postpone any date fixed for any payment of principal of, or premium or interest on, a Note or any fees or other amounts payable hereunder; or (d) amend this Section 8.4. Any waiver or consent shall be effective only in the specific instance and for the specific purpose for which it was given. No notice to or demand on Borrower in any case shall entitle Borrower to, any further notice or demand in similar or other circumstances. Any amendment, modification, termination, waiver, or consent effected in accordance with this Section 8.4 shall be binding upon each holder of a Note at the time outstanding and each future holder of a Note. To the fullest extent permitted by applicable Law, Borrower shall not assert, and Borrower hereby waives, and acknowledges that no other Person shall have, any claim against any Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, any Loan or the use of the proceeds thereof.

SECTION 8.5 Independence of Covenants. All covenants hereunder shall be given independent effect so that if a particular action or condition is not permitted by, any of such covenants, the fact that it would be permitted by an exception to, or be otherwise within the limitation of, another covenant shall not avoid the occurrence of an Event of Default if such action is taken or condition exists.

SECTION 8.6 Notices. All notices, demands or other communications to be given or delivered under or by reason of the provisions of this Agreement shall be in writing and delivered personally, mailed by certified or registered mail, return receipt requested and postage prepaid, sent via a nationally recognized overnight courier, or via electronic mail. Such notices, demands and other communications will be sent to the address indicated below:

To Borrower:

Denim.LA, Inc.
8899 Beverly Blvd., Suite 100B
West Hollywood, CA 90048
Attn: Mark Lynn
Email: mtl@mtl.la

With a copy (which shall not constitute notice to Borrower) to:

Timothy F. Silvestre
Strategic Law Partners, LLP
500 South Grand Avenue, #2050
Los Angeles, CA 90071
Email: tsilvestre@strategiclaw.com

To Lender:

bocm3-DSTLD-Senior Debt, LLC
c/o bocm3, LLC
175 South Main Street, Suite 1030
Salt Lake City, Utah 84111
Attention: Gregory D. Seare Email: greg@blackoakcp.com

With a copy (which shall not constitute notice to Lender) to:

Michael Best & Friedrich LLP
6995 Union Park Center, Suite 100
Salt Lake City, Utah 84047
Attention: Stuart Fredman
Email: safredman@michaelbest.com

or such other address or to the attention of such other Person as the recipient party shall have specified by prior written notice to the sending party*provided*, that the failure to deliver copies of notices as indicated above shall not affect the validity of any notice. Any such communication shall be deemed to have been received (i) when delivered, if personally delivered, or sent by nationally recognized overnight courier or sent via facsimile or (ii) on the third Business Day following the date on which the piece of mail containing such communication is posted if sent by certified or registered mail.

SECTION 8.7 Survival of Representations and Warranties and Certain Agreements.

(a) All agreements, representations and warranties made herein shall survive the execution and delivery of this Agreement, the making of the Loans hereunder and the execution and delivery of each Note and shall continue (but, with respect to representations and warranties, such representations and warranties are made only as of the date when made pursuant to Section 4) until repayment of the Notes and the Obligations in full; *provided*, that if all or any part of such payment is set aside, the representations and warranties in the Loan Documents shall continue as if no such payment had been made.

(b) Notwithstanding anything in this Agreement or implied by law to the contrary, the agreements of Borrower set forth in Sections 8.2 and 8.3 shall survive the payment of each Loan and Note and the termination of this Agreement.

SECTION 8.8 Failure or Indulgence Not Waiver; Remedies Cumulative. No failure or delay on the part of any Lender or any holder of a Note in the exercise of any power, right or privilege hereunder or under a Note shall impair such power, right or privilege or be construed to be a waiver of any default or acquiescence therein, nor shall any single or partial exercise of any such power, right or privilege preclude other or further exercise thereof or of any other right, power or privilege. All rights and remedies existing under this Agreement or a Note are cumulative to and not exclusive of, any rights or remedies otherwise available.

SECTION 8.9 Severability. In case any provision in or obligation under this Agreement or a Note shall be invalid, illegal or unenforceable in any jurisdiction, the

validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

SECTION 8.10 Headings. Section and subsection headings in this Agreement are included herein far convenience of reference only and shall not constitute a part of this Agreement for any other purpose or be given any substantive effect.

SECTION 8.11 Applicable Law. THE AGREEMENT AND THE NOTES SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF UTAH WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAWS. BORROWER AND LENDER HEREBY WAIVE, TO THE EXTENT PERMITTED BY APPLICABLE LAW, TRIAL BY JURY IN ANY LITIGATION IN ANY COURT WITH RESPECT TO, IN CONNECTION WITH, OR ARISING OUT OF THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE VALIDITY, PROTECTION, INTERPRETATION, COLLECTION OR ENFORCEMENT THEREOF. Each party hereto hereby irrevocably submits and consents to the exclusive venue and jurisdiction of the state and federal courts located in the County of Salt Lake, State of Utah and waives any objection it may now or hereafter have to venue or to convenience of forum with respect to any matter arising out of this Agreement, the Notes or the Loans. Any final judgment rendered against a party in any action or proceeding shall be conclusive as to the subject of such final judgment and may be enforced in other jurisdictions.

SECTION 8.12 Successors and Assigns; Subsequent Holders of a Note. This Agreement shall be binding upon the parties hereto and their respective successors and assigns and shall inure to the benefit of the parties hereto and the successors and assigns of Lender. The terms and provisions of this Agreement and all other certificates delivered pursuant to Section 3 shall inure to the benefit of any assignee or transferee of a Note pursuant toSection 8.1(a), and in the event of such transfer or assignment, the rights and privileges herein conferred upon Lender shall automatically extend to and be vested in such transferee or assignee, all subject to the terms and conditions hereof. Borrower's rights or any interest therein hereunder may not be assigned without the written consent of Lender.

SECTION 8.13 Counterparts; Effectiveness. This Agreement and any amendments, consents, or supplements may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument. This Agreement shall become effective upon the execution of a counterpart hereof by each of the parties hereto, and written or electronic notification of such execution and authorization of delivery thereof has been received by Borrower and Lender.

SECTION 8.14 Entire Agreement. This Agreement and the other Loan Documents embody the entire agreement between the parties and supersede all prior agreements and understandings, if any, relating to the subject matter hereof and thereof.

SECTION 8.15 Attorneys' Fees. In any action brought to enforce any provision(s) of this Agreement, in addition to any other relief granted, the substantially prevailing party shall recover its costs of enforcement, including without limitation costs and actual attorneys' fees incurred therein.

[*Signature page follows*]

IN WITNESS WHEREOF the due execution hereof by the respective duly authorized officers of the undersigned as of the date first written above.

DENIM.LA, INC.

DocuSigned by:
A053A425E2F74B6...

By: _____
Name: Mark Lynn
Title: Co-CEO

BOCM3-DSTLD-SENIOR DEBT, LLC

By: _____
Name:
Title:

STOCKHOLDERS

DocuSigned by:
A053A425E2F74B6...

Mark Lynn Several Liability Percentage: 49

DocuSigned by:
C4D4DFA2F95B4F8...

Corey Epstein Several Liability Percentage: 51

[*Signature page to Senior Credit Agreement of Denim.LA, Inc.*]

IN WITNESS WHEREOF the due execution hereof by the respective duly authorized officers of the undersigned as of the date first written above.

DENIM.LA, INC.

By: _____
Name: _____
Title: _____

BOCM3-DSTLD-SENIOR DEPT, LLC

Name: 

Title: 

STOCKHOLDERS

_____
Mark Lynn

_____
Kevin Morris

_____
Corey Epstein

[*Signature page to Senior Credit Agreement of Denim. LA, Inc.*]

EXHIBIT A

FORM OF NOTE

EXHIBIT B

FORM OF WARRANT

EXHIBIT C

BORROWER FORMATION DOCUMENTS

EXHIBIT D

FORM OF COMPLIANCE CERTIFICATE

AMENDMENT NO. 1 TO SENIOR CREDIT AGREEMENT

This AMENDMENT NO. 1 TO SENIOR CREDIT AGREEMENT is made as of July 1, 2017, by and among Denim.LA, Inc., a Delaware corporation d/b/a DSTLD ("Borrower"), the stockholders of Borrower signatories below (the "Stockholders"), and bocm3-DSTLD-Senior Debt, LLC, a Utah limited liability company ("Lender").

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:

ARTICLE I.
DEFINITIONS

When used herein, the following terms shall have the following meanings specified:

1.1 "Amendment" shall mean this Amendment No. 1 to Senior Credit Agreement.

1.2 "Credit Agreement" shall mean the Senior Credit Agreement dated as of March 10, 2017, by and among Borrower, Lender and the Stockholders, as further amended, modified, supplemented, extended or restated from time to time.

1.3 Other Capitalized Terms. All capitalized terms used in this Amendment and not specifically defined herein shall have the definitions assigned to such terms in the Credit Agreement.

ARTICLE II.
AMENDMENTS TO CREDIT AGREEMENT

2.1 Amendments. The Credit Agreement is hereby amended as follows:

(a) Section 1.1. The following replace the existing definition in Section 1.1 in its entirety:

> "Closing Date" means each of the Initial Closing Date, Second Closing Date, and the date or dates Lender makes any Remaining Loans.

(b) Section 2.1(b) Amendment. Section 2.1(b) is hereby deleted in its entirety and replaced with the following:

> Remaining Loans. Subject to the terms and conditions of this Agreement and in reliance upon the representations and warranties of Borrower herein set forth, Lender further may loan Borrower an amount such that the First Loan plus the Second Loan plus the additional loan total up to $4,000,000.00 (each, a "Remaining Loan", and together with the First Loan and the Second Loan, the "Loans") at any time after Borrower delivers to Lender a monthly financial statement showing that Borrower's

TTM Gross Sales totaled at least $5,000,000.00 and upon Borrower providing Lender with at least forty-five (45) days' prior written notice of Borrower's request for the Remaining Loans, and provided that (i) Lender has funding for the Remaining Loans which Lender has sought on a best-efforts basis and (ii) Borrower has received an additional $1,000,000.00 from sales of Borrower equity after the Subsequent Initial Funding Date. Lender may make the Remaining Loans in one or more installments in multiples of $50,000.00 at any time or times until August 31, 2017. Concurrent with the delivery by Lender of Remaining Loan proceeds to Borrower, Borrower shall execute and deliver to Lender a Note dated as of the date of such funding in the principal amount of such Remaining Loan.

(c) Section 2.4. Section 2.4 is hereby deleted in its entirety and replaced with the following:

Fees. Borrower shall pay to bocm3, LLC a nonrefundable closing fee of 5% of the amount of the First Loan plus all accounting and legal fees arising out of the Loan and the preparation of this Agreement (the "First Closing Fee") to offset transaction costs of bocm3, LLC and its Affiliates; provided, however, that Lender's accounting and legal fees arising out of the Loan and the preparation of this Agreement prior to the Effective Date shall not exceed $40,000.00. The First Closing Fee shall be payable on the Initial Closing Date, and may be withheld from the proceeds of the First Loan. The First Closing Fee, once paid, shall be nonrefundable under all circumstances. Upon the funding of the Second Loan on the Second Closing Date and the funding of each Remaining Loan, if any, Borrower shall pay to bocm3, LLC a nonrefundable closing fee of 5% of the amount of the Second Loan and each Remaining Loan, if any (the "Subsequent Closing Fees") to offset transaction costs of bocm3, LLC and its Affiliates. The Subsequent Closing Fees shall be payable on the applicable Closing Date, and may be withheld from the proceeds of the applicable Loan.

(d) Section 2.6. Section 2.6 is hereby deleted in its entirety and replaced with the following:

Warrants. Borrower has duly authorized the issuance to Lender of warrants to purchase Borrower's common stock representing 1% of the Capital Stock of Borrower on a fully-diluted basis on the Closing Date of the Second Loan (the "First Warrant") for each $1 million of the principal amount of the Loans on the Closing Date of the Second Loan, which shall be pro rated based on the actual amount of the Loans, at an exercise price of $0.16 per share. The First Warrant shall be in the form attached hereto as Exhibit B and shall be issued even in the event the Initial Committed Amount is not loaned to Borrower in full. Upon making each Remaining

Loan, Borrower shall issue to Lender warrants to purchase Borrower's common stock such that Lender shall have warrants to purchase 1% of the Capital Stock of Borrower on a fully-diluted basis on the Closing Date of each Remaining Loan, if any (the "Second Warrant") for each $1 million of the principal amount of each Remaining Loan on the Closing Date of such Remaining Loan, which shall be pro rated based on the actual amount of the Remaining Loan, at an exercise price of $0.16 per share. The Second Warrant shall be in the form attached hereto as Exhibit B.

2.2 Miscellaneous Amendments. The Credit Agreement, the Notes, and all other agreements and instruments executed and delivered heretofore or hereafter pursuant to the Credit Agreement are amended hereby so that any reference therein to the Credit Agreement shall be deemed to be a reference to such agreements and instruments as amended by or pursuant to this Amendment.

ARTICLE III.
REPRESENTATIONS AND WARRANTIES OF BORROWER

Borrower hereby represents and warrants to Lender that:

3.1 Credit Agreement. All of the representations and warranties made by Borrower in the Credit Agreement are true and correct on the date of this Amendment, except to the extent such representation or warranty relates to a specified earlier date, in which case it continues to be true and correct as of such date. No Event of Default under the Credit Agreement has occurred and is continuing as of the date of this Amendment.

3.2 Authorization; Enforceability. The making, execution and delivery of this Amendment and performance of and compliance with the terms of this Amendment and the terms of the Credit Agreement, as amended hereby, has been duly authorized by all necessary company action by Borrower. This Amendment is the valid and binding obligation of Borrower, enforceable against Borrower in accordance with its terms subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

3.3 Absence of Conflicting Obligations. The making, execution and delivery of this Amendment and performance of and compliance with the terms of this Amendment and the terms of the Credit Agreement, as amended hereby, do not violate any presently existing provision of law or the articles or certificate of formation, certificate of organization or operating agreement of Borrower or any agreement to which Borrower is a party or by which it or any of its assets is bound.

ARTICLE IV.
MISCELLANEOUS

4.1 Continuance of Credit Agreement. Except as specifically amended by this Amendment, the Credit Agreement shall remain in full force and effect.

4.2 Survival. All agreements, representations and warranties made in this Amendment or in any documents delivered pursuant to this Amendment shall survive the execution of this Amendment and the delivery of any such document.

4.3 Governing Law. This Amendment shall be governed by, and construed and interpreted in accordance with, the laws of the State of Utah applicable to agreements made and wholly performed within such state. The parties hereto acknowledge that this Amendment was negotiated with the assistance of counsel and, accordingly, such laws shall be applied without reference to any rules of construction regarding the draftsman hereof.

4.4 Counterparts; Headings. This Amendment may be executed in several counterparts, each of which shall be deemed an original, but such counterparts shall together constitute but one and the same agreement. Article and section headings in this Amendment are inserted for convenience of reference only and shall not constitute a part hereof.

4.5 Severability. Any provision of this Amendment which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this Amendment in such jurisdiction or affecting the validity or enforceability of any provision in any other jurisdiction.

4.6 Conditions. The effectiveness of this Amendment is subject to Lender having received from Borrower such documents and other materials as Lender shall request, in form and substance satisfactory to Lender and its counsel, including without limitation duly executed copies of this Amendment, and the payment of all fees and expenses pursuant to Section 5.9 of this Amendment.

4.7 Course of Dealing; Consent. Borrower acknowledges that neither previous waivers, extensions, and amendments granted to Borrower by Lender, nor the amendments and waivers granted herein, create any course of dealing or expectation with respect to any further waivers, extensions, or amendments, and Borrower further acknowledges that Lender has no obligation whatsoever to grant any additional waivers, extensions, amendments, or forbearance.

4.8 No Defenses. Borrower acknowledges it has no defenses, rights of setoff, or rights of recoupment to the enforceability or payment of any of its obligations under the Credit Agreement as amended hereby.

4.9 Expenses and Attorneys' Fees. Borrower shall pay (a) all fees and expenses (including attorney's fees) incurred by Lender in connection with the preparation, execution, and delivery of this Amendment, and all prior legal fees and expenses (including attorney's fees) incurred by each Lender in connection with the Credit Agreement and (b) all fees and expenses

(including attorney's fees) incurred by Borrower in connection with the preparation, execution, and delivery of this Amendment on the date hereof, all subject to the restriction set forth in Section 2.4 of the Credit Agreement.

4.10 Further Assurances. Borrower shall promptly execute and deliver or cause to be executed and delivered to Lenders within a reasonable time following Lender's request, and at the expense of Borrower, such other documents or instruments as Lender may reasonably require to in order to give effect to the intent and purposes of this Amendment.

[*Signature page follows*]

IN WITNESS WHEREOF, the parties hereto have executed this Amendment No. 1 to Senior Credit Agreement as of the day and year first written above.

DENIM.LA, INC.

By: DocuSigned by: ________________
Name: Mark Lynn
Title: Co-CEO

BOCM3-DSTLD-SENIOR DEBT, LLC

By: ________________
Name: ________________
Title: ________________

STOCKHOLDERS

DocuSigned by: ________________
Mark Lynn

DocuSigned by: ________________
Corey Epstein

[Signature page to Amendment No. 1 to Senior Credit Agreement]

AMENDMENT NO. 2 TO CREDIT AGREEMENT, SECURITY AGREEMENT AND MANAGEMENT AGREEMENT

This AMENDMENT NO. 2 TO CREDIT AGREEMENT, SECURITY AGREEMENT and MANAGEMENT AGREEMENT is made as of March 30, 2018, by and among Denim.LA, Inc., a Delaware corporation doing business as "DSTLD" ("Borrower"), the stockholders of Borrower signatories below (the "Stockholders"), bocm3-DSTLD-Senior Debt, LLC, a Utah limited liability company ("First Lender") and bocm3-DSTLD-Senior Debt 2, LLC, a Utah limited liability company ("Second Lender" and together with the First Lender, the "Lenders").

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:

ARTICLE I.
DEFINITIONS

When used herein, the following terms shall have the following meanings specified:

1.1 "Amendment" shall mean this Amendment No. 2 to Credit Agreement, Security Agreement and Management Agreement.

1.2 "Credit Agreement" shall mean the Senior Credit Agreement dated as of March 10, 2017, by and among the Borrower, Stockholders and First Lender, as amended by that certain Ame3ndment No. 1 to Senior Credit Agreement, dated as of July __, 2017, and as further amended, modified, supplemented, extended or restated from time to time.

1.3 "Management Agreement" shall mean the Management Advisory Services Agreement dated as of March 10, 2017, by and among the Borrower and First Lender, as further amended, modified, supplemented, extended or restated from time to time.

1.4 "Security Agreement" shall mean the Security Agreement dated as of March 10, 2017, by and among the Borrower and First Lender, as further amended, modified, supplemented, extended or restated from time to time.

1.5 Other Capitalized Terms. All capitalized terms used in this Amendment and not specifically defined herein shall have the definitions assigned to such terms in the Credit Agreement.

ARTICLE II.
AMENDMENTS TO CREDIT AGREEMENT

2.1 Amendments. The Credit Agreement is hereby amended as follows:

(a) Recitals. The following is added as the second Recital to the Credit Agreement:

WHEREAS Borrower has requested that Second Lender lend to Borrower up to an additional $1,000,000 in the form of a term loan to provide working capital to maintain and expand the operations of Borrower and to pay fees and expenses, and Second Lender is willing to agree to lend such amount on the terms and conditions of this Agreement.

(b) Section 1.1. The following are added as a definition to Section 1.1 or replace the existing definitions in their entirety:

"Second Lender" means bocm3-DSTLD-Senior Debt 2, LLC, a Utah limited liability company.

"Note Maturity Date" means the third anniversary of the Closing Date of the Fourth Additional Loan.

"Closing Date" means each of the Initial Closing Date, Second Closing Date and the dates First Lender made any Remaining Loans and the date or Dates Second Lender made any Additional Loans.

"Lender" means First Lender and Second Senior and shall include any assignees of a Loan or a Note pursuant to the terms and conditions of Section 8.1 hereof.

(c) Section 2.1(d). The following Section 2.1(d) is hereby added:

Additional Loans. Subject to the terms and conditions of this Agreement and in reliance upon the representations and warranties of Borrower herein set forth, Second Lender hereby agrees to make additional loans to Borrower (the "Additional Loans", and together with the First Loan, Second Loan and Remaining Loans, the "Loans") on the terms and conditions set forth in this Section 2.1(d). Second Lender shall make the first Additional Loan on or about March 30, 2018 in the amount of $50,000 (the "First Additional Loan"). Second Lender shall make the second Additional Loan on or about April 13, 2018 in the amount of $400,000 (the "Second Additional Loan"). Second Lender shall make the third Additional Loan on or about April 27, 2018 in the amount of $275,000 (the "Third Additional Loan"). Second Lender shall make the fourth Additional Loan on or about May 11, 2018 in the amount of $275,000 (the "Fourth Additional Loan"). Concurrent with the delivery by Second Lender of Additional Loan proceeds to the Borrower, Borrower shall execute and deliver to Second Lender a Note dated as of the date of such funding in the principal amount of such Additional Loan.

(e) Section 2.3(a)(i). The following is added at the end of Section 2.3(a)(i):

If a prepayment is made on or before the first anniversary of the Closing Date of the Fourth Additional Loan, such prepayment shall include a prepayment fee equal to the greater of (A) all interest that would have been

paid on such amount prepaid on or prior to the first anniversary of the applicable Closing Date as if such prepayment had not been made or (B) the principal amount being repaid multiplied by 2.50%. If a prepayment is made after the first anniversary of the Closing Date of the Fourth Additional Loan but before the second anniversary of such Closing Date, such prepayment shall include a prepayment fee equal to the principal amount being repaid multiplied by 2.00%.

(g) Section 2.4. The following is added at the end of Section 2.4:

With respect to each Additional Loan, (as and if made), Borrower shall pay to bocm3, LLC, with respect to any Additional Loans made by Second Lender a nonrefundable closing fee of 5% of the amount of such Loan (the "Additional Loan Closing Fee") to offset transaction costs of bocm3, LLC and its Affiliates. The Additional Loan Closing Fee with respect to each Additional Loan shall be payable on the date each such Additional Loan is made, and may be withheld from the proceeds of such Additional Loan. The Additional Loan Closing Fee, once paid, shall be nonrefundable under all circumstances.

(h) Section 2.6. The following is added at the end of Section 2.6

Borrower shall issue to Second Lender warrants to purchase Borrower's common stock representing 1% of the Capital Stock of the Borrower on a fully-diluted basis on the Closing Date of the each Additional Loan (each an "Additional Warrant") for each $1 million of the principal amount of each Additional Loan on the Closing Date of each Additional Loan, which shall be pro rated based on the actual amount of the Additional Loan, at an exercise price of $0.16 per share. Each Additional Warrant shall be in the form attached hereto as Exhibit B.

(j) Section 5.10. Section 5.10 is hereby deleted in its entirety and replaced with the following:

Monitoring Fee. Borrower shall pay to bocm3, LLC an annual monitoring fee of $60,000.00 (the "Monitoring Fee") so long as any portion of a Loan is outstanding. The Monitoring Fee shall be payable monthly and continuing on the first day of each calendar month thereafter in equal installments of $5,000.

2.2 Miscellaneous Amendments. The Credit Agreement, the Notes, and all other agreements and instruments executed and delivered heretofore or hereafter pursuant to the Credit Agreement are amended hereby so that any reference therein to the Credit Agreement shall be deemed to be a reference to such agreements and instruments as amended by or pursuant to this Amendment.

ARTICLE III.
AMENDMENT TO SECURITY AGREEMENT

3.1 Amendment. The Security Agreement is hereby amended to add Second Lender as a "Secured Party" to the Security Agreement.

ARTICLE IV.
AMENDMENT TO MANAGEMENT AGREEMENT

4.1 Amendment. The Management Agreement is hereby amended as follows:

(a) Section 5. Section 5 is hereby deleted in its entirety and replaced with the following:

Compensation of BOCM. DSTLD shall pay to BOCM a cash and consulting management fee equal to $60,000 per annum beginning on April 1, 2018, payable on a monthly basis in arrears in equal installments of $5,000 and the first calendar day of every month thereafter.

(b) Section 6. Section 6 is hereby deleted in its entirety and replaced with the following:

Term. This Agreement will commence as of the date hereof and will remain in effect until May 11, 2021; provided, however, that this Agreement shall be automatically terminated upon the repayment of all amounts payable by DSTLD pursuant to that certain Senior Credit Agreement, of even date herewith, by and among DSTLD, bocm3-DSTLD-Senior Debt, LLC and certain shareholders of DSTLD.

ARTICLE V.
REPRESENTATIONS AND WARRANTIES OF THE BORROWERS

The Borrower hereby represents and warrants to the Lender that:

5.1 Credit Agreement. Except as previously discussed between Lender and Borrower, all of the representations and warranties made by Borrower in the Credit Agreement are true and correct on the date of this Amendment, except to the extent such representation or warranty relates to a specified earlier date, in which case it continues to be true and correct as of such date. No Event of Default under the Credit Agreement has occurred and is continuing as of the date of this Amendment.

5.2 Authorization; Enforceability. The making, execution and delivery of this Amendment and performance of and compliance with the terms of this Amendment and the terms of the Credit Agreement, as amended hereby, has been duly authorized by all necessary company action by Borrower. This Amendment is the valid and binding obligation of Borrower, enforceable against Borrower in accordance with its terms subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

5.3 Absence of Conflicting Obligations. The making, execution and delivery of this Amendment and performance of and compliance with the terms of this Amendment and the terms of the Credit Agreement, as amended hereby, do not violate any presently existing provision of law or the articles or certificate of formation, certificate of organization or operating agreement of Borrower or any agreement to which Borrower is a party or by which it or any of its assets is bound.

ARTICLE VI.
MISCELLANEOUS

6.1 Continuance of Credit Agreement, Security Agreement and Management Agreement. Except as specifically amended by this Amendment, the Credit Agreement, Security Agreement and Management Agreement shall remain in full force and effect.

6.2 Survival. All agreements, representations and warranties made in this Amendment or in any documents delivered pursuant to this Amendment shall survive the execution of this Amendment and the delivery of any such document.

6.3 Governing Law. This Amendment shall be governed by, and construed and interpreted in accordance with, the laws of the State of Utah applicable to agreements made and wholly performed within such state. The parties hereto acknowledge that this Amendment was negotiated with the assistance of counsel and, accordingly, such laws shall be applied without reference to any rules of construction regarding the draftsman hereof.

6.4 Counterparts; Headings. This Amendment may be executed in several counterparts, each of which shall be deemed an original, but such counterparts shall together constitute but one and the same agreement. Article and section headings in this Amendment are inserted for convenience of reference only and shall not constitute a part hereof.

6.5 Severability. Any provision of this Amendment which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this Amendment in such jurisdiction or affecting the validity or enforceability of any provision in any other jurisdiction.

6.6 Conditions. The effectiveness of this Amendment is subject to Lender having received from Borrower such documents and other materials as Lender shall request, in form and substance satisfactory to Lender and its counsel, including without limitation duly executed copies of this Amendment, and the payment of all fees and expenses pursuant to Section 5.9 of this Amendment.

6.7 Course of Dealing; Consent. Borrower acknowledges that neither previous waivers, extensions, and amendments granted to Borrower by Lender, nor the amendments and waivers granted herein, create any course of dealing or expectation with respect to any further waivers, extensions, or amendments, and Borrower further acknowledges that Lender has no obligation whatsoever to grant any additional waivers, extensions, amendments, or forbearance.

6.8 No Defenses. Borrower acknowledges it has no defenses, rights of setoff, or rights of recoupment to the enforceability or payment of any of its obligations under the Credit Agreement as amended hereby.

6.9 Expenses and Attorneys' Fees. Borrower shall pay (a) all fees and expenses (including attorney's fees) incurred by Lender in connection with the preparation, execution, and delivery of this Amendment, and all prior legal fees and expenses (including attorney's fees) incurred by each Lender in connection with the Credit Agreement and (b) all fees and expenses (including attorney's fees) incurred by Borrower in connection with the preparation, execution, and delivery of this Amendment on the date hereof, all subject to the restriction set forth in Section 2.4 of the Credit Agreement.

6.10 Further Assurances. Borrower shall promptly execute and deliver or cause to be executed and delivered to Lenders within a reasonable time following Lender's request, and at the expense of Borrower, such other documents or instruments as Lender may reasonably require to in order to give effect to the intent and purposes of this Amendment.

[*Signature page follows*]

IN WITNESS WHEREOF, the parties hereto have executed this Amendment No. 2 to Credit Agreement & Security Agreement and Management Agreement as of the day and year first written above.

DENIM.LA, INC.

By: DocuSigned by:
Name: Mark T. Lynn
Title: CO-CEO

BOCM3-DSTLD-SENIOR DEBT, LLC

By: /s/ Gregory David Seare
Name: Gregory David Seare
Title: Founder and Managing Director.

BOCM3-DSTLD-SENIOR DEBT 2, LLC

By: /s/ Gregory David Seare
Name: Gregory David Seare
Title: Founder and Managing Director.

STOCKHOLDERS

Mark Lynn

DocuSigned by:
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Corey Epstein

DocuSigned by:
C4D4DFA2F9584F8...

[*Signature page to Amendment No. 2 to Credit Agreement & Security Agreement and Management Agreement*]

LIMITED WAIVER AND AMENDMENT NO. 3 TO SENIOR CREDIT AGREEMENT

This Limited Waiver and Amendment No. 3 to Senior Credit Agreement (this "Limited Waiver") is made and entered into as of April 30 2018 by and among Denim.LA, Inc., a Delaware corporation d/b/a DSTLD ("DSTLD"), the stockholders of DSTLD signatories below ("Stockholders"), and bocm3-DSTLD-Senior Debt, LLC, a Utah limited liability company ("Lender").

RECITALS

A. DSTLD, Stockholders and Lenders entered into that certain Senior Credit Agreement, dated March 10, 2017 (the "Credit Agreement"), as amended.

B. DSTLD has requested that Lenders temporarily waive certain covenants of the Credit Agreement, which Lenders have agreed to do on the terms and conditions set forth herein.

NOW THEREFORE, the parties agree as follows:

1. Through December 31, 2017 (such date the "Expiration Date"), the Lender hereby consents and permits DSTLD to maintain a ratio of total current assets of DSTLD as of the last day of each calendar month to total current liabilities of Borrower as of the last day of such calendar month (a "Minimum Current Ratio") of 1.10, notwithstanding anything to the contrary set forth in Section 5.13 of the Credit Agreement. Lender hereby waives any default by DSTLD solely under Section 5.13 of the Credit Agreement arising from DSTLD having a Minimum Current Ratio of less than 1.25. From and after the Expiration Date, so long as the Credit Agreement is in effect, DSTLD shall maintain a Minimum Current Ratio of 1.25.

2. DSTLD hereby acknowledges and agrees that all of its obligations under the Credit Agreement, except as specifically set forth herein, shall remain in full force and effect.

3. DSTLD agrees to pay those professional fees owing to Lenders pursuant to the Credit Agreement and in connection with preparing this Limited Waiver.

4. This Limited Waiver shall be governed and construed in accordance with the provisions of the Credit Agreement.

5. DSTLD acknowledges that neither previous waivers, extensions, and amendments granted to DSTLD by any Lender, nor the amendments and waivers granted herein, create any course of dealing or expectation with respect to any further waivers, extensions, or amendments, and DSTLD further acknowledges that Lenders have no obligation whatsoever to grant any additional waivers, extensions, amendments, or forbearance. DSTLD acknowledges it has no defenses, rights of setoff, or rights of recoupment to the enforceability or payment of any of its obligations under the Credit Agreement as amended hereby.

6. No Event of Default under the Credit Agreement has occurred and is continuing as of the date of this Amendment.

7. This Limited Waiver may be executed in any number of counterparts, each of which shall be enforceable against the parties actually executing such counterparts, and all of which together shall constitute one instrument. This Limited Waiver may be executed by facsimile or scanned electronic signature.

IN WITNESS WHEREOF, the parties have executed this Limited Waiver and Amendment No. 3 to Senior Credit Agreement as of the date first written above.

DENIM.LA, INC. d/b/a DSTLD

DocuSigned by:

By: _____
A053A425E2F74B6...

Name: Mark Lynn

Title: Mark T. Lynn, Co-CEO

BOCM3-DSTLD-SENIOR DEBT, LLC

By: _____

Name:

Title: _____

STOCKHOLDERS

Mark Lynn

DocuSigned by:

_____
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Corey Epstein

DocuSigned by:

_____
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AMENDMENT NO. 4 TO SENIOR CREDIT AGREEMENT

This Amendment No. 4 to Senior Credit Agreement (this "Amendment") is made and entered into as of February 28, 2019 by and among Denim.LA, Inc., a Delaware corporation d/b/a DSTLD ("DSTLD"), the stockholders of DSTLD signatories below ("Stockholders"), bocm3-DSTLD-Senior Debt, LLC, a Utah limited liability company ("First Lender") and bocm3-DSTLD-Senior Debt 2, LLC, a Utah limited liability company ("Second Lender" and together with the First Lender, the "Lenders").

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:

ARTICLE I.
DEFINITIONS

When used herein, the following terms shall have the following specified meanings:

1.1 "Amendment" shall mean this Amendment No. 4 to Senior Credit Agreement.

1.2 "Credit Agreement" shall mean the Senior Credit Agreement dated as of March 10, 2017, by and among the Borrower, Stockholders and First Lender, as amended by that certain Amendment No. 1 to Senior Credit Agreement, dated as of July __, 2017, that certain Amendment No. 2 to Credit Agreement, Security Agreement and Management, dated as of March __, 2018, and that certain Limited Waiver and Amendment No. 3 to Senior Credit Agreement, dated as of April __, 2018, and as further amended, modified, supplemented, extended or restated from time to time.

1.3 Other Capitalized Terms. All capitalized terms used in this Amendment and not specifically defined herein shall have the definitions assigned to such terms in the Credit Agreement.

ARTICLE II.
AMENDMENTS TO CREDIT AGREEMENT

2.1 Amendments. The Credit Agreement is hereby amended as follows:

(a) Section 2.1(d). Section 2.1(d) is hereby deleted in its entirety and replaced with the following.

Additional Loans. Subject to the terms and conditions of this Agreement and in reliance upon the representations of Borrower herein set forth, Second Lender hereby agrees to make an additional loan to Borrower (the "Additional Loan", and together with the First Loan, Second Loan and Remaining Loans, the "Loans") on the terms and conditions set forth in this Section 2.1(d). Second Lender agrees hereby agrees to lend to Borrower an Additional Loan of up to $1,000,000 on or about February 28, 2019, provided that Second Lender has funding for the

Additional Loan which Second Lender has sought on a best-efforts basis. Concurrent with the delivery by Second Lender of the Additional Loan proceeds to the Borrower, Borrower shall execute and deliver to Second Lender a note dated as of the date of such funding in the principal amount of such Additional Loan.

(b) Section 2.3(a)(ii). The following is hereby added at the end of Section 2.3(a)(ii):

Following the occurrence of an initial public offering of the Capital Stock of Borrower raising more than $11,000,000 in equity, Second Lender shall have the right, but not the obligation, to require Borrower to repay the Loans pro rata in increments of $250,000 per each additional $1,000,000 in equity raised (the date such additional funds are raised, an "Additional Funding Date"). No fewer than five (5) Business Days after an Additional Funding Date, Borrower shall give a written notice to Second Lender stating that such funds have been raised. Second Lender shall, within ten (10) Business Days of receipt of such notice, notify Borrower if it will require a prepayment hereunder. Such prepayment shall be due within thirty (30) days of an Additional Funding Date.

(c) Section 2.4. The following is hereby added at the end of Section 2.4:

With respect to the Additional Loan, borrower shall pay to bocm3, LLC, a nonrefundable closing fee of 5% of the amount of the Additional Loan (the "Additional Loan Closing Fee"), with such fee payable on a pro rata basis relative to the amount of any Additional Loan actually funded, plus all accounting, legal fees and third party consultant fees arising out of the Additional Loan to offset transaction costs of bocm3, LLC and its Affiliates. A pro rata portion of the Additional Loan Closing Fee shall be payable on the date of funding of each draw of the Additional Loan is made, and may be withheld from the proceeds of such Additional Loan proceeds.

(d) Section 2.6. The last sentence of Section 2.6 is hereby deleted in its entirety and replaced with the following:

Borrower shall issue to Second Lender warrants to purchase Borrower's common stock representing 1.358% of the Capital Stock of Borrower on a fully-diluted basis on the Closing Date of the Additional Loan (each an "Additional Warrant') for each $250,000 of the principal amount of the Additional Loan on the Closing date of such Additional Loan, which shall be pro rate based on the actual amount of the Additional Loan, at an exercise price of $0.16 per share. Each Additional Warrant shall be in the form attached hereto as Exhibit B.

2.2 Miscellaneous Amendments. The Credit Agreement, the Notes, and all other agreements and instruments executed and delivered heretofore or hereafter pursuant to the Credit Agreement are amended hereby so that any reference therein to the Credit Agreement shall be

deemed to be a reference to such agreements and instruments as amended by or pursuant to this Amendment.

ARTICLE III.
REPRESENTATIONS AND WARRANTIES OF THE BORROWERS

The Borrower hereby represents and warrants to the Lenders that:

3.1 Credit Agreement. All of the representations and warranties made by Borrower in the Credit Agreement are true and correct on the date of this Amendment, except to the extent such representation or warranty relates to a specified earlier date, in which case it continues to be true and correct as of such date. No Event of Default under the Credit Agreement has occurred and is continuing as of the date of this Amendment.

3.2 Authorization; Enforceability. The making, execution and delivery of this Amendment and performance of and compliance with the terms of this Amendment and the terms of the Credit Agreement, as amended hereby, has been duly authorized by all necessary company action by Borrower. This Amendment is the valid and binding obligation of Borrower, enforceable against Borrower in accordance with its terms subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

3.3 Absence of Conflicting Obligations. The making, execution and delivery of this Amendment and performance of and compliance with the terms of this Amendment and the terms of the Credit Agreement, as amended hereby, do not violate any presently existing provision of law or the articles or certificate of formation, certificate of organization or operating agreement of Borrower or any agreement to which Borrower is a party or by which it or any of its assets is bound.

ARTICLE IV.
MISCELLANEOUS

4.1 Continuance of Credit Agreement. Except as specifically amended by this Amendment, the Credit Agreement shall remain in full force and effect.

4.2 Survival. All agreements, representations and warranties made in this Amendment or in any documents delivered pursuant to this Amendment shall survive the execution of this Amendment and the delivery of any such document.

4.3 Governing Law. This Amendment shall be governed by, and construed and interpreted in accordance with, the laws of the State of Utah applicable to agreements made and wholly performed within such state. The parties hereto acknowledge that this Amendment was negotiated with the assistance of counsel and, accordingly, such laws shall be applied without reference to any rules of construction regarding the draftsman hereof.

4.4 Counterparts; Headings. This Amendment may be executed in several counterparts, each of which shall be deemed an original, but such counterparts shall together

constitute but one and the same agreement. Article and section headings in this Amendment are inserted for convenience of reference only and shall not constitute a part hereof.

4.5 Severability. Any provision of this Amendment which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this Amendment in such jurisdiction or affecting the validity or enforceability of any provision in any other jurisdiction.

4.6 Conditions. The effectiveness of this Amendment is subject to Lender having received from Borrower such documents and other materials as Lender shall request, in form and substance satisfactory to Lender and its counsel, including without limitation duly executed copies of this Amendment, and the payment of all fees and expenses pursuant to Section 5.9 of this Amendment.

4.7 Course of Dealing; Consent. Borrower acknowledges that neither previous waivers, extensions, and amendments granted to Borrower by Lender, nor the amendments and waivers granted herein, create any course of dealing or expectation with respect to any further waivers, extensions, or amendments, and Borrower further acknowledges that Lender has no obligation whatsoever to grant any additional waivers, extensions, amendments, or forbearance.

4.8 No Defenses. Borrower acknowledges it has no defenses, rights of setoff, or rights of recoupment to the enforceability or payment of any of its obligations under the Credit Agreement as amended hereby.

4.9 Expenses and Attorneys' Fees. Borrower shall pay (a) all fees and expenses (including attorney's fees) incurred by Lender in connection with the preparation, execution, and delivery of this Amendment, and all prior legal fees and expenses (including attorney's fees) incurred by each Lender in connection with the Credit Agreement and (b) all fees and expenses (including attorney's fees) incurred by Borrower in connection with the preparation, execution, and delivery of this Amendment on the date hereof, all subject to the restriction set forth in Section 2.4 of the Credit Agreement.

4.10 Further Assurances. Borrower shall promptly execute and deliver or cause to be executed and delivered to Lenders within a reasonable time following Lender's request, and at the expense of Borrower, such other documents or instruments as Lender may reasonably require to in order to give effect to the intent and purposes of this Amendment.

[*Signature page follows*]

IN WITNESS WHEREOF, the parties have executed this Amendment No. 4 to Senior Credit Agreement as of the date first written above.

DENIM.LA, INC. d/b/a DSTLD

DocuSigned by:

By: _____
A053A425E2F74B6...

Name: Mark T. Lynn

Title: Chariman

BOCM3-DSTLD-SENIOR DEBT, LLC

By: _____

Name: Gregory David Seare

Title: Founder + Managing Director

BOCM3-DSTLD-SENIOR DEBT 2, LLC

By: _____

Name: Gregory David Seare

Title: Founder + Managing Director

STOCKHOLDERS

Mark Lynn

DocuSigned by:

_____
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Corey Epstein

DocuSigned by:

_____
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Exhibit 10.13

AMENDMENT NO. 5 TO SENIOR CREDIT AGREEMENT & SECURITY AGREEMENT

This Amendment No. 5 to Senior Credit Agreement & Security Agreement (this "Amendment") is made and entered into as of February 7, 2020, by and among Denim.LA, Inc., a Delaware corporation d/b/a DSTLD (the "Borrower"), the stockholders of the Borrower signatories below ("Stockholders"), bocm3-DSTLD-Senior Debt, LLC, a Utah limited liability company ("First Lender") and bocm3-DSTLD-Senior Debt 2, LLC, a Utah limited liability company ("Second Lender" and together with the First Lender, the "Lenders").

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:

ARTICLE I.
DEFINITIONS

When used herein, the following terms shall have the following specified meanings:

1.1 "Amendment" shall mean this Amendment No. 5 to Senior Credit Agreement & Security Agreement, as amended, restated, supplemented or otherwise modified from time to time.

1.2 "Credit Agreement" shall mean the Senior Credit Agreement dated as of March 10, 2017, by and among the Borrower, Stockholders and First Lender, as amended by that certain Amendment No. 1 to Senior Credit Agreement, dated as of July 1 , 2017 (" Amendment No. 1"), that certain Amendment No. 2 to Credit Agreement, Security Agreement and Management, dated as of March 30, 2018 ("Amendment No. 2"), and that certain Limited Waiver and Amendment No. 3 to Senior Credit Agreement, dated as of April 30, 2018 ("Amendment No. 3"), that certain Amendment No. 4 to Senior Credit Agreement, dated as of February 28, 2019 ("Amendment No. 4" and, together with Amendment No. 1, Amendment No. 2 and Amendment No. 3, collectively, the " Amendments"), and as further amended, modified, supplemented, extended or restated from time to time.

1.3 "Security Agreement" shall mean the Security Agreement dated as of March 10, 2017, by and among the Borrower and Lenders, as amended by the applicable Amendments and as further amended, modified, supplemented, extended or restated from time to time

1.4 Other Capitalized Terms. All capitalized terms used in this Amendment and not specifically defined herein shall have the definitions assigned to such terms in the Credit Agreement or the Security Agreement, as applicable.

ARTICLE II.
AMENDMENTS TO CREDIT AGREEMENT

2.1 Amendments. The Credit Agreement is hereby amended as follows:

(a) Section 1.1. The following replaces the existing definition of such term in Section 1.1 in its entirety or adds such definition to Section 1.1:

"Bailey Collateral" means the "Collateral" (as such term is defined in the Norwest Pledge Agreement as of the date hereof).

"Norwest Note" means that certain Secured Promissory Note, dated as of the date hereof, by Borrower in favor of Norwest Venture Partners XI, LP and Norwest Venture Partners XII, LP, in the initial principal amount of $4,500,000, as in existence on the date hereof.

"Norwest Pledge Agreement" means that certain Pledge Agreement, dated as of the date hereof, by Borrower in favor of Norwest Venture Partners XI, LP and Norwest Venture Partners XII, LP, as Secured Parties, pledging the Bailey Collateral, as in existence on the date hereof.

"Norwest Permitted Lien" means the Liens on the Bailey Collateral in connection with the Norwest Pledge Agreement.

(b) Section 1.1. The definition of "Permitted Liens" shall be amended by adding a new Section (f) which shall read as follows:

(e) the Norwest Permitted Lien.

"Note Maturity Date" means the earliest to occur of (i) the closing date of the IPO (as defined in the Norwest Note), (ii) the closing date of a Denim Sale (as defined in the Norwest Note) or (iii) September 30, 2020.

(c) Section 6.1. Section 6.1 shall be amended in its entire to read as follows:

Indebtedness. Borrower shall not, directly or indirectly, create, incur, assume, or otherwise become directly or indirectly liable with respect to, any Indebtedness other than (i) Indebtedness under this Agreement, (ii) Indebtedness incurred after the date hereof in the ordinary course of Borrower's operations, consistent with past practice, in an aggregate amount less than $25,000 or (iii) Indebtedness incurred pursuant to the Norwest Note or the Norwest Pledge Agreement; provided, however, that neither the Norwest Note nor the Norwest Pledge Agreement may be amended without Lenders' prior written consent.

2 . 2 Miscellaneous Amendments. The Credit Agreement, the Notes, and all other agreements and instruments executed and delivered heretofore or hereafter pursuant to the Credit Agreement are amended hereby so that any reference therein to the Credit Agreement shall be deemed to be a reference to such agreements and instruments as amended by or pursuant to this Amendment.

ARTICLE III.
AMENDMENTS TO SECURITY AGREEMENT

3.1 Amendment. The Security Agreement is hereby amended to add the following as Section 2(e):

Notwithstanding anything contrary herein or in any other Loan Document, the "Collateral" shall not include any part of the Bailey Collateral, and the Bailey Collateral shall be expressly excluded from the Collateral.

3.2 Filing Authorization. The Secured Party hereby authorizes the Borrower or any of its designees to file UCC-3 financing statement amendments to any UCC-1 financing statement on public record in favor of the Secured Party or any Lender in the form approved by Lenders.

ARTICLE IV.
REPRESENTATIONS AND WARRANTIES OF THE BORROWER

The Borrower hereby represents and warrants to the Lenders that:

4.1 Credit Agreement. All of the representations and warranties made by Borrower in the Credit Agreement are true and correct on the date of this Amendment, except to the extent such representation or warranty relates to a specified earlier date, in which case it continues to be true and correct as of such date. No Event of Default under the Credit Agreement has occurred and is continuing as of the date of this Amendment.

4.2 Capitalization. As of the date hereof, all outstanding Capital Stock of Borrower is held as set forth on Schedule 4.2 All outstanding shares of Capital Stock were duly authorized and validly issued, and are fully paid and nonassessable. As of the Closing Date, except as set forth on Schedule4.2, there are no outstanding securities, options, warrants, rights, or other agreements of any nature that require Borrower to issue any additional Capital Stock.

4.3 Authorization; Enforceability. The making, execution and delivery of this Amendment and performance of and compliance with the terms of this Amendment and the terms of the Credit Agreement, as amended hereby, has been duly authorized by all necessary company action by Borrower. This Amendment is the valid and binding obligation of Borrower, enforceable against Borrower in accordance with its terms subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

4.4 Absence of Conflicting Obligations. The making, execution and delivery of this Amendment and performance of and compliance with the terms of this Amendment and the terms of the Credit Agreement, as amended hereby, do not violate any presently existing provision of law or the articles or certificate of formation, certificate of organization or operating agreement of Borrower or any agreement to which Borrower is a party or by which it or any of its assets is bound.

4.5 Loan Balance. As of the date hereof, the balance of the Loans is $4,667,543.86.

ARTICLE V. MISCELLANEOUS

5.1 Continuance of Credit Agreement. Except as specifically amended by this Amendment, the Credit Agreement shall remain in full force and effect.

5.2 Survival. All agreements, representations and warranties made in this Amendment or in any documents delivered pursuant to this Amendment shall survive the execution of this Amendment and the delivery of any such document.

5.3 Governing Law. This Amendment shall be governed by, and construed and enforced in accordance with, the laws of the State of Utah without regarding to principles of conflicts of laws.. The parties hereto acknowledge that this Amendment was negotiated with the assistance of counsel and, accordingly, such laws shall be applied without reference to any rules of construction regarding the draftsman hereof.

5.4 Counterparts; Headings. This Amendment may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument. Article and section headings in this Amendment are included herein for convenience of reference only and shall not constitute a part of this Amendment for any other purpose or be given any substantive effect.

5.5 Severability. In case any provision in or obligation under this Amendment shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

5.6 Course of Dealing; Consent. Borrower acknowledges that neither previous waivers, extensions, and amendments granted to Borrower by Lender, nor the amendments and waivers granted herein, create any course of dealing or expectation with respect to any further waivers, extensions, or amendments, and Borrower further acknowledges that Lender has no obligation whatsoever to grant any additional waivers, extensions, amendments, or forbearance.

5.7 No Defenses. Borrower acknowledges it has no defenses, rights of setoff, or rights of recoupment to the enforceability or payment of any of its obligations under the Credit Agreement as amended hereby.

5.8 Ex penses and Attorneys ' Fees . Borrower shall pay (a) all fees and expenses (including attorney's fees) incurred by Lender in connection with the preparation, execution, and delivery of this Amendment, and all prior legal fees and expenses (including attorney's fees) incurred by each Lender in connection with the Credit Agreement and (b) all fees and expenses (including attorney's fees) incurred by Borrower in connection with the preparation, execution, and delivery of this Amendment on the date hereof.

5.9 Further Assurances. Borrower shall promptly execute and deliver or cause to be executed and delivered to Lenders within a reasonable time following Lender's request, and at the expense of Borrower, such other documents or instruments as Lender may reasonably require to in order to give effect to the intent and purposes of this Amendment.

[*Signature page follows*]

IN WITNESS WHEREOF, the parties have executed this Amendment No. 5 to Senior Credit Agreement & Security Agreement as of the date first written above.

DENIM.LA, INC. d/b/a DSTLD

DocuSigned by:
Hil Davis
9FCADF80CC7F47D...

By:
Name:
Title:

BOCM3-DSTLD-SENIOR DEBT, LLC

By: /s/ Gregory David Seare
Name: Gregory David Seare
Title: Founder and Managing Director.

BOCM3-DSTLD-SENIOR DEBT 2, LLC

By: /s/ Gregory David Seare
Name: Gregory David Seare
Title: Founder and Managing Director.

STOCKHOLDERS

Mark Lynn

/s/ Mark Lynn

Corey Epstein

/s/ Corey Epstein

[*Signature page to Amendment No. 5 to Credit Agreement & Security Agreement*]

Schedule 4.2

Capitalization

Security Type	Shares
Common	10,377,615
Preferred	40,911,690
Options	20,044,624
Warants	9,684,197
Total	**81,018,126**

ID	Shareholder	Date	Shares
CS-1	Corey Epstein	1/30/2013	6,050,000
CS-2	Ryan Jaleh	1/30/2013	245,060
CS-3	Marcus Martinez	1/30/2013	241,289
CS-4	Anthony Pu	1/30/2013	88,000
CS-5	Amplify.LA Capital II, LLC	1/31/2013	83,124
CS-6	Mark Lynn	10/14/2013	2,688,889
CS-24	Amplify.LA Capital II, LLC	09/12/2016	51,587
CS-25	Baroda Ventures LLC	09/12/2016	36,111
CS-26	Plus Capital, L.P.	09/12/2016	41,269
CS-27	3-4 Surf, GP	09/12/2016	4,578
CS-28	TenOneTen Ventures, LLC	09/12/2016	11,802
CS-29	Randy Nichols	09/12/2016	23,302
CS-30	Dan Brown	09/12/2016	2,927
CS-31	William Essin	09/12/2016	2,343
CS-32	Viking Power	09/12/2016	10,479
CS-33	Scott C. Steigerwald	09/12/2016	18,313
CS-34	Patrick M. Falle	09/12/2016	10,983
CS-35	Siemer Ventures II LP	09/12/2016	55,668
CS-36	North Rim Investments, LLC (Joh	09/12/2016	25,793
CS-37	Unicorn Ventures, LLC	09/12/2016	10,317
CS-38	Yobin Capital, Inc.	09/12/2016	25,793
CS-39	Andrea Berkholtz	09/12/2016	10,317
CS-40	Dan Zigmond	09/12/2016	10,317
CS-41	Sean Brecker	09/12/2016	10,317
CS-42	Everlast Investments, LLC	09/12/2016	257,932

CS-43	SI Selections Fund I, L.P.	09/12/2016	206,346
CS-44	TRIPLE 8 HOLDINGS, LLC	09/12/2016	154,759
			10,377,615

[*Signature page to Amendment No. 5 to Credit Agreement & Security Agreement*]

ID	Shareholder	Round	Date	Shares
PS-125	The Academy, LLC	Series Seed Preferred	10/06/2014	117,284
PS-134	Amplify.LA Capital II, LLC	Series A	09/12/2016	104,166
PS-135	Baroda Ventures LLC	Series A	09/12/2016	72,916
PS-136	Plus Capital, L.P.	Series A	09/12/2016	83,333
PS-137	3-4 Surf, GP	Series A	09/12/2016	9,244
PS-139	Randy Nichols	Series A	09/12/2016	47,054
PS-140	Viking Power	Series A	09/12/2016	21,158
PS-141	Dan Brown	Series A	09/12/2016	5,911
PS-142	Scott C. Steigerwald	Series A	09/12/2016	36,978
PS-143	William Essin	Series A	09/12/2016	4,731
PS-144	Patrick M. Falle	Series A	09/12/2016	22,179
PS-145	Siemer Ventures II LP	Series A	09/12/2016	112,409
PS-146	North Rim Investments, LLC (John Victor	Series A	09/12/2016	52,083
PS-147	Unicorn Ventures, LLC	Series A	09/12/2016	20,833
PS-148	Yobin Capital, Inc.	Series A	09/12/2016	52,083
PS-149	Andrea Berkholtz	Series A	09/12/2016	20,833
PS-150	Dan Zigmond	Series A	09/12/2016	20,833
PS-151	Sean Brecker	Series A	09/12/2016	20,833
PS-152	Everlast Investments, LLC	Series A	09/12/2016	520,833
PS-153	SI Selections Fund I, L.P.	Series A	09/12/2016	416,666
PS-154	TRIPLE 8 HOLDINGS, LLC	Series A	09/12/2016	312,500
PS-155	Seedinvest	Series A	09/12/2016	1,217,548
PS-156	Mark Epstein	Series A	03/31/2017	98,388
PS-157	Seth Elken	Series A	01/27/2017	52,083
PS-158	Seedinvest	Series A	10/10/2016	403,991
PS-159	Seedinvest	Series A	11/09/2016	284,476
PS-160	Seedinvest	Series A	12/12/2016	164,724
PS-161	Seedinvest	Series A	01/30/2017	144,244
PS-162	Seedinvest	Series A	02/14/2017	107,908
PS-163	Seedinvest	Series A	01/09/2017	179,836
PS-164	Seedinvest	Series A	02/27/2017	244,714
PS-165	Seedinvest	Series A	03/13/2017	519,914
PS-166	Seedinvest	Series A	05/12/2017	147,165
PS-167	Seedinvest	Series A	06/02/2017	55,302
PS-168	Seedinvest	Series A	06/08/2017	35,030
PS-169	TenOneTen Ventures, LLC	Series A	09/12/2016	23,829
PS-170	Amplify.LA Capital II, LLC	Series A	06/09/2017	3,555
PS-171	Baroda Ventures LLC	Series A	06/09/2017	2,372
PS-172	Yobin Capital, Inc.	Series A	06/09/2017	1,003
PS-173	Seedinvest	Series A	06/11/2017	5,207
PS-174	Seedinvest	Series A-2	09/20/2017	691,440
PS-175	Seedinvest	Series A-2	10/03/2017	444,600
PS-176	Seedinvest	Series A-2	10/17/2017	342,850
PS-177	Seedinvest	Series A-2	10/31/2017	173,999
PS-178	Seedinvest	Series A-2	11/14/2017	270,646
PS-179	Seedinvest	Series A-2	11/28/2017	330,000
PS-180	Seedinvest	Series A-2	12/11/2017	148,900
PS-181	Seedinvest	Series A-2	12/21/2017	182,331
PS-182	Seedinvest	Series A-2	01/08/2018	203,802
PS-183	Seedinvest	Series A-2	01/22/2018	161,000
PS-184	Seedinvest	Series A-2	02/02/2018	224,000
PS-185	Seedinvest	Series A-2	02/20/2018	103,250
PS-186	Seedinvest	Series A-2	03/02/2018	214,950
PS-187	Seedinvest	Series A-2	03/16/2018	350,200
PS-188	Seedinvest	Series A-2	03/30/2018	851,316
PS-189	Seedinvest	Series A-2	04/13/2018	1,172,158
PS-190	Seedinvest	Series A-2	05/04/2018	67,300
PS-191	StartEngine	Series CF	08/09/2018	124,204
PS-192	Patrick M. Falle	Series A-3	08/24/2018	94,340
PS-193	CherryTree VC	Series A-3	10/18/2018	188,680
PS-194	Seedinvest	Series A-3	10/10/2018	607,367
PS-195	Seedinvest	Series A-3	10/26/2018	1,077,054
PS-196	Seedinvest	Series A-3	11/08/2018	315,910
PS-197	Oswaldo Nascimiento	Series A-3	11/08/2018	300,000

PS-198	Seedinvest	Series A-3	11/21/2018	83,973
PS-199	Seedinvest	Series A-3	12/06/2018	157,960
PS-200	Seedinvest	Series A-3	12/27/2018	449,336
PS-201	Seedinvest	Series A-3	12/30/2018	61,667
PS-202	Scott C. Steigerwald	Series A-3	12/26/2018	111,321
PS-203	Seedinvest	Series A-3	01/10/2019	152,795
PS-204	Seedinvest	Series A-3	01/24/2019	804,814
PS-205	Seedinvest	Series A-3	02/05/2019	1,105,360
PS-206	Seedinvest	Series A-3	02/26/2019	112,365
PS-207	Crowdcube Nominees	Series A-3	02/26/2019	341,056
PS-S40	Zillion, LLC	Series Seed Preferred	10/06/2014	1,838,396
PS-S41	Plus Capital, L.P.	Series Seed Preferred	10/06/2014	367,679
PS-S42	The Kevin Yorn Trust	Series Seed Preferred	10/06/2014	110,303
PS-S43	3-4 Surf, GP	Series Seed Preferred	10/06/2014	183,839
PS-S44	Baroda Ventures LLC	Series Seed Preferred	10/06/2014	183,839
PS-S45	Amplify.LA Capital II, LLC	Series Seed Preferred	10/06/2014	240,400
PS-S46	QueensBridge Fund I, L.P.	Series Seed Preferred	10/06/2014	91,919
PS-S47	Viking Power	Series Seed Preferred	10/06/2014	183,839
PS-S48	Siemer Ventures II LP	Series Seed Preferred	10/06/2014	183,839
PS-S49	Clark W. Landry	Series Seed Preferred	10/06/2014	91,919
PS-S50	Structure Fund LP	Series Seed Preferred	10/06/2014	91,919
PS-S51	Scott C. Steigerwald	Series Seed Preferred	10/06/2014	735,358
PS-S52	Patrick M. Falle	Series Seed Preferred	10/06/2014	441,215
PS-S53	William Essin	Series Seed Preferred	10/06/2014	91,919
PS-S54	Brad Zions	Series Seed Preferred	10/06/2014	91,919
PS-S55	Equity Trust Company Custodian FBO W	Series Seed Preferred	10/06/2014	91,919
PS-S56	Arena Ventures Fund, LP.	Series Seed Preferred	05/21/2015	773,335
PS-S-1	Corey Epstein	Series Seed Preferred	10/06/2014	617,122
PS-S-2	Ryan Jaleh	Series Seed Preferred	10/06/2014	101,847
PS-S-3	Amplify.LA Capital II, LLC	Series Seed Preferred	10/06/2014	1,222,364
PS-S-4	Paige Craig	Series Seed Preferred	10/06/2014	0
PS-S-5	Siemer Ventures II LP	Series Seed Preferred	10/06/2014	1,004,400
PS-S-6	Baroda Ventures LLC	Series Seed Preferred	10/06/2014	773,335
PS-S-7	Plus Capital, L.P.	Series Seed Preferred	10/06/2014	773,139
PS-S-8	Siemer Ventures II LP	Series Seed Preferred	10/06/2014	338,019
PS-S-9	Baroda Ventures LLC	Series Seed Preferred	10/06/2014	241,667
PS-S-10	Dennis Phelps	Series Seed Preferred	10/06/2014	241,381
PS-S-11	CAA Ventures I, L.P.	Series Seed Preferred	10/06/2014	480,470
PS-S-12	SLP Ventures II, LLC	Series Seed Preferred	10/06/2014	238,885
PS-S-13	Crunch Fund I, L.P.	Series Seed Preferred	10/06/2014	713,462
PS-S-14	Welle Family Trust	Series Seed Preferred	10/06/2014	237,022
PS-S-15	SC Worldwide Enterprises LLC	Series Seed Preferred	10/06/2014	237,022
PS-S-16	TenOneTen Ventures, LLC	Series Seed Preferred	10/06/2014	473,881
PS-S-17	Viking Power	Series Seed Preferred	10/06/2014	236,920
PS-S-18	Dennis Phelps	Series Seed Preferred	10/06/2014	236,920
PS-S-19	Amplify.LA Capital II, LLC	Series Seed Preferred	10/06/2014	236,900
PS-S-20	Amplify.LA Capital II, LLC	Series Seed Preferred	10/06/2014	118,450
PS-S-21	Crunch Fund I, L.P.	Series Seed Preferred	10/06/2014	236,879
PS-S-22	Michael Lastoria	Series Seed Preferred	10/06/2014	236,859
PS-S-23	Mark Epstein	Series Seed Preferred	10/06/2014	236,797
PS-S-24	Lanoha Ventures LLC	Series Seed Preferred	10/06/2014	236,756
PS-S-25	Siemer Ventures II LP	Series Seed Preferred	10/06/2014	709,103
PS-S-26	Demarest Films, LLC	Series Seed Preferred	10/06/2014	235,713
PS-S-27	Tom McInerney	Series Seed Preferred	10/06/2014	235,365
PS-S-28	Glenn E. Montgomery	Series Seed Preferred	10/06/2014	117,611
PS-S-29	Dan Brown	Series Seed Preferred	10/06/2014	117,550
PS-S-30	Mark Epstein	Series Seed Preferred	10/06/2014	117,324
PS-S-31	The Bernhard J. and Diane H. Welle Fam	Series Seed Preferred	10/06/2014	234,588
PS-S-33	Dave Berlin	Series Seed Preferred	10/06/2014	234,362
PS-S-34	Randy Nichols	Series Seed Preferred	10/06/2014	935,731
PS-S-35	Plus Capital, L.P.	Series Seed Preferred	10/06/2014	185,771
PS-S-36	The Mandel Company	Series Seed Preferred	10/06/2014	185,722
PS-S-37	Zillion, LLC	Series Seed Preferred	10/06/2014	539,088
PS-S-38	Zillion, LLC	Series Seed Preferred	10/06/2014	1,113,940
PS-S-39	Zillion, LLC	Series Seed Preferred	10/06/2014	371,313
PS-S57	StartEngine Broker Dealer	Series A-3	1/30/2020	1,158,931
PS-S58	StartEngine Crowd	Series A-3	1/30/2020	1,368,432
	Total			**40,911,690**

ID	Shareholder	Shares	Strike Price	Grant Date
OG-2	Steve Shaw	100,000	$ 0.15	6/17/2014
OG-3	Dave Kuehl	-	$ 0.15	6/17/2014
OG-4	Anton Jusufi	-	$ 0.15	6/17/2014
OG-5	Jordan Posell	-	$ 0.15	6/17/2014
OG-6	Nika Battle	-	$ 0.15	6/17/2014
OG-7	Mark Lynn	1,344,444	$ 0.15	6/17/2014
OG-8	Mark Lynn	2,016,667	$ 0.15	6/17/2014
OG-9	Isadora Hu	25,000	$ 0.15	6/17/2014
OG-10	Steffen Hoffman	-	$ 0.15	8/1/2013
OG-11	John Tomich	276,541	$ 0.15	6/17/2014
OG-12	William Brian Smith	-	$ 0.15	6/17/2014
OG-13	Anh Vu	-	$ 0.15	6/17/2014
OG-14	Carlos Moscat	-	$ 0.15	6/17/2014
OG-15	Thomas Ocampo	-	$ 0.15	6/17/2014
OG-16	Eleanor Victorioso	-	$ 0.15	6/17/2014
OG-17	Trevor Pettennude	350,000	$ 0.15	6/17/2014
OG-18	Brent Mitchell	-	$ 0.15	6/17/2014
OG-19	Hannah Laverty	25,000	$ 0.15	6/17/2014
OG-20	Damien Sutevski	-	$ 0.10	8/7/2015
OG-21	Eleanor Victorioso	-	$ 0.10	8/7/2015
OG-22	Corey Epstein	1,800,000	$ 0.10	8/7/2015
OG-23	Mark Lynn	1,800,000	$ 0.10	8/7/2015
OG-24	John Tomich	520,000	$ 0.10	8/7/2015
OG-25	Trevor Pettennude	520,000	$ 0.10	8/7/2015
OG-26	Conrad Steenberg	-	$ 0.10	4/1/2015
OG-27	Kevin Morris	-	$ 0.10	8/7/2015
OG-28	Brad Zions	15,000	$ 0.10	8/7/2015
OG-29	Sam Shaffer	25,000	$ 0.10	8/7/2015
OG-30	Kevin Morris	-	$ 0.16	1/1/2016
OG-31	Paul Roughley	500,000	$ 0.16	7/1/2016
OG-32	Laura Sokol	25,000	$ 0.16	2/27/2017
OG-33	Shervin Lalezari	-	$ 0.16	7/5/2016
OG-34	Laura Gramlich	-	$ 0.16	1/28/2016
OG-35	Tiffany Chen	-	$ 0.16	1/1/2017
OG-36	Michelle Finney	25,000	$ 0.16	1/1/2017
OG-37	Micheal Uytengsu	250,000	$ 0.16	2/2/2016
OG-38	Zack Wilson	25,000	$ 0.16	2/2/2016
OG-39	Brock Pierce	15,000	$ 0.16	12/1/2016
OG-40	Nick Lehman (re:DSTLD.com sale)	300,000	$ 0.16	1/1/2016
OG-41	Jordan Isenberg	-	$ 0.16	2/2/2016
OG-42	Seth Elken	25,000	$ 0.16	2/2/2016
OG-43	Mark Epstein	35,000	$ 0.16	2/2/2016
OG-44	Sarah Zapp	25,000	$ 0.16	2/2/2016
OG-45	Hil Davis	1	$ 0.21	3/1/2018
OG-46	Kevin Morris	-	$ 0.21	5/23/2018
OG-47	Geoff McFarlane	100,000	$ 0.21	5/23/2018
OG-48	Trevor Pettennude	50,000	$ 0.21	5/23/2018
OG-49	John Tomich	-	$ 0.21	5/23/2018
OG-50	Mark Lynn	50,000	$ 0.21	5/23/2018
OG-51	Corey Epstein	50,000	$ 0.21	5/23/2018
OG-52	Jennifer Stein	-	$ 0.21	5/23/2018
OG-53	Jennifer Stein	-	$ 0.21	8/8/2018
OG-54	Aaron Lifton	-	$ 0.21	8/8/2018
OG-55	Yilin Wang	5,000	$ 0.21	8/8/2018
OG-56	Caitlin Zenisek	5,000	$ 0.21	8/8/2018
OG-57	Amit Shah	-	$ 0.21	8/8/2018
OG-58	Cinthya Alvarado	5,000	$ 0.21	8/8/2018
OG-59	Patrick M. Falle	37,736	$ 0.21	8/24/2018
OG-60	CherryTree VC	75,472	$ 0.21	10/18/2018
OG-61	Oswaldo Nascimiento	120,000	$ 0.21	10/8/2018
OG-62	Trevor Pettennude	125,000	$ 0.21	8/1/2019
OG-63	Laura Dowling	1,000,000	$ 0.21	2/18/2019
OG-64	Reid Yoeman	750,000	$ 0.21	10/1/2019
OG-65	John Wagner	200,000	$ 0.21	11/4/2019
OG-66	Jon Patrick	200,000	$ 0.21	12/1/2019
OG-67	Megan McElwee	1,333,333	$ 0.21	3/1/2018
OG-68	Marc Croggon	1,333,333	$ 0.21	3/1/2018
OG-69	Trevor Pettennude	125,000	$ 0.21	10/1/2019
OG-70	Holly Davis	1,333,334	$ 0.21	3/1/2018
	Not Assigned	3,103,763		
	Total	**20,044,624**		

ID	Shareholder	Type	Grant Date	Shares
2014-1	G Squared Media Holdings, LLC	Common	6/17/2014	10,000
WG-2	TRIPLE 8 HOLDINGS, LLC	Common	6/6/2016	1,800,000
WG-3	SI Securities, LLC	Series A	8/3/2016	157,953
WG-4	bocm3-DSTLD-Senior Debt, LLC	Common	4/7/2017	1,139,398
WG-5	bocm3-DSTLD-Senior Debt, LLC	Common	1/2/2018	610,578
WG-6	bocm3-DSTLD-Senior Debt, LLC	Common	4/9/2018	637,769
WG-7	SI Securities, LLC	Series A-2	7/7/2017	296,637
WG-8	SI Securities, LLC	Series A	1/28/2016	66,000
WG-9	North Capital Private Securities Corporation	Series A	1/28/2016	7,333
WG-10	North Capital Private Securities Corporation	Series A	8/3/2016	17,550
WG-11	bocm4-DSTLD-Senior Debt, LLC	Common	3/12/2019	1,082,973
	Total			**5,826,191**
WG-12	bocm4-DSTLD-Senior Debt, LLC	Common	2/7/2020	1,929,003
WG-13	bocm4-DSTLD-Senior Debt, LLC	Common	2/7/2020	1,929,003
	Total			**9,684,197**

Denim intends to issue stock options to each of its Chief Executive Office and Chief Operating Officer – the number of shares subject to such stock options, and the date of issuance and exercise price of such options has not yet been determined but it is expected that such options could equal up to 30% of the outstanding shares of Denim on a fully converted, fully diluted basis measured as of the effective date of its proposed IPO.

AMENDMENT NO. 6 TO SENIOR CREDIT AGREEMENT

This Amendment No. 6 to Senior Credit Agreement (this "Amendment") is made and entered into as of September 9, 2020, by and among Denim.LA, Inc., a Delaware corporation d/b/a DSTLD (the "Borrower"), the stockholders of the Borrower signatories below ("Stockholders"), bocm3-DSTLD-Senior Debt, LLC, a Utah limited liability company ("First Lender") and bocm3-DSTLD-Senior Debt 2, LLC, a Utah limited liability company ("Second Lender" and together with the First Lender, the "Lenders").

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:

ARTICLE I.

DEFINITIONS

When used herein, the following terms shall have the following specified meanings:

1.1 "Amendment" shall mean this Amendment No. 6 to Senior Credit Agreement, as amended, restated, supplemented or otherwise modified from time to time.

1.2 "Credit Agreement" shall mean that certain Senior Credit Agreement, dated as of March 10, 2017, by and among the Borrower, Stockholders and First Lender, as amended by that certain Amendment No. 1 to Senior Credit Agreement, dated as of July 1, 2017 ("Amendment No. 1"), that certain Amendment No. 2 to Credit Agreement, Security Agreement and Management, dated as of March 30, 2018 ("Amendment No. 2"), and that certain Limited Waiver and Amendment No. 3 to Senior Credit Agreement, dated as of April 30, 2018 ("Amendment No. 3"), that certain Amendment No. 4 to Senior Credit Agreement, dated as of February 28, 2019 ("Amendment No. 4"), and that certain Amendment No. 5 to Senior Credit Agreement and Security Agreement, dated as of February 7, 2020 ("Amendment No. 5", and, together with Amendment No. 1, Amendment No. 2, Amendment No. 3 and Amendment No. 4, collectively, the "Amendments"), and as further amended, modified, supplemented, extended or restated from time to time.

1.3 Other Capitalized Terms. All capitalized terms used in this Amendment and not specifically defined herein shall have the definitions assigned to such terms in the Credit Agreement.

ARTICLE II.
AMENDMENTS TO CREDIT AGREEMENT

2.1 Amendments. The Credit Agreement is hereby amended as follows:

(a) Section 1.1. The definition of "Note Maturity Date" in Section 1.1 of the Credit Agreement is hereby deleted and replaced with the following:

"Note Maturity Date" means June 30, 2021.

(b) Section 2.1(d). Section 2.1(d) is hereby deleted in its entirety and replaced with the following.

Additional Loans. Subject to the terms and conditions of this Agreement and in reliance upon the representations of Borrower herein set forth, Second Lender hereby agrees to make one or more additional loans to Borrower (the "Additional Loans", and together with the First Loan, Second Loan and Remaining Loans, the "Loans"), as set forth in this Section 2.1(d). Second Lender agrees hereby agrees to lend to Borrower (i) an Additional Loan of up to $1,000,000 on or about February 28, 2019, (ii) an Additional Loan of up to $1,000,000 on or about August [·], 2020, provided, in each case, that Second Lender has funding for each such Additional Loan, which Second Lender has sought on a best-efforts basis. Second Lender may make up to $2,000,000 of Additional Loans in Second Lender's sole discretion; provided, however, that Second Lender shall waive the carried interest payable by any investor introduced to Second Lender by Borrower that provides at least $250,000 to Second Lender. Concurrent with the delivery by Second Lender of the Additional Loan proceeds to the Borrower set forth in the preceding sentence, Borrower shall execute and deliver to Second Lender a note dated as of the applicable date of such funding in the principal amount of such Additional Loan. The use of proceeds for any such Additional Loans shall be as agreed by Second Lender and Borrower.

(c) Section 2.3(b). The following is hereby appended to the end of the final sentence of Section 2.3(b) of the Credit Agreement:

provided, however, that, notwithstanding anything in this Agreement to the contrary, for the Interest Payment Dates that would otherwise occur with respect to the calendar months of July 2020 through and including September 2020 Borrower shall not be required to pay interest in cash; provided, however that a total of $172,260.59 shall be added to the principal balance of the Loans as a result of such deferral.

(d) Section 2.4. The last sentence of Section 2.4 is hereby deleted in its entirety and replaced with the following:

With respect to each Additional Loan, borrower shall pay to bocm3, LLC, a nonrefundable closing fee of 5% of the amount of such Additional Loan (the "Additional Loan Closing Fee"), with such fee payable on a pro rata basis relative to the amount of any Additional Loan actually funded, plus all accounting, legal fees and third party consultant fees arising out of such Additional Loan to offset transaction costs of bocm3, LLC and its Affiliates; provided, however, that Second Lender shall waive the Additional Loan Closing Fee with respect to any investor introduced to Second Lender by Borrower that provides at least $250,000 to Second Lender. A pro rata portion of the Additional Loan Closing Fee shall be

payable on the date of funding of each draw of the Additional Loan is made, and may be withheld from the proceeds of such Additional Loan proceeds.

(e) Section 2.6. The last sentence of Section 2.6 is hereby deleted in its entirety and replaced with the following:

Borrower shall issue to Second Lender warrants to purchase Borrower's common stock representing 1.358% of the Capital Stock of Borrower on a fully-diluted basis on the Closing Date of each Additional Loan (each an "Additional Warrant") for each $250,000 of the principal amount of the Additional Loans funded on the Closing date of such Additional Loan, which shall be prorated based on the actual amount of such Additional Loan, at an exercise price of $0.16 per share. Each Additional Warrant shall be in the form attached hereto as Exhibit B.

2.2 Miscellaneous Amendments. The Credit Agreement, the Notes, and all other agreements and instruments executed and delivered heretofore or hereafter pursuant to the Credit Agreement are amended hereby so that any reference therein to the Credit Agreement shall be deemed to be a reference to such agreements and instruments as amended by or pursuant to this Amendment.

ARTICLE III.
REPRESENTATIONS AND WARRANTIES OF THE BORROWERS

The Borrower hereby represents and warrants to the Lenders that:

3.1 Credit Agreement. All of the representations and warranties made by Borrower in the Credit Agreement are true and correct on the date of this Amendment, except to the extent such representation or warranty relates to a specified earlier date, in which case it continues to be true and correct as of such date. No Event of Default under the Credit Agreement has occurred and is continuing as of the date of this Amendment.

3.2 Authorization; Enforceability. The making, execution and delivery of this Amendment and performance of and compliance with the terms of this Amendment and the terms of the Credit Agreement, as amended hereby, has been duly authorized by all necessary company action by Borrower. This Amendment is the valid and binding obligation of Borrower, enforceable against Borrower in accordance with its terms subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

3.3 Absence of Conflicting Obligations. The making, execution and delivery of this Amendment and performance of and compliance with the terms of this Amendment and the terms of the Credit Agreement, as amended hereby, do not violate any presently existing provision of law or the articles or certificate of formation, certificate of organization or operating agreement of Borrower or any agreement to which Borrower is a party or by which it or any of its assets is bound.

ARTICLE IV.
MISCELLANEOUS

4.1 Continuance of Credit Agreement. Except as specifically amended by this Amendment, the Credit Agreement shall remain in full force and effect.

4.2 Survival. All agreements, representations and warranties made in this Amendment or in any documents delivered pursuant to this Amendment shall survive the execution of this Amendment and the delivery of any such document.

4.3 Governing Law. This Amendment shall be governed by, and construed and interpreted in accordance with, the laws of the State of Utah applicable to agreements made and wholly performed within such state. The parties hereto acknowledge that this Amendment was negotiated with the assistance of counsel and, accordingly, such laws shall be applied without reference to any rules of construction regarding the draftsman hereof.

4.4 Counterparts; Headings. This Amendment may be executed in several counterparts, each of which shall be deemed an original, but such counterparts shall together constitute but one and the same agreement. Article and section headings in this Amendment are inserted for convenience of reference only and shall not constitute a part hereof.

4.5 Severability. Any provision of this Amendment which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this Amendment in such jurisdiction or affecting the validity or enforceability of any provision in any other jurisdiction.

4.6 Conditions. The effectiveness of this Amendment is subject to Lender having received from Borrower such documents and other materials as Lender shall request, in form and substance satisfactory to Lender and its counsel, including without limitation duly executed copies of this Amendment, and the payment of all fees and expenses pursuant to Section 4.9 of this Amendment.

4.7 Course of Dealing; Consent. Borrower acknowledges that neither previous waivers, extensions, and amendments granted to Borrower by Lender, nor the amendments and waivers granted herein, create any course of dealing or expectation with respect to any further waivers, extensions, or amendments, and Borrower further acknowledges that Lender has no obligation whatsoever to grant any additional waivers, extensions, amendments, or forbearance.

4.8 No Defenses. Borrower acknowledges it has no defenses, rights of setoff, or rights of recoupment to the enforceability or payment of any of its obligations under the Credit Agreement as amended hereby.

4.9 Expenses and Attorneys' Fees. Borrower shall pay (a) all fees and expenses (including attorney's fees) incurred by Lender in connection with the preparation, execution, and delivery of this Amendment, and all prior legal fees and expenses (including attorney's fees) incurred by each Lender in connection with the Credit Agreement and (b) all fees and expenses (including attorney's fees) incurred by Borrower in connection with the preparation, execution,

and delivery of this Amendment on the date hereof, all subject to the restriction set forth in Section 2.4 of the Credit Agreement.

4.10 Further Assurances. Borrower shall promptly execute and deliver or cause to be executed and delivered to Lenders within a reasonable time following Lender's request, and at the expense of Borrower, such other documents or instruments as Lender may reasonably require to in order to give effect to the intent and purposes of this Amendment.

[*Signature page follows*]

IN WITNESS WHEREOF, the parties have executed this Amendment No. 6 to Senior Credit Agreement as of the date first written above.

DENIM.LA, INC. d/b/a DSTLD

By: DocuSigned by: Hil Davis
Name: HIT Davis
Title: CEO

BOCM3-DSTLD-SENIOR DEBT, LLC

By: DocuSigned by:
Name: Gregory D. Seare
Title: Manager

BOCM3-DSTLD-SENIOR DEBT 2, LLC

By: DocuSigned by:
Name: Gregory D. Seare
Title: Manager

STOCKHOLDERS

Mark Lynn

DocuSigned by: Mark Lynn

Corey Epstein

DocuSigned by: Corey Epstein

[*Signature page to Amendment No. 6 to Credit Agreement*]

Exhibit 10.15

AMENDMENT NO. 7 TO SENIOR CREDIT AGREEMENT

This Amendment No. 7 to Senior Credit Agreement (this "Amendment") is made and entered into as of March __, 2021, by and among Denim.LA, Inc., a Delaware corporation d/b/a DSTLD (the "Borrower"), the stockholders of the Borrower signatories below ("Stockholders"), bocm3-DSTLD-Senior Debt, LLC, a Utah limited liability company ("First Lender") and bocm3-DSTLD-Senior Debt 2, LLC, a Utah limited liability company ("Second Lender" and together with the First Lender, the "Lenders").

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:

ARTICLE I.
DEFINITIONS

When used herein, the following terms shall have the following specified meanings:

1.1 "Amendment" shall mean this Amendment No. 7 to Senior Credit Agreement, as amended, restated, supplemented or otherwise modified from time to time.

1.2 "Credit Agreement" shall mean that certain Senior Credit Agreement, dated as of March 10, 2017, by and among the Borrower, Stockholders and First Lender, as amended by that certain Amendment No. 1 to Senior Credit Agreement, dated as of July 1, 2017 (" Amendment No. 1"), that certain Amendment No. 2 to Credit Agreement, Security Agreement and Management, dated as of March 30, 2018 ("Amendment No. 2"), and that certain Limited Waiver and Amendment No. 3 to Senior Credit Agreement, dated as of April 30, 2018 ("Amendment No. 3"), that certain Amendment No. 4 to Senior Credit Agreement, dated as of February 28, 2019 ("Amendment No. 4"), that certain Amendment No. 5 to Senior Credit Agreement and Security Agreement, dated as of February 7, 2020 (" Amendment No. 5"), and that certain Amendment No. 6 to Senior Credit Agreement, dated as of September 9, 2020 ("Amendment No. 6" and, together with Amendment No. 1, Amendment No. 2, Amendment No. 3 Amendment No. 4 and Amendment No. 5, collectively, the "Amendments"), and as further amended, modified, supplemented, extended or restated from time to time.

1.3 Other Capitalized Terms. All capitalized terms used in this Amendment and not specifically defined herein shall have the definitions assigned to such terms in the Credit Agreement.

ARTICLE II.
AMENDMENTS TO CREDIT AGREEMENT

2.1 Amendments. The Credit Agreement is hereby amended as follows:

(a) Section 1.1. The following definition is added to Section 1.1 of the Credit Agreement:

"Public Offering" means a secondary public offering of Borrower stock in which Borrower receives at least $5,000,000.

(b) Section 1.1. The definition of "Note Maturity Date" in Section 1.1 of the Credit Agreement is hereby deleted and replaced with the following:

"Note Maturity Date" means December 31, 2022.

(c) Section 2.3(a)(ii). The following is hereby appended to the end of Section 2.3(a)(ii) of the Credit Agreement:

Provided that the Public Offering occurs on or before July 31, 2021, Borrower shall pay the Lenders $3,000,000 (the "Public Offering Payment") within five (5) Business Days of the Public Offering in partial repayment of the Loans. If Borrower has an additional public offering of stock on or before September 30, 2021 in which the Company raises at least $3,000,000, Borrower shall repay the Loans within five (5) Business Days of such additional public offering of stock. If after timely making the Public Offering Payment Borrower does not have an additional public offering of stock on or before September 30, 2021 in which the Company raises at least $3,000,000, Borrower shall repay $300,000 of the Loans on or before September 30, 2021.

(d) Section 2.3(b). The following shall be added as the last sentence of Section 2.3(b) of the Credit Agreement:

Borrower shall pay to the Lenders $337,744.88 on or before April 30, 2021, which shall be allocated to prior payments of accrued interest and the Monitoring Fee.

2.2 Limited Waiver. From March 1, 2021 until the Note Maturity Date, provided no Event of Default has occurred and is continuing, the Lenders waive Borrower's obligations under Sections 5.1(a)-5.1(e) of the Credit Agreement.

2.3 Miscellaneous Amendments. The Credit Agreement, the Notes, and all other agreements and instruments executed and delivered heretofore or hereafter pursuant to the Credit Agreement are amended hereby so that any reference therein to the Credit Agreement shall be deemed to be a reference to such agreements and instruments as amended by or pursuant to this Amendment.

ARTICLE III.
REPRESENTATIONS AND WARRANTIES OF THE BORROWERS

The Borrower hereby represents and warrants to the Lenders that:

3.1 Credit Agreement. All of the representations and warranties made by Borrower in the Credit Agreement are true and correct on the date of this Amendment, except to the extent such representation or warranty relates to a specified earlier date, in which case it continues to be true and correct as of such date. No Event of Default under the Credit Agreement has occurred and is continuing as of the date of this Amendment.

3 . 2 Authorization; Enforceability. The making, execution and delivery of this Amendment and performance of and compliance with the terms of this Amendment and the terms of the Credit Agreement, as amended hereby, has been duly authorized by all necessary company action by Borrower. This Amendment is the valid and binding obligation of Borrower, enforceable against Borrower in accordance with its terms subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

3 . 3 Absence of Conflicting Obligations. The making, execution and delivery of this Amendment and performance of and compliance with the terms of this Amendment and the terms of the Credit Agreement, as amended hereby, do not violate any presently existing provision of law or the articles or certificate of formation, certificate of organization or operating agreement of Borrower or any agreement to which Borrower is a party or by which it or any of its assets is bound.

ARTICLE IV.
MISCELLANEOUS

4.1 Continuance of Credit Agreement. Except as specifically amended by this Amendment, the Credit Agreement shall remain in full force and effect.

4.2 Survival. All agreements, representations and warranties made in this Amendment or in any documents delivered pursuant to this Amendment shall survive the execution of this Amendment and the delivery of any such document.

4.3 Governing Law. This Amendment shall be governed by, and construed and interpreted in accordance with, the laws of the State of Utah applicable to agreements made and wholly performed within such state. The parties hereto acknowledge that this Amendment was negotiated with the assistance of counsel and, accordingly, such laws shall be applied without reference to any rules of construction regarding the draftsman hereof.

4 . 4 Counterparts; Headings. This Amendment may be executed in several counterparts, each of which shall be deemed an original, but such counterparts shall together constitute but one and the same agreement. Article and section headings in this Amendment are inserted for convenience of reference only and shall not constitute a part hereof.

4 . 5 Severability. Any provision of this Amendment which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this Amendment in such jurisdiction or affecting the validity or enforceability of any provision in any other jurisdiction.

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4 . 6 Conditions. The effectiveness of this Amendment is subject to Lender having received from Borrower such documents and other materials as Lender shall request, in form and substance satisfactory to Lender and its counsel, including without limitation duly executed copies of this Amendment, and the payment of all fees and expenses pursuant to Section 4.9 of this Amendment.

4 . 7 Course of Dealing; Consent. Borrower acknowledges that neither previous waivers, extensions, and amendments granted to Borrower by Lender, nor the amendments and waivers granted herein, create any course of dealing or expectation with respect to any further waivers, extensions, or amendments, and Borrower further acknowledges that Lender has no obligation whatsoever to grant any additional waivers, extensions, amendments, or forbearance.

4 . 8 No Defenses. Borrower acknowledges it has no defenses, rights of setoff, or rights of recoupment to the enforceability or payment of any of its obligations under the Credit Agreement as amended hereby.

4.9 Expenses and Attorneys' Fees . Borrower shall pay (a) all fees and expenses (including attorney's fees) incurred by Lender in connection with the preparation, execution, and delivery of this Amendment, and all prior legal fees and expenses (including attorney's fees) incurred by each Lender in connection with the Credit Agreement and (b) all fees and expenses (including attorney's fees) incurred by Borrower in connection with the preparation, execution, and delivery of this Amendment on the date hereof, all subject to the restriction set forth in Section 2.4 of the Credit Agreement.

4.10 Further Assurances. Borrower shall promptly execute and deliver or cause to be executed and delivered to Lenders within a reasonable time following Lender's request, and at the expense of Borrower, such other documents or instruments as Lender may reasonably require to in order to give effect to the intent and purposes of this Amendment.

[*Signature page follows*]

IN WITNESS WHEREOF, the parties have executed this Amendment No. 7 to Senior Credit Agreement as of the date first written above.

DENIM.LA, INC. d/b/a DSTLD

By: Hil Darvis
Name: Hil Darvis
Title: CEO

BOCM3-DSTLD-SENIOR DEBT, LLC

By: Gregory D. Seare
Name: Gregory D. Seare
Title: Manager

BOCM3-DSTLD-SENIOR DEBT 2, LLC

By: Gregory D. Seare

Name: Gregory D. Seare
Title: Manager

STOCKHOLDERS

Mark Lynn

/s/ Mark Lynn

Corey Epstein

/s/ Corey Epstein

CHASE

NOTE

Date	04/10/2020
Note Amount	$ 203994
Borrower	Denim.LA, Inc
Lender	JPMorgan Chase Bank, N.A.

1. **PROMISE TO PAY.**

   Borrower promises to pay to the order of Lender the Note Amount, plus interest on the unpaid principal balance at the Note Rate, and all other amounts required by this Note.

2. **DEFINITIONS.**

   "CARES Act" means the Coronavirus Aid, Relief, and Economic Security Act.

   "Deferral Period" means the six month period beginning on the date of this Note.

   "Loan" means the loan evidenced by this Note.

   "Maturity Date" means twenty-four (24) months from the date of this Note.

   "Note Rate" means an interest rate of 0.98% Per Annum and interest shall accrue on the unpaid principal balance computed on the basis of the actual number of days elapsed in a year of 360 days.

   "Per Annum" means for a year deemed to be comprised of 360 days.

   "SBA" means the Small Business Administration, an Agency of the United States of America.

3. **CONDITIONS PRECEDENT TO FUNDING OF LOAN.**

   Before the funding of the Loan, the following conditions must be satisfied:

   A. Lender has approved the request for the Loan.

   B. Lender has received approval from SBA to fund the Loan.

4. **PAYMENT TERMS.**

   Borrower will pay this Note as follows:

   A. No Payments During Deferral Period. There shall be no payments due by Borrower during the Deferral Period.

B. Principal and Interest Payments. Commencing one month after the expiration of the Deferral Period, and continuing on the same day of each month thereafter until the Maturity Date, Borrower shall pay to Lender monthly payments of principal and interest, each in such equal amount required to fully amortize the principal amount outstanding on the Note on the last day of the Deferral Period by the Maturity Date.

C. Maturity Date. On the Maturity Date, Borrower shall pay to Lender any and all unpaid principal plus accrued and unpaid interest plus interest accrued during the Deferral Period. This Note will mature on the Maturity Date.

D. If any payment is due on a date for which there is no numerical equivalent in a particular calendar month then it shall be due on the last day of such month. If any payment is due on a day that is not a Business Day, the payment will be made on the next Business Day. The term "Business Day" means a day other than a Saturday, Sunday or any other day on which national banking associations are authorized to be closed.

E. Payments shall be allocated among principal and interest at the discretion of Lender unless otherwise agreed or required by applicable law. Notwithstanding, in the event the Loan, or any portion thereof, is forgiven pursuant to the Paycheck Protection Program under the federal CARES Act, the amount so forgiven shall be applied to principal.

F. Borrower may prepay this Note at any time without payment of any premium.

5. **CERTIFICATIONS.**

Borrower certifies as follows:

A. Current economic uncertainty makes this Loan necessary to support the ongoing operations of Borrower.

B. Loan funds will be used to retain workers and maintain payroll or make mortgage payments, lease payments, and utility payments.

C. During the period beginning on February 15, 2020 and ending on December 31, 2020, Borrower has not and will not receive another loan under this program.

D. Borrower was in operation on February 15, 2020 and (i) had employees for whom it paid salaries and payroll taxes, or (ii) paid independent contractors as reported on a 1099-Misc.

6. **AGREEMENTS.**

Borrower understands and agrees, and waives and releases Lender, as follows:

A. The Loan would be made under the SBA's Paycheck Protection Program. Accordingly, it must be submitted to and approved by the SBA. There is limited funding available under the Paycheck Protection Program and so all applications submitted will not be approved by the SBA.

B. Lender is participating in the Payroll Protection Program to help businesses impacted by the economic impact from COVID-19. However, Lender anticipates high volume and there may be processing delays and system failures along with other issues that interfere with submission of your application to SBA. Lender does not represent or guarantee that it will submit the application before SBA funding is no longer available or at all. You agree that Lender is not responsible or liable to you (i) if the application is not submitted to the SBA until after SBA stops approving applications, for any reason or (ii) if the application is not processed. You forever release and waive any claims against Lender concerning failure to obtain the Loan. This release and waiver applies to but is not limited to any claims concerning Lender's (i) pace, manner or systems for processing or prioritizing applications, or (ii) representations by Lender regarding the application process, the Paycheck Protection Program, or availability of funding. This agreed to release and waiver supersedes any prior communications, understandings, agreements or communications on the issues set forth herein.

C. Forgiveness of the Loan is only available for principal that is used for the limited purposes that qualify for forgiveness under SBA requirements, and that to obtain forgiveness, Borrower must request it and must provide documentation in accordance with the SBA requirements, and certify that the amounts Borrower is requesting to be forgiven qualify under those requirements. Borrower also understands that Borrower shall remain responsible under the Loan for any amounts not forgiven, and that interest payable under the Loan will not be forgiven but that the SBA may pay the Loan interest on forgiven amounts.

D. Forgiveness is not automatic and Borrower must request it. Borrower is not relying on Lender for its understanding of the requirements for forgiveness such as eligible expenditures, necessary records/documentation, or possible reductions due to changes in number of employees or compensation. Rather Borrower will consult the SBA's program materials.

E. The application for this Loan is subject to review and that Borrower may not receive the Loan. The Loan also remains subject to availability of funds under the SBA's Payment Protection Program, and to the SBA issuing an SBA loan number.

7. **DEFAULT.**

Borrower is in default under this Note if Borrower:

A. Fails to make a payment when due under the Note or otherwise fails to comply with any provision of this Note.

B. Does not disclose, or anyone acting on its behalf does not disclose, any material fact to Lender or SBA.

C. Makes, or anyone acting on its behalf makes, a materially false or misleading representation, attestation or certification to Lender or SBA in connection with Borrower's request for this Loan under the CARES Act, or makes a false certification under paragraph 5 of this Note.

D. Fails to comply with all of the provisions of this Note.

E. Becomes the subject of a proceeding under any bankruptcy or insolvency law, has a receiver or liquidator appointed for any part of its business or property, or makes an assignment for the benefit of creditors.

F. Reorganizes, merges, consolidates, or otherwise changes ownership or business structure without Lender's prior written consent.

G. Becomes the subject of a civil or criminal action that Lender believes may materially affect Borrower's ability to pay this Note.

8. **LENDER'S RIGHTS IF THERE IS A DEFAULT.**

Without notice or demand and without giving up any of its rights, Lender may:

A. Require immediate payment of all amounts owing under this Note.
B. Collect all amounts owing from Borrower.
C. File suit and obtain judgment.

9. **LENDER'S GENERAL POWERS.**

Without notice or Borrower's consent, Lender may incur expenses to collect amounts due under this Note and enforce the terms of this Note. Among other things, the expenses may include reasonable attorney's fees and costs. If Lender incurs such expenses, it may demand immediate repayment from Borrower or add the expenses to the principal balance.

10. **GOVERNING LAW AND VENUE; WHEN FEDERAL LAW APPLIES.**

When SBA is the holder, this Note shall be interpreted and enforced under federal law, including SBA regulations. Lender or SBA may use state or local procedures for filing papers, recording documents, giving notice, foreclosing liens, and other purposes. By using such procedures, SBA does not waive any federal immunity from state or local control, penalty, tax, or liability. As to this Note, Borrower may not claim or assert against SBA any local or state law to deny any obligation, defeat any claim of SBA, or preempt federal law.

If the SBA is not the holder, this Note shall be governed by and construed in accordance with the laws of the State of Ohio where the main office of Lender is located. MATTERS REGARDING INTEREST TO BE CHARGED BY LENDER AND THE EXPORTATION OF INTEREST SHALL BE GOVERNED BY FEDERAL LAW (INCLUDING WITHOUT LIMITATION 12 U.S.C. SECTIONS 85 AND 1831u) AND THE LAW OF THE STATE OF OHIO. Borrower agrees that any legal action or proceeding with respect to any of its obligations under this Note may be brought by Lender in any state or federal court located in the State of Ohio, as Lender in its sole discretion may elect. Borrower submits to and accepts in respect of its property, generally and unconditionally, the non-exclusive jurisdiction of those courts. Borrower waives any claim that the State of Ohio is not a convenient forum or the proper venue for any such suit, action or proceeding. The extension of credit that is the subject of this Note is being made by Lender in Ohio.

11. **SUCCESSORS AND ASSIGNS.**

Under this Note, Borrower includes its successors, and Lender includes its successors and assigns.

12. **GENERAL PROVISIONS.**

A. Borrower must sign all documents necessary at any time to comply with the Loan.

B. Borrower's execution of this Note has been duly authorized by all necessary actions of its governing body. The person signing this Note is duly authorized to do so on behalf of Borrower.

C. This Note shall not be governed by any existing or future credit agreement or loan agreement with Lender. The liabilities guaranteed pursuant to any existing or future guaranty in favor of Lender shall not include this Note. The liabilities secured by any existing or future security instrument in favor Lender shall not include this Note.

D. Lender may exercise any of its rights separately or together, as many times and in any order it chooses. Lender may delay or forgo enforcing any of its rights without giving up any of them.

E. Borrower may not use an oral statement of Lender or SBA to contradict or alter the written terms of this Note.

F. If any part of this Note is unenforceable, all other parts remain in effect.

G. To the extent allowed by law, Borrower waives all demands and notices in connection with this Note, including presentment, demand, protest, and notice of dishonor.

H. Borrower's liability under this Note will continue with respect to any amounts SBA may pay Bank based on an SBA guarantee of this Note. Any agreement with Bank under which SBA may guarantee this Note does not create any third party rights or benefits for Borrower and, if SBA pays Bank under such an agreement, SBA or Bank may then seek recovery from Borrower of amounts paid by SBA.

I. Lender reserves the right to modify the Note Amount based on documentation received from Borrower.

13. **ELECTRONIC SIGNATURES.**

Borrower's electronic signature shall have the same force and effect as an original signature and shall be deemed (i) to be "written" or "in writing" or an "electronic record", (ii) to have been signed and (iii) to constitute a record established and maintained in the ordinary course of business and an original written record when printed from electronic files. Such paper copies or "printouts," if introduced as evidence in any judicial, arbitral, mediation or administrative proceeding, will be admissible as between the parties to the same extent and under the same conditions as other original business records created and maintained in documentary form.

14. **BORROWER'S NAME AND SIGNATURE:**

Borrower: Denim.LA, Inc

By: DocuSigned by: John Hilburn Davis 946A7638F45247B...

Printed Name: John Hilburn Davis

Title: CEO

Date Signed: April 13, 2020 | 11:52 AM EDT

	U.S. Small Business Administration	Date: 06.25.2020
	NOTE	Loan Amount: $150,000.00
	(SECURED DISASTER LOANS)	Annual Interest Rate: 3.75%

SBA Loan # 4007348010 **Application #3303986708**

1. **PROMISE TO PAY:** In return for a loan, Borrower promises to pay to the order of SBA the amount of **one hundred and fifty thousand and 00/100 Dollars ($150,000.00)**, interest on the unpaid principal balance, and all other amounts required by this Note.

2. **DEFINITIONS: A)** "Collateral" means any property taken as security for payment of this Note or any guarantee of this Note. **B)** "Guarantor" means each person or entity that signs a guarantee of payment of this Note. **C)** "Loan Documents" means the documents related to this loan signed by Borrower, any Guarantor, or anyone who pledges collateral.

3. **PAYMENT TERMS:** Borrower must make all payments at the place SBA designates. Borrower may prepay this Note in part or in full at any time, without notice or penalty. Borrower must pay principal and interest payments of **$731.00** every **month** beginning **Twelve (12)** months from the date of the Note. SBA will apply each installment payment first to pay interest accrued to the day SBA receives the payment and will then apply any remaining balance to reduce principal. All remaining principal and accrued interest is due and payable **Thirty (30) years** from the date of the Note.

4. **DEFAULT:** Borrower is in default under this Note if Borrower does not make a payment when due under this Note, or if Borrower: **A)** Fails to comply with any provision of this Note, the Loan Authorization and Agreement, or other Loan Documents; **B)** Defaults on any other SBA loan; **C)** Sells or otherwise transfers, or does not preserve or account to SBA's satisfaction for, any of the Collateral or its proceeds; **D)** Does not disclose, or anyone acting on their behalf does not disclose, any material fact to SBA; **E)** Makes, or anyone acting on their behalf makes, a materially false or misleading representation to SBA; **F)** Defaults on any loan or agreement with another creditor, if SBA believes the default may materially affect Borrower's ability to pay this Note; **G)** Fails to pay any taxes when due; **H)** Becomes the subject of a proceeding under any bankruptcy or insolvency law; **I)** Has a receiver or liquidator appointed for any part of their business or property; **J)** Makes an assignment for the benefit of creditors; **K)** Has any adverse change in financial condition or business operation that SBA believes may materially affect Borrower's ability to pay this Note; **L)** Dies; **M)** Reorganizes, merges, consolidates, or otherwise changes ownership or business structure without SBA's prior written consent; or, **N)** Becomes the subject of a civil or criminal action that SBA believes may materially affect Borrower's ability to pay this Note.

5. **SBA'S RIGHTS IF THERE IS A DEFAULT:** Without notice or demand and without giving up any of its rights, SBA may: **A)** Require immediate payment of all amounts owing under this Note; **B)** Have recourse to collect all amounts owing from any Borrower or Guarantor (if any); **C)** File suit and obtain judgment; **D)** Take possession of any Collateral; or **E)** Sell, lease, or otherwise dispose of, any Collateral at public or private sale, with or without advertisement.

6. **SBA'S GENERAL POWERS:** Without notice and without Borrower's consent, SBA may: **A)** Bid on or buy the Collateral at its sale or the sale of another lienholder, at any price it chooses; **B)** Collect amounts due under this Note, enforce the terms of this Note or any other Loan Document, and preserve or dispose of the Collateral. Among other things, the expenses may include payments for property taxes, prior liens, insurance, appraisals, environmental remediation costs, and reasonable attorney's fees and costs. If SBA incurs such expenses, it may demand immediate reimbursement from Borrower or add the expenses to the principal balance; **C)** Release anyone obligated to pay this Note; **D)** Compromise, release, renew, extend or substitute any of the Collateral; and **E)** Take any action necessary to protect the Collateral or collect amounts owing on this Note.

7. **FEDERAL LAW APPLIES:** When SBA is the holder, this Note will be interpreted and enforced under federal law, including SBA regulations. SBA may use state or local procedures for filing papers, recording documents, giving notice, foreclosing liens, and other purposes. By using such procedures, SBA does not waive any federal immunity from state or local control, penalty, tax, or liability. As to this Note, Borrower may not claim or assert against SBA any local or state law to deny any obligation, defeat any claim of SBA, or preempt federal law.

8. **GENERAL PROVISIONS: A)** All individuals and entities signing this Note are jointly and severally liable. **B)** Borrower waives all suretyship defenses. **C)** Borrower must sign all documents required at any time to comply with the Loan Documents and to enable SBA to acquire, perfect, or maintain SBA's liens on Collateral. **D)** SBA may exercise any of its rights separately or together, as many times and in any order it chooses. SBA may delay or forgo enforcing any of its rights without giving up any of them. **E)** Borrower may not use an oral statement of SBA to contradict or alter the written terms of this Note. **F)** If any part of this Note is unenforceable, all other parts remain in effect. **G)** To the extent allowed by law, Borrower waives all demands and notices in connection with this Note, including presentment, demand, protest, and notice of dishonor. Borrower also waives any defenses based upon any claim that SBA did not obtain any guarantee; did not obtain, perfect, or maintain a lien upon Collateral; impaired Collateral; or did not obtain the fair market value of Collateral at a sale. **H)** SBA may sell or otherwise transfer this Note.

9. **MISUSE OF LOAN FUNDS:** Anyone who wrongfully misapplies any proceeds of the loan will be civilly liable to SBA for one and one- half times the proceeds disbursed, in addition to other remedies allowed by law.

10. **BORROWER'S NAME(S) AND SIGNATURE(S):** By signing below, each individual or entity acknowledges and accepts personal obligation and full liability under the Note as Borrower.

Denim.LA

DocuSigned by:
Reid Yeoman
0FBD1D648C49404...

Reid Yeoman, Owner/Officer

SECURITY AGREEMENT

Read this document carefully. It grants the SBA a security interest (lien) in all the property described in paragraph 4.

This document is predated. DO NOT CHANGE THE DATE ON THIS DOCUMENT.

U.S. Small Business Administration

SECURITY AGREEMENT

SBA Loan #:	4007348010
Borrower:	Denim.LA
Secured Party:	**The Small Business Administration, an Agency of the U.S. Government**
Date:	06.25.2020
Note Amount:	$150,000.00

1. **DEFINITIONS.**

Unless otherwise specified, all terms used in this Agreement will have the meanings ascribed to them under the Official Text of the Uniform Commercial Code, as it may be amended from time to time, ("UCC"). "SBA" means the Small Business Administration, an Agency of the U.S. Government.

2. **GRANT OF SECURITY INTEREST.**

For value received, the Borrower grants to the Secured Party a security interest in the property described below in paragraph 4 (the "Collateral").

3. **OBLIGATIONS SECURED**.

This Agreement secures the payment and performance of: (a) all obligations under a Note dated 06.25.2020, made by Denim.LA , made payable to Secured Lender, in the amount of $150,000.00 ("Note"), including all costs and expenses (including reasonable attorney's fees), incurred by Secured Party in the disbursement, administration and collection of the loan evidenced by the Note; (b) all costs and expenses (including reasonable attorney's fees), incurred by Secured Party in the protection, maintenance and enforcement of the security interest hereby granted; (c) all obligations of the Borrower in any other agreement relating to the Note; and (d) any modifications, renewals, refinancings, or extensions of the foregoing obligations.

4. **COLLATERAL DESCRIPTION.**

The Collateral in which this security interest is granted includes the following property that Borrower now owns or shall acquire or create immediately upon the acquisition or creation thereof: all tangible

and intangible personal property, including, but not limited to: (a) inventory, (b) equipment, (c) instruments, including promissory notes (d) chattel paper, including tangible chattel paper and electronic chattel paper, (e) documents, (f) letter of credit rights, (g) accounts, including health-care insurance receivables and credit card receivables, (h) deposit accounts, (i) commercial tort claims, (j) general intangibles, including payment intangibles and software and (k) as-extracted collateral as such terms may from time to time be defined in the Uniform Commercial Code. The security interest Borrower grants includes all accessions, attachments, accessories, parts, supplies and replacements for the Collateral, all products, proceeds and collections thereof and all records and data relating thereto.

5. **RESTRICTIONS ON COLLATERAL TRANSFER.**

Borrower will not sell, lease, license or otherwise transfer (including by granting security interests, liens, or other encumbrances in) all or any part of the Collateral or Borrower's interest in the Collateral without Secured Party's written or electronically communicated approval, except that Borrower may sell inventory in the ordinary course of business on customary terms. Borrower may collect and use amounts due on accounts and other rights to payment arising or created in the ordinary course of business, until notified otherwise by Secured Party in writing or by electronic communication.

6. **MAINTENANCE AND LOCATION OF COLLATERAL; INSPECTION; INSURANCE.**

Borrower must promptly notify Secured Party by written or electronic communication of any change in location of the Collateral, specifying the new location. Borrower hereby grants to Secured Party the right to inspect the Collateral at all reasonable times and upon reasonable notice. Borrower must: (a) maintain the Collateral in good condition; (b) pay promptly all taxes, judgments, or charges of any kind levied or assessed thereon; (c) keep current all rent or mortgage payments due, if any, on premises where the Collateral is located; and (d) maintain hazard insurance on the Collateral, with an insurance company and in an amount approved by Secured Party (but in no event less than the replacement cost of that Collateral), and including such terms as Secured Party may require including a Lender's Loss Payable Clause in favor of Secured Party. Borrower hereby assigns to Secured Party any proceeds of such policies and all unearned premiums thereon and authorizes and empowers Secured Party to collect such sums and to execute and endorse in Borrower's name all proofs of loss, drafts, checks and any other documents necessary for Secured Party to obtain such payments.

7. **CHANGES TO BORROWER'S LEGAL STRUCTURE, PLACE OF BUSINESS, JURISDICTION OF ORGANIZATION, OR NAME.**

Borrower must notify Secured Party by written or electronic communication not less than 30 days before taking any of the following actions: (a) changing or reorganizing the type of organization or form under which it does business; (b) moving, changing its place of business or adding a place of business; (c) changing its jurisdiction of organization; or (d) changing its name. Borrower will pay for the preparation and filing of all documents Secured Party deems necessary to maintain, perfect and continue the perfection of Secured Party's security interest in the event of any such change.

8. **PERFECTION OF SECURITY INTEREST.**

Borrower consents, without further notice, to Secured Party's filing or recording of any documents necessary to perfect, continue, amend or terminate its security interest. Upon request of Secured Party, Borrower must sign or otherwise authenticate all documents that Secured Party deems necessary at any time to allow Secured Party to acquire, perfect, continue or amend its security interest in the Collateral. Borrower will pay the filing and recording costs of any documents relating to Secured Party's security interest. Borrower ratifies all previous filings and recordings, including financing statements and

notations on certificates of title. Borrower will cooperate with Secured Party in obtaining a Control Agreement satisfactory to Secured Party with respect to any Deposit Accounts or Investment Property, or in otherwise obtaining control or possession of that or any other Collateral.

9. **DEFAULT.**

Borrower is in default under this Agreement if: (a) Borrower fails to pay, perform or otherwise comply with any provision of this Agreement; (b) Borrower makes any materially false representation, warranty or certification in, or in connection with, this Agreement, the Note, or any other agreement related to the Note or this Agreement; (c) another secured party or judgment creditor exercises its rights against the Collateral; or (d) an event defined as a "default" under the Obligations occurs. In the event of default and if Secured Party requests, Borrower must assemble and make available all Collateral at a place and time designated by Secured Party. Upon default and at any time thereafter, Secured Party may declare all Obligations secured hereby immediately due and payable, and, in its sole discretion, may proceed to enforce payment of same and exercise any of the rights and remedies available to a secured party by law including those available to it under Article 9 of the UCC that is in effect in the jurisdiction where Borrower or the Collateral is located. Unless otherwise required under applicable law, Secured Party has no obligation to clean or otherwise prepare the Collateral for sale or other disposition and Borrower waives any right it may have to require Secured Party to enforce the security interest or payment or performance of the Obligations against any other person.

10. **FEDERAL RIGHTS.**

When SBA is the holder of the Note, this Agreement will be construed and enforced under federal law, including SBA regulations. Secured Party or SBA may use state or local procedures for filing papers, recording documents, giving notice, enforcing security interests or liens, and for any other purposes. By using such procedures, SBA does not waive any federal immunity from state or local control, penalty, tax or liability. As to this Agreement, Borrower may not claim or assert any local or state law against SBA to deny any obligation, defeat any claim of SBA, or preempt federal law.

11. **GOVERNING LAW.**

Unless SBA is the holder of the Note, in which case federal law will govern, Borrower and Secured Party agree that this Agreement will be governed by the laws of the jurisdiction where the Borrower is located, including the UCC as in effect in such jurisdiction and without reference to its conflicts of laws principles.

12. **SECURED PARTY RIGHTS.**

All rights conferred in this Agreement on Secured Party are in addition to those granted to it by law, and all rights are cumulative and may be exercised simultaneously. Failure of Secured Party to enforce any rights or remedies will not constitute an estoppel or waiver of Secured Party's ability to exercise such rights or remedies. Unless otherwise required under applicable law, Secured Party is not liable for any loss or damage to Collateral in its possession or under its control, nor will such loss or damage reduce or discharge the Obligations that are due, even if Secured Party's actions or inactions caused or in any way contributed to such loss or damage.

13. **SEVERABILITY.**

If any provision of this Agreement is unenforceable, all other provisions remain in effect.

14. **BORROWER CERTIFICATIONS.**

Borrower certifies that: (a) its Name (or Names) as stated above is correct; (b) all Collateral is owned or titled in the Borrower's name and not in the name of any other organization or individual; (c) Borrower has the legal authority to grant the security interest in the Collateral; (d) Borrower's ownership in or title to the Collateral is free of all adverse claims, liens, or security interests (unless expressly permitted by Secured Party); (e) none of the Obligations are or will be primarily for personal, family or household purposes; (f) none of the Collateral is or will be used, or has been or will be bought primarily for personal, family or household purposes; (g) Borrower has read and understands the meaning and effect of all terms of this Agreement.

15. **BORROWER NAME(S) AND SIGNATURE(S).**

By signing or otherwise authenticating below, each individual and each organization becomes jointly and severally obligated as a Borrower under this Agreement.

Denim.LA

DocuSigned by:
Reid Yeoman
0FBD1D648C49404...

Date: 06.25.2020

Reid Yeoman, Owner/Officer

DocuSign Envelope ID: 68412346-E3C0-4A29-9495-F886B42C9325

CHASE

NOTE

Date	4/5/2020
Note Amount	$ 1347050
Borrower	BAILEY 44, LLC
Lender	JPMorgan Chase Bank, N.A.

1. **PROMISE TO PAY.**

   Borrower promises to pay to the order of Lender the Note Amount, plus interest on the unpaid principal balance at the Note Rate, and all other amounts required by this Note.

2. **DEFINITIONS.**

   "CARES Act" means the Coronavirus Aid, Relief, and Economic Security Act.

   "Deferral Period" means the six month period beginning on the date of this Note.

   "Loan" means the loan evidenced by this Note.

   "Maturity Date" means twenty-four (24) months from the date of this Note.

   "Note Rate" means an interest rate of 0.98% Per Annum and interest shall accrue on the unpaid principal balance computed on the basis of the actual number of days elapsed in a year of 360 days.

   "Per Annum" means for a year deemed to be comprised of 360 days.

   "SBA" means the Small Business Administration, an Agency of the United States of America.

3. **CONDITIONS PRECEDENT TO FUNDING OF LOAN.**

   Before the funding of the Loan, the following conditions must be satisfied:

   A. Lender has approved the request for the Loan.

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B. Lender has received approval from SBA to fund the Loan.

4. **PAYMENT TERMS.**

Borrower will pay this Note as follows:

A. No Payments During Deferral Period. There shall be no payments due by Borrower during the Deferral Period.

B. Principal and Interest Payments. Commencing one month after the expiration of the Deferral Period, and continuing on the same day of each month thereafter until the Maturity Date, Borrower shall pay to Lender monthly payments of principal and interest, each in such equal amount required to fully amortize the principal amount outstanding on the Note on the last day of the Deferral Period by the Maturity Date.

C. Maturity Date. On the Maturity Date, Borrower shall pay to Lender any and all unpaid principal plus accrued and unpaid interest plus interest accrued during the Deferral Period. This Note will mature on the Maturity Date.

D. If any payment is due on a date for which there is no numerical equivalent in a particular calendar month then it shall be due on the last day of such month. If any payment is due on a day that is not a Business Day, the payment will be made on the next Business Day. The term "Business Day" means a day other than a Saturday, Sunday or any other day on which national banking associations are authorized to be closed.

E. Payments shall be allocated among principal and interest at the discretion of Lender unless otherwise agreed or required by applicable law. Notwithstanding, in the event the Loan, or any portion thereof, is forgiven pursuant to the Paycheck Protection Program under the federal CARES Act, the amount so forgiven shall be applied to principal.

F. Borrower may prepay this Note at any time without payment of any premium.

5. **CERTIFICATIONS.**

Borrower certifies as follows:

A. Current economic uncertainty makes this Loan necessary to support the ongoing operations of Borrower.

B. Loan funds will be used to retain workers and maintain payroll or make mortgage payments, lease payments, and utility payments.

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C. During the period beginning on February 15, 2020 and ending on December 31, 2020, Borrower has not and will not receive another loan under this program.

D. Borrower was in operation on February 15, 2020 and (i) had employees for whom it paid salaries and payroll taxes, or (ii) paid independent contractors as reported on a 1099-Misc.

6. **AGREEMENTS.**

Borrower understands and agrees, and waives and releases Lender, as follows:

A. The Loan would be made under the SBA's Paycheck Protection Program. Accordingly, it must be submitted to and approved by the SBA. There is limited funding available under the Paycheck Protection Program and so all applications submitted will not be approved by the SBA.

B. Lender is participating in the Payroll Protection Program to help businesses impacted by the economic impact from COVID-19. However, Lender anticipates high volume and there may be processing delays and system failures along with other issues that interfere with submission of your application to SBA. Lender does not represent or guarantee that it will submit the application before SBA funding is no longer available or at all. You agree that Lender is not responsible or liable to you (i) if the application is not submitted to the SBA until after SBA stops approving applications, for any reason or (ii) if the application is not processed. You forever release and waive any claims against Lender concerning failure to obtain the Loan. This release and waiver applies to but is not limited to any claims concerning Lender's (i) pace, manner or systems for processing or prioritizing applications, or (ii) representations by Lender regarding the application process, the Paycheck Protection Program, or availability of funding. This agreed to release and waiver supersedes any prior communications, understandings, agreements or communications on the issues set forth herein.

C. Forgiveness of the Loan is only available for principal that is used for the limited purposes that qualify for forgiveness under SBA requirements, and that to obtain forgiveness, Borrower must request it and must provide documentation in accordance with the SBA requirements, and certify that the amounts Borrower is requesting to be forgiven qualify under those requirements. Borrower also understand that Borrower shall remain responsible under the Loan for any amounts not forgiven, and that interest payable under the Loan will not be forgiven but that the SBA may pay the Loan interest on forgiven amounts.

D. Forgiveness is not automatic and Borrower must request it. Borrower is not relying on Lender for its understanding of the requirements for forgiveness such as eligible expenditures, necessary records/documentation, or possible reductions due to changes in number of employees or compensation. Rather Borrower will consult the SBA's program materials.

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E. The application for this Loan is subject to review and that Borrower may not receive the Loan. The Loan also remains subject to availability of funds under the SBA's Payment Protection Program, and to the SBA issuing an SBA loan number.

7. **DEFAULT.**

Borrower is in default under this Note if Borrower:

A. Fails to make a payment when due under the Note or otherwise fails to comply with any provision of this Note.

B. Does not disclose, or anyone acting on its behalf does not disclose, any material fact to Lender or SBA.

C. Makes, or anyone acting on its behalf makes, a materially false or misleading representation, attestation or certification to Lender or SBA in connection with Borrower's request for this Loan under the CARES Act, or makes a false certification under paragraph 5 of this Note.

D. Fails to comply with all of the provisions of this Note.

E. Becomes the subject of a proceeding under any bankruptcy or insolvency law, has a receiver or liquidator appointed for any part of its business or property, or makes an assignment for the benefit of creditors.

F. Reorganizes, merges, consolidates, or otherwise changes ownership or business structure without Lender's prior written consent.

G. Becomes the subject of a civil or criminal action that Lender believes may materially affect Borrower's ability to pay this Note.

8. **LENDER'S RIGHTS IF THERE IS A DEFAULT.**

Without notice or demand and without giving up any of its rights, Lender may:

A. Require immediate payment of all amounts owing under this Note.

B. Collect all amounts owing from Borrower.

C. File suit and obtain judgment.

9. **LENDER'S GENERAL POWERS.**

Without notice or Borrower's consent, Lender may incur expenses to collect amounts due under this Note and enforce the terms of this Note. Among other things, the expenses may include reasonable

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attorney's fees and costs. If Lender incurs such expenses, it may demand immediate repayment from Borrower or add the expenses to the principal balance;

10. **GOVERNING LAW AND VENUE; WHEN FEDERAL LAW APPLIES.**

When SBA is the holder, this Note shall be interpreted and enforced under federal law, including SBA regulations. Lender or SBA may use state or local procedures for filing papers, recording documents, giving notice, foreclosing liens, and other purposes. By using such procedures, SBA does not waive any federal immunity from state or local control, penalty, tax, or liability. As to this Note, Borrower may not claim or assert against SBA any local or state law to deny any obligation, defeat any claim of SBA, or preempt federal law.

If the SBA is not the holder, this Note shall be governed by and construed in accordance with the laws of the State of Ohio where the main office of Lender is located. MATTERS REGARDING INTEREST TO BE CHARGED BY LENDER AND THE EXPORTATION OF INTEREST SHALL BE GOVERNED BY FEDERAL LAW (INCLUDING WITHOUT LIMITATION 12 U.S.C. SECTIONS 85 AND 1831u) AND THE LAW OF THE STATE OF OHIO. Borrower agrees that any legal action or proceeding with respect to any of its obligations under this Note may be brought by Lender in any state or federal court located in the State of Ohio, as Lender in its sole discretion may elect. Borrower submits to and accepts in respect of its property, generally and unconditionally, the non-exclusive jurisdiction of those courts. Borrower waives any claim that the State of Ohio is not a convenient forum or the proper venue for any such suit, action or proceeding. The extension of credit that is the subject of this Note is being made by Lender in Ohio.

11. **SUCCESSORS AND ASSIGNS.**

Under this Note, Borrower includes its successors, and Lender includes its successors and assigns.

12. **GENERAL PROVISIONS.**

A. Borrower must sign all documents necessary at any time to comply with the Loan.
B. Borrower's execution of this Note has been duly authorized by all necessary actions of its governing body. The person signing this Note is duly authorized to do so on behalf of Borrower.
C. This Note shall not be governed by any existing or future credit agreement or loan agreement with Lender. The liabilities guaranteed pursuant to any existing or future guaranty in favor of Lender shall not include this Note. The liabilities secured by any existing or future security instrument in favor Lender shall not include this Note.
D. Lender may exercise any of its rights separately or together, as many times and in any order it chooses. Lender may delay or forgo enforcing any of its rights without giving up any of them.
E. Borrower may not use an oral statement of Lender or SBA to contradict or alter the written terms of this Note.
F. If any part of this Note is unenforceable, all other parts remain in effect.

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G. To the extent allowed by law, Borrower waives all demands and notices in connection with this Note, including presentment, demand, protest, and notice of dishonor.

H. Borrower's liability under this Note will continue with respect to any amounts SBA may pay Bank based on an SBA guarantee of this Note. Any agreement with Bank under which SBA may guarantee this Note does not create any third party rights or benefits for Borrower and, if SBA pays Bank under such an agreement, SBA or Bank may then seek recovery from Borrower of amounts paid by SBA.

I. Lender reserves the right to modify the Note Amount based on documentation received from Borrower.

13. **ELECTRONIC SIGNATURES.**

Borrower's electronic signature shall have the same force and effect as an original signature and shall be deemed (i) to be "written" or "in writing" or an "electronic record", (ii) to have been signed and (iii) to constitute a record established and maintained in the ordinary course of business and an original written record when printed from electronic files. Such paper copies or "printouts," if introduced as evidence in any judicial, arbitral, mediation or administrative proceeding, will be admissible as between the parties to the same extent and under the same conditions as other original business records created and maintained in documentary form.

14. **BORROWER'S NAME AND SIGNATURE:**

Borrower:

BAILEY 44, LLC

By: DocuSigned by: Joe Traboulsi 9DE18C1C7710AC7...

Printed Name: Joe Traboulsi

Title: Chief Operating Officer

Date Signed: 4/5/2020

DocuSign Envelope ID: CF34738C-2DF5-4E6D-861A-E373C468AB8F

TRIPLE NET COMMERCIAL LEASE AGREEMENT

This commercial lease is entered into between 3926 Magazine Street Properties, LLC (hereinafter referred to as "Landlord") and Harper & Jones LLC, an entity organized and existing under the laws of the State of Texas (hereinafter referred to as "Tenant"), and Drew Thomas Jones, who appears herein as guarantor of the obligations of the Tenant, relating to that certain commercial premises having the municipal address of 3932 Magazine Street, New Orleans, Louisiana 70115, (the "Leased Premises"), on the following terms and conditions:

1. **INITIAL TERM AND OPTION TERMS:** The Initial Term of this Lease shall be for a period of three years and ninety days, commencing July 1, 2018 and ending at midnight, September 30, 2021. If Tenant is currently not in material default under the provisions of this Lease, Tenant shall have the option to renew this Lease for two (2) additional Option Terms of three (3) years each if Tenant gives Landlord written notice of its intention to renew at least one hundred twenty (120) days prior to the expiration of the Initial Term or the First Option Term of this Lease, as applicable.

   Although the initial term of this lease does not commence until July 1, 2018, Landlord has agreed to allow Tenant to occupy the leased premises immediately upon performance of the following: 1) delivery of executed lease, 2) payment of the first and last month's rent, 3) payment of the security deposit, and 4) payment of the first month's taxes and insurance. Said occupancy shall be subject to the terms and conditions of this lease.

   Subject to Tenant's renewal option rights as defined above, if either party desires the Lease to terminate at its expiration date, a thirty (30) day written notice shall be given to the other party. If no notice is given, the Lease shall not be re-conducted for a specific term, except that it shall continue a month to month basis. In such event, either party may terminate the Lease at the end of any month by giving a thirty (30) day written notice to the other party.

2. **BASE RENT:** Beginning on October 1, 2018 Tenant shall pay monthly rental in the amount of $3,000.00. Rent shall be payable in advance on the first (1st) day of each calendar month during the entire Initial Term of this Lease and the Option Terms, if exercised.

   If Tenant exercises its rights to renew Lease, Base Rent for the First Option Term of this lease shall be $3,180.00 per month, and Base Rent for the Second Option Term shall be at then Market Rate, to be agreed upon by Landlord and Tenant.

   Rent shall be payable to Landlord at 3926 Magazine Street, New Orleans, LA 70115. Landlord may from time to time designate other places for the payment of the rent by written notice to Tenant.

3. **LATE CHARGES:** If any portion of the rent is not paid by the fifth (5th) day of each month, Tenant shall be liable for a late charge equal to five percent (5%) of the unpaid rent.

Initials:

DS AB DS DJ

Landlord Tenant

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4. **USE OF LEASED PREMISES:** The Leased Premises shall consist of the entirety of the space located at 3932 Magazine Street, approximately 1,015 square feet, to be used as a retail clothing shop, or any other use approved by Landlord in writing. Landlord agrees that it shall not operate or engage in any business which derives more than 10% of its income from the sale of men's clothing or dress shirts in the 3900 block of Magazine Street. Likewise, Landlord will not lease to another tenant to operate a business which derives more than 10% of its income from the sale of men's clothing or dress shirts in the 3900 block of Magazine Street. This prohibition extends only to properties owned or controlled by Landlord.

   Additionally, Tenant will have the non exclusive use of the courtyard on the side of the Leased Premises, which it will share with the Landlord and its guests. Tenant may place outdoor furniture and seating in the courtyard, provided that it complies with all municipal ordinances and regulations. Tenant shall also have the use of two reserved parking spaces, No. 1 and No. 2.

   Tenant shall maintain current, at Tenant's expense, all occupancy licenses and permits which are required to operate a retail establishment. Tenant shall not use any portion of the Leased Premises for any purpose that is unlawful or in violation of any zoning ordinances or any other laws nor for any purpose that tends to injure or depreciate the property or create a nuisance or interfere with, annoy or disturb any other persons. Nothing shall be placed or done on the premises by Tenant which shall cause forfeiture of any insurance. Any violation of this section shall permit the Landlord at its option to immediately cancel this Lease upon written notice to Tenant.

5. **ALTERATIONS:** Landlord shall: improve exterior courtyard in its sole discretion; install French style double doors with glass (or similar) to replace solid double doors currently installed on courtyard side of Leased Premises and reinstall door or window (that is currently boarded up) on courtyard side of Leased Premises. Tenant shall improve the bathroom and kitchen area of the leased premises, at Tenant's expense and subject to Landlord's written approval. In lieu of a Tenant Improvement Allowance, Landlord shall provide Tenant with a three month abatement of rent only. Taxes and Insurance shall not be abated.

   Tenant shall make no other alterations or improvements to the Leased Premises without advance written permission of Landlord. Tenant shall provide Landlord with a detailed description of any such alterations or improvements and Tenant shall not commence work until Landlord has approved the work in writing. Should any addition or alteration made by Tenant cause any increase in the insurance rate on the premises, Tenant shall pay such increase in addition to the agreed monthly rental amount. Any such additions or changes made to the premises by Tenant shall become the property of Landlord, at the termination of this Lease, without any right of reimbursement therefor. Tenant shall promptly remove any items belonging to Tenant and repair or replace in a like condition the Leased Premises on or before the expiration of this Lease, or any extension or renewal thereof.

   Any alterations or additions made by Tenant to the Leased Premises shall be performed in a good and workmanlike manner, in compliance with all governmental requirements and permits. Tenant shall secure sufficient builders risk, liability and workers compensation insurance, naming Landlord as an additional insured and provide proper evidence of such insurance coverage to

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Landlord Tenant

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Landlord prior to commencement of any work. Tenant shall indemnify and hold Landlord harmless from all claims, liabilities, obligations and expenses, including attorney fees, arising from or in any way connected with such work. Tenant shall only use a licensed contractor for any such work; Tenant warrants that the contractor and all subcontractors, laborers and suppliers shall be paid in a timely manner; and Tenant hereby indemnifies Landlord (including attorney fees) against liens for any work performed, material furnished, or obligations incurred by or on behalf of Tenant, Tenant shall keep the premises free from any such liens, and Tenant shall discharge or bond any lien filed within ten (10) days after the filing thereof.

6. **SECURITY DEPOSIT:** Upon execution of this Lease, Tenant shall pay to Landlord a security deposit in the amount of $3,000.00 to be held for the performance by Tenant of Tenant's covenants and obligations under this Lease, it being expressly understood that the deposit shall not be considered at any time an advance payment of rental, last month's rent, a measure of Landlord's damage in case of default by Tenant or breach by Tenant of Tenant's covenants under this Lease.

   Upon the occurrence of any event of default by Tenant, Landlord at its option may use such deposit to the extent necessary to apply toward any arrears of rent, or to apply toward any other damage, injury or expense caused to Landlord by such event of default. Landlord shall have the right to retain and expend such deposit toward the cost of cleaning and repairing the premises if Tenant shall fail to deliver up such premises at the termination of this Lease in the condition delivered, less ordinary wear and tear. Tenant shall make actual delivery of the keys to Landlord. Failure to make delivery shall result in a re-key charge of all locks located on the Leased Premises.

7. **RIGHT OF ENTRY:** Landlord, its employees, agents, successors or assigns shall have the right to enter the premises at all reasonable times for the purpose of inspection, or in order to make any repairs which may be necessary for the preservation of the property. If locks are changed at any time during the term of this Lease, Landlord or its agent shall be supplied with current keys and/or alarm codes by Tenant. Landlord reserves the right to post "For Lease" signs and show the Leased Premises to prospective tenants one hundred twenty (120) days preceding the expiration of the Lease. Landlord also reserves the right to post "For Sale" signs and show the Leased Premises to prospective purchasers at any time during the Lease.

8. **DELIVERY OF PREMISES:** Tenant assuming possession of the Leased Premises constitutes an admission that premises have been examined and found to be in good and safe condition and that Tenant accepts the premises in "AS IS" condition; assumes responsibility for the condition of the Leased Premises in accordance with the provisions of LA-R.S. 9:3221; agrees to keep the premises in good condition during the term of this Lease, and any extension or renewal thereof, at Tenant's expense; agrees to keep the premises broom clean and free from dirt, trash and debris during the entire term of this Lease, or any extensions or renewals thereof; and agrees to return the premises to Landlord in the same good and clean condition at the termination of this Lease, normal wear and tear excepted. Tenant shall make actual delivery of the keys to Landlord.

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9. **CONDITION AND UPKEEP OF PREMISES:** Tenant agrees not to store merchandise or leave trash outside the Leased Premises. All trash shall be kept in containers. Should Tenant be in default of the requirements of this provision, Landlord may, after written notice to Tenant, remedy such default at Tenant's expense, and such expense shall be treated as additional rental due under this Lease by Tenant.

10. **MAINTENANCE, REPAIRS AND REPLACEMENTS:** Landlord shall only be responsible for maintaining the slab, foundation and roof of the Leased Premises. Landlord has no other obligations whatsoever for maintenance or repairs of the Leased Premises of any nature whatsoever, either ordinary or extraordinary, during the term of this Lease except that landlord will be responsible for any HVAC repair/replacement above $500 per calendar year. Tenant assumes full and complete responsibility for all other repairs, replacements and maintenance of the Leased Premises, including but not limited to painting, wall covering, floor covering and all non-structural elements of the Leased Premises and any appurtenances, structures or improvements thereon.

    If Tenant refuses or neglects to perform maintenance or make repairs or replacements, or if Landlord is required to make repairs by reason of Tenant's negligent acts or omissions, Landlord shall have the right, but not be obligated, to perform maintenance or make such repairs or replacements on behalf of and for the account of Tenant; in such event, such work shall be paid for by Tenant as additional rent promptly upon receipt of a bill. All maintenance, repairs and replacements for which Tenant is obligated hereunder shall be approved by Landlord prior to their commencement and shall be performed in a good and workmanlike manner, in compliance with all governmental requirements and permits.

    Tenant shall secure sufficient builders risk, liability and workers compensation insurance, naming Landlord as an additional insured and provide proper evidence of such insurance coverage to Landlord prior to commencement of any work. Tenant shall indemnify and hold Landlord harmless from all claims, liabilities, obligations and expenses, including attorney fees, arising from or in any way connected with such work. Tenant shall only use a licensed contractor for any such work; Tenant warrants that the contractor and all subcontractors, laborers and suppliers shall be paid in a timely manner; and Tenant hereby indemnifies Landlord (including attorney fees) against liens for any work performed, material furnished, or obligations incurred by or on behalf of Tenant, Tenant shall keep the premises and the Building free from any such liens, and Tenant shall discharge or bond any lien filed within ten (10) days after the filing thereof.

11. **SERVITUDES:** Landlord shall have the right to grant servitudes and easements in areas of the Leased Premises for the installation of utilities, provided that the use of such servitude and easement for such purposes do not interfere substantially with the operation of Tenant's business. The Tenant shall not be entitled to any compensation or abatement of rent if the use of such servitude or easement does not interfere substantially with the operation of the Tenant's business.

12. **FIRE AND CASUALTY:** Should the premises be wholly destroyed, or materially damaged so as to render it wholly unfit for occupancy, by fire or other unforeseen event not due to any fault or neglect of Tenant or its agents, employees, contractors, patrons or visitors, then this Lease shall

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terminate and end, and both Tenant and Landlord shall be relieved of any further responsibility hereunder for the remaining unexpired term of this Lease. In that event, any advance rent shall be pro rated and returned to Tenant.

Should the premises, through no fault or neglect of Tenant or its agents, employees, contractors, patrons or visitors, only be partially destroyed or partially damaged by fire or other casualty so as to render the premises untenantable, the rent herein shall abate thereafter until such time as the premises are made tenantable by Landlord or Landlord may elect at its sole option to terminate the Lease. If only a portion of the premises is untenantable, a pro rata abatement of the rent shall be made.

13. **INDEMNITY:** Tenant agrees to indemnify and save and hold forever harmless the Landlord against all suits, claims, damages and actions (including attorney's fees and costs and expenses of litigation), including but not limited to personal injury, bodily injury, property damage, contamination by hazardous substances, environmental damage or otherwise, occasioned, arising out of, or in any manner related to the occupancy of the Leased Premises, or any business or operation conducted thereupon by Tenant, or any of Tenant's agents, servants or employees or otherwise related in any way to Tenant's use or occupancy of the Leased Premises. This obligation of indemnity and defense shall extend to and encompass any and all suits, claims, demands, actions and causes of action of whatever kind or character whatsoever, including, but not limited to, claims or suits alleging the fault, negligence or liability of Landlord, either solely, or in conjunction with others.

The Tenant's obligations under this paragraph shall be included with the insurance required to be carried by Tenant under the "Tenant's Insurance" paragraph herein.

14. **EXPENSES:** Tenant shall pay all expenses pertaining to the Leased Premises, including but not limited to, utilities, telephone, internet, security monitoring, water, ground maintenance, sewer user fees, trash and garbage pickup, janitorial services and other fees, charges and costs arising out of Tenant's use of the Leased Premises or incurred by or on behalf of Tenant.

15. **DEFAULT BY TENANT:** Should Tenant at any time violate any of the conditions or covenants of this Lease, or discontinue the use of the premises for the purpose for which they are rented, or fail to pay the rent punctually, as stipulated herein; or upon the adjudication of Tenant in bankruptcy, the appointment of a receiver for Tenant, or the filing of bankruptcy, receivership or respite petition by or for Tenant; or upon Tenant's suspension, failure or insolvency; or should Tenant abandon the premises; and should any such violation continue for a period of fifteen (15) days after written notice has been given Tenant, then, at the option of Landlord, the rent for the whole unexpired term of this Lease shall at once mature and become immediately due and payable; and Landlord shall have the further option to at once demand the entire rent for the whole term, or to immediately cancel this Lease, or to proceed for past due installments only, reserving Landlord's rights to later proceed for the remaining installments, all without putting Tenant in default, Tenant to remain responsible for all damages or losses suffered by Landlord, Tenant hereby assenting thereto and expressly waiving any legal notices to vacate the premises. Landlord shall have the right to evict Tenant in accordance with the provisions of Louisiana Code

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of Civil Procedure, Articles 4701-4735, without forfeiting any of Landlord's rights under this paragraph or under the other terms of this Lease and Landlord may at the same time or subsequently sue for any money due or to enforce any other rights which Landlord may have. All rights and remedies of Landlord under this Lease shall be cumulative and none shall exclude any other rights or remedies allowed by law.

16. **WAIVER OF NOTICE:** Tenant specifically waives the five (5) day notice to vacate as set forth in the Revised Civil Code of the State of Louisiana and under the Louisiana Code of Civil Procedure, including C.C.P. Article 4701, as they may be amended.

17. **LANDLORD'S TAXES AND INSURANCE:** Tenant shall be responsible for: (i) all real property taxes assessed against the land and building comprising the Leased Premises, and (ii) all insurance premiums charged for the property insurance and fire and extended coverage insurance policy carried by Landlord covering the building and other improvements forming a part of the Leased Premises, which amounts shall be due and payable on a monthly basis as additional rent. The taxing authority and the insurance companies shall be paid directly by Landlord when due and Landlord shall send a bill to Tenant for the property taxes and insurance premiums paid on Tenant's behalf. The current taxes and insurance, as of the time of the creation of this lease, are $1,088.00 per month, but that amount will vary.

Property taxes and insurance for the year 2018 shall be prorated. If the termination date of this Lease occurs prior to December 31st of any year, Landlord shall refund to Tenant prorated property taxes for the year the Lease is terminated.

18. **ATTORNEY'S FEES AND EXPENSES:** In the event of litigation or other proceeding to enforce performance of any terms of this Lease or any payment obligations under this Lease, the prevailing party shall be entitled to recover all attorney fees and costs that may be reasonably incurred as a result of such litigation or other proceeding from the losing party.

19. **LANDLORD NOT LIABLE:** Landlord shall not be liable or responsible to Tenant, its employees, invitees, licensees, permittees or other for any loss of any kind, damage or inconvenience to any property or person occasioned by theft, fire, act of God, public enemy, fuel, insurrection, vandalism, sabotage, war, court order, requisition, or order of Government body or authority unless attributable to Landlord's negligence or fault; or for any loss, damage or inconvenience which may arise through repair or alteration of any part of the Leased Premises, failure to make any such repairs, malfunction or failure of any equipment or component, or interruption of services to the Leased Premises, provided that Landlord is acting in a prompt and diligent manner to remedy all such deficiencies.

20. **CONDEMNATION:** Landlord and Tenant mutually covenant and agree that if the whole or any part of the Premises shall be taken by Federal, State, Parish, City, or other authority for public use, or under any statute or by right of eminent domain or expropriation, Tenant shall not be entitled to any part of any award that may be made for such taking, nor for any damages, except that portion of any award or damages paid, which is directly attributable to leasehold improvements installed and paid for by Tenant. In the event of partial taking, rent shall be

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reduced as of the date of such taking by a percentage equal to the percentage obtained by reletting the space taken to the total space leased hereby, and if such taking renders the remainder of the Premises untenantable for Tenant's purposes, Tenant shall have the option, to be exercised by notice in writing to Landlord within sixty (60) days after said taking, of terminating this Lease. Such termination shall take place not later than thirty (30) days after receipt of such notice by Landlord. Landlord shall notify Tenant in writing within ten (10) days of the receipt of official notice of commencement of condemnation proceedings.

21. **LIMIT ON LIABILITY OF LANDLORD:** Under no circumstances whatsoever shall Landlord ever be liable hereunder for consequential or special damages; and all liability of Landlord to Tenant for any default by Landlord under the terms of this Lease shall be limited to the proceeds of sale on execution of the interest of Landlord in the Leased Premises; it being stipulated and agreed that Landlord shall not be personally liable for any deficiency. This clause shall not be deemed to limit or deny any remedies which Tenant may have, in the event of default by Landlord hereunder, which do not involve the personal liability of Landlord.

22. **SIGNS:** Tenant must obtain Landlord's prior written approval of any signs posted or placed on the Leased Premises, which approval will not be unreasonably withheld. All signage shall be installed at Tenant's expense, and shall comply with all local and city ordinances and regulations. Upon termination of this Lease, Tenant shall remove any sign, advertisement or notice painted on or affixed to the Leased Premises and restore the place it occupied to the condition in which it existed as of the commencement date of this Lease. Upon Tenant's failure to do so, Landlord may do so at Tenant's expense.

23. **ASSIGNMENT AND SUBLEASE:** Tenant shall not assign this Lease or sublet the Premises or any part thereof without the prior written consent of Landlord, which consent shall not be unreasonably withheld (based upon financial, business and other reasonable considerations). In no event shall any such Assignment or Sublease ever release Tenant or any Guarantor from any obligation hereunder unless Landlord consents in writing to such release. In the event of any such Assignment or Sublease, the assignee's or subtenant's business shall be in accordance with the use set forth in Section 4 of the Lease and the assignee or subtenant shall assume all obligations under this Lease.

24. **TENANT'S INSURANCE:** It is agreed that the Landlord shall be under no obligation to maintain insurance of any kind or amount on the movable property of Tenant or for any property of or personal injury liability for Tenant. For the mutual protection of Landlord and Tenant, Tenant at its sole expense agrees to carry and maintain general public liability insurance covering the Leased Premises and Tenant's use thereof and to furnish Landlord a certificate of insurance issued by an admitted company authorized to do business in the State of Louisiana in the minimum coverage amounts of $1,000,000.00 each person, $2,000,000.00 each occurrence and $1,000,000.00 property damage insuring against liability on the then prevailing Louisiana Standard Owner's Landlords and Tenants policy forms against liability occurring in, on or around the premises with a deductible no greater than $5,000.00 and with appropriate additional insured clauses in favor of Landlord as its interests may appear. All policies of insurance shall contain a provision that the insurer will give Landlord at least ten (10) days notice in writing in advance of

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any material change, cancellation, termination, lapse, or any reduction of any insurance coverage. Tenant shall furnish the certificate of insurance to Landlord upon execution of this Lease and each renewal period thereafter. Tenant shall further be responsible for securing its own contents insurance coverage and Landlord shall have no liability whatsoever for any damage to Tenant's contents ("Contents" shall include any and all Tenant property including without limitation, furniture, fixtures, equipment and inventory).

Tenant shall put nothing in the Leased Premises nor do anything which would forfeit the Landlord's insurance or increase the rate charged for such insurance. Should any action be taken by Tenant which results in an increase in the rate of the premiums charged, then Tenant shall pay the additional premiums caused by the increase rate. If the Tenant's occupancy or business prevents Landlord from securing proper insurance, then Tenant hereby grants to Landlord the option of either: a) requiring the immediate termination of such use; or b) considering such use a default entitling Landlord to all rights set forth previously. In addition, Tenant shall at Tenant's expense, maintain a worker's compensation policy in the minimum coverage necessary to meet the requirements of the Louisiana Worker's Compensation Act.

25. SUBORDINATION: This Lease is subject and subordinate to any mortgages or other encumbrance which now or hereafter encumber or affect the Leased Premises, and to all renewals, modifications, consolidations, replacements and extensions thereof. This clause shall be self-operative and no further instrument of subordination need be required by a mortgagee or Landlord. In confirmation of such subordination, however, Tenant shall, at Landlord's request, promptly execute any appropriate certificate or instrument that Landlord may request. Tenant hereby constitutes and appoints Landlord as Tenant's attorney-in-fact to execute any such certificate or instrument for and on behalf of Tenant. In the event of the enforcement by the holder of any such instrument of the remedies provided for by law or by such mortgage or other encumbrance, Tenant will, upon request of any other person or party succeeding to the interest of Landlord as a result of such enforcement, automatically become the Tenant of such successor in interest without change in the terms or other provisions of this Lease. Upon request by such successor in interest, Tenant shall execute and deliver an instrument or instruments confirming the attornment herein provided for.

26. ESTOPPEL CERTIFICATES: Tenant agrees, at any time and from time to time, upon not less than five (5) days' prior written notice by Landlord to execute, acknowledge and deliver to Landlord or to such person(s) as may be designated by Landlord, a statement in writing (i) certifying that Tenant is in possession of the Premises, has unconditionally accepted the same and is currently paying rents reserved hereunder, (ii) certifying that this Lease is unmodified and in full force and effect (or if there have been modifications, that this Lease is in full force and effect as modified and stating the modifications), (iii) stating the dates to which the rent and other changes hereunder have been paid by Tenant and (iv) stating whether or not to the best knowledge of Tenant, Landlord is in default in the performance of any covenant, agreement or condition contained in this Lease, and, if so, specifying each such default of which notices to Landlord should be sent. Any such statement delivered pursuant hereto may be relied upon by any owner, prospective owner, prospective purchaser, mortgagee or prospective mortgagee of the Building(s) or of Landlord's interest therein, or any prospective assignee of any such mortgagee.

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Landlord Tenant

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27. **RECORDATION:** This Lease shall not be placed of record. However, at the request of either party, the other shall enter into a "Notice of Lease" for purposes of recordation, which notice shall fairly reflect the nature and term of this Lease and the property affected, but without designating the rent payments.

28. **ASSIGNMENT BY LANDLORD:** Landlord shall have the right to transfer and assign, in whole or in part, all of Landlord's rights and obligations hereunder, as well as the Leased Premises and the building and property referred to herein, and in such event the Landlord shall have no further liability or obligation hereunder.

29. **PERSONAL PROPERTY:** Tenant may place furniture and other personal property in the courtyard areas of the Leased Premises at the time of the execution of this Lease, but without any warranty as to fitness or condition.

    All personal property owned by Tenant remaining in the Premises upon termination of this lease shall be considered to have been abandoned by Tenant and Landlord may dispose of it in any manner Landlord wishes.

30. **COMPLIANCE WITH LAWS:** Tenant shall, at Tenant's sole expense, comply with all laws, rules, regulations, requirements and recommendations of all parish, municipal, state, federal and other applicable governmental authorities now or hereafter in force, including, without limitation, the Americans with Disabilities Act of 1990 ("ADA"), as they relate to the Premises and the conduct of Tenant's business therein. To the extent required by the ADA, Tenant at its sole expense, shall place appropriate signage (with respect to the Premises) on the interior of the Premises, and with Landlord's prior written consent, on the exterior of the Premises. Tenant agrees to indemnify Landlord for all damages, losses, fines and expenses, including reasonable attorney's fees, incurred by Landlord as a result of Tenant's failure to comply with any provision of this paragraph.

31. **ENVIRONMENTAL COMPLIANCE:** Tenant shall not cause or permit the presence, use disposal, storage, or release of any hazardous or environmentally unsafe substances on or in the Leased Premises. Tenant shall not do, or allow anyone else to do, anything affecting the Leased Premises in violation of any state or federal Environmental laws and regulations. Tenant warrants that the Leased Premises shall remain environmentally safe and free from contamination of hazardous substances during and subsequent to the term of this Lease, arising from or in any way related to Tenant's operation and use of the Leased Premises, including but not limited to Tenant's production, use and handling of auto paints, solvents and related products. Tenant agrees to indemnify and hold Landlord harmless against all claims and liabilities arising from Tenant's breach of this covenant, including attorney's fees and other legal costs that may be incurred by Landlord.

32. **NUISANCE:** Tenant agrees to conduct its business and control its agents, employees, invitees and visitors in such manner as not to create any nuisance.

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33. **CONFLICTS:** If there is any conflict between the printed portions and the typewritten or handwritten portions, the typewritten or handwritten portion shall prevail.

34. **PARTIAL INVALIDITY:** If any provision of this Lease or application thereof to any person or circumstance shall, to any extent, be invalid, the remainder of this Lease or the application of such provision to persons or circumstances other than those to which it is held invalid shall not be effected thereby and each provision of this Lease shall be valid and enforced to the fullest extent permitted by law.

35. **BINDING EFFECT:** This Lease, and each and every term and provision hereof, shall be for the benefit of and be binding upon the parties hereto, and each of them, and their respective heirs, successors, executors, administrators and assigns.

36. **INTERPRETATION:** Any ambiguity in the provisions of this Lease shall be interpreted without regard to which party prepared this Lease.

37. **ADDITIONAL PROVISIONS OF LEASE:** All terms and conditions of this Lease are included herein and no verbal agreements are to be considered as a part of this transaction. This Lease may not be altered, changed or amended, except by an instrument in writing signed by both parties hereto.

38. **GOVERNING LAW:** This Lease is to take effect in Louisiana, and is to be governed and controlled by the laws of Louisiana.

39. **SOLIDARY OBLIGATION OF GUARANTOR AND TENANT**: Drew Thomas Jones ("Guarantor") personally guarantees all of Tenant's obligations and covenants under this Lease during the Initial Term and the Option Terms, if exercised. Guarantor shall be bound "in solido" with Tenant for the full and faithful performance of all obligations and covenants of Tenant under this Lease.

40. **SURVIVAL OF RENT:** The covenant to pay any rent or additional rent shall survive that termination of this Lease.

41. **SOLIDARY OBLIGATION:** In the event that there be more than one person named as Tenant herein, each Tenant binds himself, jointly, severally and in solido, with all the others for the payment of the rent, and the performance of all of the covenants, agreements, stipulations and conditions herein contained, in accordance with the terms hereof.

42. **NOTICES:** Any notice required or permitted to be given hereunder shall be in writing and may be served via U.S. certified mail return receipt, hand delivery or overnight courier addressed to Landlord and Tenant, respectively, at the addresses set forth below, as well as notice to the Tenant at the address of the Premises (if different from the address stated below). Such notices shall be deemed served when received or three days after placing in the United States mail, postage prepaid, by certified mail return receipt requested. The addresses of the parties are:

Initials:

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Landlord ~~Tenant~~

TO LANDLORD: Mr. Alex Beard
3926 Magazine Street Properties, LLC
3926 Magazine Street
New Orleans LA 70115

TO TENANT:
AND GUARANTOR Harper & Jones LLC
3932 Magazine Street
New Orleans LA 70115

And

Mr. Drew Thomas Jones
2260 5th Avenue
Fort Worth TX 76110

43. BROKERAGE COMMISSION. Landlord agrees to pay a commission to Beau Box Commercial Real Estate as per a separate commission agreement.

THUS DONE AND PASSED by Tenant, Guarantor and Landlord, in duplicate originals, in the presence of the undersigned competent witnesses.

WITNESSES:

_____

_____

TENANT:

HARPER & JONES, LLC

BY: DocuSigned by: _____ 6/22/2018 1:32:55 PM CDT
Drew Thomas Jones, Manager date

WITNESSES:

_____

_____

GUARANTOR:

DocuSigned by: _____ 6/22/2018 1:32:55 PM CDT
DREW THOMAS JONES date

WITNESSES

_____

_____

LANDLORD:

3926 MAGAZINE STREET PROPERTIES, LLC

BY: DocuSigned by: A Beard _____ 6/22/2018 11:34:24 AM PDT
Alexander Beard, Manager date

Initials:
DS A B DS DJ
Landlord Tenant

LEASE AGREEMENT

CROSBY 2100, LTD.
Landlord

TO

HARPER & JONES, LLC.
Tenant

SHOPPING CENTER LEASE

INDEX

LEASE AGREEMENT

ARTICLE I. BASIC LEASE PROVISIONS AND LIST OF EXHIBITS.

1.1 Basic Lease Provisions.

(a) DATE OF THIS LEASE: April 4, 2018

(b) LANDLORD: Crosby 2100, Ltd.

(c) ADDRESS OF LANDLORD FOR NOTICES:

1520 Oliver
Houston, TX 77007

(d) TENANT: Harper & Jones, LLC.

(e) ADDRESS OF TENANT FOR NOTICES:

Attn: Drew Jones
2814 Main Street
Suite 101
Dallas, TX 75226

Telephone #: (214) 226-0133

E-mail: drew@harperandjones.com

(f) TENANT'S TRADE NAME: Harper & Jones

(g) LEASED PREMISES: An area of approximately 1,117 square feet of leasable Floor Area within the Center, located as shown on Exhibit "A" hereto. The area of the Premises shall be measured by calculating lengths and widths to the exterior of outside walls and to the middle of the interior walls. The Shopping Center (the "Center") is situated on that tract of land described on Exhibit "A-1," attached hereto. The Leased Premises is also sometimes referred to as the "Premises."

Gross Leasable Premises: Includes pro rata share of service corridor. Gross Leasable Premises Premises is subject to adjustment but shall not exceed 1,178 SF.

(h) ADDRESS OF THE PREMISES: 1902 Washington
Suite J
Houston, Texas 77007

Address may be modified with written notice from Landlord.

(i) LEASE TERM: The Term of this Lease shall commence on the Commencement Date (hereinafter defined) and shall terminate on the last day of the 36th full calendar month thereafter unless sooner terminated in accordance with the provisions of this Lease.

(j) MINIMUM RENT: The initial Minimum Rent as follows:

Months 1-36	$35.00 psf/yr	$3,435.83/mo

(k) PERCENTAGE RENT RATE: If Percentage Rent is payable under this lease, it shall be payable in the amounts, and as provided in Exhibit "G", attached hereto.

(l) TENANT'S PROPORTIONATE SHARE INITIALLY: 7.32%

Can be modified accordingly upon changes in Gross Leasable Area

(m) COMMON AREA MAINTENANCE FEE: (See Section 23.6)

(n) SECURITY DEPOSIT: (See Section 3.5) $4,415.53

(o) PREPAID RENT: (See Section 3.3) $4,415.53

(p) INSURANCE CHARGE: (See Section 23.13)

(q) TAX CHARGE: (See Section 23.24)

(r) CONSTRUCTION ALLOWANCE: Intentionally omitted.

(s) PERMITTED USE: The Leased Premises shall be used for the operation therein by Tenant as a typical custom tailor and high end clothier, and for no other purpose. (See Article V).

(t) NAME AND ADDRESS OF GUARANTOR:

Drew Jones
2260 5th Avenue
Fort Worth, TX 76110

(u) INITIAL FIXED MONTHLY RENT: $4,415.53

Minimum Rent $3,435.83

Common Area Maintenance Fee . . . . . .$___245.42

Insurance Charge . . . . . .$ ...84.42

Tax Charge . . . . . .$___649.86

Initial Monthly Payment Total . . . . . .$_4,415.53

(v) BROKERS: Capital Retail Properties for the Tenant and Lovett Realty, Inc. for the Landlord.

CERTAIN OTHER DEFINITIONS ARE SET OUT IN ARTICLE XXIII BELOW, OR ELSEWHERE IN THIS LEASE.

THIS LEASE IS SUBJECT TO ARBITRATION AS PROVIDED IN PARAGRAPH 22.15.

1.2 Significance of Basic Lease Provisions. Each of the terms contained in the Basic Lease Provisions shall be construed in conjunction with the remainder of this Lease, in particular, the referenced portions thereof. In the event of any conflict between the Basic Lease Provisions and the balance of this Lease, the latter shall control.

1.3 Exhibits. The Exhibits and/or Addenda listed below are attached to and are to be construed as part of this Lease. Landlord and Tenant shall perform their respective obligations stated in such Exhibits and Addenda.

[PLEASE PLACE A CHECK IN THE SPACE PROVIDED IF EXHIBIT IS ATTACHED AND WRITE "N/A" IF NOT APPLICABLE:]

___X___ "A" Site Plan
___X___ "A-1" Legal Description
X "B" Construction Rider
___X___ "B-1" Construction Responsibility Checklist
___X___ "B-2" Construction Lien Waiver
__N/A__ "C" Option(s) to Extend
___X___ "D" Signage
___X___ "E" Pylon Sign
X . "F" Guaranty
__N/A__ "G" Percentage Rent

ARTICLE II. LEASED PREMISES; TERM; CONSTRUCTION.

2.1 Landlord hereby leases and demises to Tenant and Tenant hereby accepts from Landlord on the terms set forth herein, the Premises together with all appurtenances specifically granted in this Lease. Landlord, without limiting its rights hereunder, (a) retains and excludes from this demise (i) the exterior faces of the walls of the Premises, (ii) the roof and, as applicable, the area, if any, between the ceiling or drop ceiling and the floor or roof above and (iii) the land under the Premises, and (b) reserves unto itself the right to install, connect, maintain, use, repair, remove, relocate and replace the Utility Facilities located in the Premises, in locations which will not materially interfere with Tenant's use of the Premises. NOTWITHSTANDING ANYTHING IN THIS ARTICLE 2.1 (OR ELSEWERE IN THIS LEASE) TO THE CONTRARY, THIS LEASE IS SUBJECT TO LANDLORD'S ELECTION TO DEVELOP THE CENTER.

2.2 Notwithstanding anything to the contrary contained in the body of this Lease or the Exhibits (or Addenda) hereto, Landlord hereby reserves the right to make such reasonable modifications to the Center, and the various components (including without limitation, Common Areas and any kiosks), as Landlord shall deems desirable for the benefit of the Center and to construct one or more additional

buildings in the Center which need not be limited to retail store uses, or to remove improvements from the Center, and to document such modifications by amending the Exhibits hereto; provided, however, that (a) the Premises shall be in the location and the approximate dimensions shown on Exhibit "A" (subject to the other provisions of this Lease as may be applicable), and (b) Tenant's Minimum Rent obligations hereunder shall not increase as a result of such changes. If the Landlord shall so modify any Exhibit hereto, Tenant shall, within ten (10) days after tender by Landlord, execute, acknowledge and deliver a document accepting such modifications and substituting the revised Exhibit for the applicable Exhibit; and Tenant hereby irrevocably constitutes and appoints Landlord as Tenant's attorney-in-fact to execute, acknowledge and deliver such document in Tenant's name, place and stead if Tenant fails to do so within such 10 day period. Such power of attorney is coupled with an interest.

2.3 Tenant shall have and hold the Premises for the Lease Term set forth in Section 1.1(i), unless sooner terminated as hereinafter provided.

2.4 If Landlord should fail to complete Landlord's Work with due diligence, Landlord shall not be in default hereunder or otherwise liable in damages to Tenant, nor shall the Lease Term be affected, provided that if Landlord has not finished Landlord's Work (if any), as required by Exhibit "B," paragraph A, by that date which is 30 days from the effective date of this Lease, and such failure is not due to delays caused by Tenant or Force Majeure, Tenant shall have the right, as its sole and exclusive remedy, to terminate this Lease by giving written notice thereof to Landlord prior to the 60th day from the effective date hereof.

2.5 When the Premises are tendered by Landlord to Tenant, with Landlord's Work substantially complete (sometimes referred to in this Lease as the "Ready For Occupancy Date"), Tenant shall with due diligence promptly commence, and cause to be performed to completion the Tenant's Work, pursuant to the approved plans and specifications therefor, and install in the Premises its trade fixtures, furniture and equipment, and open for business to the public within 60 days after the Premises are tendered by Landlord to Tenant.

2.6 **TENANT WILL INSPECT THE PREMISES AS OF OR PRIOR TO, THE READY FOR OCCUPANCY DATE. TENANT ACKNOWLEDGES THAT TENANT HAS THE RIGHT TO (AND SHALL) FULLY INSPECT THE PREMISES AFTER COMPLETION OF THE LANDLORD'S WORK, AND IS RELYING UPON TENANT'S INSPECTIONS OF THE PREMISES AND NOT ON ANY REPRESENTATIONS OR WARRANTIES MADE BY LANDLORD, OR ANYONE ON BEHALF OF THE LANDLORD. BY OCCUPYING THE PREMISES, TENANT SHALL HAVE ACCEPTED THE SAME AND SHALL HAVE ACKNOWLEDGED THAT THE SAME COMPLY FULLY WITH LANDLORD'S COVENANTS AND OBLIGATIONS HEREUNDER. TENANT EXPRESSLY ACKNOWLEDGES AND AGREES, THAT EXCEPT AS EXPRESSLY SET OUT ON EXHIBIT "B", (WITH RESPECT TO LANDLORD'S WORK) THAT LANDLORD HAS MADE NO WARRANTIES OR REPRESENTATIONS TO THE TENANT AS TO THE CONDITION OF THE PREMISES, EXPRESS OR IMPLIED, AND THAT LANDLORD EXPRESSLY DISCLAIMS ANY IMPLIED WARRANTY THAT THE PREMISES ARE SUITABLE FOR TENANT'S INTENDED COMMERCIAL PURPOSE. FURTHER, TENANT ACKNOWLEDGES AND AGREES THAT TENANT'S OBLIGATION TO PAY RENT HEREUNDER IS NOT DEPENDENT UPON THE CONDITION OF THE PREMISES OR THE PERFORMANCE BY LANDLORD OF ITS OBLIGATIONS UNDER THIS LEASE, AND THAT TENANT WILL CONTINUE TO PAY THE RENT PROVIDED FOR HEREIN WITHOUT ABATEMENT, SETOFF OR DEDUCTION, UNLESS EXPRESSLY PROVIDED FOR HEREIN. TENANT ACKNOWLEDGES THAT IT TAKES THE PREMISES IN ITS "AS IS, WHERE IS" CONDITION, WITHOUT ANY WARRANTY OR REPRESENTATION FROM LANDLORD WHATSOEVER, EXPRESS OR IMPLIED. ANY ENTRY ONTO OR USE OF THE PREMISES BY TENANT PRIOR TO THE COMMENCEMENT DATE SHALL BE GOVERNED BY THE TERMS AND PROVISIONS OF THIS LEASE, EXCEPT THOSE REQUIRING PAYMENT OF RENT.**

2.7 Notwithstanding anything herein to the contrary, if any present tenant of the Premises holds over, and Landlord cannot acquire possession of the Premises prior to the Commencement Date, Landlord shall not be deemed to be in default hereunder or be liable for damages therefor, and Tenant agrees to accept possession of the Premises at such time as Landlord is able to tender same and, in such event, the date of such tender by Landlord shall be deemed to be the Commencement Date.

ARTICLE III. RENT AND SECURITY DEPOSIT.

3.1 The Rent specified in Section 3.2 (and all Additional Rent, and other charges due hereunder) shall accrue hereunder from the Commencement Date.

3.2 Tenant promises and agrees to pay to Landlord, in good, sufficient and lawful currency of the United States of America, by mail or in person at the address of Landlord as set forth in Section 1.1(c), or such other place as Landlord may from time to time designate in writing, the following Rent: (a) Minimum Rent as set forth in Section 1.1(j); (b) the Common Area Maintenance Fee as set forth in Section 23.6; (c) the Insurance Charge as set forth in Section 23.13; (d) the Tax Charge as set forth in Section 23.24; and (e) all other sums and charges due by Tenant to Landlord under the terms of this Lease including, without limitation, Percentage Rent and utility charges as applicable under Article IX.

3.3 Except as otherwise provided herein, all Rent shall be due and payable monthly, in advance, without demand, notice, deduction or setoff, on the first day of each month during the Lease Term, and any extensions thereof. In the event any installment of Rent is not received within five (5) days after the date on which such amount is due, Tenant shall pay additionally an administrative late charge of five percent (5%) of the amount past due, plus the amount of any attorneys' fees incurred by Landlord in connection therewith for each such late payment. Tenant shall also pay an administrative charge of $50.00 for each check returned unpaid for any reason. If Tenant is late in making payments due hereunder (including, but not limited to, Minimum Rent), Landlord may at any time thereafter, upon written notice to Tenant, require that (until further notice) all payments of Rent be made by certified or cashier's check. The first month's Rent and other charges or fees shall be prorated from the Commencement Date through and including the last day of the month in which the Commencement Date occurs and shall be paid in advance on the Commencement Date. Contemporaneously with the execution of this Lease by Tenant, Tenant shall pay to Landlord the Prepaid Rent (in the amount set forth in Section 1.1(o)) which shall be applied to the Rent for the first full month of the Term.

3.4 The location of the Premises shown on Exhibit "A" and the Floor Area stated herein are approximate, and the exact location of the Premises within the Center and the exact Floor Area in the Premises shall be determined by Landlord's architect or construction manager after placement of demising walls. The area of the Premises shall be measured by calculating lengths and widths to immediately inside the exterior of outside walls (i.e. not including the exterior surface of such outside walls) and to the middle of the interior walls. Tenant may request that the Landlord mark the location of any new demising wall. If at anytime, there is a dispute as to the location of the Premises within the Center or the Floor Area of the Premises, the written determination of Landlord's architect or construction manager as such location or Floor Area shall be binding upon both parties hereto. In the event the Floor Area as determined by Landlord's architect or construction manager differs from the Floor Area set forth in the Section 1.1(g), the Minimum Rent to be paid by the Tenant shall be adjusted to the figure obtained by multiplying the exact square footage of Floor Area in the Premises by the rental per square foot of Floor Area indicated in Section 1.1(j). If this calculation produces a monthly Minimum Rent that is different than that set forth in Section 1.1(j), the monthly Minimum Rent as determined by this Section shall control.

3.5 Tenant shall, contemporaneously with the execution of this Lease, deposit with Landlord the Security Deposit. If Tenant shall fail to pay any installment of Rent when due, said Security Deposit may, at the option of Landlord, be applied to any such sums due and unpaid, and if Tenant violates any of the other terms, covenants and conditions of this Lease, said Security Deposit may be applied to any damages suffered as a result of Tenant's default. Should any of the Security Deposit be used to pay sums due for any reason, and if this Lease is kept in full force and effect at the option of Landlord, Tenant shall reimburse Landlord the amount of such depletion, within 10 days after notice to Tenant by Landlord of such depletion. Nothing contained in this Section shall in any way diminish or be construed as waiving any of the Landlord's other remedies as provided in Article XVII or by law or in equity. Should Tenant comply with all of the terms, covenants and conditions of this Lease, and promptly pay all of the Rent herein provided as it falls due, at the end of the Lease Term the Security Deposit shall be returned to Tenant (without interest) within 30 days after Tenant requests in writing the return of the Security Deposit, which request shall include the forwarding address of Tenant. Landlord may deliver the Security Deposit to the assignee of Landlord's interest in the Premises in the event that such interest be sold or assigned, and thereupon Landlord shall be discharged from further liability with respect to such Security Deposit.

ARTICLE IV. COMMON AREA.

4.1 Landlord shall operate and maintain the Common Area in such manner as Landlord in its sole discretion determines to be in the best interests of the Center. Landlord reserves the right at its sole discretion to change from time to time the size, dimensions and location of the Common Area as shown on Exhibit "A," including without limitation, the entrances, exits, lanes, size and location of the parking areas; and the size, dimensions, identity and type of any building(s) shown on Exhibit "A"; and has the further right to construct, or remove, any structure, temporary or permanent, on any part of the Common Area without the consent of the Tenant, subject to no restrictions except that (subject to the provisions of Articles XIII and XIV hereof), there shall be no material impairment of the size and dimension of the Premises. So long as Tenant is not in default hereunder, Tenant and its Permitees shall have the nonexclusive license to use the Common Area as constituted from time to time in common with Landlord, other tenants of the Center and other persons entitled to use the same, which license shall be subject to reasonable rules and regulations as Landlord may from time to time prescribe. Tenant shall not solicit any business within the Common Area or take any action which would interfere with the rights of other persons to use the Common Area. Landlord may temporarily close any part of the Common Area for such periods of time as may be necessary to make repairs or alterations, or as otherwise provided herein.

4.2 The use of the Common Area by employees of Tenant may be restricted by Landlord from time to time. Landlord shall have the right, but not the obligation, to maintain and operate lighting facilities on all the parking areas and to control all the parking and other Common Area, and to make rules regulating the use thereof, including, the right to designate and regulate employee parking areas, and to do and perform such other reasonable acts with respect to the Common Area as in the judgment of Landlord and Landlord's counsel may be legally necessary, including temporarily closing any part of the

Common Area to prevent the public from obtaining prescriptive rights. Without limitation of the foregoing, Landlord expressly reserves the right to require that Tenant and other tenants in the Shopping Center cause their employees to park only in areas specifically designated by Landlord. Upon request from Landlord, Tenant shall provide Landlord with a list of Tenant's employees' vehicles (a description thereof) and the license plate numbers of such vehicles.

4.3 Tenant shall pay to Landlord, monthly, in advance, on the first day of each month, one-twelfth of the Common Area Maintenance Fee. Landlord shall have the right, exercisable by Landlord giving written notice to Tenant from time to time during the Lease Term, to estimate the Common Area Maintenance Fee (based upon Landlord's reasonable estimation of the Common Area Expenses) payable by Tenant for the future fiscal period indicated by Landlord, whereupon, commencing on the future date during the Lease Term indicated by Landlord, Tenant shall pay Landlord on the first day of each month, in advance, the monthly charge so indicated by the Landlord. Periodically, during the Lease Term, Landlord shall compute and determine the actual Common Area Expenses for the relevant prior fiscal period established by Landlord. Landlord shall give Tenant notice of such Common Area Expenses and notice of Tenant's actual Common Area Maintenance Fee with respect to such period. If Tenant's actual Common Area Maintenance Fee with respect to such period exceeds the amount therefor previously paid by Tenant, Tenant shall pay Landlord the deficiency in each such case within 30 days following notice from Landlord; however, if the aforesaid amount previously paid by Tenant towards Tenant's actual Common Area Maintenance Fee is in excess of Tenant's actual Common Area Maintenance Fee with respect to such period, then the balance thereof shall be held by Landlord and applied to the payment of Tenant's Common Area Maintenance Fee next due; except that any amounts remaining at the termination of this Lease shall be offset against any amounts then owing by Tenant to Landlord under this Lease, and any remaining net surplus shall then be refunded by Landlord to Tenant.

4.4 Landlord and Tenant acknowledge, agree and confirm to each other that they are both knowledgeable and experienced in commercial lease transactions; and Landlord and Tenant agree that the provisions of this Lease for determining Common Area Maintenance Fee, Tax Charges, Insurance Charges and other charges, are commercially reasonable and acceptable to the parties for determining such charges, even though such calculations may not state precisely the formulas for determining the same.

ARTICLE V. USE AND CARE OF PREMISES.

5.1 The Premises shall be used and occupied by Tenant only for the Permitted Use under Tenant's Trade Name, and for no other purpose or use, and under no other trade name, without the prior written consent of Landlord. Tenant shall not at any time leave the Premises vacant, but shall in good faith continuously throughout the Term of this Lease conduct and carry on in the Premises the type of business for which the Premises are leased, in accordance with the best standards of operation of such business, for at least the hours of 10 o'clock A.M. through 5 o'clock P.M., each day, Monday through Saturday of every week. Tenant will staff the Premises and carry enough merchandise so as to ensure maximum sales. In the event the exterior lights for the Premises are individually controlled by Tenant from the Premises, then Tenant, at Tenant's sole cost and expense, shall keep all lights illuminating its exterior sign, if any, and all lights on the canopy in front of the Premises illuminated for all hours of darkness. However, in the event Landlord controls all exterior lighting, all costs incurred by Landlord in connection therewith shall be included in the Common Area Maintenance Fee. Further, Tenant shall not close its business for remodeling or any other purpose without the prior written consent of Landlord.

5.2 Tenant shall not, without Landlord's prior written consent, perform any act or fail to perform any act, keep anything within the Premises or use the Premises for any purpose that increases the insurance premium cost or invalidates any insurance policy carried on the Premises or on other parts of the Center. If Landlord does give written consent to Tenant pursuant to the above sentence, then Tenant shall be liable, at its sole cost and expense, for the amount of any increase in the insurance premium cost resulting from such act or omission to which Landlord has consented.

5.3 The term "Hazardous Substances," as used in this Lease, shall mean pollutants, contaminants, toxic or hazardous wastes, radioactive materials or any other substances, the use and/or the removal of which is governed, restricted, prohibited or penalized by any "Environmental Law," which term shall mean any federal, state or local statute, ordinance, regulation or other law of a governmental or quasi-governmental authority relating to pollution or protection of human health or the environment or the regulation of the storage or handling of Hazardous Substances. Tenant hereby agrees that: (i) no activity will be conducted on the Premises by Tenant that will produce any Hazardous Substance; (ii) the Premises will not be used in any manner for the storage of any Hazardous Substances; (iii) Tenant will not permit any Hazardous Substances to be brought onto the Premises or the Center. If at any time during or after the Term of this Lease, any Hazardous Substance is found located on the Premises, or on the Center resulting from the actions of Tenant, Tenant's agents, employees or contractors, or anyone for whose actions Tenant is liable, the same shall, at Landlord's election either (x) be immediately removed by Tenant, with proper disposal, and all required clean-up procedures shall be diligently undertaken by Tenant at its sole cost pursuant to all Environmental Laws or (y) Tenant shall be responsible for all costs of inspection, monitoring and/or remediation. Tenant shall make all notifications and shall obtain and maintain in full force all permits, licenses, registrations, or similar authorizations required under any Environmental Law for the operations or activities of Tenant at the Premises. Tenant agrees to indemnify

and hold Landlord harmless from all claims, demands, actions, liabilities, costs, expenses, damages, penalties and obligations of any nature arising from or as a result of any contamination of the Premises with Hazardous Substances, or any contamination of the Center resulting from the actions of Tenant, Tenant's agents, employees or contractors, or anyone for whose actions Tenant is liable, or otherwise arising from the use of the Premises by Tenant. Tenant shall store, use, handle or dispose of all Hazardous Substances which may be permitted by Landlord and used on the Premises in the ordinary course of Tenant's business in strict compliance with all Environmental Laws. The terms of this Section 5.3 shall survive the termination or expiration of this Lease.

5.4 Tenant shall not, without Landlord's prior written consent, conduct or permit to be conducted within the Premises any fire, auction, bankruptcy, "lost-our-lease," "going-out-of-business," or similar sales; nor permit any objectionable or unpleasant odors or loud noises to emanate from the Premises; nor place or permit any radio, television or other antenna, loud speaker or amplifier, flashing lights or searchlight on the roof or outside the Premises or where the same can be seen or heard outside the building; nor place or display any signs, advertisements or other items (other than dignified displays permitted under Section 8.1) in any windows or glass store fronts. In no event shall Tenant take any other action which would disturb or endanger other tenants of the Center, or unreasonably interfere with their use of their respective premises or create a nuisance or annoyance to Landlord or to other tenants, nor do or permit any act which might, in the exclusive judgment of Landlord, damage Landlord's goodwill or reputation, or tend to injure or adversely affect the operation or business of the Center.

5.5 Tenant, at its sole cost and expense, shall obtain (and upon request deliver to Landlord) all permits and licenses and pay all fees required for the transaction of its business in the Premises. Tenant shall comply timely with all applicable laws, ordinances, governmental regulations or restrictive covenants now in force or which may hereafter be in force pertaining to the Premises or the operation of Tenant's business therein. Tenant acknowledges that the Center may be subject to restrictive covenants that may affect Tenant's ability to conduct its business at the Premises and Tenant further acknowledges that it has conducted its own independent review of any restrictive covenants affecting the Center. Tenant hereby waives any claims or causes of action against Landlord arising out of any violation by Tenant of any applicable restrictive covenants; and Tenant shall indemnify and hold harmless Landlord from all claims, causes of action, costs, losses, damages and attorneys fees incurred by Landlord in connection with any such violation by Tenant.

5.6 Tenant shall take good care of the Premises and keep the same free from waste or nuisance at all times. Tenant shall not locate or install or cause to be located or installed on the sidewalks, service areas or any other portions of the Common Area immediately adjoining the Premises or on the storefront, any bicycle racks, newspaper holder stands, vending machines of any kind, mailboxes, telephone booths, trash or refuse receptacles, "no parking" signs or any other device of a similar nature without Landlord's consent. Tenant shall keep the Premises, including windows and signs and sidewalks, service ways, loading areas and other portions of the Common Area immediately adjacent to the Premises neat, clean, and free from obstructions, dirt or rubbish at all times and shall store all trash and garbage within the Premises, and shall arrange for the regular pickup of such trash and garbage at Tenant's expense. In the event Tenant fails to do so, then Landlord shall have the right to cause such trash and garbage to be picked up at the sole cost and expense of Tenant. Tenant shall on demand pay any cost and expense of picking up such trash and garbage incurred by Landlord plus 15% of such cost and expense (to cover Landlord's overhead and administrative costs with respect thereto). All trash receptacles or dumpsters installed by Tenant must comply with any statute, ordinance, rule, regulation, or restrictive covenant now or hereafter in force governing the location or manner of their placement and must be in a color approved by Landlord, who shall have the right to remove from the Center without notice any such receptacles that do not so comply or that have not been so approved. Tenant shall be solely responsible for any fine, penalty or damage that may result from its failure to comply with this Section. Receipt and delivery of goods and merchandise and removal of garbage and trash shall be subject to such regulations as Landlord may from time to time prescribe. Without limitation of the foregoing, Landlord shall have the right to require that Tenant share a dumpster with one or more other tenants in the Shopping Center; in such event, Landlord shall make arrangements for such dumpster to be emptied on a regular basis and Tenant shall pay to Landlord as additional Rent the amount billed by Landlord to Tenant from time to time as Tenant's share of such dumpster charges. Landlord reserves the right to allocate such dumpster charges between Tenant and the other tenants in the Center based on Landlord's determination of their respective use of such dumpster.

ARTICLE VI. MAINTENANCE AND REPAIR OF PREMISES.

6.1 Landlord shall maintain only the foundation, the exterior walls (except store front, windows, plate glass, doors, door closure devices, window and door frames, moldings, locks, hardware and painting and other treatment of interior and exterior walls) and roof (subject to Section 4.2) of the Premises in good repair; provided, however, that Landlord shall not be required to make any repairs occasioned by the act, omission or negligence of Tenant, or its Permitees, it being expressly agreed that roof repairs or maintenance work on Tenant's heating, ventilating and air conditioning equipment necessitated by any damage or injury arising out of, or as a result of Tenant's acts or omissions, shall be the sole obligation of Tenant. In the event that the Premises should become in need of repairs required to be made by Landlord hereunder, Tenant shall give immediate written notice thereof to Landlord; and Landlord shall not be responsible in any way for failure to make any such repairs until a reasonable time shall have elapsed after delivery of such written notice.

6.2 Tenant shall maintain the Premises, and all portions thereof, neat, clean, and in good order and condition and shall make all needed repairs thereto, including, without limitation, maintenance of all doors and doorways, all direct utility connections and replacement of cracked or broken glass, except only for repairs required to be made by Landlord under the provisions of Section 6.1. Tenant shall comply at its sole cost and expense with all governmental laws, ordinances and regulations applicable to the Premises, except that Tenant shall not be obligated to make any structural changes or alterations to the Premises in order to comply therewith unless made necessary by the acts or omissions of Tenant, in which event Tenant shall comply at its expense in accordance with plans and specifications approved by Landlord. If any repairs required to be made by Tenant hereunder are not made within 10 days after written notice has been delivered to Tenant by Landlord, Landlord may at its option, in addition to its other remedies hereunder, make such repairs without liability to Tenant for any loss or damage which may result to Tenant's stock or business by reason of such repairs. Tenant shall pay to Landlord upon demand the cost of such repairs plus 15% of such cost (to cover Landlord's overhead and administrative costs with respect thereto).

6.3 Without limitation of Section 6.2, Tenant shall have sole responsibility for maintenance and upkeep of the heating, ventilating and air conditioning system, the sprinkler system (if any), that portion of the sewer system which exclusively serves the Premises (unless damage to the Center's sewer system is caused by Tenant's use or misuse, in which event Tenant shall be responsible for the repair of all damage caused thereby) and that portion of the water and electrical facilities downstream of Tenant's meters but including Tenant's water and electrical meters and Tenant shall, at Tenant's sole cost and expense, repair and replace all or any part thereof as may be necessary from time to time to keep such items in good working condition at all times.

6.4 Any work at the Premises causing venting, opening, sealing, waterproofing shall be performed at Tenant's expense either, at Landlord's election, by (a) Landlord, or (b) Tenant, who shall contract directly with the roofing contractor designated by Landlord ("Roof Contractor"). In the event any such Roof Modifications are made during the Term hereof pursuant to (b) above, Tenant shall provide Landlord with a certificate from the Roof Contractor certifying that the Roof Modifications (i) were made by the Roof Contractor in accordance with the original plans and specifications for the Center and (ii) have not in any way diminished or impaired the Roof Contractor's warranty to Landlord, if any. Tenant shall indemnify and hold harmless Landlord from any personal injury or damage to the Premises, the Center or personal property resulting, directly or indirectly, from any Roof Modifications made pursuant to (b) above.

ARTICLE VII. ALTERATIONS AND FIXTURES.

7.1 Tenant shall not, without obtaining Landlord's prior written consent: (a) change the exterior or architectural treatment of the Premises or any part thereof; (b) paint or decorate any part of the exterior of the Premises; (c) make any alterations or additions to the Premises or permit the making of any holes in the walls, ceilings or floors thereof; (d) injure, overload, deface or otherwise harm the Premises or any part thereof or any equipment or installation therein; or (e) permit the use of any forklift or tow truck, or any other mechanically powered machine or equipment for handling freight in the Premises or other portion of the Center; provided, however, that Tenant may perform Tenant's Work and install unattached, movable trade fixtures and equipment. All repairs, replacements, alterations, additions, improvements, plate glass, exterior doors, overhead sprinkler systems (if any), floor coverings and fixtures (other than unattached, movable trade fixtures) including all air conditioning, electrical, mechanical and plumbing machinery and equipment, exhaust hoods and water heaters, which may be made or installed by either party hereto upon the interior or exterior of the Premises shall become the property of Landlord without credit or compensation to Tenant at the termination of this Lease, and at the termination of this Lease shall remain upon and be surrendered with the Premises, unless Landlord requests their removal, in which event Tenant shall, prior to such termination, remove the same and restore the Premises to their original condition, normal wear and tear excepted, at Tenant's expense; and if Tenant shall fail to remove fixtures or other improvements from the Premises at the end of the Lease Term as requested by Landlord, Landlord may elect to remove the same, and Tenant shall reimburse Landlord for the cost of removal within ten (10) days after a demand from Landlord. This covenant shall survive expiration or termination of this Lease.

ARTICLE VIII. SIGNS AND STORE FRONTS.

8.1 Tenant shall not, without Landlord's prior written consent: (a) make any changes to the store front, (b) install any exterior lighting, shades or awnings, or any exterior decorations or paintings, (c) place or install any reflective material on the doors, windows or store front, or (d) erect or install any signs, window or door lettering, decorations or advertising media which can be viewed from the exterior of the Premises, except only dignified displays for its display windows which are of a type customary for that business and which comply with all applicable statutes, codes, ordinances, orders, regulations and restrictive covenants. Tenant shall, at its sole cost and expense, install on or before the Commencement Date a sign displaying Tenant's Trade Name and maintain the same in good order and repair at all times during the Lease Term. All signs shall comply with all applicable statutes, codes, ordinances, rules, regulations and restrictive covenants and the sign specification attached hereto as Exhibit "D". Neither portable or trailer signs nor any grand opening signs or banners of any kind shall be permitted.

ARTICLE IX. UTILITIES.

9.1 Prior to the Ready for Occupancy Date, Landlord shall, at its sole cost and expense, pay the sums required to have connected utility services, including electricity, sanitary sewer, and water to the Center, including any and all utility deposits and hook-up, connection, tie-in, tap and meter fees, and other fees applicable as assessed by any governing authorities.

9.2 Following the Commencement Date, Tenant shall promptly pay all charges for electricity, water, gas, telephone service and all other utilities furnished to the Premises. Electric and natural gas (if applicable) service(s) furnished to the Premises will be separately metered. Landlord requires Tenant to submeter Premises for water usage. Tenant shall install water submeter with remote reader on the interior of the rear wall. Landlord may elect to install one or more sub-meters for one or more premises (which, if installed at the Demised Premises, shall be at Tenant's expense), in which event Landlord will bill each tenant whose premises is sub-metered for the amount used according to that tenant's sub-meter. Any amounts which Landlord bills to Teannt under the terms of this Section 9.2 will be considered additional retnal and will be due within ten (10) days after the date upon which Landlord delivers such bill to Tenant.

9.3 Landlord shall not be liable for any interruption whatsoever in utility services. No interruption of utility service shall be construed as either a constructive or actual eviction of Tenant, nor work an abatement of Rent, nor relieve Tenant for fulfilling any covenant or condition of this Lease.

ARTICLE X. INSURANCE AND INDEMNITY.

10.1 Tenant shall indemnify and hold Landlord and Landlord's agents harmless from and against any and all claims, actions, demands, liens, costs, damages, expenses and liabilities whatsoever including, but not limited to, attorneys' fees and court costs, arising out of any claims of any persons on account of or by reason of: (a) any occurrence in, on or about the Premises from the date the Premises are tendered to Tenant by Landlord until Tenant fully vacates the Premises; (b) the negligence or willful misconduct of Tenant or its Permitees in, on or about the Premises and/or Center; (c) any default by Tenant hereunder; (d) any violation of any Environmental Law by Tenant or its Permitees and/or (e) the release or disposal of any Hazardous Substance in, on, under or about the Premises by Tenant and/or its Permitees. This Section shall survive the termination of this Lease.

10.2 (a) Tenant shall throughout the Lease Term carry and maintain, at Tenant's cost and expense, the following types of insurance, in the amounts specified and in the forms hereinafter provided:

(i) Commercial general liability insurance of an "occurrence" type against all claims on account of liability of Tenant, with limits of not less than $1,000,000 per occurrence and $2,000,000 as a general aggregate. Tenant's commercial general liability insurance shall include Broad Form Property Damage, Personal Injury Liability Insurance (with the Employee's Exclusion deleted) with a limit of $1,000,000 per occurrence, Products Liability Insurance, Independent Contractor's Liability Insurance and Blanket Broad Form Contractual Liability Insurance, it being the intent of Landlord and Tenant that Tenant's contractual liability coverage will provide coverage to the maximum extent possible of Tenant's indemnification obligations under this Lease;

(ii) Property insurance written on the broadest available "all-risk" policy form covering all the items in, on, or upon the Premises exclusive only of the Building Shell, and all alterations, additions or changes made by Tenant pursuant to the terms of this Lease, in an amount not less than 90% of the full replacement cost thereof from time to time during the Lease Term, providing protection against perils included within the standard Texas form of fire and extended coverage insurance policy with a broad form

endorsement covering sprinkler damage (but Landlord makes no representation that the Premises or any other portion of the Center is equipped with a sprinkler system), vandalism and malicious mischief;

(iii) Plate glass insurance covering all plate glass, if any; and

(iv) Worker's compensation insurance as required by law; and

(iv) Tenant shall be obligated to provide insurance on all of Tenant's furniture, fixtures, equipment and other personal property in the Premises, it being agreed and understood that the Landlord shall have no liability or responsibility for loss or damage thereto under any circumstances whatsoever, including, but not limited to, loss by fire or other casualty, damage to such personal property by flood water (or other water damage), or for any other reason; and

(v) If alcoholic beverages are sold at the Premises, Tenant will obtain, maintain and furnish Landlord with evidence (reasonably satisfactory to Landlord) that Tenant has in effect "Dram Shop" or liquor liability insurance with limits not less than $1,000,000.00.

(vi) Such other insurance against other insurable hazards as Landlord may from time to time reasonably require.

(b) All policies of insurance described in this Section shall be issued in form acceptable to Landlord by insurance companies acceptable to Landlord and qualified to do business in the State of Texas. Each such policy shall provide that Landlord is an additional insured. Each such policy shall be for the mutual and joint benefit and protection of Tenant, Landlord and any such other party in interest and shall be primary insurance for all claims under such policy and provide that any insurance carried by Landlord or any other party in interest is strictly excess, secondary and noncontributing with any insurance carried by Tenant. Executed copies of each such policy of insurance or a certificate thereof shall be delivered to Landlord and within three (3) days after the date the Premises are tendered to Tenant and thereafter at least 30 days prior to the expiration of each such policy. Tenant's liability policies will be endorsed as needed to provide cross-liability coverage for Tenant, Landlord and any lender of Landlord, and will provide for severability of interests. All such policies shall contain a provision that the company writing said policy will give to Landlord and such other parties in interest at least 30 days notice in writing in advance of any cancellation, change, modification, lapse, or the effective date of any reduction in the amount of insurance. Tenant shall furnish Landlord a copy of the policy (policies) within 10 days after Landlord requests the same. All such public liability and property damage policies shall contain a provision that Landlord and any such other parties in interest, although named as an insured, shall nevertheless be entitled to recover under said policies for any loss occasioned to Landlord or any such other parties in interest, or to any of their respective servants, agents or employees by reason of the negligence of Tenant.

(c) If Tenant fails to have a certificate of such policy on deposit with Landlord at any time during the Lease Term (and prior thereto in the event of any entry into possession by Tenant prior to the Commencement Date or subsequent to the date of termination hereof in the event of a holdover), then Landlord shall have the right (but no obligation), and without limitation of its rights under Article XVII, to take out and maintain such an insurance policy, and if Landlord does so Tenant shall pay to Landlord on demand the amount of the premium applicable to such policy of insurance plus 15% of the cost thereof (to cover Landlord's overhead and administrative costs in connection therewith).

10.3 Tenant shall pay to Landlord monthly, in advance, on the first day of each month, one-twelfth of the Insurance Charge. Upon request and each time an adjustment is made, Landlord shall furnish Tenant with a notice of the required monthly installment of the Insurance Charge.

10.4 Notwithstanding any provision herein contained to the contrary, if, by the nature of Tenant's business, Landlord's insurance rate on the Center is higher than the normal insurance rate being charged for fire and extended coverage, Tenant, at its sole cost and expense, shall pay the difference between the rate being charged for such insurance and the normal stipulated rate to the extent that such increase is attributable to Tenant's business.

ARTICLE XI. NON-LIABILITY FOR CERTAIN DAMAGES.

11.1 Landlord shall not be liable to Tenant for any injury to person or damage to property caused by the Premises becoming out of repair or by gas, water, steam, electricity or oil leaking or escaping into the Premises (except where due to Landlord's willful failure to make repairs required to be made by Landlord hereunder, after the expiration of a reasonable time after written notice to Landlord of the need for such repairs), nor shall Landlord be liable to Tenant for any loss or damage that may be occasioned by or through the acts or omissions of other tenants of the Center or of any other persons

whatsoever, except only willful acts of duly authorized employees and agents of Landlord. All property left, stored or maintained within the Premises shall be at Tenant's sole risk.

ARTICLE XII. ACCESS TO PREMISES.

12.1 Landlord shall have the right to enter upon the Premises at all reasonable hours for the purpose of inspecting them, making repairs to them, making alterations or additions to adjacent premises, conducting environmental inspections or curing any default of Tenant hereunder that Landlord elects to cure. Landlord shall not be liable to Tenant for any expense, loss or damage from any such entry upon the Premises. Tenant shall permit Landlord, at any time within 6 months prior to the expiration of this Lease, to place upon the Premises any "For Lease" signs and during such period, Landlord or its agent may, during normal business hours, enter upon the Premises and exhibit same to prospective tenants. In entering the Premises, Landlord shall use reasonable efforts not to interfere with the business of Tenant being conducted therein.

ARTICLE XIII. DAMAGE BY CASUALTY.

13.1 Tenant shall give immediate written notice to Landlord of any damage caused to the Premises by fire or other casualty.

13.2 In the event the Premises are damaged or destroyed by fire or other casualty insured or insurable under standard fire and extended coverage insurance and Landlord does not elect to terminate this Lease as hereinafter provided, Landlord shall proceed with reasonable diligence, and at its cost and expense, to rebuild and repair the Premises as set forth in Section 13.3 hereof. Tenant shall pay on demand all costs and expenses which exceed the cost incurred by Landlord in meeting its obligation to rebuild the Building Shell as provided in Section 13.3 below. If the building in which the Premises are located is damaged or destroyed by fire or other casualty so as to render un-tenantable more than 25% of the entire Floor Area of such building, then Landlord may elect either to terminate this Lease or proceed to rebuild and repair the Premises. Landlord shall give written notice to Tenant of such election within 60 days after Landlord receives the insurance proceeds therefor, and, if it elects to rebuild and repair, shall proceed to do so with reasonable diligence and at its sole cost and expense as set forth herein.

13.3 Notwithstanding any provisions herein to the contrary, Landlord's obligation to rebuild and repair under this Article XIII shall be limited to construction of the Building Shell. Further, Landlord shall have no obligation to repair and rebuild the Premises unless and until insurance proceeds are made available therefor by all mortgagees of Landlord and all insurance companies with policies on the Premises or the building in which the Premises are located. Promptly after completion by Landlord of such construction Tenant will proceed with due diligence, and at its sole cost and expense, to rebuild, restore and repair its signs, fixtures, equipment and other items and to restore the Premises to a condition similar to its condition prior to the casualty, and promptly re-open for business.

13.4 During any period of reconstruction or repair of the Premises, this Lease shall continue in full force and effect, except that Minimum Rent shall be abated for the length of time necessary for the reconstruction or repairs by Landlord as provided in Section 13.3, in proportion to the amount of Floor Area of the Premises rendered unusable; provided, that such abatement shall not extend the Lease Term. If the damage to the Premises is caused by the negligence or willful misconduct of Tenant or its Permitees, however, no item of Rent shall abate.

13.5 In the event the Lease is terminated pursuant to this Article XIII, Tenant shall, prior to such termination, pay and/or assign to Landlord any insurance proceeds received or to be received by Tenant with respect to damage to any leasehold improvements in the Premises.

13.6 Notwithstanding anything herein to the contrary, neither Landlord nor Tenant shall be liable (by way of subrogation or otherwise) to the other party (or to any insurance company insuring the other party) for any loss or damage to any of the property of Landlord or Tenant, as the case may be, to the extent such loss or damage is covered by insurance even though such loss or damage might have been caused by the negligence of the Landlord or Tenant or their respective employees, agents, servants or invitees. Nothing herein shall relieve either party from damages resulting from malicious or intentional acts of such party, its agents, representatives or employees.

13.7 Notwithstanding anything in this Article 13 (or elsewhere in this Lease) to the contrary, Landlord shall have the right to terminate this Lease, at Landlord's election, within sixty (60) days after the date of any fire or other casualty, if any such fire or other casualty occurs during the last eighteen (18) months of the Term of this Lease.

ARTICLE XIV. EMINENT DOMAIN.

14.1 If the whole or any part equal to or greater than 25% of the Floor Area of the Premises should be taken for any public or quasi-public use under any governmental law, ordinance or regulation or by right of eminent domain or by private purchase in lieu thereof, then at the option of either party hereto this Lease shall be cancelled and both parties shall be relieved of all obligations herein imposed. Should this Lease be so cancelled, then Tenant shall have no claim against Landlord and shall not have any claim or right to any portion of the amount that may be awarded as damages or paid as a result of such involuntary conversion whether brought about by suit or agreement for the cancellation of this Lease or for Tenant's leasehold interest or leasehold improvements; any and all of such amounts shall belong to Landlord and all rights of Tenant to damages therefor, if any, are hereby assigned by Tenant to Landlord. Tenant shall, however, have the right to claim and recover from the condemning authority, but not from Landlord, and only to the extent that such recovery by Tenant shall not diminish the amounts recoverable by Landlord, such compensation as may be separately awarded or recoverable by Tenant in Tenant's own right on account of any and all damage to Tenant's business by reason of the condemnation.

14.2 If less than 25% of the Floor Area of the Premises should be taken for any public or quasi-public use under any governmental law, ordinance or regulations or by right of eminent domain or by private purchase in lieu thereof, this Lease shall not terminate but Minimum Rent payable hereunder during the unexpired portion of this Lease shall be reduced in proportion to the reduction of the Floor Area in the Premises resulting from such taking from and after the date of such taking. In the event of such a taking, Tenant shall have the right to recover damages suffered or sustained by Tenant as a result of such taking only with respect to property which upon the termination of this Lease would belong to the Tenant, but Tenant shall have no claim against Landlord and shall not have any claim or right to any portion of the amount that may be awarded as damages or paid as a result of such taking for the loss of any part of Tenant's leasehold interest, leasehold improvements, and any and all of such amounts shall belong to Landlord and all rights of Tenant to damages therefor, if any, are hereby assigned by Tenant to Landlord.

ARTICLE XV. ASSIGNMENT AND SUBLETTING; SALE OF PREMISES.

15.1 Tenant shall not assign, mortgage, pledge or in any manner transfer this Lease or any estate or interest therein, or sublet the Premises or any part thereof, without the prior written consent of Landlord. Tenant acknowledges that this Lease is personal to Tenant for the Permitted Use under the Tenant's Trade Name, and that Landlord may withhold its consent in its sole discretion for any reason, or on any condition, whatsoever. Consent by Landlord to one or more assignments, sublettings or other transfers shall not operate as a waiver of Landlord's rights as to any subsequent assignments, sublettings or other transfers. Notwithstanding any permitted assignment, subletting or other transfer, Tenant shall at all times remain fully responsible and liable for the payment of all Rent and for compliance with all its other obligations under this Lease.

15.2 Any transfer of this Lease from Tenant by merger, consolidation or dissolution or any change in ownership or power to vote a majority of the voting stock in Tenant outstanding at the time of execution of this Lease shall constitute an assignment for the purpose of this Lease; provided, however, that the acquisition of all stock of a corporate tenant by any corporation, the stock of which is registered pursuant to the Securities Exchange Act of 1934 or the merger of a corporate tenant into such a corporation, the stock of which is so registered shall not itself be deemed to be an assignment in violation of this Section. If Tenant is a general partnership having one or more corporations as partners or if Tenant is a limited partnership having one or more corporations as general partners, any merger, consolidation or dissolution of any such corporation or any change in ownership or power to vote a majority of the voting stock in any such corporation outstanding on the Effective Date shall constitute an assignment for the purpose of the Lease; provided, however, that the acquisition of all stock of any such corporation by any corporation, the stock of which is registered pursuant to the Securities Exchange Act of 1934 or the merger of any such corporation into such a corporation, the stock of which is so registered, shall not itself be deemed to be an assignment in violation of this Section.

15.3 In the event of the transfer and assignment by Landlord of its interest in this Lease and in the building containing the Premises to any person or entity assuming Landlord's obligations under this Lease, Landlord shall thereby be released from further obligations hereunder and Tenant shall look solely to the responsibility of such successor-in-interest of the Landlord. Any security given by Tenant to secure performance of its obligations hereunder may be assigned and transferred by Landlord to such successor-in-interest of Landlord and Landlord shall thereby be discharged of any further obligation relating thereto.

15.4 In the event of any sale of the Center by Landlord, Landlord shall be and is hereby entirely freed and relieved of all liability under any and all of its covenants and obligations contained in this Lease arising out of any act, occurrence or omission occurring after the consummation of such sale; and the purchaser at such sale or any subsequent sale of Center shall be deemed, without any further agreement between the parties hereto or their successors in interest or between the parties hereto and any such purchaser, to have assumed and agreed to carry out any and all of the covenants and obligations of the Landlord under this Lease.

15.5 In the event of a transfer, assignment or sale pursuant to Sections 15.3 or 15.4, Tenant agrees to be bound to attorn to such transferee, assignee or purchaser as if such transferee, assignee or purchaser were the original Landlord hereunder.

ARTICLE XVI. PROPERTY TAXES.

16.1 Landlord shall pay, or cause to be paid, all Real Estate Taxes which may be lawfully charged, assessed or imposed on the Center; provided, however, that if authorities having jurisdiction assess Real Estate Taxes which Landlord deems excessive, Landlord may defer compliance therewith to the extent permitted by the applicable laws so long as the validity or amount thereof is contested by Landlord in good faith.

16.2 Tenant shall pay, as and when due, all taxes which may be lawfully charged, assessed or imposed upon all trade fixtures, equipment and other personal property of every type in the Premises, and all license fees which may be lawfully imposed upon the business of Tenant conducted upon the Premises. If any such taxes for which Tenant is liable are levied against Landlord or Landlord's property and if Landlord elects to pay the same or if the assessed value of Landlord's property is increased by inclusion of personal property and trade fixtures placed by Tenant in the Premises and Landlord elects to pay the taxes based on such increase, Tenant shall pay to Landlord upon demand that part of such taxes for which Tenant is primarily liable hereunder.

16.3 Tenant shall pay to Landlord monthly, in advance, on the first day of each month, one-twelfth of the Tax Charge, in an amount estimated by Landlord. Upon request from Tenant, and after receipt of all tax bills and assessment bills attributable to any calendar year during the Lease Term, Landlord shall furnish Tenant with a written statement of the actual amount of the Tax Charge for such year. If the total amount paid by Tenant under this Section for any calendar year shall be less than the actual amount due from Tenant for such year, as shown on such statement, Tenant shall pay to Landlord on demand the difference between the amount paid by Tenant and the actual amount due; and if the total amount paid by Tenant hereunder for any such calendar year shall exceed such actual amount due from Tenant for such calendar year, such excess shall be credited by Landlord against the Tax Charge due in the subsequent year (or if there is no subsequent year remaining in the Lease Term, such excess shall be offset against any amounts then owing by Tenant to Landlord and any remaining net surplus shall then be refunded by Landlord to Tenant). This Section shall also apply to the calendar years in which this Lease commences and terminates, but Tenant's liability for the Tax Charge for such years shall be subject to a pro rata adjustment based on the number of days of such calendar years during which this Lease is in effect. Prior to or at the Commencement Date and from time to time thereafter, Landlord shall notify Tenant of Landlord's estimate of Tenant's monthly installments or Tax Charge due hereunder, which estimate shall continue until Landlord notifies Tenant otherwise.

ARTICLE XVII. EVENTS OF DEFAULT AND REMEDIES.

17.1 Landlord has entered into this Lease upon the condition that Tenant shall punctually and faithfully perform all of Tenant's covenants, conditions and agreements. Each of the following events shall be deemed to be an event of default of Tenant hereunder (each of which is sometimes referred to herein as an "Event of Default"):

(a) failure of Tenant to timely pay any installment of Rent hereunder when due;

(b) the vacation or abandonment of the Premises by Tenant;

(c) failure of Tenant to observe or perform any other covenant, term or condition set forth in this Lease and such failure continues for a period of 20 days from the date of written notice thereof from Landlord to Tenant (provided that if such failure cannot reasonably be cured within 20 days, such failure shall not be deemed an Event of Default under this subsection if Tenant commences to cure such failure within said 20 days and thereafter diligently and continuously prosecutes the curing of such failure until completion), but in all events Tenant shall cure such failure within 30 days after such notice from Landlord;

(d) Tenant or any Guarantor shall generally not pay its debts as they become due or shall admit in writing its inability to pay its debts, or shall make a general assignment for the benefit of creditors; or Tenant or any Guarantor shall commence any case, proceeding or other action seeking to have an order for relief entered on its behalf as debtor or to adjudicate it a bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, liquidation, dissolution or composition of it or its debts under any law relating to bankruptcy, insolvency, reorganization or relief of debtors, or seeking appointment of a receiver, trustee, custodian or other similar official for it or for all or any substantial part of its property; or Tenant or any Guarantor shall take any corporate action to authorize, or in contemplation of, any of the actions set forth above in this subsection (d);

(e) any case, proceeding or other action against the Tenant or any Guarantor shall be commenced seeking to have an order for relief entered against it as debtor or to have it adjudicated a bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, liquidation, dissolution or composition of it or its debts under any law relating to bankruptcy, insolvency, reorganization or relief of debtors, or seeking appointment of a receiver, trustee, custodian or other similar official for it or for all or any substantial part of its property, and such case, proceeding or other action (i) results in the entry of an order for relief against it which is not fully stayed within seven business days after the entry thereof, or (ii) shall remain undismissed for a period of 30 days; or

(f) any other failure or default of Tenant which pursuant to any other provision of this Lease is an Event of Default, or breach of the provisions of this Lease.

In the event of a default by the Tenant herein (or by any affiliate of Tenant herein) under another lease with Landlord (or an affiliate of Landlord), the Landlord may deem the same a default under this Lease. The term "affiliate" used in the preceding sentence shall mean a person or entity which controls Tenant, which is under the control of Tenant, or which is under common control with Tenant. An "affiliate" of Landlord shall mean a person or entity which controls Landlord, is controlled by Landlord, or is under common control with the Landlord.

17.2 Upon the occurrence of any of such Events of Default, Landlord shall have the option to pursue any one or more of the following remedies without any notice or demand whatsoever:

(a) Terminate this Lease, or terminate Tenant's rights (including, but not limited to, Tenant's right of possession) under this Lease (but not its obligations), and in either event Landlord shall have the right to immediate possession of the Premises and may reenter the Premises, and remove all persons and property therefrom by any lawful means without being guilty in any manner of trespass or otherwise; and any and all damages to Tenant, or persons holding under Tenant, by reason of such re-entry are hereby expressly waived; and any such termination or re-entry on the part of Landlord shall be without prejudice to any remedy available to Landlord for arrears of Rent, breach of contract, damages or otherwise, nor shall the termination of this Lease or of Tenant's rights under this Lease by Landlord acting under this subsection be deemed in any manner to relieve Tenant from the obligation to pay the Rent and all other amounts due or to become due as provided in this Lease for and during the entire unexpired portion then remaining of the Lease Term.

(b) Without terminating this Lease, enter upon the Premises, by any lawful means, and without being guilty in any manner of trespass or otherwise and without liability for any damage to Tenant or persons holding under Tenant by reason of such re-entry, all of which are hereby expressly waived, and do or perform whatever Tenant is obligated hereunder to do or perform under the terms of this Lease; and Tenant shall reimburse Landlord on demand for any expenses or other sums which Landlord may incur or expend (plus 10% thereof to cover Landlord's overhead and administrative costs), pursuant to this Subsection (b), and Landlord shall not be liable for any damages resulting to Tenant from such action.

(c) Without waiving such Event of Default, apply all or any part of the Security Deposit to cure the Event of Default or to any damages suffered as a result of the Event of Default.

(d) Pursuit of any of the foregoing remedies by Landlord shall not preclude pursuit of any other remedies herein provided Landlord or any other remedies provided by law or in equity, nor shall pursuit of any of the other remedies herein provided constitute a forfeiture or waiver of any Rent due Landlord hereunder or of any damages accruing to Landlord by reason of the violation of any of the terms, provisions and covenants herein contained. Forbearance by Landlord to enforce one or more of the remedies herein provided upon an Event of Default shall not be deemed or construed to constitute a waiver of such default; and in such event Tenant shall pay all costs incurred by Landlord for the cost of altering the Leased Premises for another Tenant, all brokerage fees or commissions, and all legal fees in connection therewith.

(e) In the event of termination of this Lease, or termination of Tenant's right of possession of the Premises, Landlord shall use reasonable efforts to relet the Premises, however, Landlord shall not be obligated to relet the Premises; (1) in preference to other vacant space in the Center; (2) to any affiliate of Tenant or any principal or officer of Tenant or any affiliate of such principal or officer; (3) to any person or entity whose creditworthiness is deemed unacceptable to Landlord; (4) to any person or entity if Landlord determines, in Landlord's reasonable judgment, would disturb the tenant mix of the Center, or because of such proposed use, would impose unreasonable or excessive demands upon the Center; (5) to any person who has been engaged in litigation with, or who has threatened litigation against Landlord, or any of Landlord's affiliates; (6) to any person or entity not approved by the holder of any liens or security interests against the Center, or any part thereof; (7) to a tenant who would cause Landlord to breach or be in default of any of its covenants under any agreements between Landlord and any third party (including, without limitation, other tenants in the Center); (8) to

any proposed tenant who is unwilling to execute and deliver to Landlord, Landlord's standard lease form (or assignment of lease or sublease) or other lease form acceptable to Landlord; or (9) where any assignment or sublease would require improvements or changes to be made to the Leased Premises by Landlord, at Landlord's cost or expense.

(f) In the event Tenant fails or refuses to make timely and punctual payment of any Minimum Rent, additional rent or other sums payable or charges due under this Lease as and when the same shall become due and payable, or in the event of any breach of any of the terms or provisions of this Lease by Tenant, in addition to the other remedies available to Landlord, Landlord at its option, shall be entitled, and is hereby authorized, without any notice to Tenant whatsoever, to enter into and upon the Leased Premises by use of a master key, a duplicate key or any other peaceable means, and to change, alter and/or modify the doors locks on all entry doors of the Leased Premises, permanently excluding Tenant and its officers, principals, agents, employees and representatives therefrom. In the event that Landlord has either permanently repossessed the Leased Premises as aforesaid or has elected to terminate this Lease by reason of Tenant's default, Landlord shall not thereafter be obligated to provide Tenant with a key to the Leased Premises at any time; provided, however, that in any such instance, during Landlord's normal business hours and at the convenience of Landlord, and upon receipt of a written request from Tenant accompanied by such written waivers and releases as Landlord may require, Landlord may, at its option, (1) escort Tenant or its authorized representative to the Leased Premises to retrieve any personal belongings or other property of Tenant not subject to the Landlord's lien of security interest described herein, or (2) obtain a list from Tenant of such personal property Tenant intends to remove, whereupon Landlord shall remove such property and make it available to Tenant at a time and place designated by Landlord. In the event Landlord elects option (2) above, Tenant shall pay, in cash and in advance, all costs and expenses estimated by Landlord to be incurred in removing such property and making it available to Tenant, including, but not limited to all moving and/ or storage charges theretofore incurred by Landlord with respect to such property. Landlord's remedies hereunder shall be in addition to, and not in lieu of, any of its other remedies set forth in this Lease, or otherwise available to Landlord at law or in equity. It is intended that this paragraph, and the provisions herein contained, shall supersede and be paramount to any conflicting provisions of the Texas Property Code, as well as any successor statute governing the rights of landlords to change locks of commercial tenants.

ARTICLE XVIII. LANDLORD'S LIEN, SECURITY AGREEMENT AND ATTORNEY'S FEES.

18.1 To secure the payment of all Rent and the performance of all other obligations of Tenant hereunder, Tenant hereby grants to Landlord a security interest (as that term is defined in the Uniform Commercial Code as adopted in the State in which the Center is located) in all inventory, equipment, trade fixtures, furnishings and other personal property which are now or hereafter located on or within the Premises, including all proceeds thereof. All lawful exemptions of such property or any part thereof are hereby waived by Tenant and such security interest shall be in addition to any statutory lien provided to landlords under the laws of the State in which the Center is located. This Lease shall constitute a security agreement, as that term is defined in the Uniform Commercial Code as adopted in the State in which the Center is located. Tenant acknowledges that 10 days written notice of a sale under this security agreement shall be reasonable notice. Tenant, upon demand, shall execute and return to Landlord any financing statement or other document necessary to perfect the security interest granted herein, and Tenant hereby irrevocably appoints Landlord as Tenant's attorney-in-fact to execute and file any such financing statement or other document. Such power of attorney is coupled with an interest.

18.2 Landlord agrees to execute an agreement subordinating the security interest granted in Section 18.1 to that of a lender of Tenant provided that: (i) such lender is not affiliated with Tenant or any Guarantor; (ii) there is no Event of Default in existence at that time; (iii) the subordination agreement specifically describes the collateral; and (iv) such subordination agreement is in form reasonably acceptable to Landlord.

18.3 In the event Tenant defaults in the performance of any of the terms, covenants, agreements or conditions contained in this Lease and Landlord places the enforcement of this Lease, or any part thereof, or the collection of any Rent due or to become due hereunder, or recovery of possession of the Premises in the hands of an attorney, or files suit upon the same, Tenant agrees to pay to Landlord all costs of suit and/or other enforcement of Landlord's rights hereunder, including court costs and reasonable attorney's fees.

ARTICLE XIX. HOLDING OVER.

In the event Tenant remains in possession of the Premises after the expiration of this Lease and without the execution of a new lease, it shall be deemed to be occupying the Premises as a tenant at sufferance at a per diem Minimum Rent equal to 2/30 of the monthly Minimum Rent applicable hereunder during the last month of the Lease Term and otherwise subject to all the conditions, provisions and obligations of this Lease insofar as the same are applicable to a tenancy at sufferance. Tenant shall indemnify and hold harmless Landlord from all claims, causes of action, costs, losses, damages and attorneys fees incurred by Landlord as a result of such holdover, including, without limitation, damages,

costs and expenses incurred by Landlord as a result of not being able to make the Premises available to a new tenant because of Tenant's holdover.

ARTICLE XX. FINANCING; SUBORDINATION.

20.1 Tenant accepts this Lease subject and subordinate to any mortgage, deed of trust or other lien now or hereafter existing upon the Premises or the Center and any and all renewals, modifications and extensions thereof. Landlord is hereby irrevocably vested with full power and authority to subordinate this Lease to any mortgage, deed of trust or other lien now or hereafter placed upon the Premises or the Center, and Tenant shall upon demand execute such further instruments subordinating this Lease as Landlord may request. At any time and from time to time, upon not less than 10 days' prior notice by Landlord, Tenant shall execute, acknowledge and deliver to Landlord a statement of the Tenant in writing certifying that this Lease is in full force and effect and there are no modifications thereof, (or if there have been modifications hereto, that the same is in full force and effect as modified and stating the modifications), and the dates to which the Rent has been paid in advance, if any, stating whether or not Landlord is in default in the keeping or performance of any covenant, agreement, term, provision or condition contained in this Lease and, if so, specifying each such default, and stating such other matters as Landlord shall reasonably request, it being intended that such statement may be relied upon by Landlord and any prospective purchaser, lessee, mortgagee or assignee of any mortgage of the Center or of the Landlord's interest therein. If Tenant fails to deliver such written statement to Landlord within such 10 days then, Landlord's statement as to the truth of such statement shall be deemed acceptable to Tenant for all purposes.

20.2 Notwithstanding anything contained herein to the contrary, in the event of any default by Landlord in performing its covenants or obligations hereunder, Tenant shall not exercise any rights it may have on account of such default until (a) Tenant gives written notice of such default (which notice shall specify the exact nature of said default and how the same may be cured) to each holder of any such mortgage or deed of trust who has theretofore notified Tenant in writing of its interest and the address to which notices are to be sent, and (b) each such holder fails to cure or cause to be cured said default within 45 days from the receipt by such holder of such notice by Tenant.

ARTICLE XXI. NOTICES.

21.1 All notices or requests provided for herein must be in writing and must be given by (i) depositing the same in the United States mail, addressed to the party to be notified, postpaid, and registered or certified with return receipt requested; (ii) hand delivery or (iii) overnight express courier service. Notices shall be deemed received upon the second day following deposit of the same in the United States mail, or the second day after delivery to an overnight express courier service in accordance with the foregoing. Notice hand delivered shall be deemed delivered on the date of delivery. All notices to be sent to either of the parties shall be sent to the addresses for notice set out in the Basic Lease Provisions, as applicable, or at any other address subsequently specified in writing by the parties hereto in accordance with the foregoing notice procedure.

ARTICLE XXII. MISCELLANEOUS.

22.1 Whenever herein the singular number is used, the same shall include the plural, and the neuter gender shall include the feminine and masculine genders. Unless otherwise specifically provided, the phrase "on demand" shall mean within 10 days of written demand. Unless otherwise specifically provided, any consent or approval by Landlord required hereunder may be withheld by Landlord in its sole discretion.

22.2 Tenant shall not record this Lease. Any such recordation shall constitute an Event of Default hereunder. If, however, Landlord shall so request, Tenant shall execute and deliver a recordable short form lease in form and content as provided by Landlord.

22.3 This Lease and the rights and obligations of the parties hereto shall be interpreted, construed and enforced in accordance with the laws of the State of Texas. If any clause or provision of this Lease is illegal, invalid or unenforceable under present or future laws effective during the Lease Term, it is the intention of the parties hereto that the remainder of this Lease shall not be affected thereby.

22.4 This Lease may not be altered, changed or amended, except by instrument in writing signed by both parties hereto. The terms, provisions, covenants and conditions contained in this Lease shall apply to, inure to the benefit of and be binding upon the parties hereto and upon their respective successors, legal representatives and assigns subject to the provisions of Article XV.

22.5 One or more waivers of or the failure to enforce any covenant, term or condition of this Lease by either party shall not be construed as a waiver of a subsequent breach of the same covenant, term or condition or a waiver of the right to enforce such covenant, term or condition. The consent or approval by either party to or of any act by the other party requiring such consent or approval shall not be deemed to waive or render unnecessary consent to or approval of any subsequent or similar act.

22.6 Whenever a period of time is herein prescribed for action to be taken by Landlord, Landlord shall not be liable or responsible for, and there shall be excluded from the computation of any such period of time, any delays due to Force Majeure.

22.7 Time is of the essence with respect to Tenant's obligations under this Lease.

22.8 All Rent hereunder shall bear interest from the date due until paid at the lesser of (i) 18 percent per annum or (ii) the highest nonusurious rate allowed by applicable law. Any interest in excess of that maximum amount shall be credited to Rent due or to become due, or if Rent for the entire Term has been paid in full, refunded.

22.9 The voluntary or other surrender of this Lease by Tenant or a mutual cancellation hereof shall not work a merger and shall, at Landlord's option, terminate all or any existing subleases or sub tenancies, or may, at Landlord's option, operate as an assignment to it of Tenant's interest in any or all such subleases or subtenancies.

22.10 Notwithstanding anything herein to the contrary, Landlord shall in no event be liable to Tenant for any indirect or consequential damages, and no personal liability of any kind or character whatsoever now attaches or at any time hereafter under any conditions shall attach to Landlord or any partners, officers, directors, or shareholders of Landlord as applicable for payment of any amounts due under this Lease or for the performance of any obligation under this Lease. The exclusive remedies of Tenant for the failure of Landlord to perform any of its obligations under this Lease shall be to proceed against the interest of Landlord in and to the Center, it being understood that in no event shall a judgment for any deficiency or monetary claim be sought, obtained or enforced against any partner, officer, director or shareholder of Landlord as applicable.

22.11 On the last day of the Lease Term, or upon the earlier termination of this Lease, Tenant shall peaceably and quietly leave, surrender and yield to Landlord the Premises, free of all claims, broom-clean and in good condition and repair, except for normal wear and tear. If Tenant does not remove its movable equipment, furniture and supplies prior to termination, then in addition to its other remedies at law or in equity, Landlord shall have the right (but not the obligation) to elect either (a) to have such items removed and stored, and all damage to the Premises or Center resulting therefrom repaired, at Tenant's cost and expense; or (b) to have such movable equipment, furniture and supplies automatically become the property of the Landlord upon termination of this Lease, in which event Tenant shall not have any further right with respect thereto or reimbursement therefor.

22.12 Tenant and any Guarantor, if applicable, shall submit to Landlord from time to time current financial statements and operating statements. Tenant warrants and represents that (a) all such financial information given to Landlord by or on behalf of Tenant or any Guarantor are, or will be, as of their respective dates, true, complete and correct in all material respects.

22.13 At any time during the Term of this Lease the Landlord shall have the right to require Tenant to relocate its business and the Leased Premises to other premises (the "New Premises") in another part of the Center in accordance with the following provisions:

(a) Landlord shall notify Tenant, at least sixty (60) days prior to the proposed relocation date, of Landlord's intention to relocate Tenant's business to the New Premises;

(b) The proposed relocation date, and the size, configuration and location of the New Premises shall be set forth in Landlord's notice; and

(c) The New Premises shall be substantially the size and configuration as the Leased Premises described in this Lease.

(d) The New Premises shall contain an area which shall not vary more than ten percent (10%) from the area of the Leased Premises;

(e) Landlord shall, at Landlord's cost and expense, complete all leasehold improvements in the New Premises to the same Tenant finish as constructed in the original Leased Premises;

(f) Tenant shall, within fifteen (15) days after possession of the New Premises has been tendered to Tenant, move to and open for business in the New Premises;

(g) Landlord shall pay the reasonable costs to move Tenant from the original Leased Premises to the New Premises; and

(h) Tenant shall surrender possession of the Leased Premises to Landlord not later than fifteen (15) days after possession of the New Premises has been tendered to Tenant.

The New Premises shall be subject to the same terms, conditions and covenants as the Leased Premises originally leased herein, except that in the event the Floor Area of the New Premises differs from the Floor Area of original Leases Premises, then the Minimum Rent (and sales break point, if any) shall be proportionately adjusted. Upon the occurrence of any relocation pursuant to this paragraph 22.15, the parties hereto shall promptly execute an amendment to this Lease reflecting such relocation of Tenant, and if applicable, any adjustment to Minimum Rent and sales break point, in a form reasonably acceptable to Landlord.

22.14 This Lease contains the entire agreement of the parties hereto and supersedes all prior oral or written agreements of the parties hereto, their agents, affiliates or employees. This Lease cannot be changed, amended or modified, except by a written instrument executed by both Landlord and Tenant.

22.15 ANY CONTROVERSY OR CLAIM BROUGHT BY TENANT ARISING OUT OF OR RELATED TO THIS LEASE, OR THE BREACH OF THIS LEASE, SHALL BE SUBMITTED TO A MEDIATOR LICENSED IN THE STATE OF TEXAS AND APPROVED BY LANDLORD. ANY DISPUTE WHICH IS NOT RESOLVED BY SUCH MEDIATION, SHALL THEN BE SETTLED BY ARBITRATION IN ACCORDANCE WITH THE COMMERCIAL ARBITRATION RULES OF THE AMERICAN ARBITRATION ASSOCIATION THEN IN EFFECT. THE AWARD RENDERED BY THE ARBITRATOR OR ARBITRATORS SHALL BE FINAL AND JUDGMENT MAY BE ENTERED UPON IT IN ACCORDANCE WITH APPLICABLE LAW IN ANY COURT HAVING JURISDICTION THEREOF. NOTICE OF DEMAND FOR ARBITRATION SHALL BE FILED IN WRITING WITH THE OTHER PARTY TO THIS LEASE AND WITH THE AMERICAN ARBITRATION ASSOCIATION. A DEMAND FOR ARBITRATION SHALL BE MADE WITHIN A REASONABLE TIME AFTER THE CLAIM HAS ARISEN, BUT IN NO EVENT SHALL IT BE MADE AFTER THE DATE WHEN INSTITUTION OF LEGAL OR EQUITABLE PROCEEDINGS BASED ON SUCH CLAIM WOULD BE BARRED BY THE APPLICABLE STATUTE OF LIMITATIONS. ALL ARBITRATION PROCEEDINGS RELATED TO THIS LEASE SHALL BE HELD IN HOUSTON, TEXAS. LANDLORD, MAY, BUT IS NOT OBLIGATED TO, SUBMIT ANY CONTROVERSY OR CLAIM BROUGHT BY LANDLORD ARISING OUT OF OR RELATED TO THIS LEASE TO MEDIATION AND/OR ARBITRATION.

22.16 The parties represent and warrant to each other that they have had no dealings with any broker or agent other than Broker, to whom Landlord may pay a commission pursuant to a separate written agreement between Landlord and Broker. Each party agrees to indemnify and hold the other party harmless from any claims, costs or expenses arising due to a breach of the foregoing representation.

22.17 Tenant, provided it pays all Rent and performs all of its obligations under this Lease, shall and may peaceably and quietly have, hold and enjoy the Premises for the Term hereof.

22.18 Tenant shall not enter into any agreement to install a pay phone, automated teller machine or any other kind of dispensing machine in the Premises and/or Shopping Center. Landlord reserves the exclusive right to enter into an agreement to install a pay phone, automated teller machine and/or any other kind of dispensing machine with respect to the Shopping Center.

22.19 Notwithstanding the fact that this Lease (in its original form) was prepared by Landlord, this Lease has been reviewed by Tenant and its legal counsel and the terms and provisions hereof have been negotiated by both parties and this Lease shall not be construed for or against Landlord or Tenant.

22.20 Tenant acknowledges that Landlord may be receiving certain funding from one or more local governments in connection with its development of the Shopping Center. This funding may be based, in whole or in part, upon sales tax revenues expected to be generated from the Shopping Center. In order that the appropriate sales tax revenues generated from the Shopping Center be accurately determined, Tenant agrees to create a separate sales and use tax account for the Leased Premises and to provide Landlord, upon Landlord's request, with copies of sales reports Tenant has submitted to the Texas Comptroller of Public Accounts (the "Comptroller"), certified by Tenant as to their accuracy. If Tenant shall either fail to create a separate sales and use tax account for the Leased Premises, or submit timely such sales tax reports to the Comptroller and/or Landlord, or if such certification shall be shown to be false in any respect, the same shall constitute a default under this Lease. Tenant further covenants and agrees to furnish the Comptroller not later than the Rent Commencement Date with a completed and signed waiver of sales tax confidentially, and to thereafter during the Term maintain an effective waiver of sales tax confidentially on file with the Comptroller (in such form as Landlord or the Comptroller may from time to time require). If Tenant shall fail to submit or maintain such waiver with the Comptroller, the same shall constitute a default under this Lease. Tenant further agrees to provide such additional information, documentation and/or certifications as may be reasonably required by the State of Texas, local governments or Landlord as part of its monitoring of the sales tax revenues generated from the Shopping Center. Landlord covenants that the information provided by Tenant hereunder to Landlord shall be shared and kept confidential and shall only be shared with Landlord's affiliates and/or the Government in connection with the aforementioned funding, except as may otherwise be required by law (including, without limitation, any applicable open records law).

22.21 Landlord agrees to terminate Tenant's lease prior to the expiration date in the event Tenant and Landlord sign a new lease at 1818 Washington. Tenant and Landlord acknowledge that rent and lease terms may differ from existing lease terms.

ARTICLE XXIII. DEFINITIONS

As used in this Lease, the following terms have the meanings set forth below:

23.1 Building Shell: The concrete floor, the roof, the roof deck, exterior walls (exclusive of store front, windows and exterior doors) water, and sanitary sewer which enclose the Premises, and no other improvements.

23.2 Center: The tract of land described on Exhibit "A-1" attached hereto and made a part hereof, the building or buildings located thereon which contains the Premises, and any further improvements to such land, as they may from time to time be constituted.

23.3 Commencement Date: The date which is 60 days after the "Ready for Occupancy Date" as defined in Section 2.5 above, or the date Tenant opens the Premises to the public for business, whichever date shall occur first.

23.4 Common Area: All portions of the Center which Landlord may from time to time make available for the general, non-exclusive use, convenience and benefit of Tenant, other tenants and their Permitees. The Common Areas shall include without limitation the following, to the extent same are made available to serve more than one occupant: parking areas, traffic lanes, entrances and exits from and to public streets, sidewalks, landscaping, curbs, private streets and alleys, lighting facilities, restrooms, loading facilities and docks, as the same may exist from time to time. In addition, although the roof(s) of the building(s) in the Shopping Center are not literally part of the Common Area, they will be deemed to be so included for purposes of (A) Landlord's ability to prescribe rules and regulations regarding same and (B) common area maintenance reimbursements.

23.5 Common Area Expenses:

The amount of all costs and expenses incurred by Landlord in connection with the provision, operation, management, maintenance, replacement and repair of the Shopping Center. Tenants will be required to pay their proportionate share of the cost of Landlord's management operation and maintenance of the Common Area, as well as the other commonly shared costs, which may be incurred by Landlord in its discretion, included, among other costs, all costs of the following: lighting, painting, cleaning, policing, inspecting, repairing, replacing Common Area elements; heating and cooling of any enclosed mall or promenade (i.e., if such exist in the Shopping Center); trash removal, insect and pest treatments and eradication (whether in the Common Area or for the building(s) of the Shopping Center); security (if and to the extent Landlord provides security); advertising and other marketing to promote the Shopping Center; environmental protection improvements or devices and health and safety improvements and devices which may be required by applicable laws (including the maintenance, repair and replacement of same); seasonal decorations, seasonal lighting and/or other promotional activities (if any); charges and assessments paid by Landlord pursuant to any reciprocal easement or comparable document affecting the Shopping Center; a reasonable portion of the management fees which Landlord pays for the management of the Shopping Center; an allowance for Landlord's overhead costs, in the amount of fifteen percent (15%) of the total of all other Common Area costs; and the cost of any insurance for which Landlord is not reimbursed pursuant to Section 23.13. In addition, although the roof(s), sewer and water lines servicing the Shopping Center, fire-protection systems and devices, if any (such as sprinkler systems, if any), and exterior surfaces of the building(s) in the Shopping Center are not literally part of the Common Area, Landlord and Tenant agree that all costs incurred by Landlord for all sewer and water lines and other equipment (including maintenance, repair, and replacement of same), for fire-protection equipment and devices (including maintenance, repair and replacement of same), for exterior painting and for roof maintenance, repair and replacement shall be included on Common Area maintenance expenses pursuant to this Section 7.4, to the extent not specifically allocated to Tenant under this Lease nor another tenant pursuant to its lease.

23.6 Common Area Maintenance Fee: Tenant's Proportionate Share of the initial Common Area Expenses is $2.50/psf per year ($245.42 per month).

23.7 Effective Date: The date of execution of this Lease by Landlord.

23.8 Environmental Law. Any federal, state or local law, statute, ordinance, rule, regulation or order or determination of any Governmental Authority pertaining to health, safety or the environment, whether now in existence or hereafter enacted in effect in the jurisdiction in which the Premises is located.

23.9 Floor Area: The actual number of square feet of floor space on all levels or floors contained within a store at the time of determination thereof by Landlord (whether or not such store shall then be occupied).

23.10 Force Majeure: Acts of God, unanticipated adverse weather, strikes, riots, shortages of labor or materials, war, governmental laws, regulations or restrictions, or other causes beyond the control of the applicable party hereto; provided however, the occurrence of a Force Majeure event shall never excuse or delay payment of Rent or other sums due hereunder by Tenant to Landlord.

23.11 Gross Leasable Area: The aggregate area of Floor Area (measured in square feet) in the Center, including the Premises. Notwithstanding anything herein contained to the contrary, the Gross Leasable Area in the center (including the premises) is hereby deemed to be not less than 16,098 square feet, but may be increased by Landlord from time to time with written notice, for all purposes under this lease.

23.12 Guarantor: Any guarantor of Tenant's obligations hereunder.

23.13 Insurance Charge: Tenant's Proportionate Share of the insurance premiums payable by Landlord for any insurance obtained by Landlord with respect to the operation, ownership or use of the Center for any calendar year during the Term.

23.14 Landlord: The party named as "Landlord" in Section 1.1(b), its successors, legal representatives and assigns.

23.15 Landlord's Work: The work (if any) to be performed by Landlord pursuant to Exhibit "B", Paragraph A.

23.16 Lease Term or Term or Term of this Lease: The period set forth in Section 1.1(i).

23.17 Lease Year: The term "Lease Year" as used herein, shall, in the case of the first Lease Year, mean the period which commences with the date of commencement of the lease term and terminates on the last day of the twelfth (12^{th}) full calendar month after such commencement, and such first Lease Year shall, therefore, include twelve (12) full calendar months plus the partial month, if any, if the commencement of this lease term does not commence on the first day of a calendar month. Each subsequent "lease Year" shall mean a period of twelve (12) full calendar months commencing with the date following the last day of the first Lease Year, and commencing with each subsequent annual anniversary of such day.

23.18 Minimum Rent: As set forth in Section 1.1(j), payable in accordance with Article III.

23.19 Net Leasable Area: The aggregate area of Floor Area (measured in square feet) in the Center, including the Premises, but excluding the Common Area. Net Leasable Area will be determined by Landlord from time to time.

23.20 Permitees: Partners, officers, directors, employees, agents, contractors, customers, visitors, invitees, licensees, permitted subtenants and concessionaires of Landlord, Tenant or any occupant of the Center.

23.21 Real Estate Taxes: All real estate taxes, assessments, improvements or benefits, water, sewer or other rents, occupancy taxes and other governmental imposition, and any fees paid by Landlord to consultants, attorneys and other professionals who monitor, negotiate and/or contest any or all above-described real estate charges, and charges of every kind and nature whatsoever, whether general or special, foreseen or unforeseen (including all interest and penalties thereon unless the same result from Landlord's negligence), which at any time during the Lease Term may be levied, assessed, imposed, become due and payable or create liens upon, or arise in connection with the use, occupancy or possession of the Center, but excluding any charge, such as a water meter charge and the sewer rent or service charge based thereon, which is measured by the consumption of the actual user of such item or service and for which a separate charge is made to tenants or other occupants of the Center. A tax bill or copy thereof submitted by Landlord to Tenant shall be conclusive evidence of the amount of the Real Estate Taxes or installment thereof. Real Estate Taxes shall not include any inheritance, estate, succession, transfer, gift, , corporation, income or profit tax or capital levy that is or may be imposed upon Landlord; provided, however, that if at any time during the Lease Term the methods of taxation prevailing on the Effective Date shall be altered so that in lieu of or as a substitute for the whole or any part of the Real Estate Taxes then levied, assessed or imposed on real estate there shall be levied, assessed or imposed (a) a tax on the rents received from such real estate, or (b) a license fee measured by the rents received or receivable by Landlord from the Center or any portion thereof, or (c) a tax or license fee imposed upon Landlord which is otherwise measured by or based in whole or in part upon the economic value of the Center, or any portion thereof, then the same shall be included in the computation of Tax Charge hereunder, computed as if the amount of such tax or fee so payable were that which would be due if the Center were the only property of Landlord subject thereto.

23.22 Rent or Rental: All monetary obligations of any kind or character (including, without limitation, Minimum Rent, additional rent, and other charges or sums) of Tenant to Landlord under the terms of this Lease.

23.23 Store: Any portion of a building (including the Premises) located in the Center intended to be used for the sale of goods or services.

23.24 Tax Charge: Tenant's Proportionate Share of the Real Estate Taxes with respect to any calendar year during the Term, together with any costs incurred by Landlord in such year to contest or seek reductions in Real Estate Taxes (including fees of tax consultants and reasonable attorney's fees).

23.25 Tenant's Proportionate Share: The percentage stated in Section 1.1(l).

23.26 Tenant's Work: The work (if any) to be performed by Tenant pursuant to Exhibit "B," if attached hereto.

23.27 Utility Facilities: The network of pipes, lines, conduits, wires and other interconnecting facilities within the Center through which heat, air conditioning, water, sewage, storm drainage, telephone, communications, electricity, gas and other utility services utilized by any occupant in the Center are received, transmitted or discharged.

SIGNATURES ON NEXT PAGE

EXECUTED by Tenant the 24th day of March, 2018.

TENANT: Harper & Jones, LLC

By: _____

Name: Drew Jones

Title: Co-Founder / CEO / Manager

EXECUTED by Landlord the 4th day of April, 2018 (which date is sometimes referred to herein as the "Effective Date").

LANDLORD: Crosby 2100, LTD.

By: Westheimer Wilcrest GP, LLC its general partner

By: _____

Name: _____

Title: Vice President

EXHIBIT "A"

SITE PLAN

TENANT NAMES DO NOT REPRESENT COTENANCY

Premises:
Approx. 1,117 SF
of useable area

EXHIBIT "A-1"

LEGAL DESCRIPTION

PROBSTFELD ASSOCIATES
PROFESSIONAL LAND SURVEYORS

21830 Kingsland Blvd., Suite 106 ▲ Katy, Texas 77450 ▲ Office 281.829-0034 ▲ Fax 281.829.0233

1902 Washington Avenue

A tract or parcel of land containing 0.9257 acres (40,322 square feet) being known as Lot 3, 4, 5, 6, 7, 8, 9, & 10, in Block 425, of W. R. Baker North Side Buffalo Bayou, of the Baker, Sheame & Riordan Addition, located in the John Austin Two League Grant, Abstract 1, Harris County, Texas, according to the unrecorded plat thereof on file at the Department of Public Works, City of Houston, Harris County, Texas, said 0.9257 acre tract being more particularly described by metes and bounds as follows with bearings based on the recorded plat of Washington Place, an addition in Harris County, Texas, according to the plat as recorded in Film Code No. 434010 of the Map Records of Harris County, Texas;

BEGINNING at a found 3 / 4 inch iron pipe marking the intersection of the South right of way line of Center Street, (75 feet in width), and the West right of way line of Silver Street, (50 feet in width), said found 3 / 4 inch iron pipe marking the Northeast corner of Lot 7, in Block 425 of said W. R. Baker, said found 3 / 4 inch iron pipe also marking the **POINT OF BEGINNING** and the Northeast corner of the herein described tract;

THENCE South 02 degrees 52 minutes 15 seconds East, with the said West right of way line of Silver Street, a distance of 202.50 feet, (call 200.00 feet), to a found 1 / 2 inch iron rod marking the intersection of the said West right of way line of Silver Street, and the North right of way line of Washington Avenue, (80 feet in width), said found 1 / 2 inch iron rod marking the Southeast corner of said Lot 6, said found 1 / 2 inch iron rod also marking the Southeast corner of the herein described tract;

THENCE North 85 degrees 02 minutes 01 seconds West, along the said North right of way line of Washington Avenue, with the South line of Lot 6, Lot 5, Lot 4, and Lot 3, a distance of 201.00 feet, (call 200.00 feet), to a found 1 / 2 inch iron rod marking the Southwest corner of said Lot 3, same being the Southeast corner of Lot 2, said found 1 / 2 inch iron rod also marking the Southwest corner of the herein described tract;

THENCE North 02 degrees 52 minutes 15 seconds West, along the common lot line of said Lot 2 and Lot 3, a distance of 202.50 feet, (call 200.00 feet), to a set 1 / 2 inch iron rod with cap lying in the said South right of way line of Center Street, said set 1 / 2 inch iron rod with cap marking the Northeast corner of said Lot 11, same being the Northwest corner of said Lot 10, said set 1 / 2 inch iron rod with cap also marking the Northwest corner of the herein described tract;

THENCE South 85 degrees 02 minutes 01 seconds East, along the said South right of way line of Center Street, with the North line of Lot 10, Lot 9, Lot 8 and Lot 7, a distance of 201.00 feet, (call 200.00 feet), to the **POINT OF BEGINNING** and containing 0.9257 acres (40,322 square feet) of land.

Mathew J. Probstfeld
Registered Professional Land Surveyor
State of Texas No. 4985
March 7, 2005

STATE OF TEXAS
REGISTERED
MATHEW J. PROBSTFELD
4985
PROFESSIONAL
LAND SURVEYOR

J:\Metes & Bounds\1902 Washington Ave. Blk. 425 W R Baker N Merfish.doc

EXHIBIT "B"

CONSTRUCTION RIDER
(Construction by Tenant)

A. Landlord shall complete the building in which the Premises are located, and shall finish out the Premises to Building Shell condition, as defined in the Lease ("Landlord's Work") and the Construction Responsibility Checklist attached as Exhibit B-1. The work to be performed by Landlord with respect to the Building Shell shall be deemed to be substantially complete notwithstanding that minor adjustments may be required to be made by Landlord so long as construction in the Premises may be commenced by Tenant, and so long as Tenant may install its fixtures and equipment at the Premises.

B. Tenant, at Tenant's sole cost and expense subject to Paragraph I hereof and the Construction Responsibility Checklist, shall construct the improvements ("Tenants Work") within the Premises substantially in accordance with the plans and specifications to be prepared by Tenant and approved by Landlord as hereinafter provided. Tenant's Work shall include the requisite demising wall(s). Premises shall be measured by calculating lengths and widths to immediately inside the exterior of outside walls (i.e. not including the exterior surface of such outside walls) and to the middle of the interior walls. Landlord reserves the right to construct the demising wall(s) on behalf of the Tenant and deduct the prorated cost thereof from Tenant's tenant improvement allowance. Tenant shall furnish preliminary plans to Landlord not later than ten days from the date of execution of the Lease by Landlord.

Landlord shall have ten days from the receipt of such preliminary plans, within which to submit to Tenant a request for any changes Landlord desires in such preliminary plans. Landlord may request a change in such preliminary plans based on any reason in Landlord's sole discretion. Tenant shall have 10 days from the date of Landlord's request within which to amend the plans and specifications in accordance with the modifications so requested by Landlord. If Landlord and Tenant shall fail to agree upon a mutually acceptable set of proposed plans and specifications within 30 days from the Effective Date, then either party shall have the right to terminate this Lease by providing written notice to the other party prior to the expiration of ten days after the end of such 30-day period. When Landlord and Tenant have mutually agreed upon plans and specifications for construction of the improvements, said plans and specifications (the "Plans") shall be signed or initialed by both Landlord and Tenant and dated, and incorporated herein by reference, but need not be attached to this Lease. All plans and specifications to be provided hereunder shall be at the sole cost and expense of Tenant.

C. Tenant shall cause Tenant's Work to be completed in accordance with the Plans within 60 days after the Premises are tendered to Tenant by Landlord in the condition provided for in paragraph A above. If the Tenant, for any reason, fails to complete construction and open for business within such period then Landlord, in addition to all other rights and remedies herein provided, shall have the right to terminate the Lease by giving written notice to Tenant of such termination. Upon termination of the Lease pursuant to the terms of this Exhibit "B," (i) Tenant shall immediately vacate and relinquish possession of the Premises to Landlord, (ii) all obligations of the parties to this Lease shall cease except as may be specifically provided to the contrary in the Lease or in this Exhibit "B", (iii) Tenant's right to the Construction Allowance provided under Paragraph I hereof shall terminate and Tenant shall have no further right or claim against Landlord on account of improvements, if any, constructed by Tenant at the Premises and (iv) Landlord shall have the right to retain Tenant's Security Deposit and the Prepaid Rent as liquidated damages, which amount has been agreed upon by Landlord and Tenant because of the difficulty and uncertainty of determining the damages Landlord will sustain as a result of delay and administrative expenses incurred by Landlord.

D. With respect to any labor performed or materials furnished by Tenant at the Premises, the following shall apply: All such labor shall be performed and materials furnished at Tenant's own cost, expense, and risk. Labor and materials used in the installation of Tenant's equipment, fixtures, and furnishings, and in any other work at the premises performed by Tenant, will be subject to Landlord's prior written approval. Any such approval by Landlord of Tenant's labor shall constitute a license authorizing Tenant to permit such labor to enter upon the Center and the Premises prior to the Commencement Date; however, such license is conditioned upon Tenant's labor working in harmony with and not interfering with either Landlord's or the other tenant's labor, mechanics, or contractors. Accordingly, if at any time, Tenant's labor shall cause disharmony or interference therewith, the license granted herein may be withdrawn by Landlord upon 48 hours written notice to Tenant, and upon expiration of such 48-hours, Tenant shall have caused all of Tenant's labor (with respect to which Landlord shall have given such notice to Tenant) to have been removed from the Premises and the Center. With respect to any contract for labor or materials, Tenant shall act as principal and not as an agent of Landlord. Tenant agrees to indemnify and hold Landlord harmless from all liabilities, suits, causes of action, costs, fees (including, without limitation, reasonable attorney's fees), damages and claims (including costs and expenses of defending against such claims) of any kind arising or alleged to arise from the negligence or willful misconduct of Tenant or of Tenant's agents, employees, contractors, subcontractors, laborers, materialmen or invitees or arising from any bodily injury or property damage occurring or alleged to have occurred incident to Tenant's Work. All of Tenant's construction at the Premises shall be performed in a good and workmanlike manner satisfactory to Landlord in accordance with all applicable building codes, regulations and all other legal requirements, and with the Construction Rules attached hereto and made a

part hereof for all purposes, and shall not interfere with or delay any work being done by Landlord or Landlord's contractor. Unless otherwise approved in writing by Landlord, Tenant shall perform its construction of the premises only during the normal working hours of the building trades involved.

E. Tenant shall not allow the Premises or the Center to suffer any lien to be filed against it. With respect to any contract for labor or materials, Tenant acts as principal and not as the agent of Landlord. Tenant shall, at the request of Landlord, cause its general contractor to furnish a payment and performance bond in a form and with a company acceptable to Landlord securing the faithful performance of the work to be performed by Tenant. Landlord expressly disclaims liability for the cost of labor performed or materials furnished at the request, or for the benefit, of Tenant. If, because of any actual or alleged act or omission of Tenant, any lien, affidavit, charge or order for the payment of money shall be filed against Landlord, the Center, the Premises, or any portion thereof or interest therein, whether or not same is valid or enforceable, Tenant shall, at its own expense, cause same to be discharged of record by payment, bonding or otherwise, at the option of Landlord, no later than 15 days after notice to Tenant of the filing thereof; and in the event Tenant fails to discharge same within such time, Landlord may, but shall not be obligated to, discharge same and Tenant shall pay to Landlord all amounts required to discharge same within ten days of receipt of Landlord's statement of such amounts. The provisions of this paragraph shall survive the termination or expiration of the Lease.

F. Tenant shall indemnify and hold harmless Landlord from any claim by any party (which shall include reasonable attorney's fees and court costs) arising out of any construction and decorating work provided at the request, or for the benefit, of Tenant. The provisions of this paragraph shall survive the termination or expiration of the Lease.

G. No work is to be done at the Premises or the Center that will affect the appearance or use of such without the prior written approval of the Landlord.

H. No work is to be done at the Premises or the Center that will diminish the structural integrity of the improvements located thereon.

I. Landlord has agreed to pay Tenant a Construction Allowance in the amount indicated in Article 1.1(r) of the Lease, provided, however, that notwithstanding anything contained in this Exhibit "B" or in the Lease to the contrary, Landlord shall not be obligated to pay any portion of the Construction Allowance until after all of the provisions of this Paragraph I have been satisfied. In addition, Tenant shall be in default under the Lease if Tenant fails to comply with any or all of the provisions of this Paragraph I.

1. Final, As-Built Plans

2. Tenant shall complete all work in accordance with the Plans.

3. Tenant shall furnish Landlord with copies of the occupancy certificate for the Premises.

4. Tenant shall open for business.

5. Tenant shall furnish Landlord with Final & Conditional lien releases in the form of attached Exhibit B-2

6. Tenant shall not be in default under this Lease.

7. Tenant shall provide Tenant Invoice

J. Landlord shall have the right to withhold ten percent of the sum payable by Landlord to Tenant pursuant to the foregoing Paragraph I for a period of 30 days following the satisfaction of all requirements set forth in such paragraph. Landlord shall also have the right to withhold from the Construction Allowance any amounts owing to Landlord by Tenant under the terms of the Lease. In the event that the cost of Tenant's Work exceeds the amount of the Construction Allowance, Tenant shall nonetheless complete Tenant's Work in accordance with the terms of the Lease and this Exhibit and shall be solely responsible for and shall pay any and all of such excess promptly as it becomes due.

CONSTRUCTION RULES

1. Check-in

All of Tenant's contractors are required to check-in with Landlord, or his designated representative ("Property Manager"). Tenant's contractors will not be permitted to start work until they:

a) furnish proper evidence of required insurance coverage;

b) furnish names and proper numbers (office and home) of their supervisory personnel;

c) furnish names and phone numbers of their prime subcontractors;

2. Insurance Requirements

a) Each and every one of Tenant's contractors shall provide evidence of the following insurance coverage before commencing any work at the Premises:

General Liability Insurance:

Bodily Injury	300,000/500,000 (per occurrence)
Property Damage	500,000 (per occurrence)

Worker's Compensation/Employer's Liability: as required by law.

Builder's Risk Insurance:

Multi-peril, in full amount of such contractor's contract with Tenant

b) All policies shall name Landlord as additional insured

c) All policies shall provide for 10 days' prior written notice of reduction in coverage, expiration or cancellation to the additional insureds.

d) All policies shall show a Waiver of Subrogation in favor of Landlord.

e) All coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption from the date of commencement of the Contractor's work at the Premises until the date of final payment to the Contractor for such work.

3. Work Area

All of Tenant's contractor's work, storage of materials, etc., must be confined to within the Premises.

4. Deliveries

Deliveries will be made only through entrances and routes established from time to time by Landlord or the Property Manager.

5. Service Areas

Service areas of the Center shall be kept clear of materials, equipment, debris, and trash at all times.

6. Trash Removal

Tenant and Tenant's contractors and all subcontractors and suppliers are required to remove trash and construction debris from the Premises and the Center each day. Accumulations of trash and debris within the Leased Premises, at service areas or the parking lot not so removed may be removed by the Landlord at Tenant's expense.

7. Parking

Parking for construction personnel will be permitted only in the areas designated from time to time by the Landlord or its Property Manager.

8. Fire Protection

Tenant's contractor shall provide fire extinguishers (ten [10] lb. ABC.) within the Leased Premises as required by Landlord's insurance company or public safety officials, or any applicable code, rule, statute or regulation, or as requested by the Property Manager.

9. Work Practices

All work practices and personnel performing work in the Leased Premises must be compatible with the practices and personnel employed by Landlord and Landlord's contractor and its subcontractors. Upon notice that any work practices or personnel are not compatible, the Tenant shall be responsible for the immediate termination of said practices and/or the immediate removal of said personnel from the Center.

10. Protection of Work and Property

Tenant and Tenant's contractors shall protect their work from damage and shall protect the work of other tenants and Landlord from damage by Tenant, Tenant's contractors and their employees and subcontractors.

11. Strictly-Prohibited Work and Practices

a) Any combustible materials above finished ceiling or in any other concealed space.

b) Imposing any structural load, temporary or permanent, on any part of the Landlord's work or structure without the prior approval of the Landlord.

c) Cutting any holes in Landlord-installed floor slab, roof, or walls without the prior consent of the Landlord.

d) Use of Center area dumpsters. Contractors or any construction teams must provide own dumpster and/or daily trash removal.

Construction Responsibility Checklist
Exhibit B-1

	Landlord	Tenant	Existing
Construction - Documents			
Architectural for Premises			X
MEP for Premises			X
Fixtures		X	
Shell (Building)			X
Construction - General			
Concrete Floor Slab			X
Storefront			X
Storefront Door - Single Entry			X
Exterior Rear Door			X
Rear Wall			X
Any necessary demising wall, the location of which may be marked by Landlord for Tenant upon request			X
A/C Equipment & Controls			X
Construction - Plumbing			
Water Closet & Lavatory			X
Floor Drain			X
Hot Water Heater			X
Sanitary Service to Leased Premises			X
Water Service to Leased Premises			X
Impact Fees for Tenant use		X	
Water submeter & remote reader		X	
Construction - Electrical			
Electrical Service Gutter			X
Electrical Conduit			X
Power Panel			X
Transformer – must be located within Tenant space			X

EXHIBIT "C"

OPTION TO EXTEND

OPTION TERM.

Tenant is hereby granted one (1) option to extend the Lease Term for one (1) additional period of 60 full calendar months which shall commence on the day after the expiration of the Primary Term (the "Option Term"), contingent upon all of the following conditions being satisfied upon the expiration of the Primary Term:

(a) Tenant shall not have been in default under any of the terms and conditions of this Lease at any time.

(b) Tenant shall not have assigned this Lease or any interest therein or sublet (or otherwise permitted occupancy by any third party of) all or any portion of the Premises during the Primary Term regardless of whether any such assignment, sublease or occupancy is then still in effect and regardless of whether Landlord shall have consented to any such assignment, subletting or occupancy; and

(c) Tenant shall have given written notice to Landlord not less than one hundred eighty (180) days prior to the expiration of the Primary Term of Tenant's exercise of such option (the "Notice").

In the event that any of the foregoing conditions is not satisfied upon the expiration of the Primary Term, this Lease shall expire at the end of such Primary Term and be of no further force and effect; provided, however, that Landlord shall have the right to waive any of said conditions in writing prior to the expiration of the Primary Term. Time is of the essence in the exercise of this option and should Tenant fail to exercise this option by timely notice, this option shall lapse and be of no further force or effect.

In the event that Tenant effectively exercises the option herein granted, then all of the terms and provisions as are applicable during the Primary Term shall likewise be applicable during the Option Term except:

(a) Tenant shall have no further right to renew or extend the Term of this Lease after the expiration or other termination of the Option Term; and (b) Minimum Rent shall be the amounts as set forth below; and (c) Landlord has no obligation to do any Landlord's Work.

References in this Lease to the "Term" shall mean the Primary Term and, if properly exercised, the Option Term, unless such interpretation is expressly negated.

The Minimum Rent to be paid by Tenant to Landlord during the Extension Term shall be the following:

Years 1 – 5: $38.50/SF/yr

EXHIBIT "D"

SIGN CRITERIA

INTENT

The purpose of these sign criteria is to provide Tenant and Tenant's sign company with the basic standards which have been established to govern the design, fabrication, installation of Tenants' signs at this retail center.

This criterion, which must be followed by sign companies, serves a twofold purpose: (1) It will protect you, the Tenant, in obtaining a sign which meets standards of good design and workmanship; (2) It helps to assure the Tenant and Landlord of an attractive shopping center. The most attractive and economically successful shopping centers are those which have insisted upon sign control.

SUBMISSION REQUIREMENTS

A copy of this criteria should be given to Tenant's prospective sign contractor to aid them in giving the Tenant a bid for signage. After Tenant has selected a sign contractor, the Tenant shall submit a copy of the shop drawings to the Landlord for review and approval before fabrication. Drawings must show an elevation of the Tenant's proposed signage, details of construction and specifications.

LIABILITIES / RESPONSIBILITIES / STIPULATIONS

A. Tenant shall be responsible for damage to building caused by improper installation of signs.

B. All sign companies must be licensed under their name by the City of Houston and must have property liability insurance. Furthermore, the Tenant and sign company shall be held liable and shall bear all costs for the removal and / or correction of signs, sign installation and any damage to building by signs that do not conform to sign criteria as put forth in these specifications. This is at the discretion of the Landlord.

C. All signs are to be constructed and installed at Tenant's expense.

D. All permits for signs and their installation as required by local building and electrical codes shall be paid for and obtained by the Tenant or his representative. Signs not in compliance with all applicable sign ordinances shall not be in compliance with this sign criteria.

E. Tenant shall provide the primary electrical service wire run from his electrical panel to his sign location.

F. The following types of signage are prohibited:

1. "Channel Lume " type, channel letters utilizing "Armor Ply" plywood as letter backing.
2. Flashing or moving signs.
3. Visible sign company names.
4. Box Type Signs.
5. Banner flags or pennants.
6. Description of service, products or trade names.

G. Landlord reserves the right to limit or prohibit the use of logos.

LOCATIONS OF SIGNS

Signs on the exterior of the building must be located within the sign band area designated by Landlord.

DESIGN REQUIREMENTS

Wording of signs shall include the Tenant's trade name only. Any exceptions would be subject to Landlord's approval.

The sign copy shall not exceed 80% of the width of the lease space and shall be placed in the center, both horizontally and vertically.

Maximum vertical height of letters not to exceed 36" and when two (2) lines of copy are required there must be a 6" vertical distance between the two (2) lines. If the designated sign band area has a larger elevation height than the norm, due to architectural design then a maximum letter height may

larger elevation height than the norm, due to architectural design then a maximum letter height may be 42".

No letter shall be less than 12" in height for single line copy or double line.

TYPE OF SIGN

All Aluminum Channel Letters with Acrylic Faces, Trim Cap Retainers, Internally Illuminated and Individually Mounted on Building Fascia.

LETTER SPECIFICATIONS

Letter face to be 3/16" Acrylic.

The letter backs are to be .063 aluminum.

The letter returns are to be .040 aluminum and return depths should be a minimum of 4.25".

Letter depths to be 4.25".

Letter backs and returns to be welded. Sealer is to be used to prevent light leaks if necessary.

Neon to be 6500K white15mm tubing and transformers to be 30ma.

CONSTRUCTION REQUIREMENTS

All sign bolts, fastenings and clips shall be stainless steel, aluminum, brass, or bronze. No black iron materials of any type will be permitted.

All penetrations of the building structure required for sign installation shall be neatly sealed in a watertight condition. All penetrations through masonry shall be through the mortar joints. All mounting hardware shall be non-corrosive and neatly concealed from public view.

No labels will be permitted on the exposed surface of signs except those required by local ordinance, which shall be applied in an inconspicuous location.

Tenant shall be fully responsible for the actions of his sign contractor and for all cost pertaining to Tenant's signage.

No sign shall be installed without first obtaining Landlord's written approval of signage plans conforming to this criteria.

EXHIBIT "F"

GUARANTY

UNCONDITIONAL GUARANTY
DATED 3/24/2018 BY AND
BETWEEN Crosby 2100 Ltd., AS LANDLORD
AND Harper & Jones LLC, AS TENANT

The undersigned, Drew Jones, an individual (or individuals) (herein called "Guarantor(s)"), do hereby jointly and severally, unconditionally and absolutely, for value received and in consideration for and as an inducement to Crosby 2100 Ltd. (herein called "Landlord") to make the Lease Agreement to which this Unconditional Guaranty is attached, with Harper & Jones LLC (herein called "Tenant") guarantee the full performance and observance of all covenants, duties and obligations (including but not limited to, the obligation to pay rent and other sums) therein provided to be performed and observed by Tenant, Tenant's successors and permitted assigns; and Guarantor hereby makes himself (themselves) fully liable for such performance. The Lease Agreement hereby guaranteed is that certain Lease Agreement (together with any and all amendments thereto and extensions thereof) dated the 24th day of March, 2018, by and between the above named Landlord and the Tenant, to which reference is here made for all purposes.

This Guaranty is unconditional and the liability of Guarantor is absolute, in the same manner as if Guarantor was named in and signed such Lease Agreement as the Tenant thereunder. Guarantor agrees that bankruptcy, insolvency, or any other disability or impediment against enforcement of liability of the Tenant named in the Lease Agreement shall in nowise impair or affect Guarantor's liability and obligations hereunder; and it shall not be necessary or required in order to maintain and enforce Guarantor's liabilities or obligations hereunder, that demand be made upon Tenant or that action be commenced or prosecuted against such tenant, or that any effort be made to enforce the liability or responsibility of such Tenant for performance of its obligations or duties under or in connection with such Lease, and it shall not be required that such Tenant or any other party liable on such Lease be joined in any action brought against Guarantor for enforcement of Guarantor's liability and responsibility under this Guaranty, or that judgment have theretofore been obtained against such Tenant or any other party liable therefore on or in connection with any such claim. Guarantor agrees that no waiver by Landlord or forbearance or delay by Landlord in asserting or enforcing any rights or remedies of Landlord against or with respect to such Tenant or any other party who may be or become responsible for performance of any of such Tenant's obligations or duties shall in anywise affect, impair or release Guarantor's liability hereunder. Likewise, Guarantor agrees that no assignment or subletting of the Lease or of all or any part of the Leased Premises by such Tenant shall in anywise impair, affect or release Guarantor' s liability hereunder.

Guarantor expressly waives and agrees that no notice of any default by Tenant, or other notice or demand, need be given by Landlord to Guarantor as a condition of maintaining or enforcing Guarantor's liability and obligations under this Guaranty. Likewise, Guarantor agrees that Landlord's release or subordination or failure or delay to enforce or seek to realize upon any security now or hereafter held or acquired by Landlord for performance of any of the obligations or duties of the Tenant under or in connection with such Lease shall in nowise impair, affect or release Guarantor's liability hereunder, and the Landlord's action (at Landlord's election) in terminating such Lease or in taking or retaking possession of the Leased Premises as therein provided, following default by Tenant, shall not release or impair Guarantor's liability hereunder, and that no notice of such termination or of such entry or re-entry by Landlord need be given to Guarantor.

This Guaranty shall be enforceable and shall be performed in Harris County, Texas.

No sale, conveyance, transfer or other disposition of the Leased Premises by Landlord shall affect, impair or release the liability of Guarantor hereunder.

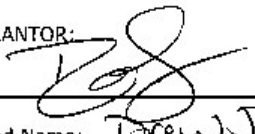
Guarantor further agrees to indemnify and hold Landlord harmless from and against any and all loss, costs, expenses and damages (including, without limitation, court costs and attorney's fees incurred by Landlord) resulting from, arising out of, any default by Tenant under said Lease.

Guarantor specifically waives any notice of acceptance of this Guaranty by Landlord.

Guarantor further acknowledges and agrees that but for the execution and delivery of this Guaranty by the Guarantor, Landlord would not have executed and delivered said Lease.

All terms and provisions hereof shall inure to the benefit of the heirs, successors and assigns of Landlord, and shall be binding upon the heirs, successors, legal representatives and assigns of Guarantor.

Executed as of the date of execution and delivery of the foregoing Lease.

GUARANTOR: 

Printed Name: Drew Jones
Address: 2260 5th Avenue
Fort Worth TX 76110

SS#: 460-67-0612

GUARANTOR:

Printed Name:
Address:

SS#:

EXHIBIT "G"

PERCENTAGE RENT

INTENTIONALLY DELETED

AMENDMENT NO. I TO LEASE AGREEMENT

WHEREAS, **Harper & Jones, LLC.** (hereinafter referred to as "Tenant"), and **Crosby 2100, Ltd.** (hereinafter referred to as "Landlord") entered into that Lease Agreement executed as of the 4th day of April, 2018 (hereinafter referred to as "Lease") leasing approximately 1,178 rentable square feet (hereinafter referred to as "Demised Premises") located at 1902 Washington, Suite J, Houston, Texas 77007; and

WHEREAS, Crosby 2100, Ltd. assigned its interest in the Lease to Dittman on Washington, Ltd. (hereinafter referred to as "Landlord"); and

WHEREAS, Landlord and Tenant desire to amend the Lease as hereinafter set forth;

AGREEMENT

NOW, THEREFORE, for valuable consideration, whose receipt and sufficiency are acknowledged, Landlord and Tenant agree to amend the Lease as follows:

1. **Extension of Lease Term for the Premises.** The term of the Lease for the Demised Premises is hereby extended such that it expires on May 31, 2024, rather than May 31, 2021 (hereinafter referred to as "Extension Term"), on the terms and conditions of the Lease, as amended hereby. The Extension Term shall begin on June 1, 2021.

2. **Minimum Rent:** The Minimum Rent for the Extension Term shall be:

Months 1 – 3	$00.00/SF/yr	$0.00/month
Months 4 – 12	$30.59/SF/yr	$3,002.92/month
Months 13 – 24	$32.00/SF/yr	$3,141.33/month
Months 25 – 36	$35.00/SF/yr	$3,435.83/month

Except as expressly amended herein, the Lease and Amendment shall control over the terms and provisions of the Lease Agreement pertaining to the Demised Premises and no modifications, changes or amendments in regard to such Lease other than expressly provided for herein are intended. Except as expressly amended herein the parties hereto hereby ratify and confirm the terms and provisions of the Lease and further acknowledge and agree that the Lease is in full force and effect.

EXECUTED BY Tenant as of the 23rd day of December, 2020.

TENANT: Harper & Jones, LLC.

By: _____
Name: Drew Jones
Title: Co Founder / CEO

EXECUTED BY Landlord as of the 28th day of December, 2020

LANDLORD: Dittman on Washington, Ltd.
By: Westheimer Wilcrest GP, LLC. its General Partner

By: _____
Name: Frank M.K. Liu
Title: Manager

J. Elmer Turner, REALTORS, Inc

NORTH TEXAS COMMERCIAL ASSOCIATION OF REALTORS®

COMMERCIAL LEASE AGREEMENT

between

Pasha & Sina, Inc.
(Landlord)

and

Harper & Jones, LLC
(Tenant)

TABLE OF CONTENTS

COMMERCIAL LEASE AGREEMENT

[Throughout this Lease, complete all blanks and check all boxes that apply. Blanks not completed and boxes not checked do not apply.]

For good and valuable consideration, the parties to this Commercial Lease Agreement (the "Lease") agree as follows:

ARTICLE ONE

DEFINED TERMS

As used in this Lease, the terms set forth in this Article One have the following meanings:

1.01 **Effective Date:** The last date beneath the signatures of Landlord and Tenant on this Lease.

1.02 **Landlord:** **Pasha & Sina, Inc.**
Address: **15175 Quorum Dr**
Addison, Texas 75001
Telephone: **(214)598-2191** Fax:
Email: **pashaheidari@sbcglobal.net**

1.03 **Tenant:** **Harper & Jones, LLC**
Address:
2736 Routh St

Dallas, TX 75204

Telephone: **(972)564-8336** Fax:
Email:

1.04 **Premises** *[include Suite or Unit No., if applicable]:* **2736 Routh Street**

A. Building Name: **2736 Routh Street**

B. Street address: **2736 Routh St**
Dallas, TX 75201-1970
in **Dallas** County, Texas.

C. Legal description: The property on which the Premises are situated is described as;**BEING a building on Part of Lot 7, Block 3/955 in the Ahab Bowen Homestead Addition to the City of Dallas, save and except the small office addition attached to the rear of the main building.**
and may be more particularly described on the attached**Exhibit "A"**, Survey or Legal Description (the "Property"). The term "Property" includes the land described on **Exhibit "A"**, and any improvements on the land (including the Premises).

D. Floor Plan or Site Plan: Being a floor area of approximately **2,860** square feet, or a land area of approximately **n/a** square feet or approximately **n/a** acres, and being more particularly shown in outline form on the attached**Exhibit "B"**, **Floor Plan or Site Plan.**

E. Tenant's Pro Rata Share: 94.000%.

1.05 **Term**: **3** years and **four** months beginning on **See Additional Provisions**, (the "**Commencement Date**") and ending on **June 30, 2022** (the "**Expiration Date**"). Unless the context requires otherwise, references in this Lease to the "**Term**" include any renewal or extension of this Lease. [See **Addendum "A", Renewal Options**, if applicable].

1.06 **Base Rent**: Base Rent is due and payable in monthly installments during the Term of this Lease as set forth in this Section. Base Rent and all other sums due or payable by Tenant to Landlord under this Lease are collectively referred to in this Lease as the "**Rent**"

Base Rent Payment Schedule

On or before the first day of each month during the Term of this Lease, Tenant shall pay monthly installments of Base Rent as follows:

	Dates			**Monthly Base Rent**
From	**Month Zero (0)**	to	**Month Three (3)**	**$** ;
From	**Month Four (4)**	to	**Month Twelve (12)**	**$ 6,500.00** ;
From	**Month Thirteen (13)**	to	**Month Thirteen (13)**	**$** ;
From	**Month Fourteen (14)**	to	**Month Twenty-Four (24)**	**$ 6,825.00** ;
From	**Month Twenty-Five (25)**	to	**Month Forty(40)**	**$ 7,166.00** ;
From		to		**$** ;

[Rent for any Renewal Term is determined pursuantto a separate Addendum, if applicable, and should not be set forth here.]

1.07 ~~**Percentage Rental Rate:** **%. [See Addendum "D", Percentage Rental and Gross Sales Reports,** if applicable]~~

1.08 **Security Deposit: $ 6,500.00** (due upon execution of this Lease). [See Section 3.04]

1.09 **Expense Reimbursements:**

A. Tenant shall pay Landlord as additional Rent (or pay the charges directly to the service provider, if applicable) the following expenses (or a portion of the expenses, if applicable) (each an "**Expense Reimbursement**" and collectively the "**Expense Reimbursements**") that are incurred by or assessed against the Premises (as each of these terms is defined in this Lease) ***[check all boxes that apply]:***

☐ Real Estate Taxes;
☐ Insurance Premiums;
☐ Common Area Maintenance (CAM) Expenses;
☐ Operating Expenses;
☐ Roof and Structural Maintenance Expenses;
☒ Electricity;
☒ Cable;
☒ Gas;
☒ Internet Access;

☒ Water;

☒ Sewer;
☒ Telephone;
☒ Trash Removal; and
☒ All other Utilities.

B. Expense Definitions.

~~**1. Real Estate Taxes.** "**Real Estate Taxes**" means all general real estate taxes, ad valorem taxes, general and special assessments, parking surcharges, rent taxes, and other similar government charges levied against or applicable to the Property for each calender year.~~

~~**2. Insurance Premiums.** "**Insurance Premiums**" means all Landloard's insurance premiums attributable to the Property, including but not limited to insurance for fire, casualty, general liability, property damage, medical expenses, extended severage, and less of rents coverage for up to 12 months' Rent.~~

3. Common Area Maintenance Expenses. "**Common Area Maintenance Expenses**" or "**CAM Expenses**" means all costs of maintenance, inspection and repairs of the Common Areas of the Property, including, but not limited to, those costs for security, lighting, painting, cleaning, decorations and fixtures. Utilities, ice and snow removal, trash disposal, ~~project signs, reef repairs,~~ pest control, ~~project promotional expenses, property owners' association dues, wages and salary costs of maintenance personnel, and other expenses benefiting all the Property that may be incurred by Landlord, in its discretion, including sales taxes and a reasonable service charge for the administration thereof.~~ The term **"Common Areas"** is defined as that part of the Property intended for the collective use of all tenants including, but not limited to, the parking areas, driveways, loading areas, landscaping, gutters and downspouts, plumbing, electrical systems, HVAC systems ~~roof~~, exterior walls, sidewalks, ~~malls, promenades (enclosed or otherwise), meeting rooms, doors, otherwise), meeting rooms~~ doors, windows, corridors and public rest rooms. CAM Expenses do not include the cost of capital Improvements, the cost of management office equipment and furnishings, depreciation on Landlord's original investment, the cost of tenant improvements, real estate brokers' fees, advertising of space for lease, or interest or depreciation on capital investments.

~~**4. Operating Expenses.** "**Operating Expenses**" means all costs of ownership, building management, maintenance, repairs and operation of the Property, including but not limited to roof and structural maintenance, Real Estate Taxes, Insurance Premiums, CAM Expenses, reasonable management fees, wages and salary costs of building management personnel, overhead and operation costs of a management office, janiterial, Utilities, and professional services such as accounting and legal fees. Operating Expenses do not include the cost of capital improvements, the cost of management office equipment and furnishings, depreciation on Landlord's original investment, the cost of tenant improvements, reel estate brokers' fees, advertising of space for lease, or interest of depreciation on capital investments.~~

~~**5. Roof and Structural Maintenance Expenses.** "**Roof and Structural Maintenance Expenses**" means all costs of maintenance, repair and replacement of the roof, roof desk, flashings, skylights, foundation, floor slabs, structural compenents and the structural soundness of the building in general.~~

6. Utilities. "**Utilities**" means charges for electricity, cable, gas, Internel access, water, sewer, telephone, trash removal, and any other services that are commonly understood to be utilities, including connection charges.

7. Other Terms. Other terms that are not expressly defined are intended to have the meanings given those terms in common usage.

C. Expense Reimbursement Limitations. The amount of Tenant's Expense Reimbursement will be determined by one of the following methods as described and defined below ***[check only one]:***
☐ Base Year Adjustment;
☐ Expense Stop Adjustment;
☐ Pro Rata Adjustment;
☒ Fixed Amounts; or
☐ Net Lease.

D. Expense Reimbursement Limitation Definitions.

1. ~~**Base Year Adjustment.** If "Base Year Adjustment" has been checked above, Tenant shall pay to Landlord as additional Rent Tenant's Pro Rata Share of increases in the applicable expenses (these checked in Section 1.09.A, above) for the Property for any calender year during the Term or during any Extension of this Lease, over such amounts paid by Landlord for the Base Year _____ (the "**Base Year**").~~

2. ~~**Expense Stop Adjustment.** If "Expense Step Adjustment" has been checked above, Tenant shall pay to Landlord as additional Rent Tenant's Pro Rata Share of increases in the applicable expenses (these checked in Section 1.09.A. above), for the Property for any calender year during the Term or during any Extension of this Lease, over $ _____ per square feet of floor area (as set forth in Section 1.04D) per year.~~

3. ~~**Pro Rata Adjustment.** If "Pro Rata Adjustment" has been checked above, Tenant shall pay to Landlord as additional Rent Tenant's Pre-Rata Share of the total amount of the applicable expenses (these checked in Section 1.09.A above) for every calender year during the Term and during any extension of this Lease.~~

4. **Fixed Amounts**. If "Fixed Amounts" has been checked above, Tenant shall pay to Landlord as additional Rent the following monthly amounts (regardless of whether they have been checked in Section 1.09.A, above) as Tenant's Expense Reimbursements to Landlord for the following expenses that are incurred by or assessed against the Property:

~~Real Estate Taxes~~	~~$ _____ per month.~~
~~Insurance Premiums~~	~~$ _____ per month.~~
~~CAM Expenses~~	~~$ _____ per month.~~
~~Operating Expenses~~	~~$ _____ per month.~~
~~Roof & Structural Maintenance Expenses~~	~~$ _____ per month.~~
Electricity	$ _____ per month.
Cable	$ _____ per month.
Gas	$ _____ per month.
Internet Access	$ _____ per month.
Water	$ _____ per month.
Sewer	$ _____ per month.
Telephone	$ _____ per month.
Trash Removal	$ _____ per month.

All Other Utilities $ _____ per month.

5. ~~**Net Lease.** If "Net Lease" has been checked above, then notwithstanding anything contained in this Lease to the contrary in Section 6.02, Article Seven or otherwise, Tenant shall be responsible for paying Tenant's Pro Rata Share of all costs of compliance with laws, ownership, maintenance, repairs, replacements, operation of the Premises, and Operation of the Property, including but not limited to all costs of Real Estate Taxes, Insurance Premiums, Common Area Maintenance Expenses, Operating Expenses, Roof and Structural Maintenance Expenses, and all Utilities (regardless of whether they have been checked in Section 1.09.A. above).~~

E. First Payment. The sum of the Monthly Base Rent for the first month of the Term for which Base Rent is due (which may be later than the first month of the Term, if there is a free rent period), and the initial estimated monthly Expense Reimbursement payments (before adjustments) is set forth below. Upon the execution of this Lease, in addition to the Security Deposit, Tenant shall pay the first monthly payment in the sum of the amounts set forth below.

Initial Monthly Base Rent	$	6,500.00
~~Real Estate Taxes~~	~~$~~	
~~Insurance Premiums~~	~~$~~	
~~CAM Expenses~~	~~$~~	
~~Operating Expenses~~	~~$~~	
~~Roof & Structural Maintenance Expenses~~	~~$~~	
Electricity	$	
Cable	$	
Gas	$	
Internet Access	$	
Water	$	
Sewer	$	
Telephone	$	
Trash Removal	$	
All Other Utilities	$	
Total	**$**	**6,500.00**

[Complete the amount of the first Base Rent payment to be due, as well as estimated amounts of any other monthly payments that start at the beginning of the Term of this Lease. Put N/A or strike through the rest. Any estimated amounts are subject to adjustment pursuant to other provisions of this Lease. If any expense payments are not due at the beginning of the Term, they may begin later in the Term pursuant to other provisions of this Lease.]

F. Expense Reimbursement Payments. Tenant agrees to pay any end-of-year lump sum Expense Reimbursement within 30 days after receiving an invoice from Landlord. Any time during the Term, Landlord may direct Tenant to pay monthly an estimated portion of the projected future Expense Reimbursement amount. Any such payment directed by Landlord will be due and payable monthly on the same day that the Base Rent is due. Landlord may, at Landlord's option and to the extent allowed by applicable law, impose a Late Charge on any Expense Reimbursement payments that are not actually received by Landlord on or before the due date, in the amount and manner set forth in Section 3.03 of this Lease. Any Expense Reimbursements relating to partial calendar years will be prorated accordingly. If Tenant's Pro Rata Share is not expressed in Section 1.04.E of this Lease, then Tenant's Pro Rata Share of such Expense Reimbursements will be based on the square footage of useable area contained in the Premises in proportion to the square footage of useable building area of the Property. Tenant may audit or examine those items of expense in Landlord's records that relate to Tenant's obligations under this Lease. Landlord shall promptly refund to Tenant any overpayment that is established by an audit or examination. If the audit or examination reveals an error of more than 5% over the figures billed to Tenant, Landlord shall pay the reasonable cost of the audit or examination.

G. ☐ ~~**Cross Up Provisions.** ***[Check this only if applicable.]***If the Property is a multi tenant building and is not fully occupied during the Base Year or any portion of the Term, an adjustment will be made in computing the variable costs for the Base Year and each applicable calendar year of the Term. Variable costs that are included in the CAM Expenses, Operating Expenses and Utilities will be increased proportionately to the amounts that, in Landlord's reasonable judgment, would have been incurred had 95% of the useable area of the Property been occupied during these years~~.

1.10 Permitted Use: **General Office**

[See Section 6.01]

1.11 Party to whom Tenant is to deliver payments under this Lease is the Landlord, ~~unless one of the following boxes is checked, in which case Tenant shall deliver payments to: ☐ Principal Broker, or ☐ Other [Set forth name and address, if other than Landlord or Principal Broker]~~

1.12 Principal Broker: **J. Elmer Turner, Realtors Inc**., is acting as the agent for Landlord exclusively, ~~unless one of the following boxes is checked, in which case Principal Broker is acting as: ☐ the agent for Tenant exclusively, or ☐ and intermediary.~~

Principal Broker's Address: **2626 Cole Avenue, Suite 606**
Dallas, Texas 75204
Telephone: **(214)954-1221** Fax: **(214)954-6410**

Email: **turner1898@gmail.com**

1.13 Cooperating Broker: **Esrp Advisory Dallas, LLC** is acting as the agent for Tenant exclusively, ~~unless one of the following boxes is checked, in which case Cooperating Broker is acting as: ☐ the agent for Landlord exclusively, or ☐ an intermediary.~~

Cooperating Broker's Address: **One Cowboys Way Suite 350**
Frisco, TX 75034
Telephone: **(972)977-7200** Fax:
Email: **jake.pavelka@esrp.com**

1.14 The Professional Service Fee (the "Fee"):

A. The percentages applicable in Section 15.01 and Section 15.02 to leases will be 4.500 % of the Base Rent to Principal Broker and _____ ,% of the Base Rent to Cooperating Broker, ~~if the Fee is based on an amount per square feet, that amount is $ _____ per square feet to Principal Broker and $ _____ per square feet to Cooperating Broker.~~ The Fee will be paid in this manner described in Subsection 15.01A (half on execution and half on the Commencement Date), ~~unless this box ☐ is checked, in which case the Fee will be paid in this manner described in Subsection 15.01B (monthly).~~

B. The percentages applicable in Section 15.03 in the event of a sale will be _____% to Principal Broker and _____% to Cooperating Broker.

1.15 Disclosure of Dual Capacity as Broker and Principal. ***[Complete if applicable]***

A. **n/a** is a licensed Texas real estate broker and is acting in a dual capacity as broker for Landlord and as a principal in this transaction, as he or she may be Landlord (or one of the owners of Landlord).

B. **n/a** is a licensed Texas real estate broker and is acting in a dual capacity as broker for Tenant and as a principal in this transaction, as he or she may be Tenant (or one of the owners of Tenant).

1.16 Exhibits and Addenda. Any exhibit or addendum attached to this Lease (as Indicated by the boxes checked below) is incorporated as a part of this Lease. Any term not specifically defined in an Addendum will have the same meaning given to it in the body of this Lease.

☐	Exhibit "A"	Survey and/or Legal Description of the Property
☐	Exhibit "B"	Floor plan and/or Site Plan
☒	Exhibit "C"	Information About Brokerage Services
☐	Exhibit "D"	Other
☒	Addendum "A"	Renewal Options
☐	Addendum "B"	Construction of Improvements by Landlord
☐	Addendum "C"	Construction of Improvements by Tenant
☐	Addendum "D"	Percentage Rental and Gross Sales Reports
☐	Addendum "E"	Right of First Refusal for Additional Space
☐	Addendum "F"	Guaranty
☒	Addendum "G"	Rules and Regulations
☐	Addendum "H"	Rooftop Lease
☐	Addendum "I"	Parking
☒	Addendum "J"	Additional Provisions Addendum
☐	Addendum "K"	Other

ARTICLE TWO

LEASE AND TERM

2.01 Lease of Premises for Term. Landlord leases the Premises to Tenant and Tenant leases the Premises from Landlord for the Term stated in Section 1.05. The Commencement Date is the date specified in Section 1.05, unless advanced or delayed under any provision of this Lease.

2.02 Delays in Commencement. Landlord will not be liable to Tenant if Landlord does not deliver possession of the Premises to Tenant on the Commencement Date specified in Section 1.05 above. Landlord's non-delivery of possession of the Premises to Tenant on the Commencement Date will hot affect this Lease or the obligations of Tenant under this Lease. However, the Commencement Date will be delayed until possession of the Premises is delivered to Tenant. The Term will be extended for a period equal to the delay in delivery of possession of the Premises to Tenant, plus the number of days necessary for the Term to expire on the last day of a month. If Landlord does not deliver possession of the Premises to Tenant within 60 days after the Commencement Date specified in Section 1.05. Tenant may cancel this Lease by giving a written notice to Landlord at any time after the 60-day period ends, but before Landlord actually delivers possession of the Premises to Tenant. If Tenant gives such notice, this Lease will be canceled effective as of the date of its execution, any prepaid amounts will be reimbursed to Tenant, and no party will have any rights or obligations under this Lease. If Tenant does not give such notice within the time specified, Tenant will have no right to cancel this Lease, and the Term will commence upon the delivery of possession of the Premises to Tenant. If delivery of possession of the Premises to Tenant is delayed, Landlord and Tenant shall, upon such delivery, execute an amendment to this Lease setting forth the revised Commencement Date and Expiration Date of the Term.

2.03 Early Occupancy. If Tenant occupies the Premises before the Commencement Date, Tenant's occupancy of the Premises will be subject to all of the provisions of this Lease. Early occupancy of the Premises will not advance the Expiration Date. Unless otherwise provided in this Lease, Tenant shall pay Base Rent and all other charges specified in this Lease for the period of occupancy.

2.04 Holding Over. Tenant shall vacate the Premises immediately upon the expiration of the Term or earlier termination of this Lease. Tenant shall reimburse Landlord for and indemnify Landlord against all damages incurred by Landlord as a result of any delay by Tenant in vacating the Premises. If Tenant does not vacate the Premises upon the expiration of the Term or earlier termination of this Lease, Tenant's occupancy of the Premises will be a day-to-day tenancy, subject to all of the terms of this Lease, except that the Base Rent during the holdover period will be increased to an amount that is one-and-one-half (1½) times the Base Rent in effect on the expiration or termination of this Lease, computed on a daily basis for each day of the holdover period, plus all additional sums due under this Lease. This Section will not be construed as Landlord's consent for Tenant to hold over or to extend this Lease.

ARTICLE THREE

RENT AND SECURITY DEPOSIT

3.01 Manner of Payment. Tenant shall pay the Rent to Landlord at the address set forth in Section 1.02, unless another person is designated in Section 1.11, or to any other party or address Landlord may designate in any written notice delivered to Tenant Landlord may designate, in a written notice delivered to Tenant, the party authorized to receive Rent and act on behalf of Landlord to enforce this Lease. Any such authorization will remain in effect until it is revoked by Landlord in a subsequent written notice delivered to Tenant. Any payments made to a third party designated by Landlord will be deemed made to Landlord when received by the designated third party. All sums payable by Tenant under this Lease, whether or not expressly denominated as Rent, will constitute rent for the purposes of Section 502(b)(6) of the Bankruptcy Code and for all other purposes.

3.02 Time of Payment. Upon execution of this Lease, Tenant shall pay the installment of Base Rent for the first month of the Term for which Base Rent Is due (which may be later than the first month of the Term, if there is a free rent period). On or before the **first day** of the next month and each month thereafter, the installment of Base Rent and other sums due under this Lease will be due and payable, in advance, without off-set deduction or prior demand. Tenant shall cause payments to be properly mailed or otherwise delivered so as to be actually received (and not merely deposited in the mail) by Landlord (or the party identified in Section 1.11, or any other third party designated by Landlord) on or before the due date. If the Term commences or ends on a day other than the first or last day of a calendar month, the rent for any partial calendar month following the Commencement Date or preceding the end of the Term will be prorated. Tenant shall pay any such prorated portion for a partial calendar month at the beginning of the Term on the Commencement Date. Tenant shall pay any such prorated portion for a partial calendar month at the end of the Term on the first day of that calendar month.

3.03 Late Charges. Tenant's failure to promptly pay sums due under this Lease may cause Landlord to incur unanticipated costs. The exact amount of those costs is impractical or extremely difficult to ascertain. The costs may include, but are not limited to, processing and accounting charges and late charges that may be imposed on Landlord by any ground lease or deed of trust encumbering the Premises. Payments due to Landlord under this Lease are not an extension of credit. Therefore, if any payment under this Lease is not actually received on or before the due date (and not merely deposited in the mail), Landlord may, at Landlord's option and to the extent allowed by applicable law, impose a Late Charge on any late payments in an amount equal to 10% of the amount of the past due payment (the "**Late Charge**") after the payment is more than five days past due. A Late Charge may be Imposed only once on each past due payment. Any Late Charge will be in addition to Landlord's other remedies for nonpayment of Rent. If any check tendered by Tenant under this Lease is dishonored for any reason, Tenant shall pay to Landlord a dishonored check foe of $30.00, plus (at Landlord's option) a Late Charge as provided above until Good Funds (defined below) are received by Landlord. The parties agree that any Late Charge and dishonored check fee represent a fair and reasonable estimate of the costs Landlord will incur by reason of the late payment or dishonored check. If there are any Late Charges, dishonored check fees, installments of Base Rent, arid any other unpaid charges or reimbursements due to Landlord, then Landlord may apply any payments received from Tenant to any amounts due in any order Landlord may choose. Notwithstanding the foregoing, Landlord will not impose a Late Charge as to the first late payment in any calendar year, unless Tenant fails to pay the late payment to Landlord within three business days after the delivery of a written notice from Landlord to Tenant demanding the late payment be paid. However, Landlord may impose a Late Charge without advance notice to Tenant on any subsequent late payment in the same calendar year.

3.04. Security Deposit. Upon execution of this Lease, in addition to the installment of Base Rent due under Section 3.02, and in addition to any other amounts that are due from Tenant upon the execution of this Lease, Tenant shall deliver to Landlord a Security Deposit in the amount stated in Section 1.08. Landlord may apply all or part of the Security Deposit to any unpaid Rent, and damages and charges for which Tenant is legally liable under this Lease, and damages and charges that result from a breach of this Lease, including but not limited to, the cost to cure Tenant's failure to comply with Section 7.05 and any other provision that requires Tenant to leave the Premises in a certain condition upon the expiration or termination of this Lease. If Landlord uses any part of the Security Deposit, Tenant shall restore the Security Deposit to its full amount within 10 days after Landlord's written demand. Tenant's failure to restore the full amount of the Security Deposit within the time specified will be a default under this Lease. No interest will be paid on the Security Deposit Landlord will not be required to keep the Security Deposit separate from its other accounts, and no trust relationship is created with respect to the Security Deposit. After the expiration of this Lease, Landlord shall refund the unused portion of the Security Deposit, if any, to Tenant within 60 days after the date Tenant surrenders possession of the Premises and provides a written notice to Landlord of Tenant's forwarding address for the purpose of refunding the Security Deposit. The provisions of this Section will survive the expiration or termination of this Lease.

3.05 Good Funds Payments. If any two or more payments by check from Tenant to Landlord for Rent are dishonored and returned unpaid, thereafter Landlord may, at Landlord's option, by the delivery of a written notice to Tenant, require that all future payments of Rent for the remaining Term of this Lease must be made by cash, certified check, cashier's check, official bank check, money order, wire transfer or automatic electronic funds transfer ("**Good Funds**"), and that the delivery of Tenant's personal or corporate check will no longer constitute payment of Rent under this Lease. Any acceptance by Landlord of a payment for Rent by Tenant's personal or corporate check thereafter will not be construed as a waiver of Landlord's right to insist upon payment by Good Funds as set forth in this Section.

ARTICLE FOUR

TAXES

4.01 Payment by Landlord. Landlord shall pay the real estate taxes on the Premises during the Term, subject to reimbursement by Tenant pursuant to any other provision in this Lease.

4.02 Improvements by Tenant. If the real estate taxes levied against the Premises for the year in which the Term commences are increased as a result of any additions or improvements made by Tenant, or by Landlord at Tenant's request, Tenant shall pay to Landlord upon demand the amount of the increase and continue to pay the increase during the Term. Landlord shall use reasonable efforts to obtain from the tax assessor a written statement of the amount of the increase due to such additions or improvements.

4.03 Joint Assessment. If the real estate taxes are assessed against the Premises jointly with other property that is not part of the Premises, the real estate taxes applicable to the Premises will be equal to the amount bearing the same proportion to the aggregate assessment that the total square feet of building area in the Premises bears to the total square feet of building area included in the joint assessment. If there are no improvements on the Property or the other property, then land area will be used instead of building area for the calculation of the proportional assessment. If there are improvements on one of the jointly assessed properties but not on the other property, then the calculation of the proportional assessment must be done in a reasonable manner.

4.04 Personal Property Taxes. Tenant shall pay all taxes assessed against trade fixtures, furnishings, equipment, inventory, products, or any other personal property belonging to Tenant. Tenant shall use reasonable efforts to have Tenant's property taxed separately from the Premises. If any of Tenant's property is taxed with the Premises, Tenant shall pay the taxes for Tenant's property to Landlord within 15 days after Tenant receives a written statement from Landlord for the property taxes.

4.05 Waiver of Right to Protest Taxes. Unless otherwise provided in this Lease: (i) Landlord retains the right to protest the tax assessment of the Property, and Tenant waives the right to protest; and (ii) Tenant waives Landlord's obligation to provide Tenant with a notice of the tax valuation of the Property.

ARTICLE FIVE

INSURANCE AND INDEMNITY

5.01 Property Insurance. During the Term, Landlord shall maintain insurance policies covering damage to the Premises in an amount or percentage of replacement value as Landlord deems reasonable in relation to the age, location, type of construction and physical condition of the Premises and the availability of insurance at reasonable rates. The policies will provide protection against risks and causes of loss that landlord reasonably deems necessary. Landlord may, at Landlord's option, obtain Insurance coverage for Tenant's fixtures, equipment and Improvements in or on the Premises. Promptly after the receipt of a written request from Tenant, Landlord shall provide a certificate of insurance showing the insurance coverage then in effect Tenant shall, at Tenant's expense, obtain and maintain insurance on Tenant's fixtures, equipment and improvements in or on the Premises as Tenant reasonably deems necessary to protect Tenant's interest, Any property insurance carried by Landlord or Tenant will be for the sole benefit of the party carrying the insurance and under its sole control.

5.02 Increases in Premiums. Tenant shall not conduct or permit any operation or activity, or store or use any materials, in or around the Premises that would cause suspension or cancellation of any insurance policy carried by Landlord. If Tenant's use or occupancy of the Premises causes Landlord's insurance premiums to increase, then Tenant shall pay to Landlord, as additional Rent, the amount of the increase within 10 days after Landlord delivers written evidence of the increase to Tenant.

5.03 Liability Insurance. During the Term, Tenant shall maintain a commercial general liability insurance policy, at Tenant's expense, insuring Tenant against liability arising out of the use or occupancy of the Premises, and naming Landlord as an additional insured. The initial amounts of the insurance must be at least $1,000,000 or, If the following blank is completed $_____for Each Occurrence, $2,000,000 or, if the following blank is completed $_____General Aggregate per policy year, and $10,000 for Medical Expense. If Tenant's liability Insurance coverage is less than $5,000,000, and if this box ☐ is checked, then Tenant must also maintain a commercial liability umbrella policy in amount to provide a combination of liability insurance coverage to equal a $5,000,000 total limit. The coverage amounts will be subject to periodic increases as Landlord may reasonably determine from time to time. The amounts of the insurance will not limit Tenant's liability or relieve Tenant of any obligation under this Lease. The policies must contain cross-liability endorsements and must insure Tenant's performance of the indemnity provisions of Section 5.04. The policies must contain a provision that prohibits cancellation or modification of the policy except upon 30 days' prior written notice to Landlord. Tenant shall deliver a copy of the policy or certificate of insurance to Landlord before the Commencement Date and before the expiration of the policy during the Term. If Tenant fails to maintain the policy, Landlord may elect to maintain the insurance at Tenant's expense.

5.04 Indemnity. Landlord will not be liable to Tenant or to Tenant's employees, agents, invitees or visitors, or to any other person, for any injury to persons or damage to property on or about the Premises or any adjacent area owned by Landlord caused by the negligence or misconduct of Tenant. Tenant's employees, subtenants, agents, licensees or concessionaires or any other person entering the Premises under express or implied invitation of Tenant, or arising out of the use of the Premises by Tenant and the conduct of Tenant's business, or arising out of any breach or default by Tenant in the performance of Tenant's obligations under this Lease. Tenant hereby agrees to defend, indemnify and hold Landlord harmless from any loss, expense or claims arising out of such damage or injury. Tenant will not be liable for any injury or damage caused by the negligence or misconduct of Landlord, or Landlord's employees or agents, and Landlord agrees to indemnify and hold Tenant harmless from any loss, expense or damage arising out of such damage or injury.

5.05 Waiver of Subrogation. Each party to this Lease waives any and every claim that arises or may arise in its favor against the other party during the Term of this Lease for any and all loss of, or damage to, any of its property located within or upon, or constituting a part of, the Premises, to the extent the loss or damage is covered by and recoverable under valid and collectible insurance policies. These mutual waivers are in addition to, and not in limitation or derogation of, any other waiver or release contained in this Lease with respect to any loss of, or damage to, property of the parties. Inasmuch as these mutual waivers will preclude the assignment of any such claim by way of subrogation to an insurance company (or any other person), each party agrees to immediately give to each insurance company that has issued an insurance policy to such party written notice of the terms of such mutual waivers, and to cause the policies to be endorsed to prevent the invalidation of the insurance coverage by reason of these waivers.

ARTICLE SIX

USE OF PREMISES

6.01 Permitted Use. Tenant may use the Premises only for the Permitted Use stated inSection 1.10. Tenant acknowledges that: (i) the current use of the Premises or the improvements located on the Premises, or both, may not conform to city ordinances or restrictive covenants with respect to the permitted use, zoning, height limitations, setback requirements, minimum parking requirements, coverage ratio of improvements to land area, and other matters that may have a significant impact upon the Tenant's intended use of the Premises; (ii) Tenant has independently investigated and verified to Tenant's satisfaction the extent of any limitations or non-conforming uses of the Premises; and (iii) Tenant is not relying upon any representations of Landlord or the Brokers with respect to any such matters.

6.02 Compliance with Laws. Tenant shall comply with all governmental laws, ordinances and regulations applicable to the use of the Premises, and will promptly comply with all governmental orders and directives for the correction, prevention and abatement of nuisances and other activities in or upon, or connected with the Premises, all at Tenant's sole expense, including any expense or cost resulting from the construction or installation of fixtures and improvements or other accommodations for handicapped or disabled persons required for compliance with governmental laws and regulations, including but not limited to the Texas Architectural Barriers Act (the " **TABA**") and the Americans with Disabilities Act (the "**ADA**"). To the extent any alterations to the Premises are required by the TABA, the ADA or other applicable laws or regulations, Tenant shall bear the expense of the alterations. To the extent any alterations to areas of the Property outside the Premises are required by the TABA, the ADA or other applicable laws or regulations (for "path of travel" requirements or otherwise), Landlord shall bear the expense of the alterations.

6.03 Certificate of Occupancy. If required, Tenant shall apply for Certificate of Occupancy from the municipality in which the Property is located before the Commencement Date, and obtain a Certificate of Occupancy before Tenant occupies the Premises. If Tenant is unable to obtain a Certificate of Occupancy after making an application and diligently pursuing it, then Tenant may terminate this Lease by delivering a written notice to Landlord, unless either Landlord or Tenant is willing and able to cure the defects that prevented the issuance of the Certificate of Occupancy, Either Landlord or Tenant may cure any such defects, at their own expense, including any repairs, replacements, or installations of any items that are not presently existing on the Premises, but neither of them have any obligation to do so (unless another provision of this Lease states otherwise). If Tenant delivers a written termination notice to Landlord under this Section, and then any defects are cured and a Certificate of Occupancy is issued within 15 days after Tenant delivered the notice, then this Lease will remain in force. If this Lease is terminated because Landlord and Tenant cannot get a Certificate of Occupancy, then Landlord will return to Tenant any prepaid rent and any Security Deposit, and the parties will have no further obligations under this Lease. References in this Lease to a "**Certificate of Occupancy**" mean a Certificate of Occupancy sufficient to allow the Tenant to occupy the Premises for the Permitted Use.

6.04 Signs. Without the prior written consent of Landlord, Tenant may not place any signs, ornaments or other objects on the Premises or the Property, including but not limited to the roof or exterior of the building or other improvements on the Property, or paint or otherwise decorate or deface the exterior of the building or other improvements on the Property. Any signs installed by Tenant must conform to applicable laws, deed restrictions, and other applicable requirements. Tenant must remove all signs, decorations and ornaments at the expiration or termination of this Lease, and must repair any damage and close any holes caused by installation or removal.

6.05 Utility Services. Unless otherwise provided in this Lease, Tenant shall pay the cost of all Utilities used for the Premises, and the cost of replacing light bulbs and tubes. Unless otherwise required by law, Landlord is the party entitled to designate utility and telecommunication service providers to the Property and the Premises. Landlord may, at Landlord's option, allow Tenant to select the provider. If Tenant selects the provider, any access or alterations to the Property or the Premises necessary for the Utilities may be made only with Landlord's prior consent, which Landlord will not unreasonably withhold or delay. If Landlord incurs any utility or connection charges that Tenant is responsible to pay and Landlord pays the charges, Tenant shall reimburse Landlord Immediately upon receipt of a written notice from Landlord stating the amount of the charges.

6.06 Landlord's Access. Landlord and Landlord's agents will have the right to, upon reasonable advance notice, and without unreasonably interfering with Tenant's business, enter the Premises: (a) to inspect the general condition and state of repair of the Premises, (b) to make repairs required or permitted under this Lease, (c) to show the Premises or the Property to any prospective tenant or purchaser, and (d) for any other reasonable purpose. If Tenant changes the locks on the Premises, Tenant must provide Landlord with a copy of each separate key upon Landlord's request. During the last 150 days of the Term, Landlord and Landlord's agents may erect signs on or about the Premises advertising the Premises for lease or for sale.

6.07 Possession. If Tenant pays the Rent, properly maintains the Premises, and complies with all other terms of this Lease, Tenant may occupy and enjoy the Premises for the full Term, subject to the provisions of this Lease.

6.08 Exemptions from Liability. Landlord will not be liable for any damage to the business (including any loss of income), goods, inventory, furnishings, fixtures, equipment, merchandise or other property of Tenant, Tenant's employees, invitees or customers, or for any injury to Tenant or Tenant's employees, invitees, customers or any other person in or about the Premises, whether the damage or injury is caused by or results from: (a) fire, steam, electricity, Water, gas or wind; (b) the breakage, leakage, obstruction or other defects of pipes, sprinklers, wires, appliances, plumbing, air conditioning or lighting fixtures or any other cause; (c) conditions arising on or about the Premises or other portions of the Property, or from other sources or places; or (d) any act or omission of any other occupant of the Property. The provisions of this Section will not, however, exempt Landlord from liability for Landlord's gross negligence or willful misconduct.

ARTICLE SEVEN

PROPERTY CONDITION, MAINTENANCE, REPAIRS AND ALTERATIONS

7.01 Property Condition. Except as disclosed in writing by Landlord to Tenant before the execution of this Lease, to the best of Landlord's actual knowledge: (i) the Premises have no known latent structural or construction defects of a material nature; and (ii) none of the improvements to the Premises have been constructed with materials known to be a potential health hazard to occupants of the Premises. Unless otherwise expressly set forth in this Lease, Landlord represents that on the Commencement Date (and for a period of 30 days thereafter): (a) the fixtures and equipment serving the Premises are in good operating condition, including the plumbing, electrical and lighting systems, any fire protection sprinkler system, the HVAC (defined below) systems and equipment, the roof, skylights, doors, overhead doors, windows, dock levelers and elevators; and (b) the interior of the Premises is in good condition. Tenant will have a period of 30 days after the Commencement Date to inspect the Premises and notify Landlord in writing of any defects and maintenance, repairs or replacements required to the above named fixtures, equipment and interior. Within a reasonable period of time after the timely receipt of any such written notice from Tenant, Landlord shall, at Landlord's expense, correct the defects and perform the maintenance, repairs and replacements.

7.02 Acceptance of Premises. Tenant has inspected, or has had an opportunity to inspect, the Premises, before the execution of this Lease, Tenant has determined that the Premises may be used for the Permitted Use. Subject to the provisions in Section 7.01, and any other express obligations of Landlord in this Lease to construct any improvements, make repairs, or correct defects, Tenant agrees to accept the Premises in "**AS IS**" condition and with all faults (other than latent defects). To the extent permitted by applicable law, Tenant waives any implied warranties of Landlord as to the quality or condition of the Premises or the Property, or as to the fitness or suitability of the Premises or the Property for any particular use.

7.03 Maintenance and Repairs. Landlord will not be required to perform any maintenance or repairs, or management services, in the Premises, except as otherwise provided in this Lease. Tenant will be fully responsible, at Tenant's expense, for all maintenance and repairs, and management services, other than those that are expressly set forth in this Lease as Landlord's responsibility.

A. Landlord's Obligations.

(1) Subject to the provisions of Article Eight (Damage or Destruction) and Article Nine (Condemnation) and except for damage caused by any act or omission of Tenant, Landlord shall keep the roof, skylights, foundation, structural components and the structural portions of exterior walls of the Premises in good order, condition and

repair. Landlord will not be obligated to maintain or repair windows, doors, overhead doors, plate glass or the surfaces of walls. In addition, Landlord will not be obligated to make any repairs under this Section until a reasonable time after receipt of written notice from Tenant of the need for repairs. If any repairs are required to be made by Landlord, Tenant shall, at Tenant's sole cost and expense, promptly remove Tenant's furnishings, fixtures, inventory, equipment and other property, to the extent required to enable Landlord to make repairs. Landlord's liability under this Section will be limited to the cost of those repairs or corrections. Tenant waives the benefit of any present or future law that might give Tenant the right to repair the Premises at Landlord's expense or to terminate this Lease because of the condition.

(2) All repairs, maintenance, management and other services to be performed by Landlord or Landlord's agents involve the exercise of professional judgment by service providers, and Tenant expressly waives any claims against Landlord for breach of warranty arising from the performance of those services.

B. Tenant's Obligations. Subject to the provisions of Section 7.01, Section 7.03A, Article Eight (Damage or Destruction) and Article Nine (Condemnation), Tenant shall, at all times, keep all other portions of the Premises in good order, condition and repair (except for normal wear and tear), including, but not limited to, maintenance, repairs and all necessary replacements of the windows, plate glass, doors, overhead doors, HVAC equipment, electrical and lighting systems, fire protection sprinkler system, dock levelers, elevators, interior and exterior plumbing, the interior and exterior of the Premises in general, pest control and extermination, down spouts, gutters, paving, railroad siding, care of landscaping and regular mowing of grass. In addition, Tenant shall, at Tenant's expense, repair any damage to any portion of the Property, including the roof, skylights, foundation, or structural components and exterior walls of the Premises, caused by Tenant's acts or omissions. If Tenant fails to maintain and repair the Property as required by this Section, Landlord may, on 10 days' prior written notice, enter the Premises and perform the maintenance or repair on behalf of Tenant, except that no notice is required in case of emergency, and Tenant shall reimburse Landlord immediately upon demand for all costs incurred in performing the maintenance or repair, plus a reasonable service charge.

C. HVAC Service. This Section pertains to the heating, ventilation and air-conditioning ("**HVAC**") systems and equipment that service the Premises, ***[Check one box only.]***

☐ (1) Landlord is obligated to provide the HVAC services to the Premises only during the operating hours of the Property (as described below).

☐ (2) Landlord will provide the HVAC services to the Premises during the operating hours of the Property (as described below) for no additional charge and will, at Tenant's request, provide HVAC services to the Premises during other hours for an additional charge of $ _____ per hour. Tenant will pay Landlord the charges under this paragraph promptly after receipt of Landlord's invoice. Hourly charges are charged on a half-hour basis. Any partial hour will be rounded up to the next half hour. Tenant will comply with Landlord's procedures to make a request to provide the additional HVAC services in advance.

☒ (3) Tenant will pay for the HVAC services under this Lease. For any HVAC system that services only the Premises, Tenant shall, at Tenant's own cost and expense, enter into a regularly scheduled preventative maintenance and service contract for all such HVAC systems and equipment during the Term. If Tenant fails to enter into such a service contract acceptable to Landlord, Landlord may do so on Tenant's behalf and Tenant agrees to pay Landlord the cost and expense thereof, plus a reasonable service charge, periodically upon demand.

D. Operating Hours of the Property. The operating hours of the Property are the times reasonably determined by Landlord unless they are specified here. ***[specify*** the operating *hours of the Property including the days of the week, and whether Saturdays, Sundays and holidays are included]:*
no restrictions on operating hours

E. Cleaning. Tenant must keep the Premises clean and sanitary and promptly dispose of all trash in appropriate receptacles. Tenant will provide, at Tenant's expense, janitorial services to the Premises, ~~unless this box ☐ is checked, in which case Landlord will provide janitorial services to the Premises that are customary for the property type. Tenant will maintain, at Tenant's expense, any grease trap on the Property that Tenant uses, including but not limited to periodic emptying and cleaning, as well as making any modification to the grease trap that may be necessary to comply with any applicable law.~~

7.04 Alterations, Additions and improvements. Tenant may not create any openings in the roof or exterior walls without the prior written consent of Landlord. Tenant may not make any alterations, additions or improvements to the Premises ("**Alterations**") without the prior written consent of Landlord. However, Tenant is not required to obtain the Landlord's prior written consent for non-structural Alterations that do not cost more than $5,000 and that do not modify or affect the roof, plumbing, HVAC systems or electrical systems. Consent for non-structural Alterations in excess of $5,000 or that modify or affect plumbing, HVAC systems or electrical systems will not be unreasonably withheld, conditioned or delayed by Landlord. Tenant may erect or install trade fixtures, shelves, bins, machinery, HVAC systems, and refrigeration equipment, provided that Tenant complies with all applicable governmental laws, ordinances, codes, and regulations. At the expiration or termination of this Lease, Tenant may, subject to the restrictions of Section 7.05, remove items installed by Tenant, provided Tenant is not in default at the time of the removal and Tenant repairs, in a good and workmanlike manner, any damage caused by the installation or removal Tenant shall pay for all costs incurred or arising out of Alterations and will not permit any mechanic's or materialman's lien to be filed against the Premises or the Property. Upon request by Landlord, Tenant shall deliver to Landlord proof of payment, reasonably satisfactory to Landlord, of all costs incurred in connection with any Alterations.

7.05 Condition upon Termination. Upon the expiration or termination of this Lease, Tenant shall surrender the Premises to Landlord broom clean and in the same condition as received, except for normal wear and tear and any damage caused by a casualty that Tenant is not otherwise obligated to repair under any provision of this Lease. Tenant will not be obligated to repair any damage that Landlord is required to repair under Article Seven (Property Condition) or Article Eight (Damage or Destruction). In addition, Landlord may require Tenant to remove any Alterations before the expiration or termination of this Lease and to restore the Premises to their prior condition, all at Tenant's expense. However, Tenant will not be required to remove any Alterations that were made with Landlord's consent or that were otherwise permitted under the terms of this Lease, All Alterations that Tenant does not remove will become Landlord's property upon the expiration or termination of this Lease. In no event may Tenant remove any of the following items without Landlord's prior written consent: (i) electrical wiring or power panels; (ii) lighting or lighting fixtures; (iii) wall coverings, drapes, blinds or other window coverings; (iv) carpets or other floor coverings; (v) HVAC equipment; (vi) plumbing equipment; (vii) fencing or gates; or (viii) any fixtures, equipment or other items that, if removed, would affect the operation or the appearance of the Property. However, Tenant may remove Tenant's trade fixtures, equipment used in Tenant's business, and personal property. The provisions of this Section will survive the expiration or termination of this Lease.

ARTICLE EIGHT

DAMAGE OR DESTRUCTION

8.01 Notice. If any buildings or other improvements situated on the Property are damaged or destroyed by fire, flood, windstorm, tornado or other casualty, Tenant shall immediately give written notice of the damage or destruction to Landlord.

8.02 Partial Damage. If the Premises are damaged by fire, tornado or other casualty, and rebuilding and repairs can be completed within 120 days after the date Landlord receives written notification from Tenant of the occurrence of the damage, then this Lease will not terminate, but Landlord shall proceed with reasonable diligence to rebuild and repair the Premises (other than leasehold improvements made by Tenant or any assignee, subtenant or other occupant of the Premises) to substantially the condition they were in before the damage. To the extent the Premises cannot be occupied (in whole or in part) after the casualty, the Rent payable under this Lease during the period the Premises cannot be fully occupied will be adjusted equitably.

If the casualty occurs during the last 18 months of the Term, Landlord will not be required to rebuild or repair the damage unless Tenant exercises Tenants renewal option (if any) within 15 days after the date Landlord receives written notification of the occurrence of the damage. If the casualty occurs during the last 18 months of the Term and Tenant does not so exercise Tenant's renewal option, or if there is ho renewal option in this Lease, Landlord may, at Landlord's option, terminate this Lease by delivering a written termination notice to Tenant, in which case the Rent will be abated for the unexpired portion of the Term, effective on the date Landlord received written notification of the damage.

8.03 Substantial or Total Destruction. If the Premises are substantially or totally destroyed by fire, tornado, or other casualty, or so damaged that rebuilding and repairs cannot reasonably be completed within 120 days after the date Landlord receives written notification from Tenant of the occurrence of the damage, either Landlord or Tenant may terminate this Lease by promptly delivering a written termination notice to the other party, in which event the monthly installments of Rent will be abated for the unexpired portion of the Term, effective on the date of the damage or destruction. If neither party promptly terminates this Lease, Landlord shall proceed with reasonable diligence to rebuild and repair the Premises (except that Tenant shall rebuild and repair Tenant's fixtures and improvements in the Premises). To the extent the Premises cannot be occupied (in whole or in part) after the casualty, the Rent payable under this Lease during the period the Premises cannot be fully occupied will be adjusted equitably.

ARTICLE NINE

CONDEMNATION

If, during the Term, all or a substantial part of the Premises are taken for any public or quasi-public use under any governmental law, ordinance or regulation or by right of eminent domain, or are conveyed to the condemning authority under threat of condemnation, this Lease will terminate and the monthly installments of Rent will be abated during the unexpired portion of the Term, effective on the date of the taking. If less than a substantial part of the Premises is taken for public or quasi-public use under any governmental law, ordinance or regulation, or by right of eminent domain, or is conveyed to the condemning authority under threat of condemnation, Landlord shall promptly, at Landlord's expense, restore and reconstruct the Premises (other than leasehold improvements made by Tenant or any assignee, subtenant or other occupant of the Premises) in order to make the Premises reasonably suitable for the Permitted Use. The Rent payable under this Lease during the unexpired portion of the Term will be adjusted equitably. If there is a taking of the Property that has a material, adverse effect on the operation of Tenant's business in the Premises, then the Rent will be adjusted equitably. Landlord and Tenant will each be entitled to receive and retain such separate awards and portions of lump sum awards as may be allocated to their respective interests in any condemnation proceeding. The termination of this Lease will not affect the rights of the parties to those awards.

ARTICLE TEN

ASSIGNMENT AND SUBLETTING

Tenant may not assign this Lease or sublet the Premises or any portion thereof, without the prior written consent of Landlord, which consent will not be unreasonably withheld or delayed. Any assignment or subletting will be expressly subject to all terms and provisions of this Lease, including the provisions of Section 6.01 pertaining to the use of the Premises. In the event of any assignment or subletting, Tenant will remain fully liable for the full performance of all of Tenant's obligations under this Lease. Tenant may not assign Tenant's rights under this Lease or sublet the Premises without first obtaining a written agreement from the assignee or sublessee whereby the assignee or sublessee agrees to assume the obligations of Tenant under this Lease and to be bound by the terms of this Lease. If a Default occurs while the Premises is assigned or sublet, Landlord may, at Landlord's option, in addition to any other remedies provided in this Lease or by law, collect directly from the assignee or subtenant all rents becoming due under the terms of the assignment or subletting and apply the rents against any sums due to Landlord under this Lease. No direct collection by Landlord from any assignee or subtenant will release Tenant from Tenant's obligations under this Lease.

ARTICLE ELEVEN

DEFAULT AND REMEDIES

11.01 Default. Each of the following events is a default under this Lease (a "**Default**"):

A. Failure of Tenant to pay any installment of the Rent or other sum payable to Landlord under this Lease on the date that it is due, and the continuance of that failure for a period of five days after Landlord delivers written notice of the failure to Tenant. This clause will not be Construed to permit or allow a delay in paying Rent beyond the due date and will not affect Landlord's right to impose a Late Charge as permitted in Section 3.03;

B. Failure of Tenant to comply with any term, condition or covenant of this Lease, other than the payment of Rent or other sum of money, and the continuance of that failure for a period of 30 days after Landlord delivers written notice of the failure to Tenant;

C. Failure of Tenant or any guarantor of Tenant's obligations under this Lease to pay its debts as they become due or an admission in writing of inability to pay its debts, or the making of a general assignment for the benefit of creditors;

D. The commencement by Tenant or any guarantor of Tenant's obligations under this Lease of any case, proceeding or other action seeking reorganization, arrangement, adjustment, liquidation, dissolution or composition of it or its debts under any law relating to bankruptcy, insolvency, reorganization or relief of debtors, or seeking appointment of a receiver, trustee, custodian or other similar official for it or for all or any substantial part of its property;

E. The commencement of any case, proceeding or other action against Tenant or any guarantor of Tenant's obligations under this Lease seeking to have an order for relief entered against it as debtor, or seeking reorganization, arrangement, adjustment, liquidation, dissolution or composition of it or its debts under any law relating to bankruptcy, insolvency, reorganization or relief of debtors, or seeking appointment of a receiver, trustee, custodian or other similar official for it or for all or any substantial part of its property, and Tenant or any guarantor: (i) falls to obtain a dismissal of such case, proceeding, or other action within 60 days of its commencement; or (ii) converts the case from one chapter of the Federal Bankruptcy Code to another chapter; or (iii) is the subject of an order of relief that is not fully stayed within seven business days after the entry thereof; and

F. Vacancy or abandonment by Tenant of any substantial portion of the Premises or cessation of the use of the Premises for the purpose leased, and the continuance of that vacancy, abandonment or cessation for a period of 30 days after Landlord delivers a written notice to Tenant.

11.02 Remedies. Upon the occurrence of any Default listed in Section 11.01, Landlord may pursue any one or more of the following remedies without any prior notice or demand.

A. Landlord may terminate this Lease, in which event Tenant shall immediately surrender the Premises to Landlord. If Tenant fails to surrender the Premises, Landlord may, without prejudice to any other remedy that Landlord may have for possession of the Premises or Rent in arrears, enter upon and take possession of the Premises and expel Tenant and any other person who may be occupying the Premises or any part thereof, without being liable for any claim for damages due to the termination of this Lease or termination of possession. Tenant shall pay to Landlord on demand the amount of all Rent and loss and damage Landlord may suffer by reason of the termination or inability to relet the Premises up to the date of termination, in addition to any other liabilities that survive the termination of this Lease.

B. Landlord may enter upon and take possession of the Premises, without terminating this Lease and without being liable for any claim for damages due to termination of possession, and expel Tenant and any other person who may be occupying the Premises or any part thereof. Landlord may relet the Premises and receive rent from the new occupant. Tenant agrees to pay to Landlord monthly, or on demand from time to time, any deficiency that may arise by reason of any such reletting. In determining the amount of the deficiency, professional service fees, reasonable attorneys' fees, court costs, remodeling expenses and other costs of reletting will be subtracted from the amount of rent received from the new occupant.

C. Landlord may enter upon the Premises, without terminating this Lease and without being liable for any claim for damages due to such entry, and do whatever Tenant is obligated to do under the terms of this Lease. Tenant agrees to pay Landlord on demand for expenses that Landlord incurs in performing Tenant's obligations under this Lease, together with interest thereon at the rate of 12% per annum from the date spent until paid.

D. Landlord may sue Tenant for damages for breach of this Lease after Tenant's Default and abandonment of the Premises, or after Landlord terminates Tenant's possession and Tenant vacates the Premises, in which case the measure of damages is the sum of: (i) the unpaid Rent up to the date of the abandonment or vacancy, plus (ii) the difference between the Rent for the remainder of the Term after abandonment or vacancy, and the fair market rental value of this Lease for the remainder of the Term after abandonment or vacancy, such difference to be discounted to present value at a rate equal to the rate of interest that is allowed by law in the State of Texas when the parties to a contract have not agreed on any particular rate of interest (or, in the absence of such law, at the rate of 6% per annum). Neither the enforcement or collection by Landlord of those amounts nor the payment by Tenant of those amounts will constitute a waiver by Landlord of any breach, existing or in the future, of any of the terms or provisions of this Lease by Tenant or a waiver of any rights or remedies that the Landlord may have with respect to any breach.

E. In addition to the foregoing remedies, Landlord may change or modify the locks on the Premises if Tenant fails to pay the Rent when due, Landlord will not be obligated to provide another key to Tenant or allow Tenant to regain entry to the Premises unless and until Tenant pays Landlord all Rent that is delinquent. Tenant agrees that Landlord will not be liable for any damages resulting to the Tenant from the lockout. When Landlord changes or modifies the locks, Landlord or Landlord's agent shall post a written notice in accordance with Section 93,002of the Texas Property Code, or its successor statute. Tenant may be subject to legal liability if Tenant or Tenants representative tampers with any lock after the locks have been changed or modified.

F. No re-entry or taking possession of the Premises by Landlord will be construed as an election to terminate this Lease, unless a written notice of that intention is given to Tenant Notwithstanding any re-entry, taking possession or reletting. Landlord may, at any time thereafter, elect to terminate this Lease for a previous Default, Pursuit of any of the foregoing remedies will not preclude pursuit of any other remedies provided by law, nor will pursuit of any remedy provided in this Lease constitute a forfeiture or waiver of any Rent due to Landlord under this Lease or of any damages accruing to Landlord by reason of the violation of any of the provisions in this Lease. Failure of Landlord to declare any Default immediately upon its occurrence, or failure to enforce one or more of Landlord's remedies, or forbearance by Landlord to enforce one or more of Landlord's remedies upon a Default, will not be deemed to constitute a waiver of any of Landlord's remedies for any Default. Pursuit of any one of the remedies will not preclude pursuit by Landlord of any of the other remedies provided in this Lease. The loss or damage that Landlord may suffer by reason of a Default by Tenant under this Lease, or the deficiency from any reletting, will include the expense of taking possession and any repairs performed by Landlord after a Default by Tenant. If Landlord terminates this Lease at any time for any Default in addition to other Landlord's remedies, Landlord may recover from Tenant all damages Landlord may incur by reason of the Default, including the cost of recovering the Premises and the Rent then remaining unpaid.

G. Nothing in this Lease will be construed as imposing any duty upon Landlord to relet the Premises. Landlord will have no duty to mitigate Landlord's damages except as required by applicable law. Any duty imposed by law on Landlord to mitigate damages after a Default by Tenant will be satisfied if Landlord undertakes to lease the Premises to another tenant (a "**Substitute Tenant**") in accordance with the following criteria:

(1) Landlord will have no obligation to solicit or entertain negotiations with any other prospective tenant for the Premises until Landlord obtains full possession of the Premises including, without limitation, the final and unappealable legal right to relet the Premises free of any claim of Tenant;

(2) Landlord will not be obligated to lease or show the Premises on a priority basis, or offer the Premises to a prospective tenant when other space in the Property suitable for the prospective tenant's use is (or soon will be) available;

(3) Landlord will not be obligated to lease the Premises to a Substitute Tenant for an amount less than the current fair market rent then prevailing for similar uses in

comparable buildings in the same market area as the Property, nor will Landlord be obligated to enter into a new lease under other terms arid conditions that are unacceptable to Landlord under Landlord's then current leasing policies for comparable space in the Property;

(4) Landlord will not be obligated to enter into a lease with a Substitute Tenant whose use would:

(i) violate any restriction, covenant, or requirement contained in the lease of another tenant of the Property;

(ii) adversely affect the reputation of the Property; or

(iii) be incompatible with other uses of the Property.

(5) Landlord will not be obligated to enter into a lease with a Substitute Tenant that does not have, in Landlord's reasonable opinion, sufficient financial resources to pay the Rent under the new lease and operate the Premises In a first class manner; and

(6) Landlord will not be required to spend any amount of money to alter, remodel, or otherwise make the Premises suitable for use by a proposed Substitute Tenant unless;

(i) Tenant pays any such sum to Landlord in advance of Landlord's execution of a lease with the Substitute Tenant (which payment will not be In lieu of any damages or other sums to which Landlord may be entitled as a result of Tenants Default under this Lease); or

(ii) Landlord, in Landlord's reasonable discretion, determines that any such expenditure is financially justified in connection with entering into a lease with the Substitute Tenant.

H. No right or remedy of Landlord is intended to be exclusive of any other right or remedy, and each and every right and remedy will be cumulative and in addition to any other right or remedy now or hereafter existing under this Lease, at law, in equity or by statute. **Landlord will not be liable for any damages resulting to Tenant from any right or remedy exercised by Landlord, regardless of the cause, even If it is caused by the sole, joint or concurrent negligence of Landlord.**

11.03 Notice of Default. Tenant shall give written notice of any failure by Landlord to perform any of Landlord's obligations under this Lease to Landlord and to any ground lessor, mortgagee or beneficiary under any deed of trust encumbering the Premises whose name and address have been furnished to Tenant in writing. Landlord will not be in default under this Lease unless Landlord (or the ground lessor, mortgagee or beneficiary) fails to cure the nonperformance within 30 days after receipt of Tenant's notice. However, if the nonperformance reasonably requires more than 30 days to cure, Landlord will not be in default if the cure is commenced within the 30-day period and is thereafter diligently pursued to completion.

11.04 Limitation of Landlord's Liability. As used in this Lease, the term "**Landlord**" means only the current owner or owners of the fee title to the Premises, or the leasehold estate under a ground lease of the Premises, at the time in question. Each Landlord is obligated to perform the obligations of Landlord under this Lease only during the time such Landlord owns such title or estate. Any Landlord who transfers its title, estate or other interest is relieved of all liability with respect to the obligations of Landlord under this Lease accruing on or after the date of the transfer, and Tenant agrees to recognize the transferee as Landlord under this Lease. However, each Landlord shall deliver to its transferee the Security Deposit held by Landlord, to the extent the Security Deposit has not then been applied under the terms of this Lease.

ARTICLE TWELVE

LANDLORD'S CONTRACTUAL LIEN

In addition to the statutory Landlord's lien, Tenant hereby grants to Landlord a security interest to secure payment of all Rent and other sums of money becoming due under this Lease from Tenant, upon all inventory, goods, wares, equipment, fixtures, furniture and all other personal property of Tenant situated in or on the Premises, together with the proceeds from the sale thereof. Tenant may not remove such property without the consent of Landlord until all Rent in arrears and other sums then due to Landlord under this Lease have been paid. Upon the occurrence of a Default, Landlord may, in addition to any other remedies provided in this Lease or by law, enter upon the Premises and take possession of any and all goods, wares, equipment, fixtures, furniture and other personal property of Tenant situated in or on the Premises without liability for trespass or conversion, and sell the property at public or private sales, with or without having the property at the sale, after giving Tenant reasonable notice of the time and place of any such sale. Unless otherwise required by law, notice to Tenant of the sale will be deemed sufficient if given in the manner prescribed in this Lease at least 10 days before the time of the sale. Any public sale made under this Article will be deemed to have been conducted in a commercially reasonable manner if held on the Premises or where the property is located, after the time, place and method of sale and a general description of the types of property to be sold have been advertised in a daily newspaper published in the county where the Premises is located for five consecutive days before the date of the sale. Landlord or its assigns may purchase at a public sale and, unless prohibited by law, at a private sale. The proceeds from any disposition pursuant to this Article, less any and all expenses connected with the taking of possession, holding and selling of the property (including reasonable attorneys' fees and expenses), will be applied as a credit against the indebtedness secured by the security interest granted in this Article. Any surplus will be paid to Tenant or as otherwise required by law, and Tenant shall promptly pay any deficiencies. Landlord is authorized to file a financing statement to perfect the security interest of Landlord in the aforementioned property and proceeds thereof under the provisions of the Texas Business and Commerce Code in effect in the State of Texas. Provided Tenant is not in default under any of the terms of this Lease, upon written request by Tenant, Landlord shall deliver a written subordination of Landlord's statutory and contractual liens to any liens and security interests securing any institutional third party financing of Tenant Landlord shall not unreasonably withhold or delay the delivery of Landlord's written subordination.

ARTICLE THIRTEEN

PROTECTION OF LENDERS

13.01 Subordination and Attornment. Landlord may subordinate this Lease to any future ground Lease, deed of trust or mortgage encumbering the Premises, and advances

made on the security thereof and any renewals, modifications, consolidations, replacements or extensions thereof, whenever made or recorded. Landlord's right to subordinate is subject to Landlord providing Tenant with a written Subordination, Non-disturbance and Attornment Agreement from the ground lessor, beneficiary or mortgagee wherein Tenant's right to peaceable possession of the Premises during the Term will not be disturbed if Tenant pays the Rent and performs all of Tenant's obligations under this Lease and is not otherwise in default, in which case Tenant shall attorn to the transferee of or successor to Landlord's interest in the Premises and recognize the transferee or successor as Landlord under this Lease. Tenant's rights under this Lease are subordinate to any existing ground lease, deed of trust or mortgage encumbering the Premises. However, if any ground lessor, beneficiary or mortgagee elects to have this Lease be superior to its ground lease, deed of trust or mortgage and gives Tenant written notice thereof, then this Lease will be deemed superior to the ground lease, deed of trust or mortgage whether this Lease is dated prior or subsequent to the date of the ground lease, deed of trust or mortgage or the date of recording thereof.

13.02 Signing of Documents. Tenant shall sign and deliver any document that may be requested to evidence any attornment or subordination, or any agreement to attorn or subordinate, as long as the document is consistent with the provisions of Section 13.01. If Tenant fails to do so within 10 days after a written request, Tenant hereby irrevocably appoints Landlord as Tenant's attorney-in-fact to execute and deliver the attornment or subordination document.

13.03 Estoppel Certificates.

A. Upon Landlord's written request, Tenant shall execute and deliver to Landlord a written statement (an "**Estoppel Certificate**") certifying:

(1) whether Tenant is an assignee or subtenant;
(2) the Expiration Date of this Lease;
(3) the number of renewal options under this Lease, if any, and the total period of time covered by the renewal options,
(4) that none of the terms or provisions of this Lease have been changed since the original execution of this Lease, except as shown on any attached amendments or modifications;
(5) that no default exists under the terms of this Lease by either Landlord or Tenant;
(6) that Tenant has no claim against Landlord under this Lease and has no defense or right of offset against collection of Rent or other charges accruing under this Lease;
(7) the amount and payment date of the last payment of Rent, the period of time covered by that payment, and the amount of any rental payments made in advance;
(8) the amount of any Security Deposit and other deposits, if any; and
(9) the Identity and address of any guarantor of this Lease.
Tenant shall deliver the statement to Landlord within 10 days after Landlord's request. Landlord may forward any such statement to any prospective purchaser or lender of the Premises. The purchaser or lender may rely conclusively upon the statement as true and correct.

B. If Tenant does not deliver the Estoppel Certificate to Landlord within the 10-day period, Landlord, and any prospective purchaser or lender, may conclusively presume and rely upon the following facts: (1) that the terms and provisions of this Lease have hot been changed except as otherwise represented by Landlord; (2) that this Lease has not been terminated except as otherwise represented by Landlord; (3) that not more than one monthly installment of Base Rent and other charges have been paid in advance; (4) there are no claims against Landlord nor any defenses or rights of offset against collection of Rent; and (5) that Landlord is not in default under this Lease. In such event, Tenant will be estopped from denying the truth of the presumed facts.

C. Also, if Tenant does not deliver the Estoppel Certificate to Landlord within the 10-day period, Landlord may deliver a written notice to Tenant stating that Tenant must deliver an Estoppel Certificate under this Section within five days after Tenant receives the notice. If Tenant does not deliver an Estoppel Certificate to Landlord within five days after Tenant receives the notice, then Tenant's failure to deliver an Estoppel Certificate will constitute a Default under this Lease, notwithstanding any longer period of time under Section 11.01 that Tenant would otherwise be allowed to cure a failure before the failure would become a Default.

13.04 Tenant's Financial Condition. Within 10 days after a written request from Landlord, but not more than two times in any calendar year, Tenant shall deliver to Landlord financial statements as are reasonably required by Landlord to verify the net worth of Tenant, or any assignee, subtenant, or guarantor of Tenant. In addition, Tenant shall deliver to any lender designated by Landlord any financial statements required by the lender to facilitate the financing or refinancing of the Premises. Tenant represents to Landlord that each financial statement is a true, complete, and accurate statement as of the date of the statement. All financial statements will be confidential and will be used only for the purposes set forth in this Lease.

ARTICLE FOURTEEN

ENVIRONMENTAL REPRESENTATIONS AND INDEMNITY

14.01 Tenant's Compliance with Environmental Laws. Tenant, at Tenant's expense, shall comply with all laws, rules, orders, ordinances, directions, regulations and requirements of Federal, State, county and municipal authorities pertaining to Tenant's use of the Property and with the recorded covenants, conditions and restrictions, regardless of when they become effective, including, without limitation, all applicable Federal, State and local laws, regulations or ordinances pertaining to air and water quality, Hazardous Materials (as defined in Section 14.05). waste disposal, air emissions and other environmental matters, all zoning arid other land use matters, and with any direction of any public officer or officers, pursuant to law, which impose any duty upon Landlord or Tenant with respect to the use or occupancy of the Property.

14.02 Tenant's Indemnification. Tenant shall not cause or permit any Hazardous Materials to be brought upon, kept or used in or about the Property by Tenant, or Tenant's agents, employees, contractors or invitees without the prior written consent of Landlord. If the presence of Hazardous Materials on the Property caused or permitted by Tenant results in contamination of the Property or any other property, or if contamination of the Property or any other property by Hazardous Materials otherwise occurs for which Tenant is legally liable to Landlord for damage resulting therefrom, then Tenant shall indemnify, defend and hold Landlord harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities or losses (including, without limitation, diminution in value of the Property, damages for the loss or restriction on use of rentable or unusable space or of any amenity or appurtenance of the Property, damages arising from any adverse impact on marketing of building space or land area, sums paid in settlement of claims, reasonable attorneys' fees, court costs, consultant fees and expert fees) that arise during or after the Term as a result of the contamination. This indemnification of Landlord by Tenant includes, without limitation, costs incurred in connection with any investigation of site conditions or any clean-up, remedial work, removal or restoration work required by any Federal, State or local government agency because of Hazardous Materials present in the soil or ground water on or under the Property. Without limiting the foregoing, if the presence of any Hazardous Materials on the Property (or any other property) caused or permitted by Tenant results in any contamination of the Property, Tenant shall promptly take all actions at Tenant's sole expense as are necessary to return the Property to the condition existing prior to the introduction of any such Hazardous Materials, provided that Landlord's approval of such actions is first obtained.

14.03 Landlord's Representations. Landlord represents, to the best of Landlord's actual knowledge, that: (i) any handling, transportation, storage, treatment or usage of Hazardous Materials that has occurred on the Property to date has been in compliance with all applicable Federal, State, and local laws, regulations and ordinances; and (ii) no leak, spill, release, discharge, emission or disposal of Hazardous Materials has occurred on the Property to date and that the soil or groundwater on or under the Property is free of Hazardous Materials as of the Commencement Date, unless expressly disclosed by Landlord to Tenant in writing.

14.04 Landlord's Indemnification. Landlord hereby indemnifies, defends and holds Tenant harmless from any claims, judgments, damages, penalties, fines, costs, liabilities, (including sums paid in settlements of claims) or loss, Including, without limitation, reasonable attorneys' fees, court costs, consultant fees, and expert fees, which arise during or after the Term of this Lease from or in connection with the presence or suspected presence of Hazardous Materials in the soil or groundwater on or under the Property, unless the Hazardous Material is released by Tenant or is present as a result of the negligence or willful conduct of Tenant. Without limiting the generality of the foregoing, the indemnification provided by this Section will specifically cover costs incurred in connection with any Investigation of site conditions or any clean-up, remedial work, removal or restoration work required by any Federal, State or local governmental authority.

14.05 Definition. For purposes of this Lease, the term "**Hazardous Materials**" means any one or more pollutant, toxic substance, hazardous waste, hazardous material, hazardous substance, solvent or oil as defined in or pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as amended, the Clean Water Act, as amended, the Water Pollution Control Act, as amended, the Solid Waste Disposal Act, as amended, or any other Federal, State or local environmental law, regulation, ordinance, or rule, whether existing as of the date of this Lease or subsequently enacted.

14.06 Survival. The representations and indemnities contained in this Article Fourteen will survive the expiration or termination of this Lease.

ARTICLE FIFTEEN

PROFESSIONAL SERVICE FEES

15.01 Amount and Manner of Payment. Professional service Fees due to the Principal Broker and Cooperating Broker (together, the "Brokers") will be calculated and paid as follows:

A. Lump Sum. Unless the box for Section 15.01B is checked in Section 1.14A, then Landlord agrees to pay to each of the **Brokers** a lump sum professional service Fee for negotiating this Lease, plus any applicable sales taxes, equal to: (i) the percentages stated in Section 1.14A of the total Base Rent to become due to Landlord during the Term, if the blanks for percentages are completed; or (ii) the amounts per square foot in the Premises stated in Section 1.14A. if the blanks for amounts per square foot are completed. The Fees will be paid to the Brokers (i) one-half on the date of final execution of this Lease, and (ii) the balance on the Commencement Date of this Lease.

B. ~~**Monthly**: If the box for this Section 15.01B is checked in Section 1.14A, then Landlord agrees to pay to each of the Brokers a monthly professional service Fee for negotiating this Lease, plus any applicable sales taxes, equal to the percentages stated in Section 1.14A of each monthly Base Rent payment at the time the payment is due.~~

15.02 Payments on Renewal, Expansion or New Lease. Subject to the termination date stated in this Section below, if Tenant or Tenant's successors or assigns: (a) exercises any right or option to renew or extend the Term (whether contained in this Lease or in any amendment to this Lease) or enters into a new lease covering the Premises, a portion of the Premises, or the Premises and additional space; or (b) enters into any new lease, expansion or other rental agreement as to any premises located on or constituting all or part of any real property owned by Landlord adjacent to the Property, then Landlord shall pay to each of the Brokers an additional Fee covering the full period of the renewal, extension, new lease, expansion or other rental agreement. The additional Fees will be due on the date of exercise of a renewal option, or the date of execution in the case of a new lease, expansion or other agreement The additional Fees will be computed and paid under Section 15.01A or Section 15.01B above (whichever has been made applicable under Section 1.14), as if a new lease had been made for such period of time. The Brokers' right to receive these additional Fees will terminate on the date that is 10 years after the expiration of the Term of this Lease, as amended or extended.

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15.03 Payments on Sale. Subject to the termination date stated in this Section below, if Tenant or Tenant's successors or assigns, purchases the Premises pursuant to a purchase option contained in this Lease (or in any amendment to this Lease or any other agreement) or otherwise purchases the Premises, the Property or any portion of either the Premises or the Property, then Landlord shall pay to each of the Brokers a Fee equal to the percentages stated in **Section** 1.14B of the purchase price, payable in Good Funds at the closing. Upon the closing of a sale to Tenant, any monthly lease Fees will terminate upon payment of the Fee on the sale. The Brokers' right to receive the Fees set forth in this Section 15.03 will terminate on the date that is 10 years after the expiration of the Term of this Lease, as amended or extended.

15.04 Other Brokers. Both Landlord and Tenant represent to the other party that they have had no dealings with any person, firm or agent in the negotiation of this Lease other than the Brokers) named in this Lease, and no other broker, agent, person, firm or entity other than Broker(s) is entitled to any commission or fee in connection with this Lease.

15.05 Landlord's Liability. Landlord will be liable for payment of all Fees solely to the Brokers, and Landlord will not be obligated to pay any claims by any undisclosed broker. The Principal Broker may pay a portion of the Fee to any Cooperating Broker pursuant to a separate agreement between the Brokers.

15.06 Joint Liability of Tenant. If Tenant enters into any new lease, extension, renewal, expansion, or other agreement to rent, occupy, or purchase any property described in Section 15.02 or Section 15.03 within the time specified in those Sections, the negotiations must be communicated through the Principal Broker (which may be done through the Cooperating Broker), otherwise Tenant will be jointly and severally liable with Landlord for any payments due or to become due to the Principal Broker.

15.07 Assumption on Sale. In the event of a sale or other transfer of the Premises by Landlord, Landlord shall assign this Lease to the purchaser or other transferee, and obtain from the purchaser or other transferee an Assumption Agreement in recordable form whereby the purchaser or other transferee agrees to pay the Brokers all Fees payable under this Lease. Landlord shall deliver a fully executed original counterpart of the Assumption Agreement to each of the Brokers upon the closing of the sale or other transfer of the Premises. Landlord will be released from personal liability for subsequent payments of Fees payable under this Lease only upon the delivery of the Assumption Agreement to the Brokers.

15.08 Termination. Landlord and Tenant agree that the Brokers are third party beneficiaries of this Lease with respect to the Fees, and that no change may be made by Landlord or Tenant as to the time of payment, amount of payment or the conditions for payment of the Fees without the written consent of the Brokers. The termination of this Lease by the mutual agreement of Landlord and Tenant will not affect the right of the Brokers to continue to receive the Fees agreed to be paid under this Lease, just as if Tenant

had continued to occupy the Premises and had paid the Rent during the entire Term. Amendment or termination of this Lease under Article Eight (Damage or Destruction) and Article Nine (Condemnation) will not amend or terminate the Brokers' right to collect the Fees.

15.09 Intermediary Relationship.

A. If either of the Brokers has indicated in Section 1.12 or Section 1.13 or otherwise that they are acting as an intermediary, then Landlord and Tenant consent to the intermediary relationship, authorize such Broker or Brokers to act as an intermediary between Landlord and Tenant in connection with this Lease, and acknowledge that the source of any expected compensation to the Brokers will be Landlord, and the Brokers may also be paid a fee by Tenant. **A broker, and any broker or salesperson appointed to communicate with and carry out instructions of one party, who acts as an intermediary is required to act fairly and impartially, and may not:**

(1) disclose to Tenant that Landlord will accept a rent less than the asking rent, unless otherwise instructed in a separate writing by Landlord;

(2) disclose to Landlord that Tenant will pay a rent greater than the rental submitted in a written offer to Landlord, unless otherwise instructed in a separate writing by Tenant;

(3) disclose any confidential information, or any information a party specifically Instructs the real estate broker or salesperson in writing not to disclose, unless:

(a) the broker or salesperson is otherwise instructed in a separate writing by the respective party;

(b) the broker or salesperson is required to disclose the information by the Texas Real Estate License Act or a court order ; or

(c) the information materially relates to the condition of the property;

(4) treat a party to the transaction dishonestly; or

(5) violate the Texas Real Estate License Act.

B. Appointments. Each Broker is authorized to appoint, by providing written notice to the parties, one or more license holders associated with the Broker to communicate with and carry out instructions of one party, and one or more other license holders associated with the Broker to communicate with and cany out instructions of the other party. An appointed license holder may provide opinions and advice during negotiations to the party to whom the license holder is appointed.

ARTICLE SIXTEEN

MISCELLANEOUS AND ADDITIONAL PROVISIONS

16.01 Disclosure. Landlord and Tenant understand that a real estate broker is not an expert in matters of law, tax, financing, surveying, hazardous materials, engineering, construction, safety, zoning, land planning, architecture, the TABA, or the ADA. The Brokers hereby advise Tenant to seek expert assistance on such matters. Brokers do not investigate a property's compliance with building codes, governmental ordinances, statutes and laws that relate to the use or condition of a property and its construction, or that relate to its acquisition. If the Brokers provide names of consultants or sources for advice or assistance, Tenant acknowledges that the Brokers do not warrant the services of the advisors or their products and cannot warrant the suitability of property to be acquired or leased. Furthermore, the Brokers do not warrant that the Landlord will disclose any or all property defects, although the Brokers Will disclose to Tenant any actual knowledge possessed by Brokers regarding defects of the Premises and the Property. In this regard, Tenant agrees to make all necessary and appropriate inquiries and to use diligence in investigating the Premises and the Property before signing this Lease. Tenant acknowledges and agrees that neither the Principal Broker nor any Cooperating Broker has made any representation to Tenant with respect to the condition of the Premises, and that Tenant is relying exclusively upon Tenant's own investigations and the representations of Landlord, if any, with respect to the condition of the Premises. Landlord and Tenant agree to hold the Brokers harmless from any and all damages, claims, costs arid expenses resulting from or related to Landlord's furnishing to the Brokers any inaccurate information with respect to the Premises, or Landlord's concealing any material information with respect to the Premises. Landlord arid Tenant hereby agree to indemnify and defend the Brokers against any and all liabilities, claims, debts, damages, costs, or expenses, including but not limited to reasonable attorneys' fees and court costs, related to or arising out of or in any way connected to (a) representations concerning matters properly the subject of advice by experts; or (b) any dispute directly between Landlord and Tenant regarding this Lease. In addition, to the extent permitted by applicable law, the Brokers' liability for errors, omissions, or negligence is limited to the return of the Fee, if any, paid to the Brokers pursuant to this Lease.

16.02 Force Majeure. If performance by Landlord of any term, condition or covenant in this Lease is delayed or prevented by any Act of God, strike, lockout, shortage of material or labor, restriction by any governmental authority, civil riot, flood, or any other cause not within the control of Landlord, the period for performance of the term, condition or covenant will be extended for a period equal to the period Landlord is so delayed or prevented.

16.03 Interpretation. The captions of the Articles or Sections of this Lease are to assist the parties in reading this Lease and are not part of the terms or provisions of this Lease. Whenever required by the context of this Lease, the singular will include the plural and the plural will include the singular, and the masculine, feminine and neuter genders will each include the other.

16.04 Waivers. Any waivers of any provisions of this Lease must be in writing and signed by the waiving party. Landlord's delay or failure to enforce any provisions of this Lease or Landlord's acceptance of late installment of Rent will not be a waiver and will not prevent Landlord from enforcing that provision or any other provision of this Lease in the future. No statement on a check from Tenant or in a letter accompanying a check will be binding on Landlord. Landlord may, with or without notice to Tenant, negotiate, cash, or endorse the check without being bound to the conditions of any such statement.

16.05 Severability. A determination by a court of competent jurisdiction that any provision of this Lease is invalid or unenforceable will not invalidate the remainder of that

provision or any other provision of this Lease, which will remain in full force arid effect.

16.06 Joint and Several Liability. All parties signing this Lease as Tenant will be jointly and severally liable for all obligations of Tenant. Tenant will be responsible for the conduct, acts and omissions of Tenant's agents, employees, customers, contractors, invitees, agents, successors or others using the Premises with Tenant's express or implied permission.

16.07Amendments or Modifications. This Lease is the only agreement between the parties pertaining to the lease of the Premises and no other agreements are effective unless made a part of this Lease. All amendments to this Lease must be in writing and signed by all parties.

16.08 Notices. All notices and other communications required or permitted under this Lease must be in writing and will be deemed delivered, whether actually received or not, on the earlier of: (i)actual receipt if delivered in person or by messenger with evidence of delivery; or (ii)receipt of an electronic facsimile transmission (" **Fax**") with confirmation of delivery; or (iii)upon deposit in the United States Mail as required below. Notices may be transmitted by Fax to the Fax telephone numbers specified in Article One of this Lease, if any. Notices delivered by mail must be deposited in the U.S. Postal Service, certified mail, return receipt requested, postage prepaid, and properly addressed to the intended recipient as set forth in Article One. Notices sent by any other means will be deemed delivered when actually received, with proof of delivery. After possession of the Premises by Tenant, Tenant's address for notice purposes will be the address of the Premises unless Tenant notifies Landlord in writing of a different address to be used for that purpose. Any party may change its address for notice by delivering written notice of its new address to all other parties in the manner set forth above. Copies of all notices should also be delivered to the Brokers, but failure to notify the Brokers will not cause an otherwise properly delivered notice to be ineffective. Also, copies of all notices must also be delivered to the following persons [if the blanks have been completed]:

Copies of notices to Landlord are to be delivered to:

Address: _____

Telephone: _____ Fax: _____
Email: _____

Copies of notices to Tenant are to be delivered to:

Drew Jones

Address: 2260 5th Avenue
Fort Worth TX 76110

Telephone: 2142260133 Fax
Email: drew@harperandjones.com

☒ Landlord also consents to receive any notices by e-mail. ***[Check the box, if applicable.]***

☒ Tenant also consents to receive any notices by e-mail. ***[Check the box, if applicable]***

16.09 Attorneys' Fees. If, on account of any breach or default by any party to this Lease in its obligations to any other party to this Lease (including, but not limited to, the Brokers), it becomes necessary for a party to employ an attorney to enforce or defend any of its rights or remedies under this Lease, the non-prevailing party agrees to pay the prevailing party its reasonable attorneys' fees and court costs, if any, whether or not suit is instituted in connection with the enforcement or defense.

16.10 Venue. All obligations under this Lease, including, but not limited to, the payment of Fees to the Brokers, will be performed and payable in the county in which the Property is located. The laws of the State of Texas will govern this Lease.

16.11 Survival. All obligations of any party to this Lease that are not fulfilled at the expiration or the termination of this Lease will survive such expiration or termination as continuing obligations of the party,

16.12 Binding Effect. This Lease will inure to the benefit of, and be binding upon, each of the parties to this Lease and their respective heirs, representatives, successors and assigns. However, Landlord will not have any obligation to Tenant's successors or assigns unless the rights or interests of the successors or assigns are acquired in accordance with the terms of this Lease.

16.13 Right to Claim a Lien. If a commission agreement or other agreement to pay Fees to the Brokers is not included in this Lease, then be advised that pursuant to Chapter 62 of the Texas Property Code, each Broker hereby discloses the Broker's right to claim a lien based on a separate written commission agreement or other agreement to pay Fees to the Broker, and this disclosure is incorporated in the commission agreement or other agreement to pay Fees.

16.14Patriot Act Representation. Landlord and Tenant each represent to the other that: (1) its property interests are not blocked by Executive Order No.13224, 66 Fed. Reg. 49079; (2)it is not a person listed on the Specially Designated Nationals and Blocked Persons list of the Office of Foreign Assets Control of the United States Department of the Treasury; and (3) it is not acting for or on behalf of any person on that list.

16.15 Counterparts. This Lease may be executed in a number of identical counterparts, and all counterparts will be construed together as one agreement.

16.16Offer. The execution of this Lease by the first party to do so constitutes an offer to lease the Premises. Unless this Lease is signed by the other party and a fully executed copy is delivered to the first party by the earlier of this date **March 1st, 2019** or the date that is 10 days after the date of execution by the first party, such offer to lease will be deemed automatically withdrawn. Any acceptance of an offer that has been withdrawn will only be effective if the party that withdrew the offer subsequently agrees to the acceptance either in writing or by course of conduct.

16.17 Additional Provisions. Landlord and Tenant agree to any provisions set forth on the attached Addenda (if any) and the following additional provisions (if any):

See Additional Provisions attached hereto as Addendum J and made part of thereof for all purposes.

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16.18 Consult an Attorney. This Lease is an enforceable, legally binding agreement. Read it carefully. The Brokers involved in the negotiation of this Lease cannot give you legal advice. Landlord and Tenant acknowledge that they have been advised by the Brokers to have this Lease reviewed by competent legal counsel of their choice before signing this Lease. By executing this Lease, Landlord and Tenant each agree to the provisions contained in this Lease.

This Lease has been executed as of the Effective Date (as defined in Section 1.01).

LANDLORD:		**LANDLORD:**	
Pasha & Sina, Inc.			
By *[Signature]*:	/s/ Mohsen Heidari	By *[Signature]*:	
Name:	**Mohsen Heidari**	Name:	
Title:	**President**	Title:	
Date of Execution:	2/27/19	Date of Execution:	

TENANT:		**TENANT:**	
Harper & Jones, LLC			
DocuSigned by: 5B128B167CBE457			
By *[Signature]*:	/s/ Drew Jones	By *[Signature]*:	
Name:	**Drew Jones**	Name:	
Title:	**Manager**	Title:	
Date of Execution:	2/27/2019	Date of Execution:	

PRINCIPAL BROKER:		**COOPERATING BROKER:**	
J. Elmer Turner, Realtors Inc.		**Esrp Advisory Da11as, LLC**	
By *[Signature]*:		By *[Signature]*:	
Name:	**Michael C. Turner**	Name:	**Damian M. Rivera**
Title:	**President**	Title:	**President National Account Services/Attroney-in-fact**
Address:	**2626 Cole Ave, Suite 606, Dallas, TX75204**	Address:	**One Cowboys Way Suite 350 Frisco, TX75034**
Broker's License No.:	**381055**	Broker's License No.:	**9002573**
Tax ID No.:	**75-2145972**	Tax ID No.:	

PERMISSION TO USE: This form is provided for the use of members of the North Texas Commercial Association of REALTORS®,Inc. ("NTCAR"), members of the North Texas Commercial Association of Real Estate Professionals,Inc, and other licensed users of an NTCAR electronic forms system, Permission is given to make limited copies of the current version of this form for use in a particular Texas real estate transaction. Please contact the NTCAR office to confirm that you are using the current version of this form, Mass production, or reproduction for resale, is not allowed without express permission. Any changes to this form must be made in a manner that is obvious. If any words are deleted, they must be left in the form with a line drawn through them. If changes are made that are not obvious, the person who made the change could be subject to a claim of fraud or misrepresentation for passing off an altered form as if it were the genuine NTCAR form.

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J. Elmer Turner, REALTORS, Inc

Information About Brokerage Services

11/2/2015

Texas law requires all real estate licensees to give the following information about brokerage services to prospective buyers, tenants, sellers and landlords.

TYPES OF REAL ESTATE LICENSE HOLDERS:

A BROKER is responsible for all brokerage activities, including acts performed by sales agents sponsored by the broker.

A SALES AGENT must be sponsored by a broker and works with clients on behalf of the broker.

A BROKER'S MINIMUM DUTIES REQUIRED BY LAW (A client is the person or party that the broker represents):

Put the interests of the client above all others, including the broker's own interests;

Inform the client of any material information about the property or transaction received by the broker;

Answer the client's questions and present any offer to or counter-offer from the client; and

Treat all parties to a real estate transaction honestly and fairly.

A LICENSE HOLDER CAN REPRESENT A PARTY IN A REAL ESTATE TRANSACTION:

AS AGENT FOR OWNER (SELLER/LANDLORD): The broker becomes the property owner's agent through an agreement with the owner, usually in a written listing to sell or property management agreement. An owner's agent must perform the broker's minimum duties above and must inform the owner of any material information about the property or transaction known by the agent, including information disclosed to the agent or subagent by the buyer or buyer's agent.

AS AGENT FOR BUYER/TENANT: The broker becomes the buyer/tenant's agent by agreeing to represent the buyer, usually through a written representation agreement. A buyer's agent must perform the broker's minimum duties above and must inform the buyer of any material information about the property or transaction known by the agent, including information disclosed to the agent by the seller or seller's agent.

AS AGENT FOR BOTH - INTERMEDIARY: To act as an intermediary between the parties foe broker must first obtain the written agreement of each party to the transaction. The written agreement must state who will pay the broker and, in conspicuous bold or underlined print, set forth the broker's obligations as an intermediary. A broker who acts as an intermediary:

Must treat all parties to the transaction impartially and fairly;

May, with the parties' written consent, appoint a different license holder associated with the broker to each party (owner and buyer) to communicate with, provide opinions and advice to, and carry out the instructions of each party to the transaction.

Must not, unless specifically authorized in writing to do so by the party, disclose;

- o that the owner will accept a price less than the written asking price;
- o that the buyer/tenant will pay a price greater than the price submitted in a written offer; and
- o any coincidental information or any other information that a party specifically instructs the broker in writing not to disclose, unless required to do so by law.

AS SUBAGENT: A license holder acts as a subagent when aiding a buyer in a transaction without an agreement to represent the buyer. A subagent can assist the buyer but does not represent the buyer and must place the interests of the owner first.

TO AVOID DISPUTES, ALL AGREEMENTS BETWEEN YOU AND A BROKER SHOULD BE IN WRITING AND CLEARLY ESTABLISH:

· The broker's duties and responsibilities to you, and your obligations under the representation agreement.

· Who will pay the broker for services provided to you, when payment will be made and how the payment will be calculated.

LICENSE HOLDER CONTACT INFORMATION: This notice is being provided for information purposes. It does not create an obligation for you to use the broker's services. Please acknowledge receipt of this notice below and retain a copy for your records.

J. Elmer Turner, Realtors Inc.	**381055**	**mike@jelmerturner.com**	**(214)954-1221**
Licensed Broker /Broker Firm Name or Primary Assumed Business Name	License No.	Email	Phone
Michael C. Turner	**0277978**	**mike@jelmerturner.com**	**(214)954-1221**
Designated Broker of Firm	License No.	Email	Phone
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IABS 1-0

J. Elmer Turner, REALTORS, Inc

NORTH TEXAS COMMERCIAL ASSOCIATION OF REALTORS®
ADDENDUM "A" TO LEASE
RENEWAL OPTIONS

Address of the Premises: **2736 Routh St, Dallas, TX 76201-1970**

1. Option to Extend the Term. Landlord grants to Tenant **Two (2)** option(s) (each an "**Option**") to extend the Term for an additional term of **Thirty-six (36)** months each (the "Extension"), on the same terms, conditions and covenants set forth in this Lease, except as provided below. Each Option may be exercised only by written note delivered to the Landlord no earlier than **Two Hundred Seventy** (**270**) days before, and no later than (180) days before, the expiration of the Term or the preceding Extension of the Term, whichever is applicable. If Tenant fails to deliver to Landlord a written notice of the exercise of an Option within the prescribed time period, such Option and any succeeding Options will lapse, and there will be no further right to extend the Term. Each Option may only be exercised by Tenant on the express condition that, at the time of the exercise, Tenant is not in default under any of the provisions of this Lease. The Options are personal to Tenant and may not be exercised by an assignee or subtenant without Landlord's written consent.

2. Calculation of Rent. The Base Rent during the Extension(s) will be determined by one of the following methods*[check one]:*

☐ **A. Fair Market Rental.** The Base Rent during the Extension will be the Fair Market Rental determined as follows:

a. The "Fair Market Rental" of the Premises means the price that a ready and willing tenant Would pay as of the commencement of the Extension as monthly rent to a ready and willing landlord of Premises comparable to the Premises if the property were exposed for lease on the open market for a reasonable period of time, and taking into account the term of the Extension, the amount of improvements made by Tenant at its expense, the creditworthiness of the Tenant, and all of the purposes for which the property may be used and not just the use proposed to be made of Ws Premises by Tenant Upon proper written notice by Tenant to Landlord of Tenant's intention to elect to exercise the renewal Option, Landlord shall, within _____ days thereafter, notify Tenant in writing of Landlord's proposed Fair Market Rental amount, and Tenant shall thereupon notify Landlord of Tenant's acceptance or rejection of Landlord's proposed amount. Failure of Tenant to reject Landlord's Fair Market Rental amount within _____ days after receipt of Landlord's notice will be deemed Tenant's acceptance of Landlord's proposed Fair Market Rental amount.

b . If Landlord and Tenant have not been able to agree on the Fair Market Rental amount within 40 days following the exercise of the Option, the Fair Market Rental for the Extension will be determined by the following appraisal process. Landlord and Tenant shall endeavor in good faith to select a single Appraiser. The term "**Appraiser**" means a State Certified Real Estate Appraiser licensed by the State of Texas to value commercial property. If Landlord and Tenant are able to agree upon and select a single Appraiser, that Appraiser will determine the Fair Market Rental for the Extension.

If Landlord and Tenant are unable to agree upon a single Appraiser within days after the end of the 40-day period, each will then appoint one Appraiser by written notice to the other, given within _____ days after the end of the 40-day period. Within five business days after the two Appraisers are appointed, the two Appraisers will appoint a third Appraiser. If either Landlord or Tenant fails to appoint its Appraiser within the prescribed time period, the single Appraiser appointed will determine the Fair Market Rental amount of the Premises. Each party will bear the cost of the appraiser appointed by it and the parties will share equally the cost of the third appraiser. The Fair Market Rental of the Premises will be the average of two of the three appraisals that are closest in amount, and the third appraisal will be disregarded.

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c . In no event will the Base Rent be reduced for any Extension, regardless of the Fair Market Rental determined by any appraisal. If the Fair Market Rental is not determined before the commencement of the extension, then Tenant shall continue to pay to Landlord the Base Rent applicable to the Premises immediately before the Extension until the Fair Market Rental amount is determined, and when it is determined, Tenant shall pay to Landlord the difference between the Base Rent actually paid by Tenant to Landlord and the new Base Rent

☐ **B. Consumer Price Index Adjustment.** The monthly Base Rent during the Extension will be determined by multiplying the monthly installment of Base Rent during the last month of the Term by a fraction determined as follows:

a. The numerator will be the Latest Index that means either*[check one]:*

☐ (1) the Index published for the nearest calendar month preceding the first day of the Extension, or

☐ (2) the Index for the month of Extension._____ preceding the first day of the

b. The denominator will be the Initial Index that means either*[check one]:*

☐ (1) the Index published for the nearest calendar month preceding the Commencement Date,or

☐ (2) the Index for the month of_____ preceding the Commencement Date.

[If no blanks are filled in above, the choice (1) including the phrase "the nearest calendar month preceding" will apply. If the Index Is not yet published for the nearest calendar month preceding the applicable date, then "the nearest calendar month" means the first month preceding the applicable date for which the Index is published].

c . The Index means the Consumer Price Index (CPI) for All Urban Consumers (All Items) U.S. City Average (unless this box is checked ☐ in which case the CPI for the Dallas/Fort Worth Consolidated Metropolitan Statistical Area will be used) published by the U. S. Department of Labor, Bureau of Labor Statistics (Base Index of 1982-84 =100). If the Index is discontinued or revised, the new index or computation that replaces the Index will be used in order to obtain substantially the same result as would have been obtained if it had not been discontinued or revised. If such computation would reduce the Rent for the particular Extension, it will be disregarded, and the Rent during the immediately preceding period will apply instead.

☒ **C. Fixed Rental Adjustments.** The monthly installments of Base Rent during the Extension(s) will be increased beginning on the following dates to these amounts:

Date:	**See Additional Provisions**	Amount:$	
Date:		Amount:$	
Date:		Amount:$	
Date:		Amount:$	

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North Texas Commercial association of Realtors®

ADDENDUM "G" TO LEASE

RULES AND REGULATIONS

Address of the Premises: **2736 Routh St. Dallas, TX 75201-1970**

1. Application. Tenant, and Tenant's employees and Invitees, shall abide by the following standards for the mutual safety, cleanliness, care, protection, comfort and convenience of all tenants and occupants of the Property. These Rules and Regulations apply to all of the Property as defined in this Lease including, but not limited to, the Premises, the building(s), the parking garages, if any, the common areas, driveways, and parking lots.

2. Consent Required. Any exception to these Rules and Regulations must first be approved in writing by Landlord. For purposes of these Rules and Regulations, the term "Landlord" includes the building manager, the building manager's employees, and any other agent or designee authorized by Landlord to manage or operate the Property.

3. Rules and Regulations:

a. Tenant may not conduct any auction, "flea market1' or "garage sale" on the Premises nor store any goods or merchandise on the Property except for Tenant's own business use. Food may not be prepared in the Premises except in small amounts for consumption by Tenant and Tenant's officers and employees. Vending machines or dispensing machines may not be placed in the Premises without Landlord's written approval. The Premises may not be used or occupied as sleeping quarters or for lodging purposes. Animals may not be kept in or about the Property.

b . Tenant shall not obstruct sidewalks, driveways, loading areas, parking areas, corridors, hallways, vestibules, stairs and Other similar areas designated for the collective use of tenants, or use such areas for Tenant's storage, temporary or otherwise, or for any purpose other than going to and from the Premises. Tenant shall comply with parking rules and guidelines as may be posted on the Property from time to time.

c . Tenant shall not make any loud noises, unusual vibrations, unpleasant odors, objectionable or illegal activities on the Property. Tenant shall not permit the operation of any equipment in the Premises that annoys other occupants of the Property. Tenant shall not interfere with the possession of other tenants of the property.

d . Tenant may not bring any flammable, explosive, toxic, noxious, dangerous or hazardous materials onto the Property, except in small quantities as needed in Tenant's business and used, stored, and disposed of in accordance with applicable laws.

e . Installation of security systems, telephone, television and other communication cables, fixtures and equipment must comply withSection 7.04 of the Lease, except that routine installation and construction of normal communication devices that do not require any holes in the roof or exterior walls of the Property do not require the written approval of Landlord.

f . Movement into or out of the building through public entrances, lobbies or corridors that requires use of a hand truck, dolly or pallet jack to carry freight, furniture, office equipment, supplies and other large or heavy material, must be limited to the service entrances and freight elevators only and must'be done at times and in a manner so as not to unduly inconvenience other occupants of the Property. All wheels for such use must have rubber tires and edge guards to prevent damage to the building. Tenant shall be responsible for and shall pay all costs to repair damages to the building caused by the movement of materials by Tenant.

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g . Requests by Tenant for building services, maintenance and repair must be made in writing to the office of the building manager designated by Landlord and must be dated. Tenant shall give prompt written notice to Landlord of any significant damage to or defects in the Premises or the Property, including plumbing, electrical and mechanical systems, heating, ventilating and air conditioning systems, roofs, windows, doors, foundation and structural components, regardless of whose responsibility it is to repair such damage or defects.

h . Tenant shall not change locks or install additional locks on doors without the prior written consent of Landlord. If Tenant changes locks or installs additional locks on the Property, Tenant shall provide Landlord with a copy of each separate key to each lock upon Landlord's request. Upon termination of Tenant's occupancy of the Premises, Tenant must surrender all keys to the Premises and the Property to Landlord.

i . Harmful liquids, toxic wastes, bulky objects, insoluble substances and other materials that may cause clogging, stains or damage to plumbing fixtures or systems must not be placed in the lavatories, water closets, sinks, or drains. Tenant must pay the costs to repair and replace drains, plumbing fixtures and piping that is required because of damage caused by Tenant

j . Tenant shall cooperate with Landlord and other occupants of the Property in keeping the Property and the Premises neat and clean. Nothing may be swept, thrown or left in the corridors, stairways, elevator shafts, lobbies, loading areas, parking lots or any other common areas on the Property. All trash and debris must be properly placed in receptacles provided therefor.

k . Landlord may regulate the weight and position of heavy furnishings and equipment on the floor of foe Premises, including safes, groups of filing cabinets, machines, and any other item that may overload the floor Tenant shall notify Landlord when heavy items are to be taken into or out of the building, and the placement and transportation of heavy items may be done only with the priorwritten approval of Landlord.

l . No window screens, blinds, draperies, awnings, solar screen films, window ventilators or other materials visible from the exterior of the Premises may be placed in the Premises without Landlord's approval. Landlord is entitled to control all lighting that may be visible from the exterior of the building.

m . No advertisement, sign, notice, handbill, poster or banner may be exhibited, distributed, painted or affixed on foe Property. No directory of tenants is allowed on the Property other than that provided by Landlord.

n. Tenant agrees to cooperate with and assist Landlord in the prevention of peddling, canvassing and soliciting on the Property.

o. Tenant accepts any and all liability for damages and injuries to persons and property resulting from the serving or sales of alcoholic beverages by or on behalf of Tenant on or from the Property.

p . Any person entering and leaving foe building before and after normal working hours, or building hours if posted by Landlord, whichever applies, may be required to identify himself to security personnel by signing a list and giving the time of day and destination or location of the applicable Premises. Normal building business hours are established by Landlord from time to time.

4. Revisions. Landlord reserves the right to revise or rescind any of these Rules and Regulations and to make additional rules that Landlord may determine are necessary from time to time for the safety, protection, comfort and convenience of the tenants and visitors of the Property and for the care, protection and cleanliness of foe Property. Revisions and additions will be binding upon the Tenant as if they had been originally prescribed herein when furnished in writing by Landlord to Tenant, provided the additions and revisions apply equally to all tenants occupying the Property and do not impose any substantial cost to Tenant.

5. Enforcement. Any failure or delay by Landlord in enforcing these Rules and Regulations will not prevent Landlord from enforcing these Rules and Regulations in the future. If any of these Rules and Regulations is determined to be unenforceable, it will be severed from this Lease without affecting the remainder of these Rules and Regulations.

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ADDENDUM J
TO
COMMERCIAL LEASE AGREEMENT
FOR THE PROPERTY
AT 2736 ROUTH STREET, DALLAS

The terms and conditions contained in this Addendum J shall take precedence over any term or condition contained in the attached Commercial Lease Agreement.

16.18.A. Commencement Date. The Commencement Date shall be the later of (i) ninety (90) days from March 1, 2019 or (ii) the date in which landlord delivers space to tenant with all Landlord work complete. The utilities shall be reimbursed by Tenant during any period that the base rent is abated.

16.18.B. Signage. Tenant shall be permitted to install exterior signage as the city permits, and subject to Article 6.04. above. Tenant shall provide the Landlord with mockups of exterior signage and obtain the prior written approval from Landlord before installing any signage.

16.18.C. Tenant Improvements. Tenant shall paint the exterior of the structure during the first year of occupancy with a color mutually agreed upon between Tenant and Landlord. Tenant shall obtain the prior written approval from Landlord before completing any work on the exterior or interior of the building.

16.18.D. Landlord Improvements. Landlord shall refinish and stain the wood floors back to their original color, or a color mutually agreed upon between Tenant and Landlord prior to lease commencement.

16.18.E. Tenant Responsibilities. Tenant shall at all times maintain the landscaping in a first-class manner.

16.18.F. Monetary Default Notice. Notwithstanding anything to the contrary contained in the Commercial Lease Agreement, Landlord shall not be obligated to give more than two (2) written notices of default in any twelve (12) month period.

16.18.G. Early Termination. Landlord shall have the option to terminate this lease during the second renewal option period if the subject property and adjacent property are to be a part of a redevelopment. Landlord shall give Tenant one hundred eighty (180) days written notice of any such lease termination. Upon written notice from Landlord, Tenant has the option to terminate the lease at any time with thirty (30) days written notice to Landlord.

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16.18.H. HVAC Maintenance, Repair or Replacement. Notwithstanding anything contained in the Commercial Lease Agreement to the contrary, Tenant's liability for any service call to repair or replace the HVAC equipment shall be limited to $500.00 per service call. Tenant shall not be responsible for more than $1,000.00 worth of HVAC repairs or replacement costs during occupancy. Tenant shall cause to be performed routine filter changes and routine seasonal maintenance at its cost and such routine maintenance expenses are to be outside the $1,000.00 limit on repair or replacement costs to the HVAC.

16.18.I. Landlord Suit Provision. Tenant shall provide to Landlord three (3) suits of Landlord's choosing.

16.18. J. Renewal Option. So long as Tenant is not in monetary default, beyond any applicable cure periods, Tenant shall have the option(s) to renew per the attached addendum A. The gross rental rates for the renewal option(s) are as follows:

Option 1 - July 1, 2022

Year 1	$7,524.00 + Utilities
Year 2	$7,643.00 +Utilities
Year 3	$7,763.00 + Utilities

Option 2 - July 1, 2025

Year 1	$8,151.00 +Utilities
Year 2	$8,270.00 + Utilities
Year 3	$8,389.00 +Utilities

Initialed: _____ Initialed: _____

Landlord Tenant

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LEASE

THIS LEASE AGREEMENT, made this 27th day of April, 2016 by and between **850-860 S. Los Angeles Street LLC**, hereinafter referred to as the "Lessor," and **Bailey 44 LLC,** hereinafter referred to as the "Lessees,"

WITNESSETH:

1. PREMISES AND TERM. Lessor hereby leases to Lessee and Lessee hereby leases from Lessor that certain space in the Cooper Building located at 860 S. Los Angeles Street, Los Angeles, CA designated as the room 820 (the Premises) for a period of 2year(s) commencing with the 1st day of June, 2016 and terminating on the 31st day of May, 2018. In the event Lessor is unable to deliver possession within ninety (90) days from the commencement date of this Lease, either party may terminate this Lease by written notice to the other party, and both parties hereto shall thereby be relieved and discharged from all Lease obligations whatsoever and neither party shall be liable for any damages or other losses to the other whatsoever. In the event of delay in delivery of possession and in the further event that the Lease is not cancelled as provided above, Lessee's rental obligations are waived until delivery of possession.

2. RENTAL. Lessee shall pay to Lessor the following minimum monthly gross base rent for the Premises:

a) $7,800.00 per month for the period commencing June 1, 2016 and ending May 31, 2018..

Lessee agrees that all rental due and payable hereunder shall be paid at the office of the Lessor or such other place as Lessor shall, from time to time, designate. Lessee agrees that the rental hereinabove provided shall be due and payable in advance on the first day of each month during the term of this Lease. A late fee of 10% of the overdue amount shall be due on any payment of rent or other charge which is not received by Lessor within 10 days from due date in addition to interest thereon at the highest legal rate. Rent is deemed paid until actually received and accepted by Lessor during normal business hours. All monetary obligations of Lessee to Lessor under this Lease shall be rent due to Lessor. The parties acknowledge that is impracticable or extremely difficult to calculate Lessors damage relating to a late payment and the foregoing late fee amount is a fair compensation to the Lessor for the effort, time and loss resulting from a late payment. Lessor may apply or credit any payment received from Lessee to any item or charges in arrears as Lessor shall, in its sole discretion determine, and irrespective of any designation by Lessee as to the application or crediting of such payment

3a. CPI AND ADDITIONAL RENTAL The minimum monthly rent as set forth shall be adjusted upward as of the first (1st) day of the month of June in each year during the term of this Lease by the greater of 4% over that in the preceding year or according to the percentage increase in the Consumer Price Index in that month over that of the first month of this Lease. In no event shall there be a decrease in rent due to CPI changes. The base month for computing the adjustment shall be the month of April. The Consumer Price Index shall be for all urban consumers Los Angeles-Long Beach area based upon the period 1967 = 100, as published by the United States Department of Labor, Bureau of Labor Statistics. If that index is no longer published or available, Lessor is authorized to substitute another recognized index at Lessor's reasonable discretion.

By way of example, assuming the base month index is 173, and the index figure on the adjustment date is 190.3, then the percentage to be applied is 190.3/173 = 110% for the next twelve (12) months. Accordingly, the minimum monthly rent is increased by 10% throughout the following year.

3b. In addition to that as provided in Paragraph 15 hereinafter, Lessee shall pay to Lessor, as additional rent for the demised Premises, a sum equal to Lessee's proportionate share, as the proportionate share is hereinafter defined, of any increase in Lessor's operational costs and real estate taxes for the building of which the demised Premises are a part, over such taxes and costs in the base year. The base year shall be the calendar year of 2016. Lessee's proportionate share of any such taxes and costs shall be based upon the percentage that the area contained in the demised Premises bears to the rental area of the Building of which the demised Premises are a part, and it is agreed that the proportionate share is 1.003%. Lessor may invoice Lessee for said additional rental as soon as statements are available and Lessee agrees to pay said additional rental immediately upon receipt of a statement therefore from Lessor. In the alternative, Lessor may at its option make an advance reasonable estimate of such future costs for each coming fiscal year, and during each month of the next 12 months bill Lessee 1/12th of such estimated costs. Said amount shall be due and payable upon presentation of billing, as additional rent. If Lessor makes such estimate and requests advance payment based thereon, then within five months after each year, the actual costs shall be calculated and Lessor shall give Lessee a credit, without interest, for any excess operational cost rental received or, in the event the amount received is insufficient, Lessee shall pay Lessor the full amount of the balance thereof within 10 days from presentation of billing. The term "real estate taxes" shall mean all taxes and assessments levied, assessed or imposed at any time by any governmental authority upon or against the land or building of which the demised Premises are a part, and also any tax or assessment levied, assessed or imposed at any time by any governmental authority in connection with the receipt of income or rents from said land or building to the extent that same shall be in lieu of all or a portion of any of the aforesaid taxes or assessments upon or against said land or building. The term "operational costs" shall mean the aggregate costs and expenses incurred by Lessor in the operation, maintenance, promotion and management of the Building, of which the demised Premises are a part, including but not limited to common area maintenance, repairs and utilities. The operational costs shall not include leasing commissions, partners' salaries, capital improvements and replacements, and amortization payments on mortgages, and any other expense which under generally accepted accounting principles and practice would not be regarded as an operating, maintenance, or management expense, such as depreciation charges. Operational costs shall include Lessee's pro rata portion of any capital expenditure required by law and incurred by Lessor, pro-rated and amortized over the functional life thereof as determined by generally accepted accounting principles. Operational costs shall include any and all of such costs incurred by Lessor, directly or indirectly, or through the use of independent contractors.

4. SECURITY DEPOSIT. Lessee will pay Lessor upon the delivery of this Lease, the sum of $15,600.00 as security for the full and faithful performance by Lessee each and every term, provision, covenant and condition of this Lease. If Lessee defaults in respect to any of the terms, provisions, covenants and conditions of this **Lease** including, but not limited to, payment of rent and additional rent, Lessor may, but shall not be required to use, apply or retain the whole or any part of

Initial(s): JS

the security for the payment of any rent in default, or to any other obligation owing to Lessor from Lessee, including, but not limited to any unpaid rent applicable to the remaining balance of the Lease term, if any and damages or costs incurred in the re-letting of the Premises, whether such damages or deficiency accrue before or after summary proceedings or other re-entry by Lessor. If Lessee shall fully and faithfully comply with all the terms, provisions, covenants and conditions of this Lease, the security, or any balance thereof, shall be returned to Lessee after the time fixed as the expiration of the herein demised term and after the Lessee delivery of possession of Premises to Lessor in good, clean, order and condition and free of all occupants and property other than Lessor's property which shall remain. Whenever and as often as the amount of the security held by Lessor shall be diminished by Lessor's application thereof, Lessee shall, within ten (10) days after the Lessor's request therefore deposit additional money with Lessor sufficient to restore the security to its original amount. Lessee shall not be entitled to any interest on the security deposits. It is understood and agreed that the security deposit may be applied to any unpaid rent or any other leasehold obligation of Lessee, including but not limited to unpaid rent and rental damages applicable to anytime through the expiration of the Lease term and Lessee hereby expressly waives any limitation provided in California Civil Code § 1950.7 with reference thereto. In no event may Lessee have the security deposit applied without Lessor advance written consent. The security deposit shall increase to equal two months gross base rent when each time the rent increases.

5a. USE AND CONDITION OF PREMISES. Lessee shall use the Premises only for the purpose strictly of showroom and for no other use or purpose, unless first approved in writing by Lessor. Lessor shall have the right to approve of any and all product lines displayed or offered for sale within the premises for the purpose of assuring that same is consistent with the foregoing use and purpose and with the image Lessor elects to be projected in and about the Premises. Lessee acknowledges that Lessor has made no agreement, representation or warranty as to the suitability or continued suitability of the Premises for Lessee's purposes. Lessee acknowledges that Lessee accepts the Premises AS IS and Lessor has no obligation to renovate or modify the Premises for Lessee, and Lessees entry into possession of Premises is a conclusive acknowledgement by Lessee that the Premises are in good and tenantable condition. The Premises have not been inspected by a Certified Access Specialist. At the option and discretion of Lessor, the use, character, nature, size, style, name, address, decor, arrangement and configuration of the Building, common areas, facilities and areas surrounding the Premises may be modified, altered, limited or changed. Lessee shall keep and maintain the Premises in a clean, sanitary and orderly condition and Lessee will not put, maintain or keep any property in the common areas of the Building or outside of Lessees Premises. Lessee will not damage the premises or the common areas of the Building property or commit or permit any waste or nuisance or improper act in or about the Premises or any act which will disturb or adversely impact other tenants or users of the Building or which violate any law, rule or governmental regulation, or which may impair the physical or social environment of the Building and adjacent areas or detract or make more difficult or expensive for Lessor to keep the Premises and Building in which the Premises are located in good clean order and repair and in a safe peaceable, decent, and sanitary condition. Lessee assumes responsibility for Lessees employees, agents and invitees.

5b. All promotional efforts conducted by Lessor, including but not limited to advertising, directory and listings, lobby videos campaign, elevator signage and hall listings are at Lessor's discretion only, and may not be afforded to Lessee if Lessee is not in current and good standing in regard to rental payments and all Lease requirements.

5c. The Lessee shall not obstruct or permit the obstruction of the light, halls, areas, roof, stairway or entrance to the Building, and will not affix, erect, inscribe, or permit any signs, projections, awnings, signals or advertisements of any kind about, in, or to any part of the Premises including the inside or outside of the windows or doors thereof and will not paint the outside of the doors thereof or the inside or outside of the windows thereof unless and until the style, size, color, construction and location and type thereof have been approved in writing by Lessor. The Lessor also reserves to itself the sole right to designate the person, firm or corporation which shall do the work of lettering and erecting of any and all signs to be affixed to the Premises or the Building. In the event that said work is done by the Lessee in violation of this provision or through any person, firm or corporation, other than that designated by the Lessor, the Lessor is hereby given the right to enter and remove said signs without being liable to the Lessee by reason thereof and to charge the cost of so doing to the Lessee as additional rent payable on the first day of the next following month, or at Lessor's option, on the first day of any subsequent month. Lessee shall not distribute any advertising or other written material or handbills in or about the Building other than by direct mail.

6a. ASSIGNMENT AND SUBLETTING. Lessee shall not assign this Lease or any interest therein, and shall not sublet the said Premises or any part thereof, or any right or privilege appurtenant thereto, or suffer any other party to occupy or use said Premises, or any portion thereof, without the written consent of Lessor first had and obtained. Lessor shall not unreasonably withhold consent, provided all requests for information are promptly and completely complied with and Lessor is satisfied as to the credit, reputation and nature and character of business of any proposed assignee or sublessee. In no event need Lessor consent to any sublease of more than one year. In no event shall Lessor be required to consent to any assignment or sublease to be effective within one year after the commencement of the Lease. Prior to any consent for assignment the Assignor and Assignee shall deliver to Lessor a written agreement wherein performance of all of the terms of the Lease shall be agreed to and assumed by Assignee and guaranteed by Assignor. Prior to any sublease, Sublessor and Sublessee shall agree to and sign Lessor's Consent to Sublease and deliver to Lessor a copy of the signed sublease agreement between the parties. No assignment or subletting shall release Lessee a from Lessee's obligations under this Lease. No assignment or subletting of this Lease shall be effective until the Lessee or the Lessee's assignee shall have first paid Lessor a fee of $500.00, and Lessor give its written prior consent thereto. Consent to one assignment or subletting shall not be deemed to be a consent to any subsequent assignment or subletting. Any such assignment or subletting without such consent shall be void, and shall, at the option of Lessor, terminate this Lease. This Lease shall not, nor shall any interest therein, be assignable, as to the interest of Lessee by operation of law or otherwise, without the written consent of Lessor. In the event Lessor grants its consent to any proposed assignment or sublease, the rental payable in equal monthly installments from the date of effectiveness of the assignment or sublease, shall be automatically increased to the then prevailing rate as offered by lessor on new Leases at the Building or the actual rent paid by Sublessee or Assignee, whichever is greater. In no event will rent be reduced. If Lessee is a corporation/LLC, any transfer of more than fifty (50%) percent of the voting stock therein shall be deemed an assignment or subletting and shall be subject to the provisions

relating thereto as contained in this Lease.

6b. No acceptance of rent from Lessee or any other party after any assignment or subletting or breach of Lease shall constitute a waiver of any breach of this Lease (other than a breach limited directly related to the rent accepted) nor shall it

Initial(s):_____

constitute any acceptance by Lessor of any wrongful assignment or subletting. No listing of any name other than that of Lessee, whether on the doors of the premises or in the Building directory, or otherwise, shall operate to vest any right or interest in the premises or the Lease, in any party, other than the named Lessee, it being expressly understood that all listing are a privilege extended by Lessor and revocable at will.

7a. ALTERATIONS AND REPAIRS. Lessee shall make no alterations, decorations, repairs, additions or improvements in or to the demised Premises without Lessor's prior written consent, and then only by contractors or mechanics approved in writing by Lessor, provided, however, that Lessor shall not unreasonably withhold its consent to such alterations, improvements, and provided further, that the Lessee shall make no alterations, improvements or changes affecting the structural parts of the building. All such work shall be done at such times and in such manner as Lessor may designate.

7b. All contractors shall be first approved by Lessor upon such terms and conditions as Lessors may require and Lessor may charge a fee for such approval and/or supervision as may be deemed appropriate by Lessor. Notwithstanding the foregoing, it is expressly understood and agreed that all alterations, additions, repairs, or improvements approved by Lessor to be done by Lessee, shall be the sole responsibility of Lessee and Lessor assumes no obligation or responsibility for the timely or proper completion or maintenance of said alterations, decorations, additions, repairs or improvements nor shall there be any rent abatement resulting from any failure of a contractor to properly and timely perform, nor shall Lessor be obligated or liable to any contractor for any loss or expense whatsoever incurred in connection with said alterations, decorations, additions, repairs, or improvements. In no event will Lessor permit any work to be done on the air conditioning, plumbing, electrical, fire control or structural portions of the Building, by any contractor other than the contractor customarily employed by Lessor, but in any event the fees for such work shall be borne by Lessee if same is approved and consented by Lessor.

7c. Any mechanic's lien filed against the Premises, or the Building, for work claimed to have been done for, or materials claimed to have been furnished by Lessee, shall be discharged by Lessee within ten (10) days thereafter at Lessee's expense, by filing the bond required by law, or by such other means as shall remove any such lien from all title records. All work done or required to be done by the Lessee shall comply in all respects and at all times within the rules and regulations of all municipal or other authorities having jurisdiction thereof.

7d. Lessee shall, at Lessee's expense, keep and maintain the interior non-structural portions of the Premises in good condition and repair. Lessee agrees that prior to adhering any object, such as wallpaper, paneling or mirrors, to the walls of the demised Premises, he shall blank stock and seal said walls in such way as to protect the walls from any and all damage upon removal of said object. Any renovation or repair to the Premises made by Lessee shall in quality and class at least equal to its new original condition. Lessee hereby waives all rights to make repairs at the expense of Lessor, as provided in Section 1942 of the Civil Code of the State of California. Should Lessee or its agent, invitees or employees cause, permit or allow any damage to the Premises or the common areas of the Building, then Lessor, may at its option, cause Lessee to repair same or at its option Lessor may repair same, and all costs and expenses incurred by the Lessor in connection therewith shall upon billing to Lessee become immediately sue and payable to Lessor as additional rent.

7e. Lessor may require that Lessee remove any or all of said alterations, improvements, additions or utility installations at the expiration of the term, and restore the Premises to their prior condition. Lessor may require Lessee to provide Lessor at Lessee's sole cost and expense, a lien and completion bond in an amount equal to one and one-half (1 1/2) times the estimated cost of such improvements, to insure Lessor against any liability for mechanic's and materialman's liens and to insure completion of the work. Should Lessee make any alterations, improvements, additions or utility installations without the prior approval of Lessor, Lessor may require that Lessee may remove any or all of the same.

7f. Any alterations, improvements, additions or utility installations in or about the Premises that Lessee shall desire to make and which require the consent of the Lessor shall be presented to Lessor in written form, with proposed detailed plans. If Lessor shall give its consent, the consent shall be deemed conditioned upon Lessee acquiring a permit to do so from appropriate governmental agencies, the furnishing of a copy thereof to Lessor prior to the commencement of the work and the compliance by Lessee of all conditions in said permit in a prompt and expeditious manner.

7g. Lessee shall pay, when due, all claims for labor or materials furnished or alleged to have been furnished to or for Lessee at or for use in the Premises, which claims are or may be secured by any mechanic's or materialman's lien against the Premises or any interest therein. Lessee shall give Lessor not less than ten (10) days notice prior to the commencement of any work in the Premises, and Lessor shall have the right to post notices of non-responsibility in or on the Premises as provided by law. If Lessee shall, in good faith, contest the validity of any such lien, claim or demand, then Lessee shall, at its sole expense defend itself and Lessor against the same and shall pay and satisfy any such adverse judgment that may be rendered thereon before the enforcement thereof against the Lessor or the Premises, upon the condition that if Lessor shall require, Lessee shall furnish to Lessor a surety bond satisfactory to Lessor in an amount equal to such contested lien, claim or demand indemnifying Lessor against liability for the same and holding the Premises free from the effect of such lien or claim. In addition, Lessor may require Lessee to pay Lessor's attorney's fees and costs in participating in such action if Lessor shall decide it is to its best interests to do so.

7h. Unless Lessor requires their removal, at Lessors option, all alterations, improvements, additions and utility installations (whether or not the same constitute trade fixtures of Lessee), which may be made to the Premises, shall become the property of Lessor at expiration of Lease and shall remain upon and be surrendered with the Premises at the expiration of the term, including, but not limited to all fixtures, cabinets, racks, lights and window treatments which are installed, attached or affixed to the walls, floor, ceiling or window.

7i. In the event Lessor makes any improvements, modifications or alterations to the Premises at the request of the Lessee, Lessee shall pay Lessor all sums billed in connection therewith within ten (10) days from billing. Such costs and [illegible] shall constitute a material breach of this Lease.

billings shall be deemed as additional rent any failure to pay same shall constitute a material breach of this Lease.

7j. To maintain the continuity of the architectural and aesthetic design of the Building as determined by Lessor, Lessee shall not have the right to place, construct or maintain in and about the Premises or visible from the hall or common areas

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any sign, name, insignia or other similar item (hereinafter collectively "Signs"), without Lessor's prior written approval, which approval may be granted, withheld or granted and later withdrawn, in Lessor's discretion. Lessor agrees to exercise such discretion in a reasonably uniform manner throughout the area adjacent to the Premises; however, Lessor may in its discretion make such exceptions as it deems appropriate. Lessee hereby grants to Lessor the right to remove any and all signs, which are not consented to in writing. Lessee hereby agrees that Lessor is authorized to affix such signs in the corridor as Lessor deems may be appropriate and the cost of same shall be billed to Lessee and paid as additional rent by Lessee within ten (10) days. In no event shall Lessee be entitled to take possession of the sign or receive return of the cost thereof upon termination of occupancy or at any other time.

8a. INDEMNITY AND INSURANCE. Lessee shall indemnify and hold harmless Lessor from and against any and all claims arising from Lessee's use of the Premises, or from the conduct of Lessee's business or from any activity, work or things done, permitted or suffered by Lessee in or about the Premises or elsewhere and shall further indemnify and hold harmless Lessor from and against any and all claims arising from any breach or default in the performance of any obligation on Lessee's part to be performed under the terms of this Lease, or arising from any negligence of the Lessee, or any Lessee's agents, invitees, contractors, or employees, and from and against all costs, attorney's fees, expenses and liabilities incurred in the defense of any such claim or action or proceeding brought thereon; and in case any action or proceeding be brought against Lessor by reason of any such claim, Lessee upon notice from Lessor shall defend the same at Lessee's expense by counsel satisfactory to Lessor. Lessee, as a material part of the consideration to Lessor, hereby assumes all risk of damage to or loss of property or injury to persons in, upon or about the Premises arising from any cause and Lessee hereby waives all claims in respect thereof against Lessor, except for any claims which may arise as a direct result of Lessor's intentional misconduct or gross negligence.

8b. Lessee shall provide during the term of this Lease at Lessee's cost and expense, for the mutual benefit of Lessee and Lessor, and naming Lessor as an additional insured thereon, comprehensive general liability insurance coverage with an insurance company satisfactory to Lessor, in an amount not less than $1,000,000.00 combined single limit of coverage for personal injury, death and property damage. Such policy shall contain an "Amendment of the Pollution Exclusion Endorsement" for damage caused by heat, smoke or fumes from a hostile fire. In no event shall the limits of such policy be considered as limiting the liability of Lessee under this Lease. Lessee shall deliver to Lessor a certificate of such insurance prior to occupancy and the written obligation of the insurer to provide Lessor with not less than thirty (30) days written notice of any reduction or cancellation of such insurance. Such policy or policies shall contain a provision providing that such insurance for the benefit of Lessor shall be primary and non-contributing with any other insurance available to Lessor. Such policy shall not contain a deductible amount exceeding $500.00. Lessee shall at all times provide and carry Business interruption insurance and Property insurance for the full replacement value of all of Lessees property in the Premises with a deductible not to exceed $1000.00 per occurrence. All such insurance shall provide for a waiver of subrogation. Lessor makes no representation that the insurance coverage provided above is adequate to fully cover Lessees property, business and obligations under this Lease.

9. EXEMPTION OF LESSOR FROM LIABILITY. Lessee hereby agrees that Lessor shall not be liable for injury to Lessee's business or any loss of income there from or for damage to the goods, wares, merchandise or other property of Lessee, Lessee's employees, invitee, agents or contractors, whether such damage or injury is caused or results from fire, steam, electricity, gas, water or rain, or from the breakage, leakage, obstruction or other defects of pipes, sprinklers, wires, appliances, plumbing, air conditioning or lighting fixtures, or the repairs and maintenance of any of the foregoing, or from any other cause, whether the said damage or injury results from conditions arising upon the Premises or upon other portions of the Building of which the Premises are a part, or from other sources, persons or places, and regardless of the cause of such damage or injury or the means of repairing the same. Without limiting the foregoing, Lessor shall not be liable for any property entrusted to any employees or agents of Lessor nor for any loss incurred by way of any theft and Lessee hereby expressly waives all claims against Lessor for any and all losses, injuries and damages. Lessor shall not be liable for any loss, injury or damage cause by simple negligence. Tenant waives all claims against Lessor for the activities of 3rd parties and from the activities of other tenants as well as their agents and employees, and tenant waives any claim relating to any failure by Lessor to police or enforce any legal or contractual obligations of other tenants. The exemption and waivers in this paragraph shall not apply to injuries or damages incurred by way of Lessor's gross negligence or intentional misconduct. Without limiting the foregoing, in no event shall Lessor be liable or responsible for the personal security or property of the Lessee or Lessee's guests or invitees and notwithstanding anything in this agreement to the contrary, Lessor in no event shall have any responsibility or obligation for any act of conduct of any other tenant or third party. In the event of any sale or transfer of Lessors interest in the Premises, Lessor shall be released from all obligations under the Lease from and after the date of transfer or sale, but Lessee shall remain obligated unless released by the transferee. In no event will Lessors liability under this Lease, exceed Lessors equity in the Building.

10. PROHIBITED USES. Lessee agrees not to use or suffer or permit to be used said Premises or any part thereof for any purpose or use in violation of any present or future fire, building, health, sanitation or other law, ordinance, rule or regulation of the City of Los Angeles, or any department thereof, or any other governmental authority, whether municipal, county, state or federal, or in any manner that will constitute a nuisance or disturb the quiet enjoyment of other occupants in or users of the Building. Lessee further agrees not to permit any auction to be conducted in the demised Premises, or bring or keep anything therein which will in any way affect fire or other insurance upon said building or any of its contents, or which will in any way invalidate or conflict with fire insurance policies covering the said Building. Lessee agrees not to bring or keep on the demised Premises any machinery, which may cause any noise or jar or tremor to the floors or walls, or which by its weight might injure the floors of said Premises. Lessee shall not conduct or permit any activity or business in any manner prohibited by any code or business principles of the business or profession in which Lessee is engaged, and in no event in any manner prohibited by law. Without limiting or modifying the foregoing, Lessee will neither cause nor permit any toxic or hazardous or odorous material or vapors to be discharged, utilized or disposed of or released in, from and about the Premises which will, in any manner, impair, limit, detract from or make more difficult or expensive the operation, maintenance and keeping of the Premises and the adjacent and other areas and Building in a decent, peaceable, quiet, lawful, pleasant, safe, and sanitary condition, nor will Lessee create or permit any nuisance or disturbance in and about the Premises and Building. Lessee assumes full responsibility for the activities of Lessee's agents, employees, representatives,

Premises and Building. Lessee assumes full responsibility for the activities of Lessee's agents, employees, representatives, guests, occupant, invitees and co-lessees, if any. Lessee will give Lessor immediate written notice of any release or discharge of a hazardous or toxic substance in or about the premises. Lessee indemnifies and holds Lessor harmless for all costs, claims, liability, penalties, attorney fees, costs and expenses arising out of Lessee's breach, threatened breach, and claims by third parties of breach of this paragraph. Initial(s): _____

11. SUBORDINATION OF LEASE. Lessee agrees, upon Lessor's written request, or upon the written request of any lending agency, to subordinate this Lease to any ground or underlying Leases, and any and all mortgages, trust deeds and other encumbrances, which may now or hereafter affect the real property of which demised Premises form a part and other Premises and each and every of the advances which have heretofore been made or which may hereafter be made there under, and to all renewals, modifications, consolidations, replacements and extensions thereof. In confirmation of such subordination, Lessee shall execute promptly any instruments or certificates that Lessor may reasonably request. Lessee hereby irrevocably constitutes and appoints Lessor the Lessee's attorney-in-fact to execute any such instruments or certificates for and on behalf of Lessee. This clause shall be self-operative.

12. RULES AND REGULATIONS. Lessee and Lessee's agents, employees, invitees, visitors and licensees shall faithfully comply with the rules and regulations set forth in this Lease, and with such further reasonable rules and regulations as Lessor at any time may make and communicate in writing to Lessee, which, in the Lessor's judgment, shall be necessary for the reputation, safety, maintenance, care or appearance of the Building, or the preservation of good order therein, and the operation and maintenance of the Building, and it's equipment, and the occupancy, use and comfort of the Lessees in the Building. Lessor shall not be liable to Lessee for the violation of any said rules and regulations, or the breach of any covenant or condition in any lease by any other tenant or third party in the Building, or any failure to enforce same. If published in any in-house newspaper or publication, same will constitute effective communication of rules as well as any other reasonable manner of communication. In no event will Lessee conduct or permit any auction in or about the Premises.

13a. DAMAGE OR DESTRUCTION. If the Premises are damaged by fire or other casualty other than if caused or contributed to by Lessee or its employees, agents or invitees, the damage shall be repaired by and at the expense of the Lessor, provided such repairs can, in Lessor's opinion, be made within sixty (60) days after the occurrence of such damage without the payment of overtime or other premiums. There shall be no abatement of rent by reason of any portion of the Premises being unusable for a period of sixty (60) days or less, nor shall such be construed as a constructive or other eviction. If the damage is due to the fault or neglect of Lessee or his employees, there shall be no abatement of rent regardless of the period during which the Premises are unusable.

13b. Notwithstanding anything to the contrary contained in this Lease, Lessor shall not have any obligation whatsoever to repair, reconstruct or restore the Premises on account of the damage resulting from any casualty which occurs during the last twelve (12) months of the term of this Lease (or any extension thereof). Lessor shall not be required to repair any injury or damage by fire or other cause, or to make any repairs or replacement of any panels, decorations, office fixtures, railing, ceiling, floor covering, partitions, or any other property in the Premises not owned by Lessor.

13c. With respect to any damage, which Lessor is obligated to repair, or elects to repair, Lessee hereby waives the provisions of Sections 1932(2) and 1933(4) of the California Civil Code.

13d. If Lessor elects not to make such repairs which cannot be made within sixty (60) days, then either party may by written notice to the other, cancel this Lease as of the date of occurrence of such damage. A total destruction of the Building shall automatically terminate this Lease.

14. CONDEMNATION. If the whole or any part of the demised Premises shall be taken or condemned by competent authority for any public or quasi-public use or purpose, then, in that event, the term of this Lease shall cease and terminate from the date when the possession of the part so taken shall be required for such use and purpose. It is expressly agreed that the entire award shall be the property of the Lessor and the Lessee shall not be entitled to any apportionment thereof, for the value of its leasehold or otherwise. Any unused rental and any security deposited by Lessee, however, shall be refunded by Lessor.

15. UTILITIES, ELECTRIC AND ACCESS TO BUILDING. As additional rent Lessee shall pay all utility costs supplied to the Premises, and Lessor shall provide in reasonable amounts, during normal business hours reasonable amount of water, heat and elevator service. Lessee agrees to purchase from Lessor electricity for lighting or other purposes, power and gas used in, upon, or about the Premises herein leased. The cost to be paid by Lessee for said electricity, power and gas shall be the actual cost to Lessor including taxes of such utilities as billed from, or paid to the Department of Power of the City of Los Angeles and The Southern California Gas Company, or any other utility supplier to the Building. Lessee shall pay Lessor such allocated cost within five (5) days from written request. It is agreed that Lessor shall not be liable for any shortage of labor, materials or for the stoppage or interruption of said services. Lessor reserves the right, at any time, to disconnect the gas, power, and electric current on the circuits to the space herein demised in the event of failure to or refusal of Lessee to pay the charges for electricity, power, and gas consumed within five (5) days after rendering bills, without, however, affecting any of the other terms, conditions, or covenants of this Lease or the obligation to pay rental or any other money obligation in said Lease provided; and the disconnecting of the electric current, power, or gas shall not be construed as an eviction. In the event of any civil unrest or disturbance or other similar circumstances which actually or potentially present any danger or harm to persons or property in and around the Building, Lessor may, but without any obligation to do so, and its absolute discretion, close the Building, terminate services, and/or deny access to the Premises and remove therefrom any person, persons or property. Lessor shall not be liable for any damages, losses or costs, by abatement of rent otherwise, for Lessors negligent failure to furnish any services whether caused by needed repairs, renewals of improvements, or in whole or in part, by any disturbance, strike, lockout or any other labor controversy, or by inability to secure parts or supplies, or by any accident or casualty, or by any other cause or causes. Lessor's delay or default in furnishing any services, shall not be considered or construed as an actual or constructive eviction of Lessee, nor shall it in any way operate to release Lessee from the prompt and punctual performance of each and all of the covenants contained herein which are to be performed by the Lessee. Should there be any diminution of utility service resulting from governmental restrictions or reasonable unavailability, Lessee shall not be entitled to any reduction or rent abatement and all claims against Lessor in this connection are waived.

16. REPAIRS BY LESSOR. Lessee shall permit Lessor to erect, use and maintain pipes and conduits in and through the demised Premises and in addition, Lessor shall have the right to enter into the demised Premises to examine the Premises and for the purpose of making decorations, repairs, alterations, operations and maintenance, improvements or

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additions as Lessor may deem necessary or desirable, including but not limited to asbestos investigations, removal, encapsulation, encasement or abatement work, and Lessor shall be permitted to take materials into, upon and from said Premises as may be required in connection therewith. Lessor may require Lessee to completely vacate the Premises for up to sixty (60) days without terminating said Lease or constituting an eviction of Lessee either in whole or in part and Lessor shall in no way be obligated or liable for any loss, cost, damage or interruption of business by Lessee, nor shall there be any abatement of rent. In the event Lessor requires the property to be vacated, Lessor will give a thirty (30) day notice thereof and Lessee will fully cooperate and vacate said premised and remove all of its property within the time indicated in the notice.

17. SUBSTITUTION OF SPACE. Lessor shall have the absolute right and option at any time, upon thirty (30) days written notice, to designate and substitute other reasonably similar space in the building for the Premises described in paragraph one of this Lease. On the effective date of such substitution Lessee shall move to the substituted space and on the effective date of the substitution, this Lease shall be deemed amended to substitute the new Premises in place of the Premises described in paragraph one above, and Lessee shall vacate and deliver up the originally designated Premises to Lessor in good clean condition as provided in this Lease and free of all persons and free of Lessees property.

18. ACCESS TO PREMISES. In addition to entry as otherwise set forth in this Lease, Lessor and Lessor's agents shall have the right to enter Premises at all reasonable times for purposes of inspecting and approving any and all product lines displayed or to be offered for sale in the Premises, showing it to prospective purchasers, lenders and Lessees for maintenance, renovations and repairs, and for inspection of Premises for any other lawful purpose. Lessee shall not install a burglar alarm or similar device without Lessor's prior written approval. In the event of a refusal by the Lessee to permit an entry upon the Premises as in this Lease provided, the Lessor and the Lessor's agents may forcibly enter the same nevertheless without incurring any liability by reason thereof. Lessee shall keep all interior windows within the demised Premises clear and free of any signs or decals.

19. DEFAULTS. The occurrence of any one or more of the following events shall constitute a material default and breach of this Lease by Lessee:

(a) The vacating or abandonment or surrender of the Premises by Lessee.

(b) The failure by Lessee to make any payment of rent or any other payment required to be made by Lessee hereunder, as and when due.

(c) The failure by Lessee to observe or perform any of the covenants, conditions or provisions of this Lease to be observed or performed by Lessee.

(d) (i) The making by Lessee of any general assignment, or general arrangement for the benefit of creditors; (ii) the filing by or against Lessee of a petition to have Lessee adjudged a bankrupt or a petition for reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against Lessee, the same is dismissed within sixty 60 days); (iii) the appointment of a trustee or receiver to take possession of substantially all of Lessee's assets located within thirty (30) days; or (iv) the attachment, execution or other judicial seizure of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this Lease, where such seizure is not discharged within thirty (30) days;

(e) The discovery by Lessor that any financial statement or representation made or given to Lessor by Lessee, any assignee of Lessee, or any subtenant of Lessee, any successor in interest of Lessee or any guarantor of Lessee's obligations hereunder, and any of them, was materially false.

20. REMEDIES. In the event of any default or breach by Lessee, Lessor may at any time thereafter, with or without notice or demand and without limiting Lessor in the exercise of any right or remedy, which Lessor may have by reason of such default or breach:

(a) Terminate Lessee's right to possession of the Premises by any lawful means, in which case this Lease shall terminate and Lessee shall immediately surrender possession of the Premises to Lessor. In such event Lessor shall be entitled to recover from Lessee all unpaid rents and charges due Lessor under this Lease and all losses, costs and damages incurred by Lessor by reason of Lessee's default including, but not limited to, the cost of recovering possession of the Premises; the expenses of reletting, including necessary renovation and alteration of the Premises, reasonable attorney's fees, any real estate commission paid or incurred. Lessor may also recover the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award, exceeds the amount of such rental loss that Lessee proves could be reasonably avoided; and any other amounts as permitted by law and, that which will compensate Lessor for all detriment caused by Lessee's failure to perform Lessee's obligations under this Lease or which in the ordinary course of things would be likely to result therefrom.

(b) Maintain Lessee's right to possession in which case this Lease shall continue in effect whether or not Lessee shall have abandoned the Premises. In such event Lessor shall be entitled to enforce all of Lessor's rights and remedies under this Lease, including the right to recover the rent as it becomes due hereunder.

(c) Lessor shall have the right to advertise and relet the Premises in whole or in part, for a shorter or longer term or for a greater or lesser rent than as to Lessee and Lessee agrees that by doing any or all of the foregoing Lessor will not thereby have failed to properly mitigate damages entitling Lessee to any reduction of damages as might otherwise be owing to Lessor, nor will Lessor thereby be deemed to release Lessee from any obligations under this Lease.

(d) Pursue any other remedy now or hereafter available to Lessor under the laws or judicial decisions of the State of California.

(e) If Lessee fails to perform any affirmative obligation under this Lease after 10 days notice from Lessor, (or without notice in case of emergency) Lessor shall have the option to perform same for Lessee and all costs incurred shall be paid by Lessee to Lessor upon written demand. If any check given to Lessor by Lessee is dishonored by the bank upon

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which it is drawn, Lessor shall have the option (among other remedies) to require that Lessee make all future payments to Lessor by Cashiers check only.

21. NON-LIABILITY OF LESSOR. Lessor shall not be in default of any obligation to Lessee unless Lessor fails to begin to perform obligations required of Lessor within a reasonable time and until thirty (30) days after written notice by Lessee to Lessor specifying wherein Lessor has failed to perform such obligation, provided, however, that if the nature of Lessor's obligations is such that more than thirty (30) days are required for performance then Lessor shall not be in default if Lessor commences performance within such thirty (30) day period and thereafter prosecutes the same to completion. Lessor shall not be in default for any failure caused in whole or in part because of an act of God, strike, or labor trouble, or such other cause beyond the reasonable control of Lessor. No officer, shareholder, director, partner or trustee, of Lessor shall have any personal liability on this Lease and Lessee shall look to the Premises and no individual assets of said persons or other assets of Lessor for the satisfaction of any liability of Lessor with respect to this Lease.

22. REMOVAL OF TRADE FIXTURES. If removal is required as otherwise provided in this Lease, Lessee shall remove from the demised Premises any trade fixtures installed therein by Lessee and, upon the expiration of the term hereof or in case of any sooner termination of this Lease all such trade fixtures shall be removed from the demised Premises not later than the time when, under the provisions hereof, Lessee is required to surrender possession of the demised Premises to Lessor. Lessee will accomplish any removal in such manner as will not injure or damage the demised Premises or said Building, and in case of any such injury or damage, Lessee covenants and agrees, at Lessee's own cost and expense, to repair the same immediately. Lessee agrees that any floor covering installed in the Premises by adhesive, tacks, tackless strips or by any means affixed to the floor of the demised Premises, and any light fixtures which were installed by any means whatsoever other than merely by a removable electric plug, shall not be removed therefrom upon the termination of this Lease.

23. HOLDING OVER. Should Lessee continue in possession of said Premises after the end of the term hereof, such holding over shall, at Lessor's option be considered to be a tenancy from month to month only, and such month to month tenancy shall be subject to the covenants and conditions in this Lease. Lessee shall pay as monthly rental during such period of holding over a sum equal to twice the rental rate for the Premises during the last month of the term of this Lease otherwise agrees in writing.

24. TAXES. Lessee shall be liable for and hereby agrees to pay any and all taxes levied against the personal property, trade fixtures and leasehold improvements placed by Lessee in, on, or about the herein demised Premises and all business and income taxes levied with reference to Lessee's business and income in and upon the Premises. Lessee shall be responsible for and agrees to pay any additional taxes which may be assessed or levied upon the demised premised by reason of any additions or improvements thereto made by the Lessee, or the installation of any fixtures by the Lessee, which additional taxes shall be paid by the Lessee regardless of whether or not such additions or improvements shall become part of the freehold as fixtures. Such additional taxes, if any, shall be paid by Lessee to Lessor from time to time at end when assessment and levy thereof shall be made, and such additional taxes shall in all events be paid by Lessee to Lessor before delinquency. Unless such additional taxes are assessed separately unto the Lessee, payment thereof shall be made unto the Lessor as additional rental on the first day of the calendar month during which payment of said additional taxes is required to be made by Lessee to Lessor as herein provided to avoid delinquency thereof.

25. SEVERABILITY. If any term, part or provision of this Lease is invalid or unenforceable, that limited part shall be deleted and the remainder of this Lease shall be valid and enforceable to the fullest extend permitted by law.

26. INTEREST ON PAST-DUE OBLIGATIONS. Except as expressly herein provided, any amount due Lessor not paid when due shall bear interest at ten (10%) percent per annum from the date due or the highest rate permitted by law, whichever is less. Payment of such interest or late charges shall not excuse or cure any default by Lessee under this Lease, provided, however, that interest shall not be payable on late charges incurred by Lessee.

27. TIME OF ESSENCE AND CAPTIONS. Time is of the essence as to all things to be done or paid pursuant to the terms of this Lease. Paragraph captions as set forth in this document are not a part of the Lease and agreement and this Lease and agreement shall be read without reference to the captions.

28. INCORPORATION OF PRIOR AGREEMENTS; AMENDMENTS. This Lease contains the entire agreement of the parties with respect to all matters mentioned and referred to herein. No prior agreement or understanding pertaining to any such matter shall be effective. This Lease may be modified in writing only, signed by the parties in interest at the time of modification. Except as otherwise stated in this Lease, Lessee hereby acknowledges that neither the Lessor nor any employees or agents of Lessor has made any oral or written warranties or representations to Lessee relative to this Lease or the condition or use by Lessee of the Premises. Lessee assumes all responsibility regarding the Occupational Safety Health Act or the legal use of adaptability of the Premises and the compliance thereof to all applicable laws and regulations enforced during the term of this Lease.

29. WAIVERS. No failure by Lessor to insist upon the strict or timely performance of any part or provision of this Lease shall constitute a waiver or relinquishment on the part of Lessor to thereafter insist upon the strict or timely performance of that or any other part or provision of this Lease. No request for or acceptance of rent by Lessor shall be deemed a waiver of any breach of Lease by Lessee prior thereto. Lessee waives all right to a jury trial in the event of litigation arising out of or related to this Lease agreement. No acceptance of any partial payment from Lessee shall constitute a waiver of Lessor's right to the balance owing regardless of any endorsement of any check so stating.

30. CUMULATIVE REMEDIES. No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

31. COVENANTS AND CONDITIONS. Each provision of this lease performable by Lessee shall be deemed both a

31. COVENANTS AND CONDITIONS. Each provision of this lease performable by Lessee shall be deemed both a covenant and a condition.

Initial(s): _____

32. ATTORNEY'S FEES. Should suit be commenced by either the Lessor or Lessee to enforce any of the provisions of this Lease, then the successful party to such litigation shall be entitled to court costs and reasonable attorney's fees, but in no event exceeding $1,500.00.

33. LIGHT AND AIR. Lessee accepts said Premises subject to interference with and damage to light and air by reason of the construction of Buildings or other improvements on or use of the adjoining Premises, and expressly agrees that any such interference or damage and entry into the demised premises to facilitate said construction shall not constitute an eviction, or a breach of obligation by Lessor, and Lessee hereby waives any right which Lessee, in the absence of this waiver, might have to terminate this Lease by reason thereof.

34. NOTICES. All notices or demands of any kind which Lessor may be required or may desire to serve on Lessee under the terms of this Lease may be served upon Lessee by personal service or as provided by California law or by leaving a copy of such demand or notice addressed to Lessee at the demised Premises or by mailing a copy thereof by registered or certified mail addressed to Lessee at the demised Premises. Any notice so given by mail shall be deemed effectively given when deposited in the United States mail in Los Angeles County.

35. MISCELLANEOUS. The words "Lessor" and "Lessee" as used in this Lease shall include both the singular and plural, and the masculine and feminine. In the event there is more than one Lessee to this Lease, the obligation of Lessee shall be joint and several. Except as expressly provided in this Lease, the terms and provisions of this Lease shall apply to and run in favor of and shall be binding upon and inure to the benefit of the parties to this Lease, as well as their respective heirs, representatives, assigns and successors. Paragraph captions and titles shall not be determinative as to the contents and effectiveness of the terms contained within the paragraph.

36. CONDITION OF PREMISES. Lessee warrants that Lessee has examined the Premises and is fully familiar with its condition and accepts as same **as is.** Lessee acknowledges and agrees that Lessee will accept the Premises at the termination of any previous tenant's occupancy, in such condition as it is relinquished by that tenant and Lessor makes no representations regarding such condition, nor shall Lessor be obligated to make any repairs, renovations, modifications, replacements, installations, or improvements in order to ready the Premises for Lessee's occupancy, except as otherwise may be agreed to in writing by Lessor and Lessee.

37. LEASE EFFECTIVENESS. NO OPTION. The submission of this lease by Landlord, its agent or representative for examination or execution by tenant does not constitute an option or offer to Lease the Premises upon the terms and conditions contained herein or a reservation of the Premises in favor of tenant, it being intended hereby that this Lease shall only become effective upon the execution hereof by landlord and tenant and delivery of a fully executed Lease to tenant.

38. TELEFAX OR SCAN SIGNATURES. The parties acknowledge and agree that notwithstanding any law or presumption to the contrary a telefaxed or scanned signature of either party whether upon this Lease or any related document shall be deemed valid and binding and admissible by either party against the other as if same were an original ink signature.

39. GUARANTY. It is understood and agreed that the person signing this Lease on behalf of or for another personal party hereby agrees by such signature to be personally obligated under this Lease for all of the obligations of the Lessee, and such signator is deemed to have accepted the terms of the General Continuing Guarantee as set forth below such signature whether or not the General Continuing Guarantee is signed by the Signatory and/or any other party.

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Lease the day and year first above written at Los Angeles, California.

Lessor: 850-860 SOUTH LOS ANGELES STREET LLC

By _____

Dated: 3-4-16

Lessees: BAILEY 44 LLC

By: _____
Joe Traboulsi

Dated: 4-27-16

ADDENDUM 1

Additional Rental: With reference to paragraph 3-b and paragraph 15 notwithstanding anything in the Lease to the contrary, it will not be Lessee's obligation to pay for gas or electric used at the premises, or for Lessor's real estate taxes, however, Lessee will be responsible to reimburse Lessor, as additional rent, for the increase cost if any of any real estate taxes, gas and electric used at the premises over that at the inception of the term of this lease. Initials ____/____

Market Days: It is understood and agreed that in each year throughout the term of this lease, it is anticipated that there will be "Market Week" as determined by the trade. Lessee acknowledges and agrees that as an integral part of this lease, Lessee's premises will be kept open for business and fully staffed during the hours of 9:00 AM through 6:00 PM on each day of each Market Week. At this time, it is anticipated that there will be 5 "Market Weeks in each year. Initials ____/____

Required Fire Life/Safety Lease Regulations

1. **EACH SPACE MUST HAVE AT LEAST ONE FULLY CHARGED FIRE EXTINGUISHER** with a TAG showing it is current, and must be hung on the wall, and identified with a FIRE EXTINGUISHER sign. Initials ____/____

2. **Doors and SECURITY GATES** to all space must be able to be opened from the inside without any key, tool or special knowledge. THE INSIDE LOCKS OF YOUR SPACE MUST HAVE THUMBTURNS TO PROVIDE EMERGENCY EXIT ACCESS. **PADLOCKS ON YOUR DOORS ARE PROHIBITED!** Initials ____/____ Initials: ____/____

3. **All Fire Escapes, Entrances AND Exits to your space must remain clear at all times.** Initials: ____/____

4. **NOTHING MAY BE ATTACHED TO THE FIRE SPRINKLER SYSTEM PIPES.** Nothing may be tied to, or attached to the sprinkler pipes in your space. This includes all telephones and security alarm wires. Initials: ____/____

5. **No Extension Cords are permitted.**

6. **ALL ELECTRIC PANELS MUST HAVE AT LEAST THREE FEET OF CLEARANCE IN FRONT OF THEM.** Storage of any materials such as Fabrics, Finished Garments, Paper Goods, Flammable Liquids, or debris near an electric panel creates serious fire hazards. **Anything restricting immediate access to the panels is prohibited!** Initials: ____/____

7. **NO TRASH OR DEBRIS MAY BE LEFT OUT IN THE HALLWAYS.** Please take your trash out at the end of each day after 5:00 pm., do not leave any trash in the hallways or by the freight elevator during the day. **All Cardboard Containers and Boxes** must be broken down flat before they are put out in the hallway to be thrown away. Open boxes in hallways create a fire hazard. Initials: ____/____

LEASE REGULATIONS FOR ALL IMPROVEMENTS – Refer to paragraph 7a

ALL proposed physical changes to leased space must be approved **IN WRITING** by Mercantile Center Management a minimum of **five (5) business days** before any work is done or materials brought into the building. The use of contractors or tradesman must also be approved by Mercantile Center Management a minimum of five (5) business days before commencement of work.

OTHER MODIFICATIONS OR ALTERATIONS

The installation of telephone or data lines, partitions, shelving or racks, changes or addition of lighting or fixtures, electrical wiring and other similar modifications or alternations, shall be reviewed and approved as required above.
Initial ____/____

FLOOR, WALL, CEILING AND DOORS TREATMENT

Your space is being delivered to you with clean floors and clean and painted walls, ceilings and doors.

1. Any changes in floor covering, floor sealing, carpeting, tiling, staining or painting of floors and / or changes in wall covering or painting of walls must be requested in writing and submitted to Lessor for approval a minimum of five days before any work is started. Upon Lessor's written approval, any such work will be exclusively at the expense of the Lessee. Initials ____/____

2. Should Lessee be granted permission to alter floors, permission to paint, cover or alter the walls, ceilings and doors, in any manner, Lessee agrees that upon vacating premises, Lessee shall be responsible for all costs or expenses associated with restoring the floor, walls and ceiling of the premises to the Original condition upon accepting the premises. Normal wear and tear excluded. Initial ____/____

RULES & REGULATIONS OF THE BUILDING REFERRED TO HEREIN AND CONSTITUTING A PART OF THIS LEASE

1. The lessee, and the Lessee's employees, shall not loiter in the entrance or corridors, or in any way obstruct the sidewalks, entry passages, halls, stairways and elevators, and shall use the same only as passage ways and means of passages to and from their respective offices. Initials:

2. **Per (L.A.M.C. Sec. 41.50) smoking is prohibited inside of the building. The Lessee and the Lessee's officers, agents and employees shall not throw cigar or cigarette butts or other substances of any kind out of the windows or doors, or down the passageways or skylights of the building, or sit on or place anything upon the windowsills or outside ledges.** **Initials:**

3. The sash doors, sashes, windows, glass doors, lights and skylights that reflect or admit light not the halls shall not be covered or obstructed or in any manner so treated as shall diminish the light in the halls or corridors or be unsightly or show through said glass, without the written consent of Lessor. Initials:

4. The lavatories, sinks, slop-hoppers, water-closets and urinals shall not be used for any purposes other than those for which they were intended, and no rubbish, newspapers or other substances of any kind shall be thrown into them which tend to stop or clog the same, or in any way damage said fixture. Lessee shall be responsible for costs and damages caused by misuse or abuse of said plumbing by their employees or invitees thereof. Initials:

5. No awning, shade, sign, advertisement, or notice shall be inscribed, painted or affixed on or to any part of the outside or inside of the building except by the written consent of the Lessor, and except it be of such color, size and style and in such place upon or in the building as may be designated by the Lessor. Initials:

6. Lessor hereby expressly reserves the right to use the roof and exterior walls of said building for Lessor's sole use and benefit, for advertising and/or other purpose, and Lessee shall be entitled to no rights thereon or thereto without the written consent of Lessor first had and obtained. Initials:

7. The lessee shall not permit anything to be done in the building, nor bring nor keep anything therein, which will in any way increase or tend to increase the rate of fire insurance, or which will obstruct or interfere with the rights of other tenants, or in any way injure or annoy them, or which shall conflict with the regulations of the Fire Department or with the fire laws or with any insurance policy on the building or any part thereof, or with any laws or ordinances regulating health and sanitation or with any rule or regulation of the Health Department of the City of Los Angeles. The Lessee shall pay any damages that the Lessee may suffer by a violation of this clause by Lessee, or Lessee's clerks, agents, employees or servants. Intials:

8. The Lessee and the Lessee's officers, agents and employees shall not play any musical instrument nor make nor permit any unnecessary or improper noises in the building nor interfere in any way with other tenants or those having business with them, nor smoker nor expectorate in the elevators nor keep in the building any animal, bird or bicycle. Initials:

9. Lessee shall see that the windows and doors of said leased premises are closed and securely locked before leaving the building and must observe strict care not to leave windows open when it rains and Lessee shall exercise extraordinary care and caution that all water faucets or water apparatus are entirely shut off before Lessee or Lessee's employees leave the building, and that all electricity, gas or air shall likewise be carefully shut off so as to prevent waste or damage, and for any default or carelessness the Lessee shall make good all injuries sustained by other tenants or occupants of the building or to the Lessor. Initials:

10. Lessee shall give prompt written notice of any accident or to defects in the plumbing, water pipes, electricity wires or heating apparatus, so that the same may be attended to promptly. Initials:

11. The Lessor shall have the right to limit the weight and size and prescribe the position of all safes and other heavy property brought into the building, and also the times of moving the same in and out of the building; and all such moving shall be done under the supervision of the Lessor. All safes shall stand on timbers of such size as shall be designated by the Lessor. The Lessor will not be responsible for loss or damage to any such safe or property from any cause; but all damages done to the building by moving or maintaining any such safe or property shall be repaired at expense of the Lessee. Initials:

12. All Lessees' machinery in the premises shall be installed in a good and workmanlike manner as to prevent any unnecessary noise, jar or tremor to the floors or walls. Initials:

13. Machinery or presses calling for water or heavy oiling shall be installed on suitable drip pans to properly prevent leakage of oil or water onto the floor, said installation to be approved by Lessor. Vents carrying steam or fumes shall be carried to a proper height above the roof on exterior or building as designated by Lessor, to dissipate steam or fumes so as to cause no annoyance to other tenants. Initials:

14. No furniture nor equipment of any kind shall be brought into nor be removed from the building without the consent of the Lessor or Lessor's agent; and all moving of same, into or out of the building by tenants shall be done at such times and in such manner as Lessor designates, but the Lessor will not be responsible for the loss of or damages to such freight from any cause and no permit, in writing or otherwise, to remove any such furniture, freight or equipment, shall in any wise indicate or be evident of any consent to cancel or abrogate the lease in any manner. Initials:

15. The requirement of the Lessee will be attended to only upon application at the office of the building. Employees shall not perform any work nor do anything outside of their regular duties unless under special instructions from the office of the building. Initials:

16. Night Watch: After the regular service hours as fixed by Lessor, the building may be in charge of the night watchman or other building employee provided by Lessor, and every person entering or leaving the building during such time is expected to be questions by him as to his business in the building and shall register if thereto required by such employee. Initials:

17. No additional or different lock or locks shall be placed by the Lessee on any door in the building unless written consent of the Lessor shall have first been obtained. Two keys will be furnished by the Lessor without charge and extra keys, if desired, will be furnished through the office of the building upon payment therefore by Lessee. Neither Lessee, Lessee's agents nor employees shall have any duplicate keys made. Initials:

18. The Lessor may waive any one or more of these rules for the benefit of any particular tenant or tenants of said building from time to time as Lessor sees fit, but no such waiver by the Lessor of any such rule shall be construed as a waiver of such rule in favor of any tenant or tenants of said building, nor prevent the Lessor from thereafter enforcing any such rule against any or all of the tenants of said building. Initials:

19. No freight permitted in passenger elevators. No facilities or service will be maintained by Lessor during times buildings are closed except upon special written arrangement with Lessee and at the expense of Lessee (watchman, electricity, etc.) No children permitted in the premises unless in the immediate physical custody of parent. Initials:

20. Lessee agrees that it shall not permit or place any rubbish, cartons or debris in hallways (see also Rules and Regulations No. 1 and 5.) Initials:

21. **No pets or animals are permitted in the building with the exception of working seeing eye dog** **Initials:**

AIRCRE

STANDARD INDUSTRIAL/COMMERCIAL MULTI-TENANT LEASE - GROSS

1. **Basic Provisions ("Basic Provisions").**

1.1 **Parties.** This Lease ("**Lease**"), dated for reference purposes only April 16, 2018, is made by and between 850-860 South Los Angeles Street LLC ("**Lessor**") and Bailey 44, LLC ("**Lessee**"), (collectively the "**Parties**", or individually a "**Party**").

1.2(a) **Premises:** That certain real property, including all improvements therein or to be provided by Lessor under the terms of this Lease, commonly known as (street address, unit/suite, city, state): 860 S Los Angeles Street Room 820 ("**Premises**"). The Premises are located in the County of Los Angeles, and are generally described as (describe briefly the nature of the Premises and the "Project"): showroom. In addition to Lessee's rights to use and occupy the Premises as hereinafter specified, Lessee shall have non-exclusive rights to any utility raceways of the building containing the Premises ("**Building**") and to the Common Areas (as defined in Paragraph 2.7 below), but shall not have any rights to the roof, or exterior walls of the Building or to any other buildings in the Project. The Premises, the Building, the Common Areas, the land upon which they are located, along with all other buildings and improvements thereon, are herein collectively referred to as the "**Project**." (See also Paragraph 2)

~~1.2(b) **Parking:** _____ unreserved vehicle parking spaces. (See also Paragraph 2.6)~~

1.3 **Term:** two (2) years and 0 months ("**Original Term**") commencing June 1, 2018 ("**Commencement Date**") and ending May 31, 2020 ("**Expiration Date**"). (See also Paragraph 3)

1.4 **Early Possession:** If the Premises are available Lessee may have non-exclusive possession of the Premises commencing _____ ("**Early Possession Date**"). (See also Paragraphs 3.2 and 3.3)

1.5 **Base Rent:** $7,800 per month ("**Base Rent**"), payable on the 1st day of each month commencing June 1, 2018. (See also Paragraph 4)

☑ If this box is checked, there are provisions in this Lease for the Base Rent to be adjusted. See Paragraph 51.

~~1.6 **Lessee's Share of Common Area Operating Expenses:** _____ percent (_____%) ("**Lessee's Share**"). In the event that the size of the Premises and/or the Project are modified during the term of this Lease, Lessor shall recalculate Lessee's Share to reflect such modification.~~

1.7 **Base Rent and Other Monies Paid Upon Execution:**

(a) **Base Rent:** $7,800 for the period _____.

(b) **Common Area Operating Expenses:** _____ for the period _____.

(c) **Security Deposit:** $15,600 (Currently $15,600 is posted as security deposit, no additional amount is required) ("**Security Deposit**"). (See also Paragraph 5)

(d) **Other:** _____ for _____.

(e) **Total Due Upon Execution of this Lease:** $23,400.

1.8 **Agreed Use:** showroom. (See also Paragraph 6)

1.9 **Insuring Party.** Lessor is the "**Insuring Party**". (See also Paragraph 8)

~~1.10 **Real Estate Brokers.** (See also Paragraph 15 and 25)~~

~~(a) **Representation:** The following real estate brokers (the "**Brokers**") and brokerage relationships exist in this transaction (check applicable boxes):~~

~~☐ _____ represents Lessor exclusively ("**Lessor's Broker**");~~

~~☐ _____ represents Lessee exclusively ("**Lessee's Broker**"); or~~

~~☐ _____ represents both Lessor and Lessee ("**Dual Agency**").~~

~~(b) **Payment to Brokers.** Upon execution and delivery of this Lease by both Parties, Lessor shall pay to the Brokers the brokerage fee agreed to in a separate written agreement (or if there is no such agreement, the sum of _____ or _____% of the total Base Rent) for the brokerage services rendered by the Brokers.~~

1.11 **Guarantor.** The obligations of the Lessee under this Lease are to be guaranteed by _____ ("**Guarantor**"). (See also Paragraph 37)

1.12 **Attachments.** Attached hereto are the following, all of which constitute a part of this Lease:

☑ an Addendum consisting of Paragraphs 50 through 73 and exhibit A & B;

☐ a site plan depicting the Premises;

☐ a site plan depicting the Project;

☐ a current set of the Rules and Regulations for the Project;

☐ a current set of the Rules and Regulations adopted by the owners' association;

☐ a Work Letter;

☐ other (specify): _____.

2. **Premises.**

2.1 **Letting.** Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the Premises, for the term, at the rental, and upon all of the terms, covenants and conditions set forth in this Lease. While the approximate square footage of the Premises may have been used in the marketing of the Premises for

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purposes of comparison, the Base Rent stated herein is NOT tied to square footage and is not subject to adjustment should the actual size be determined to be different. **NOTE: Lessee is advised to verify the actual size prior to executing this Lease.**

2.2 **Condition**. Lessor shall deliver that portion of the Premises contained within the Building ("**Unit**") to Lessee broom clean and free of debris on the Commencement Date or the Early Possession Date, whichever first occurs ("**Start Date**"), and, so long as the required service contracts described in Paragraph 7.1(b) below are obtained by Lessee and in effect within thirty days following the Start Date, warrants that the existing electrical, plumbing, fire sprinkler, lighting, heating, ventilating and air conditioning systems ("**HVAC**"), loading doors, sump pumps, if any, and all other such elements in the Unit, other than those constructed by Lessee, shall be in good operating condition on said date, that the structural elements of the roof, bearing walls and foundation of the Unit shall be free of material defects, and that the Unit does not contain hazardous levels of any mold or fungi defined as toxic under applicable state or federal law. ~~If a non-compliance with such warranty exists as of the Start Date, or if one of such systems or elements should malfunction or fail within the appropriate warranty period, Lessor shall, as Lessor's sole obligation with respect to such matter, except as otherwise provided in this Lease, promptly after receipt of written notice from Lessee setting forth with specificity the nature and extent of such non-compliance, malfunction or failure, rectify same at Lessor's expense. The warranty periods shall be as follows: (i) 6 months as to the HVAC systems, and (ii) 30 days as to the remaining systems and other elements of the Unit. If Lessee does not give Lessor the required notice within the appropriate warranty period, correction of any such non-compliance, malfunction or failure shall be the obligation of Lessee at Lessee's sole cost and expense (except for the repairs to the fire sprinkler systems, roof, foundations, and/or bearing walls - see Paragraph 7). Lessor also warrants, that unless otherwise specified in writing, Lessor is unaware of (i) any recorded Notices of Default affecting the Premise; (ii) any delinquent amounts due under any loan secured by the Premises; and (iii) any bankruptcy proceeding affecting the Premises.~~

2.3 **Compliance**. Lessor warrants that to the best of its knowledge the improvements on the Premises and the Common Areas comply with the building codes, applicable laws, covenants or restrictions of record, regulations, and ordinances ("**Applicable Requirements**") that were in effect at the time that each improvement, or portion thereof, was constructed. Said warranty does not apply to the use to which Lessee will put the Premises, modifications which may be required by the Americans with Disabilities Act or any similar laws as a result of Lessee's use (see Paragraph 49), or to any Alterations or Utility Installations (as defined in Paragraph 7.3(a)) made or to be made by Lessee. **NOTE: Lessee is responsible for determining whether or not the Applicable Requirements, and especially the zoning are appropriate for Lessee's intended use, and acknowledges that past uses of the Premises may no longer be allowed.** ~~If the Premises do not comply with said warranty, Lessor shall, except as otherwise provided, promptly after receipt of written notice from Lessee setting forth with specificity the nature and extent of such non-compliance, rectify the same at Lessor's expense. If Lessee does not give Lessor written notice of a non-compliance with this warranty within 6 months following the Start Date, correction of that non-compliance shall be the obligation of Lessee at Lessee's sole cost and expense.~~ If the Applicable Requirements are hereafter changed so as to require during the term of this Lease the construction of an addition to or an alteration of the Unit, Premises and/or Building, the remediation of any Hazardous Substance, or the reinforcement or other physical modification of the Unit, Premises and/or Building ("**Capital Expenditure**"), Lessor and Lessee shall allocate the cost of such work as follows:

(a) Subject to Paragraph 2.3(c) below, if such Capital Expenditures are required as a result of the specific and unique use of the Premises by Lessee as compared with uses by tenants in general, Lessee shall be fully responsible for the cost thereof, provided, however, that if such Capital Expenditure is required during the last 2 years of this Lease and the cost thereof exceeds 6 months' Base Rent, Lessee may instead terminate this Lease unless Lessor notifies Lessee, in writing, within 10 days after receipt of Lessee's termination notice that Lessor has elected to pay the difference between the actual cost thereof and the amount equal to 6 months' Base Rent. If Lessee elects termination, Lessee shall immediately cease the use of the Premises which requires such Capital Expenditure and deliver to Lessor written notice specifying a termination date at least 90 days thereafter. Such termination date shall, however, in no event be earlier than the last day that Lessee could legally utilize the Premises without commencing such Capital Expenditure.

(b) If such Capital Expenditure is not the result of the specific and unique use of the Premises by Lessee (such as, governmentally mandated seismic modifications), then Lessor shall pay for such Capital Expenditure and Lessee shall only be obligated to pay, each month during the remainder of the term of this Lease or any extension thereof, on the date that on which the Base Rent is due, an amount equal to 1/144th of the portion of such costs reasonably attributable to the Premises. Lessee shall pay Interest on the balance but may prepay its obligation at any time. If, however, such Capital Expenditure is required during the last 2 years of this Lease or if Lessor reasonably determines that it is not economically feasible to pay its share thereof, Lessor shall have the option to terminate this Lease upon 90 days prior written notice to Lessee unless Lessee notifies Lessor, in writing, within 10 days after receipt of Lessor's termination notice that Lessee will pay for such Capital Expenditure. If Lessor does not elect to terminate, and fails to tender its share of any such Capital Expenditure, Lessee may advance such funds and deduct same, with Interest, from Rent until Lessor's share of such costs have been fully paid. If Lessee is unable to finance Lessor's share, or if the balance of the Rent due and payable for the remainder of this Lease is not sufficient to fully reimburse Lessee on an offset basis, Lessee shall have the right to terminate this Lease upon 30 days written notice to Lessor.

(c) Notwithstanding the above, the provisions concerning Capital Expenditures are intended to apply only to non-voluntary, unexpected, and new Applicable Requirements. If the Capital Expenditures are instead triggered by Lessee as a result of an actual or proposed change in use, change in intensity of use, or modification to the Premises then, and in that event, Lessee shall either: (i) immediately cease such changed use or intensity of use and/or take such other steps as may be necessary to eliminate the requirement for such Capital Expenditure, or (ii) complete such Capital Expenditure at its own expense. Lessee shall not have any right to terminate this Lease.

2.4 **Acknowledgements**. Lessee acknowledges that: (a) it has been given an opportunity to inspect and measure the Premises;; (b) it has been advised by Lessor and/or Brokers to satisfy itself with respect to the size and condition of the Premises (including but not limited to the electrical, HVAC and fire sprinkler systems, security, environmental aspects, and compliance with Applicable Requirements and the Americans with Disabilities Act), and their suitability for Lessee's intended use; (c) Lessee has made such investigation as it deems necessary with reference to such matters and assumes all responsibility therefor as the same relate to its occupancy of the Premises; (d) it is not relying on any representation as to the size of the Premises made by Brokers or Lessor; (e) the square footage of the Premises was not material to Lessee's decision to lease the Premises and pay the Rent stated herein, and (f) neither Lessor, Lessor's agents, nor Brokers have made any oral or written representations or warranties with respect to said matters other than as set forth in this Lease. In addition, Lessor acknowledges that: (i) Brokers have made no representations, promises or warranties concerning Lessee's ability to honor the Lease or suitability to occupy the Premises, and (ii) it is Lessor's sole responsibility to investigate the financial capability and/or suitability of all proposed tenants.

2.5 **Lessee as Prior Owner/Occupant**. The warranties made by Lessor in Paragraph 2 shall be of no force or effect if immediately prior to the Start Date Lessee was the owner or occupant of the Premises. In such event, Lessee shall be responsible for any necessary corrective work.

2.6 **Vehicle Parking**. ~~Lessee shall be entitled to use the number of Parking Spaces specified in Paragraph 1.2(b) on those portions of the Common Areas designated from time to time by Lessor for parking. Lessee shall not use more parking spaces than said number. Said parking spaces shall be used for parking by vehicles no larger than full-size passenger automobiles or pick-up trucks, herein called "**Permitted Size Vehicles**." Lessor may regulate the loading and unloading of vehicles by adopting Rules and Regulations as provided in Paragraph 2.9. No vehicles other than Permitted Size Vehicles may be parked in the Common Area without the prior written permission of Lessor. In addition:~~ No Parking

(a) Lessee shall not permit or allow any vehicles that belong to or are controlled by Lessee or Lessee's employees, suppliers, shippers, customers, contractors or invitees to be loaded, unloaded, or parked in areas other than those designated by Lessor for such activities.

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(b) Lessee shall not service or store any vehicles in the Common Areas.

(c) If Lessee permits or allows any of the prohibited activities described in this Paragraph 2.6, then Lessor shall have the right, without notice, in addition to such other rights and remedies that it may have, to remove or tow away the vehicle involved and charge the cost to Lessee, which cost shall be immediately payable upon demand by Lessor.

2.7 **Common Areas - Definition**. The term "**Common Areas**" is defined as all areas and facilities outside the Premises and within the exterior boundary line of the Project and interior utility raceways and installations within the Unit that are provided and designated by the Lessor from time to time for the general non-exclusive use of Lessor, Lessee and other tenants of the Project and their respective employees, suppliers, shippers, customers, contractors and invitees, including parking areas, loading and unloading areas, trash areas, roofs, roadways, walkways, driveways and landscaped areas.

2.8 **Common Areas - Lessee's Rights**. Lessor grants to Lessee, for the benefit of Lessee and its employees, suppliers, shippers, contractors, customers and invitees, during the term of this Lease, the non-exclusive right to use, in common with others entitled to such use, the Common Areas as they exist from time to time, subject to any rights, powers, and privileges reserved by Lessor under the terms hereof or under the terms of any rules and regulations or restrictions governing the use of the Project. Under no circumstances shall the right herein granted to use the Common Areas be deemed to include the right to store any property, temporarily or permanently, in the Common Areas. Any such storage shall be permitted only by the prior written consent of Lessor or Lessor's designated agent, which consent may be revoked at any time. In the event that any unauthorized storage shall occur, then Lessor shall have the right, without notice, in addition to such other rights and remedies that it may have, to remove the property and charge the cost to Lessee, which cost shall be immediately payable upon demand by Lessor.

2.9 **Common Areas - Rules and Regulations**. Lessor or such other person(s) as Lessor may appoint shall have the exclusive control and management of the Common Areas and shall have the right, from time to time, to establish, modify, amend and enforce reasonable rules and regulations ("**Rules and Regulations**") for the management, safety, care, and cleanliness of the grounds, the parking and unloading of vehicles and the preservation of good order, as well as for the convenience of other occupants or tenants of the Building and the Project and their invitees. Lessee agrees to abide by and conform to all such Rules and Regulations, and shall use its best efforts to cause its employees, suppliers, shippers, customers, contractors and invitees to so abide and conform. Lessor shall not be responsible to Lessee for the non-compliance with said Rules and Regulations by other tenants of the Project.

2.10 **Common Areas - Changes**. Lessor shall have the right, in Lessor's sole discretion, from time to time:

(a) To make changes to the Common Areas, including, without limitation, changes in the location, size, shape and number of driveways, entrances, parking spaces, parking areas, loading and unloading areas, ingress, egress, direction of traffic, landscaped areas, walkways and utility raceways;

(b) To close temporarily any of the Common Areas for maintenance purposes so long as reasonable access to the Premises remains available;

(c) To designate other land outside the boundaries of the Project to be a part of the Common Areas;

(d) To add additional buildings and improvements to the Common Areas;

(e) To use the Common Areas while engaged in making additional improvements, repairs or alterations to the Project, or any portion thereof; and

(f) To do and perform such other acts and make such other changes in, to or with respect to the Common Areas and Project as Lessor may, in the exercise of sound business judgment, deem to be appropriate.

3. Term.

3.1 **Term**. The Commencement Date, Expiration Date and Original Term of this Lease are as specified in Paragraph 1.3.

3.2 **Early Possession**. Any provision herein granting Lessee Early Possession of the Premises is subject to and conditioned upon the Premises being available for such possession prior to the Commencement Date. Any grant of Early Possession only conveys a non-exclusive right to occupy the Premises. If Lessee totally or partially occupies the Premises prior to the Commencement Date, the obligation to pay Base Rent shall be abated for the period of such Early Possession. All other terms of this Lease (including but not limited to the obligations to pay Lessee's Share of Common Area Operating Expenses, Real Property Taxes and insurance premiums and to maintain the Premises) shall be in effect during such period. Any such Early Possession shall not affect the Expiration Date.

3.3 **Delay In Possession**. Lessor agrees to use its best commercially reasonable efforts to deliver possession of the Premises to Lessee by the Commencement Date. If, despite said efforts, Lessor is unable to deliver possession by such date, Lessor shall not be subject to any liability therefor, nor shall such failure affect the validity of this Lease or change the Expiration Date. Lessee shall not, however, be obligated to pay Rent or perform its other obligations until Lessor delivers possession of the Premises and any period of rent abatement that Lessee would otherwise have enjoyed shall run from the date of delivery of possession and continue for a period equal to what Lessee would otherwise have enjoyed under the terms hereof, but minus any days of delay caused by the acts or omissions of Lessee. If possession is not delivered within 60 days after the Commencement Date, as the same may be extended under the terms of any Work Letter executed by Parties, Lessee may, at its option, by notice in writing within 10 days after the end of such 60 day period, cancel this Lease, in which event the Parties shall be discharged from all obligations hereunder. If such written notice is not received by Lessor within said 10 day period, Lessee's right to cancel shall terminate. If possession of the Premises is not delivered within 120 days after the Commencement Date, this Lease shall terminate unless other agreements are reached between Lessor and Lessee, in writing.

3.4 **Lessee Compliance**. Lessor shall not be required to tender possession of the Premises to Lessee until Lessee complies with its obligation to provide evidence of insurance (Paragraph 8.5). Pending delivery of such evidence, Lessee shall be required to perform all of its obligations under this Lease from and after the Start Date, including the payment of Rent, notwithstanding Lessor's election to withhold possession pending receipt of such evidence of insurance. Further, if Lessee is required to perform any other conditions prior to or concurrent with the Start Date, the Start Date shall occur but Lessor may elect to withhold possession until such conditions are satisfied.

4. Rent.

4.1. **Rent Defined**. All monetary obligations of Lessee to Lessor under the terms of this Lease (except for the Security Deposit) are deemed to be rent ("**Rent**").

~~4.2 **Common Area Operating Expenses**. Lessee shall pay to Lessor during the term hereof, in addition to the Base Rent, Lessee's Share (as specified in Paragraph 1.6) of all Common Area Operating Expenses, as hereinafter defined, during each calendar year of the term of this Lease, in accordance with the following provisions:~~

~~(a) The following costs relating to the ownership and operation of the Project are defined as "**Common Area Operating Expenses**":~~

~~(i) Costs relating to the operation, repair and maintenance, in neat, clean, good order and condition, but not the replacement (see subparagraph (e)), of the following:~~

~~(aa) The Common Areas and Common Area improvements, including parking areas, loading and unloading areas, trash areas, roadways, parkways, walkways, driveways, landscaped areas, bumpers, irrigation systems, Common Area lighting facilities, fences and gates, elevators, roofs, exterior walls of the buildings, building systems and roof drainage systems.~~

~~(bb) Exterior signs and any tenant directories.~~

~~(cc) Any fire sprinkler systems.~~

~~(dd) All other areas and improvements that are within the exterior boundaries of the Project but outside of the Premises and/or any other space occupied by a tenant.~~

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(ii) The cost of water, gas, electricity and telephone to service the Common Areas and any utilities not separately metered.

(iii) The cost of trash disposal, pest control services, property management, security services, owners' association dues and fees, the cost to repaint the exterior of any structures and the cost of any environmental inspections.

(iv) Reserves set aside for maintenance and repair of Common Areas and Common Area equipment.

(v) Any increase above the Base Real Property Taxes (as defined in Paragraph 10).

(vi) Any "Insurance Cost Increase" (as defined in Paragraph 8).

(vii) Any deductible portion of an insured loss concerning the Building or the Common Areas.

(viii) Auditors', accountants' and attorneys' fees and costs related to the operation, maintenance, repair and replacement of the Project.

(ix) The cost of any capital improvement to the Building or the Project not covered under the provisions of Paragraph 2.3 provided; however, that Lessor shall allocate the cost of any such capital improvement over a 12 year period and Lessee shall not be required to pay more than Lessee's Share of 1/144th of the cost of such capital improvement in any given month. Lessee shall pay Interest on the unamortized balance but may prepay its obligation at any time

(x) The cost of any other services to be provided by Lessor that are stated elsewhere in this Lease to be a Common Area Operating Expense.

(b) Any Common Area Operating Expenses and Real Property Taxes that are specifically attributable to the Unit, the Building or to any other building in the Project or to the operation, repair and maintenance thereof, shall be allocated entirely to such Unit, Building, or other building. However, any Common Area Operating Expenses and Real Property Taxes that are not specifically attributable to the Building or to any other building or to the operation, repair and maintenance thereof, shall be equitably allocated by Lessor to all buildings in the Project.

(c) The inclusion of the improvements, facilities and services set forth in Subparagraph 4.2(a) shall not be deemed to impose an obligation upon Lessor to either have said improvements or facilities or to provide those services unless the Project already has the same, Lessor already provides the services, or Lessor has agreed elsewhere in this Lease to provide the same or some of them.

(d) Lessee's Share of Common Area Operating Expenses is payable monthly on the same day as the Base Rent is due hereunder. The amount of such payments shall be based on Lessor's estimate of the annual Common Area Operating Expenses. Within 60 days after written request (but not more than once each year) Lessor shall deliver to Lessee a reasonably detailed statement showing Lessee's Share of the actual Common Area Operating Expenses for the preceding year. If Lessee's payments during such year exceed Lessee's Share, Lessor shall credit the amount of such over-payment against Lessee's future payments. If Lessee's payments during such year were less than Lessee's Share, Lessee shall pay to Lessor the amount of the deficiency within 10 days after delivery by Lessor to Lessee of the statement.

(e) Common Area Operating Expenses shall not include the cost of replacing equipment or capital components such as the roof, foundations, exterior walls or Common Area capital improvements, such as the parking lot paving, elevators, fences that have a useful life for accounting purposes of 5 years or more.

(f) Common Area Operating Expenses shall not include any expenses paid by any tenant directly to third parties, or as to which Lessor is otherwise reimbursed by any third party, other tenant, or insurance proceeds.

4.3 **Payment**. Lessee shall cause payment of Rent to be received by Lessor in lawful money of the United States, without offset or deduction (except as specifically permitted in this Lease), on or before the day on which it is due. All monetary amounts shall be rounded to the nearest whole dollar. In the event that any statement or invoice prepared by Lessor is inaccurate such inaccuracy shall not constitute a waiver and Lessee shall be obligated to pay the amount set forth in this Lease. Rent for any period during the term hereof which is for less than one full calendar month shall be prorated based upon the actual number of days of said month. Payment of Rent shall be made to Lessor at its address stated herein or to such other persons or place as Lessor may from time to time designate in writing. Acceptance of a payment which is less than the amount then due shall not be a waiver of Lessor's rights to the balance of such Rent, regardless of Lessor's endorsement of any check so stating. In the event that any check, draft, or other instrument of payment given by Lessee to Lessor is dishonored for any reason, Lessee agrees to pay to Lessor the sum of $25 in addition to any Late Charge and Lessor, at its option, may require all future Rent be paid by cashier's check. Payments will be applied first to accrued late charges and attorney's fees, second to accrued interest, then to Base Rent and Common Area Operating Expenses, and any remaining amount to any other outstanding charges or costs.

5. **Security Deposit.** Lessee shall deposit with Lessor upon execution hereof the Security Deposit as security for Lessee's faithful performance of its obligations under this Lease. If Lessee fails to pay Rent, or otherwise Defaults under this Lease, Lessor may use, apply or retain all or any portion of said Security Deposit for the payment of any amount already due Lessor, for Rents which will be due in the future, and/ or to reimburse or compensate Lessor for any liability, expense, loss or damage which Lessor may suffer or incur by reason thereof. If Lessor uses or applies all or any portion of the Security Deposit, Lessee shall within 10 days after written request therefor deposit monies with Lessor sufficient to restore said Security Deposit to the full amount required by this Lease. If the Base Rent increases during the term of this Lease, Lessee shall, upon written request from Lessor, deposit additional monies with Lessor so that the total amount of the Security Deposit shall at all times bear the same proportion to the increased Base Rent as the initial Security Deposit bore to the initial Base Rent. Should the Agreed Use be amended to accommodate a material change in the business of Lessee or to accommodate a sublessee or assignee, Lessor shall have the right to increase the Security Deposit to the extent necessary, in Lessor's reasonable judgment, to account for any increased wear and tear that the Premises may suffer as a result thereof. If a change in control of Lessee occurs during this Lease and following such change the financial condition of Lessee is, in Lessor's reasonable judgment, significantly reduced, Lessee shall deposit such additional monies with Lessor as shall be sufficient to cause the Security Deposit to be at a commercially reasonable level based on such change in financial condition. Lessor shall not be required to keep the Security Deposit separate from its general accounts. Within 90 days after the expiration or termination of this Lease, Lessor shall return that portion of the Security Deposit not used or applied by Lessor. Lessor shall upon written request provide Lessee with an accounting showing how that portion of the Security Deposit that was not returned was applied. No part of the Security Deposit shall be considered to be held in trust, to bear interest or to be prepayment for any monies to be paid by Lessee under this Lease. THE SECURITY DEPOSIT SHALL NOT BE USED BY LESSEE IN LIEU OF PAYMENT OF THE LAST MONTH'S RENT.

6. **Use.**

6.1 **Use**. Lessee shall use and occupy the Premises only for the Agreed Use, or any other legal use which is reasonably comparable thereto, and for no other purpose. Lessee shall not use or permit the use of the Premises in a manner that is unlawful, creates damage, waste or a nuisance, or that disturbs occupants of or causes damage to neighboring premises or properties. Other than guide, signal and seeing eye dogs, Lessee shall not keep or allow in the Premises any pets, animals, birds, fish, or reptiles. Lessor shall not unreasonably withhold or delay its consent to any written request for a modification of the Agreed Use, so long as the same will not impair the structural integrity of the Building or the mechanical or electrical systems therein, and/or is not significantly more burdensome to the Project. If Lessor elects to withhold consent, Lessor shall within 7 days after such request give written notification of same, which notice shall include an explanation of Lessor's objections to the change in the Agreed Use.

6.2 **Hazardous Substances**.

(a) **Reportable Uses Require Consent**. The term "**Hazardous Substance**" as used in this Lease shall mean any product, substance, or waste whose presence, use, manufacture, disposal, transportation, or release, either by itself or in combination with other materials expected to be on the Premises, is either: (i) potentially injurious to the public health, safety or welfare, the environment or the Premises; (ii) regulated or monitored by any governmental authority, or (iii) a basis

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for potential liability of Lessor to any governmental agency or third party under any applicable statute or common law theory. Hazardous Substances shall include, but not be limited to, hydrocarbons, petroleum, gasoline, and/or crude oil or any products, by-products or fractions thereof. Lessee shall not engage in any activity in or on the Premises which constitutes a Reportable Use of Hazardous Substances without the express prior written consent of Lessor and timely compliance (at Lessee's expense) with all Applicable Requirements. "**Reportable Use**" shall mean (i) the installation or use of any above or below ground storage tank; (ii) the generation, possession, storage, use, transportation, or disposal of a Hazardous Substance that requires a permit from, or with respect to which a report, notice, registration or business plan is required to be filed with, any governmental authority, and/or (iii) the presence at the Premises of a Hazardous Substance with respect to which any Applicable Requirements requires that a notice be given to persons entering or occupying the Premises or neighboring properties. Notwithstanding the foregoing, Lessee may use any ordinary and customary materials reasonably required to be used in the normal course of the Agreed Use, ordinary office supplies (copier toner, liquid paper, glue, etc.) and common household cleaning materials, so long as such use is in compliance with all Applicable Requirements, is not a Reportable Use, and does not expose the Premises or neighboring property to any meaningful risk of contamination or damage or expose Lessor to any liability therefor. In addition, Lessor may condition its consent to any Reportable Use upon receiving such additional assurances as Lessor reasonably deems necessary to protect itself, the public, the Premises and/or the environment against damage, contamination, injury and/or liability, including, but not limited to, the installation (and removal on or before Lease expiration or termination) of protective modifications (such as concrete encasements) and/or increasing the Security Deposit.

(b) **Duty to Inform Lessor**. If Lessee knows, or has reasonable cause to believe, that a Hazardous Substance has come to be located in, on, under or about the Premises, other than as previously consented to by Lessor, Lessee shall immediately give written notice of such fact to Lessor, and provide Lessor with a copy of any report, notice, claim or other documentation which it has concerning the presence of such Hazardous Substance.

(c) **Lessee Remediation**. Lessee shall not cause or permit any Hazardous Substance to be spilled or released in, on, under, or about the Premises (including through the plumbing or sanitary sewer system) and shall promptly, at Lessee's expense, comply with all Applicable Requirements and take all investigatory and/or remedial action reasonably recommended, whether or not formally ordered or required, for the cleanup of any contamination of, and for the maintenance, security and/or monitoring of the Premises or neighboring properties, that was caused or materially contributed to by Lessee, or pertaining to or involving any Hazardous Substance brought onto the Premises during the term of this Lease, by or for Lessee, or any third party.

(d) **Lessee Indemnification**. Lessee shall indemnify, defend and hold Lessor, its agents, employees, lenders and ground lessor, if any, harmless from and against any and all loss of rents and/or damages, liabilities, judgments, claims, expenses, penalties, and attorneys' and consultants' fees arising out of or involving any Hazardous Substance brought onto the Premises by or for Lessee, or any third party (provided, however, that Lessee shall have no liability under this Lease with respect to underground migration of any Hazardous Substance under the Premises from areas outside of the Project not caused or contributed to by Lessee). Lessee's obligations shall include, but not be limited to, the effects of any contamination or injury to person, property or the environment created or suffered by Lessee, and the cost of investigation, removal, remediation, restoration and/or abatement, and shall survive the expiration or termination of this Lease. No termination, cancellation or release agreement entered into by Lessor and Lessee shall release Lessee from its obligations under this Lease with respect to Hazardous Substances, unless specifically so agreed by Lessor in writing at the time of such agreement.

(e) **Lessor Indemnification**. Except as otherwise provided in paragraph 8.7, Lessor and its successors and assigns shall indemnify, defend, reimburse and hold Lessee, its employees and lenders, harmless from and against any and all environmental damages, including the cost of remediation, which are suffered as a direct result of Hazardous Substances on the Premises prior to Lessee taking possession or which are caused by the gross negligence or willful misconduct of Lessor, its agents or employees. Lessor's obligations, as and when required by the Applicable Requirements, shall include, but not be limited to, the cost of investigation, removal, remediation, restoration and/or abatement, and shall survive the expiration or termination of this Lease.

(f) **Investigations and Remediations**. Lessor shall retain the responsibility and pay for any investigations or remediation measures required by governmental entities having jurisdiction with respect to the existence of Hazardous Substances on the Premises prior to the Lessee taking possession, unless such remediation measure is required as a result of Lessee's use (including "Alterations", as defined in paragraph 7.3(a) below) of the Premises, in which event Lessee shall be responsible for such payment. Lessee shall cooperate fully in any such activities at the request of Lessor, including allowing Lessor and Lessor's agents to have reasonable access to the Premises at reasonable times in order to carry out Lessor's investigative and remedial responsibilities.

(g) **Lessor Termination Option**. If a Hazardous Substance Condition (see Paragraph 9.1(e)) occurs during the term of this Lease, unless Lessee is legally responsible therefor (in which case Lessee shall make the investigation and remediation thereof required by the Applicable Requirements and this Lease shall continue in full force and effect, but subject to Lessor's rights under Paragraph 6.2(d) and Paragraph 13), Lessor may, at Lessor's option, either (i) investigate and remediate such Hazardous Substance Condition, if required, as soon as reasonably possible at Lessor's expense, in which event this Lease shall continue in full force and effect, or (ii) if the estimated cost to remediate such condition exceeds 12 times the then monthly Base Rent or $100,000, whichever is greater, give written notice to Lessee, within 30 days after receipt by Lessor of knowledge of the occurrence of such Hazardous Substance Condition, of Lessor's desire to terminate this Lease as of the date 60 days following the date of such notice. In the event Lessor elects to give a termination notice, Lessee may, within 10 days thereafter, give written notice to Lessor of Lessee's commitment to pay the amount by which the cost of the remediation of such Hazardous Substance Condition exceeds an amount equal to 12 times the then monthly Base Rent or $100,000, whichever is greater. Lessee shall provide Lessor with said funds or satisfactory assurance thereof within 30 days following such commitment. In such event, this Lease shall continue in full force and effect, and Lessor shall proceed to make such remediation as soon as reasonably possible after the required funds are available. If Lessee does not give such notice and provide the required funds or assurance thereof within the time provided, this Lease shall terminate as of the date specified in Lessor's notice of termination.

6.3 **Lessee's Compliance with Applicable Requirements**. Except as otherwise provided in this Lease, Lessee shall, at Lessee's sole expense, fully, diligently and in a timely manner, materially comply with all Applicable Requirements, the requirements of any applicable fire insurance underwriter or rating bureau, and the recommendations of Lessor's engineers and/or consultants which relate in any manner to the Premises, without regard to whether said Applicable Requirements are now in effect or become effective after the Start Date. Lessee shall, within 10 days after receipt of Lessor's written request, provide Lessor with copies of all permits and other documents, and other information evidencing Lessee's compliance with any Applicable Requirements specified by Lessor, and shall immediately upon receipt, notify Lessor in writing (with copies of any documents involved) of any threatened or actual claim, notice, citation, warning, complaint or report pertaining to or involving the failure of Lessee or the Premises to comply with any Applicable Requirements. Likewise, Lessee shall immediately give written notice to Lessor of: (i) any water damage to the Premises and any suspected seepage, pooling, dampness or other condition conducive to the production of mold; or (ii) any mustiness or other odors that might indicate the presence of mold in the Premises.

6.4 **Inspection; Compliance**. Lessor and Lessor's "**Lender**" (as defined in Paragraph 30) and consultants authorized by Lessor shall have the right to enter into Premises at any time in the case of an emergency, and otherwise at reasonable times after reasonable notice, for the purpose of inspecting and/or testing the condition of the Premises and/or for verifying compliance by Lessee with this Lease. The cost of any such inspections shall be paid by Lessor, unless a violation of Applicable Requirements, or a Hazardous Substance Condition (see Paragraph 9.1) is found to exist or be imminent, or the inspection is requested or ordered by a governmental authority. In such case, Lessee shall upon request reimburse Lessor for the cost of such inspection, so long as such inspection is reasonably related to the violation or contamination. In addition, Lessee shall provide copies of all relevant material safety data sheets (**MSDS**) to Lessor within 10 days of the receipt of written request therefor. Lessee acknowledges that any failure on its part to allow such inspections or testing will expose Lessor to risks and potentially cause Lessor to incur costs not contemplated by this Lease, the extent of which will be extremely difficult to ascertain. Accordingly, should the Lessee fail to allow such inspections

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and/or testing in a timely fashion the Base Rent shall be automatically increased, without any requirement for notice to Lessee, by an amount equal to 10% of the then existing Base Rent or $100, whichever is greater for the remainder to the Lease. The Parties agree that such increase in Base Rent represents fair and reasonable compensation for the additional risk/costs that Lessor will incur by reason of Lessee's failure to allow such inspection and/or testing. Such increase in Base Rent shall in no event constitute a waiver of Lessee's Default or Breach with respect to such failure nor prevent the exercise of any of the other rights and remedies granted hereunder. Lessee acknowledges that any failure on its part to allow such inspections or testing will expose Lessor to risks and potentially cause Lessor to incur costs not contemplated by this Lease, the extent of which will be extremely difficult to ascertain. Accordingly, should the Lessee fail to allow such inspections and/or testing in a timely fashion the Base Rent shall be automatically increased, without any requirement for notice to Lessee, by an amount equal to 10% of the then existing Base Rent or $100, whichever is greater for the remainder to the Lease. The Parties agree that such increase in Base Rent represents fair and reasonable compensation for the additional risk/costs that Lessor will incur by reason of Lessee's failure to allow such inspection and/or testing. Such increase in Base Rent shall in no event constitute a waiver of Lessee's Default or Breach with respect to such failure nor prevent the exercise of any of the other rights and remedies granted hereunder.

7. Maintenance; Repairs; Utility Installations; Trade Fixtures and Alterations.

7.1 **Lessee's Obligations.**

(a) **In General.** Subject to the provisions of Paragraph 2.2 (Condition), 2.3 (Compliance), 6.3 (Lessee's Compliance with Applicable Requirements), 7.2 (Lessor's Obligations), 9 (Damage or Destruction), and 14 (Condemnation), Lessee shall, at Lessee's sole expense, keep the Premises, Utility Installations (intended for Lessee's exclusive use, no matter where located), and Alterations in good order, condition and repair (whether or not the portion of the Premises requiring repairs, or the means of repairing the same, are reasonably or readily accessible to Lessee, and whether or not the need for such repairs occurs as a result of Lessee's use, any prior use, the elements or the age of such portion of the Premises), including, but not limited to, all equipment or facilities, such as plumbing, HVAC equipment, electrical, lighting facilities, boilers, pressure vessels, fixtures, interior walls, interior surfaces of exterior walls, ceilings, floors, windows, doors, plate glass, and skylights but excluding any items which are the responsibility of Lessor pursuant to Paragraph 7.2. Lessee, in keeping the Premises in good order, condition and repair, shall exercise and perform good maintenance practices, specifically including the procurement and maintenance of the service contracts required by Paragraph 7.1(b) below. Lessee's obligations shall include restorations, replacements or renewals when necessary to keep the Premises and all improvements thereon or a part thereof in good order, condition and state of repair.

(b) **Service Contracts.** Lessee shall, at Lessee's sole expense, procure and maintain contracts, with copies to Lessor, in customary form and substance for, and with contractors specializing and experienced in the maintenance of the following equipment and improvements, if any, if and when installed on the Premises: (i) HVAC equipment, (ii) boiler and pressure vessels, and (iii) clarifiers. However, Lessor reserves the right, upon notice to Lessee, to procure and maintain any or all of such service contracts, and Lessee shall reimburse Lessor, upon demand, for the cost thereof.

(c) **Failure to Perform.** If Lessee fails to perform Lessee's obligations under this Paragraph 7.1, Lessor may enter upon the Premises after 10 days' prior written notice to Lessee (except in the case of an emergency, in which case no notice shall be required), perform such obligations on Lessee's behalf, and put the Premises in good order, condition and repair, and Lessee shall promptly pay to Lessor a sum equal to 115% of the cost thereof.

~~(d) **Replacement.** Subject to Lessee's indemnification of Lessor as set forth in Paragraph 8.7 below, and without relieving Lessee of liability resulting from Lessee's failure to exercise and perform good maintenance practices, if an item described in Paragraph 7.1(b) cannot be repaired other than at a cost which is in excess of 50% of the cost of replacing such item, then such item shall be replaced by Lessor, and the cost thereof shall be prorated between the Parties and Lessee shall only be obligated to pay, each month during the remainder of the term of this Lease, on the date on which Base Rent is due, an amount equal to the product of multiplying the cost of such replacement by a fraction, the numerator of which is one, and the denominator of which is 144 (ie. 1/144th of the cost per month). Lessee shall pay interest on the unamortized balance but may prepay its obligation at any time.~~

7.2 **Lessor's Obligations.** Subject to the provisions of Paragraphs 2.2 (Condition), 2.3 (Compliance), 4.2 (Common Area Operating Expenses), 6 (Use), 7.1 (Lessee's Obligations), 9 (Damage or Destruction) and 14 (Condemnation), Lessor, subject to reimbursement pursuant to Paragraph 4.2, shall keep in good order, condition and repair the foundations, exterior walls, structural condition of interior bearing walls, exterior roof, fire sprinkler system, Common Area fire alarm and/or smoke detection systems, fire hydrants, parking lots, walkways, parkways, driveways, landscaping, fences, signs and utility systems serving the Common Areas and all parts thereof, as well as providing the services for which there is a Common Area Operating Expense pursuant to Paragraph 4.2. Lessor shall not be obligated to paint the exterior or interior surfaces of exterior walls nor shall Lessor be obligated to maintain, repair or replace windows, doors or plate glass of the Premises.

7.3 **Utility Installations; Trade Fixtures; Alterations.**

(a) **Definitions.** The term "**Utility Installations**" refers to all floor and window coverings, air and/or vacuum lines, power panels, electrical distribution, security and fire protection systems, communication cabling, lighting fixtures, HVAC equipment, plumbing, and fencing in or on the Premises. The term "**Trade Fixtures**" shall mean Lessee's machinery and equipment that can be removed without doing material damage to the Premises. The term "Alterations" shall mean any modification of the improvements, other than Utility Installations or Trade Fixtures, whether by addition or deletion. "**Lessee Owned Alterations and/or Utility Installations**" are defined as Alterations and/or Utility Installations made by Lessee that are not yet owned by Lessor pursuant to Paragraph 7.4(a).

(b) **Consent.** Lessee shall not make any Alterations or Utility Installations to the Premises without Lessor's prior written consent. Lessee may, however, make non-structural Alterations or Utility Installations to the interior of the Premises (excluding the roof) without such consent but upon notice to Lessor, as long as they are not visible from the outside, do not involve puncturing, relocating or removing the roof or any existing walls, will not affect the electrical, plumbing, HVAC, and/or life safety systems, do not trigger the requirement for additional modifications and/or improvements to the Premises resulting from Applicable Requirements, such as compliance with Title 24, and the cumulative cost thereof during this Lease as extended does not exceed a sum equal to 3 month's Base Rent in the aggregate or a sum equal to one month's Base Rent in any one year. Notwithstanding the foregoing, Lessee shall not make or permit any roof penetrations and/or install anything on the roof without the prior written approval of Lessor. Lessor may, as a precondition to granting such approval, require Lessee to utilize a contractor chosen and/or approved by Lessor. Any Alterations or Utility Installations that Lessee shall desire to make and which require the consent of the Lessor shall be presented to Lessor in written form with detailed plans. Consent shall be deemed conditioned upon Lessee's: (i) acquiring all applicable governmental permits, (ii) furnishing Lessor with copies of both the permits and the plans and specifications prior to commencement of the work, and (iii) compliance with all conditions of said permits and other Applicable Requirements in a prompt and expeditious manner. Any Alterations or Utility Installations shall be performed in a workmanlike manner with good and sufficient materials. Lessee shall promptly upon completion furnish Lessor with as-built plans and specifications. For work which costs an amount in excess of one month's Base Rent, Lessor may condition its consent upon Lessee providing a lien and completion bond in an amount equal to 150% of the estimated cost of such Alteration or Utility Installation and/or upon Lessee's posting an additional Security Deposit with Lessor.

(c) **Liens; Bonds.** Lessee shall pay, when due, all claims for labor or materials furnished or alleged to have been furnished to or for Lessee at or for use on the Premises, which claims are or may be secured by any mechanic's or materialmen's lien against the Premises or any interest therein. Lessee shall give Lessor not less than 10 days notice prior to the commencement of any work in, on or about the Premises, and Lessor shall have the right to post notices of non-responsibility. If Lessee shall contest the validity of any such lien, claim or demand, then Lessee shall, at its sole expense defend and protect itself, Lessor and the Premises against the same and shall pay and satisfy any such adverse judgment that may be rendered thereon before the enforcement thereof. If Lessor shall require, Lessee shall furnish a surety bond in an amount equal to 150% of the amount of such contested lien, claim or demand, indemnifying Lessor against liability for the same. If Lessor elects to participate in any such action, Lessee shall pay Lessor's attorneys' fees and costs.

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7.4 **Ownership; Removal; Surrender; and Restoration.**

(a) **Ownership.** Subject to Lessor's right to require removal or elect ownership as hereinafter provided, all Alterations and Utility Installations made by Lessee shall be the property of Lessee, but considered a part of the Premises. Lessor may, at any time, elect in writing to be the owner of all or any specified part of the Lessee Owned Alterations and Utility Installations. Unless otherwise instructed per paragraph 7.4(b) hereof, all Lessee Owned Alterations and Utility Installations shall, at the expiration or termination of this Lease, become the property of Lessor and be surrendered by Lessee with the Premises.

(b) **Removal.** By delivery to Lessee of written notice from Lessor not earlier than 90 and not later than 30 days prior to the end of the term of this Lease, Lessor may require that any or all Lessee Owned Alterations or Utility Installations be removed by the expiration or termination of this Lease. Lessor may require the removal at any time of all or any part of any Lessee Owned Alterations or Utility Installations made without the required consent.

(c) **Surrender; Restoration.** Lessee shall surrender the Premises by the Expiration Date or any earlier termination date, with all of the improvements, parts and surfaces thereof broom clean and free of debris, and in good operating order, condition and state of repair, ordinary wear and tear excepted. "Ordinary wear and tear" shall not include any damage or deterioration that would have been prevented by good maintenance practice. Notwithstanding the foregoing, if the Lessee occupies the Premises for 12 months or less, then Lessee shall surrender the Premises in the same condition as delivered to Lessee on the Start Date with NO allowance for ordinary wear and tear. Lessee shall repair any damage occasioned by the installation, maintenance or removal of Trade Fixtures, Lessee owned Alterations and/or Utility Installations, furnishings, and equipment as well as the removal of any storage tank installed by or for Lessee. Lessee shall also remove from the Premises any and all Hazardous Substances brought onto the Premises by or for Lessee, or any third party (except Hazardous Substances which were deposited via underground migration from areas outside of the Premises) to the level specified in Applicable Requirements. Trade Fixtures shall remain the property of Lessee and shall be removed by Lessee. Any personal property of Lessee not removed on or before the Expiration Date or any earlier termination date shall be deemed to have been abandoned by Lessee and may be disposed of or retained by Lessor as Lessor may desire. The failure by Lessee to timely vacate the Premises pursuant to this Paragraph 7.4(c) without the express written consent of Lessor shall constitute a holdover under the provisions of Paragraph 26 below.

8. Insurance; Indemnity.

8.1 **Payment of Premium Increases.**

(a) As used herein, the term "**Insurance Cost Increase**" is defined as any increase in the actual cost of the insurance applicable to the Building and/or the Project and required to be carried by Lessor, pursuant to Paragraphs 8.2(b), 8.3(a) and 8.3(b), over and above the Base Premium, as hereinafter defined, calculated on an annual basis. Insurance Cost Increase shall include, but not be limited to, requirements of the holder of a mortgage or deed of trust covering the Premises, Building and/or Project, increased valuation of the Premises, Building and/or Project, and/or a general premium rate increase. The term Insurance Cost Increase shall not, however, include any premium increases resulting from the nature of the occupancy of any other tenant of the Building. The "**Base Premium**" shall be the annual premium applicable to the 12 month period immediately preceding the Start Date. If, however, the Project was not insured for the entirety of such 12 month period, then the Base Premium shall be the lowest annual premium reasonably obtainable for the Required Insurance as of the Start Date, assuming the most nominal use possible of the Building. In no event, however, shall Lessee be responsible for any portion of the premium cost attributable to liability insurance coverage in excess of $2,000,000 procured under Paragraph 8.2(b).

(b) Lessee shall pay any Insurance Cost Increase to Lessor pursuant to Paragraph 4.2. Premiums for policy periods commencing prior to, or extending beyond, the term of this Lease shall be prorated to coincide with the corresponding Start Date or Expiration Date.

8.2 **Liability Insurance.**

(a) **Carried by Lessee.** Lessee shall obtain and keep in force a Commercial General Liability policy of insurance protecting Lessee and Lessor as an additional insured against claims for bodily injury, personal injury and property damage based upon or arising out of the ownership, use, occupancy or maintenance of the Premises and all areas appurtenant thereto. Such insurance shall be on an occurrence basis providing single limit coverage in an amount not less than $1,000,000 per occurrence with an annual aggregate of not less than $2,000,000. Lessee shall add Lessor as an additional insured by means of an endorsement at least as broad as the Insurance Service Organization's "Additional Insured-Managers or Lessors of Premises" Endorsement. The policy shall not contain any intra-insured exclusions as between insured persons or organizations, but shall include coverage for liability assumed under this Lease as an "**insured contract**" for the performance of Lessee's indemnity obligations under this Lease. The limits of said insurance shall not, however, limit the liability of Lessee nor relieve Lessee of any obligation hereunder. Lessee shall provide an endorsement on its liability policy(ies) which provides that its insurance shall be primary to and not contributory with any similar insurance carried by Lessor, whose insurance shall be considered excess insurance only.

(b) **Carried by Lessor.** Lessor shall maintain liability insurance as described in Paragraph 8.2(a), in addition to, and not in lieu of, the insurance required to be maintained by Lessee. Lessee shall not be named as an additional insured therein.

8.3 **Property Insurance - Building, Improvements and Rental Value.**

(a) **Building and Improvements.** Lessor shall obtain and keep in force a policy or policies of insurance in the name of Lessor, with loss payable to Lessor, any ground-lessor, and to any Lender insuring loss or damage to the Premises. The amount of such insurance shall be equal to the full insurable replacement cost of the Premises, as the same shall exist from time to time, or the amount required by any Lender, but in no event more than the commercially reasonable and available insurable value thereof. Lessee Owned Alterations and Utility Installations, Trade Fixtures, and Lessee's personal property shall be insured by Lessee not by Lessor. If the coverage is available and commercially appropriate, such policy or policies shall insure against all risks of direct physical loss or damage (except the perils of flood and/or earthquake unless required by a Lender), including coverage for debris removal and the enforcement of any Applicable Requirements requiring the upgrading, demolition, reconstruction or replacement of any portion of the Premises as the result of a covered loss. Said policy or policies shall also contain an agreed valuation provision in lieu of any coinsurance clause, waiver of subrogation, and inflation guard protection causing an increase in the annual property insurance coverage amount by a factor of not less than the adjusted U.S. Department of Labor Consumer Price Index for All Urban Consumers for the city nearest to where the Premises are located. If such insurance coverage has a deductible clause, the deductible amount shall not exceed $5,000 per occurrence.

(b) **Rental Value.** Lessor shall also obtain and keep in force a policy or policies in the name of Lessor with loss payable to Lessor and any Lender, insuring the loss of the full Rent for one year with an extended period of indemnity for an additional 180 days ("Rental Value insurance"). Said insurance shall contain an agreed valuation provision in lieu of any coinsurance clause, and the amount of coverage shall be adjusted annually to reflect the projected Rent otherwise payable by Lessee, for the next 12 month period.

(c) **Adjacent Premises.** Lessee shall pay for any increase in the premiums for the property insurance of the Building and for the Common Areas or other buildings in the Project if said increase is caused by Lessee's acts, omissions, use or occupancy of the Premises.

(d) **Lessee's Improvements.** Since Lessor is the Insuring Party, Lessor shall not be required to insure Lessee Owned Alterations and Utility Installations unless the item in question has become the property of Lessor under the terms of this Lease.

8.4 **Lessee's Property; Business Interruption Insurance; Worker's Compensation Insurance.**

(a) **Property Damage.** Lessee shall obtain and maintain insurance coverage on all of Lessee's personal property, Trade Fixtures, and Lessee Owned Alterations and Utility Installations. Such insurance shall be full replacement cost coverage with a deductible of not to exceed $1,000 per occurrence. The proceeds from any such insurance shall be used by Lessee for the replacement of personal property, Trade Fixtures and Lessee Owned Alterations and Utility Installations.

(b) **Business Interruption.** Lessee shall obtain and maintain loss of income and extra expense insurance in amounts as will reimburse Lessee for direct or

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indirect loss of earnings attributable to all perils commonly insured against by prudent lessees in the business of Lessee or attributable to prevention of access to the Premises as a result of such perils.

(c) **Worker's Compensation Insurance**. Lessee shall obtain and maintain Worker's Compensation Insurance in such amount as may be required by Applicable Requirements. Such policy shall include a 'Waiver of Subrogation' endorsement. Lessee shall provide Lessor with a copy of such endorsement along with the certificate of insurance or copy of the policy required by paragraph 8.5.

(d) **No Representation of Adequate Coverage**. Lessor makes no representation that the limits or forms of coverage of insurance specified herein are adequate to cover Lessee's property, business operations or obligations under this Lease.

8.5 **Insurance Policies**. Insurance required herein shall be by companies maintaining during the policy term a "General Policyholders Rating" of at least A-, VII, as set forth in the most current issue of "Best's Insurance Guide", or such other rating as may be required by a Lender. Lessee shall not do or permit to be done anything which invalidates the required insurance policies. Lessee shall, prior to the Start Date, deliver to Lessor certified copies of policies of such insurance or certificates with copies of the required endorsements evidencing the existence and amounts of the required insurance. No such policy shall be cancelable or subject to modification except after 30 days prior written notice to Lessor. Lessee shall, at least 10 days prior to the expiration of such policies, furnish Lessor with evidence of renewals or "insurance binders" evidencing renewal thereof, or Lessor may increase his liability insurance coverage and charge the cost thereof to Lessee, which amount shall be payable by Lessee to Lessor upon demand. Such policies shall be for a term of at least one year, or the length of the remaining term of this Lease, whichever is less. If either Party shall fail to procure and maintain the insurance required to be carried by it, the other Party may, but shall not be required to, procure and maintain the same.

8.6 **Waiver of Subrogation**. Without affecting any other rights or remedies, Lessee and Lessor each hereby release and relieve the other, and waive their entire right to recover damages against the other, for loss of or damage to its property arising out of or incident to the perils required to be insured against herein. The effect of such releases and waivers is not limited by the amount of insurance carried or required, or by any deductibles applicable hereto. The Parties agree to have their respective property damage insurance carriers waive any right to subrogation that such companies may have against Lessor or Lessee, as the case may be, so long as the insurance is not invalidated thereby.

8.7 **Indemnity**. Except for Lessor's gross negligence or willful misconduct, Lessee shall indemnify, protect, defend and hold harmless the Premises, Lessor and its agents, Lessor's master or ground lessor, partners and Lenders, from and against any and all claims, loss of rents and/or damages, liens, judgments, penalties, attorneys' and consultants' fees, expenses and/or liabilities arising out of, involving, or in connection with, a Breach of the Lease by Lessee and/or the use and/or occupancy of the Premises and/or Project by Lessee and/or by Lessee's employees, contractors or invitees. If any action or proceeding is brought against Lessor by reason of any of the foregoing matters, Lessee shall upon notice defend the same at Lessee's expense by counsel reasonably satisfactory to Lessor and Lessor shall cooperate with Lessee in such defense. Lessor need not have first paid any such claim in order to be defended or indemnified.

8.8 **Exemption of Lessor and its Agents from Liability**. Notwithstanding the negligence or breach of this Lease by Lessor or its agents, neither Lessor nor its agents shall be liable under any circumstances for: (i) injury or damage to the person or goods, wares, merchandise or other property of Lessee, Lessee's employees, contractors, invitees, customers, or any other person in or about the Premises, whether such damage or injury is caused by or results from fire, steam, electricity, gas, water or rain, indoor air quality, the presence of mold or from the breakage, leakage, obstruction or other defects of pipes, fire sprinklers, wires, appliances, plumbing, HVAC or lighting fixtures, or from any other cause, whether the said injury or damage results from conditions arising upon the Premises or upon other portions of the Building, or from other sources or places; (ii) any damages arising from any act or neglect of any other tenant of Lessor or from the failure of Lessor or its agents to enforce the provisions of any other lease in the Project; or (iii) injury to Lessee's business or for any loss of income or profit therefrom. Instead, it is intended that Lessee's sole recourse in the event of such damages or injury be to file a claim on the insurance policy(ies) that Lessee is required to maintain pursuant to the provisions of paragraph 8.

8.9 **Failure to Provide Insurance**. Lessee acknowledges that any failure on its part to obtain or maintain the insurance required herein will expose Lessor to risks and potentially cause Lessor to incur costs not contemplated by this Lease, the extent of which will be extremely difficult to ascertain. Accordingly, for any month or portion thereof that Lessee does not maintain the required insurance and/or does not provide Lessor with the required binders or certificates evidencing the existence of the required insurance, the Base Rent shall be automatically increased, without any requirement for notice to Lessee, by an amount equal to 10% of the then existing Base Rent or $100, whichever is greater. The parties agree that such increase in Base Rent represents fair and reasonable compensation for the additional risk/costs that Lessor will incur by reason of Lessee's failure to maintain the required insurance. Such increase in Base Rent shall in no event constitute a waiver of Lessee's Default or Breach with respect to the failure to maintain such insurance, prevent the exercise of any of the other rights and remedies granted hereunder, nor relieve Lessee of its obligation to maintain the insurance specified in this Lease.

9. Damage or Destruction.

9.1 **Definitions**.

(a) "**Premises Partial Damage**" shall mean damage or destruction to the improvements on the Premises, other than Lessee Owned Alterations and Utility Installations, which can reasonably be repaired in 3 months or less from the date of the damage or destruction, and the cost thereof does not exceed a sum equal to 6 month's Base Rent. Lessor shall notify Lessee in writing within 30 days from the date of the damage or destruction as to whether or not the damage is Partial or Total.

(b) "**Premises Total Destruction**" shall mean damage or destruction to the improvements on the Premises, other than Lessee Owned Alterations and Utility Installations and Trade Fixtures, which cannot reasonably be repaired in 3 months or less from the date of the damage or destruction and/or the cost thereof exceeds a sum equal to 6 month's Base Rent. Lessor shall notify Lessee in writing within 30 days from the date of the damage or destruction as to whether or not the damage is Partial or Total.

(c) "**Insured Loss**" shall mean damage or destruction to improvements on the Premises, other than Lessee Owned Alterations and Utility Installations and Trade Fixtures, which was caused by an event required to be covered by the insurance described in Paragraph 8.3(a), irrespective of any deductible amounts or coverage limits involved.

(d) "**Replacement Cost**" shall mean the cost to repair or rebuild the improvements owned by Lessor at the time of the occurrence to their condition existing immediately prior thereto, including demolition, debris removal and upgrading required by the operation of Applicable Requirements, and without deduction for depreciation.

(e) "**Hazardous Substance Condition**" shall mean the occurrence or discovery of a condition involving the presence of, or a contamination by, a Hazardous Substance, in, on, or under the Premises which requires restoration.

9.2 **Partial Damage - Insured Loss**. If a Premises Partial Damage that is an Insured Loss occurs, then Lessor shall, at Lessor's expense, repair such damage (but not Lessee's Trade Fixtures or Lessee Owned Alterations and Utility Installations) as soon as reasonably possible and this Lease shall continue in full force and effect; provided, however, that Lessee shall, at Lessor's election, make the repair of any damage or destruction the total cost to repair of which is $10,000 or less, and, in such event, Lessor shall make any applicable insurance proceeds available to Lessee on a reasonable basis for that purpose. Notwithstanding the foregoing, if the required insurance was not in force or the insurance proceeds are not sufficient to effect such repair, the Insuring Party shall promptly contribute the shortage in proceeds as and when required to complete said repairs. In the event, however, such shortage was due to the fact that, by reason of the unique nature of the improvements, full replacement cost insurance coverage was not commercially reasonable and available, Lessor shall have no obligation to pay for the shortage in insurance proceeds or

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to fully restore the unique aspects of the Premises unless Lessee provides Lessor with the funds to cover same, or adequate assurance thereof, within 10 days following receipt of written notice of such shortage and request therefor. If Lessor receives said funds or adequate assurance thereof within said 10 day period, the party responsible for making the repairs shall complete them as soon as reasonably possible and this Lease shall remain in full force and effect. If such funds or assurance are not received, Lessor may nevertheless elect by written notice to Lessee within 10 days thereafter to: (i) make such restoration and repair as is commercially reasonable with Lessor paying any shortage in proceeds, in which case this Lease shall remain in full force and effect, or (ii) have this Lease terminate 30 days thereafter. Lessee shall not be entitled to reimbursement of any funds contributed by Lessee to repair any such damage or destruction. Premises Partial Damage due to flood or earthquake shall be subject to Paragraph 9.3, notwithstanding that there may be some insurance coverage, but the net proceeds of any such insurance shall be made available for the repairs if made by either Party.

9.3 **Partial Damage - Uninsured Loss.** If a Premises Partial Damage that is not an Insured Loss occurs, unless caused by a negligent or willful act of Lessee (in which event Lessee shall make the repairs at Lessee's expense), Lessor may either: (i) repair such damage as soon as reasonably possible at Lessor's expense (subject to reimbursement pursuant to Paragraph 4.2), in which event this Lease shall continue in full force and effect, or (ii) terminate this Lease by giving written notice to Lessee within 30 days after receipt by Lessor of knowledge of the occurrence of such damage. Such termination shall be effective 60 days following the date of such notice. In the event Lessor elects to terminate this Lease, Lessee shall have the right within 10 days after receipt of the termination notice to give written notice to Lessor of Lessee's commitment to pay for the repair of such damage without reimbursement from Lessor. Lessee shall provide Lessor with said funds or satisfactory assurance thereof within 30 days after making such commitment. In such event this Lease shall continue in full force and effect, and Lessor shall proceed to make such repairs as soon as reasonably possible after the required funds are available. If Lessee does not make the required commitment, this Lease shall terminate as of the date specified in the termination notice.

9.4 **Total Destruction.** Notwithstanding any other provision hereof, if a Premises Total Destruction occurs, this Lease shall terminate 60 days following such Destruction. If the damage or destruction was caused by the gross negligence or willful misconduct of Lessee, Lessor shall have the right to recover Lessor's damages from Lessee, except as provided in Paragraph 8.6.

9.5 **Damage Near End of Term.** If at any time during the last 6 months of this Lease there is damage for which the cost to repair exceeds one month's Base Rent, whether or not an Insured Loss, Lessor may terminate this Lease effective 60 days following the date of occurrence of such damage by giving a written termination notice to Lessee within 30 days after the date of occurrence of such damage. Notwithstanding the foregoing, if Lessee at that time has an exercisable option to extend this Lease or to purchase the Premises, then Lessee may preserve this Lease by (a) exercising such option and (b) providing Lessor with any shortage in insurance proceeds (or adequate assurance thereof) needed to make the repairs on or before the earlier of (i) the date which is 10 days after Lessee's receipt of Lessor's written notice purporting to terminate this Lease, or (ii) the day prior to the date upon which such option expires. If Lessee duly exercises such option during such period and provides Lessor with funds (or adequate assurance thereof) to cover any shortage in insurance proceeds, Lessor shall, at Lessor's commercially reasonable expense, repair such damage as soon as reasonably possible and this Lease shall continue in full force and effect. If Lessee fails to exercise such option and provide such funds or assurance during such period, then this Lease shall terminate on the date specified in the termination notice and Lessee's option shall be extinguished.

9.6 **Abatement of Rent; Lessee's Remedies.**

(a) **Abatement.** In the event of Premises Partial Damage or Premises Total Destruction or a Hazardous Substance Condition for which Lessee is not responsible under this Lease, the Rent payable by Lessee for the period required for the repair, remediation or restoration of such damage shall be abated in proportion to the degree to which Lessee's use of the Premises is impaired, but not to exceed the proceeds received from the Rental Value insurance. All other obligations of Lessee hereunder shall be performed by Lessee, and Lessor shall have no liability for any such damage, destruction, remediation, repair or restoration except as provided herein.

(b) **Remedies.** If Lessor is obligated to repair or restore the Premises and does not commence, in a substantial and meaningful way, such repair or restoration within 90 days after such obligation shall accrue, Lessee may, at any time prior to the commencement of such repair or restoration, give written notice to Lessor and to any Lenders of which Lessee has actual notice, of Lessee's election to terminate this Lease on a date not less than 60 days following the giving of such notice. If Lessee gives such notice and such repair or restoration is not commenced within 30 days thereafter, this Lease shall terminate as of the date specified in said notice. If the repair or restoration is commenced within such 30 days, this Lease shall continue in full force and effect. "Commence" shall mean either the unconditional authorization of the preparation of the required plans, or the beginning of the actual work on the Premises, whichever first occurs.

9.7 **Termination; Advance Payments.** Upon termination of this Lease pursuant to Paragraph 6.2(g) or Paragraph 9, an equitable adjustment shall be made concerning advance Base Rent and any other advance payments made by Lessee to Lessor. Lessor shall, in addition, return to Lessee so much of Lessee's Security Deposit as has not been, or is not then required to be, used by Lessor.

10. Real Property Taxes.

10.1 **Definitions.**

(a) **"Real Property Taxes."** As used herein, the term **"Real Property Taxes"** shall include any form of assessment; real estate, general, special, ordinary or extraordinary, or rental levy or tax (other than inheritance, personal income or estate taxes); improvement bond; and/or license fee imposed upon or levied against any legal or equitable interest of Lessor in the Project, Lessor's right to other income therefrom, and/or Lessor's business of leasing, by any authority having the direct or indirect power to tax and where the funds are generated with reference to the Project address. The term "Real Property Taxes" shall also include any tax, fee, levy, assessment or charge, or any increase therein: (i) imposed by reason of events occurring during the term of this Lease, including but not limited to, a change in the ownership of the Project; (ii) a change in the improvements thereon; and/or (iii) levied or assessed on machinery or equipment provided by Lessor to Lessee pursuant to this Lease.

(b) **"Base Real Property Taxes."** As used herein, the term **"Base Real Property Taxes"** shall be the amount of Real Property Taxes, which are assessed against the Project, during the entire calendar year in which the Lease is executed.

10.2 **Payment of Taxes.** Except as otherwise provided in Paragraph 10.3, Lessor shall pay the Real Property Taxes applicable to the Project, and said payments shall be included in the calculation of Common Area Operating Expenses in accordance with the provisions of Paragraph 4.2.

10.3 **Additional Improvements.** Common Area Operating Expenses shall not include Real Property Taxes specified in the tax assessor's records and work sheets as being caused by additional improvements placed upon the Project by other tenants or by Lessor for the exclusive enjoyment of such other Tenants. Notwithstanding Paragraph 10.2 hereof, Lessee shall, however, pay to Lessor at the time Common Area Operating Expenses are payable under Paragraph 4.2, the entirety of any increase in Real Property Taxes if assessed solely by reason of Alterations, Trade Fixtures or Utility Installations placed upon the Premises by Lessee or at Lessee's request or by reason of any alterations or improvements to the Premises made by Lessor subsequent to the execution of this Lease by the Parties.

10.4 **Joint Assessment.** If the Building is not separately assessed, Real Property Taxes allocated to the Building shall be an equitable proportion of the Real Property Taxes for all of the land and improvements included within the tax parcel assessed, such proportion to be determined by Lessor from the respective valuations assigned in the assessor's work sheets or such other information as may be reasonably available. Lessor's reasonable determination thereof, in good faith, shall be conclusive.

10.5 **Personal Property Taxes.** Lessee shall pay prior to delinquency all taxes assessed against and levied upon Lessee Owned Alterations and Utility

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Installations, Trade Fixtures, furnishings, equipment and all personal property of Lessee contained in the Premises. When possible, Lessee shall cause its Lessee Owned Alterations and Utility Installations, Trade Fixtures, furnishings, equipment and all other personal property to be assessed and billed separately from the real property of Lessor. If any of Lessee's said property shall be assessed with Lessor's real property, Lessee shall pay Lessor the taxes attributable to Lessee's property within 10 days after receipt of a written statement setting forth the taxes applicable to Lessee's property.

11. Utilities and Services. ~~Lessee shall pay for all water, gas, heat, light, power, telephone, trash disposal and other utilities and services supplied to the Premises, together with any taxes thereon.~~ Notwithstanding the provisions of Paragraph 4.2, if at any time in Lessor's sole judgment, Lessor determines that Lessee is using a disproportionate amount of water, electricity or other commonly metered utilities, or that Lessee is generating such a large volume of trash as to require an increase in the size of the trash receptacle and/or an increase in the number of times per month that it is emptied, then Lessor may increase Lessee's Base Rent by an amount equal to such increased costs. There shall be no abatement of Rent and Lessor shall not be liable in any respect whatsoever for the inadequacy, stoppage, interruption or discontinuance of any utility or service due to riot, strike, labor dispute, breakdown, accident, repair or other cause beyond Lessor's reasonable control or in cooperation with governmental request or directions.

12. Assignment and Subletting.

12.1 **Lessor's Consent Required.**

(a) Lessee shall not voluntarily or by operation of law assign, transfer, mortgage or encumber (collectively, "**assign or assignment**") or sublet all or any part of Lessee's interest in this Lease or in the Premises without Lessor's prior written consent.

(b) Unless Lessee is a corporation and its stock is publicly traded on a national stock exchange, a change in the control of Lessee shall constitute an assignment requiring consent. The transfer, on a cumulative basis, of 25% or more of the voting control of Lessee shall constitute a change in control for this purpose.

(c) The involvement of Lessee or its assets in any transaction, or series of transactions (by way of merger, sale, acquisition, financing, transfer, leveraged buy-out or otherwise), whether or not a formal assignment or hypothecation of this Lease or Lessee's assets occurs, which results or will result in a reduction of the Net Worth of Lessee by an amount greater than 25% of such Net Worth as it was represented at the time of the execution of this Lease or at the time of the most recent assignment to which Lessor has consented, or as it exists immediately prior to said transaction or transactions constituting such reduction, whichever was or is greater, shall be considered an assignment of this Lease to which Lessor may withhold its consent. "**Net Worth of Lessee**" shall mean the net worth of Lessee (excluding any guarantors) established under generally accepted accounting principles.

(d) An assignment or subletting without consent shall, at Lessor's option, be a Default curable after notice per Paragraph 13.1(d), or a non-curable Breach without the necessity of any notice and grace period. If Lessor elects to treat such unapproved assignment or subletting as a non-curable Breach, Lessor may either: (i) terminate this Lease, or (ii) upon 30 days written notice, increase the monthly Base Rent to 110% of the Base Rent then in effect. Further, in the event of such Breach and rental adjustment, (i) the purchase price of any option to purchase the Premises held by Lessee shall be subject to similar adjustment to 110% of the price previously in effect, and (ii) all fixed and non-fixed rental adjustments scheduled during the remainder of the Lease term shall be increased to 110% of the scheduled adjusted rent.

(e) Lessee's remedy for any breach of Paragraph 12.1 by Lessor shall be limited to compensatory damages and/or injunctive relief.

(f) Lessor may reasonably withhold consent to a proposed assignment or subletting if Lessee is in Default at the time consent is requested.

(g) Notwithstanding the foregoing, allowing a de minimis portion of the Premises, ie. 20 square feet or less, to be used by a third party vendor in connection with the installation of a vending machine or pay phone shall not constitute a subletting.

12.2 **Terms and Conditions Applicable to Assignment and Subletting.**

(a) Regardless of Lessor's consent, no assignment or subletting shall : (i) be effective without the express written assumption by such assignee or sublessee of the obligations of Lessee under this Lease, (ii) release Lessee of any obligations hereunder, or (iii) alter the primary liability of Lessee for the payment of Rent or for the performance of any other obligations to be performed by Lessee.

(b) Lessor may accept Rent or performance of Lessee's obligations from any person other than Lessee pending approval or disapproval of an assignment. Neither a delay in the approval or disapproval of such assignment nor the acceptance of Rent or performance shall constitute a waiver or estoppel of Lessor's right to exercise its remedies for Lessee's Default or Breach.

(c) Lessor's consent to any assignment or subletting shall not constitute a consent to any subsequent assignment or subletting.

(d) In the event of any Default or Breach by Lessee, Lessor may proceed directly against Lessee, any Guarantors or anyone else responsible for the performance of Lessee's obligations under this Lease, including any assignee or sublessee, without first exhausting Lessor's remedies against any other person or entity responsible therefor to Lessor, or any security held by Lessor.

(e) Each request for consent to an assignment or subletting shall be in writing, accompanied by information relevant to Lessor's determination as to the financial and operational responsibility and appropriateness of the proposed assignee or sublessee, including but not limited to the intended use and/or required modification of the Premises, if any, together with a fee of $500 as consideration for Lessor's considering and processing said request. Lessee agrees to provide Lessor with such other or additional information and/or documentation as may be reasonably requested. (See also Paragraph 36)

(f) Any assignee of, or sublessee under, this Lease shall, by reason of accepting such assignment, entering into such sublease, or entering into possession of the Premises or any portion thereof, be deemed to have assumed and agreed to conform and comply with each and every term, covenant, condition and obligation herein to be observed or performed by Lessee during the term of said assignment or sublease, other than such obligations as are contrary to or inconsistent with provisions of an assignment or sublease to which Lessor has specifically consented to in writing.

(g) Lessor's consent to any assignment or subletting shall not transfer to the assignee or sublessee any Option granted to the original Lessee by this Lease unless such transfer is specifically consented to by Lessor in writing. (See Paragraph 39.2)

12.3 **Additional Terms and Conditions Applicable to Subletting.** The following terms and conditions shall apply to any subletting by Lessee of all or any part of the Premises and shall be deemed included in all subleases under this Lease whether or not expressly incorporated therein:

(a) Lessee hereby assigns and transfers to Lessor all of Lessee's interest in all Rent payable on any sublease, and Lessor may collect such Rent and apply same toward Lessee's obligations under this Lease; provided, however, that until a Breach shall occur in the performance of Lessee's obligations, Lessee may collect said Rent. In the event that the amount collected by Lessor exceeds Lessee's then outstanding obligations any such excess shall be refunded to Lessee. Lessor shall not, by reason of the foregoing or any assignment of such sublease, nor by reason of the collection of Rent, be deemed liable to the sublessee for any failure of Lessee to perform and comply with any of Lessee's obligations to such sublessee. Lessee hereby irrevocably authorizes and directs any such sublessee, upon receipt of a written notice from Lessor stating that a Breach exists in the performance of Lessee's obligations under this Lease, to pay to Lessor all Rent due and to become due under the sublease. Sublessee shall rely upon any such notice from Lessor and shall pay all Rents to Lessor without any obligation or right to inquire as to whether such Breach exists, notwithstanding any claim from Lessee to the contrary.

(b) In the event of a Breach by Lessee, Lessor may, at its option, require sublessee to attorn to Lessor, in which event Lessor shall undertake the obligations of the sublessor under such sublease from the time of the exercise of said option to the expiration of such sublease; provided, however, Lessor shall not be liable for any prepaid rents or security deposit paid by such sublessee to such sublessor or for any prior Defaults or Breaches of such sublessor.

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(c) Any matter requiring the consent of the sublessor under a sublease shall also require the consent of Lessor.

(d) No sublessee shall further assign or sublet all or any part of the Premises without Lessor's prior written consent.

(e) Lessor shall deliver a copy of any notice of Default or Breach by Lessee to the sublessee, who shall have the right to cure the Default of Lessee within the grace period, if any, specified in such notice. The sublessee shall have a right of reimbursement and offset from and against Lessee for any such Defaults cured by the sublessee.

13. Default; Breach; Remedies.

13.1 **Default; Breach.** A "**Default**" is defined as a failure by the Lessee to comply with or perform any of the terms, covenants, conditions or Rules and Regulations under this Lease. A "**Breach**" is defined as the occurrence of one or more of the following Defaults, and the failure of Lessee to cure such Default within any applicable grace period:

(a) The abandonment of the Premises; or the vacating of the Premises without providing a commercially reasonable level of security, or where the coverage of the property insurance described in Paragraph 8.3 is jeopardized as a result thereof, or without providing reasonable assurances to minimize potential vandalism.

(b) The failure of Lessee to make any payment of Rent or any Security Deposit required to be made by Lessee hereunder, whether to Lessor or to a third party, when due, to provide reasonable evidence of insurance or surety bond, or to fulfill any obligation under this Lease which endangers or threatens life or property, where such failure continues for a period of 3 business days following written notice to Lessee. THE ACCEPTANCE BY LESSOR OF A PARTIAL PAYMENT OF RENT OR SECURITY DEPOSIT SHALL NOT CONSTITUTE A WAIVER OF ANY OF LESSOR'S RIGHTS, INCLUDING LESSOR'S RIGHT TO RECOVER POSSESSION OF THE PREMISES.

(c) The failure of Lessee to allow Lessor and/or its agents access to the Premises or the commission of waste, act or acts constituting public or private nuisance, and/or an illegal activity on the Premises by Lessee, where such actions continue for a period of 3 business days following written notice to Lessee. In the event that Lessee commits waste, a nuisance or an illegal activity a second time then, the Lessor may elect to treat such conduct as a non-curable Breach rather than a Default.

(d) The failure by Lessee to provide (i) reasonable written evidence of compliance with Applicable Requirements, (ii) the service contracts, (iii) the rescission of an unauthorized assignment or subletting, (iv) an Estoppel Certificate or financial statements, (v) a requested subordination, (vi) evidence concerning any guaranty and/or Guarantor, (vii) any document requested under Paragraph 41, (viii) material safety data sheets (MSDS), or (ix) any other documentation or information which Lessor may reasonably require of Lessee under the terms of this Lease, where any such failure continues for a period of 10 days following written notice to Lessee.

(e) A Default by Lessee as to the terms, covenants, conditions or provisions of this Lease, or of the rules adopted under Paragraph 2.9 hereof, other than those described in subparagraphs 13.1(a), (b), (c) or (d), above, where such Default continues for a period of 30 days after written notice; provided, however, that if the nature of Lessee's Default is such that more than 30 days are reasonably required for its cure, then it shall not be deemed to be a Breach if Lessee commences such cure within said 30 day period and thereafter diligently prosecutes such cure to completion.

(f) The occurrence of any of the following events: (i) the making of any general arrangement or assignment for the benefit of creditors; (ii) becoming a "**debtor**" as defined in 11 U.S.C. § 101 or any successor statute thereto (unless, in the case of a petition filed against Lessee, the same is dismissed within 60 days); (iii) the appointment of a trustee or receiver to take possession of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this Lease, where possession is not restored to Lessee within 30 days; or (iv) the attachment, execution or other judicial seizure of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this Lease, where such seizure is not discharged within 30 days; provided, however, in the event that any provision of this subparagraph is contrary to any applicable law, such provision shall be of no force or effect, and not affect the validity of the remaining provisions.

(g) The discovery that any financial statement of Lessee or of any Guarantor given to Lessor was materially false.

(h) If the performance of Lessee's obligations under this Lease is guaranteed: (i) the death of a Guarantor, (ii) the termination of a Guarantor's liability with respect to this Lease other than in accordance with the terms of such guaranty, (iii) a Guarantor's becoming insolvent or the subject of a bankruptcy filing, (iv) a Guarantor's refusal to honor the guaranty, or (v) a Guarantor's breach of its guaranty obligation on an anticipatory basis, and Lessee's failure, within 60 days following written notice of any such event, to provide written alternative assurance or security, which, when coupled with the then existing resources of Lessee, equals or exceeds the combined financial resources of Lessee and the Guarantors that existed at the time of execution of this Lease.

13.2 **Remedies.** If Lessee fails to perform any of its affirmative duties or obligations, within 10 days after written notice (or in case of an emergency, without notice), Lessor may, at its option, perform such duty or obligation on Lessee's behalf, including but not limited to the obtaining of reasonably required bonds, insurance policies, or governmental licenses, permits or approvals. Lessee shall pay to Lessor an amount equal to 115% of the costs and expenses incurred by Lessor in such performance upon receipt of an invoice therefor. In the event of a Breach, Lessor may, with or without further notice or demand, and without limiting Lessor in the exercise of any right or remedy which Lessor may have by reason of such Breach:

(a) Terminate Lessee's right to possession of the Premises by any lawful means, in which case this Lease shall terminate and Lessee shall immediately surrender possession to Lessor. In such event Lessor shall be entitled to recover from Lessee: (i) the unpaid Rent which had been earned at the time of termination; (ii) the worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that the Lessee proves could have been reasonably avoided; (iii) the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss that the Lessee proves could be reasonably avoided; and (iv) any other amount necessary to compensate Lessor for all the detriment proximately caused by the Lessee's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom, including but not limited to the cost of recovering possession of the Premises, expenses of reletting, including necessary renovation and alteration of the Premises, reasonable attorneys' fees, and that portion of any leasing commission paid by Lessor in connection with this Lease applicable to the unexpired term of this Lease. The worth at the time of award of the amount referred to in provision (iii) of the immediately preceding sentence shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of the District within which the Premises are located at the time of award plus one percent. Efforts by Lessor to mitigate damages caused by Lessee's Breach of this Lease shall not waive Lessor's right to recover any damages to which Lessor is otherwise entitled. If termination of this Lease is obtained through the provisional remedy of unlawful detainer, Lessor shall have the right to recover in such proceeding any unpaid Rent and damages as are recoverable therein, or Lessor may reserve the right to recover all or any part thereof in a separate suit. If a notice and grace period required under Paragraph 13.1 was not previously given, a notice to pay rent or quit, or to perform or quit given to Lessee under the unlawful detainer statute shall also constitute the notice required by Paragraph 13.1. In such case, the applicable grace period required by Paragraph 13.1 and the unlawful detainer statute shall run concurrently, and the failure of Lessee to cure the Default within the greater of the two such grace periods shall constitute both an unlawful detainer and a Breach of this Lease entitling Lessor to the remedies provided for in this Lease and/or by said statute.

(b) Continue the Lease and Lessee's right to possession and recover the Rent as it becomes due, in which event Lessee may sublet or assign, subject only to reasonable limitations. Acts of maintenance, efforts to relet, and/or the appointment of a receiver to protect the Lessor's interests, shall not constitute a termination of the Lessee's right to possession.

(c) Pursue any other remedy now or hereafter available under the laws or judicial decisions of the state wherein the Premises are located. The expiration

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or termination of this Lease and/or the termination of Lessee's right to possession shall not relieve Lessee from liability under any indemnity provisions of this Lease as to matters occurring or accruing during the term hereof or by reason of Lessee's occupancy of the Premises.

13.3 **Inducement Recapture.** Any agreement for free or abated rent or other charges, the cost of tenant improvements for Lessee paid for or performed by Lessor, or for the giving or paying by Lessor to or for Lessee of any cash or other bonus, inducement or consideration for Lessee's entering into this Lease, all of which concessions are hereinafter referred to as "**Inducement Provisions**," shall be deemed conditioned upon Lessee's full and faithful performance of all of the terms, covenants and conditions of this Lease. Upon Breach of this Lease by Lessee, any such Inducement Provision shall automatically be deemed deleted from this Lease and of no further force or effect, and any rent, other charge, bonus, inducement or consideration theretofore abated, given or paid by Lessor under such an Inducement Provision shall be immediately due and payable by Lessee to Lessor, notwithstanding any subsequent cure of said Breach by Lessee. The acceptance by Lessor of rent or the cure of the Breach which initiated the operation of this paragraph shall not be deemed a waiver by Lessor of the provisions of this paragraph unless specifically so stated in writing by Lessor at the time of such acceptance.

13.4 **Late Charges**. Lessee hereby acknowledges that late payment by Lessee of Rent will cause Lessor to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges, and late charges which may be imposed upon Lessor by any Lender. Accordingly, if any Rent shall not be received by Lessor within 5 days after such amount shall be due, then, without any requirement for notice to Lessee, Lessee shall immediately pay to Lessor a one-time late charge equal to 10% of each such overdue amount or $100, whichever is greater. The parties hereby agree that such late charge represents a fair and reasonable estimate of the costs Lessor will incur by reason of such late payment. Acceptance of such late charge by Lessor shall in no event constitute a waiver of Lessee's Default or Breach with respect to such overdue amount, nor prevent the exercise of any of the other rights and remedies granted hereunder. In the event that a late charge is payable hereunder, whether or not collected, for 3 consecutive installments of Base Rent, then notwithstanding any provision of this Lease to the contrary, Base Rent shall, at Lessor's option, become due and payable quarterly in advance.

13.5 **Interest**. Any monetary payment due Lessor hereunder, other than late charges, not received by Lessor, when due shall bear interest from the 31st day after it was due. The interest ("**Interest**") charged shall be computed at the rate of 10% per annum but shall not exceed the maximum rate allowed by law. Interest is payable in addition to the potential late charge provided for in Paragraph 13.4.

13.6 **Breach by Lessor**.

(a) **Notice of Breach**. Lessor shall not be deemed in breach of this Lease unless Lessor fails within a reasonable time to perform an obligation required to be performed by Lessor. For purposes of this Paragraph, a reasonable time shall in no event be less than 30 days after receipt by Lessor, and any Lender whose name and address shall have been furnished to Lessee in writing for such purpose, of written notice specifying wherein such obligation of Lessor has not been performed; provided, however, that if the nature of Lessor's obligation is such that more than 30 days are reasonably required for its performance, then Lessor shall not be in breach if performance is commenced within such 30 day period and thereafter diligently pursued to completion.

(b) **Performance by Lessee on Behalf of Lessor**. In the event that neither Lessor nor Lender cures said breach within 30 days after receipt of said notice, or if having commenced said cure they do not diligently pursue it to completion, then Lessee may elect to cure said breach at Lessee's expense and offset from Rent the actual and reasonable cost to perform such cure, provided however, that such offset shall not exceed an amount equal to the greater of one month's Base Rent or the Security Deposit, reserving Lessee's right to reimbursement from Lessor for any such expense in excess of such offset. Lessee shall document the cost of said cure and supply said documentation to Lessor.

14. Condemnation. If the Premises or any portion thereof are taken under the power of eminent domain or sold under the threat of the exercise of said power (collectively "**Condemnation**"), this Lease shall terminate as to the part taken as of the date the condemning authority takes title or possession, whichever first occurs. If more than 10% of the floor area of the Unit, or more than 25% of the parking spaces is taken by Condemnation, Lessee may, at Lessee's option, to be exercised in writing within 10 days after Lessor shall have given Lessee written notice of such taking (or in the absence of such notice, within 10 days after the condemning authority shall have taken possession) terminate this Lease as of the date the condemning authority takes such possession. If Lessee does not terminate this Lease in accordance with the foregoing, this Lease shall remain in full force and effect as to the portion of the Premises remaining, except that the Base Rent shall be reduced in proportion to the reduction in utility of the Premises caused by such Condemnation. Condemnation awards and/or payments shall be the property of Lessor, whether such award shall be made as compensation for diminution in value of the leasehold, the value of the part taken, or for severance damages; provided, however, that Lessee shall be entitled to any compensation paid by the condemnor for Lessee's relocation expenses, loss of business goodwill and/or Trade Fixtures, without regard to whether or not this Lease is terminated pursuant to the provisions of this Paragraph. All Alterations and Utility Installations made to the Premises by Lessee, for purposes of Condemnation only, shall be considered the property of the Lessee and Lessee shall be entitled to any and all compensation which is payable therefor. In the event that this Lease is not terminated by reason of the Condemnation, Lessor shall repair any damage to the Premises caused by such Condemnation.

15. Brokerage Fees.

15.1 **Additional Commission**. In addition to the payments owed pursuant to Paragraph 1.10 above, Lessor agrees that: (a) if Lessee exercises any Option, (b) if Lessee or anyone affiliated with Lessee acquires from Lessor any rights to the Premises or other premises owned by Lessor and located within the Project, (c) if Lessee remains in possession of the Premises, with the consent of Lessor, after the expiration of this Lease, or (d) if Base Rent is increased, whether by agreement or operation of an escalation clause herein, then, Lessor shall pay Brokers a fee in accordance with the fee schedule of the Brokers in effect at the time the Lease was executed.

15.2 **Assumption of Obligations**. Any buyer or transferee of Lessor's interest in this Lease shall be deemed to have assumed Lessor's obligation hereunder. Brokers shall be third party beneficiaries of the provisions of Paragraphs 1.10, 15, 22 and 31. If Lessor fails to pay to Brokers any amounts due as and for brokerage fees pertaining to this Lease when due, then such amounts shall accrue Interest. In addition, if Lessor fails to pay any amounts to Lessee's Broker when due, Lessee's Broker may send written notice to Lessor and Lessee of such failure and if Lessor fails to pay such amounts within 10 days after said notice, Lessee shall pay said monies to its Broker and offset such amounts against Rent. In addition, Lessee's Broker shall be deemed to be a third party beneficiary of any commission agreement entered into by and/or between Lessor and Lessor's Broker for the limited purpose of collecting any brokerage fee owed.

15.3 **Representations and Indemnities of Broker Relationships**. Lessee and Lessor each represent and warrant to the other that it has had no dealings with any person, firm, broker or finder (other than the Brokers, if any) in connection with this Lease, and that no one other than said named Brokers is entitled to any commission or finder's fee in connection herewith. Lessee and Lessor do each hereby agree to indemnify, protect, defend and hold the other harmless from and against liability for compensation or charges which may be claimed by any such unnamed broker, finder or other similar party by reason of any dealings or actions of the indemnifying Party, including any costs, expenses, attorneys' fees reasonably incurred with respect thereto.

16. Estoppel Certificates.

(a) Each Party (as "**Responding Party**") shall within 10 days after written notice from the other Party (the "**Requesting Party**") execute, acknowledge and deliver to the Requesting Party a statement in writing in form similar to the then most current "**Estoppel Certificate**" form published BY AIR CRE, plus such additional information, confirmation and/or statements as may be reasonably requested by the Requesting Party.

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(b) If the Responding Party shall fail to execute or deliver the Estoppel Certificate within such 10 day period, the Requesting Party may execute an Estoppel Certificate stating that: (i) the Lease is in full force and effect without modification except as may be represented by the Requesting Party, (ii) there are no uncured defaults in the Requesting Party's performance, and (iii) if Lessor is the Requesting Party, not more than one month's rent has been paid in advance. Prospective purchasers and encumbrancers may rely upon the Requesting Party's Estoppel Certificate, and the Responding Party shall be estopped from denying the truth of the facts contained in said Certificate. In addition, Lessee acknowledges that any failure on its part to provide such an Estoppel Certificate will expose Lessor to risks and potentially cause Lessor to incur costs not contemplated by this Lease, the extent of which will be extremely difficult to ascertain. Accordingly, should the Lessee fail to execute and/or deliver a requested Estoppel Certificate in a timely fashion the monthly Base Rent shall be automatically increased, without any requirement for notice to Lessee, by an amount equal to 10% of the then existing Base Rent or $100, whichever is greater for remainder of the Lease. The Parties agree that such increase in Base Rent represents fair and reasonable compensation for the additional risk/costs that Lessor will incur by reason of Lessee's failure to provide the Estoppel Certificate. Such increase in Base Rent shall in no event constitute a waiver of Lessee's Default or Breach with respect to the failure to provide the Estoppel Certificate nor prevent the exercise of any of the other rights and remedies granted hereunder.

(c) If Lessor desires to finance, refinance, or sell the Premises, or any part thereof, Lessee and all Guarantors shall within 10 days after written notice from Lessor deliver to any potential lender or purchaser designated by Lessor such financial statements as may be reasonably required by such lender or purchaser, including but not limited to Lessee's financial statements for the past 3 years. All such financial statements shall be received by Lessor and such lender or purchaser in confidence and shall be used only for the purposes herein set forth.

17. Definition of Lessor. The term "**Lessor**" as used herein shall mean the owner or owners at the time in question of the fee title to the Premises, or, if this is a sublease, of the Lessee's interest in the prior lease. In the event of a transfer of Lessor's title or interest in the Premises or this Lease, Lessor shall deliver to the transferee or assignee (in cash or by credit) any unused Security Deposit held by Lessor. Upon such transfer or assignment and delivery of the Security Deposit, as aforesaid, the prior Lessor shall be relieved of all liability with respect to the obligations and/or covenants under this Lease thereafter to be performed by the Lessor. Subject to the foregoing, the obligations and/or covenants in this Lease to be performed by the Lessor shall be binding only upon the Lessor as hereinabove defined.

18. Severability. The invalidity of any provision of this Lease, as determined by a court of competent jurisdiction, shall in no way affect the validity of any other provision hereof.

19. Days. Unless otherwise specifically indicated to the contrary, the word "**days**" as used in this Lease shall mean and refer to calendar days.

20. Limitation on Liability. The obligations of Lessor under this Lease shall not constitute personal obligations of Lessor, or its partners, members, directors, officers or shareholders, and Lessee shall look to the Premises, and to no other assets of Lessor, for the satisfaction of any liability of Lessor with respect to this Lease, and shall not seek recourse against Lessor's partners, members, directors, officers or shareholders, or any of their personal assets for such satisfaction.

21. Time of Essence. Time is of the essence with respect to the performance of all obligations to be performed or observed by the Parties under this Lease.

22. No Prior or Other Agreements; Broker Disclaimer. This Lease contains all agreements between the Parties with respect to any matter mentioned herein, and no other prior or contemporaneous agreement or understanding shall be effective. Lessor and Lessee each represents and warrants to the Brokers that it has made, and is relying solely upon, its own investigation as to the nature, quality, character and financial responsibility of the other Party to this Lease and as to the use, nature, quality and character of the Premises. Brokers have no responsibility with respect thereto or with respect to any default or breach hereof by either Party.

23. Notices.

23.1 **Notice Requirements.** All notices required or permitted by this Lease or applicable law shall be in writing and may be delivered in person (by hand or by courier) or may be sent by regular, certified or registered mail or U.S. Postal Service Express Mail, with postage prepaid, or by facsimile transmission, or by email, and shall be deemed sufficiently given if served in a manner specified in this Paragraph 23. The addresses noted adjacent to a Party's signature on this Lease shall be that Party's address for delivery or mailing of notices. Either Party may by written notice to the other specify a different address for notice, except that upon Lessee's taking possession of the Premises, the Premises shall constitute Lessee's address for notice. A copy of all notices to Lessor shall be concurrently transmitted to such party or parties at such addresses as Lessor may from time to time hereafter designate in writing.

23.2 **Date of Notice.** Any notice sent by registered or certified mail, return receipt requested, shall be deemed given on the date of delivery shown on the receipt card, or if no delivery date is shown, the postmark thereon. If sent by regular mail the notice shall be deemed given 72 hours after the same is addressed as required herein and mailed with postage prepaid. Notices delivered by United States Express Mail or overnight courier that guarantees next day delivery shall be deemed given 24 hours after delivery of the same to the Postal Service or courier. Notices delivered by hand, or transmitted by facsimile transmission or by email shall be deemed delivered upon actual receipt. If notice is received on a Saturday, Sunday or legal holiday, it shall be deemed received on the next business day.

24. Waivers.

(a) No waiver by Lessor of the Default or Breach of any term, covenant or condition hereof by Lessee, shall be deemed a waiver of any other term, covenant or condition hereof, or of any subsequent Default or Breach by Lessee of the same or of any other term, covenant or condition hereof. Lessor's consent to, or approval of, any act shall not be deemed to render unnecessary the obtaining of Lessor's consent to, or approval of, any subsequent or similar act by Lessee, or be construed as the basis of an estoppel to enforce the provision or provisions of this Lease requiring such consent.

(b) The acceptance of Rent by Lessor shall not be a waiver of any Default or Breach by Lessee. Any payment by Lessee may be accepted by Lessor on account of monies or damages due Lessor, notwithstanding any qualifying statements or conditions made by Lessee in connection therewith, which such statements and/or conditions shall be of no force or effect whatsoever unless specifically agreed to in writing by Lessor at or before the time of deposit of such payment.

(c) THE PARTIES AGREE THAT THE TERMS OF THIS LEASE SHALL GOVERN WITH REGARD TO ALL MATTERS RELATED THERETO AND HEREBY WAIVE THE PROVISIONS OF ANY PRESENT OR FUTURE STATUTE TO THE EXTENT THAT SUCH STATUTE IS INCONSISTENT WITH THIS LEASE.

25. Disclosures Regarding The Nature of a Real Estate Agency Relationship.

(a) When entering into a discussion with a real estate agent regarding a real estate transaction, a Lessor or Lessee should from the outset understand what type of agency relationship or representation it has with the agent or agents in the transaction. Lessor and Lessee acknowledge being advised by the Brokers in this transaction, as follows:

(i) *Lessor's Agent*. A Lessor's agent under a listing agreement with the Lessor acts as the agent for the Lessor only. A Lessor's agent or subagent has the following affirmative obligations: *To the Lessor*: A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Lessor. *To the Lessee and the Lessor*: (a) Diligent exercise of reasonable skills and care in performance of the agent's duties. (b) A duty of honest and fair dealing and good faith. (c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the Parties. An agent is not obligated to reveal to either Party any confidential information obtained from the other Party which does not involve the affirmative duties set forth above.

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(ii) *Lessee's Agent*. An agent can agree to act as agent for the Lessee only. In these situations, the agent is not the Lessor's agent, even if by agreement the agent may receive compensation for services rendered, either in full or in part from the Lessor. An agent acting only for a Lessee has the following affirmative obligations. *To the Lessee*: A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Lessee. *To the Lessee and the Lessor*: (a) Diligent exercise of reasonable skills and care in performance of the agent's duties. (b) A duty of honest and fair dealing and good faith. (c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the Parties. An agent is not obligated to reveal to either Party any confidential information obtained from the other Party which does not involve the affirmative duties set forth above.

(iii) *Agent Representing Both Lessor and Lessee*. A real estate agent, either acting directly or through one or more associate licenses, can legally be the agent of both the Lessor and the Lessee in a transaction, but only with the knowledge and consent of both the Lessor and the Lessee. In a dual agency situation, the agent has the following affirmative obligations to both the Lessor and the Lessee: (a) A fiduciary duty of utmost care, integrity, honesty and loyalty in the dealings with either Lessor or the Lessee. (b) Other duties to the Lessor and the Lessee as stated above in subparagraphs (i) or (ii). In representing both Lessor and Lessee, the agent may not without the express permission of the respective Party, disclose to the other Party that the Lessor will accept rent in an amount less than that indicated in the listing or that the Lessee is willing to pay a higher rent than that offered. The above duties of the agent in a real estate transaction do not relieve a Lessor or Lessee from the responsibility to protect their own interests. Lessor and Lessee should carefully read all agreements to assure that they adequately express their understanding of the transaction. A real estate agent is a person qualified to advise about real estate. If legal or tax advice is desired, consult a competent professional.

(b) Brokers have no responsibility with respect to any default or breach hereof by either Party. The Parties agree that no lawsuit or other legal proceeding involving any breach of duty, error or omission relating to this Lease may be brought against Broker more than one year after the Start Date and that the liability (including court costs and attorneys' fees), of any Broker with respect to any such lawsuit and/or legal proceeding shall not exceed the fee received by such Broker pursuant to this Lease; provided, however, that the foregoing limitation on each Broker's liability shall not be applicable to any gross negligence or willful misconduct of such Broker.

(c) Lessor and Lessee agree to identify to Brokers as "Confidential" any communication or information given Brokers that is considered by such Party to be confidential.

26. No Right To Holdover. Lessee has no right to retain possession of the Premises or any part thereof beyond the expiration or termination of this Lease. In the event that Lessee holds over, then the Base Rent shall be increased to 150% of the Base Rent applicable immediately preceding the expiration or termination. Holdover Base Rent shall be calculated on monthly basis. Nothing contained herein shall be construed as consent by Lessor to any holding over by Lessee.

27. Cumulative Remedies. No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

28. Covenants and Conditions; Construction of Agreement. All provisions of this Lease to be observed or performed by Lessee are both covenants and conditions. In construing this Lease, all headings and titles are for the convenience of the Parties only and shall not be considered a part of this Lease. Whenever required by the context, the singular shall include the plural and vice versa. This Lease shall not be construed as if prepared by one of the Parties, but rather according to its fair meaning as a whole, as if both Parties had prepared it.

29. Binding Effect; Choice of Law. This Lease shall be binding upon the parties, their personal representatives, successors and assigns and be governed by the laws of the State in which the Premises are located. Any litigation between the Parties hereto concerning this Lease shall be initiated in the county in which the Premises are located.

30. Subordination; Attornment; Non-Disturbance.

30.1 **Subordination**. This Lease and any Option granted hereby shall be subject and subordinate to any ground lease, mortgage, deed of trust, or other hypothecation or security device (collectively, "**Security Device**"), now or hereafter placed upon the Premises, to any and all advances made on the security thereof, and to all renewals, modifications, and extensions thereof. Lessee agrees that the holders of any such Security Devices (in this Lease together referred to as "**Lender**") shall have no liability or obligation to perform any of the obligations of Lessor under this Lease. Any Lender may elect to have this Lease and/or any Option granted hereby superior to the lien of its Security Device by giving written notice thereof to Lessee, whereupon this Lease and such Options shall be deemed prior to such Security Device, notwithstanding the relative dates of the documentation or recordation thereof.

30.2 **Attornment**. In the event that Lessor transfers title to the Premises, or the Premises are acquired by another upon the foreclosure or termination of a Security Device to which this Lease is subordinated (i) Lessee shall, subject to the non-disturbance provisions of Paragraph 30.3, attorn to such new owner, and upon request, enter into a new lease, containing all of the terms and provisions of this Lease, with such new owner for the remainder of the term hereof, or, at the election of the new owner, this Lease will automatically become a new lease between Lessee and such new owner, and (ii) Lessor shall thereafter be relieved of any further obligations hereunder and such new owner shall assume all of Lessor's obligations, except that such new owner shall not: (a) be liable for any act or omission of any prior lessor or with respect to events occurring prior to acquisition of ownership; (b) be subject to any offsets or defenses which Lessee might have against any prior lessor, (c) be bound by prepayment of more than one month's rent, or (d) be liable for the return of any security deposit paid to any prior lessor which was not paid or credited to such new owner.

30.3 **Non-Disturbance**. With respect to Security Devices entered into by Lessor after the execution of this Lease, Lessee's subordination of this Lease shall be subject to receiving a commercially reasonable non-disturbance agreement (a "**Non-Disturbance Agreement**") from the Lender which Non-Disturbance Agreement provides that Lessee's possession of the Premises, and this Lease, including any options to extend the term hereof, will not be disturbed so long as Lessee is not in Breach hereof and attorns to the record owner of the Premises. Further, within 60 days after the execution of this Lease, Lessor shall, if requested by Lessee, use its commercially reasonable efforts to obtain a Non-Disturbance Agreement from the holder of any pre-existing Security Device which is secured by the Premises. In the event that Lessor is unable to provide the Non-Disturbance Agreement within said 60 days, then Lessee may, at Lessee's option, directly contact Lender and attempt to negotiate for the execution and delivery of a Non-Disturbance Agreement.

30.4 **Self-Executing**. The agreements contained in this Paragraph 30 shall be effective without the execution of any further documents; provided, however, that, upon written request from Lessor or a Lender in connection with a sale, financing or refinancing of the Premises, Lessee and Lessor shall execute such further writings as may be reasonably required to separately document any subordination, attornment and/or Non-Disturbance Agreement provided for herein.

31. Attorneys' Fees. If any Party or Broker brings an action or proceeding involving the Premises whether founded in tort, contract or equity, or to declare rights hereunder, the Prevailing Party (as hereafter defined) in any such proceeding, action, or appeal thereon, shall be entitled to reasonable attorneys' fees. Such fees may be awarded in the same suit or recovered in a separate suit, whether or not such action or proceeding is pursued to decision or judgment. The term, "**Prevailing Party**" shall include, without limitation, a Party or Broker who substantially obtains or defeats the relief sought, as the case may be, whether by compromise, settlement, judgment, or the abandonment by the other Party or Broker of its claim or defense. The attorneys' fees award shall not be computed in accordance with

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any court fee schedule, but shall be such as to fully reimburse all attorneys' fees reasonably incurred. In addition, Lessor shall be entitled to attorneys' fees, costs and expenses incurred in the preparation and service of notices of Default and consultations in connection therewith, whether or not a legal action is subsequently commenced in connection with such Default or resulting Breach ($200 is a reasonable minimum per occurrence for such services and consultation).

32. Lessor's Access; Showing Premises; Repairs. Lessor and Lessor's agents shall have the right to enter the Premises at any time, in the case of an emergency, and otherwise at reasonable times after reasonable prior notice for the purpose of showing the same to prospective purchasers, lenders, or tenants, and making such alterations, repairs, improvements or additions to the Premises as Lessor may deem necessary or desirable and the erecting, using and maintaining of utilities, services, pipes and conduits through the Premises and/or other premises as long as there is no material adverse effect on Lessee's use of the Premises. All such activities shall be without abatement of rent or liability to Lessee.

33. Auctions. Lessee shall not conduct, nor permit to be conducted, any auction upon the Premises without Lessor's prior written consent. Lessor shall not be obligated to exercise any standard of reasonableness in determining whether to permit an auction.

34. Signs. Lessor may place on the Premises ordinary "For Sale" signs at any time and ordinary "For Lease" signs during the last 6 months of the term hereof. Except for ordinary "For Sublease" signs which may be placed only on the Premises, Lessee shall not place any sign upon the Project without Lessor's prior written consent. All signs must comply with all Applicable Requirements.

35. Termination; Merger. Unless specifically stated otherwise in writing by Lessor, the voluntary or other surrender of this Lease by Lessee, the mutual termination or cancellation hereof, or a termination hereof by Lessor for Breach by Lessee, shall automatically terminate any sublease or lesser estate in the Premises; provided, however, that Lessor may elect to continue any one or all existing subtenancies. Lessor's failure within 10 days following any such event to elect to the contrary by written notice to the holder of any such lesser interest, shall constitute Lessor's election to have such event constitute the termination of such interest.

36. Consents. All requests for consent shall be in writing. Except as otherwise provided herein, wherever in this Lease the consent of a Party is required to an act by or for the other Party, such consent shall not be unreasonably withheld or delayed. Lessor's actual reasonable costs and expenses (including but not limited to architects', attorneys', engineers' and other consultants' fees) incurred in the consideration of, or response to, a request by Lessee for any Lessor consent, including but not limited to consents to an assignment, a subletting or the presence or use of a Hazardous Substance, shall be paid by Lessee upon receipt of an invoice and supporting documentation therefor. Lessor's consent to any act, assignment or subletting shall not constitute an acknowledgment that no Default or Breach by Lessee of this Lease exists, nor shall such consent be deemed a waiver of any then existing Default or Breach, except as may be otherwise specifically stated in writing by Lessor at the time of such consent. The failure to specify herein any particular condition to Lessor's consent shall not preclude the imposition by Lessor at the time of consent of such further or other conditions as are then reasonable with reference to the particular matter for which consent is being given. In the event that either Party disagrees with any determination made by the other hereunder and reasonably requests the reasons for such determination, the determining party shall furnish its reasons in writing and in reasonable detail within 10 business days following such request.

37. Guarantor.

37.1 **Execution**. The Guarantors, if any, shall each execute a guaranty in the form most recently published BY AIR CRE.

37.2 **Default**. It shall constitute a Default of the Lessee if any Guarantor fails or refuses, upon request to provide: (a) evidence of the execution of the guaranty, including the authority of the party signing on Guarantor's behalf to obligate Guarantor, and in the case of a corporate Guarantor, a certified copy of a resolution of its board of directors authorizing the making of such guaranty, (b) current financial statements, (c) an Estoppel Certificate, or (d) written confirmation that the guaranty is still in effect.

38. Quiet Possession. Subject to payment by Lessee of the Rent and performance of all of the covenants, conditions and provisions on Lessee's part to be observed and performed under this Lease, Lessee shall have quiet possession and quiet enjoyment of the Premises during the term hereof.

39. Options. If Lessee is granted any option, as defined below, then the following provisions shall apply.

39.1 **Definition**. "**Option**" shall mean: (a) the right to extend or reduce the term of or renew this Lease or to extend or reduce the term of or renew any lease that Lessee has on other property of Lessor; (b) the right of first refusal or first offer to lease either the Premises or other property of Lessor; (c) the right to purchase, the right of first offer to purchase or the right of first refusal to purchase the Premises or other property of Lessor.

39.2 **Options Personal To Original Lessee**. Any Option granted to Lessee in this Lease is personal to the original Lessee, and cannot be assigned or exercised by anyone other than said original Lessee and only while the original Lessee is in full possession of the Premises and, if requested by Lessor, with Lessee certifying that Lessee has no intention of thereafter assigning or subletting.

39.3 **Multiple Options**. In the event that Lessee has any multiple Options to extend or renew this Lease, a later Option cannot be exercised unless the prior Options have been validly exercised.

39.4 **Effect of Default on Options**.

(a) Lessee shall have no right to exercise an Option: (i) during the period commencing with the giving of any notice of Default and continuing until said Default is cured, (ii) during the period of time any Rent is unpaid (without regard to whether notice thereof is given Lessee), (iii) during the time Lessee is in Breach of this Lease, or (iv) in the event that Lessee has been given 3 or more notices of separate Default, whether or not the Defaults are cured, during the 12 month period immediately preceding the exercise of the Option.

(b) The period of time within which an Option may be exercised shall not be extended or enlarged by reason of Lessee's inability to exercise an Option because of the provisions of Paragraph 39.4(a).

(c) An Option shall terminate and be of no further force or effect, notwithstanding Lessee's due and timely exercise of the Option, if, after such exercise and prior to the commencement of the extended term or completion of the purchase, (i) Lessee fails to pay Rent for a period of 30 days after such Rent becomes due (without any necessity of Lessor to give notice thereof), or (ii) if Lessee commits a Breach of this Lease.

40. Security Measures. Lessee hereby acknowledges that the Rent payable to Lessor hereunder does not include the cost of guard service or other security measures, and that Lessor shall have no obligation whatsoever to provide same. Lessee assumes all responsibility for the protection of the Premises, Lessee, its agents and invitees and their property from the acts of third parties.

41. Reservations. Lessor reserves the right: (i) to grant, without the consent or joinder of Lessee, such easements, rights and dedications that Lessor deems necessary, (ii) to cause the recordation of parcel maps and restrictions, and (iii) to create and/or install new utility raceways, so long as such easements, rights, dedications, maps, restrictions, and utility raceways do not unreasonably interfere with the use of the Premises by Lessee. Lessee agrees to sign any documents reasonably requested by Lessor to effectuate such rights.

42. Performance Under Protest. If at any time a dispute shall arise as to any amount or sum of money to be paid by one Party to the other under the provisions

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hereof, the Party against whom the obligation to pay the money is asserted shall have the right to make payment "under protest" and such payment shall not be regarded as a voluntary payment and there shall survive the right on the part of said Party to institute suit for recovery of such sum. If it shall be adjudged that there was no legal obligation on the part of said Party to pay such sum or any part thereof, said Party shall be entitled to recover such sum or so much thereof as it was not legally required to pay. A Party who does not initiate suit for the recovery of sums paid "under protest" within 6 months shall be deemed to have waived its right to protest such payment.

43. Authority; Multiple Parties; Execution.

(a) If either Party hereto is a corporation, trust, limited liability company, partnership, or similar entity, each individual executing this Lease on behalf of such entity represents and warrants that he or she is duly authorized to execute and deliver this Lease on its behalf. Each Party shall, within 30 days after request, deliver to the other Party satisfactory evidence of such authority.

(b) If this Lease is executed by more than one person or entity as "Lessee", each such person or entity shall be jointly and severally liable hereunder. It is agreed that any one of the named Lessees shall be empowered to execute any amendment to this Lease, or other document ancillary thereto and bind all of the named Lessees, and Lessor may rely on the same as if all of the named Lessees had executed such document.

(c) This Lease may be executed by the Parties in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

44. Conflict. Any conflict between the printed provisions of this Lease and the typewritten or handwritten provisions shall be controlled by the typewritten or handwritten provisions.

45. Offer. Preparation of this Lease by either party or their agent and submission of same to the other Party shall not be deemed an offer to lease to the other Party. This Lease is not intended to be binding until executed and delivered by all Parties hereto.

46. Amendments. This Lease may be modified only in writing, signed by the Parties in interest at the time of the modification. As long as they do not materially change Lessee's obligations hereunder, Lessee agrees to make such reasonable non-monetary modifications to this Lease as may be reasonably required by a Lender in connection with the obtaining of normal financing or refinancing of the Premises.

47. Waiver of Jury Trial. THE PARTIES HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING INVOLVING THE PROPERTY OR ARISING OUT OF THIS AGREEMENT.

48. Arbitration of Disputes. An Addendum requiring the Arbitration of all disputes between the Parties and/or Brokers arising out of this Lease ☐ is ☑ is not attached to this Lease.

49. Accessibility; Americans with Disabilities Act.

(a) The Premises:

☑ have not undergone an inspection by a Certified Access Specialist (CASp). Note: A Certified Access Specialist (CASp) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the subject premises, the commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CASp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the premises.

☐ have undergone an inspection by a Certified Access Specialist (CASp) and it was determined that the Premises met all applicable construction-related accessibility standards pursuant to California Civil Code §55.51 et seq. Lessee acknowledges that it received a copy of the inspection report at least 48 hours prior to executing this Lease and agrees to keep such report confidential.

☐ have undergone an inspection by a Certified Access Specialist (CASp) and it was determined that the Premises did not meet all applicable construction-related accessibility standards pursuant to California Civil Code §55.51 et seq. Lessee acknowledges that it received a copy of the inspection report at least 48 hours prior to executing this Lease and agrees to keep such report confidential except as necessary to complete repairs and corrections of violations of construction related accessibility standards.

In the event that the Premises have been issued an inspection report by a CASp the Lessor shall provide a copy of the disability access inspection certificate to Lessee within 7 days of the execution of this Lease.

(b) Since compliance with the Americans with Disabilities Act (ADA) and other state and local accessibility statutes are dependent upon Lessee's specific use of the Premises, Lessor makes no warranty or representation as to whether or not the Premises comply with ADA or any similar legislation. In the event that Lessee's use of the Premises requires modifications or additions to the Premises in order to be in compliance with ADA or other accessibility statutes, Lessee agrees to make any such necessary modifications and/or additions at Lessee's expense.

LESSOR AND LESSEE HAVE CAREFULLY READ AND REVIEWED THIS LEASE AND EACH TERM AND PROVISION CONTAINED HEREIN, AND BY THE EXECUTION OF THIS LEASE SHOW THEIR INFORMED AND VOLUNTARY CONSENT THERETO. THE PARTIES HEREBY AGREE THAT, AT THE TIME THIS LEASE IS EXECUTED, THE TERMS OF THIS LEASE ARE COMMERCIALLY REASONABLE AND EFFECTUATE THE INTENT AND PURPOSE OF LESSOR AND LESSEE WITH RESPECT TO THE PREMISES.

ATTENTION: NO REPRESENTATION OR RECOMMENDATION IS MADE BY AIR CRE OR BY ANY BROKER AS TO THE LEGAL SUFFICIENCY, LEGAL EFFECT, OR TAX CONSEQUENCES OF THIS LEASE OR THE TRANSACTION TO WHICH IT RELATES. THE PARTIES ARE URGED TO:

1. SEEK ADVICE OF COUNSEL AS TO THE LEGAL AND TAX CONSEQUENCES OF THIS LEASE.

2. RETAIN APPROPRIATE CONSULTANTS TO REVIEW AND INVESTIGATE THE CONDITION OF THE PREMISES. SAID INVESTIGATION SHOULD INCLUDE BUT NOT BE LIMITED TO: THE POSSIBLE PRESENCE OF HAZARDOUS SUBSTANCES, THE ZONING OF THE PREMISES, THE STRUCTURAL INTEGRITY, THE CONDITION OF THE ROOF AND OPERATING SYSTEMS, COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT AND THE SUITABILITY OF THE PREMISES FOR LESSEE'S INTENDED USE.

WARNING: IF THE PREMISES ARE LOCATED IN A STATE OTHER THAN CALIFORNIA, CERTAIN PROVISIONS OF THE LEASE MAY NEED TO BE REVISED TO COMPLY WITH THE LAWS OF THE STATE IN WHICH THE PREMISES ARE LOCATED.

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The parties hereto have executed this Lease at the place and on the dates specified above their respective signatures.

Executed at: Los Angeles, CA

On: 5-18-18

By LESSOR:

850-860 South Los Angeles Street LLC

By: _____

Name Printed: Steve Hirsh

Title: General Manager

Phone: 213-627-3754

Fax: 213-629-5484

Email: shirsh@cooperdesignspace.com

By: _____

Name Printed: _____

Title: _____

Phone: _____

Fax: _____

Email: _____

Address: _____

Federal ID No.: _____

BROKER

_____

Attn: _____

Title: _____

Address: _____

Phone: _____

Fax: _____

Email: _____

Federal ID No.: _____

Broker/Agent BRE License #: _____

Executed at: _____

On: 5-10-18

By LESSEE:

Bailey 44, LLC

By: _____

Name Printed: Joe Traboulsi

Title: Chief Operating Officer

Phone: 213-228-1930 ext. 221

Fax: _____

Email: joe@bailey44.com

By: _____

Name Printed: _____

Title: _____

Phone: _____

Fax: _____

Email: _____

Address: _____

Federal ID No.: _____

BROKER

_____

Attn: _____

Title: _____

Address: _____

Phone: _____

Fax: _____

Email: _____

Federal ID No.: _____

Broker/Agent BRE License #: _____

AIR CRE. 500 North Brand Blvd, Suite 900, Glendale, CA 91203, Tel 213-687-8777, Email contracts@aircre.com
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ADDENDUM TO AIR/CRE STANDARD
INDUSTRIAL/COMMERCIAL MULTI-TENANT LEASE - GROSS

ADDENDUM TO AIR/CRE STANDARD INDUSTRIAL/COMMERCIAL MULTI-TENANT LEASE – GROSS dated, **April 16, 2018** between, **850-860 South Los Angeles Street LLC**, a **Corporation** **("Lessor")** and **Bailey 44, LLC** **a(n) corporation** **("Lessee")** covering the premises commonly known as **860 South Los Angeles Street Suite 820**, Los Angeles, California (the **"Premises"**). The capitalized terms used in this Addendum but not defined shall have the definition set forth in the Lease. The provisions of this Addendum shall prevail over any inconsistent or conflicting provisions of the Lease and shall supplement the remaining provisions thereof.

50. Commencement Date.
The commencement of the Term and the payment of Base Rent and estimated monthly installments of Lessee's Share of Common Area Operating Expenses shall occur on **July 1, 2018** ("**Commencement Date**") and the Term shall end on the last day of the **May 31, 2020 (2)** full Lease Year after the Commencement Date ("**Expiration Date**"). . The period from the Possession Date to the Commencement Date shall be subject to the early occupancy terms as provided in Section 3.2 of the Lease. Lessor and Lessee shall confirm the Commencement Date in writing as soon as practical after the execution of this Lease, provided, however, that either party's failure to do so shall not otherwise affect the validity of or alter the obligations of either party to this Lease (see Exhibit "B"). If the Commencement Date occurs on a date other than the first day of a calendar month, then the term "**Lease Year**" as used herein shall mean a period of twelve (12) consecutive calendar months commencing on the first day of the calendar month immediately following the month in which the Commencement Date occurs and ending on the last day of the twelfth (12th) full calendar month thereafter. In such case, the first Lease Year shall also include the number of days between the Commencement Date and the first day of the calendar month immediately following such date. For example, if the Commencement Date is September 15, 2017, then the first Lease Year shall be the period from September 15, 2017 through September 30, 2018, the second Lease Year shall be from October 1, 2018 through September 30, 2019, and each succeeding Lease Year shall end on September 30th.

51. Base Rent. Base Rent is **seven thousand eight hundred 00/100 dollars ($7,800.00)** per month, payable on the first day of each month commencing on the Commencement Date, as adjusted below. If the Commencement Date occurs on a date other than the first day of a calendar month, then Lessee shall pay Lessor a pro rata share of Base Rent for the period from the Commencement Date to the first day of the calendar month immediately following the month in which the Commencement Date occurs, based upon the actual number of days between the Commencement Date and the first day of such immediately succeeding calendar month. The Base Rent shall be increased upon the commencement of the second Lease Year and on the first day of each Lease Year thereafter by four 00/100 percent (4%) of the previous month's Base Rent.

51a. Utilities: Electricity is included in rent. Lessee is responsible for telephone, internet, and cable service and all other services.

52. Vehicle Parking. Lessee acknowledges that there is no available employee or visitor parking.

53. Prohibited Uses. In no event shall Lessee conduct or allow the Premises to be used or occupied for, or permit any other party to conduct or allow the Premises to be used or occupied for any of the following Prohibited Uses: theater, auditorium, meeting hall or other place of assembly; automobile sales or repairs; bowling alley, pool hall or skating rink; bar serving alcoholic beverages; funeral parlor; massage parlor; marijuana dispensary hotel or lodging facilities; gun range; off track betting establishment (except incidental sales of state lottery tickets); a so-called "flea market" or other operation selling used or substantially discounted goods; a so-called "head shop"; marijuana dispensary; pawn shop; junk yard; bars, nightclub, discotheque or dance hall; billiard parlor; any auditorium, sports or entertainment facility (including, without, a karate or other martial arts facility, gymnasium, health club or physical fitness facility); medical facility; rehabilitation clinic for substance abuse; car wash; restaurant; amusement or game room arcade; or school (including without limitation, trade school or class sessions); recycling facility; any business or use which emits loud noise or sounds which are objectionable, or which create a fire, explosive or other hazard; manufacturing facility; warehouse (except warehouse use incidental to the Agreed Use); adult book store or similar store selling, exhibiting or delivering pornographic or obscene materials; any use which causes any insurer to cancel or reduce, or threaten to cancel or reduce, any insurance policy or coverage affecting the Premises; or any use by any governmental entity.

54. Additional Terms and Conditions Applicable to Assignment and Subletting.
(a) Notwithstanding anything contained herein to the contrary, this Lease may be assigned or the demised premises may be sublet, in whole or in part, without the consent of Lessor, to any corporation into or with which Lessee may be merged or consolidated; or to any entity owned and controlled by Lessee, which Lessee owns and controls, or which is under common ownership and control with Lessee, so long as such Assignee or sublease assumes the obligations of Lessee for the benefit of Lessor and has the same or greater net worth as the Lessee and the original Lessee shall remain primarily liable hereunder ("**Permitted Transfers**"). As used herein, the term "control" means ownership of at least fifty percent (50%) beneficial interest and the ability to control the management and decisions of such entity.

Initials

(b) If there are any Profits (as described below) from any assignment or subletting of any portion of the Premises, Lessee shall pay fifty percent (50%) of such Profits to Lessor as additional rent. Lessor's share of Profits shall be paid to Lessor within thirty (30) days after receipt thereof by Lessee and Lessee's recovery of the sum described in subparagraph (1) and (2) below. The payments of Profits to Lessor shall be made on a monthly basis as additional rent, subject to annual reconciliation on each anniversary date thereof. If the payments to Lessor under this Section during the twelve (12) months preceding each annual reconciliation exceed the amount of Profits determined on an annual basis, then Lessor shall refund to Lessee the amount of such overpayment or credit the overpayment against Lessee's future obligations under this Section, at Lessee's option. If Lessee has underpaid its obligations hereunder during the preceding twelve (12) months, Lessee shall immediately pay to Lessor the amount owing after the annual reconciliation. For purposes of this Section, **"Profits"** are defined as all cash or cash equivalent amounts and sums which Lessee receives from any assignee or subtenant directly attributable to the assignment or sublease of the Premises or any portion thereof (but not including any consideration for the sale of all or a portion of Lessee's business or personal property or any other transaction not in the nature of an assignment or sublease), less the sum of (1) costs and expenses reasonably incurred or paid by Lessee in connection with such assignment or sublease for leasing commissions, advertising costs and attorneys' fees and costs; and (2) the Basic Rent and additional rent pursuant to this Lease.

(c) The non-refundable deposit of $500.00 (the "**Transfer Fee**") is consideration for Lessor's considering and processing the request for consent. In the event that Lessor consents to the proposed assignment or sublease, the Transfer Fee shall also include reimbursement to Lessor of Lessor's expenses incurred in documentation of the proposed assignment if the assignment and consent are prepared on Lessor's standard forms. If the sublease of assignment transaction consented to requires preparation of documents other than Lessor's standard forms, Lessee shall reimburse to Lessor all actual costs incurred by Lessor in connection with the documentation of the assignment (or sublease) and consent including, without limitation, attorneys' fees incurred by Lessor.

55. Signage. Lessee shall be permitted to install one sign on the exterior of the Premises in accordance with the Lessor's sign criteria, upon Lessor's prior written approval. Lessee shall submit to Lessor three (3) copies of a detail plan of its sign to Lessor. Lessee shall obtain Lessor's written approval of such sign plan prior to manufacture and installation, which shall not be unreasonably withheld or delayed. At the end of the term of this Lease or any extension thereof, Lessee shall remove all signs, if applicable. Upon removal of the signs, Lessee shall repair the exterior walls, patch and paint the area where the sign was located with a color that will blend with the color of the adjacent exterior wall. Lessee shall not affix or maintain upon the glass panes or support of the show windows (or within 24 inches of any window), doors, or exterior walls of the Premises, any signs, advertising placards, names, insignia, trademarks, descriptive material or any other like items without having first received the written approval of Lessor as to the size, type, color, location, copy, nature and display qualities of any such item, where such approval shall not be unreasonably withheld or delayed. Lessee shall not affix any sign to the roof of the Premises. Lessee shall not utilize any advertising medium which can be heard or experienced outside the Premises, including, without limitation, flashing lights, search lights, loudspeakers, phonographs, radios or television. Lessee shall not display, paint or place any handbills, bumper stickers or other advertising devices on any vehicles parked in the Common Areas, nor shall Lessee distribute any handbills or other advertising devices at the Building or in the Common Areas.

56. Compliance with Covenants, Restriction and Building Code. Lessor makes no representation or warranties with respect to applicable covenants or restrictions of record, or applicable building codes, regulations or ordinances in effect on the Commencement Date. Lessor, however, warrants to Lessee that Lessor has no actual knowledge of any claim having been made at a governmental agency that a violation or violations of applicable building codes, regulations or ordinances exist regarding the Premises as of the Commencement Date. Lessee has had a right and obligation to inquire as to the covenants and restrictions of record and applicable building codes, regulations and ordinances affecting the Premises.

57. Lessor's Obligations. In the event Lessor is required by any governmental agency or body having jurisdiction to make repairs and/or improvements to the Premises or the building in which the Premises are located (the "**Building**"), including, but not limited to, repairs and/or improvements which are necessary to comply with "earthquake standards," Lessor shall have the right to access to the Premises, and the right to bring into and upon and through the Premises or any other party of the Building all material that may be required to make or perform such repairs and/or improvements without such work being deemed an eviction of Lessee. However, all such work shall be done in such a manner as to cause Lessee the least inconvenience reasonably practical. Further, if the cost and expense of the work to the Premises and to the Building over the term of the Lease exceeds $50,000 in the aggregate, Lessor shall have the right, at is sole option and upon ninety (90) days' written notice to Lessee, to terminate this Lease. Subject to the provisions of the immediately preceding sentence, Lessor agrees to maintain and repair the foundation and other structural components of the Premises, except for such repairs which are required by reason of the negligence or intentional acts of Lessee, its agents, servants, or employees.

_____
Initials

58. Lessor's Obligations with Respect to Repairs. During the Lease Term, Lessor shall be responsible for costs related to repairs to the structural portions of the building, the roof joists, the structural condition of the interior bearing walls and other structural supports of the Building unless such damage was caused by Lessee, its agents, employees or contractors.

59. No Right to Hold Over. Lessee shall not hold over in the Premises after the expiration or sooner termination of the Term without the express prior written consent of Lessor. Lessee shall indemnify, defend, protect and hold Lessor harmless from and against, any and all loss, cost, damage, liability and expense (including without limitation attorney's fees and costs) (collectively, "**Liabilities**") arising out of or in connection with any delay by Lessee in surrendering and vacating the Premises as required by this Lease, including, without limitation, any claims made by any succeeding lessee based on any delay, and any Liabilities arising out of or in connection with these claims. If possession of the Premises is not surrendered to Lessor on the expiration or sooner termination of the Lease Term, in addition to any other rights and remedies of Lessor hereunder, at law or in equity, Lessee shall pay to Lessor for each month or portion thereof following the expiration or sooner termination of the Lease Term during which Lessee retains possession of the Premises a sum equal to one hundred fifty (150%) percent of the then-current Base Rent, in addition to all other Additional Rent payable under this Lease. Lessor's acceptance of any such payment shall not constitute Lessor's consent to any holding over (which consent may only be granted expressly in writing) nor Lessor's waiver of any of its rights or remedies.

60. Liability of Lessor. As used in this Lease, the term "Lessor" means only the current owner or owners of the fee to the Premises, or the leasehold estate under a ground lease of the Premises, at the time in question. Each Lessor is obligated to perform the obligations of the Lessor under this Lease only during the time such Lessor owns such interest or title. Any Lessor who transfers its title or interest is relieved of all liability with respect to the obligations of Lessor under this Lease to be performed on or after the date of transfer. Lessor may transfer its interest in the Premises without the consent of Lessee and such transfer or subsequent transfer shall not be deemed a violation by Lessor of any term or condition of this Lease. Lessee agrees that in any action in connection with this Lease, Lessee will proceed only against Lessor and not against any partner, member, shareholder, officer, director, employee or agent of Lessor (collectively, the "**Affiliates**") (or of any entity to which Lessor may assign this Lease), or any of Lessor's or any such partner's Affiliates. Lessor and Lessor's Affiliates shall not be personally liable for the performance of Lessor's obligations under this Lease. If Lessee or Lessee's Affiliates acquire any rights or remedies against Lessor or Lessor's Affiliates (including, but not limited to, the right to satisfy a judgment), these rights and remedies shall be satisfied solely from Lessor's estate and interest in the Premises and not from any other property or assets of Lessor of Lessor's Affiliates. This Section shall be enforceable by Lessor and Lessor's Affiliates.

61. Non-Operation of Lessee's Business. Lessee shall not have the right to cease to conduct business in the Premises except in the following circumstances: (1) Lessee remodels the Premises which shall not exceed sixty (60) days unless approved by Lessor in writing, which consent shall not be unreasonably withheld; (2) holidays, for a period not to exceed five (5) days; or (3) force majeure. In the event that Lessee intends to exercise its right to temporarily cease to conduct business for one of the reasons set forth in the preceding sentence, Lessee shall provide written notice to Lessor thereof and shall continue to pay to Lessor the Base Rent, Additional rent and all other charges required under the terms of this Lease, and Lessee shall be responsible for paying for any additional insurance premium and/or any loss of coverage as a result of such closing of Lessee's business.

Initials

62. Notices. Section 23 of the Lease is hereby deleted in its entirety and the following is inserted in its place "Any notice, demand, document or other communication which any party is required or may desire to give, deliver or make to any other party shall be in writing, and may be personally delivered or given or made by United States registered or certified mail, return receipt requested, by overnight delivery service (e.g., Federal Express or other similar service) addressed as follows:

To Lessor:	850-860 SOUTH LOS ANGELES STREET LLC
	860 S. Los Angeles Street, Suite 900
	Los Angeles, CA 90014
With a copy to:	Bailey 44 LLC 4700 S. Boyle Ave
	Vernon, CA 90058
To Lessee:	At the Premises

Any party may designate a different address for itself by notice similarly given. Any notice, demand or document so given, delivered or made by United States Mail shall be deemed to have been given upon receipt or refusal of receipt. Any notice, demand or document delivered by overnight delivery service (e.g. Federal Express) shall be deemed complete upon actual delivery or attempted delivery provided such attempted delivery is made on a business day.

63. Recording. The Lease and any memorandum of the Lease shall not be recorded unless requested by Lessor. In the event Lessor determines that it desires to have a recorded memorandum of this Lease, upon notice thereof from Lessor to Lessee, Lessee shall execute, acknowledge and deliver to Lessor a short form memorandum of the Lease for recording purposes. In the event that a memorandum of this Lease has been recorded, upon termination of the Lease, Lessee shall execute such documents as reasonably requested by Lessor, in recordable form, to confirm the termination of this Lease.

64. Entry by Lessor Lessor and its agents and representatives shall at all reasonable times have the right to enter the Premises in order to: inspect the Premises; post notices of non-responsibility; protect the interest of Lessor in the Premises and the Project; show the Premises to prospective purchasers, lenders or tenants; perform its obligations and exercise its rights hereunder; and make repairs, improvements, alterations or additions to the Premises or the Building, or any portion thereof, as Lessor deems necessary or desirable and to do all things necessary in connection therewith, including, but not limited to, erecting scaffolding and other necessary structures. In connection with any such entry, Lessor shall endeavor to minimize, to the extent reasonably practicable, the interference with Lessee's business. Lessor shall have the right to use any and all means necessary to obtain entry to the Premises at any time in an emergency. Lessor's entry to the Premises shall not, under any circumstances, be deemed to be a forcible or unlawful entry into, or a detainer of, the Premises, or an eviction of Lessee from the Premises or any portion thereof and Lessee hereby waives any claim against Lessor or its agents or representatives for damages for any injury or inconvenience to or interference with Lessee's business or quiet enjoyment of the Premises.

65. Joint and Several Liability. All parties signing this Lease as Lessee shall be jointly and severally liable for all obligations of Lessee.

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Initials

66. Force Majeure If Lessor cannot perform any of its obligations due to events beyond Lessor's control, the time provided for performing such obligations shall be extended by a period of time equal to the duration of such events. Events beyond Lessor's control include, but are not limited to, acts of God, war, civil commotion, labor disputes, strikes, fire, flood or other casualty, shortages of labor or material, government regulation or restriction and weather conditions.

67. Execution of Lease. This Lease may be executed in counterparts and, when all counterpart documents are executed, the counterparts shall constitute a single binding instrument. Lessor's delivery of this Lease to Lessee shall not be deemed to be an offer to lease and shall not be binding upon either party until executed and delivered to both parties.

68. Survival All representations and warranties of Lessor and Lessee shall survive the termination of this Lease.

69. Relocation Right. Lessor may, upon not less than thirty (30) days prior written notice to Lessee, substitute for Premises space elsewhere in the Project similar in size as the Premises and the Lease shall be deemed modified so as to eliminate the Premises hereby leased and to substitute therefore such other premises. In such event, in all other respects the Lease shall remain in full force and effect according to its terms. In connection herewith, the costs of preparing such other premises for the Lessee's use shall be borne by the Lessor, and any of Lessee's reasonable costs of moving with respect thereto shall be paid by Lessor.

70. Americans with Disabilities Act. Lessee and Lessor hereby acknowledge that as of the date of this lease the Property has not undergone an inspection by a certified access specialist (a "CASP") related to the Americans

71. With Disabilities Act. Since compliance with the American with Disabilities Act (ADA) is dependent on Lessee's specific use of the Premises, Lessor makes no warranty or representation as to whether or not the Premises comply with ADA or any similar legislation. In the event that Lessee's use of the Premises requires modifications or additions to the Premises in order to be in ADA compliance, Lessee agrees to make any such necessary modifications and/or additions at Lessee's expense.

72. California Energy Disclosures. Pursuant to the provisions of Section 25402.10 of the Public Recourses Code, owners of non-residential property may be required to cause the building's energy usage data to be uploaded to the US Environmental Protection Agency's ENERGY STAR Portfolio Manager website. Lessee hereby grants consent for all utility companies to release Lessee's energy data for the Premises to the Lessor. In the event the energy provider requires further consent from Lessee, Lessee agrees to cooperate with Lessor, at no cost to Lessee, including executing a Lessor provided consent form granting the release of Lessee's energy data to the Lessor. Lessee agrees to execute such consent and deliver the signed consent to Lessor within five (5) business days from receipt.

73. Confidentiality. Lessee acknowledges and agrees that the terms of this Lease are confidential and constitute proprietary information of Lessor. Disclosure of the terms could adversely affect the ability of the Lessor to negotiate other leases and impair Lessor's relationship with other tenants. Accordingly, Lessee agrees that it and its partners, officers, directors, employees and attorney shall not intentionally and voluntarily disclose the terms and conditions of the Lease to any other tenant or apparent prospective tenant of the shopping center or any other party either directly or indirectly, without prior written consent of Lessor and it is understood and agreed that damages may be an inadequate remedy for the breach of this provision by Lessee and Lessor shall have the right to specific performance of this provision, injunctive relief to prevent its breach or continued breach, Lessee shall forfeit the security deposit and Lessor may terminate this Lease upon three (3) day written notice to Lessee.

Initials

74. Utility Raceways and Conduits.. Notwithstanding anything to the contrary contained in Sections 1.2(a) and 2.7 of the pre-printed Lease, all use of the utility raceways and conduits in the Building shall require Landlord approval.

75. Addendum Controlling. In the event that there is any conflict between the provisions contained in this Addendum to the Lease (paragraphs 51 through 73 and the provisions contained in the printed Lease form, the provision contained in this Addendum are controlling, further, all typewritten or handwritten interlineated amendments to the printed Lease are controlling over inconsistent provision of the printed Lease form, if any.

LANDLORD:

850-860 SOUTH LOS ANGELES STREET LLC

By:_____
Name: Steve Hirsh
Title: General Manager
Date: 5-18-18

TENANTS:

BAILEY 44, LLC

By:_____
Name: Joe Traboulsi
Title: COO
Date: 5-10-18

By:_____
Name:_____
Title_____

Date:_____

_____
Initials

EXHIBIT "A"

RULES AND REGULATIONS

Tenant agrees as follows:

Parking Rules:

1. Lessee shall not permit or allow any vehicles that belong to or are controlled by Lessee or Lessee's employees, suppliers, shippers, customers or invitees to be loaded or parked in areas than those designated by Lessor for such activities.

2. The maintenance, washing, waxing or cleaning of vehicles in the area or Common Areas is prohibited.

General Rules

1. Lessee shall not suffer or permit the obstruction of any Common Areas, including driveways, walkways and stairways;

2. All deliveries of shipments of any kind to and from the Premises, including loading and unloading of goods, shall be made only by way of the rear of the Premises or at any other reasonable location designated by Lessor and only at such reasonable times designated for such purposes by Lessor: trailers and/or trucks servicing the Premises shall remain parked in such areas that service Lessee's operations, but in no event shall such trailers or trucks remain parked in the Project overnight;

3. Any furniture, significant freight and equipment shall be moved into or out of the Building only with the Lessor's knowledge and consent, and subject to such reasonable limitations, techniques and timing, as may be designated by Lessor. Lessee shall be responsible for any damage to the Project arising from any such activity;

4. Garbage and refuse shall be kept in an adequate container so as not to be visible to the public, within the Premises, for collection at reasonable times specified by Lessor.

5. Lessee shall not burn trash or garbage in or about the Premises of the Project;

6. Lessee shall keep the areas immediately adjoining the Premises in the Project and at the rear of the Premises, if applicable, clean and free from dirt and rubbish caused by Lessee, its employees, agents, contractors, invitees and customers, and Lessee shall not place, suffer or permit any obstructions, advertising matter or merchandise in such areas;

7. Lessee shall not use the Common Area of the Project for business or promotional matter including displays, decorations or samples;

8. The following types of signs are strictly prohibited in the common areas and shall not be visible outside the Premises: a) Handwritten signs; b) Illuminated plastic face signs "cans"- or "boxes"; c) Portable signs; d) Signs on freestanding walls; e) Window signs; f) Pole signs; g) Signs made of paper, fabric, or sheet polyethylene; h) Animated, flashing, blinking, moving, rotating, or audible signs; j) Credit card signs or symbols; k) Formed or injection molded plastic signs. Temporary signs, graphics, or banners promoting special sales, promotions, events, etc. shall be limited to interior storefront areas only, and shall conform to all of the requirements for this type of display defined as part of this guideline. All shall be professionally made and approved by Lessor prior to posting;

9. No radio, television, phonograph or other similar devices, or aerial attached thereto shall be installed outside the Premises without first obtaining in each instance the Lessor's written

Initials

consent, and if consent were given, no such devices shall be used in a manner so as to be heard outside of the Premises;

10. Lessee shall not suffer or permit anything in or about the Premises or Building that causes excessive vibration. All equipment and machinery will be kept free of noise and vibrations which may be transmitted to any part of the walls or building in which the Premises are located or beyond the confines of the Premises;

11. No load will be placed on any floor of the Premises which exceeds the floor load, per square foot area which such floor area was designed to carry;

12. Lessee shall not employ any service or contractor for services or work to be performed in the building, except as approved by Lessor;

13. Lessee shall comply with all safety, fire protection and evacuation regulations established by Lessor or any applicable governmental agency;

14. No Lessee, employee, contractor or invitee shall go upon the roof of the Building unless approved by Lessor;

15. Lessee shall not use any method of heating or air conditioning other than as approved by Lessor;

16. Plumbing facilities shall not be used for any other purpose than that for which they are constructed; all lines shall be kept open and no foreign substances of any kind shall be thrown therein, nor shall Lessee install or cause to be installed any automatic garbage disposal equipment;

17. Lessee shall use, at Lessee's own cost a rodent, pest and vermin, exterminator contractor at such intervals as may be reasonably required;

18. Lessee shall not use, permit or suffer the use of any portion of the Premises as living, sleeping or lodging quarters;

19. No odors or vapors will be permitted or caused to emanate from the Premises;

20. No live animals will be kept on or within the Premises except if otherwise expressly provided under the Permitted Use;

21. Lessee will install and maintain at a readily available location within the Premises an ABC type, or equal, all purposes hand operated fire extinguisher containing a minimum capacity of two and one-half (2.5 lbs.) pounds or such other capacity as may be required by code or law;

23. Lessee will not install, suffer or permit to be installed or placed any cover, fascia, partition, decoration, alteration or improvement or the like over, upon or under the sprinkler heads within the Premises, the same to remain exposed at all times; see shall not suffer or permit smoking in areas reasonably designated by Lessor or by applicable governmental agencies as non-smoking areas;

24. Lessee shall see that the windows and doors of said leased are closed and securely locked before leaving the building and must observe strict care not to leave windows open when it rains and Lessee shall exercise extraordinary care and caution that all water faucets or water apparatus are entirely shut off before Lessee or Lessee's employees leave the building, and that all electricity, gas or air shall likewise be carefully shut off so as to prevent waste or damage, and for any default or carelessness the Lessee shall make good all injuries sustained by other tenants or occupants of the building or to the Lessor.

25. Lessee shall give prompt written notice of any accident or to defects in the plumbing, water pipes, electricity wires or heating apparatus, so that the same may be attended promptly.

Initials

26. The requirement of the Lessee will be attended to only upon application at the office of the building. Employee shall not perform any work nor do anything outside of their regular duties unless under special instruction from the office of the building.

27. No freight permitted in passenger elevators. No facilities or service will be maintained by Lessor during times building are closed except upon special written arrangement with Lessee and at the expense of Lessee (watchman, electricity, etc.) No children permitted in the premises unless in the immediate physical custody of parent.

28. **Extension Chords:**
Extension Cords may only be used from the outlet directly to the device.
Extension cords may not be strung or connected together.
Extension cords may not be strung or placed on or over fire sprinkler pipes.

_____
Initials

29. All electrical panels must have at least three feet of clearance in front of them. Storage of any materials such as fabrics, finished garments, paper goods, flammable liquids, or debris near an electric panel creates serious fire hazards. Anything restricting immediate access to the panels is prohibited.

30. No Trash or Debris may be left out in the Hallways. Please take your trash out at the end of each day after 5:00 pm do not leave any trash in the hallways or by the freight elevator during the day. All card board containers and boxes must be broken down flat before they are put out in the hallway to be thrown away. Open boxes in the hallways create a fire hazard.

31. No Wood Construction is Permitted in the Building without prior written permission.
No Wood Construction Materials are allowed in any Elevator in the Building.

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Initials

Lessor reserves and shall have the right to adopt and promulgate, from to time to time, reasonable written non-discriminatory rules and regulations and to amend supplemental rules and regulations applicable to the occupancy of the Building of which the Premises and the Common Areas are located within the Project.

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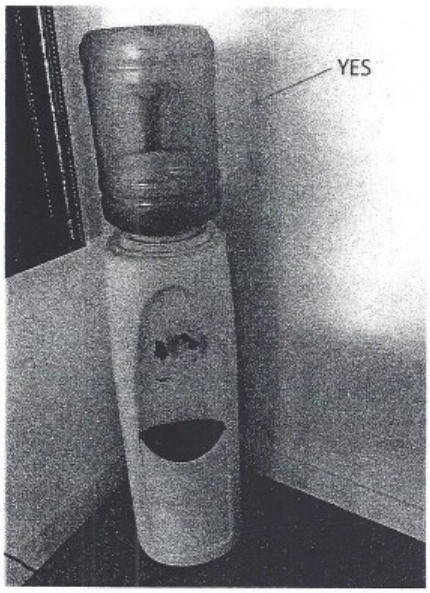
Initials

WATER DISPENSERS

ONLY APPROVED



All water coolers need to be free standing water dispensers. Use of 1 gallon, 3 gallon or 5 gallon bottles only.

This can be a water service or personal dispenser.

Picture of approved unit to the left.

No Connection to building plumbing supply or drain allowed.

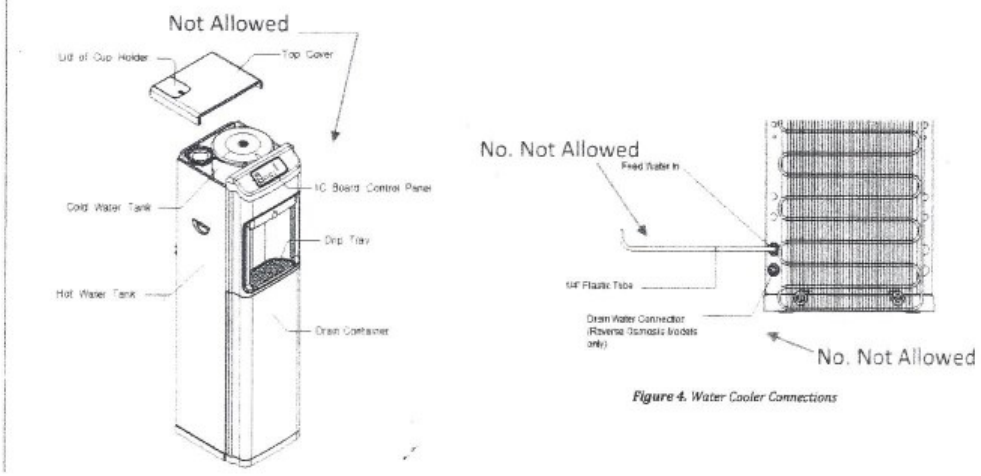
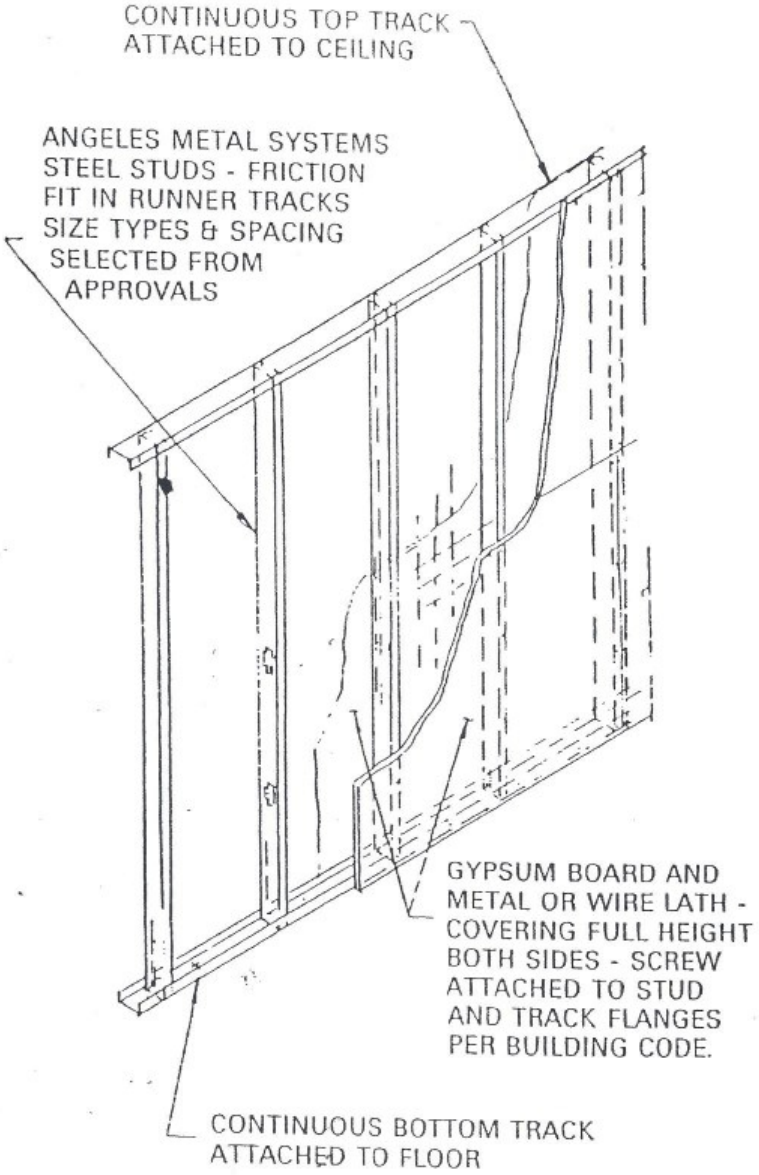


Figure 4. Water Cooler Connections

Initials _____

NON-BEARING CEILING HEIGHT INTERIOR PARTITION

(FOR WALLS BRACED TO STRUCTURE BELOW, SEE SHEET # 105)



DATA AND DETAILS ARE INTENDED FOR PRELIMINARY DESIGN. ANGELES METAL SYSTEMS MAKE NO WARRANTIES OR ASSURANCES REGARDING THEIR USE.

Initials

AIR COMMERCIAL REAL ESTATE ASSOCIATION
STANDARD INDUSTRIAL/COMMERCIAL
MULTI-TENANT LEASE - GROSS

1. **Basic Provisions ("Basic Provisions").**

1.1 **Parties:** This Lease ("Lease"), dated for reference purposes only January 17, 2013, is made by and between 45th Street, LLC, a California limited liability company ("Lessor") and Sister Sam, LLC, a California limited liability company, and Bailey 44, LLC, a Delaware limited liability company ("Lessee"), (collectively the "Parties", or individually a "Party").

1.2(a) **Premises:** That certain portion of the Project (as defined below), including all improvements therein or to be provided by Lessor under the terms of this Lease, commonly known by the street address of 4700 Boyle Avenue, Units B and D, located in the City of Vernon, County of Los Angeles, State of California, with zip code 90058, as outlined on Exhibit "A" attached hereto ("Premises") and generally described as (describe briefly the nature of the Premises): an approximately 42,206 square foot portion of a larger 401,587 square foot industrial building along with parking and yard as shown on the attached Exhibit "B"

In addition to Lessee's rights to use and occupy the Premises as hereinafter specified, Lessee shall have non-exclusive rights to any utility raceways of the building containing the Premises ("Building") and to the Common Areas (as defined in Paragraph 2.7 below), but shall not have any rights to the roof, or exterior walls of the Building or to any other buildings in the Project. The Premises, the Building, the Common Areas, the land upon which they are located, along with all other buildings and improvements thereon, are herein collectively referred to as the "Project." (See also Paragraph 2)

1.2(b) **Parking:** 55 spaces (see Exhibit "B") ~~unreserved vehicle parking spaces~~. (See also Paragraphs 2.6 and 53)

1.3 **Term:** 5 years and 2 months ("Original Term") commencing January 17, 2013 ("Commencement Date") and ending March 14, 2018 ("Expiration Date"). (See also Paragraph 3)

1.4 **Early Possession:** If the Premises are available Lessee may have non-exclusive possession of the Premises commencing upon execution of the Lease ("Early Possession Date"). (See also Paragraphs 3.2 and 3.3)

1.5 **Base Rent:** $20,000.00 per month ("Base Rent"), payable on the 15th day of each month commencing March 15, 2013. (See also Paragraphs 4 and 52)

☑ If this box is checked, there are provisions in this Lease for the Base Rent to be adjusted. See Paragraph 50

1.6 **Lessee's Share of Common Area Operating Expenses:** Sixty-five percent (65 %) ("Lessee's Share"). In the event that the size of the Premises and/or the Project are modified during the term of this Lease, Lessor shall recalculate Lessee's Share to reflect such modification.

1.7 **Base Rent and Other Monies Paid Upon Execution:**

(a) **Base Rent:** $20,000.00 for the period March 15, 2013 to April 14, 2013.

(b) **Common Area Operating Expenses:** $1,000.00 for the period March 15 to April 14, 2013.

(c) **Security Deposit:** $40,000.00 ("Security Deposit"). (See also Paragraph 5)

~~(d) Other: $ for~~

(e) **Total Due Upon Execution of this Lease:** $61,000.00

1.8 **Agreed Use:** design and manufacture of garments, general office use, and all allied legal uses. (See also Paragraph 6)

1.9 **Insuring Party.** Lessor is the "Insuring Party". (See also Paragraph 8)

1.10 **Real Estate Brokers:** (See also Paragraph 15 and 25)

(a) **Representation:** The following real estate brokers (the "Brokers") and brokerage relationships exist in this transaction (check applicable boxes):

☑ Lee & Associates®-Commerce, Inc. represents Lessor exclusively ("Lessor's Broker");

☑ Commercial Asset Group represents Lessee exclusively ("Lessee's Broker"); or

☐ _____ represents both Lessor and Lessee ("Dual Agency").

(b) **Payment to Brokers:** Upon execution and delivery of this Lease by both Parties, Lessor shall pay to the Brokers for the brokerage services rendered by the Brokers the fee agreed to in the attached separate written agreement ~~or if no such agreement is attached, the sum of _____ or _____% of the total Base Rent payable for the Original Term, the sum of _____ or _____ of the total Base Rent payable during any period of time that the Lessee occupies the Premises subsequent to the Original Term, and/or the sum of _____ or _____ % of the purchase price in the event that the Lessee or anyone affiliated with Lessee acquires from Lessor any rights to the Premises.~~

1.11 **Guarantor.** The obligations of the Lessee under this Lease are to be guaranteed by Sister Sam, LLC, a California limited liability company, and Bailey 44, LLC, a Delaware limited liability company ("Guarantor"). (See also Paragraph 37)

1.12 **Attachments.** Attached hereto are the following, all of which constitute a part of this Lease:

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☑ an Addendum consisting of Paragraphs 50 through 66;
☑ a site plan depicting the Premises (Exhibit "A");
☐ a site plan depicting the Project;
☐ a current set of the Rules and Regulations for the Project;
☐ a current set of the Rules and Regulations adopted by the owners' association;
☐ a Work Letter;
☑ other (specify): Guaranty of Lease, Property Information Sheet, Disclosure for Lease, and Exhibit "B"

2. **Premises.**

2.1 **Letting.** Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the Premises, for the term, at the rental, and upon all of the terms, covenants and conditions set forth in this Lease. While the approximate square footage of the Premises may have been used in the marketing of the Premises for purposes of comparison, the Base Rent stated herein is NOT tied to square footage and is not subject to adjustment should the actual size be determined to be different. **NOTE: Lessee is advised to verify the actual size prior to executing this Lease.**

2.2 **Condition.** Lessor shall deliver that portion of the Premises contained within the Building ("**Unit**") to Lessee broom clean and free of debris on the Commencement Date or the Early Possession Date, whichever first occurs ("**Start Date**"), and, so long as the required service contracts described in Paragraph 7.1(b) below are obtained by Lessee and in effect within thirty days following the Start Date, warrants that the existing electrical, plumbing, fire sprinkler, lighting, heating, ventilating and air conditioning systems ("**HVAC**"), loading doors, sump pumps, if any, and all other such elements in the Unit, other than those constructed by Lessee, shall be in good operating condition on said date, that the structural elements of the roof, bearing walls and foundation of the Unit shall be free of material defects, and that the Unit does not contain hazardous levels of any mold or fungi defined as toxic under applicable state or federal law. If a non-compliance with such warranty exists as of the Start Date, or if one of such systems or elements should malfunction or fail within the appropriate warranty period, Lessor shall, as Lessor's sole obligation with respect to such matter, except as otherwise provided in this Lease, promptly after receipt of written notice from Lessee setting forth with specificity the nature and extent of such non-compliance, malfunction or failure, rectify same at Lessor's expense. The warranty periods shall be as follows: (i) 6 months as to the HVAC systems, and (ii) 30 days as to the remaining systems and other elements of the Unit. If Lessee does not give Lessor the required notice within the appropriate warranty period, correction of any such non-compliance, malfunction or failure shall be the obligation of Lessee at Lessee's sole cost and expense (except for the repairs to the fire sprinkler systems, roof, foundations, and/or bearing walls - see Paragraph 7).

2.3 **Compliance.** Lessor warrants that to the best of its knowledge the improvements on the Premises and the Common Areas comply with the building codes that were in effect at the time that each such improvement, or portion thereof, was constructed, and also with all applicable laws, covenants or restrictions of record, regulations, and ordinances in effect on the Start Date ("**Applicable Requirements**"). Said warranty does not apply to the use to which Lessee will put the Premises, modifications which may be required by the Americans with Disabilities Act or any similar laws as a result of Lessee's use (see Paragraph 49), or to any Alterations or Utility Installations (as defined in Paragraph 7.3(a)) made or to be made by Lessee. **NOTE: Lessee is responsible for determining whether or not the Applicable Requirements, and especially the zoning are appropriate for Lessee's intended use, and acknowledges that past uses of the Premises may no longer be allowed.** If the Premises do not comply with said warranty, Lessor shall, except as otherwise provided, promptly after receipt of written notice from Lessee setting forth with specificity the nature and extent of such non-compliance, rectify the same at Lessor's expense. If Lessee does not give Lessor written notice of a non-compliance with this warranty within 6 months following the Start Date, correction of that non-compliance shall be the obligation of Lessee at Lessee's sole cost and expense. If the Applicable Requirements are hereafter changed so as to require during the term of this Lease the construction of an addition to or an alteration of the Unit, Premises and/or Building, the remediation of any Hazardous Substance, or the reinforcement or other physical modification of the Unit, Premises and/or Building ("**Capital Expenditure**"), Lessor and Lessee shall allocate the cost of such work as follows:

(a) Subject to Paragraph 2.3(c) below, if such Capital Expenditures are required as a result of the specific and unique use of the Premises by Lessee as compared with uses by tenants in general, Lessee shall be fully responsible for the cost thereof, provided, however, that if such Capital Expenditure is required during the last 2 years of this Lease and the cost thereof exceeds 6 months' Base Rent, Lessee may instead terminate this Lease unless Lessor notifies Lessee, in writing, within 10 days after receipt of Lessee's termination notice that Lessor has elected to pay the difference between the actual cost thereof and the amount equal to 6 months' Base Rent. If Lessee elects termination, Lessee shall immediately cease the use of the Premises which requires such Capital Expenditure and deliver to Lessor written notice specifying a termination date at least 90 days thereafter. Such termination date shall, however, in no event be earlier than the last day that Lessee could legally utilize the Premises without commencing such Capital Expenditure.

(b) If such Capital Expenditure is not the result of the specific and unique use of the Premises by Lessee (such as, governmentally mandated seismic modifications), then Lessor shall pay for such Capital Expenditure and Lessee shall only be obligated to pay, each month during the remainder of the term of this Lease or any extension thereof, on the date that on which the Base Rent is due, an amount equal to 1/144th of the portion of such costs reasonably attributable to the Premises. Lessee shall pay interest on the balance but may prepay its obligation at any time. If, however, such Capital Expenditure is required during the last 2 years of this Lease or if Lessor reasonably determines that it is not economically feasible to pay its share thereof, Lessor shall have the option to terminate this Lease upon 90 days prior written notice to Lessee unless Lessee notifies Lessor, in writing, within 10 days after receipt of Lessor's termination notice that Lessee will pay for such Capital Expenditure. If Lessor does not elect to terminate, and fails to tender its share of any such Capital Expenditure, Lessee may advance such funds and deduct same, with interest, from Rent until Lessor's share of such costs have been fully paid. If Lessee is unable to finance Lessor's share, or if the balance of the Rent due and payable for the remainder of this Lease is not sufficient to fully reimburse Lessee on an offset basis, Lessee shall have the right to terminate this Lease upon 30 days written notice to Lessor.

(c) Notwithstanding the above, the provisions concerning Capital Expenditures are intended to apply only to non-voluntary, unexpected, and new Applicable Requirements. If the Capital Expenditures are instead triggered by Lessee as a result of an actual or proposed change in use, change in intensity of use, or modification to the Premises then, and in that event, Lessee shall either: (i) immediately cease such changed use or intensity of use and/or take such other steps as may be necessary to eliminate the requirement for such Capital Expenditure, or (ii) complete such Capital Expenditure at its own expense. Lessee shall not have any right to terminate this Lease.

2.4 **Acknowledgements.** Lessee acknowledges that: (a) it has been given an opportunity to inspect and measure the Premises, (b) it has been advised by Lessor and/or Brokers to satisfy itself with respect to the size and condition of the Premises (including but not limited to the electrical, HVAC and fire sprinkler systems, security, environmental aspects, and compliance with Applicable Requirements and the Americans with Disabilities Act), and their suitability for Lessee's intended use, (c) Lessee has made such investigation as it deems necessary with reference to such matters and assumes all responsibility therefor as the same relate to its occupancy of the Premises, (d) it is not relying on any representation as to the size of the Premises made by Brokers or Lessor, (e) the square footage of the Premises was not material to Lessee's decision to lease the Premises and pay the Rent stated herein, and (f) neither Lessor, Lessor's agents, nor Brokers have made any oral or written representations or warranties with respect to said matters other than as set forth in this Lease. In addition, Lessor acknowledges that: (i) Brokers have made no representations, promises or warranties concerning Lessee's ability to honor the Lease or suitability to occupy the Premises, and (ii) it is Lessor's sole responsibility to

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investigate the financial capability and/or suitability of all proposed tenants.

~~2.5 **Lessee as Prior Owner/Occupant.** The warranties made by Lessor in Paragraph 2 shall be of no force or effect if immediately prior to the Start Date Lessee was the owner or occupant of the Premises. In such event, Lessee shall be responsible for any necessary corrective work.~~

2.6 **Vehicle Parking.** Lessee shall be entitled to use the number of Parking Spaces specified in Paragraph 1.2(b) on those portions of the Common Areas designated from time to time by Lessor for parking. Lessee shall not use more parking spaces than said number. Said parking spaces shall be used for parking by vehicles no larger than full-size passenger automobiles, vans or pick-up trucks, herein called **"Permitted Size Vehicles."** Lessor may regulate the loading and unloading of vehicles by adopting Rules and Regulations as provided in Paragraph 2.9. No vehicles other than Permitted Size Vehicles may be parked in the Common Area without the prior written permission of Lessor. In addition:

(a) Lessee shall not permit or allow any vehicles that belong to or are controlled by Lessee or Lessee's employees, suppliers, shippers, customers, contractors or invitees to be loaded, unloaded, or parked in areas other than those designated by Lessor for such activities.

(b) Lessee shall not service or store any vehicles in the Common Areas.

(c) If Lessee permits or allows any of the prohibited activities described in this Paragraph 2.6, then Lessor shall have the right, without notice, in addition to such other rights and remedies that it may have, to remove or tow away the vehicle involved and charge the cost to Lessee, which cost shall be immediately payable upon demand by Lessor.

2.7 **Common Areas - Definition.** The term **"Common Areas"** is defined as all areas and facilities outside the Premises and within the exterior boundary line of the Project and interior utility raceways and installations within the Unit that are provided and designated by the Lessor from time to time for the general non-exclusive use of Lessor, Lessee and other tenants of the Project and their respective employees, suppliers, shippers, customers, contractors and invitees, including parking areas, loading and unloading areas, trash areas, roadways, walkways, driveways and landscaped areas.

2.8 **Common Areas - Lessee's Rights.** Lessor grants to Lessee, for the benefit of Lessee and its employees, suppliers, shippers, contractors, customers and invitees, during the term of this Lease, the non-exclusive right to use, in common with others entitled to such use, the Common Areas as they exist from time to time, subject to any rights, powers, and privileges reserved by Lessor under the terms hereof or under the terms of any rules and regulations or restrictions governing the use of the Project. Under no circumstances shall the right herein granted to use the Common Areas be deemed to include the right to store any property, temporarily or permanently, in the Common Areas. Any such storage shall be permitted only by the prior written consent of Lessor or Lessor's designated agent, which consent may be revoked at any time. In the event that any unauthorized storage shall occur, then Lessor shall have the right, without notice, in addition to such other rights and remedies that it may have, to remove the property and charge the cost to Lessee, which cost shall be immediately payable upon demand by Lessor.

2.9 **Common Areas - Rules and Regulations.** Lessor or such other person(s) as Lessor may appoint shall have the exclusive control and management of the Common Areas and shall have the right, from time to time, to establish, modify, amend and enforce reasonable rules and regulations **("Rules and Regulations")** for the management, safety, care, and cleanliness of the grounds, the parking and unloading of vehicles and the preservation of good order, as well as for the convenience of other occupants or tenants of the Building and the Project and their invitees. Lessee agrees to abide by and conform to all such Rules and Regulations, and shall use its best efforts to cause its employees, suppliers, shippers, customers, contractors and invitees to so abide and conform. Lessor shall not be responsible to Lessee for the non-compliance with said Rules and Regulations by other tenants of the Project.

2.10 **Common Areas - Changes.** Lessor shall have the right, in Lessor's sole discretion, from time to time:

(a) To make changes to the Common Areas, including, without limitation, changes in the location, size, shape and number of driveways, entrances, parking spaces, parking areas, loading and unloading areas, ingress, egress, direction of traffic, landscaped areas, walkways and utility raceways;

(b) To close temporarily any of the Common Areas for maintenance purposes so long as reasonable access to the Premises remains available;

(c) To designate other land outside the boundaries of the Project to be a part of the Common Areas;

(d) To add additional buildings and improvements to the Common Areas;

(e) To use the Common Areas while engaged in making additional improvements, repairs or alterations to the Project, or any portion thereof; and

(f) To do and perform such other acts and make such other changes in, to or with respect to the Common Areas and Project as Lessor may, in the exercise of sound business judgment, deem to be appropriate.

3. **Term.**

3.1 **Term.** The Commencement Date, Expiration Date and Original Term of this Lease are as specified in Paragraph 1.3.

3.2 **Early Possession.** Any provision herein granting Lessee Early Possession of the Premises is subject to and conditioned upon the Premises being available for such possession prior to the Commencement Date. Any grant of Early Possession only conveys a non-exclusive right to occupy the Premises. If Lessee totally or partially occupies the Premises prior to the Commencement Date, the obligation to pay Base Rent shall be abated for the period of such Early Possession. All other terms of this Lease (including but not limited to the obligations to pay Lessee's Share of Common Area Operating Expenses, Real Property Taxes and insurance premiums and to maintain the Premises) shall be in effect during such period. Any such Early Possession shall not affect the Expiration Date.

3.3 **Delay In Possession.** Lessor agrees to use its best commercially reasonable efforts to deliver possession of the Premises to Lessee by the Commencement Date. If, despite said efforts, Lessor is unable to deliver possession by such date, Lessor shall not be subject to any liability therefor, nor shall such failure affect the validity of this Lease or change the Expiration Date. Lessee shall not, however, be obligated to pay Rent or perform its other obligations until Lessor delivers possession of the Premises and any period of rent abatement that Lessee would otherwise have enjoyed shall run from the date of delivery of possession and continue for a period equal to what Lessee would otherwise have enjoyed under the terms hereof, but minus any days of delay caused by the acts or omissions of Lessee. If possession is not delivered within 60 days after the Commencement Date, as the same may be extended under the terms of any Work Letter executed by Parties, Lessee may, at its option, by notice in writing within 10 days after the end of such 60 day period, cancel this Lease, in which event the Parties shall be discharged from all obligations hereunder. If such written notice is not received by Lessor within said 10 day period, Lessee's right to cancel shall terminate. If possession of the Premises is not delivered within 120 days after the Commencement Date, this Lease shall terminate unless other agreements are reached between Lessor and Lessee, in writing.

3.4 **Lessee Compliance.** Lessor shall not be required to tender possession of the Premises to Lessee until Lessee complies with its obligation to provide evidence of insurance (Paragraph 8.5). Pending delivery of such evidence, Lessee shall be required to perform all of its obligations under this Lease from and after the Start Date, including the payment of Rent, notwithstanding Lessor's election to withhold possession pending receipt of such evidence of insurance. Further, if Lessee is required to perform any other conditions prior to or concurrent with the Start Date, the Start Date shall occur but Lessor may elect to withhold possession until such conditions are satisfied.

4. **Rent.**

4.1. **Rent Defined.** All monetary obligations of Lessee to Lessor under the terms of this Lease (except for the Security Deposit) are

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deemed to be rent ("**Rent**").

4.2 **Common Area Operating Expenses**". Lessee shall pay to Lessor during the term hereof, in addition to the Base Rent, Lessee's Share (as specified in Paragraph 1.6) of all Common Area Operating Expenses, as hereinafter defined, during each calendar year of the term of this Lease, in accordance with the following provisions:

(a) The following costs relating to the ownership and operation of the Project are defined as "**Common Area Operating Expenses**" :

(i) Costs relating to the operation, repair and maintenance, in neat, clean, good order and condition, but not the replacement (see subparagraph (e)), of the following:

(aa) The Common Areas and Common Area improvements, including parking areas, loading and unloading areas, trash areas, roadways, parkways, walkways, driveways, landscaped areas, bumpers, irrigation systems, Common Area lighting facilities, fences and gates, elevators, roofs, exterior walls of the buildings, building systems and roof drainage systems.

~~(bb) Exterior signs and any tenant directories.~~

(cc) Any fire sprinkler systems.

~~(dd) All other areas and improvements that are within the exterior boundaries of the Project but outside of the Premises and/or any other space occupied by a tenant.~~

(ii) The cost of water, gas, electricity (*see also Paragraph 66*) and telephone to service the Common Areas and any utilities not separately metered.

(iii) The cost of trash disposal, pest control services, property management, security services, owner's association dues and fees, the cost to repaint the exterior of any structures and the cost of any environmental inspections.

~~(iv) Reserves set aside for maintenance and repair of Common Areas and Common Area equipment.~~

(v) Any increase above the Base Real Property Taxes (as defined in Paragraph 10).

(vi) Any "Insurance Cost Increase" (as defined in Paragraph 8).

~~(vii) Any deductible portion of an insured loss concerning the Building or the Common Areas.~~

~~(viii) Auditors', accountants' and attorneys' fees and costs related to the operation, maintenance, repair and replacement of the Project.~~

~~(ix) The cost of any capital improvement to the Building or the Project not covered under the provisions of Paragraph 2.3 provided, however, that Lessor shall allocate the cost of any such capital improvement over a 12 year period and Lessee shall not be required to pay more than Lessee's Share of 1/144th of the cost of such capital improvement in any given month.~~

(x) The cost of any other services to be provided by Lessor that are stated elsewhere in this Lease to be a Common Area Operating Expense.

(b) Any Common Area Operating Expenses and Real Property Taxes that are specifically attributable to the Unit, the Building or to any other building in the Project or to the operation, repair and maintenance thereof, shall be allocated entirely to such Unit, Building, or other building. However, any Common Area Operating Expenses and Real Property Taxes that are not specifically attributable to the Building or to any other building or to the operation, repair and maintenance thereof, shall be equitably allocated by Lessor to all buildings in the Project.

(c) The inclusion of the improvements, facilities and services set forth in Subparagraph 4.2(a) shall not be deemed to impose an obligation upon Lessor to either have said improvements or facilities or to provide those services unless the Project already has the same, Lessor already provides the services, or Lessor has agreed elsewhere in this Lease to provide the same or some of them.

(d) Lessee's Share of Common Area Operating Expenses is payable monthly on the same day as the Base Rent is due hereunder. The amount of such payments shall be based on Lessor's estimate of the annual Common Area Operating Expenses. Within 60 days after written request (but not more than once each year) Lessor shall deliver to Lessee a reasonably detailed statement showing Lessee's Share of the actual Common Area Operating Expenses for the preceding year. If Lessee's payments during such year exceed Lessee's Share, Lessor shall credit the amount of such over-payment against Lessee's future payments. If Lessee's payments during such year were less than Lessee's Share, Lessee shall pay to Lessor the amount of the deficiency within 10 days after delivery by Lessor to Lessee of the statement.

(e) Common Area Operating Expenses shall not include the cost of replacing equipment or capital components such as the roof, foundations, exterior walls or Common Area capital improvements, such as the parking lot paving, elevators, fences that have a useful life for accounting purposes of 5 years or more.

(f) Common Area Operating Expenses shall not include any expenses paid by any tenant directly to third parties, or as to which Lessor is otherwise reimbursed by any third party, other tenant, or insurance proceeds.

4.3 **Payment.** Lessee shall cause payment of Rent to be received by Lessor in lawful money of the United States, without offset or deduction (except as specifically permitted in this Lease), on or before the day on which it is due. All monetary amounts shall be rounded to the nearest whole dollar. In the event that any statement or invoice prepared by Lessor is inaccurate such inaccuracy shall not constitute a waiver and Lessee shall be obligated to pay the amount set forth in this Lease. Rent for any period during the term hereof which is for less than one full calendar month shall be prorated based upon the actual number of days of said month. Payment of Rent shall be made to Lessor at its address stated herein or to such other persons or place as Lessor may from time to time designate in writing. Acceptance of a payment which is less than the amount then due shall not be a waiver of Lessor's rights to the balance of such Rent, regardless of Lessor's endorsement of any check so stating. In the event that any check, draft, or other instrument of payment given by Lessee to Lessor is dishonored for any reason, Lessee agrees to pay to Lessor the sum of $25 in addition to any Late Charge and Lessor, at its option, may require all future Rent be paid by cashier's check. Payments will be applied first to accrued late charges and attorney's fees, second to accrued interest, then to Base Rent and Common Area Operating Expenses, and any remaining amount to any other outstanding charges or costs.

5. **Security Deposit**. Lessee shall deposit with Lessor upon execution hereof the Security Deposit as security for Lessee's faithful performance of its obligations under this Lease. If Lessee fails to pay Rent, or otherwise Defaults under this Lease, Lessor may use, apply or retain all or any portion of said Security Deposit for the payment of any amount already due Lessor, for Rents which will be due in the future, and/ or to reimburse or compensate Lessor for any liability, expense, loss or damage which Lessor may suffer or incur by reason thereof. If Lessor uses or applies all or any portion of the Security Deposit, Lessee shall within 10 days after written request therefor deposit monies with Lessor sufficient to restore said Security Deposit to the full amount required by this Lease. If the Base Rent increases during the term of this Lease, Lessee shall, upon written request from Lessor, deposit additional monies with Lessor so that the total amount of the Security Deposit shall at all times bear the same proportion to the increased Base Rent as the initial Security Deposit bore to the initial Base Rent. Should the Agreed Use be amended to accommodate a material change in the business of Lessee or to accommodate a sublessee or assignee, Lessor shall have the right to increase the Security Deposit to the extent necessary, in Lessor's reasonable judgment, to account for any increased wear and tear that the Premises may suffer as a result thereof. If a change in control of Lessee occurs during this Lease and following such change the financial condition of Lessee is, in Lessor's reasonable judgment, significantly reduced, Lessee shall deposit such additional monies with Lessor as shall be sufficient to cause the Security Deposit to be at a commercially reasonable level based on such change in financial condition. Lessor shall not be required to keep the Security Deposit separate from its general accounts. Within ~~90~~ *30* days after the expiration or termination of this Lease, Lessor shall return that portion of the Security Deposit not used or applied by Lessor. No part of the Security Deposit shall be considered to be held in trust, to bear interest or to be prepayment for any monies to be paid

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by Lessee under this Lease.

6. **Use.**

6.1 **Use.** Lessee shall use and occupy the Premises only for the Agreed Use, or any other legal use which is reasonably comparable thereto, and for no other purpose. Lessee shall not use or permit the use of the Premises in a manner that is unlawful, creates damage, waste or a nuisance, or that disturbs occupants of or causes damage to neighboring premises or properties. Other than guide, signal and seeing eye dogs, Lessee shall not keep or allow in the Premises any pets, animals, birds, fish, or reptiles. Lessor shall not unreasonably withhold or delay its consent to any written request for a modification of the Agreed Use, so long as the same will not impair the structural integrity of the Building or the mechanical or electrical systems therein, and/or is not significantly more burdensome to the Project. If Lessor elects to withhold consent, Lessor shall within 7 days after such request give written notification of same, which notice shall include an explanation of Lessor's objections to the change in the Agreed Use.

6.2 **Hazardous Substances.**

(a) **Reportable Uses Require Consent.** The term **"Hazardous Substance"** as used in this Lease shall mean any product, substance, or waste whose presence, use, manufacture, disposal, transportation, or release, either by itself or in combination with other materials expected to be on the Premises, is either: (i) potentially injurious to the public health, safety or welfare, the environment or the Premises, (ii) regulated or monitored by any governmental authority, or (iii) a basis for potential liability of Lessor to any governmental agency or third party under any applicable statute or common law theory. Hazardous Substances shall include, but not be limited to, hydrocarbons, petroleum, gasoline, and/or crude oil or any products, by-products or fractions thereof. Lessee shall not engage in any activity in or on the Premises which constitutes a Reportable Use of Hazardous Substances without the express prior written consent of Lessor and timely compliance (at Lessee's expense) with all Applicable Requirements. **"Reportable Use"** shall mean (i) the installation or use of any above or below ground storage tank, (ii) the generation, possession, storage, use, transportation, or disposal of a Hazardous Substance that requires a permit from, or with respect to which a report, notice, registration or business plan is required to be filed with, any governmental authority, and/or (iii) the presence at the Premises of a Hazardous Substance with respect to which any Applicable Requirements requires that a notice be given to persons entering or occupying the Premises or neighboring properties. Notwithstanding the foregoing, Lessee may use any ordinary and customary materials reasonably required to be used in the normal course of the Agreed Use, ordinary office supplies (copier toner, liquid paper, glue, etc.) and common household cleaning materials, so long as such use is in compliance with all Applicable Requirements, is not a Reportable Use, and does not expose the Premises or neighboring property to any meaningful risk of contamination or damage or expose Lessor to any liability therefor. In addition, Lessor may condition its consent to any Reportable Use upon receiving such additional assurances as Lessor reasonably deems necessary to protect itself, the public, the Premises and/or the environment against damage, contamination, injury and/or liability, including, but not limited to, the installation (and removal on or before Lease expiration or termination) of protective modifications (such as concrete encasements) and/or increasing the Security Deposit.

(b) **Duty to Inform Lessor.** If Lessee knows, or has reasonable cause to believe, that a Hazardous Substance has come to be located in, on, under or about the Premises, other than as previously consented to by Lessor, Lessee shall immediately give written notice of such fact to Lessor, and provide Lessor with a copy of any report, notice, claim or other documentation which it has concerning the presence of such Hazardous Substance.

(c) **Lessee Remediation.** Lessee shall not cause or permit any Hazardous Substance to be spilled or released in, on, under, or about the Premises (including through the plumbing or sanitary sewer system) and shall promptly, at Lessee's expense,comply with all Applicable Requirements and take all investigatory and/or remedial action reasonably recommended, whether or not formally ordered or required, for the cleanup of any contamination of, and for the maintenance, security and/or monitoring of the Premises or neighboring properties, that was caused or materially contributed to by Lessee, or pertaining to or involving any Hazardous Substance brought onto the Premises during the term of this Lease, by or for Lessee, or any third party.

(d) **Lessee Indemnification.** Lessee shall indemnify, defend and hold Lessor, its agents, employees, lenders and ground lessor, if any, harmless from and against any and all loss of rents and/or damages, liabilities, judgments, claims, expenses, penalties, and attorneys' and consultants' fees arising out of or involving any Hazardous Substance brought onto the Premises by or for Lessee, or any third party (provided, however, that Lessee shall have no liability under this Lease with respect to underground migration of any Hazardous Substance under the Premises from areas outside of the Project not caused or contributed to by Lessee). Lessee's obligations shall include, but not be limited to, the effects of any contamination or injury to person, property or the environment created or suffered by Lessee, and the cost of investigation, removal, remediation, restoration and/or abatement, and shall survive the expiration or termination of this Lease. No termination, cancellation or release agreement entered into by Lessor and Lessee shall release Lessee from its obligations under this Lease with respect to Hazardous Substances, unless specifically so agreed by Lessor in writing at the time of such agreement.

(e) **Lessor Indemnification.** Except as otherwise provided in paragraph 8.7, Lessor and its successors and assigns shall indemnify, defend, reimburse and hold Lessee, its employees and lenders, harmless from and against any and all environmental damages, including the cost of remediation, which suffered as a direct result of Hazardous Substances on the Premises prior to Lessee taking possession or which are caused by the gross negligence or willful misconduct of Lessor, its agents or employees. Lessor's obligations, as and when required by the Applicable Requirements, shall include, but not be limited to, the cost of investigation, removal, remediation, restoration and/or abatement, and shall survive the expiration or termination of this Lease.

(f) **Investigations and Remediations.** Lessor shall retain the responsibility and pay for any investigations or remediation measures required by governmental entities having jurisdiction with respect to the existence of Hazardous Substances on the Premises prior to Lessee taking possession, unless such remediation measure is required as a result of Lessee's use (including "Alterations", as defined in paragraph 7.3(a) below) of the Premises, in which event Lessee shall be responsible for such payment. Lessee shall cooperate fully in any such activities at the request of Lessor, including allowing Lessor and Lessor's agents to have reasonable access to the Premises at reasonable times in order to carry out Lessor's investigative and remedial responsibilities.

(g) **Lessor Termination Option.** If a Hazardous Substance Condition (see Paragraph 9.1(e)) occurs during the term of this Lease, unless Lessee is legally responsible therefor (in which case Lessee shall make the investigation and remediation thereof required by the Applicable Requirements and this Lease shall continue in full force and effect, but subject to Lessor's rights under Paragraph 6.2(d) and Paragraph 13), Lessor may, at Lessor's option, either (i) investigate and remediate such Hazardous Substance Condition, if required, as soon as reasonably possible at Lessor's expense, in which event this Lease shall continue in full force and effect, or (ii) if the estimated cost to remediate such condition exceeds 12 times the then monthly Base Rent or $100,000, whichever is greater, give written notice to Lessee, within 30 days after receipt by Lessor of knowledge of the occurrence of such Hazardous Substance Condition, of Lessor's desire to terminate this Lease as of the date 60 days following the date of such notice. In the event Lessor elects to give a termination notice, Lessee may, within 10 days thereafter, give written notice to Lessor of Lessee's commitment to pay the amount by which the cost of the remediation of such Hazardous Substance Condition exceeds an amount equal to 12 times the then monthly Base Rent or $100,000, whichever is greater. Lessee shall provide Lessor with said funds or satisfactory assurance thereof within 30 days following such commitment. In such event, this Lease shall continue in full force and effect, and Lessor shall proceed to make such remediation as soon as reasonably possible after the required funds are available. If Lessee does not give such notice and provide the required funds or assurance thereof within the time provided, this Lease shall terminate as of the date specified in Lessor's notice of termination.

6.3 **Lessee's Compliance with Applicable Requirements.** Except as otherwise provided in this Lease, Lessee shall, at Lessee's

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sole expense, fully, diligently and in a timely manner, materially comply with all Applicable Requirements, the requirements of any applicable fire insurance underwriter or rating bureau, and the recommendations of Lessor's engineers and/or consultants which relate in any manner to such Requirements, without regard to whether said Requirements are now in effect or become effective after the Start Date. Lessee shall, within 10 days after receipt of Lessor's written request, provide Lessor with copies of all permits and other documents, and other information evidencing Lessee's compliance with any Applicable Requirements specified by Lessor, and shall immediately upon receipt, notify Lessor in writing (with copies of any documents involved) of any threatened or actual claim, notice, citation, warning, complaint or report pertaining to or involving the failure of Lessee or the Premises to comply with any Applicable Requirements. Likewise, Lessee shall immediately give written notice to Lessor of: (i) any water damage to the Premises and any suspected seepage, pooling, dampness or other condition conducive to the production of mold; or (ii) any mustiness or other odors that might indicate the presence of mold in the Premises.

6.4 **Inspection; Compliance.** Lessor and Lessor's **"Lender"** (as defined in Paragraph 30) and consultants shall have the right to enter into Premises at any time, in the case of an emergency, and otherwise at reasonable times after reasonable notice, for the purpose of inspecting the condition of the Premises and for verifying compliance by Lessee with this Lease. The cost of any such inspections shall be paid by Lessor, unless a violation of Applicable Requirements, or a Hazardous Substance Condition (see Paragraph 9.1) is found to exist or be imminent, or the inspection is requested or ordered by a governmental authority. In such case, Lessee shall upon request reimburse Lessor for the cost of such inspection, so long as such inspection is reasonably related to the violation or contamination. In addition, Lessee shall provide copies of all relevant material safety data sheets **(MSDS)** to Lessor within 10 days of the receipt of written request therefor.

7. **Maintenance; Repairs; Utility Installations; Trade Fixtures and Alterations.**

7.1 **Lessee's Obligations.**

(a) **In General.** Subject to the provisions of Paragraph 2.2 (Condition), 2.3 (Compliance), 6.3 (Lessee's Compliance with Applicable Requirements), 7.2 (Lessor's Obligations), 9 (Damage or Destruction), and 14 (Condemnation), Lessee shall, at Lessee's sole expense, keep the Premises, Utility Installations (intended for Lessee's exclusive use, no matter where located), and Alterations in good order, condition and repair (whether or not the portion of the Premises requiring repairs, or the means of repairing the same, are reasonably or readily accessible to Lessee, and whether or not the need for such repairs occurs as a result of Lessee's use, any prior use, the elements or the age of such portion of the Premises), including, but not limited to, all equipment or facilities, such as plumbing, HVAC equipment, electrical, lighting facilities, boilers, pressure vessels, fixtures, interior walls, interior surfaces of exterior walls, ceilings, floors, windows, doors, plate glass, and skylights but excluding any items which are the responsibility of Lessor pursuant to Paragraph 7.2. Lessee, in keeping the Premises in good order, condition and repair, shall exercise and perform good maintenance practices, specifically including the procurement and maintenance of the service contracts required by Paragraph 7.1(b) below. Lessee's obligations shall include restorations, replacements or renewals when necessary to keep the Premises and all improvements thereon or a part thereof in good order, condition and state of repair.

(b) **Service Contracts.** Lessee shall, at Lessee's sole expense, procure and maintain contracts, with copies to Lessor, in customary form and substance for, and with contractors specializing and experienced in the maintenance of the following equipment and improvements, if any, if and when installed on the Premises: (i) HVAC equipment, (ii) boiler and pressure vessels, and (iii) clarifiers. However, Lessor reserves the right, upon notice to Lessee, to procure and maintain any or all of such service contracts, and Lessee shall reimburse Lessor, upon demand, for the cost thereof.

(c) **Failure to Perform.** If Lessee fails to perform Lessee's obligations under this Paragraph 7.1, Lessor may enter upon the Premises after 10 days' prior written notice to Lessee (except in the case of an emergency, in which case no notice shall be required), perform such obligations on Lessee's behalf, and put the Premises in good order, condition and repair, and Lessee shall promptly pay to Lessor a sum equal to 115% of the cost thereof.

(d) **Replacement.** Subject to Lessee's indemnification of Lessor as set forth in Paragraph 8.7 below, and without relieving Lessee of liability resulting from Lessee's failure to exercise and perform good maintenance practices, if an item described in Paragraph 7.1(b) cannot be repaired other than at a cost which is in excess of 50% of the cost of replacing such item, then such item shall be replaced by Lessor, and the cost thereof shall be prorated between the Parties and Lessee shall only be obligated to pay, each month during the remainder of the term of this Lease, on the date on which Base Rent is due, an amount equal to the product of multiplying the cost of such replacement by a fraction, the numerator of which is one, and the denominator of which is 144 (ie. 1/144th of the cost per month). Lessee shall pay Interest on the unamortized balance but may prepay its obligation at any time.

7.2 **Lessor's Obligations.** Subject to the provisions of Paragraphs 2.2 (Condition), 2.3 (Compliance), 4.2 (Common Area Operating Expenses), 6 (Use), 7.1 (Lessee's Obligations), 9 (Damage or Destruction) and 14 (Condemnation), Lessor, subject to reimbursement pursuant to Paragraph 4.2, shall keep in good order, condition and repair the foundations, exterior walls, structural condition of interior bearing walls, exterior roof, fire sprinkler system, Common Area fire alarm and/or smoke detection systems, fire hydrants, parking lots, walkways, parkways, driveways, landscaping, fences, signs and utility systems serving the Common Areas and all parts thereof, as well as providing the services for which there is a Common Area Operating Expense pursuant to Paragraph 4.2. Lessor shall not be obligated to paint the exterior or interior surfaces of exterior walls nor shall Lessor be obligated to maintain, repair or replace windows, doors or plate glass of the Premises. Lessee expressly waives the benefit of any statute now or hereafter in effect to the extent it is inconsistent with the terms of this Lease.

7.3 **Utility Installations; Trade Fixtures; Alterations.**

(a) **Definitions.** The term "Utility Installations" refers to all floor and window coverings, air and/or vacuum lines, power panels, electrical distribution, security and fire protection systems, communication cabling, lighting fixtures, HVAC equipment, plumbing, and fencing in or on the Premises. The term **"Trade Fixtures"** shall mean Lessee's machinery and equipment that can be removed without doing material damage to the Premises. The term **"Alterations"** shall mean any modification of the improvements, other than Utility Installations or Trade Fixtures, whether by addition or deletion. **"Lessee Owned Alterations and/or Utility Installations"** are defined as Alterations and/or Utility Installations made by Lessee that are not yet owned by Lessor pursuant to Paragraph 7.4(a).

(b) **Consent.** Lessee shall not make any Alterations or Utility Installations to the Premises without Lessor's prior written consent. Lessee may, however, make non-structural Alterations or Utility Installations to the interior of the Premises (excluding the roof) without such consent but upon notice to Lessor, as long as they are not visible from the outside, do not involve puncturing, relocating or removing the roof or any existing walls, will not affect the electrical, plumbing, HVAC, and/or life safety systems, and the cumulative cost thereof during this Lease as extended does not exceed a sum equal to 3 month's Base Rent in the aggregate or a sum equal to one month's Base Rent in any one year. Notwithstanding the foregoing, Lessee shall not make or permit any roof penetrations and/or install anything on the roof without the prior written approval of Lessor. Lessor may, as a precondition to granting such approval, require Lessee to utilize a contractor chosen and/or approved by Lessor. Any Alterations or Utility Installations that Lessee shall desire to make and which require the consent of the Lessor shall be presented to Lessor in written form with detailed plans. Consent shall be deemed conditioned upon Lessee's: (i) acquiring all applicable governmental permits, (ii) furnishing Lessor with copies of both the permits and the plans and specifications prior to commencement of the work, and (iii) compliance with all conditions of said permits and other Applicable Requirements in a prompt and expeditious manner. Any Alterations or Utility Installations shall be performed in a workmanlike manner with good and sufficient materials. Lessee shall promptly upon completion furnish Lessor with as-built plans and specifications. For work which costs an amount in excess of one month's Base Rent, Lessor may condition its consent upon Lessee providing a lien and completion bond in an amount equal

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to 150% of the estimated cost of such Alteration or Utility Installation and/or upon Lessee's posting an additional Security Deposit with Lessor.

(c) **Liens; Bonds.** Lessee shall pay, when due, all claims for labor or materials furnished or alleged to have been furnished to or for Lessee at or for use on the Premises, which claims are or may be secured by any mechanic's or materialmen's lien against the Premises or any interest therein. Lessee shall give Lessor not less than 10 days notice prior to the commencement of any work in, on or about the Premises, and Lessor shall have the right to post notices of non-responsibility. If Lessee shall contest the validity of any such lien, claim or demand, then Lessee shall, at its sole expense defend and protect itself, Lessor and the Premises against the same and shall pay and satisfy any such adverse judgment that may be rendered thereon before the enforcement thereof. If Lessor shall require, Lessee shall furnish a surety bond in an amount equal to 150% of the amount of such contested lien, claim or demand, indemnifying Lessor against liability for the same. If Lessor elects to participate in any such action, Lessee shall pay Lessor's attorneys' fees and costs.

7.4 **Ownership; Removal; Surrender; and Restoration.**

(a) **Ownership.** Subject to Lessor's right to require removal or elect ownership as hereinafter provided, all Alterations and Utility Installations made by Lessee shall be the property of Lessee, but considered a part of the Premises. Lessor may, at any time, elect in writing to be the owner of all or any specified part of the Lessee Owned Alterations and Utility Installations. Unless otherwise instructed per paragraph 7.4(b) hereof, all Lessee Owned Alterations and Utility Installations shall, at the expiration or termination of this Lease, become the property of Lessor and be surrendered by Lessee with the Premises.

(b) **Removal.** By delivery to Lessee of written notice from Lessor not earlier than 90 and not later than 30 days prior to the end of the term of this Lease, Lessor may require that any or all Lessee Owned Alterations or Utility Installations be removed by the expiration or termination of this Lease. Lessor may require the removal at any time of all or any part of any Lessee Owned Alterations or Utility Installations made without the required consent.

(c) **Surrender; Restoration.** Lessee shall surrender the Premises by the Expiration Date or any earlier termination date, with all of the improvements, parts and surfaces thereof broom clean and free of debris, and in good operating order, condition and state of repair, ordinary wear and tear excepted. "Ordinary wear and tear" shall not include any damage or deterioration that would have been prevented by good maintenance practice. Notwithstanding the foregoing, if this Lease is for 12 months or less, then Lessee shall surrender the Premises in the same condition as delivered to Lessee on the Start Date with NO allowance for ordinary wear and tear. Lessee shall repair any damage occasioned by the installation, maintenance or removal of Trade Fixtures, Lessee owned Alterations and/or Utility Installations, furnishings, and equipment as well as the removal of any storage tank installed by or for Lessee. Lessee shall also completely remove from the Premises any and all Hazardous Substances brought onto the Premises by or for Lessee, or any third party (except Hazardous Substances which were deposited via underground migration from areas outside of the Premises) even if such removal would require Lessee to perform or pay for work that exceeds statutory requirements. Trade Fixtures shall remain the property of Lessee and shall be removed by Lessee. Any personal property of Lessee not removed on or before the Expiration Date or any earlier termination date shall be deemed to have been abandoned by Lessee and may be disposed of or retained by Lessor as Lessor may desire. The failure by Lessee to timely vacate the Premises pursuant to this Paragraph 7.4(c) without the express written consent of Lessor shall constitute a holdover under the provisions of Paragraph 26 below.

8. **Insurance; Indemnity.**

8.1 **Payment of Premium Increases.**

(a) As used herein, the term **"Insurance Cost Increase"** is defined as any increase in the actual cost of the insurance applicable to the Building and/or the Project and required to be carried by Lessor, pursuant to Paragraphs 8.2(b), 8.3(a) and 8.3(b), over and above the Base Premium, as hereinafter defined, calculated on an annual basis. Insurance Cost Increase shall include, but not be limited to, requirements of the holder of a mortgage or deed of trust covering the Premises, Building and/or Project, increased valuation of the Premises, Building and/or Project, and/or a general premium rate increase. The term Insurance Cost Increase shall not, however, include any premium increases resulting from the nature of the occupancy of any other tenant of the Building. The **"Base Premium"** shall be the annual premium applicable to the 12 month period immediately preceding the Start Date. If, however, the Project was not insured for the entirety of such 12 month period, then the Base Premium shall be the lowest annual premium reasonably obtainable for the Required Insurance as of the Start Date, assuming the most nominal use possible of the Building. In no event, however, shall Lessee be responsible for any portion of the premium cost attributable to liability insurance coverage in excess of $2,000,000 procured under Paragraph 8.2(b).

(b) Lessee shall pay any Insurance Cost Increase to Lessor pursuant to Paragraph 4.2. Premiums for policy periods commencing prior to, or extending beyond, the term of this Lease shall be prorated to coincide with the corresponding Start Date or Expiration Date.

8.2 **Liability Insurance.**

(a) **Carried by Lessee.** Lessee shall obtain and keep in force a Commercial General Liability policy of insurance protecting Lessee and Lessor as an additional insured against claims for bodily injury, personal injury and property damage based upon or arising out of the ownership, use, occupancy or maintenance of the Premises and all areas appurtenant thereto. Such insurance shall be on an occurrence basis providing single limit coverage in an amount not less than $1,000,000 per occurrence with an annual aggregate of not less than $2,000,000. Lessee shall add Lessor as an additional insured by means of an endorsement at least as broad as the Insurance Service Organization's "Additional Insured-Managers or Lessors of Premises" Endorsement. The policy shall not contain any intra-insured exclusions as between insured persons or organizations, but shall include coverage for liability assumed under this Lease as an **"insured contract"** for the performance of Lessee's indemnity obligations under this Lease. The limits of said insurance shall not, however, limit the liability of Lessee nor relieve Lessee of any obligation hereunder. Lessee shall provide an endorsement on its liability policy(ies) which provides that its insurance shall be primary to and not contributory with any similar insurance carried by Lessor, whose insurance shall be considered excess insurance only.

(b) **Carried by Lessor.** Lessor shall maintain liability insurance as described in Paragraph 8.2(a), in addition to, and not in lieu of, the insurance required to be maintained by Lessee. Lessee shall not be named as an additional insured therein.

8.3 **Property Insurance - Building, Improvements and Rental Value.**

(a) **Building and Improvements.** Lessor shall obtain and keep in force a policy or policies of insurance in the name of Lessor, with loss payable to Lessor, any ground-lessor, and to any Lender insuring loss or damage to the Premises. The amount of such insurance shall be equal to the full insurable replacement cost of the Premises, as the same shall exist from time to time, or the amount required by any Lender, but in no event more than the commercially reasonable and available insurable value thereof. Lessee Owned Alterations and Utility Installations, Trade Fixtures, and Lessee's personal property shall be insured by Lessee not by Lessor. If the coverage is available and commercially appropriate, such policy or policies shall insure against all risks of direct physical loss or damage (except the perils of flood and/or earthquake unless required by a Lender), including coverage for debris removal and the enforcement of any Applicable Requirements requiring the upgrading, demolition, reconstruction or replacement of any portion of the Premises as the result of a covered loss. Said policy or policies shall also contain an agreed valuation provision in lieu of any coinsurance clause, waiver of subrogation, and inflation guard protection causing an increase in the annual property insurance coverage amount by a factor of not less than the adjusted U.S. Department of Labor Consumer Price Index for All Urban Consumers for the city nearest to where the Premises are located. If such insurance coverage has a deductible clause, the deductible amount shall not exceed $5,000 per occurrence.

(b) **Rental Value.** Lessor shall also obtain and keep in force a policy or policies in the name of Lessor with loss payable to Lessor and any Lender, insuring the loss of the full Rent for one year with an extended period of indemnity for an additional 180 days ("Rental Value

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insurance"). Said insurance shall contain an agreed valuation provision in lieu of any coinsurance clause, and the amount of coverage shall be adjusted annually to reflect the projected Rent otherwise payable by Lessee, for the next 12 month period.

(c) **Adjacent Premises**. Lessee shall pay for any increase in the premiums for the property insurance of the Building and for the Common Areas or other buildings in the Project if said increase is caused by Lessee's acts, omissions, use or occupancy of the Premises.

(d) **Lessee's Improvements**. Since Lessor is the Insuring Party, Lessor shall not be required to insure Lessee Owned Alterations and Utility Installations unless the item in question has become the property of Lessor under the terms of this Lease.

8.4 **Lessee's Property; Business Interruption Insurance; Worker's Compensation Insurance.**

(a) **Property Damage**. Lessee shall obtain and maintain insurance coverage on all of Lessee's personal property, Trade Fixtures, and Lessee Owned Alterations and Utility Installations. Such insurance shall be full replacement cost coverage with a deductible of not to exceed $1,000 per occurrence. The proceeds from any such insurance shall be used by Lessee for the replacement of personal property, Trade Fixtures and Lessee Owned Alterations and Utility Installations.

(b) **Business Interruption**. Lessee shall obtain and maintain loss of income and extra expense insurance in amounts as will reimburse Lessee for direct or indirect loss of earnings attributable to all perils commonly insured against by prudent lessees in the business of Lessee or attributable to prevention of access to the Premises as a result of such perils.

(c) **Worker's Compensation Insurance.** Lessee shall obtain and maintain Worker's Compensation Insurance in such amount as may be required by Applicable Requirements. Such policy shall include a 'Waiver of Subrogation' endorsement. Lessee shall provide Lessor with a copy of such endorsement along with the certificate of insurance or copy of the policy required by paragraph 8.5.

(d) **No Representation of Adequate Coverage**. Lessor makes no representation that the limits or forms of coverage of insurance specified herein are adequate to cover Lessee's property, business operations or obligations under this Lease.

8.5 **Insurance Policies**. Insurance required herein shall be by companies maintaining during the policy term a "General Policyholders Rating" of at least A-, VII, as set forth in the most current issue of "Best's Insurance Guide", or such other rating as may be required by a Lender. Lessee shall not do or permit to be done anything which invalidates the required insurance policies. Lessee shall, prior to the Start Date, deliver to Lessor certified copies of policies of such insurance or certificates with copies of the required endorsements evidencing the existence and amounts of the required insurance. No such policy shall be cancelable or subject to modification except after 30 days prior written notice to Lessor. Lessee shall, at least 10 days prior to the expiration of such policies, furnish Lessor with evidence of renewals or "insurance binders" evidencing renewal thereof, or Lessor may order such insurance and charge the cost thereof to Lessee, which amount shall be payable by Lessee to Lessor upon demand. Such policies shall be for a term of at least one year, or the length of the remaining term of this Lease, whichever is less. If either Party shall fail to procure and maintain the insurance required to be carried by it, the other Party may, but shall not be required to, procure and maintain the same.

8.6 **Waiver of Subrogation.** Without affecting any other rights or remedies, Lessee and Lessor each hereby release and relieve the other, and waive their entire right to recover damages against the other, for loss of or damage to its property arising out of or incident to the perils required to be insured against herein. The effect of such releases and waivers is not limited by the amount of insurance carried or required, or by any deductibles applicable hereto. The Parties agree to have their respective property damage insurance carriers waive any right to subrogation that such companies may have against Lessor or Lessee, as the case may be, so long as the insurance is not invalidated thereby.

8.7 **Indemnity**. Except for Lessor's gross negligence or willful misconduct, Lessee shall indemnify, protect, defend and hold harmless the Premises, Lessor and its agents, Lessor's master or ground lessor, partners and Lenders, from and against any and all claims, loss of rents and/or damages, liens, judgments, penalties, attorneys' and consultants' fees, expenses and/or liabilities arising out of, involving, or in connection with, the use and/or occupancy of the Premises by Lessee. If any action or proceeding is brought against Lessor by reason of any of the foregoing matters, Lessee shall upon notice defend the same at Lessee's expense by counsel reasonably satisfactory to Lessor and Lessor shall cooperate with Lessee in such defense. Lessor need not have first paid any such claim in order to be defended or indemnified.

8.8 **Exemption of Lessor and its Agents from Liability**. Notwithstanding the negligence or breach of this Lease by Lessor or its agents, neither Lessor nor its agents shall be liable under any circumstances for: (i) injury or damage to the person or goods, wares, merchandise or other property of Lessee, Lessee's employees, contractors, invitees, customers, or any other person in or about the Premises, whether such damage or injury is caused by or results from fire, steam, electricity, gas, water or rain, indoor air quality, the presence of mold or from the breakage, leakage, obstruction or other defects of pipes, fire sprinklers, wires, appliances, plumbing, HVAC or lighting fixtures, or from any other cause, whether the said injury or damage results from conditions arising upon the Premises or upon other portions of the Building, or from other sources or places, (ii) any damages arising from any act or neglect of any other tenant of Lessor or from the failure of Lessor or its agents to enforce the provisions of any other lease in the Project, or (iii) injury to Lessee's business or for any loss of income or profit therefrom. Instead, it is intended that Lessee's sole recourse in the event of such damages or injury be to file a claim on the insurance policy(ies) that Lessee is required to maintain pursuant to the provisions of paragraph 8.

8.9 **Failure to Provide Insurance**. Lessee acknowledges that any failure on its part to obtain or maintain the insurance required herein will expose Lessor to risks and potentially cause Lessor to incur costs not contemplated by this Lease, the extent of which will be extremely difficult to ascertain. Accordingly, for any month or portion thereof that Lessee does not maintain the required insurance and/or does not provide Lessor with the required binders or certificates evidencing the existence of the required insurance, the Base Rent shall be automatically increased, without any requirement for notice to Lessee, by an amount equal to 10% of the then existing Base Rent or $100, whichever is greater. The parties agree that such increase in Base Rent represents fair and reasonable compensation for the additional risk/costs that Lessor will incur by reason of Lessee's failure to maintain the required insurance. Such increase in Base Rent shall in no event constitute a waiver of Lessee's Default or Breach with respect to the failure to maintain such insurance, prevent the exercise of any of the other rights and remedies granted hereunder, nor relieve Lessee of its obligation to maintain the insurance specified in this Lease.

9. **Damage or Destruction.**

9.1 **Definitions.**

(a) **"Premises Partial Damage"** shall mean damage or destruction to the improvements on the Premises, other than Lessee Owned Alterations and Utility Installations, which can reasonably be repaired in 3 months or less from the date of the damage or destruction, and the cost thereof does not exceed a sum equal to 6 month's Base Rent. Lessor shall notify Lessee in writing within 30 days from the date of the damage or destruction as to whether or not the damage is Partial or Total. Notwithstanding the foregoing, Premises Partial Damage shall not include damage to windows, doors, and/or other similar items which Lessee has the responsibility to repair or replace pursuant to the provisions of Paragraph 7.1.

(b) **"Premises Total Destruction"** shall mean damage or destruction to the improvements on the Premises, other than Lessee Owned Alterations and Utility Installations and Trade Fixtures, which cannot reasonably be repaired in 3 months or less from the date of the damage or destruction and/or the cost thereof exceeds a sum equal to 6 month's Base Rent. Lessor shall notify Lessee in writing within 30 days from the date of the damage or destruction as to whether or not the damage is Partial or Total.

(c) **"Insured Loss"** shall mean damage or destruction to improvements on the Premises, other than Lessee Owned Alterations and Utility Installations and Trade Fixtures, which was caused by an event required to be covered by the insurance described in Paragraph 8.3(a), irrespective of any deductible amounts or coverage limits involved.

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(d) **"Replacement Cost"** shall mean the cost to repair or rebuild the improvements owned by Lessor at the time of the occurrence to their condition existing immediately prior thereto, including demolition, debris removal and upgrading required by the operation of Applicable Requirements, and without deduction for depreciation.

(e) **"Hazardous Substance Condition"** shall mean the occurrence or discovery of a condition involving the presence of, or a contamination by, a Hazardous Substance, in, on, or under the Premises which requires restoration.

9.2 **Partial Damage - Insured Loss.** If a Premises Partial Damage that is an Insured Loss occurs, then Lessor shall, at Lessor's expense, repair such damage (but not Lessee's Trade Fixtures or Lessee Owned Alterations and Utility Installations) as soon as reasonably possible and this Lease shall continue in full force and effect; provided, however, that Lessee shall, at Lessor's election, make the repair of any damage or destruction the total cost to repair of which is **$10,000** or less, and, in such event, Lessor shall make any applicable insurance proceeds available to Lessee on a reasonable basis for that purpose. Notwithstanding the foregoing, if the required insurance was not in force or the insurance proceeds are not sufficient to effect such repair, the insuring Party shall promptly contribute the shortage in proceeds as and when required to complete said repairs. In the event, however, such shortage was due to the fact that, by reason of the unique nature of the improvements, full replacement cost insurance coverage was not commercially reasonable and available, Lessor shall have no obligation to pay for the shortage in insurance proceeds or to fully restore the unique aspects of the Premises unless Lessee provides Lessor with the funds to cover same, or adequate assurance thereof, within 10 days following receipt of written notice of such shortage and request therefor. If Lessor receives said funds or adequate assurance thereof within said 10 day period, the party responsible for making the repairs shall complete them as soon as reasonably possible and this Lease shall remain in full force and effect. If such funds or assurance are not received, Lessor may nevertheless elect by written notice to Lessee within 10 days thereafter to: (i) make such restoration and repair as is commercially reasonable with Lessor paying any shortage in proceeds, in which case this Lease shall remain in full force and effect, or (ii) have this Lease terminate 30 days thereafter. Lessee shall not be entitled to reimbursement of any funds contributed by Lessee to repair any such damage or destruction. Premises Partial Damage due to flood or earthquake shall be subject to Paragraph 9.3, notwithstanding that there may be some insurance coverage, but the net proceeds of any such insurance shall be made available for the repairs if made by either Party.

9.3 **Partial Damage - Uninsured Loss.** If a Premises Partial Damage that is not an Insured Loss occurs, unless caused by a negligent or willful act of Lessee (in which event Lessee shall make the repairs at Lessee's expense), Lessor may either: (i) repair such damage as soon as reasonably possible at Lessor's expense, in which event this Lease shall continue in full force and effect, or (ii) terminate this Lease by giving written notice to Lessee within 30 days after receipt by Lessor of knowledge of the occurrence of such damage. Such termination shall be effective 60 days following the date of such notice. In the event Lessor elects to terminate this Lease, Lessee shall have the right within 10 days after receipt of the termination notice to give written notice to Lessor of Lessee's commitment to pay for the repair of such damage without reimbursement from Lessor. Lessee shall provide Lessor with said funds or satisfactory assurance thereof within 30 days after making such commitment. In such event this Lease shall continue in full force and effect, and Lessor shall proceed to make such repairs as soon as reasonably possible after the required funds are available. If Lessee does not make the required commitment, this Lease shall terminate as of the date specified in the termination notice.

9.4 **Total Destruction.** Notwithstanding any other provision hereof, if a Premises Total Destruction occurs, this Lease shall terminate 60 days following such Destruction. If the damage or destruction was caused by the gross negligence or willful misconduct of Lessee, Lessor shall have the right to recover Lessor's damages from Lessee, except as provided in Paragraph 8.6.

9.5 **Damage Near End of Term.** If at any time during the last 6 months of this Lease there is damage for which the cost to repair exceeds one month's Base Rent, whether or not an Insured Loss, Lessor may terminate this Lease effective 60 days following the date of occurrence of such damage by giving a written termination notice to Lessee within 30 days after the date of occurrence of such damage. Notwithstanding the foregoing, if Lessee at that time has an exercisable option to extend this Lease or to purchase the Premises, then Lessee may preserve this Lease by, (a) exercising such option and (b) providing Lessor with any shortage in insurance proceeds (or adequate assurance thereof) needed to make the repairs on or before the earlier of (i) the date which is 10 days after Lessee's receipt of Lessor's written notice purporting to terminate this Lease, or (ii) the day prior to the date upon which such option expires. If Lessee duly exercises such option during such period and provides Lessor with funds (or adequate assurance thereof) to cover any shortage in insurance proceeds, Lessor shall, at Lessor's commercially reasonable expense, repair such damage as soon as reasonably possible and this Lease shall continue in full force and effect. If Lessee fails to exercise such option and provide such funds or assurance during such period, then this Lease shall terminate on the date specified in the termination notice and Lessee's option shall be extinguished.

9.6 **Abatement of Rent; Lessee's Remedies.**

(a) **Abatement.** In the event of Premises Partial Damage or Premises Total Destruction or a Hazardous Substance Condition for which Lessee is not responsible under this Lease, the Rent payable by Lessee for the period required for the repair, remediation or restoration of such damage shall be abated in proportion to the degree to which Lessee's use of the Premises is impaired, but not to exceed the proceeds received from the Rental Value insurance. All other obligations of Lessee hereunder shall be performed by Lessee, and Lessor shall have no liability for any such damage, destruction, remediation, repair or restoration except as provided herein.

(b) **Remedies.** If Lessor is obligated to repair or restore the Premises and does not commence, in a substantial and meaningful way, such repair or restoration within 90 days after such obligation shall accrue, Lessee may, at any time prior to the commencement of such repair or restoration, give written notice to Lessor and to any Lenders of which Lessee has actual notice, of Lessee's election to terminate this Lease on a date not less than 60 days following the giving of such notice. If Lessee gives such notice and such repair or restoration is not commenced within 30 days thereafter, this Lease shall terminate as of the date specified in said notice. If the repair or restoration is commenced within such 30 days, this Lease shall continue in full force and effect. "Commence" shall mean either the unconditional authorization of the preparation of the required plans, or the beginning of the actual work on the Premises, whichever first occurs.

9.7 **Termination; Advance Payments.** Upon termination of this Lease pursuant to Paragraph 6.2(g) or Paragraph 9, an equitable adjustment shall be made concerning advance Base Rent and any other advance payments made by Lessee to Lessor. Lessor shall, in addition, return to Lessee so much of Lessee's Security Deposit as has not been, or is not then required to be, used by Lessor.

10. **Real Property Taxes.**

10.1 **Definitions.**

(a) **"Real Property Taxes."** As used herein, the term **"Real Property Taxes"** shall include any form of assessment; real estate, general, special, ordinary or extraordinary, or rental levy or tax (other than inheritance, personal income or estate taxes); improvement bond; and/or license fee imposed upon or levied against any legal or equitable interest of Lessor in the Project, Lessor's right to other income therefrom, and/or Lessor's business of leasing, by any authority having the direct or indirect power to tax and where the funds are generated with reference to the Project address and where the proceeds so generated are to be applied by the city, county or other local taxing authority of a jurisdiction within which the Project is located. The term "Real Property Taxes" shall also include any tax, fee, levy, assessment or charge, or any increase therein: (i) imposed by reason of events occurring during the term of this Lease, including but not limited to, a change in the ownership of the Project, (ii) a change in the improvements thereon, and/or (iii) levied or assessed on machinery or equipment provided by Lessor to Lessee pursuant to this Lease.

(b) **"Base Real Property Taxes."** As used herein, the term **"Base Real Property Taxes"** shall be the amount of Real Property Taxes, which are assessed against the Premises, Building, Project or Common Areas in the calendar year during which the Lease is executed. In calculating Real Property Taxes for any calendar year, the Real Property Taxes for any real estate tax year shall be included in the calculation of Real

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Property Taxes for such calendar year based upon the number of days which such calendar year and tax year have in common.

10.2 **Payment of Taxes**. Except as otherwise provided in Paragraph 10.3, Lessor shall pay the Real Property Taxes applicable to the Project, and said payments shall be included in the calculation of Common Area Operating Expenses in accordance with the provisions of Paragraph 4.2.

10.3 **Additional Improvements**. Common Area Operating Expenses shall not include Real Property Taxes specified in the tax assessor's records and work sheets as being caused by additional improvements placed upon the Project by other tenants or by Lessor for the exclusive enjoyment of such other Tenants. Notwithstanding Paragraph 10.2 hereof, Lessee shall, however, pay to Lessor at the time Common Area Operating Expenses are payable under Paragraph 4.2, the entirety of any increase in Real Property Taxes if assessed solely by reason of Alterations, Trade Fixtures or Utility Installations placed upon the Premises by Lessee or at Lessee's request or by reason of any alterations or improvements to the Premises made by Lessor subsequent to the execution of this Lease by the Parties.

10.4 **Joint Assessment**. If the Building is not separately assessed, Real Property Taxes allocated to the Building shall be an equitable proportion of the Real Property Taxes for all of the land and improvements included within the tax parcel assessed, such proportion to be determined by Lessor from the respective valuations assigned in the assessor's work sheets or such other information as may be reasonably available. Lessor's reasonable determination thereof, in good faith, shall be conclusive.

10.5 **Personal Property Taxes**. Lessee shall pay prior to delinquency all taxes assessed against and levied upon Lessee Owned Alterations and Utility Installations, Trade Fixtures, furnishings, equipment and all personal property of Lessee contained in the Premises. When possible, Lessee shall cause its Lessee Owned Alterations and Utility Installations, Trade Fixtures, furnishings, equipment and all other personal property to be assessed and billed separately from the real property of Lessor. If any of Lessee's said property shall be assessed with Lessor's real property, Lessee shall pay Lessor the taxes attributable to Lessee's property within 10 days after receipt of a written statement setting forth the taxes applicable to Lessee's property.

11. **Utilities and Services**. Lessee shall pay for all water, gas, heat, light, power, telephone, trash disposal and other utilities and services supplied to the Premises, together with any taxes thereon. Notwithstanding the provisions of Paragraph 4.2, if at any time in Lessor's sole judgment, Lessor determines that Lessee is using a disproportionate amount of water, electricity or other commonly metered utilities, or that Lessee is generating such a large volume of trash as to require an increase in the size of the trash receptacle and/or an increase in the number of times per month that it is emptied, then Lessor may increase Lessee's Base Rent by an amount equal to such increased costs. There shall be no abatement of Rent and Lessor shall not be liable in any respect whatsoever for the inadequacy, stoppage, interruption or discontinuance of any utility or service due to riot, strike, labor dispute, breakdown, accident, repair or other cause beyond Lessor's reasonable control or in cooperation with governmental request or directions.

12. **Assignment and Subletting.**

12.1 **Lessor's Consent Required.**

(a) Lessee shall not voluntarily or by operation of law assign, transfer, mortgage or encumber (collectively, **"assign or assignment"**) or sublet all or any part of Lessee's interest in this Lease or in the Premises without Lessor's prior written consent.

(b) Unless Lessee is a corporation and its stock is publicly traded on a national stock exchange, a change in the control of Lessee shall constitute an assignment requiring consent. The transfer, on a cumulative basis, of 25% or more of the voting control of Lessee shall constitute a change in control for this purpose.

(c) The involvement of Lessee or its assets in any transaction, or series of transactions (by way of merger, sale, acquisition, financing, transfer, leveraged buy-out or otherwise), whether or not a formal assignment or hypothecation of this Lease or Lessee's assets occurs, which results or will result in a reduction of the Net Worth of Lessee by an amount greater than 25% of such Net Worth as it was represented at the time of the execution of this Lease or at the time of the most recent assignment to which Lessor has consented, or as it exists immediately prior to said transaction or transactions constituting such reduction, whichever was or is greater, shall be considered an assignment of this Lease to which Lessor may withhold its consent. **"Net Worth of Lessee"** shall mean the net worth of Lessee (excluding any guarantors) established under generally accepted accounting principles.

(d) An assignment or subletting without consent shall, at Lessor's option, be a Default curable after notice per Paragraph 13.1(c), or a noncurable Breach without the necessity of any notice and grace period. If Lessor elects to treat such unapproved assignment or subletting as a noncurable Breach, Lessor may either: (i) terminate this Lease, or (ii) upon 30 days written notice, increase the monthly Base Rent to 110% of the Base Rent then in effect. Further, in the event of such Breach and rental adjustment, (i) the purchase price of any option to purchase the Premises held by Lessee shall be subject to similar adjustment to 110% of the price previously in effect, and (ii) all fixed and non-fixed rental adjustments scheduled during the remainder of the Lease term shall be increased to 110% of the scheduled adjusted rent.

(e) Lessee's remedy for any breach of Paragraph 12.1 by Lessor shall be limited to compensatory damages and/or injunctive relief.

(f) Lessor may reasonably withhold consent to a proposed assignment or subletting if Lessee is in Default at the time consent is requested.

(g) Notwithstanding the foregoing, allowing a de minimis portion of the Premises, ie. 20 square feet or less, to be used by a third party vendor in connection with the installation of a vending machine or payphone shall not constitute a subletting.

12.2 **Terms and Conditions Applicable to Assignment and Subletting.**

(a) Regardless of Lessor's consent, no assignment or subletting shall : (i) be effective without the express written assumption by such assignee or sublessee of the obligations of Lessee under this Lease, (ii) release Lessee of any obligations hereunder, or (iii) alter the primary liability of Lessee for the payment of Rent or for the performance of any other obligations to be performed by Lessee.

(b) Lessor may accept Rent or performance of Lessee's obligations from any person other than Lessee pending approval or disapproval of an assignment. Neither a delay in the approval or disapproval of such assignment nor the acceptance of Rent or performance shall constitute a waiver or estoppel of Lessor's right to exercise its remedies for Lessee's Default or Breach.

(c) Lessor's consent to any assignment or subletting shall not constitute a consent to any subsequent assignment or subletting.

(d) In the event of any Default or Breach by Lessee, Lessor may proceed directly against Lessee, any Guarantors or anyone else responsible for the performance of Lessee's obligations under this Lease, including any assignee or sublessee, without first exhausting Lessor's remedies against any other person or entity responsible therefor to Lessor, or any security held by Lessor.

(e) Each request for consent to an assignment or subletting shall be in writing, accompanied by information relevant to Lessor's determination as to the financial and operational responsibility and appropriateness of the proposed assignee or sublessee, including but not limited to the intended use and/or required modification of the Premises, if any, together with a fee of $500 as consideration for Lessor's considering and processing said request. Lessee agrees to provide Lessor with such other or additional information and/or documentation as may be reasonably requested. (See also Paragraph 36)

(f) Any assignee of, or sublessee under, this Lease shall, by reason of accepting such assignment, entering into such sublease, or entering into possession of the Premises or any portion thereof, be deemed to have assumed and agreed to conform and comply with each and every term, covenant, condition and obligation herein to be observed or performed by Lessee during the term of said assignment or sublease, other than such obligations as are contrary to or inconsistent with provisions of an assignment or sublease to which Lessor has specifically consented to in writing.

(g) Lessor's consent to any assignment or subletting shall not transfer to the assignee or sublessee any Option granted to the

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original Lessee by this Lease unless such transfer is specifically consented to by Lessor in writing. (See Paragraph 39.2)

12.3 **Additional Terms and Conditions Applicable to Subletting.** The following terms and conditions shall apply to any subletting by Lessee of all or any part of the Premises and shall be deemed included in all subleases under this Lease whether or not expressly incorporated therein:

(a) Lessee hereby assigns and transfers to Lessor all of Lessee's interest in all Rent payable on any sublease, and Lessor may collect such Rent and apply same toward Lessee's obligations under this Lease; provided, however, that until a Breach shall occur in the performance of Lessee's obligations, Lessee may collect said Rent. In the event that the amount collected by Lessor exceeds Lessee's then outstanding obligations any such excess shall be refunded to Lessee. Lessor shall not, by reason of the foregoing or any assignment of such sublease, nor by reason of the collection of Rent, be deemed liable to the sublessee for any failure of Lessee to perform and comply with any of Lessee's obligations to such sublessee. Lessee hereby irrevocably authorizes and directs any such sublessee, upon receipt of a written notice from Lessor stating that a Breach exists in the performance of Lessee's obligations under this Lease, to pay to Lessor all Rent due and to become due under the sublease. Sublessee shall rely upon any such notice from Lessor and shall pay all Rents to Lessor without any obligation or right to inquire as to whether such Breach exists, notwithstanding any claim from Lessee to the contrary.

(b) In the event of a Breach by Lessee, Lessor may, at its option, require sublessee to attorn to Lessor, in which event Lessor shall undertake the obligations of the sublessor under such sublease from the time of the exercise of said option to the expiration of such sublease; provided, however, Lessor shall not be liable for any prepaid rents or security deposit paid by such sublessee to such sublessor or for any prior Defaults or Breaches of such sublessor.

(c) Any matter requiring the consent of the sublessor under a sublease shall also require the consent of Lessor.

(d) No sublessee shall further assign or sublet all or any part of the Premises without Lessor's prior written consent.

(e) Lessor shall deliver a copy of any notice of Default or Breach by Lessee to the sublessee, who shall have the right to cure the Default of Lessee within the grace period, if any, specified in such notice. The sublessee shall have a right of reimbursement and offset from and against Lessee for any such Defaults cured by the sublessee.

13. **Default; Breach; Remedies.**

13.1 **Default; Breach.** A **"Default"** is defined as a failure by the Lessee to comply with or perform any of the terms, covenants, conditions or Rules and Regulations under this Lease. A "Breach" is defined as the occurrence of one or more of the following Defaults, and the failure of Lessee to cure such Default within any applicable grace period:

(a) The abandonment of the Premises; or the vacating of the Premises without providing a commercially reasonable level of security, or where the coverage of the property insurance described in Paragraph 8.3 is jeopardized as a result thereof, or without providing reasonable assurances to minimize potential vandalism.

(b) The failure of Lessee to make any payment of Rent or any Security Deposit required to be made by Lessee hereunder, whether to Lessor or to a third party, when due, to provide reasonable evidence of insurance or surety bond, or to fulfill any obligation under this Lease which endangers or threatens life or property, where such failure continues for a period of 3 business days following written notice to Lessee. THE ACCEPTANCE BY LESSOR OF A PARTIAL PAYMENT OF RENT OR SECURITY DEPOSIT SHALL NOT CONSTITUTE A WAIVER OF ANY OF LESSOR'S RIGHTS, INCLUDING LESSOR'S RIGHT TO RECOVER POSSESSION OF THE PREMISES.

(c) The failure of Lessee to allow Lessor and/or its agents access to the Premises or the commission of waste, act or acts constituting public or private nuisance, and/or an illegal activity on the Premises by Lessee, where such actions continue for a period of 3 business days following written notice to Lessee.

(d) The failure by Lessee to provide (i) reasonable written evidence of compliance with Applicable Requirements, (ii) the service contracts, (iii) the rescission of an unauthorized assignment or subletting, (iv) an Estoppel Certificate or financial statements, (v) a requested subordination, (vi) evidence concerning any guaranty and/or Guarantor, (vii) any document requested under Paragraph 41, (viii) material data safety sheets (MSDS), or (ix) any other documentation or information which Lessor may reasonably require of Lessee under the terms of this Lease, where any such failure continues for a period of 10 days following written notice to Lessee.

(e) A Default by Lessee as to the terms, covenants, conditions or provisions of this Lease, or of the rules adopted under Paragraph 2.9 hereof, other than those described in subparagraphs 13.1(a), (b), (c) or (d), above, where such Default continues for a period of 30 days after written notice; provided, however, that if the nature of Lessee's Default is such that more than 30 days are reasonably required for its cure, then it shall not be deemed to be a Breach if Lessee commences such cure within said 30 day period and thereafter diligently prosecutes such cure to completion.

(f) The occurrence of any of the following events: (i) the making of any general arrangement or assignment for the benefit of creditors; (ii) becoming a **"debtor"** as defined in 11 U.S.C. § 101 or any successor statute thereto (unless, in the case of a petition filed against Lessee, the same is dismissed within 60 days); (iii) the appointment of a trustee or receiver to take possession of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this Lease, where possession is not restored to Lessee within 30 days; or (iv) the attachment, execution or other judicial seizure of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this Lease, where such seizure is not discharged within 30 days; provided, however, in the event that any provision of this subparagraph is contrary to any applicable law, such provision shall be of no force or effect, and not affect the validity of the remaining provisions.

(g) The discovery that any financial statement of Lessee or of any Guarantor given to Lessor was materially false.

(h) If the performance of Lessee's obligations under this Lease is guaranteed: (i) the death of a Guarantor, (ii) the termination of a Guarantor's liability with respect to this Lease other than in accordance with the terms of such guaranty, (iii) a Guarantor's becoming insolvent or the subject of a bankruptcy filing, (iv) a Guarantor's refusal to honor the guaranty, or (v) a Guarantor's breach of its guaranty obligation on an anticipatory basis, and Lessee's failure, within 60 days following written notice of any such event, to provide written alternative assurance or security, which, when coupled with the then existing resources of Lessee, equals or exceeds the combined financial resources of Lessee and the Guarantors that existed at the time of execution of this Lease.

13.2 **Remedies.** If Lessee fails to perform any of its affirmative duties or obligations, within 10 days after written notice (or in case of an emergency, without notice), Lessor may, at its option, perform such duty or obligation on Lessee's behalf, including but not limited to the obtaining of reasonably required bonds, insurance policies, or governmental licenses, permits or approvals. Lessee shall pay to Lessor an amount equal to 115% of the costs and expenses incurred by Lessor in such performance upon receipt of an invoice therefor. In the event of a Breach, Lessor may, with or without further notice or demand, and without limiting Lessor in the exercise of any right or remedy which Lessor may have by reason of such Breach:

(a) Terminate Lessee's right to possession of the Premises by any lawful means, in which case this Lease shall terminate and Lessee shall immediately surrender possession to Lessor. In such event Lessor shall be entitled to recover from Lessee: (i) the unpaid Rent which had been earned at the time of termination; (ii) the worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that the Lessee proves could have been reasonably avoided; (iii) the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss that the Lessee proves could be reasonably avoided; and (iv) any other amount necessary to compensate Lessor for all the detriment proximately caused by the Lessee's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom, including but

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not limited to the cost of recovering possession of the Premises, expenses of reletting, including necessary renovation and alteration of the Premises, reasonable attorneys' fees, and that portion of any leasing commission paid by Lessor in connection with this Lease applicable to the unexpired term of this Lease. The worth at the time of award of the amount referred to in provision (iii) of the immediately preceding sentence shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of the District within which the Premises are located at the time of award plus one percent. Efforts by Lessor to mitigate damages caused by Lessee's Breach of this Lease shall not waive Lessor's right to recover any damages to which Lessor is otherwise entitled. If termination of this Lease is obtained through the provisional remedy of unlawful detainer, Lessor shall have the right to recover in such proceeding any unpaid Rent and damages as are recoverable therein, or Lessor may reserve the right to recover all or any part thereof in a separate suit. If a notice and grace period required under Paragraph 13.1 was not previously given, a notice to pay rent or quit, or to perform or quit given to Lessee under the unlawful detainer statute shall also constitute the notice required by Paragraph 13.1. In such case, the applicable grace period required by Paragraph 13.1 and the unlawful detainer statute shall run concurrently, and the failure of Lessee to cure the Default within the greater of the two such grace periods shall constitute both an unlawful detainer and a Breach of this Lease entitling Lessor to the remedies provided for in this Lease and/or by said statute.

(b) Continue the Lease and Lessee's right to possession and recover the Rent as it becomes due, in which event Lessee may sublet or assign, subject only to reasonable limitations. Acts of maintenance, efforts to relet, and/or the appointment of a receiver to protect the Lessor's interests, shall not constitute a termination of the Lessee's right to possession.

(c) Pursue any other remedy now or hereafter available under the laws or judicial decisions of the state wherein the Premises are located. The expiration or termination of this Lease and/or the termination of Lessee's right to possession shall not relieve Lessee from liability under any indemnity provisions of this Lease as to matters occurring or accruing during the term hereof or by reason of Lessee's occupancy of the Premises.

13.3 **Inducement Recapture.** Any agreement for free or abated rent or other charges, or for the giving or paying by Lessor to or for Lessee of any cash or other bonus, inducement or consideration for Lessee's entering into this Lease, all of which concessions are hereinafter referred to as **"Inducement Provisions"**, shall be deemed conditioned upon Lessee's full and faithful performance of all of the terms, covenants and conditions of this Lease. Upon Breach of this Lease by Lessee, any such Inducement Provision shall automatically be deemed deleted from this Lease and of no further force or effect, and any rent, other charge, bonus, inducement or consideration theretofore abated, given or paid by Lessor under such an Inducement Provision shall be immediately due and payable by Lessee to Lessor, notwithstanding any subsequent cure of said Breach by Lessee. The acceptance by Lessor of rent or the cure of the Breach which initiated the operation of this paragraph shall not be deemed a waiver by Lessor of the provisions of this paragraph unless specifically so stated in writing by Lessor at the time of such acceptance.

13.4 **Late Charges.** Lessee hereby acknowledges that late payment by Lessee of Rent will cause Lessor to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges, and late charges which may be imposed upon Lessor by any Lender. Accordingly, if any Rent shall not be received by Lessor within 5 days after such amount shall be due, then, without any requirement for notice to Lessee, Lessee shall immediately pay to Lessor a one-time late charge equal to 10% of each such overdue amount or $100, whichever is greater. The parties hereby agree that such late charge represents a fair and reasonable estimate of the costs Lessor will incur by reason of such late payment. Acceptance of such late charge by Lessor shall in no event constitute a waiver of Lessee's Default or Breach with respect to such overdue amount, nor prevent the exercise of any of the other rights and remedies granted hereunder. In the event that a late charge is payable hereunder, whether or not collected, for 3 consecutive installments of Base Rent, then notwithstanding any provision of this Lease to the contrary, Base Rent shall, at Lessor's option, become due and payable quarterly in advance.

13.5 **Interest.** Any monetary payment due Lessor hereunder, other than late charges, not received by Lessor, when due as to scheduled payments (such as Base Rent) or within 30 days following the date on which it was due for non-scheduled payment, shall bear interest from the date when due, as to scheduled payments, or the 31st day after it was due as to non-scheduled payments. The interest **("Interest")** charged shall be computed at the rate of 10% per annum but shall not exceed the maximum rate allowed by law. Interest is payable in addition to the potential late charge provided for in Paragraph 13.4.

13.6 **Breach by Lessor.**

(a) **Notice of Breach.** Lessor shall not be deemed in breach of this Lease unless Lessor fails within a reasonable time to perform an obligation required to be performed by Lessor. For purposes of this Paragraph, a reasonable time shall in no event be less than 30 days after receipt by Lessor, and any Lender whose name and address shall have been furnished to Lessee in writing for such purpose, of written notice specifying wherein such obligation of Lessor has not been performed; provided, however, that if the nature of Lessor's obligation is such that more than 30 days are reasonably required for its performance, then Lessor shall not be in breach if performance is commenced within such 30 day period and thereafter diligently pursued to completion.

(b) **Performance by Lessee on Behalf of Lessor.** In the event that neither Lessor nor Lender cures said breach within 30 days after receipt of said notice, or if having commenced said cure they do not diligently pursue it to completion, then Lessee may elect to cure said breach at Lessee's expense and offset from Rent the actual and reasonable cost to perform such cure, provided however, that such offset shall not exceed an amount equal to the greater of one month's Base Rent or the Security Deposit, reserving Lessee's right to reimbursement from Lessor for any such expense in excess of such offset. Lessee shall document the cost of said cure and supply said documentation to Lessor.

14. **Condemnation.** If the Premises or any portion thereof are taken under the power of eminent domain or sold under the threat of the exercise of said power (collectively **"Condemnation"**), this Lease shall terminate as to the part taken as of the date the condemning authority takes title or possession, whichever first occurs. If more than 10% of the floor area of the Unit, or more than 25% of the parking spaces is taken by Condemnation, Lessee may, at Lessee's option, to be exercised in writing within 10 days after Lessor shall have given Lessee written notice of such taking (or in the absence of such notice, within 10 days after the condemning authority shall have taken possession) terminate this Lease as of the date the condemning authority takes such possession. If Lessee does not terminate this Lease in accordance with the foregoing, this Lease shall remain in full force and effect as to the portion of the Premises remaining, except that the Base Rent shall be reduced in proportion to the reduction in utility of the Premises caused by such Condemnation. Condemnation awards and/or payments shall be the property of Lessor, whether such award shall be made as compensation for diminution in value of the leasehold, the value of the part taken, or for severance damages; provided, however, that Lessee shall be entitled to any compensation paid by the condemnor for Lessee's relocation expenses, loss of business goodwill and/or Trade Fixtures, without regard to whether or not this Lease is terminated pursuant to the provisions of this Paragraph. All Alterations and Utility Installations made to the Premises by Lessee, for purposes of Condemnation only, shall be considered the property of the Lessee and Lessee shall be entitled to any and all compensation which is payable therefor. In the event that this Lease is not terminated by reason of the Condemnation, Lessor shall repair any damage to the Premises caused by such Condemnation.

15. **Brokerage Fees.**

15.1 **Additional Commission.** In addition to the payments owed pursuant to Paragraph 1.10 above, and unless Lessor and the Brokers otherwise agree in writing, Lessor agrees that: (a) if Lessee exercises any Option, (b) if Lessee or anyone affiliated with Lessee acquires from Lessor any rights to the Premises or other premises owned by Lessor and located within the Project, (c) if Lessee remains in possession of the Premises, with the consent of Lessor, after the expiration of this Lease, or (d) if Base Rent is increased, whether by agreement or operation of an escalation clause herein, then, Lessor shall pay Brokers a fee in accordance with the fee schedule of the Brokers in effect at the time the Lease was executed.

15.2 **Assumption of Obligations.** Any buyer or transferee of Lessor's interest in this Lease shall be deemed to have assumed Lessor's

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obligation hereunder. Brokers shall be third party beneficiaries of the provisions of Paragraphs 1.10, 15, 22 and 31. If Lessor fails to pay to Brokers any amounts due as and for brokerage fees pertaining to this Lease when due, then such amounts shall accrue interest. In addition, if Lessor fails to pay any amounts to Lessee's Broker when due, Lessee's Broker may send written notice to Lessor and Lessee of such failure and if Lessor fails to pay such amounts within 10 days after said notice, Lessee shall pay said monies to its Broker and offset such amounts against Rent. In addition, Lessee's Broker shall be deemed to be a third party beneficiary of any commission agreement entered into by and/or between Lessor and Lessor's Broker for the limited purpose of collecting any brokerage fee owed.

15.3 **Representations and Indemnities of Broker Relationships**. Lessee and Lessor each represent and warrant to the other that it has had no dealings with any person, firm, broker or finder (other than the Brokers, if any) in connection with this Lease, and that no one other than said named Brokers is entitled to any commission or finder's fee in connection herewith. Lessee and Lessor do each hereby agree to indemnify, protect, defend and hold the other harmless from and against liability for compensation or charges which may be claimed by any such unnamed broker, finder or other similar party by reason of any dealings or actions of the indemnifying Party, including any costs, expenses, attorneys' fees reasonably incurred with respect thereto.

16. **Estoppel Certificates**.

(a) Each Party (as **"Responding Party"**) shall within 10 days after written notice from the other Party (the **"Requesting Party"**) execute, acknowledge and deliver to the Requesting Party a statement in writing in form similar to the then most current **"Estoppel Certificate"** form published by the AIR Commercial Real Estate Association, plus such additional information, confirmation and/or statements as may be reasonably requested by the Requesting Party.

(b) If the Responding Party shall fail to execute or deliver the Estoppel Certificate within such 10 day period, the Requesting Party may execute an Estoppel Certificate stating that: (i) the Lease is in full force and effect without modification except as may be represented by the Requesting Party, (ii) there are no uncured defaults in the Requesting Party's performance, and (iii) if Lessor is the Requesting Party, not more than one month's rent has been paid in advance. Prospective purchasers and encumbrancers may rely upon the Requesting Party's Estoppel Certificate, and the Responding Party shall be estopped from denying the truth of the facts contained in said Certificate. In addition, Lessee acknowledges that any failure on its part to provide such an Estoppel Certificate will expose Lessor to risks and potentially cause Lessor to incur costs not contemplated by this Lease, the extent of which will be extremely difficult to ascertain. Accordingly, should the Lessee fail to execute and/or deliver a requested Estoppel Certificate in a timely fashion the monthly Base Rent shall be automatically increased, without any requirement for notice to Lessee, by an amount equal to 10% of the then existing Base Rent or $100, whichever is greater for remainder of the Lease. The Parties agree that such increase in Base Rent represents fair and reasonable compensation for the additional risk/costs that Lessor will incur by reason of Lessee's failure to provide the Estoppel Certificate. Such increase in Base Rent shall in no event constitute a waiver of Lessee's Default or Breach with respect to the failure to provide the Estoppel Certificate nor prevent the exercise of any of the other rights and remedies granted hereunder.

(c) If Lessor desires to finance, refinance, or sell the Premises, or any part thereof, Lessee and all Guarantors shall within 10 days after written notice from Lessor deliver to any potential lender or purchaser designated by Lessor such financial statements as may be reasonably required by such lender or purchaser, including but not limited to Lessee's financial statements for the past 3 years. All such financial statements shall be received by Lessor and such lender or purchaser in confidence and shall be used only for the purposes herein set forth.

17. **Definition of Lessor**. The term **"Lessor"** as used herein shall mean the owner or owners at the time in question of the fee title to the Premises, or, if this is a sublease, of the Lessee's interest in the prior lease. In the event of a transfer of Lessor's title or interest in the Premises or this Lease, Lessor shall deliver to the transferee or assignee (in cash or by credit) any unused Security Deposit held by Lessor. Upon such transfer or assignment and delivery of the Security Deposit, as aforesaid, the prior Lessor shall be relieved of all liability with respect to the obligations and/or covenants under this Lease thereafter to be performed by the Lessor. Subject to the foregoing, the obligations and/or covenants in this Lease to be performed by the Lessor shall be binding only upon the Lessor as hereinabove defined.

18. **Severability**. The invalidity of any provision of this Lease, as determined by a court of competent jurisdiction, shall in no way affect the validity of any other provision hereof.

19. **Days**. Unless otherwise specifically indicated to the contrary, the word **"days"** as used in this Lease shall mean and refer to calendar days.

20. **Limitation on Liability**. The obligations of Lessor under this Lease shall not constitute personal obligations of Lessor, or its partners, members, directors, officers or shareholders, and Lessee shall look to the Premises, and to no other assets of Lessor, for the satisfaction of any liability of Lessor with respect to this Lease, and shall not seek recourse against Lessor's partners, members, directors, officers or shareholders, or any of their personal assets for such satisfaction.

21. **Time of Essence**. Time is of the essence with respect to the performance of all obligations to be performed or observed by the Parties under this Lease.

22. **No Prior or Other Agreements; Broker Disclaimer**. This Lease contains all agreements between the Parties with respect to any matter mentioned herein, and no other prior or contemporaneous agreement or understanding shall be effective. Lessor and Lessee each represents and warrants to the Brokers that it has made, and is relying solely upon, its own investigation as to the nature, quality, character and financial responsibility of the other Party to this Lease and as to the use, nature, quality and character of the Premises. Brokers have no responsibility with respect thereto or with respect to any default or breach hereof by either Party.

23. **Notices**.

23.1 **Notice Requirements**. All notices required or permitted by this Lease or applicable law shall be in writing and may be delivered in person (by hand or by courier) or may be sent by regular, certified or registered mail or U.S. Postal Service Express Mail, with postage prepaid, or by facsimile transmission, and shall be deemed sufficiently given if served in a manner specified in this Paragraph 23. The addresses noted adjacent to a Party's signature on this Lease shall be that Party's address for delivery or mailing of notices. Either Party may by written notice to the other specify a different address for notice, except that upon Lessee's taking possession of the Premises, the Premises shall constitute Lessee's address for notice. A copy of all notices to Lessor shall be concurrently transmitted to such party or parties at such addresses as Lessor may from time to time hereafter designate in writing.

23.2 **Date of Notice**. Any notice sent by registered or certified mail, return receipt requested, shall be deemed given on the date of delivery shown on the receipt card, or if no delivery date is shown, the postmark thereon. If sent by regular mail the notice shall be deemed given 72 hours after the same is addressed as required herein and mailed with postage prepaid. Notices delivered by United States Express Mail or overnight courier that guarantees next day delivery shall be deemed given 24 hours after delivery of the same to the Postal Service or courier. Notices transmitted by facsimile transmission or similar means shall be deemed delivered upon telephone confirmation of receipt (confirmation report from fax machine is sufficient), provided a copy is also delivered via delivery or mail. If notice is received on a Saturday, Sunday or legal holiday, it shall be deemed received on the next business day.

24. **Waivers**.

(a) No waiver by Lessor of the Default or Breach of any term, covenant or condition hereof by Lessee, shall be deemed a waiver of any other term, covenant or condition hereof, or of any subsequent Default or Breach by Lessee of the same or of any other term, covenant or condition hereof. Lessor's consent to, or approval of, any act shall not be deemed to render unnecessary the obtaining of Lessor's consent to, or approval of, any subsequent or similar act by Lessee, or be construed as the basis of an estoppel to enforce the provision or provisions of this Lease requiring such

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consent.

(b) The acceptance of Rent by Lessor shall not be a waiver of any Default or Breach by Lessee. Any payment by Lessee may be accepted by Lessor on account of monies or damages due Lessor, notwithstanding any qualifying statements or conditions made by Lessee in connection therewith, which such statements and/or conditions shall be of no force or effect whatsoever unless specifically agreed to in writing by Lessor at or before the time of deposit of such payment.

(c) THE PARTIES AGREE THAT THE TERMS OF THIS LEASE SHALL GOVERN WITH REGARD TO ALL MATTERS RELATED THERETO AND HEREBY WAIVE THE PROVISIONS OF ANY PRESENT OR FUTURE STATUTE TO THE EXTENT THAT SUCH STATUTE IS INCONSISTENT WITH THIS LEASE.

25. **Disclosures Regarding The Nature of a Real Estate Agency Relationship.**

(a) When entering into a discussion with a real estate agent regarding a real estate transaction, a Lessor or Lessee should from the outset understand what type of agency relationship or representation it has with the agent or agents in the transaction. Lessor and Lessee acknowledge being advised by the Brokers in this transaction, as follows:

(i) *Lessor's Agent*. A Lessor's agent under a listing agreement with the Lessor acts as the agent for the Lessor only. A Lessor's agent or subagent has the following affirmative obligations: *To the Lessor*: A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Lessor. *To the Lessee and the Lessor*: a. Diligent exercise of reasonable skills and care in performance of the agent's duties. b. A duty of honest and fair dealing and good faith. c. A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the Parties. An agent is not obligated to reveal to either Party any confidential information obtained from the other Party which does not involve the affirmative duties set forth above.

(ii) *Lessee's Agent*. An agent can agree to act as agent for the Lessee only. In these situations, the agent is not the Lessor's agent, even if by agreement the agent may receive compensation for services rendered, either in full or in part from the Lessor. An agent acting only for a Lessee has the following affirmative obligations. *To the Lessee*: A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Lessee. *To the Lessee and the Lessor*: a. Diligent exercise of reasonable skills and care in performance of the agent's duties. b. A duty of honest and fair dealing and good faith. c. A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the Parties. An agent is not obligated to reveal to either Party any confidential information obtained from the other Party which does not involve the affirmative duties set forth above.

(iii) *Agent Representing Both Lessor and Lessee*. A real estate agent, either acting directly or through one or more associate licenses, can legally be the agent of both the Lessor and the Lessee in a transaction, but only with the knowledge and consent of both the Lessor and the Lessee. In a dual agency situation, the agent has the following affirmative obligations to both the Lessor and the Lessee: a. A fiduciary duty of utmost care, integrity, honesty and loyalty in the dealings with either Lessor or the Lessee. b. Other duties to the Lessor and the Lessee as stated above in subparagraphs (i) or (ii). In representing both Lessor and Lessee, the agent may not without the express permission of the respective Party, disclose to the other Party that the Lessor will accept rent in an amount less than that indicated in the listing or that the Lessee is willing to pay a higher rent than that offered. The above duties of the agent in a real estate transaction do not relieve a Lessor or Lessee from the responsibility to protect their own interests. Lessor and Lessee should carefully read all agreements to assure that they adequately express their understanding of the transaction. A real estate agent is a person qualified to advise about real estate. If legal or tax advice is desired, consult a competent professional.

(b) Brokers have no responsibility with respect to any default or breach hereof by either Party. The Parties agree that no lawsuit or other legal proceeding involving any breach of duty, error or omission relating to this Lease may be brought against Broker more than one year after the Start Date and that the liability (including court costs and attorneys' fees), of any Broker with respect to any such lawsuit and/or legal proceeding shall not exceed the fee received by such Broker pursuant to this Lease; provided, however, that the foregoing limitation on each Broker's liability shall not be applicable to any gross negligence or willful misconduct of such Broker.

(c) Lessor and Lessee agree to identify to Brokers as "Confidential" any communication or information given Brokers that is considered by such Party to be confidential.

26. **No Right To Holdover.** Lessee has no right to retain possession of the Premises or any part thereof beyond the expiration or termination of this Lease. In the event that Lessee holds over, then the Base Rent shall be increased to 150% of the Base Rent applicable immediately preceding the expiration or termination. Nothing contained herein shall be construed as consent by Lessor to any holding over by Lessee.

27. **Cumulative Remedies.** No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

28. **Covenants and Conditions; Construction of Agreement.** All provisions of this Lease to be observed or performed by Lessee are both covenants and conditions. In construing this Lease, all headings and titles are for the convenience of the Parties only and shall not be considered a part of this Lease. Whenever required by the context, the singular shall include the plural and vice versa. This Lease shall not be construed as if prepared by one of the Parties, but rather according to its fair meaning as a whole, as if both Parties had prepared it.

29. **Binding Effect; Choice of Law.** This Lease shall be binding upon the parties, their personal representatives, successors and assigns and be governed by the laws of the State in which the Premises are located. Any litigation between the Parties hereto concerning this Lease shall be initiated in the county in which the Premises are located.

30. **Subordination; Attornment; Non-Disturbance.**

30.1 **Subordination.** This Lease and any Option granted hereby shall be subject and subordinate to any ground lease, mortgage, deed of trust, or other hypothecation or security device (collectively, **"Security Device"**), now or hereafter placed upon the Premises, to any and all advances made on the security thereof, and to all renewals, modifications, and extensions thereof. Lessee agrees that the holders of any such Security Devices (in this Lease together referred to as **"Lender"**) shall have no liability or obligation to perform any of the obligations of Lessor under this Lease. Any Lender may elect to have this Lease and/or any Option granted hereby superior to the lien of its Security Device by giving written notice thereof to Lessee, whereupon this Lease and such Options shall be deemed prior to such Security Device, notwithstanding the relative dates of the documentation or recordation thereof.

30.2 **Attornment.** In the event that Lessor transfers title to the Premises, or the Premises are acquired by another upon the foreclosure or termination of a Security Devise to which this Lease is subordinated (i) Lessee shall, subject to the non-disturbance provisions of Paragraph 30.3, attorn to such new owner, and upon request, enter into a new lease, containing all of the terms and provisions of this Lease, with such new owner for the remainder of the term hereof, or, at the election of the new owner, this Lease will automatically become a new lease between Lessee and such new owner, and (ii) Lessor shall thereafter be relieved of any further obligations hereunder and such new owner shall assume all of Lessor's obligations, except that such new owner shall not: (a) be liable for any act or omission of any prior lessor or with respect to events occurring prior to acquisition of ownership; (b) be subject to any offsets or defenses which Lessee might have against any prior lessor, (c) be bound by prepayment of more than one month's rent, or (d) be liable for the return of any security deposit paid to any prior lessor which was not paid or credited to such new owner.

30.3 **Non-Disturbance.** With respect to Security Devices entered into by Lessor after the execution of this Lease, Lessee's subordination of this Lease shall be subject to receiving a commercially reasonable non-disturbance agreement (a **"Non-Disturbance Agreement"**) from the Lender which Non-Disturbance Agreement provides that Lessee's possession of the Premises, and this Lease, including any options to extend the term hereof, will not be disturbed so long as Lessee is not in Breach hereof and attorns to the record owner of the Premises. Further, within 60

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days after the execution of this Lease, Lessor shall, if requested by Lessee, use its commercially reasonable efforts to obtain a Non-Disturbance Agreement from the holder of any pre-existing Security Device which is secured by the Premises. In the event that Lessor is unable to provide the Non-Disturbance Agreement within said 60 days, then Lessee may, at Lessee's option, directly contact Lender and attempt to negotiate for the execution and delivery of a Non-Disturbance Agreement.

30.4 **Self-Executing.** The agreements contained in this Paragraph 30 shall be effective without the execution of any further documents; provided, however, that, upon written request from Lessor or a Lender in connection with a sale, financing or refinancing of the Premises, Lessee and Lessor shall execute such further writings as may be reasonably required to separately document any subordination, attornment and/or Non-Disturbance Agreement provided for herein.

31. **Attorneys' Fees.** If any Party or Broker brings an action or proceeding involving the Premises whether founded in tort, contract or equity, or to declare rights hereunder, the Prevailing Party (as hereafter defined) in any such proceeding, action, or appeal thereon, shall be entitled to reasonable attorneys' fees. Such fees may be awarded in the same suit or recovered in a separate suit, whether or not such action or proceeding is pursued to decision or judgment. The term, **"Prevailing Party"** shall include, without limitation, a Party or Broker who substantially obtains or defeats the relief sought, as the case may be, whether by compromise, settlement, judgment, or the abandonment by the other Party or Broker of its claim or defense. The attorneys' fees award shall not be computed in accordance with any court fee schedule, but shall be such as to fully reimburse all attorneys' fees reasonably incurred. In addition, Lessor shall be entitled to attorneys' fees, costs and expenses incurred in the preparation and service of notices of Default and consultations in connection therewith, whether or not a legal action is subsequently commenced in connection with such Default or resulting Breach ($200 is a reasonable minimum per occurrence for such services and consultation).

32. **Lessor's Access; Showing Premises; Repairs.** Showing Premises; Repairs. Lessor and Lessor's agents shall have the right to enter the Premises at any time, in the case of an emergency, and otherwise at reasonable times after reasonable prior notice for the purpose of showing the same to prospective purchasers, lenders, or tenants, and making such alterations, repairs, improvements or additions to the Premises as Lessor may deem necessary or desirable and the erecting, using and maintaining of utilities, services, pipes and conduits through the Premises and/or other premises as long as there is no material adverse effect on Lessee's use of the Premises. All such activities shall be without abatement of rent or liability to Lessee.

33. **Auctions.** Lessee shall not conduct, nor permit to be conducted, any auction upon the Premises without Lessor's prior written consent. Lessor shall not be obligated to exercise any standard of reasonableness in determining whether to permit an auction.

34. **Signs.** Lessor may place on the Premises ordinary "For Sale" signs at any time and ordinary "For Lease" signs during the last 6 months of the term hereof. Except for ordinary "For Sublease" signs which may be placed only on the Premises, Lessee shall not place any sign upon the Project without Lessor's prior written consent. All signs must comply with all Applicable Requirements.

35. **Termination; Merger.** Unless specifically stated otherwise in writing by Lessor, the voluntary or other surrender of this Lease by Lessee, the mutual termination or cancellation hereof, or a termination hereof by Lessor for Breach by Lessee, shall automatically terminate any sublease or lesser estate in the Premises; provided, however, that Lessor may elect to continue any one or all existing subtenancies. Lessor's failure within 10 days following any such event to elect to the contrary by written notice to the holder of any such lesser interest, shall constitute Lessor's election to have such event constitute the termination of such interest.

36. **Consents.** Except as otherwise provided herein, wherever in this Lease the consent of a Party is required to an act by or for the other Party, such consent shall not be unreasonably withheld or delayed. Lessor's actual reasonable costs and expenses (including but not limited to architects', attorneys', engineers' and other consultants' fees) incurred in the consideration of, or response to, a request by Lessee for any Lessor consent, including but not limited to consents to an assignment, a subletting or the presence or use of a Hazardous Substance, shall be paid by Lessee upon receipt of an invoice and supporting documentation therefor. Lessor's consent to any act, assignment or subletting shall not constitute an acknowledgment that no Default or Breach by Lessee of this Lease exists, nor shall such consent be deemed a waiver of any then existing Default or Breach, except as may be otherwise specifically stated in writing by Lessor at the time of such consent. The failure to specify herein any particular condition to Lessor's consent shall not preclude the imposition by Lessor at the time of consent of such further or other conditions as are then reasonable with reference to the particular matter for which consent is being given. In the event that either Party disagrees with any determination made by the other hereunder and reasonably requests the reasons for such determination, the determining party shall furnish its reasons in writing and in reasonable detail within 10 business days following such request.

37. **Guarantor.**

37.1 **Execution.** The Guarantors, if any, shall each execute a guaranty in the form most recently published by the AIR Commercial Real Estate Association,.

37.2 **Default.** It shall constitute a Default of the Lessee if any Guarantor fails or refuses, upon request to provide: (a) evidence of the execution of the guaranty, including the authority of the party signing on Guarantor's behalf to obligate Guarantor, and in the case of a corporate Guarantor, a certified copy of a resolution of its board of directors authorizing the making of such guaranty, (b) current financial statements, (c) an Estoppel Certificate, or (d) written confirmation that the guaranty is still in effect.

38. **Quiet Possession.** Subject to payment by Lessee of the Rent and performance of all of the covenants, conditions and provisions on Lessee's part to be observed and performed under this Lease, Lessee shall have quiet possession and quiet enjoyment of the Premises during the term hereof.

39. **Options.** If Lessee is granted any option, as defined below, then the following provisions shall apply.

39.1 **Definition. "Option"** shall mean: (a) the right to extend or reduce the term of or renew this Lease or to extend or reduce the term of or renew any lease that Lessee has on other property of Lessor; (b) the right of first refusal or first offer to lease either the Premises or other property of Lessor; (c) the right to purchase, the right of first offer to purchase or the right of first refusal to purchase the Premises or other property of Lessor.

39.2 **Options Personal To Original Lessee.** Any Option granted to Lessee in this Lease is personal to the original Lessee, and cannot be assigned or exercised by anyone other than said original Lessee and only while the original Lessee is in full possession of the Premises and, if requested by Lessor, with Lessee certifying that Lessee has no intention of thereafter assigning or subletting.

39.3 **Multiple Options.** In the event that Lessee has any multiple Options to extend or renew this Lease, a later Option cannot be exercised unless the prior Options have been validly exercised.

39.4 **Effect of Default on Options.**

(a) Lessee shall have no right to exercise an Option: (i) during the period commencing with the giving of any notice of Default and continuing until said Default is cured, (ii) during the period of time any Rent is unpaid (without regard to whether notice thereof is given Lessee), (iii) during the time Lessee is in Breach of this Lease, or (iv) in the event that Lessee has been given 3 or more notices of separate Default, whether or not the Defaults are cured, during the 12 month period immediately preceding the exercise of the Option.

(b) The period of time within which an Option may be exercised shall not be extended or enlarged by reason of Lessee's inability to exercise an Option because of the provisions of Paragraph 39.4(a).

(c) An Option shall terminate and be of no further force or effect, notwithstanding Lessee's due and timely exercise of the Option, if, after such exercise and prior to the commencement of the extended term or completion of the purchase, (i) Lessee fails to pay Rent for a period of 30 days after such Rent becomes due (without any necessity of Lessor to give notice thereof), or (ii) if Lessee commits a Breach of this Lease.

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40. **Security Measures.** Lessee hereby acknowledges that the Rent payable to Lessor hereunder does not include the cost of guard service or other security measures, and that Lessor shall have no obligation whatsoever to provide same. Lessee assumes all responsibility for the protection of the Premises, Lessee, its agents and invitees and their property from the acts of third parties.

41. **Reservations.** Lessor reserves the right: (i) to grant, without the consent or joindar of Lessee, such easements, rights and dedications that Lessor deems necessary, (ii) to cause the recordation of parcel maps and restrictions, and (iii) to create and/or install new utility raceways, so long as such easements, rights, dedications, maps, restrictions, and utility raceways do not unreasonably interfere with the use of the Premises by Lessee. Lessee agrees to sign any documents reasonably requested by Lessor to effectuate such rights.

42. **Performance Under Protest.** If at any time a dispute shall arise as to any amount or sum of money to be paid by one Party to the other under the provisions hereof, the Party against whom the obligation to pay the money is asserted shall have the right to make payment "under protest" and such payment shall not be regarded as a voluntary payment and there shall survive the right on the part of said Party to institute suit for recovery of such sum. If it shall be adjudged that there was no legal obligation on the part of said Party to pay such sum or any part thereof, said Party shall be entitled to recover such sum or so much thereof as it was not legally required to pay. A Party who does not initiate suit for the recovery of sums paid "under protest" within 6 months shall be deemed to have waived its right to protest such payment.

43. **Authority; Multiple Parties; Execution.**

(a) If either Party hereto is a corporation, trust, limited liability company, partnership, or similar entity, each individual executing this Lease on behalf of such entity represents and warrants that he or she is duly authorized to execute and deliver this Lease on its behalf. Each Party shall, within 30 days after request, deliver to the other Party satisfactory evidence of such authority.

(b) If this Lease is executed by more than one person or entity as "Lessee", each such person or entity shall be jointly and severally liable hereunder. It is agreed that any one of the named Lessees shall be empowered to execute any amendment to this Lease, or other document ancillary thereto and bind all of the named Lessees, and Lessor may rely on the same as if all of the named Lessees had executed such document.

(c) This Lease may be executed by the Parties in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

44. **Conflict.** Any conflict between the printed provisions of this Lease and the typewritten or handwritten provisions shall be controlled by the typewritten or handwritten provisions.

45. **Offer.** Preparation of this Lease by either party or their agent and submission of same to the other Party shall not be deemed an offer to lease to the other Party. This Lease is not intended to be binding until executed and delivered by all Parties hereto.

46. **Amendments.** This Lease may be modified only in writing, signed by the Parties in interest at the time of the modification. As long as they do not materially change Lessee's obligations hereunder, Lessee agrees to make such reasonable non-monetary modifications to this Lease as may be reasonably required by a Lender in connection with the obtaining of normal financing or refinancing of the Premises.

47. **Waiver of Jury Trial. THE PARTIES HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING INVOLVING THE PROPERTY OR ARISING OUT OF THIS AGREEMENT.**

48. **Arbitration of Disputes.** An Addendum requiring the Arbitration of all disputes between the Parties and/or Brokers arising out of this Lease ☐ is ☑ is not attached to this Lease.

49. **Americans with Disabilities Act.** Since compliance with the Americans with Disabilities Act (ADA) is dependent upon Lessee's specific use of the Premises, Lessor makes no warranty or representation as to whether or not the Premises comply with ADA or any similar legislation. In the event that Lessee's use of the Premises requires modifications or additions to the Premises in order to be in ADA compliance, Lessee agrees to make any such necessary modifications and/or additions at Lessee's expense.

LESSOR AND LESSEE HAVE CAREFULLY READ AND REVIEWED THIS LEASE AND EACH TERM AND PROVISION CONTAINED HEREIN, AND BY THE EXECUTION OF THIS LEASE SHOW THEIR INFORMED AND VOLUNTARY CONSENT THERETO. THE PARTIES HEREBY AGREE THAT, AT THE TIME THIS LEASE IS EXECUTED, THE TERMS OF THIS LEASE ARE COMMERCIALLY REASONABLE AND EFFECTUATE THE INTENT AND PURPOSE OF LESSOR AND LESSEE WITH RESPECT TO THE PREMISES.

ATTENTION: NO REPRESENTATION OR RECOMMENDATION IS MADE BY THE AIR COMMERCIAL REAL ESTATE ASSOCIATION OR BY ANY BROKER AS TO THE LEGAL SUFFICIENCY, LEGAL EFFECT, OR TAX CONSEQUENCES OF THIS LEASE OR THE TRANSACTION TO WHICH IT RELATES. THE PARTIES ARE URGED TO:

1. SEEK ADVICE OF COUNSEL AS TO THE LEGAL AND TAX CONSEQUENCES OF THIS LEASE.

2. RETAIN APPROPRIATE CONSULTANTS TO REVIEW AND INVESTIGATE THE CONDITION OF THE PREMISES. SAID INVESTIGATION SHOULD INCLUDE BUT NOT BE LIMITED TO: THE POSSIBLE PRESENCE OF HAZARDOUS SUBSTANCES, THE ZONING OF THE PREMISES, THE STRUCTURAL INTEGRITY, THE CONDITION OF THE ROOF AND OPERATING SYSTEMS, COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT AND THE SUITABILITY OF THE PREMISES FOR LESSEE'S INTENDED USE.

WARNING: IF THE PREMISES ARE LOCATED IN A STATE OTHER THAN CALIFORNIA, CERTAIN PROVISIONS OF THE LEASE MAY NEED TO BE REVISED TO COMPLY WITH THE LAWS OF THE STATE IN WHICH THE PREMISES ARE LOCATED.

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The parties hereto have executed this Lease at the place and on the dates specified above their respective signatures.

Executed at:	Executed:
On:	On:
By LESSOR:	**By LESSEE:**
45TH STREET, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY	SISTER SAM, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY, AND BAILEY 44, LLC, A DELAWARE LIMITED LIABILITY COMPANY
By:	By: Shelly Segal
Name Printed: Bruce Gabbai	Name Printed: Shelly Segal
Title:	Title: co owner - designer
By:	By: Joe Trasoulsi
Name Printed:	Name Printed: JOE TRASOULSI
Title:	Title: C.O.O.
Address: P.O. Box 2591 Huntington Park, California 90255	Address: 2170 E. 10th ST LA, CA 90021
Telephone:(310) 972-1728	Telephone:(213) 228-1930
Facsimile:( )	Facsimile:( )
Email:	Email:
Email:	Email:
Federal ID No.	Federal ID No.
BROKER: LEE & ASSOCIATES®-COMMERCE, INC.	**BROKER:** COMMERCIAL ASSET GROUP
Att: Doug Cline/Jack Cline/Peter Bacci	Att: Paul Herman
Title: Senior Vice President	Title:
Address: 500 Citadel Drive, Suite 140 Commerce, California 90040	Address: 15165 Ventura Boulevard, Suite 330 Sherman Oaks, California 91403
Telephone:(323) 767-2116/767-2025/767-2022	Telephone: ( )
Facsimile:(323) 767-2096/767-2085/767-2060	Facsimile:( )
Email: dcline@lee-associates.com	Email:
Federal ID No. 95-4295544	Federal ID No.
Broker/Agent DRE License #: 01142005/00854279/ 00946253	Broker/Agent DRE License #:

NOTICE: These forms are often modified to meet changing requirements of law and industry needs. Always write or call to make sure you are utilizing the most current form: AIR Commercial Real Estate Association, 800 W 6th Street, Suite 800, Los Angeles, CA 90017. Telephone No. (213) 687-8777. Fax No.: (213) 687-8616.

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ADDENDUM TO STANDARD INDUSTRIAL/COMMERCIAL MULTI-TENANT LEASE – GROSS

Lessor:	**45th Street, LLC, a California limited liability company**
Lessee:	**Sister Sam, LLC, a California limited liability company, and Bailey 44, LLC, a Delaware limited liability company**
Premises:	**4700 Boyle Avenue, Units B and D, Vernon, California 90058**
Dated:	**January 17, 2013**

50.	**Rental Increases:**	See attached form.
51.	**Option to Extend:**	See attached form.
52.	**Rental Abatement:**	Lessee shall receive January 15, 2013 through March 14, 2013 free of Base Rent.
53.	**Parking:**	Lessor reserves the right to relocate Lessee's parking spaces within the Premises or across the street. The ten (10) spaces at the front of the office space shall remain the same throughout the lease term.
54.	**Common Area Maintenance (CAM) Fees:**	Lessee shall be responsible for its proportionate share of the CAM fees (per Paragraph 4.2), including, but not limited to, landscaping and maintenance of the parking lot and office entry, sprinkler monitoring, and common area lighting, based on an approximate total square footage of 65,145 square feet. The CAM fees shall be capped at $1,000.00 per month.
55.	**City of Vernon Warehouse/ Parcel Tax:**	Lessee shall be responsible for paying the City of Vernon warehouse and/or parcel tax associated with Lessee's leased Premises during the term of its Lease. Lessee shall be responsible for increases in the City of Vernon warehouse and/or parcel tax associated with Lessee's leased Premises over and above the base City of Vernon warehouse and/or parcel tax as established on the first year of the Lease during the term of its Lease.
56.	**Security Alarm System:**	Lessee shall be responsible for installing and maintaining a security alarm for its rented space.
57.	**Trash Service:**	Lessee shall be responsible for its own trash disposal service with an approved City of Vernon disposal company.
58.	**Utilities:**	Lessor shall provide the water, gas, and electric bills over the next ninety (90) to one hundred and twenty (120) days to establish a base for billing purposes and shall install a submeter, if possible. Lessee shall only be responsible for the utility bills associated with Lessee's leased Premises.
59.	**City of Vernon Occupancy Inspection:**	Lessee shall be responsible for obtaining a use and occupancy permit, as well as a business license for the City of Vernon, prior to occupying the Premises.
60.	**Lessor's Improvements:**	Lessor, at Lessor's sole cost and expense, shall complete the following: a. Secure the lobby area and warehouse from other tenants (six (6) locations), including a double door leading into the hallway entry. b. Remove the serving stations in the kitchen, pending discussion with Lessee. c. Remove the accordion divider from the conference room and the low wall and desk in the middle of the warehouse, pending discussion with Lessee. d. Pay $10,000.00 towards the painting of the office walls and general office cleanup. e. Install a loading door along the southern wall of the warehouse; exact location to be determined.

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ADDENDUM TO STANDARD INDUSTRIAL/COMMERCIAL MULTI-TENANT LEASE – GROSS

Lessor: **45th Street, LLC, a California limited liability company**
Lessee: **Sister Sam, LLC, a California limited liability company, and Bailey 44, LLC, a Delaware limited liability company**
Premises: **4700 Boyle Avenue, Units B and D, Vernon, California 90058**
Dated: **January 17, 2013**

61.	**Electrical:**	Lessor to install an Emon Deamon Device supplying approximately 400 amps, 240 volts, 3-phase power. Lessee shall be responsible for payment of all electrical usage upon receiving the bill from Lessor.
62.	**Loading:**	Lessee shall have shared use of the three (3) loading positions. Only the other office tenants would have access to the loading doors.
63.	**Data Lines:**	Lessee is responsible for determining if the current data lines work for its intended use.
64.	**Signage:**	Lessee shall have the right to install a sign on the front of the building, as well as in the lobby area. Size and location shall be approved, in writing, by Lessor and the City of Vernon.
65.	**Shared Access to Lobby:**	Lessee shall have access to the lobby area twenty-four (24) hours per day, seven (7) days per week.
66.	**Electricity:**	The cost of electrical power consumption related directly to Lessee's use, including, but not limited to, the HVAC system and lights within the subject Premises, shall be billed as a separate cost in addition to the CAM fees.

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RENT ADJUSTMENT(S)
STANDARD LEASE ADDENDUM

Dated January 17, 2013

By and Between (Lessor) 45th Street, LLC, a California limited liability company

(Lessee) Sister Sam, LLC, a California limited liability company, and Bailey 44, LLC, a Delaware limited liability company

Address of Premises: 4700 Boyle Avenue, Units B and D
Vernon, California 90058

Paragraph 50

A. **RENT ADJUSTMENTS:**

The monthly rent for each month of the adjustment period(s) specified below shall be increased using the method(s) indicated below.

(Check Method(s) to be Used and Fill in Appropriately)

☐ I. Cost of Living Adjustment(s) (COLA)

a. On (Fill in COLA Dates): _____

the Base Rent shall be adjusted by the change, if any, from the Base Month specified below, in the Consumer Price Index of the Bureau of Labor Statistics of the U.S. Department of Labor for (select one): ☐ CPI W (Urban Wage Earners and Clerical Workers) or ☐ CPI U (All Urban Consumers), for (Fill in Urban Area): _____

_____. All Items (1982-1984 = 100), herein referred to as "CPI".

b. The monthly rent payable in accordance with paragraph A.I.a. of this Addendum shall be calculated as follows: the Base Rent set forth in paragraph 1.5 of the attached Lease, shall be multiplied by a fraction the numerator of which shall be the CPI of the calendar month 2 months prior to the month(s) specified in paragraph A.I.a. above during which the adjustment is to take effect, and the denominator of which shall be the CPI of the calendar month which is 2 months prior to (select one): the ☐ first month of the term of this Lease as set forth in paragraph 1.3 ("Base Month") or ☐ (Fill in Other "Base Month"): _____.
The sum so calculated shall constitute the new monthly rent hereunder, but in no event, shall any such new monthly rent be less than the rent payable for the month immediately preceding the rent adjustment.

c. In the event the compilation and/or publication of the CPI shall be transferred to any other governmental department or bureau or agency or shall be discontinued, then the index most nearly the same as the CPI shall be used to make such calculation. In the event that the Parties cannot agree on such alternative index, then the matter shall be submitted for decision to the American Arbitration Association in accordance with the then rules of said Association and the decision of the arbitrators shall be binding upon the parties. The cost of said Arbitration shall be paid equally by the Parties.

☐ II. Market Rental Value Adjustment(s) (MRV)

a. On (Fill in MRV Adjustment Date(s)): _____

the Base Rent shall be adjusted to the "Market Rental Value" of the property as follows:

1) Four months prior to each Market Rental Value Adjustment Date described above, the Parties shall attempt to agree upon what the new MRV will be on the adjustment date. If agreement cannot be reached within thirty days, then:

(a) Lessor and Lessee shall immediately appoint a mutually acceptable appraiser or broker to establish the new MRV within the next 30 days. Any associated costs will be split equally between the Parties, or

(b) Both Lessor and Lessee shall each immediately make a reasonable determination of the MRV and submit such determination, in writing, to arbitration in accordance with the following provisions:

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~~(i) Within 15 days thereafter, Lessor and Lessee shall each select an ☐ appraiser or ☐ broker ("Consultant" - check one) of their choice to act as an arbitrator. The two arbitrators so appointed shall immediately select a third mutually acceptable Consultant to act as a third arbitrator.~~

~~(ii) The 3 arbitrators shall within 30 days of the appointment of the third arbitrator reach a decision as to what the actual MRV for the Premises is, and whether Lessor's or Lessee's submitted MRV is the closest thereto. The decision of a majority of the arbitrators shall be binding on the Parties. The submitted MRV which is determined to be the closest to the actual MRV shall thereafter be used by the Parties.~~

~~(iii) If either of the Parties fails to appoint an arbitrator within the specified 15 days, the arbitrator timely appointed by one of them shall reach a decision on his or her own, and said decision shall be binding on the Parties.~~

~~(iv) The entire cost of such arbitration shall be paid by the party whose submitted MRV is not selected, i.e., the one that is NOT the closest to the actual MRV.~~

~~2) Notwithstanding the foregoing, the new MRV shall not be less than the rent payable for the month immediately preceding the rent adjustment.~~

~~b. Upon the establishment of each New Market Rental Value:~~
~~1) the new MRV will become the new "Base Rent" for the purpose of calculating any further Adjustments, and~~
~~2) the first month of each Market Rental Value term shall become the new "Base Month" for the purpose of calculating any further Adjustments.~~

☑ **III. Fixed Rental Adjustment(s) (FRA)**

The Base Rent shall be increased to the following amounts on the dates set forth below:

On (Fill in FRA Adjustment Date(s)):	The New Base Rent shall be:
March 15, 2015-March 14, 2017	$20,800.00
March 15, 2017-March 14, 2018	$21,632.00

B. **NOTICE:**
Unless specified otherwise herein, notice of any such adjustments, other than Fixed Rental Adjustments, shall be made as specified in paragraph 23 of the Lease.

C. **BROKER'S FEE:**
The Brokers shall be paid a Brokerage Fee for each adjustment specified above in accordance with paragraph 15 of the Lease or if applicable, paragraph 9 of the Sublease.

NOTICE: These forms are often modified to meet changing requirements of law and industry needs. Always write or call to make sure you are utilizing the most current form: AIR Commercial Real Estate Association, 800 W 6th Street, Suite 800, Los Angeles, CA 90017. Telephone No. (213) 687-8777. Fax No.: (213) 687-8616.

OPTION(S) TO EXTEND
STANDARD LEASE ADDENDUM

Dated January 17, 2013

By and Between (Lessor) 45th Street, LLC, a California limited liability company

By and Between (Lessee) Sister Sam, LLC, a California limited liability company, and Bailey 44, LLC, a Delaware limited liability company

Address of Premises: 4700 Boyle Avenue, Units B and D
Vernon, California 90058

Paragraph 51

A. **OPTION(S) TO EXTEND:**
Lessor hereby grants to Lessee the option to extend the term of this Lease for 1 additional 60 month period(s) commencing when the prior term expires upon each and all of the following terms and conditions:

(i) In order to exercise an option to extend, Lessee must give written notice of such election to Lessor and Lessor must receive the same at least 3 but not more than 6 months prior to the date that the option period would commence, time being of the essence. If proper notification of the exercise of an option is not given and/or received, such option shall automatically expire. Options (if there are more than one) may only be exercised consecutively.

(ii) The provisions of paragraph 39, including those relating to Lessee's Default set forth in paragraph 39.4 of this Lease, are conditions of this Option.

(iii) Except for the provisions of this Lease granting an option or options to extend the term, all of the terms and conditions of this Lease except where specifically modified by this option shall apply.

(iv) This Option is personal to the original Lessee, and cannot be assigned or exercised by anyone other than said original Lessee and only while the original Lessee is in full possession of the Premises and without the intention of thereafter assigning or subletting.

(v) The monthly rent for each month of the option period shall be calculated as follows, using the method(s) indicated below:
(Check Method(s) to be Used and Fill in Appropriately)

☐ I. **Cost of Living Adjustment(s) (COLA)**

a. On (Fill in COLA Dates): _____
the Base Rent shall be adjusted by the change, if any, from the Base Month specified below, in the Consumer Price Index of the Bureau of Labor Statistics of the U.S. Department of Labor for (select one): ☐ CPI W (Urban Wage Earners and Clerical Workers) or ☐ CPI U (All Urban Consumers), for (Fill in Urban Area): _____
All Items (1982-1984 = 100), herein referred to as "CPI".

b. The monthly rent payable in accordance with paragraph A.I.a. of this Addendum shall be calculated as follows: the Base Rent set forth in paragraph 1.5 of the attached Lease, shall be multiplied by a fraction the numerator of which shall be the CPI of the calendar month 2 months prior to the month(s) specified in paragraph A.I.a. above during which the adjustment is to take effect, and the denominator of which shall be the CPI of the calendar month which is 2 months prior to (select one): ☐ the first month of the term of this Lease as set forth in paragraph 1.3 ("Base Month") or ☐ (Fill in Other "Base Month"): _____
The sum so calculated shall constitute the new monthly rent hereunder, but in no event, shall any such new monthly rent be less than the rent payable for the month immediately preceding the rent adjustment.

c. In the event the compilation and/or publication of the CPI shall be transferred to any other governmental department or bureau or agency or shall be discontinued, then the index most nearly the same as the CPI shall be used to make such calculation. In the event that the Parties cannot agree on such alternative index, then the matter shall be submitted for decision to the American Arbitration Association in accordance with the then rules of said Association and the decision of the arbitrators shall be binding upon the parties. The cost of said Arbitration shall be paid equally by the Parties.

☑ II. **Market Rental Value Adjustment(s) (MRV)**

a. On (Fill in MRV Adjustment Date(s)) March 15, 2018
the Base Rent shall be adjusted to the "Market Rental Value" of the property as follows:

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1) Four months prior to each Market Rental Value Adjustment Date described above, the Parties shall attempt to agree upon what the new MRV will be on the adjustment date. If agreement cannot be reached, within thirty days, then:

(a) Lessor and Lessee shall immediately appoint a mutually acceptable appraiser or broker to establish the new MRV within the next 30 days. Any associated costs will be split equally between the Parties, or

(b) Both Lessor and Lessee shall each immediately make a reasonable determination of the MRV and submit such determination, in writing, to arbitration in accordance with the following provisions:

(i) Within 15 days thereafter, Lessor and Lessee shall each select an ☐ appraiser or ☐ broker (**"Consultant"** - check one) of their choice to act as an arbitrator. The two arbitrators so appointed shall immediately select a third mutually acceptable Consultant to act as a third arbitrator.

(ii) The 3 arbitrators shall within 30 days of the appointment of the third arbitrator reach a decision as to what the actual MRV for the Premises is, and whether Lessor's or Lessee's submitted MRV is the closest thereto. The decision of a majority of the arbitrators shall be binding on the Parties. The submitted MRV which is determined to be the closest to the actual MRV shall thereafter be used by the Parties.

(iii) If either of the Parties fails to appoint an arbitrator within the specified 15 days, the arbitrator timely appointed by one of them shall reach a decision on his or her own, and said decision shall be binding on the Parties.

(iv) The entire cost of such arbitration shall be paid by the party whose submitted MRV is not selected, ie. the one that is NOT the closest to the actual MRV.

2) Notwithstanding the foregoing, the new MRV shall not be less than the rent payable for the month immediately preceding the rent adjustment.

b. Upon the establishment of each New Market Rental Value:

1) the new MRV will become the new "Base Rent" for the purpose of calculating any further Adjustments, and
2) the first month of each Market Rental Value term shall become the new "Base Month" for the purpose of calculating any further Adjustments.

☐ **III. Fixed Rental Adjustment(s) (FRA)**

The Base Rent shall be increased to the following amounts on the dates set forth below:

On (Fill in FRA Adjustment Date(s)):	The New Base Rent shall be:

B. NOTICE:
Unless specified otherwise herein, notice of any rental adjustments, other than Fixed Rental Adjustments, shall be made as specified in paragraph 23 of the Lease.

C. BROKER'S FEE:
The Brokers shall be paid a Brokerage Fee for each adjustment specified above in accordance with paragraph 15 of the Lease.

NOTICE: These forms are often modified to meet changing requirements of law and industry needs. Always write or call to make sure you are utilizing the most current form: AIR Commercial Real Estate Association, 800 W 6th Street, Suite 800, Los Angeles, CA 90017. Telephone No. (213) 687-8777. Fax No.: (213) 687-8616.

AIR COMMERCIAL REAL ESTATE ASSOCIATION

GUARANTY OF LEASE

WHEREAS, 45th Street, LLC, a California limited liability company, hereinafter "Lessor", and Sister Sam, LLC, a California limited liability company, and Bailey 44, LLC, a Delware limited liability company, hereinafter "Lessee", are about to execute a document entitled "Lease" dated January 17, 2013 concerning the premises commonly known as 4700 Boyle Avenue, Units B & D, Vernon, California 90058 wherein Lessor will lease the premises to Lessee, and

WHEREAS, Sister Sam, LLC, a California limited liability company, and Bailey 44, LLC, a Delaware limited liability company hereinafter "Guarantors" have a financial interest in Lessee, and

WHEREAS, Lessor would not execute the Lease if Guarantors did not execute and deliver to Lessor this Guaranty of Lease.

NOW THEREFORE, in consideration of the execution of said Lease by Lessor and as a material inducement to Lessor to execute said Lease, Guarantors hereby jointly, severally, unconditionally and irrevocably guarantee the prompt payment by Lessee of all rents and all other sums payable by Lessee under said Lease and the faithful and prompt performance by Lessee of each and every one of the terms, conditions and covenants of said Lease to be kept and performed by Lessee.

It is specifically agreed by Lessor and Guarantors that: (i) the terms of the foregoing Lease may be modified by agreement between Lessor and Lessee, or by a course of conduct, and (ii) said Lease may be assigned by Lessor or any assignee of Lessor without consent or notice to Guarantors and that this Guaranty shall guarantee the performance of said Lease as so modified.

This Guaranty shall not be released, modified or affected by the failure or delay on the part of Lessor to enforce any of the rights or remedies of the Lessor under said Lease.

No notice of default by Lessee under the Lease need be given by Lessor to Guarantors, it being specifically agreed that the guarantee of the undersigned is a continuing guarantee under which Lessor may proceed immediately against Lessee and/or against Guarantors following any breach or default by Lessee or for the enforcement of any rights which Lessor may have as against Lessee under the terms of the Lease or at law or in equity.

Lessor shall have the right to proceed against Guarantors following any breach or default by Lessee under the Lease without first proceeding against Lessee and without previous notice to or demand upon either Lessee or Guarantors.

Guarantors hereby waive (a) notice of acceptance of this Guaranty, (b) demand of payment, presentation and protest, (c) all right to assert or plead any statute of limitations relating to this Guaranty or the Lease, (d) any right to require the Lessor to proceed against the Lessee or any other Guarantor or any other person or entity liable to Lessor, (e) any right to require Lessor to apply to any default any security deposit or other security it may hold under the Lease, (f) any right to require Lessor to proceed under any other remedy Lessor may have before proceeding against Guarantors, (g) any right of subrogation that Guarantors may have against Lessee.

Guarantors do hereby subordinate all existing or future indebtedness of Lessee to Guarantors to the obligations owed to Lessor under the Lease and this Guaranty.

If a Guarantor is married, such Guarantor expressly agrees that recourse may be had against his or her separate property for all of the obligations hereunder.

The obligations of Lessee under the Lease to execute and deliver estoppel statements and financial statements, as therein provided, shall be deemed to also require the Guarantors to do and provide the same to Lessor. The failure of the Guarantors to provide the same to Lessor shall constitute a default under the Lease.

The term "Lessor" refers to and means the Lessor named in the Lease and also Lessor's successors and assigns. So long as Lessor's interest in the Lease, the leased premises or the rents, issues and profits therefrom, are subject to any mortgage or deed of trust or assignment for security, no acquisition by Guarantors of the Lessor's interest shall affect the continuing obligation of Guarantors under this Guaranty which shall nevertheless continue in full force and effect for the benefit of the mortgagee, beneficiary, trustee or assignee under such mortgage, deed of trust or assignment and their successors and assigns.

The term "Lessee" refers to and means the Lessee named in the Lease and also Lessee's successors and assigns.

Any recovery by Lessor from any other guarantor or insurer shall first be credited to the portion of Lessee's indebtedness to Lessor which exceeds the maximum liability of Guarantors under this Guaranty.

No provision of this Guaranty or right of the Lessor can be waived, nor can the Guarantors be released from their obligations except in writing signed by the Lessor.

Any litigation concerning this Guaranty shall be initiated in a state court of competent jurisdiction in the county in which the leased premises are located and the Guarantors consent to the jurisdiction of such court. This Guaranty shall be governed by the laws of the State in which the leased premises are located and for the purposes of any rules regarding conflicts of law the parties shall be treated as if they were all residents or domiciles of such State.

In the event any action be brought by said Lessor against Guarantors hereunder to enforce the obligation of Guarantors hereunder, the unsuccessful party in such action shall pay to the prevailing party therein a reasonable attorney's fee. The attorney's fee award shall not be computed in accordance with any court fee schedule, but shall be such as to full reimburse all attorney's fees reasonably incurred.

If any Guarantor is a corporation, partnership, or limited liability company, each individual executing this Guaranty on said entity's behalf represents and warrants that he or she is duly authorized to execute this Guaranty on behalf of such entity.

If this Form has been filled in, it has been prepared for submission to your attorney for his approval. No representation or recommendation is made by the AIR Commercial Real Estate Association, the real estate broker or its agents or employees as to the legal sufficiency, legal effect, or tax consequences of this Form or the transaction relating thereto.

Executed at: Los Angeles, CA — Shall Sfat - Co owner

On: 1-17-13

Address: 2150 E. 10th St, LA, CA 90021

"GUARANTORS"

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PROPERTY INFORMATION SHEET
(Non-Residential)
AIR Commercial Real Estate Association

PREFACE:

Purpose: This Statement is NOT a warranty as to the actual condition of the Property/Premises. The purpose is, instead, to provide the brokers and the potential buyer/lessee with important information about the Property/Premises which is currently in the actual knowledge of the Owner and which the Owner is required by law to disclose.

Actual Knowledge: For purposes of this Statement the phrase 'actual knowledge' means: the awareness of a fact, or the awareness of sufficient information and circumstances so as to cause one to believe that a certain situation or condition probably exists.

TO WHOM IT MAY CONCERN:

45th Street, LLC, a California limited liability company ("Owner"), owns the Property/Premises commonly known by the street address of 4700 Boyle Avenue, Units B and D located in the City of Vernon County of, Los Angeles, State of California, and generally described as (describe briefly the nature of the Premises or Property) an approximately 42,206 square foot portion of a larger 401,587 square foot industrial building, along with parking and yard as shown on the attached Exhibit "B" (herein after "Property"), and certifies that:

1. **Material Physical Defects.** Owner has no actual knowledge of any material physical defects in the Property or any improvements and structures thereon, including, but not limited to the roof, except (if there are no exceptions write "NONE"):

2. **Equipment.**
A. Owner has no actual knowledge that the heating, ventilating, air conditioning, plumbing, loading doors, electrical and lighting systems, life safety systems, security systems and mechanical equipment existing on the Property as of the date hereof, if any, are not in good operating order and condition, except (if there are no exceptions write "NONE"):

B. Owner has no actual knowledge of any leases, financing agreements, liens or other agreements affecting any equipment which is being included with the Property, except (if there are no exceptions write "NONE"):

3. **Soil Conditions.** Owner has no actual knowledge that the Property has any slipping, sliding, settling, flooding, ponding or any other grading, drainage or soil problems, except (if there are no exceptions write "NONE"):

4. **Utilities.** Owner represents and warrants that the Property is served by the following utilities (check the appropriate boxes) ☐ public sewer system and the cost of installation thereof has been fully paid, ☐ private septic system, ☐ electricity, ☐ natural gas, ☐ domestic water, ☐ telephone, and ☐ other:

5. **Insurance.** Owner has no actual knowledge of any insurance claims filed regarding the Property during the preceeding 3 years, except (if there are no exceptions write "NONE"):

6. **Compliance With Laws.** Owner has no actual knowledge of any aspect or condition of the Property which violates applicable laws, rules, regulations, codes, or covenants, conditions or restrictions, or of improvements or alterations made to the Property without a permit where one was required, or of any unfulfilled order or directive of any applicable government agency or of any casualty insurance company that any work of investigation, remediation, repair, maintenance or improvement is to be performed on the Property, except (if there are no exceptions write "NONE"):

7. **Hazardous Substances and Mold.**
A. Owner has no actual knowledge of the Property ever having been used as a waste dump, of the past or present existence of any above or below ground storage tanks on the Property, or of the current existence on the Property of asbestos, transformers containing PCB's or any hazardous, toxic or infectious substance whose nature and/or quantity of existence, use, manufacture or effect, render it subject to Federal, state or local regulation, investigation, remediation or removal as potentially injurious to public health or welfare, except (if there are no exceptions write "NONE"):

B. Owner represents and warrants that it is not currently, and never has been engaged in the business of hauling waste, and never stored hazardous substances on the Property, except (if there are no exceptions write "NONE"):

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DISCLOSURE FOR LEASE
For AIR Lease Forms
(When Prepared by Lee & Associates®)

PREMISES: 4700 BOYLE AVENUE, UNITS B AND D, VERNON, CALIFORNIA 90058 **(the "Premises")**

1. **LEGAL EFFECT.** Upon acceptance of a binding lease (the "Lease"), Lessor and Lessee both intend to have a binding legal agreement for the leasing of the Premises on the terms and conditions set forth therein. Lessor and Lessee acknowledge that Broker (as defined in the Lease) is not qualified to practice law or authorized to give legal advice or counsel as to any legal matters affecting the Lease. Broker hereby advises Lessor and Lessee to consult with their respective attorneys in connection with any questions each may have as to legal ramifications or effects of this Lease prior to its execution.

2. **FORM OF LEASE.** The Lease is a standard form document. Broker has, at the direction of Lessor and/or Lessee, merely "filled in the blanks" based on prior discussions and/or correspondence of the parties. Lessor and Lessee each acknowledge that the Lease is delivered subject to the express condition that Broker has merely followed the instructions of the parties in preparing this document and does not assume any responsibility for its accuracy, completeness or form. Lessor and Lessee acknowledge and understand that in providing the Lease, Broker has acted to expedite this transaction on behalf of Lessor and/or Lessee and has functioned within the scope of professional ethics by doing so.

3. **CONCURRENT OFFERS. Lessor and Lessee acknowledge and consent that Broker may represent concurrent and/or competing offers with regard to the purchase or lease of the Premises from one or more prospective Buyers or Lessees without further notice.**

4. **NO INDEPENDENT INVESTIGATION. Lessor and Lessee acknowledge and understand that any financial statements, information, reports or written materials of any nature whatsoever, as provided by the parties to Broker and thereafter submitted by Broker to either Lessor and/or Lessee, are so provided without any independent investigation by Broker, and as such, Broker assumes no responsibility or liability for the accuracy or validity of the same. Any verification of such submitted documents is solely and completely the responsibility of the party to whom such documents have been submitted.**

5. **NO WARRANTY.** Lessor and Lessee acknowledge and understand that no warranties, recommendations or representations are or will be made by Broker as to the accuracy, legal sufficiency, legal effect or tax consequences of any of the documents submitted by Broker to Lessor and/or Lessee or of the legal sufficiency, legal effect or tax consequences of the transactions contemplated thereby. Furthermore, Lessor and Lessee acknowledge and understand that Broker has made no representations or warranties concerning the ability of Lessee to use the Premises as intended, the sufficiency or adequacy of the Premises for the intended use or any other matter regarding the Premises, and the parties are relying solely on their own investigations in executing the Lease.

6. **NOTICE REGARDING HAZARDOUS WASTES OR SUBSTANCES AND UNDERGROUND STORAGE TANKS.** Although Broker will disclose any actual knowledge it possesses with respect to the existence of any hazardous wastes, substances or underground storage tanks at the Premises, Broker has not made any independent investigations or obtained reports with respect thereto, except as may be described in a separate written document signed by Broker. All parties hereto acknowledge and understand that Broker makes no representations or warranties regarding the existence or nonexistence of hazardous wastes, substances or underground storage tanks at the Premises. Lessor and Lessee acknowledge that Broker has recommended that they should each contact one or more professionals, such as a civil engineer, geologist, industrial hygienist or other environmental consultants, for advice concerning the existence of hazardous wastes, substances or underground storage tanks.

7. **DISCLOSURE RESPECTING AMERICANS WITH DISABILITIES ACT.** The Americans with Disabilities Act, as well as certain state and local laws, are intended to make many business establishments equally accessible to persons with a variety of disabilities; modifications to real property may be required by such laws. Broker is not qualified to advise you as to what, if any, changes may be required now or in the future. The undersigned acknowledge that Broker has recommended that they consult attorneys and qualified design professionals for information regarding whether the Premises are in compliance with applicable law and/or whether modifications and changes are required.

8. **CORPORATE SIGNATURES.** Although there is a presumption under California law that the signature of a corporate president is adequate to bind the corporation, a California Court of Appeals in a 1998 case allowed a party to rebut the normal presumption. Therefore, if either of the parties to the Lease is a corporation, it is advisable: (i) that the Lease be signed by two officers of the corporation, i.e. the president or vice president and the secretary or chief financial officer (note: one individual signing in both the capacity of president and as secretary may not be sufficient), or (ii) that the corporation provide a duly executed corporate resolution authorizing the transaction.

9. **USE AND OCCUPANCY DISCLOSURE.** Broker recommends that Lessee hire qualified contractor(s), consultant(s) or other professional(s) to confirm and verify that the physical characteristics of the Premises (including, but not limited to, building, office, and land sizes, fire sprinkler capacity, electrical power and all utilities, ceiling clear height, loading door sizes and quantity, railroad service, parking spaces, heating/cooling systems, type of construction, restroom(s) number and size, year built of improvements) are to Lessee's satisfaction and that they are adequate to accommodate Lessee's intended use. Broker also recommends that Lessee hire qualified professionals to confirm with applicable governmental agencies that the use and zoning of the Premises are acceptable for Lessee's intended use and that Lessee will be able to obtain all permits, licenses, and other approvals necessary for the intended use.

10. **SEISMIC REINFORCEMENT DISCLOSURE.** Some cities and counties have established or may be establishing minimum standards for structural seismic resistance for certain buildings constructed prior to 1933, 1976 and possibly other dates. Some structures will be required to comply with various standards set forth by the appropriate governmental agencies. Broker is not qualified to advise you as to what, if any, changes may be required now or in the future. The undersigned acknowledge that Broker has recommended that they consult a qualified architect, attorney or other consultant for information regarding this matter.

11. **MOLD DISCLOSURE.** Toxic or other molds may be present within a property in concentrations that may pose a threat to the health of humans. Toxic or other dangerous molds may or may not be visible or apparent to a potential user of the Premises. In order to ascertain the nature and extent of toxic or other molds present in a property, it is necessary to conduct testing using qualified environmental expert specializing in mold inspection and analysis. Broker advises Lessee to retain the services of an environmental testing expert for this purpose.

12. **DISCLOSURE REGARDING CITY ORDINANCES.** Some cities have enacted ordinances which provide, among other matters, for car and truck parking restrictions and regulations, truck loading area requirements, and maximum building sizes that can be utilized for a particular use. Additionally, some cities have imposed special taxes, such as the City of Vernon, for warehouse or partial warehouse uses. All of these restrictions and/or regulations are varied from city to city, and they are constantly changing. Broker is not qualified to advise you whether the Premises (and/or any related property) or the proposed use thereof complies with these or any other ordinances or whether the Premises (and/or any related property) might, in the future, violate these or any other ordinances nor is Broker qualified to advise you as to the impact thereof. Broker recommends that each party carefully review all applicable codes, regulations, and ordinances affecting the Premises and consult with their attorneys, consultants, engineers, and contractors to determine whether the Premises (and/or any related property) and the proposed use are and, in the future, will be in compliance with same.

13. Lessor and Lessee acknowledge that Broker has made no representations with respect to the enforceability or continued enforceability of any Lease in the event of a foreclosure on the Premises. Broker recommends that Lessor and/or Lessee consult with an attorney to determine the effect of a foreclosure on any Lease and specifically the advisability of entering into a subordination, non-disturbance and attornment agreement in connection with any Lease of the Premises.

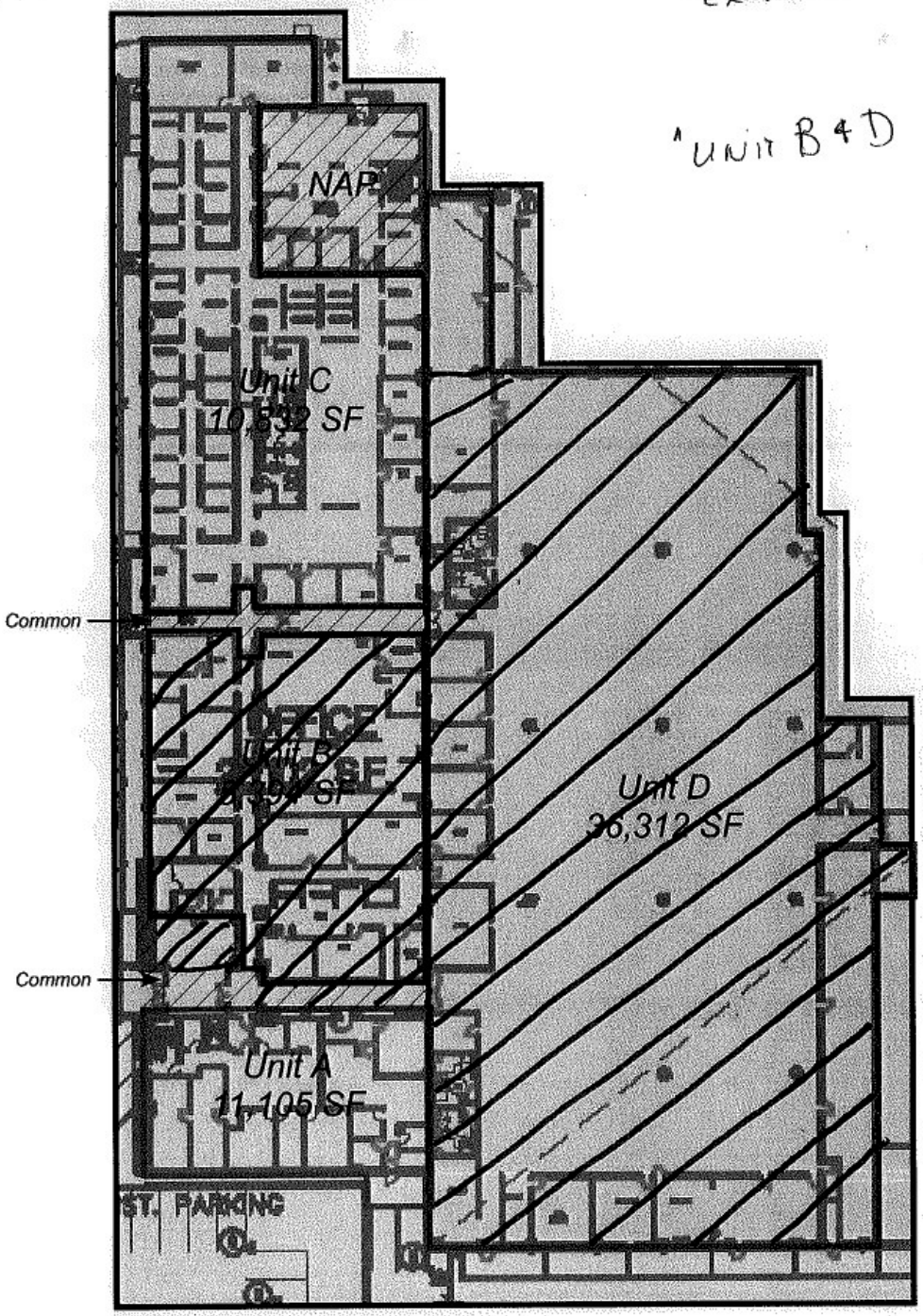
The undersigned acknowledge that they have received and read the above Disclosure.

Dated: _____ Dated: 1-17-13

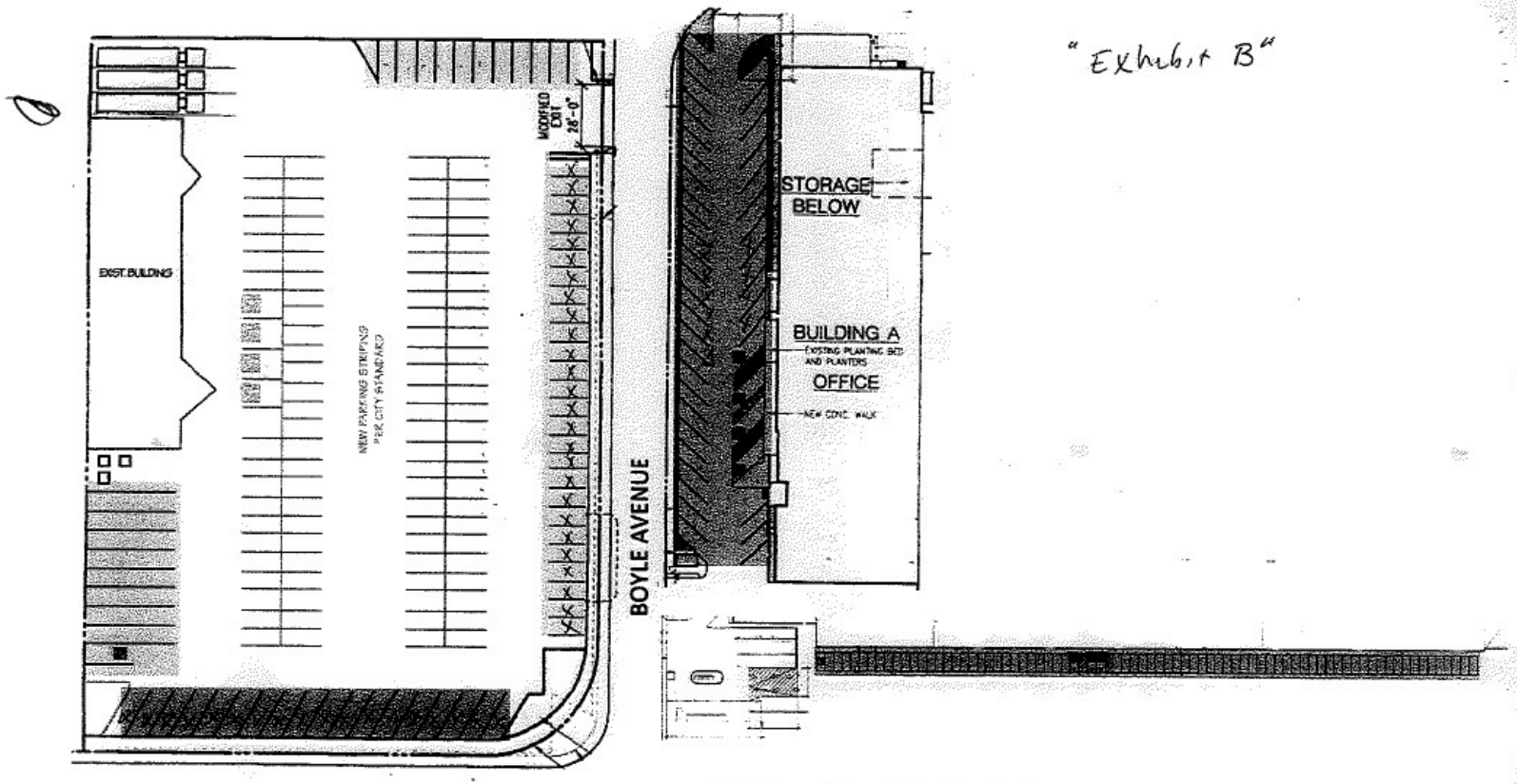
LESSOR:	LESSEE:
45TH STREET, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY	**SISTER SAM, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY, AND BAILEY 44, LLC, A DELAWARE LIMITED LIABILITY COMPANY**
BY: _____ Bruce Gabbai	BY: _____

Exhibit A

"UNIT B & D



"Exhibit B"



97 Parking Stalls + 4 Handicap Stalls

18 Parking Stalls

9 Parking Stalls + 1 Handicap Stalls

11 Parking Stalls

26 Parking Stalls

36 Parking Stalls + 4 Handicap Stalls

73 Parking Stalls + 3 Handicap Stalls

Total Parking Stalls:
270 + 12 Handicap Stalls

FIRST AMENDMENT TO LEASE AGREEMENT DATE:
FEBRUARY 20, 2018

Lease Dated:	**January 11, 2013**
Lessor:	**45th Street, LLC, a California limited liability company**
Lessee:	**Sister Sam, LLC, a California limited liability company, and Bailey 44, LLC, a Delaware limited liability company**
Premises:	**An approximate 42,206 square foot portion of a larger 401,587 square foot industrial building commonly know as 4700 Boyle Avenue, Units B and D, Vernon, California 90058**

RECITALS:

WHEREAS, the parties have entered into that certain lease dated January 11, 2013, hereinafter referred to as the "Lease".

NOW THEREFORE, in consideration of mutual understandings and agreements of the parties herein contained, said Lease, referred to above, is hereby amended in the following respects only:

1. **1.3 Term:** The term of the Lease shall commence March 01, 2018 and end February 28, 2023.

2. **1.5 Base Rent:** The new Base Rent shall be $0.78 gross or $32,920.68 per month. The Base Rent shall increase by 3% per annum each year throughout the 5-year term.

3. **Lessor's Improvement:** Lessor at Lessor's sole cost and expense shall repair the load leveler on dock.

4. **Common Area Maintenance Fees:** Lessee shall be responsible for its proportionate share of the CAM fees (per Paragraph 4.2), including, but not limited to, landscaping and maintenance of the parking lot and office entry, sprinkler monitoring, and common area lighting, based on an approximate total square footage of 65,145 square feet. Lessee shall also be responsible for the increases in taxes and insurance over the new Base year (2018).

Except as amended herein, all other terms and conditions of said Lease shall remain in full force and effect.

The undersigned herewith acknowledge receipt of a copy of this Amendment and herewith approve of the above.

APPROVED & ACCEPTED – "LESSOR":
45TH STREET, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY

BY: _____ **DATED:** 2-21-2018

APPROVED & ACCEPTED – "LESSEE":
SISTER SAM, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY, AND BAILEY 44, LLC, A DELAWARE LIMITED LIABILITY COMPANY

BY: _____ **DATED:** 3-27-2018

Exhibit 10.27

BOARD OF DIRECTORS AGREEMENT

THIS AGREEMENT is made and entered into effective as of_____, 2021 (the "Effective Date"), by and between**Digital Brands Group, Inc.**, a Delaware corporation (the "Company") with its principal place of business located at_____, and **Jameeka Green Aaron**, an individual ("Director") with her principal residence at 121 Excursion, Irvine CA 92618 .

1. Term

This Agreement shall continue for a period of one (1) year from the Effective Date and shall continue thereafter for as long as Director is elected as a member of the Board of Directors by the shareholders of the Company. It may be renewed for a successive one year term upon termination.

2. Position and Responsibilities

(a) Position. The Board of Directors hereby appoints the Director to serve as a Board Member until the next annual meeting of the Company's shareholders or until her earlier resignation, removal or death. The Director shall perform such duties and responsibilities as are customarily related to such position in accordance with Company's bylaws and applicable law, including, but not limited to, those services described on **Exhibit A** attached hereto (the "Services"). Director hereby agrees to use her best efforts to provide the Services. Director shall not allow any other person or entity to perform any of the Services for or instead of Director. Director shall comply with the statutes, rules, regulations and orders of any governmental or quasi-governmental authority, which are applicable to the Company and the performance of the Services, and Company's rules, regulations, and practices as they may from time-to-time be adopted or modified.

(b) Other Activities. Director may be employed by another company, may serve on other Boards of Directors or Advisory Boards, and may engage in any other business activity (whether or not pursued for pecuniary advantage), as long as such outside activities do not violate Director's obligations under this Agreement or Director's fiduciary obligations to the Company's shareholders. The ownership of less than a 5% interest in an entity, by itself, shall not constitute a violation of this duty. Director represents that Director has no outstanding agreement or obligation that is in conflict with any of the provisions of this Agreement, and Director agrees to use her best efforts to avoid or minimize any such conflict and agrees not to enter into any agreement or obligation that could create such a conflict without the approval of a majority of the Board of Directors. If, at any time, Director is required to make any disclosure or take any action that may conflict with any of the provisions of this Agreement, Director will promptly notify the Board of such obligation, prior to making such disclosure or taking such action.

(c) No Conflict. Director will not engage in any activity that creates an actual or perceived conflict of interest with Company, regardless of whether such activity is prohibited by Company's conflict of interest guidelines or this Agreement, and Director agrees to notify the Board of Directors before engaging in any activity that could reasonably be assumed to create a potential conflict of interest with Company. Notwithstanding the provisions of Section 2(b) hereof, Director shall not engage in any activity that is in direct competition with the Company or serve in any capacity (including, but not limited to, as an employee, consultant, advisor or director) in any company or entity that competes directly or indirectly with the Company, as reasonably determined by a majority of Company's disinterested board members, without the approval of the Board of Directors.

3. Compensation and Benefits

(a) Stock and Stock Options. Subject to vesting, as set forth on**Exhibit B**, the Company will issue to Director options as set forth and described on**Exhibit B**. Company shall issue said options within sixty (60) days from the execution of this Agreement by both parties. In addition, Company the provisions of Exhibit B "Initial Option Award", are incorporated in and made a part of this agreement., subject to the vesting, and other provisions of the Company's 2020 Stock Incentive Plan.

b) Expenses. The Company shall reimburse Director for all reasonable business expenses incurred in the performance of the Services in accordance with Company's expense reimbursement guidelines.

(c) Indemnification. Company will indemnify and defend Director against any liability incurred in the performance of the Services to the fullest extent authorized in Company's Certificate of Incorporation, as amended, bylaws, as amended and applicable law. Concurrently with the effective date of its initial public offering, the Company will purchase Director's and Officer's liability insurance and Director shall be entitled to the protection of any insurance policies the Company maintains for the benefit of its Directors and Officers against all costs, charges and expenses in connection with any action, suit or proceeding to which he may be made a party by reason of her affiliation with Company, its subsidiaries, or affiliates.

(d) Records. So long as the Director shall serve as a member of the Company's Board of Directors the Director shall have full access to books and records of Company and access to management of the Company.

4. Termination

(a) Right to Terminate. At any time, Director may be removed as Board Member as provided in Company's Certificate of Incorporation, as amended, bylaws, as amended, and applicable law. Director may resign as Board Member or Director as provided in Company's Certificate of Incorporation, as amended, bylaws, as amended, and applicable law. Notwithstanding anything to the contrary contained in or arising from this Agreement or any statements, policies, or practices of Company, neither Director nor Company shall be required to provide any advance notice or any reason or cause for termination of Director's status as Board Member, except as provided in Company's Certificate of Incorporation, as amended, Company's bylaws, as amended, and applicable law.

(b) Effect of Termination as Director. Upon Director's termination this Agreement will terminate; Company shall pay to Director all compensation and expenses to which Director is entitled up through the date of termination; and Director shall be entitled to her rights under any other applicable law. Thereafter, all of Company's obligations under this Agreement shall cease.

5. Termination Obligations

(a) Director agrees that all property, including, without limitation, all equipment, tangible proprietary information, documents, records, notes, contracts, and computer-generated materials provided to or prepared by Director incident to the Services and her membership on the Company's Board of Directors or any committee therefore the sole and exclusive property of the Company and shall be promptly returned to the Company at such time as the Director is no longer a member of the Company's Board of Directors.

(b) Upon termination of this Agreement, Director shall be deemed to have resigned from all offices then held with Company by virtue of her position as Board Member. Director agrees that following any termination of this Agreement, he shall cooperate with Company in the winding up or transferring to other directors of any pending work and shall also cooperate with Company (to the extent allowed by law, and at Company's expense) in the defense of any action brought by any third party

against Company that relates to the Services.

6. Nondisclosure Obligations

Director shall maintain in confidence and shall not, directly or indirectly, disclose or use, either during or after the term of this Agreement, any Proprietary Information (as defined below), confidential information, or trade secrets belonging to Company, whether or not it is in written or permanent form, except to the extent necessary to perform the Services, as required by a lawful government order or subpoena, or as authorized in writing by Company. These nondisclosure obligations also apply to Proprietary Information belonging to customers and suppliers of Company, and other third parties, learned by Director as a result of performing the Services. "**Proprietary Information**" means all information pertaining in any manner to the business of Company, unless (i) the information is or becomes publicly known through lawful means; (ii) the information was part of Director's general knowledge prior to her relationship with Company; or (iii) the information is disclosed to Director without restriction by a third party who rightfully possesses the information and did not learn of it from Company.

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7. Dispute Resolution

(a) Jurisdiction and Venue. The parties agree that any suit, action, or proceeding between Director and Company (and its affiliates, shareholders, directors, officers, employees, members, agents, successors, attorneys, and assigns) relating to this Agreement shall be brought in either the United States District Court for the State of Texas or in a Texas state court and that the parties shall submit to the jurisdiction of such court. The parties irrevocably waive, to the fullest extent permitted by law, any objection the party may have to the laying of venue for any such suit, action or proceeding brought in such court. If any one or more provisions of this Section shall for any reason be held invalid or unenforceable, it is the specific intent of the parties that such provisions shall be modified to the minimum extent necessary to make it or its application valid and enforceable.

(b) Attorneys' Fees. Should any litigation, arbitration or other proceeding be commenced between the parties concerning the rights or obligations of the parties under this Agreement, the party prevailing in such proceeding shall be entitled, in addition to such other relief as may be granted, to a reasonable sum as and for its attorneys' fees in such proceeding. This amount shall be determined by the court in such proceeding or in a separate action brought for that purpose. In addition to any amount received as attorneys' fees, the prevailing party also shall be entitled to receive from the party held to be liable, an amount equal to the attorneys' fees and costs incurred in enforcing any judgment against such party. This Section is severable from the other provisions of this Agreement and survives any judgment and is not deemed merged into any judgment.

8. Entire Agreement

This Agreement constitutes the entire understanding between the parties hereto superseding all prior and contemporaneous agreements or understandings among the parties hereto concerning the Agreement.

9. Amendments; Waivers

This Agreement may be amended, modified, superseded or canceled, and any of the terms, covenants, representations, warranties or conditions hereof may be waived, only by a written instrument executed by the parties or, in the case of a waiver, by the party to be charged. Any amendment or waiver by the Company must be approved by the Company's Board of Directors and executed on behalf of the Company by its Chief Executive Officer. If the Director shall also serve as Chief Executive Officer, such amendment or waiver must be executed on behalf of the Company by an officer designed by the Company's Board of Directors.

10. Assignment

This Agreement shall not be assignable by either party.

11. Severability

If any provision of this Agreement shall be held by a court to be invalid, unenforceable, or void, such provision shall be enforced to fullest extent permitted by law, and the remainder of this Agreement shall remain in full force and effect. In the event that the time period or scope of any provision is declared by a court of competent jurisdiction to exceed the maximum time period or scope that such court deems enforceable, then such court shall reduce the time period or scope to the maximum time period or scope permitted by law.

12. Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware.

13. Counterparts

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

The parties have duly executed this Agreement as of the date first written above.

DIGITAL BRANDS GROUP, INC.
a Delaware Corporation

Name John Davis III
Title President

Name

EXHIBIT A

DESCRIPTION OF SERVICES

Responsibilities as Director. Director shall have all responsibilities of a Director of the Company imposed by Delaware or applicable law, the Certificate of Incorporation, as amended, and Bylaws, as amended, of Company. These responsibilities shall include, but shall not be limited to, the following:

1. Attendance. Use best efforts to attend scheduled meetings of Company's Board of Directors;

2. Act as a Fiduciary. Represent the shareholders and the interests of Company as a fiduciary; and

3. Participation. Participate as a full voting member of Company's Board of Directors in setting overall objectives, approving plans and programs of operation, formulating general policies, offering advice and counsel, serving on Board Committees, and reviewing management performance.

EXHIBIT B

STOCK OPTIONS AND VESTING

Options. Subject to the Vesting Requirements of the Company's 2020 Stock Incentive Plan and this Agreement, Company will grant Director Options to purchase up to_____shares of Company's common stock at an exercise price of $___per share in a form as described below.

1. The Options will be vested in Director at a rate of 25% per quarter, starting on the date hereof and quarterly thereafter.

2. Options will expire 5 years from the date of issue.

3. Company agrees to register the Company's shares subject to the Option Grant on Form S-8 or such other registration form as may be available, and the Company shall provide a cashless exercise procedure.

4. Director agrees to execute a lock-up agreement if any financing for the Company so requires and the terms of such financing are acceptable to the Director, and upon the same terms as other affiliates.

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SECURED PROMISSORY NOTE

$4,500,000

February 11, 2020 (the "Issuance Date")

The undersigned, Denim.LA, Inc., a Delaware corporation (the "Company"), promises to pay to the order of Norwest Venture Partners XI, LP and Norwest Venture Partners XII, LP (each a "Holder" and together the "Holders") in the respective portions set out in Schedule I hereto, the principal sum of Four Million Five Hundred Thousand Dollars ($4,500,000), together with simple interest accrued on the unpaid principal amount at the rate of twelve percent (12.0%) per annum. Interest shall be due and payable to the Holders ratably in cash on the Maturity Date. Interest shall begin to accrue on the date hereof and shall continue to accrue on the outstanding principal until the entire Balance is paid, and shall be computed based on the actual number of days elapsed and on a year of 365 days.

This Secured Promissory Note (this "Note") has been executed and delivered pursuant to and in accordance with the terms and conditions of the Agreement and Plan of Merger, by and between the Company and Denim.LA Acquisition Corp., on the one hand, and Bailey 44, LLC, a Delaware limited liability company ("Bailey"), and the Holders, on the other hand, dated as of February 7, 2020 (the "Merger Agreement") and is subject to the terms and conditions of the Merger Agreement. This Note is issued to Holders as partial consideration in connection with the Merger whereby a subsidiary of the Company will merge with and into Bailey with Bailey as the Surviving Company of the Merger. The principal balance hereunder shall be available to the Company as a source of funds to satisfy Holders' indemnification obligations under Article VIII of the Merger Agreement, subject to the limitations and other provisions expressly set forth therein. All payments hereunder shall be paid in lawful money of the United States of America, shall be payable at the place or places hereafter designated by the Holders and shall be made ratably to the Holders based on the outstanding principal amount owed to such Holders immediately prior to giving effect to such payment. Capitalized terms used but not defined in this Note shall have the meanings ascribed to such terms in the Merger Agreement.

1. Definitions. The following definitions shall apply for all purposes of this Note:

"Balance" means, at the applicable time, all then outstanding principal of this Note, all then accrued but unpaid interest and all other amounts then accrued but unpaid hereunder.

"Business Day" means a weekday on which banks are open for general banking business in Los Angeles, CA.

"CIT Debt" means the Debt incurred by Bailey from time to time pursuant to that certain Factoring Agreement, dated March 4, 2004, by and between CIT Group/Commercial Services, Inc. and Bailey 44, LLC.

"Debt" means for any Person (a) all indebtedness for borrowed money, (b) all obligations represented by bonds, debentures, notes, securities or other evidences of indebtedness, (c) all

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indebtedness representing deferred payment of the purchase price of property or assets, (d) capitalized lease obligations, (e) all indebtedness under guaranties, endorsements, assumptions or other contingent obligations, in respect of, or to purchase or otherwise acquire, indebtedness of others, (f) all indebtedness secured by a Lien existing on property owned by such Person, whether or not the indebtedness secured thereby shall have been assumed by the owner thereof, (g) all indebtedness of any partnership of which such Person is a general partner, except to the extent that applicable law and the terms of such indebtedness expressly provide that such Person is not liable therefor, (h) all obligations of such Person in respect of letters of credit, bankers acceptances, surety bonds or similar instruments issued or accepted by banks or other financial institutions for the account of such Person, (i) all indebtedness created or arising under any conditional sale or other title retention agreement with respect to property acquired by such Person (even though the rights and remedies of the seller or lender under such agreement in the event of default are limited to repossession or sale of such property), (j) all obligations of such Person, whether or not contingent, to purchase, redeem, retire, defease or otherwise acquire for value or make any cash payments in respect of Disqualified Stock, valued at, in the case of redeemable preferred stock, the greater of the voluntary liquidation preference and the involuntary liquidation preference of such Equity Interests plus accrued and unpaid dividends and (k) all guarantees of the foregoing by such Person.

"Disqualified Stock" means any Equity Interest which, by its terms (or by the terms of any security or other Equity Interest into which it is convertible or for which it is exchangeable), or upon the happening of any event or condition, (a) matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or is redeemable at the option of the holder thereof, in whole or in part, on or prior to the date that is one hundred eighty (180) days following the Maturity Date (excluding any provisions requiring redemption upon a "change of control" or similar event; provided that such "change of control" or similar event would result in the prior payment in full in cash of the Obligations (other than contingent indemnification obligations to the extent no claim giving rise thereto has been asserted), (b) is convertible into or exchangeable for (i) indebtedness or (ii) any Equity Interest referred to in (a) above, in each case, at any time on or prior to the date that is one hundred eighty (180) days following the Maturity Date, or (c) is entitled to receive scheduled dividends or distributions in cash (except for distributions for taxes attributable to the operations of the business) prior to the time that the Obligations (other than contingent indemnification obligations to the extent no claim giving rise thereto has been asserted) are paid in full in cash.

"Highest Lawful Rate" means the maximum non-usurious rate of interest, as in effect from time to time, which may be charged, contracted for, reserved, received or collected by Holder in connection with this Note under applicable law.

2. Maturity Date; Payment; Interest Limitation.

2.1 Maturity Date and Payment. The Balance shall be due and payable in full to the Holders ratably on the earliest to occur of (i) one (1) day following the closing date of the IPO, (ii) one (1) day following the closing date of a Denim Sale or (iii) December 31, 2020 (such earliest date, the "Maturity Date"). This Note may be prepaid at any time, in whole or in part, at the option of the Company, without penalty or premium.

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2.2 Mandatory Prepayment. If the Company or any of its subsidiaries shall receive proceeds from any financing transaction (other than an IPO) after the Issuance Date, then for each whole increment of $10,000,000 in gross proceeds received by the Company or any of its subsidiaries in aggregate after the Issuance Date (on a cumulative basis), the Company shall make a principal payment to the Holders ratably in an aggregate amount of $1,500,000.

2.3 Interest. Notwithstanding anything herein to the contrary, if during any period for which interest is computed hereunder, the amount of interest computed on the basis provided for in this Note, together with all fees, charges and other payments which are treated as interest under applicable law, as provided for herein or in any other document executed in connection herewith, would exceed the amount of such interest computed on the basis of the Highest Lawful Rate, then the Company shall not be obligated to pay, and Holder shall not be entitled to charge, collect, receive, reserve or take, interest in excess of the Highest Lawful Rate, and during any such period the interest payable hereunder shall be computed on the basis of the Highest Lawful Rate.

3. Right of Setoff. The Company shall have the right to withhold and setoff against the Balance any amount to which a Denim Indemnified Party is entitled to indemnification pursuant to Article VIII of the Merger Agreement, subject to the limitations and other provisions set forth therein.

4. Events of Default.

The following events shall be considered Events of Default (each an "Event of Default") with respect to this Note:

(a) The Company shall default in the payment of any part of the principal or unpaid accrued interest on the Note or the Pledge Agreement for more than five (5) Business Days after the same shall become due and payable, whether at maturity or at a date fixed for prepayment or by acceleration or otherwise;

(b) The Company shall make an assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts as they become due, or shall file a voluntary petition for bankruptcy, or shall file any petition or answer seeking for itself any reorganization, arrangement, composition, readjustment, dissolution or similar relief under any present or future statute, law or regulation, or shall file any answer admitting the material allegations of a petition filed against the Company in any such proceeding, or shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of the Company, or of all or any substantial part of the properties of the Company, or the Company or its respective directors or majority stockholders shall take any action effecting the dissolution or liquidation of the Company;

(c) Upon the commencement of any proceeding against the Company seeking any bankruptcy, reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation, or after the appointment without the consent or acquiescence of the Company of any trustee, receiver or

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liquidator of the Company or of all or any substantial part of the properties of the Company, and such appointment shall not have been vacated; or

(d) The Company shall fail to observe or perform in any material respect any covenant, obligation, condition or agreement contained in the Merger Agreement, this Note or the Pledge Agreement and (i) such failure shall continue for fifteen (15) Business Days after notice thereof, or (ii) if such failure is not curable within such fifteen (15) Business Day period, but is reasonably capable of cure within thirty (30) Business Days and an additional period for cure would not be materially prejudicial or adverse to Holders, either (A) such failure shall continue for thirty (30) Business Days or (B) the Company shall not have commenced a cure in a manner reasonably satisfactory to Holders within the thirty (30) Business Day period.

5. Remedies. Subject to the provisions of the Merger Agreement, upon the occurrence of an Event of Default at the option and upon the declaration of Holders (or automatically upon the occurrence of an Event of Default described in clause (b) or (c) above), the Balance shall, without presentment, demand, protest, or notice of any kind, all of which are hereby expressly waived, be forthwith due and payable, and any Holder may, immediately and without expiration of any period of grace, enforce payment of all amounts due and owing under this Note and exercise any and all other remedies granted to it at law, in equity or otherwise, including the exercise of rights and remedies of a secured creditor under the UCC. If any obligations or other amounts payable under this Note are not paid as and when due, Company hereby authorizes each Holder to proceed, without prior notice, by right of set-off, banker's lien or counterclaim, against any moneys or other assets of Company to the full extent of all obligations owed to Holders. Company hereby appoints each Holder and its representatives as Company's true and lawful attorney-in-fact with full power and authority in the place and stead of Company and in the name of Company, for the purpose of carrying out the terms of this Note, to take the appropriate actions and to execute and deliver (and perform under on Company's behalf) any agreement, document or instrument that may be necessary to accomplish the purposes set forth in this Note, in each case upon and after the occurrence and during the continuance of an Event of Default.

6. General Provisions.

6.1 Successors and Assigns. Except as otherwise provided herein, the terms and conditions of this Note shall inure to the benefit of and be binding upon the respective successors and assigns of the parties; provided, however that the Company may not assign its obligations under this Note without the written consent of Holders of a majority-in-interest of the aggregate principal amount of the Note then outstanding (the "Requisite Note Holders"). Nothing in this Note, express or implied, is intended to confer upon any party other than the parties hereto or their respective successors and assigns any rights, remedies, obligations or liabilities under or by reason of this Note, except as expressly provided in this Note.

6.2 Governing Law. This Note shall be governed by and construed under the laws of the State of Delaware as applied to agreements among Delaware residents, made and to be performed entirely within the State of Delaware.

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6.3 Notices. Any notice required or permitted to be given hereunder shall be given in accordance with Section 9.02 of the Merger Agreement.

6.4 Severability. If one or more provisions of this Note are held to be unenforceable under applicable law, such provision shall be excluded from this Note and the balance of the Note shall be interpreted as if such provision were so excluded and shall be enforceable in accordance with its terms.

6.5 Amendments and Waivers. Any term of the Note may be amended and the observance of any term may be waived (either generally or in a particular instance and either retroactively or prospectively), with the written consent of the Company and Requisite Note Holders.

6.6 Officers and Directors not Liable. In no event shall any officer or director of the Company be liable for any amounts due and payable pursuant to this Note.

6.7 Cost of Collection. The Company promises to pay reasonable and documented attorneys' fees and court and other costs if this Note is placed in the hands of an attorney to collect or enforce this Note. In addition, if action is instituted to collect this Note, the Company promises to pay all costs and expenses, including, without limitation, reasonable attorneys' fees and costs, incurred in connection with such action.

7. Security. All obligations owing under this Note from time to time, including, without limitation, principal amounts, interest, premium (if any), fees, and other amounts, shall be secured pursuant to the terms of the Pledge Agreement, dated as of the date hereof (as amended, restated, supplemented or otherwise modified from time to time, the "Pledge Agreement"), among the Company, as pledgor, and the Holders, as the secured parties. The parties hereto acknowledge and agree that the execution and delivery of the Pledge Agreement as of the date hereof is a condition precedent to the delivery of this Note and intended to induce the Holders to grant credit to the Company in connection herewith.

8. Debt Covenant. The Company will not permit Bailey or any of its subsidiaries to create, incur or permit any Debt, except (i) the CIT Debt in an aggregate amount not to exceed $2,000,000 at any time outstanding and (ii) Debt incurred in the ordinary course of business consistent with past practice in an aggregate amount not to exceed $25,000 in aggregate at any time outstanding.

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DENIM.LA, INC.

By: DocuSigned by: Hil Davis 6FCADF62CC7F47D...

Name: Hil Davis

Title: CEO

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Schedule I

Holder	Principal Amount
Norwest Venture Partners XI, LP	$2,250,000
Norwest Venture Partners XII, LP	$2,250,000
Total	**$4,500,000**

Original Issue Discount Promissory Note

Original Issue Date: April 8, 2021
Subscription Amount: $850,000
Principal Amount: $1,000,000
Original Issue Discount (OID): 15%

FOR VALUE RECEIVED, Digital Brands Group, Inc., a Delaware corporation with offices at 1400 Lavaca Street, Austin, TX 78701 (herein "**Borrower**"), hereby promises to pay to the order of Target Capital 2 LLC, an Arizona LLC with offices at 13600 Carr 968, apt 64, Rio Grande, PR 00745 (collectively with any and all of its permitted successors and assigns, herein "**Lender**"), without offset, in immediately available funds in lawful money of the United States of America, without counterclaim or setoff and free and clear of, and without any deduction or withholding for, any taxes or other payments), the Principal Amount of One Million Dollars ($1,000,000) (the "Principal Amount"). The loan evidenced by this note(this "**Note**") is referred to herein as the "**Loan**".

Section 1. Payment Schedule and Maturity Date. The entire Principal Amount of this Note then unpaid, together with any accrued and unpaid interest and all other amounts payable hereunder, if any, shall be due and payable in full as a balloon payment on July 8, 2021 (the "**Maturity Date**"), or such earlier date as this Note is required or permitted to be repaid as provided hereunder, including if the Borrower completes its initial public offering (the "IPO"), before the Maturity Date then the Principal Amount will be repaid immediately and in full from the proceeds received by the Borrower from the net proceeds of the IPO.

Section 2. Interest. The imputed interest rate is encompassed within the original issue discount of this Note. No additional cash interest shall be due. Borrower acknowledges the effective annual simple rate of interest stemming from the original issue discount of this Note is sixty percent (60%).

Section 3. Equity Incentive. Immediately prior to the effective date of the IPO, Borrower will issue Lender a warrant, in form and substance satisfactory to the Borrower (the "Warrant"), for a number of shares equal to 50% of the Principal Amount divided by the Exercise Price, where Exercise Price will be set at the time of IPO pricing and will be equal to the IPO price to the public per one share of the common stock of the Borrower, and will be issued to the Lender in conjunction with accepting this Note. Specifically, the number of shares underlying the Warrant (the "Warrant Shares") shall be equal to [(1,000,000)(.5)]/[the IPO price to the public of one share of Borrower's common stock].

Section 4. Prepayment. Borrower may prepay the Principal Amount in full at any time or in part from time to time.

Section 5. Events of Default. The occurrence of any one or more of the following shall constitute an "**Event of Default**" under this Note:

a) **Event of Default means**, wherever used herein, any of the following events (whatever the reason for such event and whether such event shall be voluntary or involuntary or effected by operation of law or pursuant to any judgment, decree or order of any court, or any order, rule or regulation of any administrative or governmental body):

i. Failure to pay all amounts due under this Note within five business days after the closing of the IPO, or if such IPO has not yet occurred, to pay off all amounts due under this Note in full on the Maturity Date;

ii. the Borrower shall fail to observe or perform any other covenant or agreement contained in this Note, which failure is not cured, if possible to cure, within the earlier to occur of (A) 5 Trading Days after notice of such failure sent by the Lender to the Borrower and (B) 10 Trading Days after the Borrower has become or should have become aware of such failure;

iii. the Borrower or any Significant Subsidiary (as such term is defined in Rule 1-02(w) of Regulation S-X) shall be subject to a Bankruptcy Event;

iv. the Borrower shall default on any of its obligations under any mortgage, credit agreement or other facility, indenture agreement, factoring agreement or other instrument under which there may be issued, or by which there may be secured or evidenced, any indebtedness for borrowed money or money due under any long term leasing or factoring arrangement that (a) involves an obligation greater than $250,000, whether such indebtedness now exists or shall hereafter be created, and (b) results in such indebtedness becoming or being declared due and payable prior to the date on which it would otherwise become due and payable;

v. the Borrower shall agree to sell or dispose of all or substantially all of its assets in one transaction or a series of related transactions out of the ordinary course of business and

vi. any monetary judgment, writ or similar final process shall be entered or filed against the Borrower, any subsidiary or any of their respective property or other assets for more than $250,000, and such judgment, writ or similar final process shall remain unvacated, unbonded or unstayed for a period of 30 calendar days.

b) **Remedies Upon Event of Default**. If any Event of Default occurs, the outstanding Principal Amount of this Note, plus accrued but unpaid interest through the date of acceleration, shall become, at the Lender's election, immediately due and payable in cash. Commencing 5 days after the occurrence of any Event of Default that results in the eventual acceleration of this Note, the Default Interest Rate on this Note shall accrue at an interest rate equal to the lesser of 15% per annum or the maximum rate permitted under applicable law. Upon the payment in full of the Principal Amount of this Note, plus accrued but unpaid interest, , the Lender shall promptly surrender this Note to or as directed by the Borrower. In connection with such acceleration described herein, the Lender need not provide, and the

Borrower hereby waives, any presentment, demand, protest or other notice of any kind, and the Lender may immediately and without expiration of any grace period enforce any and all of its rights and remedies hereunder and all other remedies available to it under applicable law. Such acceleration may be rescinded and annulled by Lender at any time prior to payment hereunder and the Lender shall have all rights as a holder of the Note until such time, if any, as the Lender receives full payment. No such rescission or annulment shall affect any subsequent Event of Default or impair any right consequent thereon. Additionally, if any Event of Default occurs, the number of Warrants issuable to the Lender under Section 3 shall be increased to 75% of the Principal Amount and the exact number of Warrant Shares issuable to the Lender shall be equal to [(1,000,000)(.75)]/[the price of one share of Borrower's common stock in the Borrower's initial public offering].

Section 6. Costs and Expenses of Enforcement. Borrower agrees to pay to Lender on demand all costs and expenses incurred by Lender in seeking to collect this Note or to enforce any of Lender's rights and remedies under this Note, including court costs and reasonable attorneys' fees and expenses, whether or not suit is filed hereon, or whether in connection with bankruptcy, insolvency or appeal.

Section 7. Heirs, Successors and Assigns. The terms of this Note shall bind and inure to the benefit of the heirs, devisees, representatives, successors and assigns of the parties. The foregoing sentence shall not be construed to permit Borrower to, and Borrower shall not assign the Loan, or its rights and obligations under this Note without the express written consent of the Lender.

Section 8. Notices. Any and all notices or other communications or deliveries to be provided by the Lender hereunder, shall be in writing and delivered personally, by facsimile, by email attachment, or sent by a nationally recognized courier service, addressed to the Borrower, at the address set forth above. Any and all notices or other communications or deliveries to be provided by the Borrower hereunder, shall be in writing and delivered personally, by facsimile, by email attachment, or sent by a nationally recognized courier service, addressed to the Lender, at the address set forth above.

Section 9. Absolute Obligation. Except as expressly provided herein, no provision of this Note shall alter or impair the obligation of the Borrower, which is absolute and unconditional, to pay the principal of, liquidated damages and accrued interest, as applicable, on this Note at the time, place, and rate, and in the coin or currency, herein prescribed. This Note is a direct debt obligation of the Borrower.

Section 10. Lost or Mutilated Note. If this Note shall be mutilated, lost, stolen or destroyed, the Borrower shall execute and deliver, in exchange and substitution for and upon cancellation of a mutilated Note, or in lieu of or in substitution for a lost, stolen or destroyed Note, a new Note for the principal amount of this Note so mutilated, lost, stolen or destroyed, but only upon receipt of evidence of such loss, theft or destruction of such Note, and of the ownership hereof, reasonably satisfactory to the Borrower.

Section 11. No Usury. It is expressly stipulated and agreed to be the intent of Borrower and Lender at all times to comply with applicable state law or applicable United States federal law (to the extent that it

permits Lender to contract for, charge, take, reserve, or receive a greater amount of interest than under state law) and that this Section shall control every other covenant and agreement in this Note and the Warrant Agreement. If applicable state or federal law should at any time be judicially interpreted so as to render usurious any amount called for under this Note, or contracted for, charged, taken, reserved, or received with respect to the Loan, or if Lender's exercise of the option to accelerate the Maturity Date, or if any prepayment by Borrower results in Borrower having paid any interest in excess of that permitted by applicable law, then it is Lender's express intent that all excess amounts theretofore collected by Lender shall be credited on the principal balance of this Note, and the provisions of this Note shall immediately be deemed reformed and the amounts thereafter collectible hereunder and thereunder reduced, without the necessity of the execution of any new documents, so as to comply with the applicable law, but so as to permit the recovery of the fullest amount otherwise called for hereunder or thereunder. All sums paid or agreed to be paid to Lender for the use of forbearance of the Loan shall, to the extent permitted by applicable law, be amortized, prorated, allocated, and spread throughout the full stated term of the Loan. The Borrower covenants (to the extent that it may lawfully do so) that it shall not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension or usury law or other law which would prohibit or forgive the Borrower from paying all or any portion of the principal of or interest on this Note as contemplated herein, wherever enacted, now or at any time hereafter in force, or which may affect the covenants or the performance of this Note, and the Borrower (to the extent it may lawfully do so) hereby expressly waives all benefits or advantage of any such law, and covenants that it will not, by resort to any such law, hinder, delay or impede the execution of any power herein granted to the Borrower, but will suffer and permit the execution of every such as though no such law has been enacted.

Section 12. Governing Law. All questions concerning the construction, validity, enforcement and interpretation of this Note shall be governed by and construed and enforced in accordance with the internal laws of the State of Arizona, without regard to the principles of conflict of laws thereof. Each party agrees that all legal proceedings concerning the interpretation, enforcement and defense of the transactions contemplated by this Note (whether brought against a party hereto or its respective Affiliates, directors, officers, shareholders, employees or agents) shall be commenced in the state and federal courts sitting in the City of Peoria, in the State of Arizona (the "Arizona Courts"). Each party hereto hereby irrevocably submits to the exclusive jurisdiction of the Arizona Courts for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein (including with respect to the enforcement of this Note), and hereby irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of such Arizona Courts, or such Arizona Courts are improper or inconvenient venue for such proceeding. Each party hereby irrevocably waives personal service of process and consents to process being served in any such suit, action or proceeding by mailing a copy thereof via registered or certified mail or overnight delivery (with evidence of delivery) to such party at the address in effect for notices to it under this Note and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any other manner permitted by applicable law. Each party hereto hereby irrevocably waives, to the fullest extent permitted by applicable law, any and all right to trial by

jury in any legal proceeding arising out of or relating to this Note or the transactions contemplated hereby.

Section 13. Waiver. Any waiver by the Borrower or the Lender of a breach of any provision of this Note shall not operate as or be construed to be a waiver of any other breach of such provision or of any breach of any other provision of this Note. The failure of the Borrower or the Lender to insist upon strict adherence to any term of this Note on one or more occasions shall not be considered a waiver or deprive that party of the right thereafter to insist upon strict adherence to that term or any other term of this Note on any other occasion. Any waiver by the Borrower or the Lender must be in writing.

Section 14. Severability. If any provision of this Note is invalid, illegal or unenforceable, the balance of this Note shall remain in effect, and if any provision is inapplicable to any person or circumstance, it shall nevertheless remain applicable to all other persons and circumstances.

Section 15. Headings. The headings contained herein are for convenience only, do not constitute a part of this Note and shall not be deemed to limit or affect any of the provisions hereof.

****

(Signature Pages Follow)

IN WITNESS WHEREOF, the Borrower has caused this Note to be duly executed by a duly authorized officer as of the date first above indicated.

DIGITAL BRANDS GROUP, INC.

By: Hil Davis

Name: Hil Davis

Title: CEO

Email: hildavishj.lg

[LENDER SIGNATURE PAGE TO ORIGINAL ISSUE DISCOUNT PROMISSORY NOTE]

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

Name of Lender: Target Capital 2 LLC
Signature of Authorized Signatory of Lender: Shapiro
Name of Authorized Signatory: Dmitriy Shapiro
Title of Authorized Signatory: Manager
Email Address of Authorized Signatory: shapiro.dmitriy@gmail.com
Address for Notice to Lender: 13600 Carr 968, apt 64
Rio Grande, PR 00745

Address for Delivery of Securities to Lender (if not same as address for notice):

SSN/TIN, if any: 86-2910104

Subscription Amount: $ 850,000

Number of Warrants: [(1,000,000)(.5)]/[the IPO price to the public of one share of Borrower's common stock]

CONSULTING AGREEMENT

This Consulting Agreement (the "Agreement") is entered into as of this 8th day of April, 2021 (the "Effective Date"), by and between Alchemy Advisory LLC, a Limited Liability Company organized under the laws of Puerto Rico (the "Consultant") and located at 13600 Carr 968, Apt 64, Rio Grande, PR 00745, and Digital Brands Group, Inc., a Delaware corporation (the "Company") and having its principal place of business at 1400 Lavaca Street, Austin, TX 78701. The Company and Consultant are collectively referred to herein as the "Parties".

WHEREAS, the Company is an apparel company that sells both direct to consumer and wholesale by focusing on a customer's "closet share" and leveraging their data and personalized customer cohorts to create targeted content.

WHEREAS, Consultant is operating as a financial and business consultant;

WHEREAS, the Company desires to retain Consultant, and Consultant desire to be retained by the Company;

NOW, THEREFORE, in consideration of the premises and promises, warranties and representations herein contained, it is agreed as follows:

1. DUTIES. (a) The Company hereby engages the Consultant and the Consultant hereby accepts engagement as a strategy business consultant. It is understood and agreed, and it is the express intention of the parties to this Agreement, that the Consultant is an independent contractor, and not an employee or agent of the Company for any purpose whatsoever. Consultant shall perform all duties and obligations as described in this Section and agrees to be available at such times as may be scheduled by the Company. It is understood, however, that the Consultant will maintain Consultant's own business in addition to providing services to the Company. The Consultant agrees to promptly perform all services required of the Consultant hereunder in an efficient, professional, trustworthy and businesslike manner. In such capacity, Consultant will utilize only materials, reports, financial information or other documentation that is approved in writing in advance by the Company.

(b) Description of Consulting Services. The Consultant agrees, to the extent reasonably required in the conduct of its business with the Company, to place at the disposal of the Company its judgment and experience and to provide financial and business advice to the Company including, but not limited, to (a) building and maintaining a financial model for the Company, (b) help drafting marketing materials and presentations, (c) reviewing the Company's business requirements and discuss financing and businesses opportunities, (d) look for potential investors and ways of growing the business, (e) anything else the Company may reasonably require from the Consultant.

2. TERM. The Term of this contract is for 6 months, at which point the contract can be extended for another 6 months with the consent of both parties in writing.

3. COMPENSATION. For services rendered hereunder, the Company shall pay to the Consultant a sum of Forty Four Thousand Dollars ($44,000). The cash payment is due within 10 days of the signing of this Agreement. In addition to the cash payment, the Company shall issue Fifty Thousand (50,000) restricted shares of the Company's common stock (the "Shares") to the Consultant within five (5) business days of executing this Agreement. For all relevant purposes,

the number of shares to be issued and delivered to the Consultant, shall be appropriately adjusted to take into account any stock split, stock dividend, reverse stock split, recapitalization, or similar change in the Company's common stock, which may occur between the date of the execution of this agreement and the Company's initial public offering. If, after six (6) months from the date of issuance the average per share trading price of the Common Stock of the Company over the trailing seven (7) day period before such date (the "Six Month Price") multiplied by the number of Shares is below $250,000, the Company shall issue additional shares of the Company's Common Stock to the Consultant to make up the valuation difference at the Six Month Price. For avoidance of doubt, if the Six Month Price is $4.00, the valuation shortfall would be $50,000 (50,000 multiplied by $4.00 is $50,000 less than $250,000) and the Consultant would receive 12,500 additional shares from the Company.

4. EXPENSES. The Company agrees to reimburse the Consultant from time to time, for reasonable and pre-approved in writing, including via email, out-of-pocket expenses incurred by Consultant in connection with its activities under this Agreement.

5. INVESTOR REPRESENTATIONS. The Consultant represents and warrants to the Company that:

(a) The Consultant represents that it is an "accredited investor" as such term is defined in Rule 501(a) of Regulation D under the Securities Act of 1933, as amended (the "**Securities Act**"), and acknowledges that the sale contemplated hereby is being made in reliance, among other things, on a private placement exemption to "accredited investors" under the Securities Act and similar exemptions under state law.

(b) The Consultant is acquiring the Shares solely for investment purposes, for the Consultant's own account (and/or for the account or benefit of its members or affiliates, as permitted, and not with a view to the distribution thereof and the Consultant has no present arrangement to sell the Shares to or through any person or entity.

(c) The Consultant acknowledges and understands the Shares are being transferred to it by the Company in a transaction not involving a public offering in the United States within the meaning of the Securities Act. The Shares have not been registered under the Securities Act and, if in the future the Consultant decides to offer, resell, pledge or otherwise transfer the Shares, such Shares may be offered, resold, pledged or otherwise transferred only (A) pursuant to an effective registration statement filed under the Securities Act, (B) pursuant to an exemption from registration under Rule 144 promulgated under the Securities Act, if available, or (C) pursuant to any other available exemption from the registration requirements of the Securities Act, and in each case in accordance with any applicable Shares laws of any state or any other jurisdiction. Consultant agrees that if any transfer of its Shares or any interest therein is proposed to be made, as a condition precedent to any such transfer, the Consultant may be required to deliver to the Company an opinion of counsel satisfactory to the Company with respect to such transfer. Absent registration or another available exemption from registration, the Consultant agrees it will not resell the Shares.

(d) The Consultant is sophisticated in financial matters and is able to evaluate the risks and benefits of the investment in the Shares.

(e) The Consultant is aware that an investment in the Shares is highly speculative and subject to substantial risks because, among other things, the Shares are subject to transfer restrictions and have not been registered under the Securities Act and therefore cannot be sold unless subsequently registered under the Securities Act or an exemption from such registration is available. The Consultant is able to bear the economic risk of its investment in the Shares for an indefinite period of time.

(f) The Consultant, in making the decision to acquire the Shares, has relied upon an independent investigation of the Company and has not relied upon any information or representations made by any third parties or upon any oral or written representations or assurances from the Company, its officers, directors or employees or any other representatives or agents of the Company. The Consultant is familiar with the business, operations and financial condition of the Company and has had an opportunity to ask questions of, and receive answers from the Company's officers and directors concerning the Company has had full access to such other information concerning the Company as the Consultant has requested.

6. CONFIDENTIALITY. All knowledge and information of a proprietary and confidential nature relating to the Company which the Consultant obtains during the Consulting period, from the Company or the Company's employees, agents or Consultants shall be for all purposes regarded and treated as strictly confidential for so long as such information remains proprietary and confidential and shall be held in trust by the Consultant solely for the Company's benefit and use and shall not be directly or indirectly disclosed by the Consultant to any person without the prior written consent of the Company, which consent may be withhold by the Company in its sole discretion.

7. INDEPENDENT CONTRACTOR STATUS. Consultant understands that since the Consultant is not an employee of the Company, the Company will not withhold income taxes or pay any employee taxes on its behalf, nor will it receive any fringe benefits. The Consultant shall not have any authority to assume or create any obligations, express or implied, on behalf of the Company and shall have no authority to represent the Company as agent, employee or in any other capacity that as herein provided.

8. TERMINATION. This Agreement may be terminated by mutual consent of both parties at any time, provided, however, that termination shall not relieve the Company from paying the compensation already accrued.

9. NO THIRD-PARTY RIGHTS. The parties warrant and represent that they are authorized to enter into this Agreement and that no third parties, other than the parties hereto, have any interest in any of the services contemplated hereby.

10. ABSENCE OF WARRANTIES AND REPRESENTATIONS. Each party hereto acknowledges that they have signed this Agreement without having relied upon or being induced by any agreement, warranty or representation of fact or opinion of any person not expressly set forth herein. All representations and warranties of either party contained herein shall survive its signing and delivery.

11. GOVERNING LAW. This Agreement shall be governed by and construed in accordance with the law of the State of New York.

12. ATTORNEY'S FEES. In the event of any controversy, claim or dispute between the parties hereto, arising out of or in any manner relating to this Agreement, including an attempt to rescind or set aside, the prevailing party in any action brought to settle such controversy, claim or dispute shall be entitled to recover reasonable attorney's fees and costs.

13. VALIDITY. If any paragraph, sentence, term or provision hereof shall be held to be invalid or unenforceable for any reason, such invalidity or unenforceability shall not affect the validity enforceability of any other paragraph, sentence, term and provision hereof. To the extent required, any paragraph, sentence, term or provision of this Agreement may be modified by the parties hereto by written amendment to preserve its validity.

14. NO-DISCLOSURE OF TERMS. The terms of this Agreement shall be kept confidential, and no party, representative, attorney or family member shall reveal its contents to any third party except as required by law or as necessary to comply with law or preexisting contractual commitments.

15. ENTIRE AGREEMENT. This Agreement contains the entire understanding of the parties and cannot be altered or amended except by an amendment duly executed by all parties hereto. This Agreement supersedes and replaces any and all previous agreements between the parties. This Agreement shall be binding upon and inure to the benefit of the successors, assigns and personal representatives of the parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the date first written above.

The Company

Digital Brands Group, Inc.
a Delaware Corporation

By: Hil Davis
CEO

The Consultant

Alchemy Advisory LLC
a Puerto Rico Limited Liability Company

By: Dmitriy Shapiro
Founder

Exhibit 10.31

SECURITIES PURCHASE AGREEMENT

This Securities Purchase Agreement (this "Agreement") is dated as of August 27, 2021, between Digital Brands Group, Inc. a Delaware corporation (the "Company"), and Oasis Capital, LLC (the "Purchaser").

WHEREAS, subject to the terms and conditions set forth in this Agreement and pursuant to an exemption from the registration requirements of Section 5 of the Securities Act contained in Section 4(a)(2) thereof and/or Rule 506(b) thereunder, the Company desires to issue and sell to the Purchaser, and the Purchaser desires to purchase from the Company, securities of the Company as more fully described in this Agreement.

NOW, THEREFORE, IN CONSIDERATION of the mutual covenants contained in this Agreement, and for other good and valuable consideration the receipt and adequacy of which are hereby acknowledged, the Company and the Purchaser agree as follows:

ARTICLE I.
DEFINITIONS

1.1 Definitions. For the purposes of this Agreement, the following words and phrases have the meanings set forth in this Section 1.1:

"Acquiring Person" shall have the meaning ascribed to such term in Section 4.5.

"Action" shall have the meaning ascribed to such term in Section 3.1(j).

"Affiliate" means any Person that, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with a Person as such terms are used in and construed under Rule 405 under the Securities Act.

"Board of Directors" means the board of directors of the Company.

"Closing" means the closing of the purchase and sale of the Securities pursuant to Section 2.1.

"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 Purchaser's obligations to pay the Subscription Amount and (ii) the Company's obligations to deliver the Securities to be issued and sold, in each case, have been satisfied or waived.

"Closing Price" means, for any date, the price determined by the first of the following clauses that applies: (a) if the Common Stock is then listed or quoted on a Trading Market, the closing price of the Common Stock for such date (or the nearest preceding date) on the Trading Market on which the Common Stock is then listed or quoted as reported by Bloomberg L.P. (based on a Trading Day from 9:30 a.m. (New York City time) to 4:02 p.m. (New York City time)) (or a similar organization or agency succeeding to its functions of reporting prices), or (b) in all other cases, the fair market value of a share of Common Stock as determined by the Board of Directors of the Company.

"Common Stock" means the shares of 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.

"Common Stock Equivalents" means any securities of the Company or the Subsidiaries which would entitle the holder thereof to acquire Common Stock at any time, including, without limitation, any debt, preferred stock, right, option, warrant or other instrument that is at any time convertible into or exercisable or exchangeable for, or otherwise entitles the holder thereof to receive, Common Stock.

"Conversion Price" shall have the meaning ascribed to it in the Note.

"Disqualification Event" shall have the meaning ascribed to such term in Section 3.1(jj).

"Environmental Laws" shall have the meaning ascribed to such term in Section 3.1(m).

"Evaluation Date" shall have the meaning ascribed to such term in Section 3.1(s).

"Exchange Act" means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

"Exempt Issuance" means the issuance of (a) shares of Common Stock (ordinary shares) or options to employees, officers or directors of the Company, pursuant to any stock or option plan duly adopted for such purpose by the Board of Directors, (b) securities issuable pursuant to existing agreements, exercisable or exchangeable for or convertible into shares of Common Stock issued and outstanding on the date of this Agreement, provided that such securities have not been amended since the date of this Agreement to increase the number of such securities or to decrease the exercise price, exchange price or conversion price of such securities (other than in connection with stock dividends, stock splits or combinations) or to extend the term of such securities, (c) securities issued pursuant to acquisitions or strategic transactions approved by a majority of the directors of the Company, provided that any such issuance shall only be to a Person (or to the equity holders of a Person) which is, itself or through its subsidiaries, an operating company or an owner of an asset in a business synergistic with the business of the Company and shall provide to the Company additional benefits in addition to the investment of funds, but shall not include a transaction in which the Company is issuing securities primarily for the purpose of raising capital or to an entity whose primary business is investing in securities, or (d) securities issued for bonafide services provided to the Company not for the purpose of raising capital or to an entity whose primary business is investing in securities.

"FCPA" means the Foreign Corrupt Practices Act of 1977.

"GAAP" shall have the meaning ascribed to such term in Section 3.1(h).

"Governmental Authority" means any federal, state, local or foreign government or political subdivision thereof, or any agency or instrumentality of such government or political subdivision, or any self-regulated organization or other non-governmental regulatory authority or quasi-governmental authority (to the extent that the rules, regulations or orders of such organization or authority have the force of Laws), or any arbitrator, court or tribunal of competent jurisdiction.

"Hazardous Materials" shall have the meaning ascribed to such term in Section 3.1(m).

"Indebtedness" shall have the meaning ascribed to such term in Section 3.1(aa).

"Intellectual Property" means all of the following in any jurisdiction throughout the world: (a) all inventions (whether patentable or unpatentable and whether or not reduced to practice), all improvements thereto, and all U.S. and foreign patents, patent applications, and patent disclosures, together with all reissuances, continuations, continuations-in-part, revisions, extensions, and reexaminations thereof, (b) all trademarks, service marks, brand names, certification marks, trade dress, logos, trade names, domain names, assumed names and corporate names, together with all colorable imitations thereof, and including all goodwill associated therewith, and all applications, registrations, and renewals in connection therewith, (c) all copyrights, and all applications, registrations, and renewals in connection therewith, (d) all trade secrets under applicable state laws and the common law and know-how (including formulas, techniques, technical data, designs, drawings, specifications, customer and supplier lists, pricing and cost information, and business and marketing plans and proposals), (e) all computer software (including source code, object code, diagrams, data and related documentation), and (f) all copies and tangible embodiments of the foregoing (in whatever form or medium).

"Issuer Covered Person" shall have the meaning ascribed to such term in Section 3.1(jj).

"Laws" means any U.S. federal, state, local, foreign or other laws, rules regulations, guidelines, orders, injunctions, building and other codes, ordinances, permits, licenses, authorizations, judgements, decrees of federal, state, local, foreign or other authorities, and all orders, writs, decrees and consents of any governmental or political subdivision or agency thereof, or any court of similar tribunal established by any such governmental or political subdivision or agency thereof.

"Liens" means a lien, charge, pledge, security interest, encumbrance, right of first refusal, preemptive right or other restriction.

"Material Adverse Effect" shall have the meaning assigned to such term in Section 3.1(b).

"Material Permits" shall have the meaning ascribed to such term in Section 3.1(n).

"Money Laundering Laws" shall have the meaning ascribed to such term in Section 3.1(oo).

"Note" mean the Senior Secured Convertible Note issued to the Purchaser, in the form of Exhibit A attached hereto, which bear interest at the rate of **6%** per annum.

"Person" means an individual or corporation, partnership, trust, incorporated or unincorporated association, joint venture, limited liability company, joint stock company, government (or an agency or subdivision thereof) or other entity of any kind.

"Proceeding" means an action, claim, suit, investigation or proceeding (including, without limitation, an informal investigation or partial proceeding, such as a deposition), whether commenced or threatened.

"Public Information Failure" shall have the meaning ascribed to such term in Section 4.2(b).

"Purchaser Party" shall have the meaning ascribed to such term in Section 4.8.

"Registration Rights Agreement" means the agreement in the form attached here to as Exhibit C.

"Regulation FD" means Regulation FD promulgated by the SEC pursuant to the Exchange Act, as such Regulation may be amended or interpreted from time to time, or any similar rule or regulation hereafter adopted by the SEC having substantially the same purpose and effect as such Regulation.

"Required Approvals" shall have the meaning ascribed to such term in Section 3.1(e).

"Reserve Ratio" shall have the meaning ascribed to such term in Section 4.9.

"Rule 144" means Rule 144 promulgated by the SEC pursuant to the Securities Act, as such Rule may be amended or interpreted from time to time, or any similar rule or regulation hereafter adopted by the SEC (or similar United States law) having substantially the same purpose and effect as such Rule.

"SEC" means the United States Securities and Exchange Commission.

"SEC Reports" shall have the meaning ascribed to such term in Section 3.1(h).

"Securities" means the Note and the Shares.

"Securities Act" means the Securities Act of 1933, and the rules and regulations promulgated thereunder.

"Security Agreement" means the agreement in the form attached here to as Exhibit B.

"Shares" means the Common Stock issuable upon conversion of the Note.

"Short Sales" means all "short sales" as defined in Rule 200 of Regulation SHO under the Exchange Act (but shall not be deemed to include the location and/or reservation of borrowable shares of Common Stock).

"Subscription Amount" means, as to the Purchaser, the aggregate amount to be paid for the Securities purchased hereunder as specified the Purchaser's name on the signature page of this Agreement and next to the heading.

"Subsidiary" means with respect to any entity at any date, any direct or indirect corporation, limited or general partnership, limited liability company, trust, estate, association, joint venture or other business entity of which (A) more than 50% of (i) the outstanding capital stock having (in the absence of contingencies) ordinary voting power to elect a majority of the Board of Directors or other managing body of such entity, (ii) in the case of a partnership or limited liability company, the interest in the capital or profits of such partnership or limited liability company or (iii) in the case of a trust, estate, association, joint venture or other entity, the beneficial interest in such trust, estate, association or other entity business is, at the time of determination, owned or controlled directly or indirectly through one or more intermediaries, by such entity, or (B) is under the actual control of the Company.

"Subsidiary Guarantee" means that certain guarantee, in a form acceptable to the Purchaser, executed by each of the Company's Subsidiaries, Harper & Jones, LLC and Bailey 44, LLC.

"Subsidiary Security Agreement" means that certain security agreement in a form acceptable to the Purchaser, executed by each of the Company's Subsidiaries, Harper & Jones, LLC and Bailey 44, LLC.

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

"Trading Market" means any of the following markets or exchanges on which the Common Stock is listed or quoted for trading on the date in question: the Nasdaq Capital Market, the Nasdaq Global Market, the Nasdaq Global Select Market, the New York Stock Exchange, and the NYSE American (or any successors to any of the foregoing).

"Transaction Documents" means this Agreement, the Note, the Registration Rights Agreement, the Security Agreement, the Subsidiary Guarantee, and the Subsidiary Security Agreement, and any other documents or agreements executed in connection with the transactions contemplated hereunder.

"Transfer Agent" means Vstock Transfer, LLC and a facsimile number of 646-536-3179, and any successor transfer agent of the Company.

"Variable Rate Transaction" shall have the meaning ascribed to such term in Section 4.16(a).

"VWAP" means, for any date, the price determined by the first of the following clauses that applies: (a) if the Common Stock is then listed or quoted on a Trading Market, the daily volume weighted average price of the Common Stock for such date (or the nearest preceding date) on the Trading Market on which the Common Stock is then listed or quoted as reported by Bloomberg L.P. (based on a Trading Day from 9:30 a.m. (New York City time) to 4:02 p.m. (New York City time)) (or a similar organization or agency succeeding to its functions of reporting prices), (b) if no volume weighted average price of the Common Stock can be ascertained from the Trading Market, the average closing price of the Common Stock during the 10 Trading Days preceding such date, or (c) in all other cases, the fair market value of a share of Common Stock as determined by the Board of Directors of the Company.

ARTICLE II.
PURCHASE AND SALE

2.1 Closing. Subject to the terms and conditions set forth herein, the Company agrees to sell, and the Purchaser agrees to purchase a Note having a face value of **$5,265,000** for a total purchase price of **$5,000,000**. The Purchaser shall deliver to the Company, via wire transfer immediately available funds equal to the Purchaser's Subscription Amount as set forth on the signature page hereto executed by the Purchaser, and the Company shall deliver to the Purchaser the Note pursuant to Sections 2.2(a), and the Company and the Purchaser shall deliver the other items set forth in Sections 2.2(b) deliverable at the Closing. Upon satisfaction of the covenants and conditions set forth in Sections 2.2 and 2.3, the Closing shall occur at the offices of Purchaser's counsel or such other location as the parties shall mutually agree.

2.2 Deliveries.

(a) On or prior to the Closing Date, the Company shall deliver or cause to be delivered to the Purchaser the following:

(i) this Agreement duly executed by the Company;

(ii) an original Note in the principal amount of $**5,265,000**, convertible at the Conversion Price, registered in the name of the Purchaser;

(iii) a reservation letter executed by the Company's Transfer Agent and the Company in the form attached asExhibit D;

(iv) the Security Agreement duly executed by the Company;

(v) the Subsidiary Guarantee duly executed by each of Harper & Jones, LLC and Bailey 44, LLC.

(vi) the Subsidiary Security Agreement duly executed by each of Harper & Jones, LLC and Bailey 44, LLC.

(vii) the Registration Rights Agreement duly executed by the Company;

(viii) a Board Consent approving the issuance of the Note and the execution of the Transaction Documents on behalf of the Company in the form attached as Exhibit E; and

(ix) the Company shall have provided the Purchaser with the Company's wire instructions in writing.

(b) On or prior to the Closing Date, the Purchaser shall deliver or cause to be delivered to the Company the following:

(i) this Agreement duly executed by the Purchaser;

(ii) the Security Agreement duly executed by the Purchaser;

(iii) the Subsidiary Security Agreement duly executed by the Purchaser;

(iv) the Registration Rights Agreement duly executed by the Purchaser; and

(v) the Purchaser's Subscription Amount of $5,000,000 by wire transfer to the Company.

2.3 Closing Conditions.

(a) The obligations of the Company hereunder in connection with the Closing are subject to the following conditions being met:

(i)the accuracy in all material respects (or, to the extent representations or warranties are qualified by materiality or Material Adverse Effect, in all respects) on the Closing Date of the representations and warranties of the Purchaser contained herein (unless as of a specific date therein in which case they shall be accurate as of such date);

(ii)all obligations, covenants and agreements of the Purchaser required to be performed at or prior to the Closing Date shall have been performed (or a waiver obtained with respect thereto); and

(iii) the delivery by the Purchaser of the items set forth in Section 2.2(b) as applicable, of this Agreement.

(b) The respective obligations of the Purchaser hereunder in connection with the Closing are subject to the following conditions being met:

(i)the accuracy in all respects (or, to the extent representations or warranties are qualified by materiality or Material Adverse Effect, in all respects) when made and on the Closing Date of the representations and warranties of the Company contained herein (unless as of a specific date therein);

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

(iii) the delivery by the Company of the items set forth in Sections 2.2(a), as applicable, 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 SEC 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 the Purchaser, makes it impracticable or inadvisable to purchase the Securities at the Closing.

ARTICLE III.
REPRESENTATIONS AND WARRANTIES

3.1 Representations and Warranties of the Company. The Company hereby makes the following representations and warranties to the Purchaser which representations and warranties shall be true and correct as of the date hereof:

(a) Subsidiaries. All of the direct and indirect Subsidiaries of the Company are set forth in its SEC filings and/or onSchedule 3.1(a). Except as set forth in its SEC filings and/or on Schedule 3.1(a), the Company owns, directly or indirectly, all of the capital stock or other equity interests of each Subsidiary free and clear of any Liens, and all of the issued and outstanding shares of capital stock of each Subsidiary are validly issued and are fully paid, non-assessable and free of preemptive and similar rights to subscribe for or purchase securities.

(b) Organization and Qualification. Except as set forth in its SEC filings and/or onSchedule 3.1(b), the Company and each of the Subsidiaries is an entity duly incorporated or otherwise organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation or organization, with the requisite power and authority to own and use its properties and assets and to carry on its business as currently conducted. Neither the Company nor any Subsidiary is in violation nor default of any of the provisions of its respective formation document, bylaws or other organizational or charter documents. Each of the Company and the Subsidiaries is duly qualified to conduct business and is in good standing as a foreign corporation or other entity in each jurisdiction in which the nature of the business conducted or property owned by it makes such qualification necessary, except where the failure to be so qualified or in good standing, as the case may be, could not have or reasonably be expected to result in: (i) a Material Adverse Effect on the legality, validity or enforceability of any Transaction Document, (ii)a material adverse effect on the results of operations, assets, business, or financial condition of the Company and the Subsidiaries, taken as a whole, or (ii) a material adverse effect on the Company's ability to perform in any material respect on a timely basis its obligations under any Transaction Document (any of (i) or (ii), a "Material Adverse Effect"; *provided, however,* that "Material Adverse Effect" shall not include any event, occurrence, fact, condition or change, directly or indirectly, arising out of or attributable to: (A) general economic or political conditions, (B) conditions generally affecting the industry in which the Company operates, (C) any changes in financial or securities markets in general, (D) acts of war (whether or not declared), armed hostilities or terrorism, or the escalation or worsening thereof, (E) any pandemic, epidemics or human health crises (including COVID-19), (F) any changes in applicable laws or accounting rules (including GAAP), (G) the announcement, pendency or completion of the transactions contemplated by this Agreement, or (H) any action required or permitted by this Agreement or any action taken (or omitted to be taken) with the written consent of or at the written request of the Purchaser) and no Proceeding has been instituted in any such jurisdiction revoking, limiting or curtailing or seeking to revoke, limit or curtail such power and authority or qualification.

(c) Authorization; Enforcement. The Company has the requisite corporate power and authority to enter into and to consummate the transactions contemplated by this Agreement and each of the other Transaction Documents and otherwise to carry out its obligations hereunder and thereunder. The execution and delivery of this Agreement and each of the other Transaction Documents by the Company and the consummation by it of the transactions contemplated hereby and thereby have been duly authorized by all necessary action on the part of the Company and no further action is required by the Company, the Board of Directors or the Company's shareholders in connection herewith or therewith other than in connection with the Required Approvals. Subject to obtaining the Required Approvals, this Agreement and each other Transaction Document to which it is a party has been (or upon delivery will have been) duly executed by the Company and, when delivered in accordance with the terms hereof and thereof, will constitute the valid and binding obligation of the Company enforceable against the Company in accordance with its terms, except (i) as limited by general equitable principles and applicable bankruptcy, insolvency, reorganization, moratorium and other Laws of general application affecting enforcement of creditors' rights generally, (ii) as limited by Laws relating to the availability of specific performance, injunctive relief or other equitable remedies and (iii) insofar as indemnification and contribution provisions may be limited by applicable law.

(d) No Conflicts. Except as set forth in its SEC filings and/or inSchedule 3.1(d), the execution, delivery and performance by the Company of this Agreement and the other Transaction Documents to which it is a party, the issuance and sale of the Securities and the consummation by it of the transactions contemplated hereby and thereby do not and will not, subject to the Required Approvals, (i) conflict with or violate any provision of the Company's or any Subsidiary's formation documents, bylaws or other organizational or charter documents, (ii) constitute a default (or an event that with notice or lapse of time or both would become a

default) under, result in the creation of any Lien upon any of the properties or assets of the Company or any Subsidiary, or give to others any rights of termination, amendment, acceleration or cancellation (with or without notice, lapse of time or both) of, any agreement, credit facility, debt or other instrument (evidencing a Company or Subsidiary debt or otherwise) or other understanding to which the Company or any Subsidiary is a party or by which any property or asset of the Company or any Subsidiary is bound or affected, or (iii) conflict with or result in a violation of any law, rule, regulation, order, judgment, injunction, decree or other restriction of any court or governmental authority to which the Company or a Subsidiary is subject (including federal and state securities Laws and regulations), or by which any property or asset of the Company or a Subsidiary is bound or affected; except in the case of each of clauses (ii) and (iii), such as could not have or reasonably be expected to result in a Material Adverse Effect.

(e) Filings, Consents and Approvals. Except as set forth in its SEC filings and/or onSchedule 3.1(e), the Company is not required to obtain any consent, waiver, authorization or order of, give any notice to, or make any filing or registration with, any court or other federal, state, local or other governmental authority or other Person in connection with the execution, delivery and performance by the Company of the Transaction Documents, other than: (i) the filings required pursuant to Section 4.4 of this Agreement, (ii) application(s) to each applicable Trading Market for the listing of the Shares for trading thereon in the time and manner required thereby, and (iii) such filings as are required to be made under applicable state or federal securities Laws (collectively, the "Required Approvals").

(f) Issuance of the Securities. The Note and Shares are duly authorized and, when issued and paid for in accordance with the applicable Transaction Documents, will be duly and validly issued, fully paid and nonassessable, free and clear of all Liens imposed by the Company. The Shares, when issued upon conversion of the Note, will be validly issued, fully paid and nonassessable, free and clear of all Liens imposed by the Company. The Company shall reserve from its duly authorized capital stock a number of shares of Common Stock issuable pursuant to the Note equal to the amount set forth in Section 4.9.

(g) Capitalization. The capitalization of the Company is as set forth in its SEC filings and/or onSchedule 3.1(g). The Company has not issued any capital stock since its most recently filed periodic report under the Exchange Act, other than as set forth in its SEC filings and/or on Schedule 3.1(g), pursuant to the exercise of employee stock awards under the Company's equity incentive plans, the issuance of shares of Common Stock to employees pursuant to the Company's employee stock purchase plans, the issuance of shares of Common Stock or Common Stock Equivalents pursuant to agreements outstanding as of the date of the most recently filed periodic report under the Exchange Act and pursuant to the conversion and/or exercise of Common Stock Equivalents outstanding as of the date of the most recently filed periodic report under the Exchange Act. No Person has any right of first refusal, preemptive right, right of participation, or any similar right to participate in the transactions contemplated by the Transaction Documents. Except as set forth in its SEC filings and/or on Schedule 3.1(g), there are no outstanding options, warrants, scrip rights to subscribe to, calls or commitments of any character whatsoever relating to, or securities, rights or obligations convertible into or exercisable or exchangeable for, or giving any Person any right to subscribe for or acquire, any shares of Common Stock or the capital stock of any Subsidiary, or contracts, commitments, understandings or arrangements by which the Company or any Subsidiary is or may become bound to issue additional shares of Common Stock or Common Stock Equivalents or capital stock of any Subsidiary. The issuance and sale of the Securities will not obligate the Company or any Subsidiary to issue shares of Common Stock or other securities to any Person (other than the Purchaser) and will not result in a right of any holder of Company Securities to adjust the exercise, conversion, exchange or reset price under any of such securities. There are no outstanding securities or instruments of the Company or any Subsidiary that contain any redemption or similar provisions, and there are no contracts, commitments, understandings or arrangements by which the Company or any Subsidiary is or may become bound to redeem a security of the Company or such Subsidiary. The Company does not have any stock appreciation rights or "phantom stock" plans or agreements or any similar plan or agreement. All of the outstanding shares of capital stock of the Company are duly authorized, validly issued, fully paid and nonassessable, have been issued in compliance with all federal and state securities Laws, and none of such outstanding shares was issued in violation of any preemptive rights or similar rights to subscribe for or purchase securities. Other than the Required Approvals, no further approval or authorization of any stockholder, the Board of Directors or others is required for the issuance and sale of the Securities. There are no shareholders agreements, voting agreements or other similar agreements with respect to the Company's capital stock to which the Company is a party or, to the knowledge of the Company, between or among any of the Company's shareholders.

(h) SEC Reports; Financial Statements. To the Company's knowledge, since May 17, 2021 the Company has filed all reports, schedules, forms, statements and other documents required to be filed by the Company under the Securities Act and the Exchange Act, including pursuant to Section 13(a) or 15(d) thereof, (the foregoing materials, including the exhibits thereto and documents incorporated by reference therein, being collectively referred to herein as the "SEC Reports"). As of their respective dates, the Company believes that the SEC Reports complied in all material respects with the requirements of the Securities Act and the Exchange Act, as applicable, and that none of the SEC Reports, when filed, contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. The financial statements of the Company included in the SEC Reports comply in all material respects with applicable accounting requirements and the rules and regulations of the SEC with respect thereto as in effect at the time of filing. Such financial statements have been prepared in accordance with United States generally accepted accounting principles applied on a consistent basis during the periods involved ("GAAP"), except as may be otherwise specified in such financial statements or the notes thereto and except that unaudited financial statements may not contain all footnotes required by GAAP, and fairly present in all material respects the financial position of the Company and its consolidated Subsidiaries as of and for the dates thereof and the results of operations and cash flows for the periods then ended, subject, in the case of unaudited statements, to normal, immaterial, year-end audit adjustments.

(i) Material Changes; Undisclosed Events, Liabilities or Developments. Other than as set forth in its SEC filings and/or onSchedule 3.1(i) since the date of the latest audited financial statements included within the SEC Reports, except as specifically disclosed in a subsequent SEC Report filed prior to the date hereof, to the best of the Company's knowledge (i) there has been no event, occurrence or development that has had or that could reasonably be expected to result in a Material Adverse Effect, (ii) the Company has not incurred any liabilities (contingent or otherwise) other than (A) trade payables and accrued expenses incurred in the ordinary course of business consistent with past practice, and (B) liabilities not required to be reflected in the Company's financial statements pursuant to GAAP or disclosed in filings made with the SEC, (iii) the Company has not altered its method of accounting, (iv) the Company has not declared or made any dividend or distribution of cash or other property to its shareholders or purchased, redeemed or made any agreements to purchase or redeem any shares of its capital stock and (v) the Company has not issued any equity securities to any officer, director or Affiliate, except pursuant to existing Company equity incentive plans. The Company does not have pending before the SEC any request for confidential treatment of information. To the knowledge of the Company, except for the issuance of the Securities contemplated by this Agreement or as set forth in its SEC filings and/or on Schedule 3.1(i), no event, liability, fact, circumstance, occurrence or development has occurred or exists or is reasonably expected to occur or exist with respect to the Company or its Subsidiaries or their respective businesses, prospects, properties, operations, assets or financial condition that would be required to be disclosed by the Company under applicable securities Laws at the time this representation is made or deemed made that has not been publicly disclosed at least one Trading Day prior to the date that this representation is made.

(j) Litigation. Except as set forth in its SEC filings and/or inSchedule 3.1(j), there is no action, suit, notice of violation, Proceeding or investigation, inquiry or other similar Proceeding of any federal or state governmental authority pending or, to the knowledge of the Company, threatened against or affecting the Company, any Subsidiary or any of their respective properties before or by any court, arbitrator, governmental or administrative agency or regulatory authority (federal, state, county, local or foreign) (collectively, an "Action") which (i) adversely affects or challenges the legality, validity or enforceability of any of the Transaction Documents or the issuance of the Securities or (ii) could, if there were an unfavorable decision, have or reasonably be expected to result in a Material Adverse Effect. Neither the Company nor any Subsidiary, nor to the Company's knowledge any director or officer thereof, is or has been the subject of any Action involving the Company and a claim of violation of or liability under federal or state securities Laws or a claim of breach of fiduciary duty. There has not been, and to the knowledge of the Company, there is not pending or contemplated, any investigation by the SEC involving the Company or any current or former director or officer of the Company. To the knowledge of the Company, the SEC has not issued any stop order or other order suspending the effectiveness of any registration statement filed by the Company or any Subsidiary under the Exchange Act or the Securities Act.

(k) Labor Relations. No labor dispute exists or, to the knowledge of the Company, is imminent with respect to any of the employees of the Company, which could reasonably be expected to result in a Material Adverse Effect. None of the Company's or its Subsidiaries' employees is a member of a union that relates to such employee's relationship with the Company or such Subsidiary, and neither the Company nor any of its Subsidiaries is a party to a collective bargaining agreement, and the Company and its Subsidiaries believe that their relationships with their employees are good. To the knowledge of the Company, no effort is underway to unionize or organize the employees of the Company or any Subsidiary. To the knowledge of the Company, no executive officer of the Company or any Subsidiary, is in violation of any material term of any employment contract, confidentiality, disclosure or proprietary information agreement or non-competition agreement, or any other contract or agreement or any restrictive covenant in favor of any third party, and the continued employment of each such executive officer does not subject the Company or any of its Subsidiaries to any liability with respect to any of the foregoing matters. The Company and its Subsidiaries are in compliance with all U.S. federal, state, local and foreign Laws and regulations relating to employment and employment practices, terms and conditions of employment and wages and hours, except where the failure to be in compliance could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. Except as set forth in its SEC filings and/or on Schedule 3.1(k), there is no workmen's compensation liability matter, employment-related charge, complaint, grievance, investigation, inquiry or obligation of any kind pending, or to the Company's knowledge, threatened, relating to an alleged violation or breach by the Company or its Subsidiaries of any law, regulation or contract that could, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(l) Compliance. Except as set forth in its SEC filings and/or onSchedule 3.1(l), neither the Company nor any Subsidiary: (i) is in default under or in violation of (and no event has occurred that has not been waived that, with notice or lapse of time or both, would result in a default by the Company or any Subsidiary under), nor has the Company or any Subsidiary received notice of a claim that it is in default under or that it is in violation of, any indenture, loan or credit agreement or any other agreement or instrument to which it is a party or by which it or any of its properties is bound (whether or not such default or violation has been waived), (ii) is in violation of any judgment, decree or order of any court, arbitrator or other governmental authority or (iii) is or has been in violation of any statute, rule, ordinance or regulation of any governmental authority, including without limitation all foreign, federal, state and local Laws and regulations relating to taxes, securities, environmental protection, occupational health and safety, product quality and safety, and employment and labor matters, except in each case as could not have or reasonably be expected to result in a Material Adverse Effect.

(m) Environmental Laws.The Company and its Subsidiaries (i) are in compliance with all federal, state, local and foreign Laws relating to pollution or protection of human health or the environment (including ambient air, surface water, groundwater, land surface or subsurface strata), including Laws relating to emissions, discharges, releases or threatened releases of chemicals, pollutants, contaminants, or toxic or hazardous substances or wastes (collectively, "Hazardous Materials") into the environment, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials, as well as all authorizations, codes, decrees, demands, or demand letters, injunctions, judgments, licenses, notices or notice letters, orders, permits, plans or regulations, issued, entered, promulgated or approved thereunder ("Environmental Laws"); (ii) have received all permits licenses or other approvals required of them under applicable Environmental Laws to conduct their respective businesses; and (iii) are in compliance with all terms and conditions of any such permit, license or approval where in each clause (i), (ii) and (iii), the failure to so comply could be reasonably expected to have, individually or in the aggregate, a Material Adverse Effect.

(n) Regulatory Permits. The Company and the Subsidiaries possess all certificates, authorizations and permits issued by the appropriate federal, state, local or foreign regulatory authorities necessary to conduct their respective businesses as described in the SEC Reports, except where the failure to possess such permits could not reasonably be expected to result in a Material Adverse Effect ("Material Permits"), and neither the Company nor any Subsidiary has received any written notice of Proceedings relating to the revocation or modification of any Material Permit.

(o) Title to Assets. Except as set forth in its SEC filings and/or onSchedule 3.1(o), the Company and the Subsidiaries have good and marketable title in fee simple to all real property owned by them and good and marketable title in all personal property owned by them that is material to the business of the Company and the Subsidiaries, in each case free and clear of all Liens, except for (i) Liens as do not materially affect the value of such property and do not materially interfere with the use made and proposed to be made of such property by the Company and the Subsidiaries, and (ii) Liens for the payment of federal, state or other taxes, for which appropriate reserves have been made therefor in accordance with GAAP and, the payment of which is neither delinquent nor subject to penalties. To the Company's knowledge, any real property and facilities held under lease by the Company and the Subsidiaries are held by them under valid, subsisting and enforceable leases with which the Company and the Subsidiaries are in material compliance.

(p) Intellectual Property.

(i)Except as set forth in its SEC filings and/or in Schedule 3.1(p), the Company owns or possesses or has the right to use pursuant to a valid and enforceable written license, sublicense, agreement, or permission all Intellectual Property necessary for the operation of the business of the Company as presently conducted, except in each case as could not have or reasonably be expected to result in a Material Adverse Effect.

(ii)The Company has no knowledge that the Intellectual Property interferes with, infringe upon, misappropriate, or otherwise come into conflict with, any Intellectual Property rights of third parties, and the Company has no knowledge that facts exist which indicate a likelihood of the foregoing. The Company has not received any charge, complaint, claim, demand, or notice alleging any such interference, infringement, misappropriation, or conflict (including any claim that the Company must license or refrain from using any Intellectual Property rights of any third party). To the knowledge of the Company, no third party has interfered with, infringed upon, misappropriated, or otherwise come into conflict with, any Intellectual Property rights of the Company, except in each case as could not have or reasonably be expected to result in a Material Adverse Effect.

(q) Insurance. The Company and the Subsidiaries are insured by insurers of recognized financial responsibility against such losses and risks and in such amounts as are prudent and customary in the businesses in which the Company and the Subsidiaries are engaged.

(r) Transactions With Affiliates. Except as disclosed in its SEC filings, none of the current officers, directors or Affiliates of the Company or any

Subsidiary is presently a party to any transaction with the Company or any Subsidiary (other than for services as employees, officers and directors), including any contract, agreement or other arrangement providing for the furnishing of services to or by, providing for rental of real or personal property to or from, providing for the borrowing of money from or lending of money to or otherwise requiring payments to or from any officer, director, Affiliate or such employee or, to the knowledge of the Company, any entity in which any officer, director, or any such employee has a substantial interest or is an officer, director, trustee, stockholder, member or partner, in each case in excess of $120,000 other than for (i) payment of salary or consulting fees for services rendered, (ii) reimbursement for expenses incurred on behalf of the Company and (iii) other employee benefits, including stock award agreements under any equity incentive plan of the Company.

(s) Sarbanes-Oxley; Internal Accounting Controls. Except as disclosed in its SEC filings and/or inSchedule 3.1(s), the Company and the Subsidiaries are in compliance with any and all applicable requirements of the Sarbanes-Oxley Act of 2002 that are effective as of the date hereof, and any and all applicable rules and regulations promulgated by the SEC thereunder that are effective as of the date hereof and as of the Closing Date. The Company and the Subsidiaries maintain a system of internal accounting controls as set forth in the SEC Reports. The Company's certifying officers have evaluated the effectiveness of the disclosure controls and procedures of the Company and the Subsidiaries as of the end of the period covered by the most recently filed periodic report under the Exchange Act (such date, the "Evaluation Date"). The Company presented in its most recently filed periodic report under the Exchange Act the conclusions of the certifying officers about the effectiveness of the disclosure controls and procedures based on their evaluations as of the Evaluation Date. Since the Evaluation Date, there have been no changes in the internal control over financial reporting (as such term is defined in the Exchange Act) of the Company and its Subsidiaries that have materially affected, or is reasonably likely to materially affect, the internal control over financial reporting of the Company and its Subsidiaries.

(t) Certain Fees. Other than as set forth in its SEC filings and/or onSchedule 3.1(t), no brokerage or finder's fees or commissions are or will be payable by the Company or any Subsidiary to any broker, financial advisor or consultant, finder, placement agent, investment banker, bank or other Person with respect to the transactions contemplated by the Transaction Documents. The Purchaser shall have no obligation with respect to any fees or with respect to any claims made by or on behalf of other Persons for fees of a type contemplated in this Section 3.1(t) that may be due in connection with the transactions contemplated by the Transaction Documents.

(u) Investment Company. The Company is not, and is not an Affiliate of, and immediately after receipt of payment for the Securities, will not be or be an Affiliate of, an "investment company" within the meaning of the Investment Company Act of 1940, as amended. The Company shall conduct its business in a manner so that it will not become an "investment company" subject to registration under the Investment Company Act of 1940, as amended.

(v) Registration Rights. Other than as set forth in its SEC filings and/or onSchedule 3.1(v), no Person has any right to cause the Company or any Subsidiary to effect the registration under the Securities Act of any securities of the Company or any Subsidiary.

(w) Listing and Maintenance Requirements. The Company has not, in the 12 months preceding the date hereof, received notice from any Trading Market on which the Common Stock is or has been listed or quoted to the effect that the Company is not in compliance with the listing or maintenance requirements of such Trading Market. The Company is, and has no reason to believe that it will not in the foreseeable future continue to be, in material compliance with all such listing and maintenance requirements. The Common Stock is currently eligible for electronic transfer through the Depository Trust Company ("DTC") or another established clearing corporation and the Company is current in payment of the fees to the DTC (or such other established clearing corporation) in connection with such electronic transfer. The Company is not subject to any "chill" issued by the DTC.

(x) Application of Takeover Protections. The Company and the Board of Directors have taken all necessary action, if any, in order to render inapplicable any control share acquisition, business combination, poison pill (including any distribution under a rights agreement) or other similar anti-takeover provision under the Company's formation documents (or similar charter documents) or the Laws of its state of incorporation that is or could become applicable to the Purchaser as a result of the Purchaser and the Company fulfilling their obligations or exercising their rights under the Transaction Documents, including without limitation as a result of the Company's issuance of the Securities and the Purchaser' ownership of the Securities.

(y) Disclosure. Except with respect to the material terms and conditions of the transactions contemplated by the Transaction Documents, the Company confirms that neither it nor any other Person acting on its behalf has provided any of the Purchaser or their agents or counsel with any information that it believes constitutes or might constitute material, non-public information which is not otherwise disclosed in the SEC Reports. The Company understands and confirms that the Purchaser will rely on the foregoing representation in effecting transactions in securities of the Company. The press releases disseminated by the Company since May 17, 2021 do not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made and when made, not misleading. The Company acknowledges and agrees that no Purchaser makes or has made any representations or warranties with respect to the transactions contemplated hereby other than those specifically set forth in Section 3.2 hereof.

(z) No Integrated Offering. Assuming the accuracy of the Purchaser' representations and warranties set forth in Section 3.2, neither the Company, nor any of its Affiliates, nor any Person acting on its or their behalf has, directly or indirectly, made any offers or sales of any security or solicited any offers to buy any security, under circumstances that would cause this offering of the Securities to be integrated with prior offerings by the Company for purposes of any applicable shareholder approval provisions of any Trading Market on which any of the securities of the Company are listed or designated.

(aa) Solvency. The Company has not filed for reorganization or liquidation under the bankruptcy or reorganization Laws of any jurisdiction. Except as set forth in its SEC filings and/or Schedule 3.1(aa) sets forth as of the time immediately following the Closing hereof all outstanding Indebtedness of the Company or any Subsidiary. For the purposes of this Agreement, "Indebtedness" means (x) any liabilities for borrowed money or amounts owed in excess of $50,000 (other than trade accounts payable incurred in the ordinary course of business), (y) all guaranties, endorsements and other contingent obligations in respect of indebtedness of others, whether or not the same are or should be reflected in the Company's consolidated balance sheet (or the notes thereto), except guaranties by endorsement of negotiable instruments for deposit or collection or similar transactions in the ordinary course of business; and (z) the present value of any lease payments in excess of $50,000 due under leases required to be capitalized in accordance with GAAP. Except as set forth in its SEC filings and/or on Schedule 3.1(aa) or as would not have a Material Adverse Effect, neither the Company nor any Subsidiary is in default with respect to any Indebtedness.

(bb) Tax Status. Except for matters disclosed in its SEC filings and/or matters that would not, individually or in the aggregate, have or reasonably be expected to result in a Material Adverse Effect, the Company and its Subsidiaries each (i) has made or filed all United States federal, state and local income and all foreign income and franchise tax returns, reports and declarations required by any jurisdiction to which it is subject, (ii) has paid all taxes and other governmental assessments and charges that are material in amount, shown to be due on such returns, reports and declarations and (iii) has set aside on its books provision reasonably adequate for the payment of all material taxes for periods subsequent to the periods to which such returns, reports or declarations apply. There are no unpaid taxes in any material amount claimed to be due by the taxing authority of any jurisdiction.

(cc) Foreign Corrupt Practices. Neither the Company nor any Subsidiary, nor to the knowledge of the Company, any agent or other Person acting on behalf

of the Company or any Subsidiary, has (i) directly or indirectly, used any funds for unlawful contributions, gifts, entertainment or other unlawful expenses related to foreign or domestic political activity, (ii) made any unlawful payment to foreign or domestic government officials or employees or to any foreign or domestic political parties or campaigns from corporate funds, (iii) failed to disclose fully any contribution made by the Company or any Subsidiary (or made by any Person acting on its behalf of which the Company is aware) which is in violation of Law, or (iv) violated any provision of FCPA.

(dd) Accountants. The Company's accounting firm is set forth in the SEC Reports. To the knowledge and belief of the Company, such accounting firm is a registered public accounting firm as required by the Exchange Act.

(ee) Acknowledgment Regarding Purchaser' Purchase of Securities. The Company acknowledges and agrees that the Purchaser is acting solely in the capacity of an arm's length purchaser with respect to the Transaction Documents and the transactions contemplated thereby. The Company further acknowledges that no Purchaser is acting as a financial advisor or fiduciary of the Company (or in any similar capacity) with respect to the Transaction Documents and the transactions contemplated thereby and any advice given by the Purchaser or any of their respective representatives or agents in connection with the Transaction Documents and the transactions contemplated thereby is merely incidental to the Purchaser' purchase of the Securities. The Company further represents to the Purchaser that the Company's decision to enter into this Agreement and the other Transaction Documents has been based solely on the independent evaluation of the transactions contemplated hereby by the Company and its representatives.

(ff) Acknowledgement Regarding Purchaser's Trading Activity. Notwithstanding anything in this Agreement or elsewhere to the contrary (except for Sections 3.2(f) and 4.13 hereof), it is understood and acknowledged by the Company that: (i) no Purchaser has been asked by the Company to agree, nor has the Purchaser agreed, to desist from purchasing or selling, long and/or short, securities of the Company, or "derivative" securities based on securities issued by the Company or to hold the Securities for any specified term; (ii) past or future open market or other transactions by the Purchaser, specifically including, without limitation, Short Sales or "derivative" transactions, before or after the Closing of this or future private placement transactions, may negatively impact the market price of the Company's publicly-traded securities; (iii) the Purchaser, and counter-parties in "derivative" transactions to which the Purchaser is a party, directly or indirectly, presently may have a "short" position in the Common Stock, and (iv) the Purchaser shall not be deemed to have any affiliation with or control over any arm's length counter-party in any "derivative" transaction. The Company further understands and acknowledges that (y) one or more Purchaser may engage in hedging activities at various times during the period that the Securities are outstanding, and (z) such hedging activities (if any) could reduce the value of the existing shareholders' equity interests in the Company at and after the time that the hedging activities are being conducted. The Company acknowledges that such aforementioned hedging activities do not constitute a breach of any of the Transaction Documents.

(gg) Regulation M Compliance. The Company has not, and to its knowledge no one acting on its behalf has, (i) taken, directly or indirectly, any action designed to cause or to result in the stabilization or manipulation of the price of the Common Stock to facilitate the sale of the Securities, or (ii) paid or agreed to pay to any Person any compensation for soliciting another to purchase the Securities or any other securities of the Company.

(hh) Private Placement. Assuming the accuracy of the Purchaser' representations and warranties set forth in Section 3.2, no registration under the Securities Act is required for the offer and sale of the Securities by the Company to the Purchaser as contemplated hereby.

(ii) No General Solicitation. Neither the Company nor, to the Company's knowledge, any Person acting on behalf of the Company has offered or sold any of the Securities by any form of general solicitation or general advertising. The Company has offered the Securities for sale only to the Purchaser and certain other "accredited investors" within the meaning of Rule 501 under the Securities Act.

(jj) No Disqualification Events. With respect to the Securities to be offered and sold hereunder in reliance on Rule 506(b) under the Securities Act, none of the Company, any of its predecessors, any affiliated issuer, any director, executive officer, other officer of the Company participating in the offering hereunder, any beneficial owner of 20% or more of the Company's outstanding voting equity securities, calculated on the basis of voting power, nor any promoter (as that term is defined in Rule 405 under the Securities Act) connected with the Company in any capacity at the time of sale, nor any Person, including a placement agent, who will receive a commission or fees for soliciting purchasers (each, an "Issuer Covered Person" and, together, "Issuer Covered Persons") is subject to any of the "Bad Actor" disqualifications described in Rule 506(d)(1)(i) to (viii) under the Securities Act (a "Disqualification Event"), except for a Disqualification Event covered by Rule 506(d)(2) or (d)(3). The Company has exercised reasonable care to determine whether any Issuer Covered Person is subject to a Disqualification Event. The Company has complied, to the extent applicable, with its disclosure obligations under Rule 506(e), and has furnished to the Purchaser a copy of any disclosures provided thereunder. Notwithstanding the above, the Company has specifically advised the Purchaser of certain prior disciplinary actions related to an officer/director of the Company which would not be designated a Disqualification Event.

(kk) Notice of Disqualification Events. The Company will notify the Purchaser in writing, prior to the Closing Date of the Company becoming aware of (i) any Disqualification Event relating to any Issuer Covered Person and (ii) any event that would, with the passage of time, reasonably be expected to become a Disqualification Event relating to any Issuer Covered Person, in each case of which it is aware.

(ll) Office of Foreign Assets Control. Neither the Company nor any Subsidiary nor, to the Company's knowledge, any director, officer, agent, employee or Affiliate of the Company or any Subsidiary is currently subject to any U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Treasury Department ("OFAC").

(mm) U.S. Real Property Holding Corporation. The Company is not and has never been a U.S. real property holding corporation within the meaning of Section 897 of the Internal Revenue Code of 1986, as amended, and the Company shall so certify upon Purchaser's request.

(nn) Bank Holding Company Act. Neither the Company nor any of its Subsidiaries or Affiliates is subject to the Bank Holding Company Act of 1956, as amended (the "BHCA") and to regulation by the Board of Governors of the Federal Reserve System (the "Federal Reserve"). Neither the Company nor any of its Subsidiaries or Affiliates owns or controls, directly or indirectly, 5% or more of the outstanding shares of any class of voting securities or twenty-five percent or more of the total equity of a bank or any entity that is subject to the BHCA and to regulation by the Federal Reserve. Neither the Company nor any of its Subsidiaries or Affiliates exercises a controlling influence over the management or policies of a bank or any entity that is subject to the BHCA and to regulation by the Federal Reserve.

(oo) Money Laundering. The operations of the Company and its Subsidiaries are and have been conducted at all times in material compliance with applicable financial record-keeping and reporting requirements of the Currency and Foreign Transactions Reporting Act of 1970, as amended, applicable money laundering statutes and applicable rules and regulations thereunder (collectively, the "Money Laundering Laws"), and no Action by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any Subsidiary with respect to the Money Laundering Laws is pending or, to the knowledge of the Company or any Subsidiary, threatened.

3.2 Representations and Warranties of the Purchaser. The Purchaser hereby represents and warrants to the Company as follows which representations and warranties shall be true and correct as of the date hereof:

(a) Organization; Authority. The Purchaser is either an individual or an entity duly incorporated or formed, validly existing and in good standing under the Laws of the jurisdiction of its incorporation or formation with full right, corporate, partnership, limited liability company or similar power and authority to enter into and to consummate the transactions contemplated by this Agreement and otherwise to carry out its obligations hereunder and thereunder. The execution and delivery of this Agreement and performance by the Purchaser of the transactions contemplated by this Agreement have been duly authorized by all necessary corporate, partnership, limited liability company or similar action, as applicable, on the part of the Purchaser. Each Transaction Document to which it is a party has been duly executed by the Purchaser, and when delivered by the Purchaser in accordance with the terms hereof, will constitute the valid and legally binding obligation of the Purchaser, enforceable against it in accordance with its terms, except: (i) as limited by general equitable principles and applicable bankruptcy, insolvency, reorganization, moratorium and other Laws of general application affecting enforcement of creditors' rights generally, (ii) as limited by Laws relating to the availability of specific performance, injunctive relief or other equitable remedies and (iii) insofar as indemnification and contribution provisions may be limited by applicable law.

(b) Understandings or Arrangements. The Purchaser is acquiring the Securities 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 Securities (this representation and warranty not limiting the Purchaser's right to sell the Securities in compliance with applicable federal and state securities Laws). The Purchaser is acquiring the Securities hereunder in the ordinary course of its business. The Purchaser understands that the Securities are "restricted securities" and have not been registered under the Securities Act or any applicable state securities law and is acquiring such Securities as principal for its own account and not with a view to or for distributing or reselling such Securities or any part thereof in violation of the Securities Act or any applicable state securities law, has no present intention of distributing any of such Securities in violation of the Securities Act or any applicable state securities law and has no direct or indirect arrangement or understandings with any other Persons to distribute or regarding the distribution of such Securities in violation of the Securities Act or any applicable state securities law (this representation and warranty not limiting the Purchaser's right to sell such Securities in compliance with applicable federal and state securities Laws).

(c) Risks of Investment. Purchase recognizes that the acquisition of the Securities involves a high degree of risk in that an investor could sustain the loss of its entire investment and the Company is and will be subject to numerous other risks and uncertainties, including, without limitation, significant and material risks relating to the Company's business and the industries, markets and geographic regions in which the Company competes.

(d)Accredited Investor Status. Purchaser represents that it is an "accredited investor" as such term is defined in Rule 501 of Regulation D promulgated under the Securities Act of 1933, as amended, and that it is able to bear the economic risk of an investment in the Securities.

(e) Purchaser Status. At the time the Purchaser was offered the Securities, it was, and as of the date hereof it is, an accredited investor within the meaning of Rule 501 under the Securities Act. No Purchaser is subject to any of the "Bad Actor" disqualifications described in Rule 506(d)(1)(i) to (viii) under the Securities Act (a "Disqualification Event"), except for a Disqualification Event covered by Rule 506(d)(2) or (d)(3).

(f) Experience of The Purchaser. The Purchaser, either alone or together with its representatives, has such knowledge, sophistication and experience in business and financial matters so as to be capable of evaluating the merits and risks of the prospective investment in the Securities, and has so evaluated the merits and risks of such investment. The Purchaser is able to bear the economic risk of an investment in the Securities and, at the present time, is able to afford a complete loss of such investment.

(g) Access to Information. The Purchaser acknowledges that it has had the opportunity to review the Transaction Documents (including all exhibits and schedules thereto) and the SEC Reports and has been afforded, subject to Regulation FD, (i) the opportunity to ask such questions as it has deemed necessary of, and to receive answers from, representatives of the Company concerning the terms and conditions of the offering of the Securities and the merits and risks of investing in the Securities; (ii) access to information about the Company and its financial condition, results of operations, business, properties, management and prospects sufficient to enable it to evaluate its investment; and (iii) the opportunity to obtain such additional information that the Company possesses or can acquire without unreasonable effort or expense that is necessary to make an informed investment decision with respect to the investment. The Purchaser acknowledges and agrees that neither the Company nor anyone else has provided the Purchaser with any information or advice with respect to the Securities nor is such information or advice necessary or desired.

(h) Certain Transactions and Confidentiality. Other than consummating the transactions contemplated hereunder, the Purchaser has not, nor has any Person acting on behalf of or pursuant to any understanding with the Purchaser, directly or indirectly executed any purchases or sales, including Short Sales, of the securities of the Company during the period commencing as of the time that the Purchaser first received a term sheet (written or oral) from the Company or any other Person representing the Company setting forth the material terms of the transactions contemplated hereunder and ending immediately prior to the execution hereof. Notwithstanding the foregoing, in the case of the Purchaser that is a multi-managed investment vehicle whereby separate portfolio managers manage separate portions of the Purchaser's assets and the portfolio managers have no direct knowledge of the investment decisions made by the portfolio managers managing other portions of the Purchaser's assets, the representation set forth above shall only apply with respect to the portion of assets managed by the portfolio manager that made the investment decision to purchase the Securities covered by this Agreement. Other than to other Persons party to this Agreement or to the Purchaser's representatives, including, without limitation, its officers, directors, partners, legal and other advisors, employees, agents and Affiliates, the Purchaser has maintained the confidentiality of all disclosures made to it in connection with this transaction (including the existence and terms of this transaction). Notwithstanding the foregoing, for avoidance of doubt, nothing contained herein shall constitute a representation or warranty, or preclude any actions, with respect to the identification of the availability of, or securing of, available shares to borrow in order to effect Short Sales or similar transactions in the future.

The Company acknowledges and agrees that the representations contained in this Section 3.2 shall not modify, amend or affect the Purchaser's right to rely on the Company's representations and warranties contained in this Agreement or any representations and warranties contained in any other Transaction Document or any other document or instrument executed and/or delivered in connection with this Agreement or the consummation of the transaction contemplated hereby.

ARTICLE IV.
OTHER AGREEMENTS OF THE PARTIES

4.1 Removal of Legends.

(a)The Securities may only be disposed of in compliance with state and federal securities Laws. In connection with any transfer of the Shares, other than pursuant to an effective registration statement or Rule 144, to the Company or to an Affiliate of the Purchaser or in connection with a pledge as contemplated in Section 4.1(b), the Company may require the transferor to provide to the Company an opinion of counsel selected by the transferor and reasonably acceptable to the Company at the reasonable cost of the Company, the form and substance of which opinion shall be reasonably satisfactory to the Company, to the effect that such

transfer does not require registration of such transferred Shares under the Securities Act.

(b) The Purchaser agrees to the imprinting, so long as is required by this Section 4.1, of a legend on any of the Shares in the following form:

NEITHER THIS SECURITY NOR THE SECURITIES INTO WHICH THIS SECURITY IS CONVERTIBLE HAVE BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION OR THE SECURITIES COMMISSION OF ANY STATE IN RELIANCE UPON AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND, ACCORDINGLY, MAY NOT BE OFFERED OR SOLD EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR PURSUANT TO AN AVAILABLE EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS. THIS SECURITY AND THE SECURITIES ISSUABLE UPON EXERCISE OF THIS SECURITY MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT WITH A REGISTERED BROKER-DEALER OR OTHER LOAN WITH A FINANCIAL INSTITUTION THAT IS AN "ACCREDITED INVESTOR" AS DEFINED IN RULE 501(a) UNDER THE SECURITIES ACT OR OTHER LOAN SECURED BY SUCH SECURITIES.

The Company acknowledges and agrees that the Purchaser may from time to time pledge pursuant to a bona fide margin agreement with a registered broker-dealer or grant a security interest in some or all of the Shares to a financial institution that is an "accredited investor" as defined in Rule 501(a) under the Securities Act and who agrees to be bound by the provisions of this Agreement and, if required under the terms of such arrangement, the Purchaser may transfer pledged or secured Shares to the pledgees or secured parties. Such a pledge or transfer would not be subject to approval of the Company and no legal opinion of legal counsel of the pledgee, secured party or pledgor shall be required in connection therewith. Further, no notice shall be required of such pledge. At the appropriate Purchaser's expense, the Company will execute and deliver such reasonable documentation as a pledgee or secured party of Shares may reasonably request in connection with a pledge or transfer of the Shares.

(c)Certificates evidencing the Shares (or the Transfer Agent's records if held in book entry form) shall not contain any legend (including the legend set forth in Section 4.1(b) hereof): (i) while a registration statement covering the resale of such securities is effective under the Securities Act (the "Effective Date"), (ii) following any sale of such Shares pursuant to Rule 144, (iii) if such Shares are eligible for sale under Rule 144, without the requirement for the Company to be in compliance with the current public information required under Rule 144 as to such Shares and without volume or manner-of-sale restrictions or (iv) if such legend is not required under applicable requirements of the Securities Act (including Sections 4(a)(1) and 4(a)(7) judicial interpretations and pronouncements issued by the staff of the SEC). The Company shall, at its expense, cause its counsel to issue a legal opinion to the Transfer Agent promptly after the Effective Date if required by the Transfer Agent to affect the removal of the legend hereunder. If all or any portion of a Note is converted at a time when there is an effective registration statement to cover the resale of the Shares or if such Shares or may be sold under Rule 144 and the Company is then in compliance with the current public information required under Rule 144, or if the Shares may be sold under Rule 144 without the requirement for the Company to be in compliance with the current public information required under Rule 144 as to such Shares and without volume or manner-of-sale restrictions or if such legend is not otherwise required under applicable requirements of the Securities Act (including Sections 4(a)(1) and 4(a)(7), judicial interpretations and pronouncements issued by the staff of the SEC) then such Shares shall be issued or reissued free of all legends. The Company agrees that following the effective date of any registration statement or at such time as such legend is no longer required under this Section 4.1(c), it will, no later than two Trading Days following the delivery by the Purchaser to the Company or the Transfer Agent of a certificate representing restricted Shares, issued with a restrictive legend (such second Trading Day, the "Legend Removal Date"), deliver or cause to be delivered to the Purchaser a certificate representing such Shares that is free from all restrictive and other legends. The Company may not make any notation on its records or give instructions to the Transfer Agent that enlarge the restrictions on transfer set forth in this Section 4.1. Certificates for Shares subject to legend removal hereunder shall be transmitted by the Transfer Agent to the Purchaser by crediting the account of the Purchaser's prime broker with the Depository Trust Company system as directed by the Purchaser. The Company shall be responsible for any delays caused by its Transfer Agent.

(d)In addition to the Purchaser's other available remedies, (i) the Company shall pay to the Purchaser, in cash, as partial liquidated damages and not as a penalty, $3,000 per Trading Day until such certificate is delivered without a legend. Nothing herein shall limit the Purchaser's right to pursue actual damages for the Company's failure to deliver certificates representing any Securities as required by the Transaction Documents, and the Purchaser shall have the right to pursue all remedies available to it at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief, and (ii) if after the Legend Removal Date the Purchaser purchases (in an open market transaction or otherwise) shares of Common Stock to deliver in satisfaction of a sale by the Purchaser of all or any portion of the number of shares of Common Stock, or a sale of a number of shares of Common Stock equal to all or any portion of the number of shares of Common Stock that the Purchaser anticipated receiving from the Company without any restrictive legend, then, the Company shall pay to the Purchaser, in cash, an amount equal to the excess of the Purchaser's total purchase price (including brokerage commissions and other out-of-pocket expenses, if any) for the shares of Common Stock so purchased (including brokerage commissions and other out-of-pocket expenses, if any) (the "Buy-In Price") over the product of (A) such number of Shares that the Company was required to deliver to the Purchaser by the Legend Removal Date multiplied by (B) the highest closing sale price of the Common Stock on any Trading Day during the period commencing on the date of the delivery by the Purchaser to the Company of the applicable Shares and ending on the date of such delivery and payment under this Section 4.1(d).

(e)In the event the Purchaser shall request delivery of unlegended shares as described in this Section 4.1 and the Company is required to deliver such unlegended shares, it shall pay all fees and expenses associated with or required by the legend removal and/or transfer including but not limited to reasonable legal fees, Transfer Agent fees and overnight delivery charges and taxes, if any, imposed by any applicable government upon the issuance of Common Stock; and (ii) the Company may not refuse to deliver unlegended shares based on any claim that the Purchaser or anyone associated or affiliated with the Purchaser has not complied with Purchaser's obligations under the Transaction Documents, or for any other reason, unless, an injunction or temporary restraining order from a court, on notice, restraining and or enjoining delivery of such unlegended shares shall have been sought and obtained by the Company and the Company has posted a surety bond for the benefit of the Purchaser in the amount of the greater of (i) 150% of the amount of the aggregate purchase price of the Shares (based on amount of principal and/or interest of the Note which was converted) which is subject to the injunction or temporary restraining order, or (ii) the VWAP of the Common Stock on the Trading Day before the issue date of the injunction multiplied by the number of unlegended shares to be subject to the injunction, which bond shall remain in effect until the completion of the litigation of the dispute and the proceeds of which shall be payable to the Purchaser to the extent Purchaser obtains judgment in Purchaser's favor.

4.2 Furnishing of Information.

(a)So long as the Purchaser holds the Note or Shares, the Company covenants to timely file (or obtain extensions in respect thereof and file within the applicable grace period) all reports required to be filed by the Company after the date hereof pursuant to the Exchange Act even if the Company is not then subject to the reporting requirements of the Exchange Act.

(b)At any time while the Note or Shares are held by the Purchaser, if the Company (i) shall fail for any reason to satisfy the current public information requirement under Rule 144(c) for a period of more than 30 consecutive days or (ii) has ever been an issuer described in Rule 144(i)(1)(i) or becomes an issuer in the future, and the Company shall fail to satisfy any condition set forth in Rule 144(i)(2) for a period of more than 30 consecutive days (a "Public Information Failure") then, in addition to the Purchaser's other available remedies, the Company shall pay to the Purchaser, in cash, as partial liquidated damages and not as a penalty, by reason of any such delay in or reduction of its ability to sell the Shares, an amount in cash equal to two percent of the aggregate Conversion Price of the Note on the day of a Public Information Failure and on every 30th day (pro-rated for periods totaling less than thirty days) thereafter until the earlier of (a) the date such Public Information Failure is cured and (b) such time that such public information is no longer required for the Purchaser to transfer the Shares pursuant to Rule 144, up to an aggregate amount of liquidated damages for all Public Information Failures equal to the Purchaser's Subscription Amount. Public Information Failure Payments shall be paid on the earlier of (i) the last day of the calendar month during which such Public Information Failure Payments are incurred and (ii) the second Trading Day after the event or failure giving rise to the Public Information Failure payments is cured. In the event the Company fails to make Public Information Failure payments in a timely manner, such Public Information Failure payments shall bear interest at the rate of one and one-half percent per month (prorated for partial months) until paid in full. Nothing herein shall limit the Purchaser's right to pursue actual damages for the Public Information Failure, and the Purchaser shall have the right to pursue all remedies available to it at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief.

4.3 Integration. The Company shall not sell, offer for sale or solicit offers to buy or otherwise negotiate in respect of any security (as defined in Section 2(a)(1) of the Securities Act) that would be integrated with the offer or sale of the Securities for purposes of the rules and regulations of any Trading Market such that it would require shareholder approval prior to the Closing of such other transaction unless shareholder approval is obtained before the Closing of such subsequent transaction.

4.4 Securities Laws Disclosure; Publicity. The Company shall file a Current Report on Form 8-K disclosing the material terms of this Agreement, including the Transaction Documents as exhibits thereto, with the SEC before the Trading Market opens the next Trading Day after the Closing. From and after the filing of the Form 8-K as provided in the preceding sentence, the Company represents to the Purchaser that it shall have publicly disclosed all material, non-public information delivered to the Purchaser by the Company or any of its Subsidiaries, or any of their respective officers, directors, employees or agents in connection with the transactions contemplated by the Transaction Documents. In addition, effective upon the issuance of such Form 8-K, the Company acknowledges and agrees that any and all confidentiality or similar obligations under any agreement, whether written or oral, between the Company, any of its Subsidiaries or any of their respective officers, directors, agents, employees or Affiliates on the one hand, and any of the Purchaser or any of their Affiliates on the other hand, shall terminate. The Company and the Purchaser shall consult with each other in issuing any press releases with respect to the transactions contemplated hereby, and neither the Company nor the Purchaser 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 the Purchaser, or without the prior consent of the Purchaser, 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 the Purchaser, or include the name of the Purchaser in any filing with the SEC or any regulatory agency or Trading Market, without the prior written consent of the Purchaser, except (a) as required by the staff of the SEC in connection with the filing of final Transaction Documents with the SEC and (b) to the extent such disclosure is required by law or Trading Market regulations, in which case the Company shall, to the extent reasonably practicable, provide the Purchaser with prior notice of such disclosure permitted under this clause (b).

4.5 Shareholder Rights Plan. No claim will be made or enforced by the Company or, with the consent of the Company, any other Person, that the Purchaser is an "Acquiring Person" under any control share acquisition, business combination, poison pill (including any distribution under a rights agreement) or similar anti-takeover plan or arrangement in effect or hereafter adopted by the Company, or that the Purchaser could be deemed to trigger the provisions of any such plan or arrangement, by virtue of receiving Securities under the Transaction Documents or under any other agreement between the Company and the Purchaser.

4.6 Non-Public Information. Except with respect to the material terms and conditions of the transactions contemplated by the Transaction Documents, which shall be disclosed pursuant to Section 4.4, the Company covenants and agrees that neither it, nor any other Person acting on its behalf will provide the Purchaser or its agents or counsel with any information that constitutes, or the Company reasonably believes constitutes, material non-public information, unless prior thereto the Purchaser shall have consented to the receipt of such information and agreed with the Company to keep such information confidential. Prior to providing the Purchaser with any material non-public information, the Company shall provide the Purchaser with a consent substantially in the form attached as Exhibit F ("Consent") which shall not include any material non-public information. The Company shall not provide the Purchaser with the material non-public information if the Purchaser does not execute and return the Consent to the Company. The Company understands and confirms that the Purchaser shall be relying on the foregoing covenant in effecting transactions in securities of the Company. To the extent that the Company delivers any material, non-public information to the Purchaser without the Purchaser's consent, the Company hereby covenants and agrees that the Purchaser 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, not to trade on the basis of, such material, non-public information, provided that the Purchaser shall remain subject to applicable law. To the extent that any notice provided pursuant to any Transaction Document or any other communications made by the Company, or information provided, to the Purchaser constitutes, or contains, material, non-public information regarding the Company or any Subsidiaries, the Company shall simultaneously file such notice or other material information with the SEC pursuant to a Current Report on Form 8-K. The Company understands and confirms that the Purchaser shall be relying on the foregoing covenant in effecting transactions in securities of the Company. In addition to any other remedies provided by this Agreement or other Transaction Documents, if the Company provides any material, non-public information to the Purchaser without their prior written consent, and it fails to immediately (no later than the next Trading Day) file a Form 8-K disclosing this material, non-public information, it shall pay the Purchaser as partial liquidated damages and not as a penalty a sum equal to $5,000 per day beginning with the day the information is disclosed to the Purchaser and ending and including the day the Form 8-K disclosing this information is filed.

4.7 Use of Proceeds. The Company shall use the net proceeds from the sale of the Securities hereunder to general business purposes.

4.8 Indemnification of the Purchaser. Subject to the provisions of this Section 4.8, the Company will indemnify and hold the Purchaser and its directors, officers, shareholders, members, partners, employees and agents (and any other Persons with a functionally equivalent role of a Person holding such titles notwithstanding a lack of such title or any other title), each Person who controls the Purchaser (within the meaning of Section 15 of the Securities Act and Section 20 of the Exchange Act), and the directors, officers, shareholders, agents, members, partners or employees (and any other Persons with a functionally equivalent role of a Person holding such titles notwithstanding a lack of such title or any other title) of such controlling Persons (each, a "Purchaser Party") harmless from any and all losses, liabilities, obligations, claims, contingencies, damages, costs and expenses, including all judgments, amounts paid in settlements, court costs and reasonable attorneys' fees and costs of investigation (including local counsel, if retained) that any such Purchaser Party may suffer or incur as a result of or relating to (a) any breach of any of the representations, warranties, covenants or agreements made by the Company in this Agreement or in the other Transaction Documents, (b) any Action instituted against the Purchaser Parties in any capacity, or any of them or their respective Affiliates, by any shareholder of the Company who is not an Affiliate of such Purchaser Party, with respect to any of the transactions contemplated by the Transaction Documents (unless such Action is based upon a breach of such Purchaser Party's representations, warranties or covenants under the Transaction Documents or any agreements or understandings such Purchaser Party may have with any such shareholder or any conduct by such Purchaser Party which constitutes willful misconduct or gross negligence) or (c) any untrue or alleged untrue statement of a material fact contained in any registration statement, any prospectus or any form of prospectus or in any amendment or supplement thereto or in any preliminary prospectus, or arising out of or relating to any omission or alleged omission of a material fact required to be stated therein or necessary

to make the statements therein (in the case of any prospectus or supplement thereto, in light of the circumstances under which they were made) not misleading. If any Action shall be brought against the Purchaser Party in respect of which indemnity may be sought pursuant to this Agreement, such Purchaser Party shall promptly notify the Company in writing, and the Company shall have the right to assume the defense thereof with counsel of its own choosing reasonably acceptable to the Purchaser Party. Any Purchaser Party shall have the right to employ separate counsel in any such Action and participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of such Purchaser Party except to the extent that (i) the employment thereof has been specifically authorized by the Company in writing, (ii) the Company has failed after a reasonable period of time to assume such defense and to employ counsel or (iii) in such Action there is, in the reasonable opinion of the Purchaser Party, a material conflict on any material issue between the position of the Company and the position of such Purchaser Party, in which case the Company shall be responsible for the reasonable fees and expenses of no more than one such separate counsel (in addition to local counsel, if retained). The Company will not be liable to the Purchaser Party under this Agreement (y) for any settlement by the Purchaser Party effected without the Company's prior written consent, which shall not be unreasonably withheld or delayed; or (z) to the extent, but only to the extent that a loss, claim, damage or liability is attributable to the Purchaser Party's breach of any of the representations, warranties, covenants or agreements made by such Purchaser Party in this Agreement or in the other Transaction Documents. The Purchaser Parties shall have the right to settle any Action against any of them by the payment of money provided that they cannot agree to any equitable relief and the Company, its officers, directors and Affiliates receive unconditional releases in customary form. The indemnification required by this Section 4.8 shall be made by periodic payments of the amount thereof during the course of the investigation or defense, as and when bills are received or are incurred. To extent that the Company has made any periodic payments pursuant to the foregoing sentence, and there is a later final and binding determination that the Company was not liable in respect of the related indemnification obligations hereunder, the Company may offset the amounts owing under the Note against such payments. The indemnity agreements contained herein shall be in addition to any cause of Action or similar right of the Purchaser Party against the Company or others and any liabilities the Company may be subject to pursuant to law.

4.9 Reservation of Common Stock. Immediately upon Closing, the Company shall reserve three times the number of shares of Common Stock issuable upon conversion of the Note (the "Reserve Ratio"). In addition to any other remedies provided by this Agreement or other Transaction Documents, if the Company at any time fails to meet this reservation of Common Stock requirement within 60 days after written notice from the Holder, it shall pay the Purchaser as partial liquidated damages and not as a penalty a sum equal to $500 per day for each $100,000 of the Purchaser's Subscription Amount, up to an aggregate amount of liquidated damages equal to such Purchaser's Subscription Amount. The Company shall not enter into any agreement or file any amendment to its formation documents or other governing documents which conflicts with this Section 4.9 while the Note remains outstanding. The Company shall execute and cause the Transfer Agent to execute a reservation letter in the form attached as Exhibit D.

4.10 Listing of Common Stock. 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 or quoted; provided, however, the Company shall if it qualifies, list its Common Stock on a Trading Market which is a national securities exchange. The Company will then take all commercially reasonable action to continue the listing and trading of its Common Stock on a Trading Market and will comply in all respects with the Company's reporting, filing and other obligations under the bylaws or rules of the Trading Market. The Company agrees to maintain the eligibility of the Common Stock for electronic transfer through the DTC or another established clearing corporation, including, without limitation, by timely payment of fees to the DTC or such other established clearing corporation in connection with such electronic transfer.

4.11 Intentionally Omitted.

4.12 Certain Transactions and Confidentiality. The Purchaser covenants that neither it nor any Affiliate acting on its behalf or pursuant to any understanding with it will execute any purchases or sales, including Short Sales of any of the Company's securities during the period commencing with the execution of this Agreement and ending at such time that the transactions contemplated by this Agreement are first publicly announced pursuant to the initial press release as described in Section 4.4. The Purchaser covenants that until such time as the transactions contemplated by this Agreement are publicly disclosed by the Company pursuant to the initial press release as described in Section 4.4, the Purchaser will maintain the confidentiality of the existence and terms of this transaction and the information included in the Disclosure Schedules. Notwithstanding the foregoing and notwithstanding anything contained in this Agreement to the contrary, the Company expressly acknowledges and agrees that (i) no Purchaser makes any representation, warranty or covenant hereby that it will not engage in effecting transactions in any securities of the Company after the time that the transactions contemplated by this Agreement are first publicly announced pursuant to the initial press release as described in Section 4.4, (ii) no Purchaser shall be restricted or prohibited from effecting any transactions in any securities of the Company in accordance with applicable securities Laws from and after the time that the transactions contemplated by this Agreement are first publicly announced pursuant to the initial press release as described in Section 4.4 and (iii) no Purchaser shall have any duty of confidentiality or duty not to trade in the securities of the Company to the Company or its Subsidiaries after the issuance of the initial press release as described in Section 4.4. Notwithstanding the foregoing, in the case of the Purchaser that is a multi-managed investment vehicle whereby separate portfolio managers manage separate portions of the Purchaser's assets and the portfolio managers have no direct knowledge of the investment decisions made by the portfolio managers managing other portions of the Purchaser's assets, the covenant set forth above shall only apply with respect to the portion of assets managed by the portfolio manager that made the investment decision to purchase the Securities covered by this Agreement.

4.13 Conversion Procedures. The form of conversion notice included in the Note (each, a "Conversion Notice") sets forth the totality of the procedures required of the Purchaser in order to convert the Note. No additional legal opinion, other information or instructions shall be required of the Purchaser to convert its Note. Without limiting the preceding sentences, no ink-original Conversion Notice shall be required, nor shall any medallion guarantee (or other type of guarantee or notarization) of any Conversion Notice form be required in order to convert the Notes. The Company shall honor conversions of the Notes and shall deliver Shares in accordance with the terms, conditions and time periods set forth in the Transaction Documents.

4.14 DTC Program. For so long as any Securities are outstanding, the Company will employ as the Transfer Agent for the Common Stock a participant in the DTC Automated Securities Transfer Program and cause the Common Stock to be transferable pursuant to such program.

4.15 Preservation of Corporate Existence. The Company shall preserve and maintain its corporate existence, rights, privileges and franchises in the jurisdiction of its incorporation, and qualify and remain qualified, as a foreign corporation in each jurisdiction in which such qualification is necessary in view of its business or operations and where the failure to qualify or remain qualified might reasonably have a Material Adverse Effect upon the financial condition, business or operations of the Company taken as a whole.

4.16 Subsequent Equity Sales.

(a)From the date hereof until such time as the Note is no longer outstanding, the Company will not, without the consent of the Purchaser, enter into any Equity Line of Credit or similar agreement, nor issue nor agree to issue any floating or Variable Priced Equity Linked Instruments nor any of the foregoing or equity with price reset rights (subject to adjustment for stock splits, distributions, dividends, recapitalizations and the like) (collectively, the "Variable Rate Transaction"). For purposes hereof, "Equity Line of Credit" shall include any transaction involving a written agreement between the Company and an investor or underwriter other than the Purchaser or an affiliate of the Purchaser whereby the Company has the right to "put" its securities to the investor or underwriter over an agreed period of time and at an agreed price or price formula, and "Variable Priced Equity Linked Instruments" shall include: (A) any debt or equity securities which are convertible into, exercisable or exchangeable for, or carry the right to receive additional shares of Common Stock either (1) at any conversion, exercise or exchange rate or other price that is based

upon and/or varies with the trading prices of or quotations for Common Stock at any time after the initial issuance of such debt or equity security, or (2) with a fixed conversion, exercise or exchange price that is subject to being reset at some future date at any time after the initial issuance of such debt or equity security due to a change in the market price of the Company's Common Stock since date of initial issuance, and (B) any amortizing convertible security which amortizes prior to its maturity date, where the Company is required or has the option to (or any investor in such transaction has the option to require the Company to) make such amortization payments in shares of Common Stock which are valued at a price that is based upon and/or varies with the trading prices of or quotations for Common Stock at any time after the initial issuance of such debt or equity security (whether or not such payments in stock are subject to certain equity conditions). For the avoidance of doubt, a Section 3(a)(9) exchange and a settlement under a Section 3(a)(10) settlement, each under the Securities Act, or any other similar settlement or exchange shall be deemed a Variable Rate Transaction for the purposes of this Agreement.

(b)This section only applies to funding activities by the Company that shall directly affect the Purchaser's ability to get repaid on time by the Company; from the date hereof until the Note is no longer outstanding, in the event that the Company issues or sells any Common Stock Equivalents, if the Purchaser then holding Securities purchased under this Agreement reasonably believes that any of the terms and conditions appurtenant to such issuance or sale are more favorable to such investors than are the terms and conditions granted to the Purchaser hereunder, upon notice to the Company by the Purchaser within five Trading Days after disclosure of such issuance or sale, the Company shall amend the terms of this transaction as to the Purchaser only so as to give the Purchaser the benefit of such more favorable terms or conditions.

(c) Notwithstanding the foregoing, this Section 4.16 shall not apply in respect of an Exempt Issuance.

ARTICLE V.
MISCELLANEOUS

5.1 Termination. This Agreement may be terminated by the Purchaser, as to the Purchaser's obligations hereunder only and without any effect whatsoever on the obligations between the Company and the other Purchaser, by written notice to the other parties, if the Closing has not been consummated on or before August 31, 2021; provided, however, that no such termination will affect the right of any party to sue for any breach by any other party (or parties).

5.2 Fees and Expenses. Except as expressly set forth below and in the Transaction Documents to the contrary, each party shall pay the fees and expenses of its advisers, counsel, accountants and other experts, if any, and all other expenses incurred by such party incident to the negotiation, preparation, execution, delivery and performance of this Agreement. The Company shall pay all Transfer Agent fees (including, without limitation, any fees required for same-day processing of any instruction letter delivered by the Company and any exercise notice delivered by the Purchaser), stamp taxes and other taxes and duties levied in connection with the delivery of any Securities to the Purchaser.

5.3 Entire Agreement. The Transaction Documents, together with the exhibits and schedules thereto, contain the entire understanding of the parties with respect to the subject matter hereof and thereof and supersede all prior agreements and understandings, oral or written, with respect to such matters, which the parties acknowledge have been merged into such documents, exhibits and schedules.

5.4 Notices. 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 date of transmission, if such notice or communication is delivered via facsimile or email attachment at the facsimile number or 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 date of transmission, if such notice or communication is delivered via facsimile or email attachment at the facsimile number or 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 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. To the extent that any notice provided pursuant to any Transaction Document constitutes, or contains, material, non-public information regarding the Company or any Subsidiaries, the Company shall simultaneously file such notice with the SEC pursuant to a Current Report on Form 8-K.

5.5 Amendments; Waivers. Except as provided in the last sentence of this Section 5.5, no provision of this Agreement may be waived, modified, supplemented or amended except in a written instrument signed, in the case of an amendment, by the Company and the Purchaser; or in the case of a waiver, by the party against whom enforcement of any such waived provision is sought.

5.6 Headings. The headings herein are for convenience only, do not constitute a part of this Agreement and shall not be deemed to limit or affect any of the provisions hereof.

5.7 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties and their successors and permitted assigns. The Company may not assign this Agreement or any rights or obligations hereunder without the prior written consent of the Purchaser (other than by merger). Any Purchaser may assign any or all of its rights under this Agreement to any Person to whom the Purchaser assigns or transfers any Securities, provided that such transferee agrees in writing to be bound, with respect to the transferred Securities, by the provisions of the Transaction Documents that apply to the "Purchaser."

5.8 No Third-Party Beneficiaries. This Agreement is intended for the benefit of the parties hereto and their respective successors and permitted assigns and is not for the benefit of, nor may any provision hereof be enforced by, any other Person, except as otherwise set forth in Section 4.8 and this Section 5.8.

5.9 Governing Law; Arbitration; Attorneys' Fees . All questions concerning the construction, validity, enforcement and interpretation of the Transaction Documents shall be governed by and construed and enforced in accordance with the internal Laws of the State of New York, without regard to the principles of conflicts of law thereof. Any disputes, claims, or controversies arising out of or relating to the Transaction Documents, or the transactions, contemplated thereby, or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of this Agreement to arbitrate, shall be referred to and resolved solely and exclusively by binding arbitration to be conducted before the Judicial Arbitration and Mediation Service ("JAMS"), or its successor pursuant the expedited procedures set forth in the JAMS Comprehensive Arbitration Rules and Procedures (the "Rules"), including Rules 16.1 and 16.2 of those Rules. The arbitration shall be held in New York, New York, before a tribunal consisting of three arbitrators each of whom will be selected in accordance with the "strike and rank" methodology set forth in Rule 15. Either party to this Agreement may, without waiving any remedy under this Agreement, seek from any federal or state court sitting in the State of New York any interim or provisional relief that is necessary to protect the rights or property of that party, pending the establishment of the arbitral tribunal. The costs and expenses of such arbitration shall be paid by and be the sole responsibility of the Company, including but not limited to the Buyer's attorneys' fees and each arbitrator's fees. The arbitrators' decision must set forth a reasoned basis for any award of damages or finding of liability. The arbitrators' decision and award will be made and delivered as soon as reasonably possibly and in any case within 60 days' following the conclusion of the arbitration hearing and shall be final and binding on the parties and may be entered by any court having jurisdiction thereof. If

any party shall commence an Action to enforce any provisions of the Transaction Documents, then, in addition to the obligations of the Company elsewhere in this Agreement, the prevailing party in such Action shall be reimbursed by the non-prevailing party for its reasonable attorneys' fees and other costs and expenses incurred with the investigation, preparation and prosecution of such Action.

5.10 Survival. The representations and warranties contained herein shall survive the Closing and the delivery of the Securities.

5.11 Execution. This Agreement may be executed in two or more counterparts, all of which when taken together shall be considered one and the same agreement and shall become effective when counterparts have been signed by each party and delivered to each other party, it being understood that the parties need not sign the same counterpart. In the event that any signature is delivered by facsimile transmission or by e-mail delivery of a ".pdf" format data file, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or ".pdf" signature page were an original thereof.

5.12 Severability. If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction to be invalid, illegal, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions set forth herein shall remain in full force and effect and shall in no way be affected, impaired or invalidated, and the parties hereto shall use their commercially reasonable efforts to find and employ an alternative means to achieve the same or substantially the same result as that contemplated by such term, provision, covenant or restriction. It is hereby stipulated and declared to be the intention of the parties that they would have executed the remaining terms, provisions, covenants and restrictions without including any of such that may be hereafter declared invalid, illegal, void or unenforceable.

5.13 Rescission and Withdrawal Right. Notwithstanding anything to the contrary contained in (and without limiting any similar provisions of) any of the other Transaction Documents, whenever the Purchaser exercises a right, election, demand or option under a Transaction Document and the Company does not timely perform its related obligations within the periods therein provided, then the Purchaser may rescind or withdraw, in its sole discretion from time to time upon written notice to the Company, any relevant notice, demand or election in whole or in part without prejudice to its future actions and rights; provided, however, that in the case of a rescission of a conversion of a Note, the applicable Purchaser shall be required to return any shares of Common Stock subject to any such rescinded conversion notice concurrently with the return to the Purchaser of the aggregate conversion price paid to the Company for such shares and the restoration of the Purchaser's right to acquire such shares pursuant to the Purchaser's Note (including, issuance of a replacement note certificate evidencing such restored right).

5.14 Replacement of Securities. If any certificate or instrument evidencing any Securities is mutilated, lost, stolen or destroyed, the Company shall issue or cause to be issued in exchange and substitution for and upon cancellation thereof (in the case of mutilation), or in lieu of and substitution therefor, a new certificate or instrument, but only upon receipt of evidence reasonably satisfactory to the Company of such loss, theft or destruction without requiring the posting of any bond.

5.15 Remedies. In addition to being entitled to exercise all rights provided herein or granted by law, including recovery of damages, each of the Purchaser and the Company will be entitled to specific performance under the Transaction Documents. The parties agree that monetary damages may not be adequate compensation for any loss incurred by reason of any breach of obligations contained in the Transaction Documents and hereby agree to waive and not to assert in any Action for specific performance of any such obligation the defense that a remedy at law would be adequate.

5.16 Payment Set Aside. To the extent the Company makes a payment or payments to the Purchaser pursuant to any Transaction Document or the Purchaser enforces or exercises its rights thereunder, and such payment or payments or the proceeds of such enforcement or exercise or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside, recovered from, disgorged by or are required to be refunded, repaid or otherwise restored to the Company, a trustee, receiver or any other Person under any Law (including, without limitation, any bankruptcy law, state or federal law, common law or equitable cause of Action), then to the extent of any such restoration the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such enforcement or setoff had not occurred.

5.17 Liquidated Damages. The Company's obligations to pay any partial liquidated damages or other amounts owing under the Transaction Documents is a continuing obligation of the Company and shall not terminate until all unpaid partial liquidated damages and other amounts have been paid notwithstanding the fact that the instrument or security pursuant to which such partial liquidated damages or other amounts are due and payable shall have been canceled.

5.18 Saturdays, Sundays, Holidays, etc. If the last or appointed day for the taking of any action or the expiration of any right required or granted herein shall not be a Trading Day, then such action may be taken or such right may be exercised on the next succeeding Trading Day.

5.19 Construction. The parties agree that each of them and/or their respective counsel have reviewed and had an opportunity to revise the Transaction Documents and, therefore, the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of the Transaction Documents or any amendments thereto. In addition, each and every reference to share prices and shares of Common Stock in any Transaction Document shall be subject to adjustment for reverse and forward stock splits, stock dividends, stock combinations and other similar transactions of the Common Stock that occur after the date of this Agreement.

5.20 **WAIVER OF JURY TRIAL. IN ANY ACTION, SUIT, OR PROCEEDING IN ANY JURISDICTION BROUGHT BY ANY PARTY AGAINST ANY OTHER PARTY, THE PARTIES EACH KNOWINGLY AND INTENTIONALLY, TO THE GREATEST EXTENT PERMITTED BY APPLICABLE LAW, HEREBY ABSOLUTELY, UNCONDITIONALLY, IRREVOCABLY AND EXPRESSLY WAIVE FOREVER TRIAL BY JURY**.

5.21 Non-Circumvention. The Company hereby covenants and agrees that the Company will not, by amendment of its formation documents or other governing documents, or through any reorganization, transfer of assets, consolidation, merger, scheme of arrangement, dissolution, issue or sale of securities, or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Agreement, and will at all times in good faith carry out all of the provision of this Agreement and take all action as may be required to protect the rights of all Holder. Without limiting the generality of the foregoing or any other provision of this Agreement or the other Transaction Documents, the Company (a) shall not increase the par value of any shares of Common Stock receivable upon conversion of the Note above the Conversion Price, then in effect and (b) shall take all such action as may be necessary or appropriate in order that the Company may validly and legally issue fully paid and nonassessable Shares upon the conversion of the Note.

(Signature Pages Follow)

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

Digital Brands Group, Inc. Address for Notice:

By: /s/ Hil Davis
Name: Hil Davis
Title: Chief Executive Officer

With a copy to (which shall not constitute notice):
Email:

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

PURCHASER SIGNATURE PAGES TO SECURITIES PURCHASE AGREEMENT

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

Name of Purchaser: Oasis Capital, LLC
Signature of Authorized Signatory of Purchaser: /s/ Adam Long
Name of Authorized Signatory: Adam Long
Title of Authorized Signatory: Manager
Email Address of Authorized Signatory: adam@oasis-cap.com
Facsimile Number of Authorized Signatory:
Address for Notice to Purchaser: 411 Dorado BCH E, Dorado PR 00646

Address for Delivery of Securities to Purchaser (if not same as address for notice):

Subscription Amount: $5,000,000

EIN Number: [REDACTED]

EXHIBIT A
Form of Note

NEITHER THE ISSUANCE NOR SALE OF THE SECURITIES REPRESENTED BY THIS CERTIFICATE NOR THE SECURITIES INTO WHICH THESE SECURITIES ARE CONVERTIBLE HAVE BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR APPLICABLE STATE SECURITIES LAWS. THE SECURITIES MAY NOT BE OFFERED FOR SALE, SOLD, TRANSFERRED OR ASSIGNED (I) IN THE ABSENCE OF (A) AN EFFECTIVE REGISTRATION STATEMENT FOR THE SECURITIES FILED PURSUANT TO THE SECURITIES ACT OF 1933, AS AMENDED, OR (B) AN OPINION OF COUNSEL (WHICH COUNSEL SHALL BE SELECTED BY THE HOLDER), IN A GENERALLY ACCEPTABLE FORM, THAT REGISTRATION IS NOT REQUIRED UNDER SAID ACT OR (II) UNLESS SOLD PURSUANT TO RULE 144 OR RULE 144A UNDER SAID ACT. NOTWITHSTANDING THE FOREGOING, THE SECURITIES MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN OR FINANCING ARRANGEMENT SECURED BY THE SECURITIES.

Principal Amount: $5,265,000 **Issue Date: August 27 2021**

Original Issue Discount: $250,000

SENIOR SECURED CONVERTIBLE PROMISSORY NOTE

FOR VALUE RECEIVED, **Digital Brands Group, Inc.,** a Delaware corporation (the "Borrower"), as of August 27**, 2021** (the "Issue Date"), hereby promises to pay to the order of **OASIS CAPITAL, LLC**, a Puerto Rico limited liability company, (the "Lender" and including its registered assigns, the "Holder"), the principal sum of **$5,265,000** (the "Principal Amount"), together with interest at the rate of **6**% per annum, at maturity or upon acceleration or otherwise, as set forth herein (this "Note"). This Note is being issued by the Borrower to the Lender pursuant to that certain Securities Purchase Agreement (the "Purchase Agreement") entered into by the Borrower and the Lender on the Issue Date. The cash consideration to the Borrower for this Note **$5,000,000** (the "Consideration") in United States currency, due to the prorated original issuance discount of up to **$250,000** (the "OID") and $**15,000** transaction fee. The maturity date shall be the date that is 18 months from the Issue Date (the "Maturity Date"), and is the date upon which the applicable portion of the Principal Amount, as well as any accrued and unpaid interest and other fees, shall be due and payable. This Note may not be repaid in whole or in part except as otherwise explicitly set forth herein. Any amount of principal or interest on this Note that is not paid by the applicable Maturity Date shall bear interest at the rate of the lesser of (i) 18% per annum or (ii) the maximum amount allowed by law, from the due date thereof until the same is paid ("Default Interest"). All payments due hereunder (to the extent not converted into the Borrower's Common Stock, par value $0.0001 per share (the "Common Stock")) shall be made in lawful money of the United States of America. All payments shall be made at such address as the Holder shall hereafter give to the Borrower by written notice made in accordance with the provisions of this Note. Whenever any amount expressed to be due by the terms of this Note is due on any day which is not a business day, the same shall instead be due on the next succeeding day which is a business day and, in the case of any interest payment date which is not the date on which this Note is paid in full, the extension of the due date thereof shall not be taken into account for purposes of determining the amount of interest due on such date. As used in this Note, the term "business day" shall mean any day other than a Saturday, Sunday or a day on which commercial banks in the city of New York, New York are authorized or required by law or executive order to remain closed.

This Note is free from all taxes, liens, claims and encumbrances with respect to the issue thereof and shall not be subject to preemptive rights or other similar rights of shareholders of the Borrower and will not impose personal liability upon the holder thereof. Capitalized terms used in this Note shall have the meanings set forth in the Purchase Agreement unless otherwise defined in this Note.

This Note is secured by a security interest granted pursuant to the terms of the Security Agreement.

The following additional terms shall also apply to this Note:

ARTICLE I.

1.1 Conversion Right; Company Cash Payment Option.

(a) Conversion Right. Subject to the terms of this Section 1.1, the Holder shall have the right at any time following the Issue Date, to convert all or any part of the entire outstanding and unpaid Principal Amount and accrued and unpaid interest of this Note into fully paid and non-assessable shares of Common Stock, as such Common Stock exists on the Issue Date, or any shares of capital stock or other securities of the Borrower into which such Common Stock shall hereafter be changed or reclassified at the Conversion Price determined as provided herein (a "Conversion"); provided, however, that in no event shall the Holder be entitled to convert any portion of this Note in excess of that portion of this Note upon conversion of which the sum of (1) the number of shares of Common Stock beneficially owned by the Holder and its affiliates (excluding shares of Common Stock which may be deemed beneficially owned through the ownership of the unconverted portion of this Note or the unexercised or unconverted portion of any other security of the Borrower subject to a limitation on conversion or exercise analogous to the limitations contained herein) and (2) the number of shares of Common Stock issuable upon the conversion of the portion of this Note with respect to which the determination of this proviso is being made, would result in beneficial ownership by the Holder and its affiliates of more than 4.99% of the outstanding shares of Common Stock (the "Maximum Share Amount"). The Holder, upon not less than 61 days' prior written notice to the Borrower, may increase the Maximum Share Amount, provided that the Maximum Share Amount shall never exceed 9.99% of the number of shares of Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock upon conversion of this Note held by the Holder and the provisions of this Section 1.1 shall continue to apply. Any such increase will not be effective until the 61st day after such notice is delivered to the Borrower. The Maximum Share Amount provisions of this paragraph shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this Section 1.1 to correct this paragraph (or any portion hereof) which may be defective or inconsistent with the intended Maximum Share Amount provisions contained herein or to make changes or supplements necessary or desirable to properly give effect to such limitation. The limitations contained in this paragraph shall apply to any successor holder of this Note. For purposes of this Section 1.1, beneficial ownership shall be determined in accordance with Section 13(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and Regulations 13D-G thereunder, except as otherwise provided in clause (1) of such proviso. The number of shares of Common Stock to be issued upon each conversion of this Note shall be determined by dividing the Conversion Amount (as defined below) by the applicable Conversion Price then in effect on the date specified in the notice of conversion, in the form attached hereto as Exhibit A (the "Notice of Conversion"), delivered to the Borrower by the Holder in accordance with Section 1.3 below; provided that the Notice of Conversion is submitted by facsimile or e-mail (or by other means resulting in, or reasonably expected to result in, notice) to the Borrower before 6:00 p.m., New York, New York time on such conversion date (the "Conversion Date"). The term "Conversion Amount" means, with respect to any conversion of this Note, the sum of (A) the Principal Amount of this Note to be converted in such conversion, plus (B) at the Holder's option, accrued and unpaid interest, if any, on such Principal Amount at the interest rates provided in this Note to the Conversion Date, plus (C) at the Holder's option, Default Interest, if any, on the amounts referred to in the immediately preceding clauses (A) and/or (B), plus (D) at the Holder's option, any amounts owed to the Holder pursuant to Sections 1.2, 1.3(g), 4.11, and/or 4.12 and/or Article III hereof. Except following an Event of Default, the Holder shall not be permitted to submit Conversion Notices in any thirty day period, having Conversion Amounts equalling in the aggregate, in excess of $500,000.

(b) Cash Payment Option. If at any time following the Issue Date, the Conversion Price set forth in any Conversion Notice is less than $3.00 per share (the "Reference Floor Price"), at the option of the Borrower, the Borrower may choose to pay within three (3) business days to the Holder the applicable Conversion Amount in cash rather than issue shares of Common Stock; provided however that in no event shall the Borrower issue shares of Common Stock at less than the Reference Floor Price if such issuance would result in Borrower issuing more than 20% of its common stock outstanding as of the date hereof.

1.2 Conversion Price.

(a) Conversion Price. The Conversion Price shall be the lesser of (i) the 130% of the Closing Price on the last Trading Day prior to the Issue Date, and (ii) 90% of the average of the two lowest VWAPs during the five (5) consecutive Trading Day period ending and including the Trading Day immediately preceding the delivery or deemed delivery of the applicable Notice of Conversion (the "Conversion Price"). All such Conversion Price determinations are to be appropriately adjusted for any stock dividend, stock split, stock combination, reclassification or similar transaction that proportionately decreases or increases the Common Stock.

(b) Authorized Shares. The Borrower covenants that during the period the conversion right exists, the Borrower will reserve from its authorized and unissued Common Stock a sufficient number of shares, free from preemptive rights, to provide for the issuance of Common Stock upon the full conversion of this Note, which shall be at least **THREE** times the number of shares that is actually issuable upon full conversion of this Note (based on the Conversion Price of this Note in effect from time to time) (the "Reserved Amount"). The Reserved Amount shall be increased from time to time in accordance with the Borrower's obligations hereunder. The Borrower represents that upon issuance, such shares of Common Stock will be duly and validly issued, fully paid and non-assessable. In addition, if the Borrower shall issue any securities or make any change to its capital structure which would change the number of shares of Common Stock into which this Note shall be convertible at the Conversion Price, the Borrower shall at the same time make proper provision so that thereafter there shall be a sufficient number of shares of Common Stock authorized and reserved, free from preemptive rights, for conversion of this Note. The Borrower acknowledges that it has irrevocably instructed its transfer agent to issue certificates (or book-entry shares) for the Common Stock issuable upon conversion of this Note, and agrees that its issuance of this Note shall constitute full authority to its officers and agents who are charged with the duty of executing stock certificates (or applicable instructions for the issuance of book-entry shares) to execute and issue the necessary certificates (or book-entry shares) for shares of Common Stock in accordance with the terms and conditions of this Note.

If, at any time the Borrower does not maintain the Reserved Amount it will be considered an Event of Default under Section 3.2 of this Note; provided, that notwithstanding anything to the contrary herein, the Borrower shall only be required to confirm and adjust the Reserved Amount one time per calendar month.

1.3 Method of Conversion.

(a) Mechanics of Conversion. Subject to Section 1.1, this Note may be converted by the Holder in whole or in part at any time, (A) by submitting to the

Borrower a Notice of Conversion (by facsimile, e-mail or other reasonable means of communication dispatched on the Conversion Date prior to 11:00 a.m., New York, New York time) and (B) subject to Section 1.3(b), surrendering this Note at the principal office of the Borrower.

(b) Surrender of Note Upon Conversion. Notwithstanding anything to the contrary set forth herein, upon conversion of this Note in accordance with the terms hereof, the Holder shall not be required to physically surrender this Note to the Borrower unless the entire unpaid Principal Amount of this Note is so converted. The Holder and the Borrower shall maintain records showing the Principal Amount so converted and the dates of such conversions or shall use such other method, reasonably satisfactory to the Holder and the Borrower, so as not to require physical surrender of this Note upon each such conversion. In the event of any dispute or discrepancy, such records of the Borrower shall, *prima facie,* be controlling and determinative in the absence of manifest error. Notwithstanding the foregoing, if any portion of this Note is converted as aforesaid, the Holder may not transfer this Note unless the Holder first physically surrenders this Note to the Borrower, whereupon the Borrower will forthwith issue and deliver upon the order of the Holder a new Note of like tenor, registered as the Holder (upon payment by the Holder of any applicable transfer taxes) may request, representing in the aggregate the remaining unpaid Principal Amount of this Note. The Holder and any assignee, by acceptance of this Note, acknowledge and agree that, by reason of the provisions of this paragraph, following conversion of a portion of this Note, the unpaid and unconverted Principal Amount of this Note represented by this Note may be less than the amount stated on the face hereof.

(c) Payment of Taxes. The Borrower shall not be required to pay any tax which may be payable in respect of any transfer involved in the issue and delivery of shares of Common Stock or other securities or property on conversion of this Note in a name other than that of the Holder (or in street name), and the Borrower shall not be required to issue or deliver any such shares or other securities or property unless and until the person or persons (other than the Holder or the custodian in whose street name such shares are to be held for the Holder's account) requesting the issuance thereof shall have paid to the Borrower the amount of any such tax or shall have established to the satisfaction of the Borrower that such tax has been paid.

(d) Delivery of Common Stock Upon Conversion. Upon receipt by the Borrower from the Holder of a facsimile transmission or e-mail (or other reasonable means of communication) of a Notice of Conversion meeting the requirements for conversion as provided in this Section 1.3, unless the Borrower shall have elected to pay to the Holder cash in lieu of the applicable Conversion Amounts in accordance with Section 1.1 hereof, the Borrower shall issue and deliver or cause to be issued and delivered to or upon the order of the Holder certificates for the Common Stock issuable upon such conversion within two business days after such receipt (the "Deadline") (and, solely in the case of conversion of the entire unpaid Principal Amount hereof, surrender of this Note) in accordance with the terms hereof.

(e) Obligation of Borrower to Deliver Common Stock. Upon receipt by the Borrower of a Notice of Conversion, the Holder shall be deemed to be the holder of record of the Common Stock issuable upon such conversion, the outstanding Principal Amount and the amount of accrued and unpaid interest on this Note shall be reduced to reflect such conversion, and, unless the Borrower defaults on its obligations under this Article I, all rights with respect to the portion of this Note being so converted shall forthwith terminate except the right to receive the Common Stock or other securities, cash or other assets, as herein provided, on such conversion. If the Holder shall have given a Notice of Conversion as provided herein, the Borrower's obligation to issue and deliver the certificates for Common Stock shall be absolute and unconditional, irrespective of the absence of any action by the Holder to enforce the same, any waiver or consent with respect to any provision thereof, the recovery of any judgment against any person or any action to enforce the same, any failure or delay in the enforcement of any other obligation of the Borrower to the holder of record, or any setoff, counterclaim, recoupment, limitation or termination, or any breach or alleged breach by the Holder of any obligation to the Borrower, and irrespective of any other circumstance which might otherwise limit such obligation of the Borrower to the Holder in connection with such conversion. The Conversion Date specified in the Notice of Conversion shall be the Conversion Date so long as the Notice of Conversion is received by the Borrower before 11:00 a.m., New York, New York time, on such date.

(f) Delivery of Common Stock by Electronic Transfer. In lieu of delivering physical certificates representing the Common Stock issuable upon conversion, provided the Borrower is participating in the Depository Trust Company ("DTC") Fast Automated Securities Transfer ("FAST") program, upon request of the Holder and its compliance with the provisions contained in Sections 1.1 and 1.2 and in this Section 1.3, the Borrower shall use its commercially reasonable efforts to cause its transfer agent to electronically transmit the Common Stock issuable upon conversion to the Holder by crediting the account of Holder's Prime Broker with DTC through its Deposit Withdrawal Agent Commission ("DWAC") system.

(g) Failure to Deliver Common Stock Prior to Deadline. Without in any way limiting the Holder's right to pursue other remedies, including actual damages and/or equitable relief, the parties agree that if delivery of the Common Stock issuable upon conversion of this Note is not delivered by the Deadline the Borrower shall pay to the Holder $3,000 per business day for each business day beyond the Deadline that the Borrower fails to deliver such Common Stock (unless such failure results from war, acts of terrorism, an epidemic, or natural disaster) ("Conversion Default Payments"). Such amount shall be paid to Holder in cash by the fifth day of the month following the month in which it has accrued or, at the option of the Holder (by written notice to the Borrower by the first day of the month following the month in which it has accrued), shall be added to the Principal Amount of this Note on the fifth day of the month following the month in which it has accrued, in which event interest shall accrue thereon in accordance with the terms of this Note and such additional Principal Amount shall be convertible into Common Stock in accordance with the terms of this Note. The Borrower agrees that the right to convert is a valuable right to the Holder. The damages resulting from a failure, attempt to frustrate, and/or interference with such conversion right are difficult if not impossible to quantify. Accordingly, the parties acknowledge that the liquidated damages provision contained in this Section 1.3(g) are justified.

1.4 Concerning the Shares. The shares of Common Stock issuable upon conversion of this Note may not be sold or transferred unless (i) such shares are sold pursuant to an effective registration statement under the Securities Act of 1933 (the "Securities Act"), or (ii) the Borrower or its transfer agent shall have been furnished with an opinion of counsel (which opinion shall be in form, substance and scope customary for opinions of counsel in comparable transactions) to the effect that the shares to be sold or transferred may be sold or transferred pursuant to an exemption from such registration or (iii) such shares are sold or transferred pursuant to Rule 144 under the Securities Act (or a successor rule) ("Rule 144") or (iv) such shares are transferred to an "affiliate" (as defined in Rule 144) of the Borrower who agrees to sell or otherwise transfer the shares only in accordance with this Section 1.4 and who is an "accredited investor" (as defined in Rule 501(a) of the Securities Act). Except as otherwise provided (and subject to the removal provisions set forth below), until such time as the shares of Common Stock issuable upon conversion of this Note have been registered under the Securities Act or otherwise may be sold pursuant to Rule 144 without any restriction as to the number of securities as of a particular date that can then be immediately sold, each certificate for shares of Common Stock issuable upon conversion of this Note that has not been so included in an effective registration statement or that has not been sold pursuant to an effective registration statement or an exemption that permits removal of the legend, shall bear a legend substantially in the following form, as appropriate:

"THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, OR APPLICABLE STATE SECURITIES LAWS. THE SECURITIES HAVE BEEN ACQUIRED FOR INVESTMENT AND MAY NOT BE OFFERED FOR SALE, SOLD, TRANSFERRED OR ASSIGNED IN THE ABSENCE OF AN EFFECTIVE REGISTRATION STATEMENT FOR THE SECURITIES UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR APPLICABLE STATE SECURITIES LAWS, UNLESS SOLD PURSUANT TO: (1) RULE 144 UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR (2) AN OPINION OF HOLDER'S COUNSEL, IN A CUSTOMARY FORM, THAT REGISTRATION IS NOT REQUIRED UNDER SAID ACT OR APPLICABLE STATE SECURITIES LAWS."

The legend set forth above shall be removed and the Borrower shall issue to the Holder a new certificate therefore free of any transfer legend if (i) the Borrower or its transfer agent shall have received an opinion of counsel, in form, substance and scope customary for opinions of counsel in comparable transactions, to the effect that a public sale or

transfer of such Common Stock may be made without registration under the Securities Act, which opinion shall be accepted by the Borrower so that the sale or transfer is effected or (ii) in the case of the Common Stock issuable upon conversion of this Note, such security is registered for sale by the Holder under an effective registration statement filed under the Securities Act or otherwise may be sold pursuant to Rule 144 without any restriction as to the number of securities as of a particular date that can then be immediately sold.

1.5 Status as Shareholder. Upon submission of a Notice of Conversion by a Holder, (i) the shares covered thereby (other than the shares, if any, which cannot be issued because their issuance would exceed such Holder's allocated portion of the Reserved Amount or non-waived Maximum Share Amount) shall be deemed converted into shares of Common Stock and (ii) the Holder's rights as a Holder of such converted portion of this Note shall cease and terminate, excepting only the right to receive certificates for such shares of Common Stock and to any remedies provided herein or otherwise available at law or in equity to such Holder because of a failure by the Borrower to comply with the terms of this Note. Notwithstanding the foregoing, if a Holder has not received certificates or transmission of such shares pursuant to Section 1.3(f) for all shares of Common Stock prior to the tenth (10th) business day after the expiration of the Deadline with respect to a conversion of any portion of this Note for any reason, then (unless the Holder otherwise elects to retain its status as a holder of Common Stock by so notifying the Borrower) the Holder shall regain the rights of a Holder of this Note with respect to such unconverted portions of this Note and the Borrower shall, as soon as practicable, return such unconverted Note to the Holder or, if this Note has not been surrendered, adjust its records to reflect that such portion of this Note has not been converted. In all cases, the Holder shall retain all of its rights and remedies (including, without limitation, (i) the right to receive Conversion Default Payments pursuant to Section 1.3(g) to the extent required thereby for such conversion default and any subsequent conversion default and (ii) the right to have the Conversion Price with respect to subsequent conversions determined in accordance with Section 1.2) for the Borrower's failure to convert this Note.

ARTICLE II.
CERTAIN COVENANTS

2.1 Distributions on Capital Stock. So long as the Borrower shall have any obligation under this Note, the Borrower shall not without the Holder's written consent (a) pay, declare or set apart for such payment, any dividend or other distribution (whether in cash, property or other securities) on shares of capital stock other than dividends on shares of Common Stock solely in the form of additional shares of Common Stock or (b) directly or indirectly or through any Subsidiary make any other payment or distribution in respect of its capital stock except for distributions pursuant to any shareholders' rights plan which is approved by a majority of the Borrower's disinterested directors.

2.2 Restriction on Stock Repurchases. So long as the Borrower shall have any obligation under this Note, the Borrower shall not without the Holder's written consent redeem, repurchase or otherwise acquire (whether for cash or in exchange for property or other securities or otherwise) in any one transaction or series of related transactions any shares of capital stock of the Borrower or any warrants, rights or options to purchase or acquire any such shares (other than repurchases pursuant to the Borrower's equity incentive plans).

ARTICLE III.
EVENTS OF DEFAULT

The occurrence of any of the following shall each constitute an "Event of Default", with no right to notice or the right to cure except as specifically stated:

3.1 Failure to Pay Principal or Interest. The Borrower fails to pay the principal hereof or interest thereon when due on this Note, whether at the Maturity Date, upon acceleration, or otherwise.

3.2 Reserve/Issuance Failures. The Borrower fails to reserve a sufficient amount of shares of Common Stock as required under the terms of the Purchase Agreement, fails to issue shares of Common Stock to the Holder (or announces or threatens in writing that it will not honor its obligation to do so) upon exercise by the Holder of the conversion rights of the Holder in accordance with the terms of any securities of the Borrower held by the Holder, fails to transfer or cause its transfer agent to transfer (issue) (electronically or in certificated form) shares of Common Stock issued to the Holder upon conversion of or otherwise pursuant to any securities of the Borrower held by the Holder as and when required by such securities, the Borrower directs its transfer agent not to transfer or delays, impairs, and/or hinders its transfer agent in transferring (or issuing) (electronically or in certificated form) shares of Common Stock to be issued to the Holder upon conversion of or otherwise pursuant to any securities of the Borrower held by the Holder as and when required by such securities, or fails to remove (or directs its transfer agent not to remove or impairs, delays, and/or hinders its transfer agent from removing) any restrictive legend (or to withdraw any stop transfer instructions in respect thereof) on any shares of Common Stock issued to the Holder upon conversion of or otherwise pursuant to any securities of the Borrower held by the Holder as and when required by such securities (or makes any written announcement, statement or threat that it does not intend to honor the obligations described in this paragraph) and any such failure shall continue uncured (or any written announcement, statement or threat not to honor its obligations shall not be rescinded in writing) for two business days after the Holder shall have delivered an applicable notice of conversion or exercise. It is an obligation of the Borrower to remain current in its obligations to its transfer agent. It shall be an event of default of this Note, if a conversion of any securities held by the Holder is delayed, hindered or frustrated due to a balance owed by the Borrower to its transfer agent. If at the option of the Holder, the Holder advances any funds to the Borrower's transfer agent in order to process a conversion or exercise (excluding for the avoidance of doubt, the conversion price which is the Holder's obligation to pay), such advanced funds shall be paid by the Borrower to the Holder within five business days, either in cash or as an addition to the balance of this Note, and such choice of payment method is at the discretion of the Borrower.

3.3 Breach of Covenants. The Borrower breaches any covenant or other term or condition contained in this Note or any other documents entered into between the Borrower and the Holder the breach of which has (or with the passage of time will have) a material adverse effect on the rights of the Holder with respect to this Note and such breach is not cured within 10 business days of the date of such breach.

3.4 Breach of Representations and Warranties. Any representation or warranty of the Borrower made in this Note or in any agreement, statement or certificate given in writing pursuant hereto or in connection herewith, or in connection with the Purchase Agreement or any Transaction Document, shall be false or misleading in any material respect when made and the breach of which has (or with the passage of time will have) a material adverse effect on the rights of the Holder with respect to this Note.

3.5 Receiver or Trustee. The Borrower or any Subsidiary of the Borrower shall make an assignment for the benefit of creditors, or apply for or consent to the appointment of a receiver or trustee for it or for a substantial part of its property or business, or such a receiver or trustee shall otherwise be appointed.

3.6 Judgments. Except as set forth in the Company's SEC filings, any money judgment, writ or similar process shall be entered or filed against the Borrower or any Subsidiary of the Borrower or any of their respective property or other assets for more than $500,000, and shall remain unvacated, unbonded or unstayed for a period of 10 days unless otherwise consented to by the Holder, which consent will not be unreasonably withheld.

3.7 Bankruptcy. Bankruptcy, insolvency, reorganization or liquidation proceedings or other proceedings, voluntary or involuntary, for relief under any bankruptcy law or any law for the relief of debtors shall be instituted by or against the Borrower or any Subsidiary of the Borrower and, in the case of involuntary proceedings, have not

been dismissed within 61 days.

3.8 Delisting of Common Stock on the Trading Market. The Borrower shall fail to maintain the listing or quotation of the Common Stock on the Trading Market (as defined in the Purchase Agreement).

3.9 Failure to Comply with the Exchange Act. The Borrower shall fail to file with the SEC its Annual Reports on Form 10-K or its Quarterly Reports on Form 10-Q within the proscribed time periods allocated by the Exchange Act , and/or the Borrower shall cease to be subject to the reporting requirements of the Exchange Act.

3.10 Liquidation. The Borrower commences any dissolution, liquidation, or winding up of Borrower or any substantial portion of its business.

3.11 Cessation of Operations. The Borrower materially ceases operations or Borrower admits it is otherwise generally unable to pay its debts as such debts become due, provided, however, that any disclosure of the Borrower's ability to continue as a "going concern" shall not be an admission that the Borrower cannot pay its debts as they become due.

3.12 Financial Statement Restatement. The Borrower restates any financial statements filed by the Borrower with the SEC for any date or period from two years prior to the Issue Date of this Note and until this Note is no longer outstanding, if the result of such restatement would, by comparison to the unrestated financial statements, have constituted a material adverse effect on the business, operations or financial condition of the Borrower; provided, however, that if any restatement of any financial statements is required to be filed by the Borrower as a result of, or in response to, any new or modified federal or state statute, law, rule or regulation, including any rules and regulations of the SEC, then such restatement of the Borrower's financial statements shall not be an Event of Default.

3.13 Replacement of Transfer Agent. In the event that the Borrower replaces its transfer agent, and the Borrower fails to provide within 15 days of such replacement, a fully executed Irrevocable Transfer Agent Instructions (including but not limited to the provision to irrevocably reserve shares of Common Stock under Section 4.9 of the Purchase Agreement) signed by the successor transfer agent to Borrower and the Borrower that reserves **300**% of the total amount of shares previously held in reserve for the Borrower's immediately preceding transfer agent.

3.14 Inside Information. Any actual transmittal, conveyance, or disclosure by the Borrower or its officers, directors, and/or affiliates of, material non-public information concerning the Borrower, to the Holder or its successors and assigns, which is not immediately cured by Borrower's filing of a Form 8-K pursuant to Regulation FD on that same date.

3.15 No bid. The lowest Trading Price on the Trading Market for the Common Stock is equal to or less than $0.01. "Trading Price" means, for any security as of any date, the lowest VWAP price on the Trading Market as reported by a reliable reporting service designated by the Holder (i.e., www.Nasdaq.com) or, if Nasdaq is not the principal trading market for such security, on the principal securities exchange or trading market where such security is listed or traded or, if the lowest intraday trading price of such security is not available in any of the foregoing manners, the lowest intraday price of any market makers for such security that are quoted on the OTC Markets.

3.16 Prohibition on Debt and Variable Securities. The Borrower, without written consent of the Holder, enters into any Variable Rate Transaction or other similar transaction prohibited under Section 4.16 of the Purchase Agreement.

REMEDIES UPON A DEFAULT . UPON THE OCCURRENCE OF ANY EVENT OF DEFAULT SPECIFIED IN SECTION 3.2, UPON WRITTEN DEMAND BY THE HOLDER THIS NOTE SHALL BECOME IMMEDIATELY DUE AND PAYABLE AND THE BORROWER SHALL PAY TO THE HOLDER, IN FULL SATISFACTION OF ITS OBLIGATIONS HEREUNDER, AN AMOUNT EQUAL TO THE DEFAULT AMOUNT (AS DEFINED HEREIN). Upon the occurrence of any Event of Default specified in Sections 3.1, 3.3, 3.4, 3.5, 3.6, 3.7, 3.8, 3.9, 3.10, 3.11, 3.12, 3.13 and/or 3.14, solely upon written demand by the Holder, this Note shall become immediately due and payable and the Borrower shall pay to the Holder, in full satisfaction of its obligations hereunder, an amount equal to (i) 125% (plus an additional 5% per each additional Event of Default that occurs hereunder) multiplied by the then outstanding entire balance of this Note (including principal and accrued and unpaid interest)plus (ii) Default Interest from the date of the Event of Default, if any, plus (iii) any amounts owed to the Holder pursuant to Section 1.3(g) in addition to this Remedies Upon Default section (collectively, in the aggregate of all of the above, the "Default Amount"), and all other amounts payable hereunder shall immediately become due and payable, all without demand, presentment or notice, all of which hereby are expressly waived, together with all costs, including, without limitation, legal fees and expenses, of collection, and the Holder shall be entitled to exercise all other rights and remedies available at law or in equity.

ARTICLE IV.
MISCELLANEOUS

4.1 Failure or Indulgence Not Waiver. No failure or delay on the part of the Holder in the exercise of any power, right or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such power, right or privilege preclude other or further exercise thereof or of any other right, power or privileges. All rights and remedies existing hereunder are cumulative to, and not exclusive of, any rights or remedies otherwise available.

4.2 Notices. All notices, offers, acceptance and any other acts under this Notice (except payment) shall be in writing, and shall be sufficiently given if delivered to the addressees in person, by e-mail, by FedEx or similar receipted next day delivery, as follows:

If to the Borrower, to:

If to the Company: Digital Brands Group, Inc.
Email: hil@dstld.la
Attention: John "Hil" Davis, CEO

with a copy to: Manatt, Phelps & Phillips LLP
(which shall not constitute notice) tpoletti@manatt.om
Attention: Thomas J. Poletti

If to Holder: Oasis Capital, LLC
Email: adam@oasis-cap.com
Attention: Adam Long, Managing Partner

with a copy to: Lucosky Brookman, LLP

(which shall not constitute notice) sbrookman@lucbro.com
Attention: Seth Brookman

4.3 Amendments. This Note and any provision hereof may only be amended by an instrument in writing signed by the Borrower and the Holder. The term "Note" and all reference thereto, as used throughout this instrument, shall mean this instrument as originally executed, or if later amended or supplemented, then as so amended or supplemented.

4.4 Assignability. This Note shall be binding upon the Borrower and its successors and assigns, and shall inure to be the benefit of the Holder and its successors and assigns. Notwithstanding anything to the contrary herein, the rights, interests or obligations of the Borrower hereunder may not be assigned, by operation of law or otherwise, in whole or in part, by the Borrower without the prior signed written consent of the Holder, which consent may be withheld at the sole discretion of the Holder (any such assignment or transfer shall be null and void if the Borrower does not obtain the prior signed written consent of the Holder). This Note or any of the severable rights and obligations inuring to the benefit of or to be performed by Holder hereunder may be assigned by Holder to a third party, in whole or in part, without the need to obtain the Borrower's consent thereto. Each transferee of this Note must be an "accredited investor" (as defined in Rule 501(a) of the Securities Act). Notwithstanding anything in this Note to the contrary, this Note may be pledged as collateral in connection with a bona fide margin account or other lending arrangement.

4.5 Cost of Collection. If default is made in the payment of this Note, the Borrower shall pay the Holder hereof costs of collection, including reasonable attorneys' fees.

4.6 Governing Law. This Note shall be governed by and interpreted in accordance with the laws of the State of New York without regard to the principles of conflicts of law (whether New York or any other jurisdiction).

4.7 Arbitration. Any disputes, claims, or controversies arising out of or relating to this Note, or the transactions, contemplated thereby, or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of this Note to arbitrate, shall be referred to and resolved solely and exclusively by binding arbitration as provided for in the Purchase Agreement. Either party to this Note may, without waiving any remedy under this Note, seek from any federal or state court sitting in the State of New York any interim or provisional relief that is necessary to protect the rights or property of that party, pending the establishment of the arbitral tribunal. The costs and expenses of such arbitration shall be paid by and be the sole responsibility of the Borrower, including but not limited to the Holder's attorneys' fees, and each arbitrator's fees. The arbitrators' decision must set forth a reasoned basis for any award of damages or finding of liability. The arbitrators' decision and award will be made and delivered as soon as reasonably possible and in any case within sixty days' following the conclusion of the arbitration hearing and shall be final and binding on the parties and may be entered by any court having jurisdiction thereof. Notwithstanding the foregoing, the choice of arbitration shall not limit the Holder's exercise of remedies under the Uniform Commercial Code.

4.8 **JURY TRIAL WAIVER. THE BORROWER AND THE HOLDER HEREBY WAIVE A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE OTHER IN RESPECT OF ANY MATTER ARISING OUT OF OR IN CONNECTION WITH THIS NOTE.**

4.9 Certain Amounts. Whenever pursuant to this Note the Borrower is required to pay an amount in excess of the outstanding Principal Amount (or the portion thereof required to be paid at that time) plus accrued and unpaid interest plus Default Interest on such interest, the Borrower and the Holder agree that the actual damages to the Holder from the receipt of cash payment on this Note may be difficult to determine and the amount to be so paid by the Borrower represents stipulated damages and not a penalty and is intended to compensate the Holder in part for loss of the opportunity to convert this Note and to earn a return from the sale of shares of Common Stock acquired upon conversion of this Note at a price in excess of the price paid for such shares pursuant to this Note. The Borrower and the Holder hereby agree that such amount of stipulated damages is not plainly disproportionate to the possible loss to the Holder from the receipt of a cash payment without the opportunity to convert this Note into shares of Common Stock.

4.10 Remedies. The Borrower acknowledges that a breach by it of its obligations hereunder will cause irreparable harm to the Holder, by vitiating the intent and purpose of the transaction contemplated hereby. Accordingly, the Borrower acknowledges that the remedy at law for a breach of its obligations under this Note will be inadequate and agrees, in the event of a breach or threatened breach by the Borrower of the provisions of this Note, that the Holder shall be entitled, in addition to all other available remedies at law or in equity, and in addition to the penalties assessable herein, to an injunction or injunctions restraining, preventing or curing any breach of this Note and to enforce specifically the terms and provisions thereof, without the necessity of showing economic loss and without any bond or other security being required.

4.11 Section 3(a)(10) Transactions. If at any time while this Note is outstanding, the Borrower enters into a transaction structured in accordance with, based upon, or related or pursuant to, in whole or in part, Section 3(a)(10) of the Securities Act (a "3(a)(10) Transaction"), then a liquidated damages charge of 100% of the outstanding principal balance of this Note at that time, will be assessed and will become immediately due and payable to the Holder, either in the form of cash payment, an addition to the balance of this Note, or a combination of both forms of payment, as determined by the Holder. The damages resulting from such a 3(a)(10) Transaction and the potential sale of shares of the Borrower's capital stock resulting therefrom into the capital markets are difficult if not impossible to quantify. Accordingly, the parties acknowledge that the liquidated damages provision contained in this Section 4.11 are justified. The liquidated damages charge in this Section 4.11 shall be in addition to, and not in substitution of, any of the other rights of the Holder under this Note.

4.12 Usury. If it shall be found that any interest or other amount deemed interest due hereunder violates the applicable law governing usury, the applicable rate of interest due hereunder shall automatically be lowered to equal the maximum rate of interest permitted under applicable law. The Borrower covenants (to the extent that it may lawfully do so) that it shall not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension or usury law or other law which would prohibit or forgive the Borrower from paying all or any portion of the principal of or interest on this Note as contemplated herein, wherever enacted, now or at any time hereafter in force, or which may affect the covenants or the performance of this Note, and the Borrower (to the extent it may lawfully do so) hereby expressly waives all benefits or advantage of any such law, and covenants that it will not, by resort to any such law, hinder, delay or impede the execution of any power herein granted to the Holder, but will suffer and permit the execution of every such as though no such law has been enacted.

4.13 Repayment. Notwithstanding anything to the contrary contained in this Note and provided that the shares underlying this Note have been registered on an effective registration statement with the Securities and Exchange Commission, this Note may be repaid (i) from the Issuance Date until and through the day that falls on the sixty-day anniversary of the Issue Date (the "60 Day Anniversary") at an amount equal to 110% of the aggregate of the outstanding principal balance of the Note and accrued and unpaid interest, (ii) after the 60 Day Anniversary until and through the day that falls on the ninety-day anniversary of the Issue Date (the "90 Day Anniversary") at an amount equal to 115% of the aggregate of the outstanding principal balance of the Note and accrued and unpaid interest and (iii) anytime after the 90 Day Anniversary, 120% of the aggregate of the outstanding principal balance of the Note and accrued and unpaid interest. In order to repay this Note in accordance with the preceding sentence, the Borrower shall provide notice to the Holder 5 business days prior to such respective repayment date, and the Holder must receive such repayment no sooner than 7 business

days of the Holder's receipt of the respective repayment notice (the "Repayment Period"). The Holder may convert the Note in whole or in part at any time during the Repayment Period, subject to the terms and conditions of this Note.

4.14 Terms of Future Financings. So long as this Note is outstanding, upon any issuance by the Borrower or any of its Subsidiariesof any Common Stock Equivalents with any term more favorable to the holder of such security or with a term in favor of the holder of such security that was not similarly provided to the Holder in this Note, then the Borrower shall notify the Holder of such additional or more favorable term and such term, at Holder's option and upon written notice to the Borrower, shall become a part of the transaction documents with the Holder. The types of terms contained in another security that may be more favorable to the holder of such security include, but are not limited to, terms addressing conversion discounts, prepayment rate, conversion look back periods, interest rates, original issue discounts, stock sale price, private placement price per share, and warrant coverage.

*** signature page to follow ***

IN WITNESS WHEREOF, Borrower has caused this Note to be signed in its name by its duly authorized officer on the Issue Date.

DIGITAL BRANDS GROUP, INC.

By: _____
Name: Hil Davis
Title: Chief Executive Officer

EXHIBIT A

TO SECURED CONVERTIBLE PROMISSORY-- NOTICE OF CONVERSION

The undersigned hereby elects to convert $_____ amount of this Note (defined below) into that number of shares of Common Stock to be issued pursuant to the conversion of this Note ("Common Stock") as set forth below, of **Digital Brands Group, Inc.** (the "Borrower"), according to the conditions of the secured convertible promissory note of the Borrower dated as of August 27, 2021 (the "Note"), as of the date written below. No fee will be charged to the Holder for any conversion, except for transfer taxes, if any.

Box Checked as to applicable instructions:

☐ The Borrower shall electronically transmit the Common Stock issuable pursuant to this Notice of Conversion to the account of the undersigned or its nominee with DTC through its Deposit Withdrawal Agent Commission system ("DWAC Transfer").

Name of DTC Prime
Broker: Account Number:

☐ The undersigned hereby requests that the Borrower issue a certificate or certificates for the number of shares of Common Stock set forth below (which numbers are based on the Holder's calculation attached hereto) in the name(s) specified immediately below or, if additional space is necessary, on an attachment hereto:

OASIS CAPITAL, LLC
e-mail: adam@oasis-cap.com

Date of Conversion:	_____
Applicable Conversion Price:	$____
Number of Shares of Common Stock to be Issued Pursuant to Conversion of this Note:	_____
Amount of Principal Balance Due remaining Under this Note after this conversion:	_____

OASIS CAPITAL, LLC

By: _____
Name: _____
Title: _____
Date: _____

EXHIBIT B
Form of Security Agreement

[OMITTED]

EXHIBIT C

FORM OF REGISTRATION RIGHTS AGREEMENT

[OMITTED]

EXHIBIT D

Form of Reserve Letter

[OMITTED]

EXHIBIT E
Form of Board Consent

[OMITTED]

EXHIBIT F
Form of Consent

DIGITAL BRANDS GROUP, INC. (the "Company") has information or notice of a proposed event (collectively, the "Information") that it is either required to provide you pursuant to that certain Securities Purchase Agreement dated August 27, 2021 ("Agreement") between you and the Company or believes that you would be interested in obtaining.

If the Company **is** required to provide this Information to you under the Agreement, you acknowledge that receipt of this information may restrict you from trading in the Company's securities until this Information is made public in accordance with the Agreement.

If the Company is **not** required to provide this Information to you under the Agreement, you acknowledge that this may restrict you from trading in the Company's securities until this Information is made public in accordance with the Agreement. .

Please respond in writing if you do or do not want to be provided with the Information. If the Company does not receive your response within three business days, we will have the right to assume that you have chosen not to receive the Information and, if applicable, waived your right to any rights provided for under the Agreements that require notice, for which this Information (including notice) is being given.

Please sign below and check the appropriate box below.

Sincerely,

By: _____
Name:
Title: Chief Executive Officer

___ Yes. Please provide me with the Information

___ No. Do not provide me with the Information

_____
_____

Exhibit 10.32

NEITHER THE ISSUANCE NOR SALE OF THE SECURITIES REPRESENTED BY THIS CERTIFICATE NOR THE SECURITIES INTO WHICH THESE SECURITIES ARE CONVERTIBLE HAVE BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR APPLICABLE STATE SECURITIES LAWS. THE SECURITIES MAY NOT BE OFFERED FOR SALE, SOLD, TRANSFERRED OR ASSIGNED (I) IN THE ABSENCE OF (A) AN EFFECTIVE REGISTRATION STATEMENT FOR THE SECURITIES FILED PURSUANT TO THE SECURITIES ACT OF 1933, AS AMENDED, OR (B) AN OPINION OF COUNSEL (WHICH COUNSEL SHALL BE SELECTED BY THE HOLDER), IN A GENERALLY ACCEPTABLE FORM, THAT REGISTRATION IS NOT REQUIRED UNDER SAID ACT OR (II) UNLESS SOLD PURSUANT TO RULE 144 OR RULE 144A UNDER SAID ACT. NOTWITHSTANDING THE FOREGOING, THE SECURITIES MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN OR FINANCING ARRANGEMENT SECURED BY THE SECURITIES.

Principal Amount: $5,265,000 **Issue Date: August 27 2021**

Original Issue Discount: $250,000

SENIOR SECURED CONVERTIBLE PROMISSORY NOTE

FOR VALUE RECEIVED, **Digital Brands Group, Inc.,** a Delaware corporation (the "Borrower"), as of August 27**, 2021** (the "Issue Date"), hereby promises to pay to the order of **OASIS CAPITAL, LLC**, a Puerto Rico limited liability company, (the "Lender" and including its registered assigns, the "Holder"), the principal sum of **$5,265,000** (the "Principal Amount"), together with interest at the rate of **6**% per annum, at maturity or upon acceleration or otherwise, as set forth herein (this "Note"). This Note is being issued by the Borrower to the Lender pursuant to that certain Securities Purchase Agreement (the "Purchase Agreement") entered into by the Borrower and the Lender on the Issue Date. The cash consideration to the Borrower for this Note **$5,000,000** (the "Consideration") in United States currency, due to the prorated original issuance discount of up to **$250,000** (the "OID") and $**15,000** transaction fee. The maturity date shall be the date that is 18 months from the Issue Date (the "Maturity Date"), and is the date upon which the applicable portion of the Principal Amount, as well as any accrued and unpaid interest and other fees, shall be due and payable. This Note may not be repaid in whole or in part except as otherwise explicitly set forth herein. Any amount of principal or interest on this Note that is not paid by the applicable Maturity Date shall bear interest at the rate of the lesser of (i) 18% per annum or (ii) the maximum amount allowed by law, from the due date thereof until the same is paid ("Default Interest"). All payments due hereunder (to the extent not converted into the Borrower's Common Stock, par value $0.0001 per share (the "Common Stock")) shall be made in lawful money of the United States of America. All payments shall be made at such address as the Holder shall hereafter give to the Borrower by written notice made in accordance with the provisions of this Note. Whenever any amount expressed to be due by the terms of this Note is due on any day which is not a business day, the same shall instead be due on the next succeeding day which is a business day and, in the case of any interest payment date which is not the date on which this Note is paid in full, the extension of the due date thereof shall not be taken into account for purposes of determining the amount of interest due on such date. As used in this Note, the term "business day" shall mean any day other than a Saturday, Sunday or a day on which commercial banks in the city of New York, New York are authorized or required by law or executive order to remain closed.

This Note is free from all taxes, liens, claims and encumbrances with respect to the issue thereof and shall not be subject to preemptive rights or other similar rights of shareholders of the Borrower and will not impose personal liability upon the holder thereof. Capitalized terms used in this Note shall have the meanings set forth in the Purchase Agreement unless otherwise defined in this Note.

This Note is secured by a security interest granted pursuant to the terms of the Security Agreement.

The following additional terms shall also apply to this Note:

ARTICLE I.

1.1 Conversion Right; Company Cash Payment Option.

(a) Conversion Right. Subject to the terms of this Section 1.1, the Holder shall have the right at any time following the Issue Date, to convert all or any part of the entire outstanding and unpaid Principal Amount and accrued and unpaid interest of this Note into fully paid and non-assessable shares of Common Stock, as such Common Stock exists on the Issue Date, or any shares of capital stock or other securities of the Borrower into which such Common Stock shall hereafter be changed or reclassified at the Conversion Price determined as provided herein (a "Conversion"); provided, however, that in no event shall the Holder be entitled to convert any portion of this Note in excess of that portion of this Note upon conversion of which the sum of (1) the number of shares of Common Stock beneficially owned by the Holder and its affiliates (excluding shares of Common Stock which may be deemed beneficially owned through the ownership of the unconverted portion of this Note or the unexercised or unconverted portion of any other security of the Borrower subject to a limitation on conversion or exercise analogous to the limitations contained herein) and (2) the number of shares of Common Stock issuable upon the conversion of the portion of this Note with respect to which the determination of this proviso is being made, would result in beneficial ownership by the Holder and its affiliates of more than 4.99% of the outstanding shares of Common Stock (the "Maximum Share Amount"). The Holder, upon not less than 61 days' prior written notice to the Borrower, may increase the Maximum Share Amount, provided that the Maximum Share Amount shall never exceed 9.99% of the number of shares of Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock upon conversion of this Note held by the Holder and the provisions of this Section 1.1 shall continue to apply. Any such increase will not be effective until the 61st day after such notice is delivered to the Borrower. The Maximum Share Amount provisions of this paragraph shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this Section 1.1 to correct this paragraph (or any portion hereof) which may be defective or inconsistent with the intended Maximum Share Amount provisions contained herein or to make changes or supplements necessary or desirable to properly give effect to such limitation. The limitations contained in this paragraph shall apply to any successor holder of this Note. For purposes of this Section 1.1, beneficial ownership shall be determined in accordance with Section 13(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and Regulations 13D-G thereunder, except as otherwise provided in clause (1) of such proviso. The number of shares of Common Stock to be issued upon each conversion of this Note shall be determined by dividing the Conversion Amount (as defined below) by the applicable Conversion Price then in effect on the date specified in the notice of conversion, in the form attached hereto as Exhibit A (the "Notice of Conversion"), delivered to the Borrower by the Holder in accordance with Section 1.3 below; provided that the Notice of Conversion is submitted by facsimile or e-mail (or by other means resulting in, or reasonably expected to result in, notice) to the Borrower before 6:00 p.m., New York, New York time on such conversion date (the "Conversion Date"). The term "Conversion Amount" means, with respect to any conversion of this Note, the sum of (A) the Principal Amount of this Note to be converted in such conversion, plus (B) at the Holder's option, accrued and unpaid interest, if any, on such Principal Amount at the interest rates provided in this Note to the Conversion Date, plus (C) at the Holder's option, Default Interest, if any, on the amounts referred to in the immediately preceding clauses (A) and/or (B), plus (D) at the Holder's option, any amounts owed to the Holder pursuant to Sections 1.2, 1.3(g), 4.11, and/or 4.12 and/or Article III hereof. Except following an Event of Default, the Holder shall not be permitted to submit Conversion Notices in any thirty day period, having Conversion Amounts equalling in the aggregate, in excess of $500,000.

(b) Cash Payment Option. If at any time following the Issue Date, the Conversion Price set forth in any Conversion Notice is less than $3.00 per share (the "Reference Floor Price"), at the option of the Borrower, the Borrower may choose to pay within three (3) business days to the Holder the applicable Conversion Amount in cash rather than issue shares of Common Stock; provided however that in no event shall the Borrower issue shares of Common Stock at less than the Reference Floor Price if such issuance would result in Borrower issuing more than 20% of its common stock outstanding as of the date hereof.

1.2 Conversion Price.

(a) Conversion Price. The Conversion Price shall be the lesser of (i) the 130% of the Closing Price on the last Trading Day prior to the Issue Date, and (ii) 90% of the average of the two lowest VWAPs during the five (5) consecutive Trading Day period ending and including the Trading Day immediately preceding the delivery or deemed delivery of the applicable Notice of Conversion (the "Conversion Price"). All such Conversion Price determinations are to be appropriately adjusted for any stock dividend, stock split, stock combination, reclassification or similar transaction that proportionately decreases or increases the Common Stock.

(b) Authorized Shares. The Borrower covenants that during the period the conversion right exists, the Borrower will reserve from its authorized and unissued Common Stock a sufficient number of shares, free from preemptive rights, to provide for the issuance of Common Stock upon the full conversion of this Note, which shall be at least **THREE** times the number of shares that is actually issuable upon full conversion of this Note (based on the Conversion Price of this Note in effect from time to time) (the "Reserved Amount"). The Reserved Amount shall be increased from time to time in accordance with the Borrower's obligations hereunder. The Borrower represents that upon issuance, such shares of Common Stock will be duly and validly issued, fully paid and non-assessable. In addition, if the Borrower shall issue any securities or make any change to its capital structure which would change the number of shares of Common Stock into which this Note shall be convertible at the Conversion Price, the Borrower shall at the same time make proper provision so that thereafter there shall be a sufficient number of shares of Common Stock authorized and reserved, free from preemptive rights, for conversion of this Note. The Borrower acknowledges that it has irrevocably instructed its transfer agent to issue certificates (or book-entry shares) for the Common Stock issuable upon conversion of this Note, and agrees that its issuance of this Note shall constitute full authority to its officers and agents who are charged with the duty of executing stock certificates (or applicable instructions for the issuance of book-entry shares) to execute and issue the necessary certificates (or book-entry shares) for shares of Common Stock in accordance with the terms and conditions of this Note.

If, at any time the Borrower does not maintain the Reserved Amount it will be considered an Event of Default under Section 3.2 of this Note; provided, that notwithstanding anything to the contrary herein, the Borrower shall only be required to confirm and adjust the Reserved Amount one time per calendar month.

1.3 Method of Conversion.

(a) Mechanics of Conversion. Subject to Section 1.1, this Note may be converted by the Holder in whole or in part at any time, (A) by submitting to the Borrower a Notice of Conversion (by facsimile, e-mail or other reasonable means of communication dispatched on the Conversion Date prior to 11:00 a.m., New York, New York time) and (B) subject to Section 1.3(b), surrendering this Note at the principal office of the Borrower.

(b) Surrender of Note Upon Conversion. Notwithstanding anything to the contrary set forth herein, upon conversion of this Note in accordance with the terms hereof, the Holder shall not be required to physically surrender this Note to the Borrower unless the entire unpaid Principal Amount of this Note is so converted. The Holder and the Borrower shall maintain records showing the Principal Amount so converted and the dates of such conversions or shall use such other method, reasonably satisfactory to the Holder and the Borrower, so as not to require physical surrender of this Note upon each such conversion. In the event of any dispute or discrepancy, such records of the Borrower shall, *prima facie,* be controlling and determinative in the absence of manifest error. Notwithstanding the foregoing, if any portion of this Note is converted as aforesaid, the Holder may not transfer this Note unless the Holder first physically surrenders this Note to the Borrower, whereupon the Borrower will forthwith issue and deliver upon the order of the Holder a new Note of like tenor, registered as the Holder (upon payment by the Holder of any applicable transfer taxes) may request, representing in the aggregate the remaining unpaid Principal Amount of this Note. The Holder and any assignee, by acceptance of this Note, acknowledge and agree that, by reason of the provisions of this paragraph, following conversion of a portion of this Note, the unpaid and unconverted Principal Amount of this Note represented by this Note may be less than the amount stated on the face hereof.

(c) Payment of Taxes. The Borrower shall not be required to pay any tax which may be payable in respect of any transfer involved in the issue and delivery of shares of Common Stock or other securities or property on conversion of this Note in a name other than that of the Holder (or in street name), and the Borrower shall not be required to issue or deliver any such shares or other securities or property unless and until the person or persons (other than the Holder or the custodian in whose street name such shares are to be held for the Holder's account) requesting the issuance thereof shall have paid to the Borrower the amount of any such tax or shall have established to the satisfaction of the Borrower that such tax has been paid.

(d) Delivery of Common Stock Upon Conversion. Upon receipt by the Borrower from the Holder of a facsimile transmission or e-mail (or other reasonable means of communication) of a Notice of Conversion meeting the requirements for conversion as provided in this Section 1.3, unless the Borrower shall have elected to pay to the Holder cash in lieu of the applicable Conversion Amounts in accordance with Section 1.1 hereof, the Borrower shall issue and deliver or cause to be issued and delivered to or upon the order of the Holder certificates for the Common Stock issuable upon such conversion within two business days after such receipt (the "Deadline") (and, solely in the case of conversion of the entire unpaid Principal Amount hereof, surrender of this Note) in accordance with the terms hereof.

(e) Obligation of Borrower to Deliver Common Stock. Upon receipt by the Borrower of a Notice of Conversion, the Holder shall be deemed to be the holder of record of the Common Stock issuable upon such conversion, the outstanding Principal Amount and the amount of accrued and unpaid interest on this Note shall be reduced to reflect such conversion, and, unless the Borrower defaults on its obligations under this Article I, all rights with respect to the portion of this Note being so converted shall forthwith terminate except the right to receive the Common Stock or other securities, cash or other assets, as herein provided, on such conversion. If the Holder shall have given a Notice of Conversion as provided herein, the Borrower's obligation to issue and deliver the certificates for Common Stock shall be absolute and unconditional, irrespective of the absence of any action by the Holder to enforce the same, any waiver or consent with respect to any provision thereof, the recovery of any judgment against any person or any action to enforce the same, any failure or delay in the enforcement of any other obligation of the Borrower to the holder of record, or any setoff, counterclaim, recoupment, limitation or termination, or any breach or alleged breach by the Holder of any obligation to the Borrower, and irrespective of any other circumstance which might otherwise limit such obligation of the Borrower to the Holder in connection with such conversion. The Conversion Date specified in the Notice of Conversion shall be the Conversion Date so long as the Notice of Conversion is received by the Borrower before 11:00 a.m., New York, New York time, on such date.

(f) Delivery of Common Stock by Electronic Transfer. In lieu of delivering physical certificates representing the Common Stock issuable upon conversion, provided the Borrower is participating in the Depository Trust Company ("DTC") Fast Automated Securities Transfer ("FAST") program, upon request of the Holder and its compliance with the provisions contained in Sections 1.1 and 1.2 and in this Section 1.3, the Borrower shall use its commercially reasonable efforts to cause its transfer agent to electronically transmit the Common Stock issuable upon conversion to the Holder by crediting the account of Holder's Prime Broker with DTC through its Deposit Withdrawal Agent Commission ("DWAC") system.

(g) Failure to Deliver Common Stock Prior to Deadline. Without in any way limiting the Holder's right to pursue other remedies, including actual damages and/or equitable relief, the parties agree that if delivery of the Common Stock issuable upon conversion of this Note is not delivered by the Deadline the Borrower shall pay to the Holder $3,000 per business day for each business day beyond the Deadline that the Borrower fails to deliver such Common Stock (unless such failure results from war, acts of terrorism, an epidemic, or natural disaster) ("Conversion Default Payments"). Such amount shall be paid to Holder in cash by the fifth day of the month following the month in which it has accrued or, at the option of the Holder (by written notice to the Borrower by the first day of the month following the month in which it has accrued), shall be added to the Principal Amount of this Note on the fifth day of the month following the month in which it has accrued, in which event interest shall accrue thereon in accordance with the terms of this Note and such additional Principal Amount shall be convertible into Common Stock in accordance with the terms of this Note. The Borrower agrees that the right to convert is a valuable right to the Holder. The damages resulting from a failure, attempt to frustrate, and/or interference with such conversion right are difficult if not impossible to quantify. Accordingly, the parties acknowledge that the liquidated damages provision contained in this Section 1.3(g) are justified.

1.4 Concerning the Shares. The shares of Common Stock issuable upon conversion of this Note may not be sold or transferred unless (i) such shares are sold pursuant to an effective registration statement under the Securities Act of 1933 (the "Securities Act"), or (ii) the Borrower or its transfer agent shall have been furnished with an opinion of counsel (which opinion shall be in form, substance and scope customary for opinions of counsel in comparable transactions) to the effect that the shares to be sold or transferred may be sold or transferred pursuant to an exemption from such registration or (iii) such shares are sold or transferred pursuant to Rule 144 under the Securities Act (or a successor rule) ("Rule 144") or (iv) such shares are transferred to an "affiliate" (as defined in Rule 144) of the Borrower who agrees to sell or otherwise transfer the shares only in accordance with this Section 1.4 and who is an "accredited investor" (as defined in Rule 501(a) of the Securities Act). Except as otherwise provided (and subject to the removal provisions set forth below), until such time as the shares of Common Stock issuable upon conversion of this Note have been registered under the Securities Act or otherwise may be sold pursuant to Rule 144 without any restriction as to the number of securities as of a particular date that can then be immediately sold, each certificate for shares of Common Stock issuable upon conversion of this Note that has not been so included in an effective registration statement or that has not been sold pursuant to an effective registration statement or an exemption that permits removal of the legend, shall bear a legend substantially in the following form, as appropriate:

"THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, OR APPLICABLE STATE SECURITIES LAWS. THE SECURITIES HAVE BEEN ACQUIRED FOR INVESTMENT AND MAY NOT BE OFFERED FOR SALE, SOLD, TRANSFERRED OR ASSIGNED IN THE ABSENCE OF AN EFFECTIVE REGISTRATION STATEMENT FOR THE SECURITIES UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR APPLICABLE STATE SECURITIES LAWS, UNLESS SOLD PURSUANT TO: (1) RULE 144 UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR (2) AN OPINION OF HOLDER'S COUNSEL, IN A CUSTOMARY FORM, THAT REGISTRATION IS NOT REQUIRED UNDER SAID ACT OR APPLICABLE STATE SECURITIES LAWS."

The legend set forth above shall be removed and the Borrower shall issue to the Holder a new certificate therefore free of any transfer legend if (i) the Borrower or its transfer agent shall have received an opinion of counsel, in form, substance and scope customary for opinions of counsel in comparable transactions, to the effect that a public sale or transfer of such Common Stock may be made without registration under the Securities Act, which opinion shall be accepted by the Borrower so that the sale or transfer is effected or (ii) in the case of the Common Stock issuable upon conversion of this Note, such security is registered for sale by the Holder under an effective registration statement filed under the Securities Act or otherwise may be sold pursuant to Rule 144 without any restriction as to the number of securities as of a particular date that can then be immediately sold.

1.5 Status as Shareholder. Upon submission of a Notice of Conversion by a Holder, (i) the shares covered thereby (other than the shares, if any, which cannot be issued because their issuance would exceed such Holder's allocated portion of the Reserved Amount or non-waived Maximum Share Amount) shall be deemed converted into shares of Common Stock and (ii) the Holder's rights as a Holder of such converted portion of this Note shall cease and terminate, excepting only the right to receive certificates for such shares of Common Stock and to any remedies provided herein or otherwise available at law or in equity to such Holder because of a failure by the Borrower to comply with the terms of this Note. Notwithstanding the foregoing, if a Holder has not received certificates or transmission of such shares pursuant to Section 1.3(f) for all shares of Common Stock prior to the tenth (10th) business day after the expiration of the Deadline with respect to a conversion of any portion of this Note for any reason, then (unless the Holder otherwise elects to retain its status as a holder of Common Stock by so notifying the Borrower) the Holder shall regain the rights of a Holder of this Note with respect to such unconverted portions of this Note and the Borrower shall, as soon as practicable, return such unconverted Note to the Holder or, if this Note has not been surrendered, adjust its records to reflect that such portion of this Note has not been converted. In all cases, the Holder shall retain all of its rights and remedies (including, without limitation, (i) the right to receive Conversion Default Payments pursuant to Section 1.3(g) to the extent required thereby for such conversion default and any subsequent conversion default and (ii) the right to have the Conversion Price with respect to subsequent conversions determined in accordance with Section 1.2) for the Borrower's failure to convert this Note.

ARTICLE II.
CERTAIN COVENANTS

2.1 Distributions on Capital Stock. So long as the Borrower shall have any obligation under this Note, the Borrower shall not without the Holder's written consent (a) pay, declare or set apart for such payment, any dividend or other distribution (whether in cash, property or other securities) on shares of capital stock other than dividends on shares of Common Stock solely in the form of additional shares of Common Stock or (b) directly or indirectly or through any Subsidiary make any other payment or distribution in respect of its capital stock except for distributions pursuant to any shareholders' rights plan which is approved by a majority of the Borrower's disinterested directors.

2.2 Restriction on Stock Repurchases. So long as the Borrower shall have any obligation under this Note, the Borrower shall not without the Holder's written consent redeem, repurchase or otherwise acquire (whether for cash or in exchange for property or other securities or otherwise) in any one transaction or series of related transactions any shares of capital stock of the Borrower or any warrants, rights or options to purchase or acquire any such shares (other than repurchases pursuant to the Borrower's equity incentive plans).

ARTICLE III.
EVENTS OF DEFAULT

The occurrence of any of the following shall each constitute an "Event of Default", with no right to notice or the right to cure except as specifically stated:

3.1 Failure to Pay Principal or Interest. The Borrower fails to pay the principal hereof or interest thereon when due on this Note, whether at the Maturity Date, upon acceleration, or otherwise.

3.2 Reserve/Issuance Failures. The Borrower fails to reserve a sufficient amount of shares of Common Stock as required under the terms of the Purchase Agreement, fails to issue shares of Common Stock to the Holder (or announces or threatens in writing that it will not honor its obligation to do so) upon exercise by the Holder of the conversion rights of the Holder in accordance with the terms of any securities of the Borrower held by the Holder, fails to transfer or cause its transfer agent to transfer

(issue) (electronically or in certificated form) shares of Common Stock issued to the Holder upon conversion of or otherwise pursuant to any securities of the Borrower held by the Holder as and when required by such securities, the Borrower directs its transfer agent not to transfer or delays, impairs, and/or hinders its transfer agent in transferring (or issuing) (electronically or in certificated form) shares of Common Stock to be issued to the Holder upon conversion of or otherwise pursuant to any securities of the Borrower held by the Holder as and when required by such securities, or fails to remove (or directs its transfer agent not to remove or impairs, delays, and/or hinders its transfer agent from removing) any restrictive legend (or to withdraw any stop transfer instructions in respect thereof) on any shares of Common Stock issued to the Holder upon conversion of or otherwise pursuant to any securities of the Borrower held by the Holder as and when required by such securities (or makes any written announcement, statement or threat that it does not intend to honor the obligations described in this paragraph) and any such failure shall continue uncured (or any written announcement, statement or threat not to honor its obligations shall not be rescinded in writing) for two business days after the Holder shall have delivered an applicable notice of conversion or exercise. It is an obligation of the Borrower to remain current in its obligations to its transfer agent. It shall be an event of default of this Note, if a conversion of any securities held by the Holder is delayed, hindered or frustrated due to a balance owed by the Borrower to its transfer agent. If at the option of the Holder, the Holder advances any funds to the Borrower's transfer agent in order to process a conversion or exercise (excluding for the avoidance of doubt, the conversion price which is the Holder's obligation to pay), such advanced funds shall be paid by the Borrower to the Holder within five business days, either in cash or as an addition to the balance of this Note, and such choice of payment method is at the discretion of the Borrower.

3.3 Breach of Covenants. The Borrower breaches any covenant or other term or condition contained in this Note or any other documents entered into between the Borrower and the Holder the breach of which has (or with the passage of time will have) a material adverse effect on the rights of the Holder with respect to this Note and such breach is not cured within 10 business days of the date of such breach.

3.4 Breach of Representations and Warranties. Any representation or warranty of the Borrower made in this Note or in any agreement, statement or certificate given in writing pursuant hereto or in connection herewith, or in connection with the Purchase Agreement or any Transaction Document, shall be false or misleading in any material respect when made and the breach of which has (or with the passage of time will have) a material adverse effect on the rights of the Holder with respect to this Note.

3.5 Receiver or Trustee. The Borrower or any Subsidiary of the Borrower shall make an assignment for the benefit of creditors, or apply for or consent to the appointment of a receiver or trustee for it or for a substantial part of its property or business, or such a receiver or trustee shall otherwise be appointed.

3.6 Judgments. Except as set forth in the Company's SEC filings, any money judgment, writ or similar process shall be entered or filed against the Borrower or any Subsidiary of the Borrower or any of their respective property or other assets for more than $500,000, and shall remain unvacated, unbonded or unstayed for a period of 10 days unless otherwise consented to by the Holder, which consent will not be unreasonably withheld.

3.7 Bankruptcy. Bankruptcy, insolvency, reorganization or liquidation proceedings or other proceedings, voluntary or involuntary, for relief under any bankruptcy law or any law for the relief of debtors shall be instituted by or against the Borrower or any Subsidiary of the Borrower and, in the case of involuntary proceedings, have not been dismissed within 61 days.

3.8 Delisting of Common Stock on the Trading Market. The Borrower shall fail to maintain the listing or quotation of the Common Stock on the Trading Market (as defined in the Purchase Agreement).

3.9 Failure to Comply with the Exchange Act. The Borrower shall fail to file with the SEC its Annual Reports on Form 10-K or its Quarterly Reports on Form 10-Q within the proscribed time periods allocated by the Exchange Act , and/or the Borrower shall cease to be subject to the reporting requirements of the Exchange Act.

3.10 Liquidation. The Borrower commences any dissolution, liquidation, or winding up of Borrower or any substantial portion of its business.

3.11 Cessation of Operations. The Borrower materially ceases operations or Borrower admits it is otherwise generally unable to pay its debts as such debts become due, provided, however, that any disclosure of the Borrower's ability to continue as a "going concern" shall not be an admission that the Borrower cannot pay its debts as they become due.

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3.12 Financial Statement Restatement. The Borrower restates any financial statements filed by the Borrower with the SEC for any date or period from two years prior to the Issue Date of this Note and until this Note is no longer outstanding, if the result of such restatement would, by comparison to the unrestated financial statements, have constituted a material adverse effect on the business, operations or financial condition of the Borrower. provided, however, that if any restatement of any financial statements is required to be filed by the Borrower as a result of, or in response to, any new or modified federal or state statute, law, rule or regulation, including any rules and regulations of the SEC, then such restatement of the Borrower's financial statements shall not be an Event of Default.

3.13 Replacement of Transfer Agent. In the event that the Borrower replaces its transfer agent, and the Borrower fails to provide within 15 days of such replacement, a fully executed Irrevocable Transfer Agent Instructions (including but not limited to the provision to irrevocably reserve shares of Common Stock under Section 4.9 of the Purchase Agreement) signed by the successor transfer agent to Borrower and the Borrower that reserves **300**% of the total amount of shares previously held in reserve for the Borrower's immediately preceding transfer agent.

3.14 Inside Information. Any actual transmittal, conveyance, or disclosure by the Borrower or its officers, directors, and/or affiliates of, material non-public information concerning the Borrower, to the Holder or its successors and assigns, which is not immediately cured by Borrower's filing of a Form 8-K pursuant to Regulation FD on that same date.

3.15 No bid. The lowest Trading Price on the Trading Market for the Common Stock is equal to or less than $0.01. "Trading Price" means, for any security as of any date, the lowest VWAP price on the Trading Market as reported by a reliable reporting service designated by the Holder (i.e., www.Nasdaq.com) or, if Nasdaq is not the principal trading market for such security, on the principal securities exchange or trading market where such security is listed or traded or, if the lowest intraday trading price of such security is not available in any of the foregoing manners, the lowest intraday price of any market makers for such security that are quoted on the OTC Markets.

3.16 Prohibition on Debt and Variable Securities. The Borrower, without written consent of the Holder, enters into any Variable Rate Transaction or other similar transaction prohibited under Section 4.16 of the Purchase Agreement.

REMEDIES UPON A DEFAULT . UPON THE OCCURRENCE OF ANY EVENT OF DEFAULT SPECIFIED IN SECTION 3.2, UPON WRITTEN DEMAND BY THE HOLDER THIS NOTE SHALL BECOME IMMEDIATELY DUE AND PAYABLE AND THE BORROWER SHALL PAY TO THE HOLDER, IN FULL SATISFACTION OF ITS OBLIGATIONS HEREUNDER, AN AMOUNT EQUAL TO THE DEFAULT AMOUNT (AS DEFINED HEREIN). Upon the occurrence of any Event of Default specified in Sections 3.1, 3.3, 3.4, 3.5, 3.6, 3.7, 3.8, 3.9, 3.10, 3.11, 3.12, 3.13 and/or 3.14, solely upon written demand by the Holder, this Note shall become immediately due

and payable and the Borrower shall pay to the Holder, in full satisfaction of its obligations hereunder, an amount equal to (i) 125% (plus an additional 5% per each additional Event of Default that occurs hereunder) multiplied by the then outstanding entire balance of this Note (including principal and accrued and unpaid interest)plus (ii) Default Interest from the date of the Event of Default, if any, plus (iii) any amounts owed to the Holder pursuant toSection 1.3(g) in addition to this Remedies Upon Default section (collectively, in the aggregate of all of the above, the "Default Amount"), and all other amounts payable hereunder shall immediately become due and payable, all without demand, presentment or notice, all of which hereby are expressly waived, together with all costs, including, without limitation, legal fees and expenses, of collection, and the Holder shall be entitled to exercise all other rights and remedies available at law or in equity.

ARTICLE IV.
MISCELLANEOUS

4.1 Failure or Indulgence Not Waiver. No failure or delay on the part of the Holder in the exercise of any power, right or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such power, right or privilege preclude other or further exercise thereof or of any other right, power or privileges. All rights and remedies existing hereunder are cumulative to, and not exclusive of, any rights or remedies otherwise available.

4.2 Notices. All notices, offers, acceptance and any other acts under this Notice (except payment) shall be in writing, and shall be sufficiently given if delivered to the addressees in person, by e-mail, by FedEx or similar receipted next day delivery, as follows:

If to the Borrower, to:

If to the Company: Digital Brands Group, Inc.
Email: hil@dstld.la
Attention: John "Hil" Davis, CEO

with a copy to:
(which shall not constitute notice) Manatt, Phelps & Phillips LLP
tpoletti@manatt.om
Attention: Thomas J. Poletti

If to Holder: Oasis Capital, LLC
Email: adam@oasis-cap.com
Attention: Adam Long, Managing Partner

with a copy to:
(which shall not constitute notice) Lucosky Brookman, LLP
sbrookman@lucbro.com
Attention: Seth Brookman

4.3 Amendments. This Note and any provision hereof may only be amended by an instrument in writing signed by the Borrower and the Holder. The term "Note" and all reference thereto, as used throughout this instrument, shall mean this instrument as originally executed, or if later amended or supplemented, then as so amended or supplemented.

4.4 Assignability. This Note shall be binding upon the Borrower and its successors and assigns, and shall inure to be the benefit of the Holder and its successors and assigns. Notwithstanding anything to the contrary herein, the rights, interests or obligations of the Borrower hereunder may not be assigned, by operation of law or otherwise, in whole or in part, by the Borrower without the prior signed written consent of the Holder, which consent may be withheld at the sole discretion of the Holder (any such assignment or transfer shall be null and void if the Borrower does not obtain the prior signed written consent of the Holder). This Note or any of the severable rights and obligations inuring to the benefit of or to be performed by Holder hereunder may be assigned by Holder to a third party, in whole or in part, without the need to obtain the Borrower's consent thereto. Each transferee of this Note must be an "accredited investor" (as defined in Rule 501(a) of the Securities Act). Notwithstanding anything in this Note to the contrary, this Note may be pledged as collateral in connection with a bona fide margin account or other lending arrangement.

4.5 Cost of Collection. If default is made in the payment of this Note, the Borrower shall pay the Holder hereof costs of collection, including reasonable attorneys' fees.

4.6 Governing Law. This Note shall be governed by and interpreted in accordance with the laws of the State of New York without regard to the principles of conflicts of law (whether New York or any other jurisdiction).

4.7 Arbitration. Any disputes, claims, or controversies arising out of or relating to this Note, or the transactions, contemplated thereby, or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of this Note to arbitrate, shall be referred to and resolved solely and exclusively by binding arbitration as provided for in the Purchase Agreement. Either party to this Note may, without waiving any remedy under this Note, seek from any federal or state court sitting in the State of New York any interim or provisional relief that is necessary to protect the rights or property of that party, pending the establishment of the arbitral tribunal. The costs and expenses of such arbitration shall be paid by and be the sole responsibility of the Borrower, including but not limited to the Holder's attorneys' fees, and each arbitrator's fees. The arbitrators' decision must set forth a reasoned basis for any award of damages or finding of liability. The arbitrators' decision and award will be made and delivered as soon as reasonably possible and in any case within sixty days' following the conclusion of the arbitration hearing and shall be final and binding on the parties and may be entered by any court having jurisdiction thereof. Notwithstanding the foregoing, the choice of arbitration shall not limit the Holder's exercise of remedies under the Uniform Commercial Code.

4.8 **JURY TRIAL WAIVER. THE BORROWER AND THE HOLDER HEREBY WAIVE A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE OTHER IN RESPECT OF ANY MATTER ARISING OUT OF OR IN CONNECTION WITH THIS NOTE.**

4.9 Certain Amounts. Whenever pursuant to this Note the Borrower is required to pay an amount in excess of the outstanding Principal Amount (or the portion thereof required to be paid at that time) plus accrued and unpaid interest plus Default Interest on such interest, the Borrower and the Holder agree that the actual damages to the Holder from the receipt of cash payment on this Note may be difficult to determine and the amount to be so paid by the Borrower represents stipulated damages and not a penalty and is intended to compensate the Holder in part for loss of the opportunity to convert this Note and to earn a return from the sale of shares of Common Stock acquired

upon conversion of this Note at a price in excess of the price paid for such shares pursuant to this Note. The Borrower and the Holder hereby agree that such amount of stipulated damages is not plainly disproportionate to the possible loss to the Holder from the receipt of a cash payment without the opportunity to convert this Note into shares of Common Stock.

4.10 Remedies. The Borrower acknowledges that a breach by it of its obligations hereunder will cause irreparable harm to the Holder, by vitiating the intent and purpose of the transaction contemplated hereby. Accordingly, the Borrower acknowledges that the remedy at law for a breach of its obligations under this Note will be inadequate and agrees, in the event of a breach or threatened breach by the Borrower of the provisions of this Note, that the Holder shall be entitled, in addition to all other available remedies at law or in equity, and in addition to the penalties assessable herein, to an injunction or injunctions restraining, preventing or curing any breach of this Note and to enforce specifically the terms and provisions thereof, without the necessity of showing economic loss and without any bond or other security being required.

4.11 Section 3(a)(10) Transactions. If at any time while this Note is outstanding, the Borrower enters into a transaction structured in accordance with, based upon, or related or pursuant to, in whole or in part, Section 3(a)(10) of the Securities Act (a "3(a)(10) Transaction"), then a liquidated damages charge of 100% of the outstanding principal balance of this Note at that time, will be assessed and will become immediately due and payable to the Holder, either in the form of cash payment, an addition to the balance of this Note, or a combination of both forms of payment, as determined by the Holder. The damages resulting from such a 3(a)(10) Transaction and the potential sale of shares of the Borrower's capital stock resulting therefrom into the capital markets are difficult if not impossible to quantify. Accordingly, the parties acknowledge that the liquidated damages provision contained in this Section 4.11 are justified. The liquidated damages charge in this Section 4.11 shall be in addition to, and not in substitution of, any of the other rights of the Holder under this Note.

4.12 Usury. If it shall be found that any interest or other amount deemed interest due hereunder violates the applicable law governing usury, the applicable rate of interest due hereunder shall automatically be lowered to equal the maximum rate of interest permitted under applicable law. The Borrower covenants (to the extent that it may lawfully do so) that it shall not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension or usury law or other law which would prohibit or forgive the Borrower from paying all or any portion of the principal of or interest on this Note as contemplated herein, wherever enacted, now or at any time hereafter in force, or which may affect the covenants or the performance of this Note, and the Borrower (to the extent it may lawfully do so) hereby expressly waives all benefits or advantage of any such law, and covenants that it will not, by resort to any such law, hinder, delay or impede the execution of any power herein granted to the Holder, but will suffer and permit the execution of every such as though no such law has been enacted.

4.13 Repayment. Notwithstanding anything to the contrary contained in this Note and provided that the shares underlying this Note have been registered on an effective registration statement with the Securities and Exchange Commission, this Note may be repaid (i) from the Issuance Date until and through the day that falls on the sixty-day anniversary of the Issue Date (the "60 Day Anniversary") at an amount equal to 110% of the aggregate of the outstanding principal balance of the Note and accrued and unpaid interest, (ii) after the 60 Day Anniversary until and through the day that falls on the ninety-day anniversary of the Issue Date (the "90 Day Anniversary") at an amount equal to 115% of the aggregate of the outstanding principal balance of the Note and accrued and unpaid interest and (iii) anytime after the 90 Day Anniversary, 120% of the aggregate of the outstanding principal balance of the Note and accrued and unpaid interest. In order to repay this Note in accordance with the preceding sentence, the Borrower shall provide notice to the Holder 5 business days prior to such respective repayment date, and the Holder must receive such repayment no sooner than 7 business days of the Holder's receipt of the respective repayment notice (the "Repayment Period"). The Holder may convert the Note in whole or in part at any time during the Repayment Period, subject to the terms and conditions of this Note.

4.14 Terms of Future Financings. So long as this Note is outstanding, upon any issuance by the Borrower or any of its Subsidiariesof any Common Stock Equivalents with any term more favorable to the holder of such security or with a term in favor of the holder of such security that was not similarly provided to the Holder in this Note, then the Borrower shall notify the Holder of such additional or more favorable term and such term, at Holder's option and upon written notice to the Borrower, shall become a part of the transaction documents with the Holder. The types of terms contained in another security that may be more favorable to the holder of such security include, but are not limited to, terms addressing conversion discounts, prepayment rate, conversion look back periods, interest rates, original issue discounts, stock sale price, private placement price per share, and warrant coverage.

*** signature page to follow ***

IN WITNESS WHEREOF, Borrower has caused this Note to be signed in its name by its duly authorized officer on the Issue Date.

DIGITAL BRANDS GROUP, INC.

By: /s/ Hil Davis
Name: Hil Davis
Title: Chief Executive Officer

EXHIBIT A
TO SECURED CONVERTIBLE PROMISSORY-- NOTICE OF CONVERSION

The undersigned hereby elects to convert $ _____ amount of this Note (defined below) into that number of shares of Common Stock to be issued pursuant to the conversion of this Note ("Common Stock") as set forth below, of **Digital Brands Group, Inc.** (the "Borrower"), according to the conditions of the secured convertible promissory note of the Borrower dated as of August 27, 2021 (the "Note"), as of the date written below. No fee will be charged to the Holder for any conversion, except for transfer taxes, if any.

Box Checked as to applicable instructions:

☐ The Borrower shall electronically transmit the Common Stock issuable pursuant to this Notice of Conversion to the account of the undersigned or its nominee with DTC through its Deposit Withdrawal Agent Commission system ("DWAC Transfer").

Name of DTC Prime
Broker: Account Number:

☐ The undersigned hereby requests that the Borrower issue a certificate or certificates for the number of shares of Common Stock set forth below (which numbers are based on the Holder's calculation attached hereto) in the name(s) specified immediately below or, if additional space is necessary, on an attachment hereto:

OASIS CAPITAL, LLC
e-mail: adam@oasis-cap.com

Date of Conversion:	_____
Applicable Conversion Price:	$____
Number of Shares of Common Stock to be Issued Pursuant to Conversion of this Note:	_____
Amount of Principal Balance Due remaining Under this Note after this conversion:	_____

OASIS CAPITAL, LLC

By: _____
Name: _____
Title: _____
Date: _____

Exhibit 10.33

EQUITY PURCHASE AGREEMENT

THIS EQUITY PURCHASE AGREEMENT (this "Agreement") is entered into as of August 27, 2021 (the "Execution Date"), by and between Digital Brands Group, Inc., a Delaware corporation (the "Company"), and Oasis Capital, LLC, a Puerto Rico limited liability company (the "Investor").

RECITALS

WHEREAS, the parties desire that, upon the terms and subject to the conditions contained herein, the Company shall issue and sell to the Investor, from time to time as provided herein, and the Investor shall purchase from the Company up to Seventeen Million Five Hundred Thousand Dollars ($17,500,000.00) of the Company's Common Stock (as defined below);

NOW, THEREFORE, in consideration of the mutual covenants contained in this Agreement, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Company and the Investor hereby agree as follows:

ARTICLE I
CERTAIN DEFINITIONS

Section 1.1 RECITALS. The parties acknowledge and agree that the recitals set forth above are true and correct and are hereby incorporated in and made a part of this Agreement.

Section 1.2 DEFINED TERMS. As used in this Agreement, the following terms shall have the following meanings specified or indicated (such meanings to be equally applicable to both the singular and plural forms of the terms defined):

"Agreement" shall have the meaning specified in the preamble hereof.

"Available Amount" means, initially, the Maximum Commitment Amount, which amount shall be reduced by the Investment Amount following each successful Closing, each time the Investor purchases shares of Common Stock pursuant to an Option 1 Put or Option 2 Put.

"Average Daily Trading Volume" shall mean the average trading volume of the Company's Common Stock in the ten (10) Trading Days immediately preceding the respective Put Date.

"Bankruptcy Law" means Title 11, U.S. Code, or any similar federal or state law for the relief of debtors.

"Claim Notice" shall have the meaning specified in Section 9.3(a).

"Clearing Costs" shall mean all of the Investor's broker and Transfer Agent fees.

"Clearing Date" shall be the date on which the Investor receives the Put Shares as DWAC Shares in its brokerage account.

"Closing" shall mean one of the closings of a purchase and sale of shares of Common Stock pursuant to Section 2.3.

"Closing Certificate" shall mean the closing "Officer's Certificate" of the Company in the form of Exhibit B hereto.

"Closing Date" shall mean the date of any Closing hereunder.

"Commitment Period" shall mean the period commencing on the Execution Date, and ending on the earlier of (i) the date on which the Investor shall have purchased Put Shares pursuant to this Agreement equal to the Maximum Commitment Amount, (ii) August 27, 2024, or (iii) written notice of termination by the Company to the Investor (which shall not occur at any time that the Investor holds any of the Put Shares).

"Commitment Shares" means shares of Common Stock issued by the Company to the Investor pursuant to Section 6.5 having an aggregate market value of $350,000, based on the closing sale price per share on the Principal Market on the date prior to issuance.

"Common Stock" shall mean the Company's common stock, $0.0001 par value per share, and any shares of any other class of common stock whether now or hereafter authorized, having the right to participate in the distribution of dividends (as and when declared) and assets (upon liquidation of the Company).

"Common Stock Equivalents" means any securities of the Company or the Subsidiaries which would entitle the holder thereof to acquire at any time Common Stock, including, without limitation, any debt, preferred stock, right, option, warrant or other instrument that is at any time convertible into or exercisable or exchangeable for, or otherwise entitles the holder thereof to receive, Common Stock.

"Company" shall have the meaning specified in the preamble to this Agreement.

"Confidential Information" means any information disclosed by either party to this Agreement, or their affiliates, agents or representatives, to the other party to this Agreement, either directly or indirectly, in writing, orally or by inspection of tangible objects (including, without limitation, documents, formulae, business information, trade secrets, technology, strategies. prototypes, samples, plant and equipment), which may or may not be designated as "Confidential," "Proprietary" or some similar designation. Information communicated orally shall be considered Confidential Information. Confidential Information may also include information disclosed by third parties. Confidential Information shall not, however, include any information which (i) was publicly known and made generally available in the public domain prior to the time of disclosure by the disclosing party; (ii) becomes publicly known and made generally available after disclosure by the disclosing party to the receiving party through no fault, action or inaction of the receiving party; (iii) is already in the possession of the receiving party at the time of disclosure by the disclosing party as shown by the receiving party's files and records immediately prior to the time of disclosure; (iv) is obtained by the receiving party from a third party without a breach of such third party's obligations of confidentiality; (v) is independently developed by the receiving party without use of or reference to the disclosing party's Confidential Information, as shown by documents and other competent evidence in the receiving party's possession; or (vi) is required by law to be disclosed by the receiving party, provided that the receiving party gives the disclosing party prompt written notice of such requirement prior to such disclosure and assistance in obtaining an order protecting the information from public disclosure.

"Current Report" shall have the meaning set forth in Section 6.4.

"Custodian" means any receiver, trustee, assignee, liquidator or similar official under any Bankruptcy Law.

"Damages" shall mean any loss, claim, damage, liability, cost and expense (including, without limitation, reasonable attorneys' fees and disbursements and costs and expenses of expert witnesses and investigation).

"Dispute Period" shall have the meaning specified in Section 9.3(a).

"Disqualification Event" shall have the meaning specified in Section 4.27.

"DTC" shall mean The Depository Trust Company, or any successor performing substantially the same function for the Company.

"DTC/FAST Program" shall mean the DTC's Fast Automated Securities Transfer Program.

"DWAC" shall mean Deposit Withdrawal at Custodian as defined by the DTC.

"DWAC Eligible" shall mean that (a) the Common Stock is eligible at DTC for full services pursuant to DTC's operational arrangements, including, without limitation, transfer through DTC's DWAC system, (b) the Company has been approved (without revocation) by the DTC's underwriting department, (c) the Transfer Agent is approved as an agent in the DTC/FAST Program, (d) the Commitment Shares or Put Shares, as applicable, are otherwise eligible for delivery via DWAC, and (e) the Transfer Agent does not have a policy prohibiting or limiting delivery of the Put Shares or Commitment Shares, as applicable, via DWAC.

"DWAC Shares" means shares of Common Stock that are (i) issued in electronic form, (ii) freely tradable and transferable and without restriction on resale and (iii) timely credited by the Company to the Investor's or its designee's specified DWAC account with DTC under the DTC/FAST Program, or any similar program hereafter adopted by DTC performing substantially the same function.

"Environmental Laws" shall have the meaning set forth in Section 4.14.

"Exchange Act" shall mean the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

"Execution Date" shall have the meaning set forth in the preamble to this Agreement.

"FINRA" shall mean the Financial Industry Regulatory Authority, Inc.

"Floor Price" shall mean $3.00 per share, which shall be adjusted for any reorganization, recapitalization, non-cash dividend, stock split or other similar transaction and, effective upon the consummation of any such reorganization, recapitalization, non-cash dividend, stock split or other similar transaction, the Floor Price shall mean the lower of (i) the adjusted price and (ii) $3.00.

"Indemnified Party" shall have the meaning specified in Section 9.2.

"Indemnifying Party" shall have the meaning specified in Section 9.2.

"Indemnity Notice" shall have the meaning specified in Section 9.3(b).

"Intellectual Property" shall mean all trademarks, trademark applications, trade names, service marks, service mark registrations, service names, patents, patent applications, patent rights, copyrights, inventions, licenses, approvals, government authorizations, trade secrets or other intellectual property rights.

"Investment Amount" shall mean the dollar value equal to the amount of Put Shares referenced in the Put Notice multiplied by the Option 1 Purchase Price or Option 2 Purchase Price (as applicable) minus the Clearing Costs.

"Investor" shall have the meaning specified in the preamble to this Agreement.

"Issuer Covered Person" shall have the meaning specified in Section 4.27.

"Lien" means a lien, charge, pledge, security interest, encumbrance, right of first refusal, preemptive right or any other restriction.

"Material Adverse Effect" shall mean any effect on the business, operations, properties, or financial condition of the Company and/or the Subsidiaries that is material and adverse to the Company and/or the Subsidiaries and/or any condition, circumstance, or situation that would prohibit or otherwise materially interfere with the ability of the Company and/or the Subsidiaries to enter into and/or perform its obligations under any Transaction Document *provided, however,* that "Material Adverse Effect" shall not include any event, occurrence, fact, condition or change, directly or indirectly, arising out of or attributable to: (A) general economic or political conditions, (B) conditions generally affecting the industry in which the Company operates, (C) any changes in financial or securities markets in general, (D) acts of war (whether or not declared), armed hostilities or terrorism, or the escalation or worsening thereof, (E) any pandemic, epidemics or human health crises (including COVID-19), (F) any changes in applicable laws or accounting rules (including generally accepted accounting principles),(G) the announcement, pendency or completion of the transactions contemplated by this Agreement, or (H) any action required or permitted by this Agreement or any action taken (or omitted to be taken) with the written consent of or at the written request of the Investor) and no proceeding has been instituted in any such jurisdiction revoking, limiting or curtailing or seeking to revoke, limit or curtail such power and authority or qualification..

"Maximum Commitment Amount" shall mean Seventeen Million Five Hundred Thousand Dollars ($17,500,000.00).

"Option 1 Maximum Put Amount" shall mean ten percent (10%) of the Average Daily Trading Volume.

"Option 1 Purchase Price" shall mean the lesser of (i) the lowest traded price of the Common Stock on the Principal Market on the Clearing Date, or (ii) the average of the three (3) lowest closing sale prices of the Common Stock on the Principal Market during the Option 1 Valuation Period, as reported by Bloomberg Finance L.P. or other reputable source.

"Option 1 Put" shall mean the right of the Company to require the Investor to purchase shares of Common Stock at the Option 1 Purchase Price, subject to the terms and conditions of this Agreement.

"Option 1 Valuation Period" shall mean the period of twelve (12) consecutive Trading Days immediately preceding the Clearing Date associated with the applicable Put Notice during which the Option 1 Purchase Price of the Common Stock is valued.

"Option 2 Maximum Put Amount" shall mean the lesser of (i) such amount that equals ten percent (10%) of the daily trading volume of the Common Stock on the Put Date, and (ii) Two Million Dollars ($2,000,000.00).

"Option 2 Purchase Price" shall mean the lesser of (i) 93% of the one (1) lowest traded price of the Common Stock on the Principal Market during the Option 2 Valuation Period as reported by Bloomberg Finance L.P. or other reputable source, or (ii) 93% of the VWAP on the Clearing Date, or (iii) 93% of the closing bid price of the Common Stock on the Principal Market on the Clearing Date.

"Option 2 Put" shall mean the right of the Company to require the Investor to purchase shares of Common Stock at the Option 2 Purchase Price, subject to the terms and conditions of this Agreement.

"Option 2 Valuation Period" shall mean the period of five (5) consecutive Trading Days immediately preceding the Put Date associated with the applicable Put Notice during which the Option 2 Purchase Price of the Common Stock is valued.

"Person" shall mean an individual, a corporation, a partnership, an association, a trust or other entity or organization, including a government or political subdivision or an agency or instrumentality thereof.

"Principal Market" shall mean the NASDAQ stock market.

"Put Date" shall mean any Trading Day during the Commitment Period that a Put Notice is deemed delivered pursuant toSection 2.2(b).

"Put Notice" shall mean a written notice, substantially in the form of Exhibit A hereto, addressed to the Investor and setting forth the amount of Put Shares which the Company intends to require the Investor to purchase pursuant to the terms of this Agreement.

"Put Shares" shall mean all shares of Common Stock issued, or that the Company shall be entitled to issue, per any applicable Put Notice in accordance with the terms and conditions of this Agreement.

"Registration Rights Agreement" means that agreement in the form attached hereto asExhibit D.

"Registration Statement" shall have the meaning specified in Section 6.4.

"Regulation D" shall mean Regulation D promulgated under the Securities Act.

"Rule 144" shall mean Rule 144 promulgated under the Securities Act or any similar provision then in force under the Securities Act.

"SEC" shall mean the United States Securities and Exchange Commission.

"SEC Documents" shall have the meaning specified in Section 4.5.

"Securities" means, collectively, the Put Shares and the Commitment Shares.

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

"Short Sales" shall mean all "short sales" as defined in Rule 200 of Regulation SHO under the Exchange Act.

"Subsidiary" or "Subsidiaries" means any Person the Company wholly-owns or controls, or in which the Company, directly or indirectly, owns a majority of the voting stock or similar voting interest, in each case that would be disclosable pursuant to Item 601(b)(21) of Regulation S-K promulgated under the Securities Act.

"Third Party Claim" shall have the meaning specified in Section 9.3(a).

"Trading Day" shall mean a day on which the Principal Market shall be open for business.

"Transaction Documents" shall mean this Agreement, the Registration Rights Agreement and all schedules and exhibits hereto and thereto.

"Transfer Agent" shall mean Vstock Transfer, LLC, the current transfer agent of the Company, and any successor transfer agent of the Company.

"Transfer Agent Instruction Letter" means the letter from the Company to the Transfer Agent which instructs the Transfer Agent to issue the Put Shares and the Commitment Shares pursuant to the Transaction Documents, in the form of Exhibit C attached hereto.

"VWAP" shall mean for any date, the price determined by the first of the following clauses that applies: (a) if the Common Stock is then listed or quoted on a national exchange as included in the term Principal Market, the daily volume weighted average price of the Common Stock for such date (or the nearest preceding date) on such national exchange on which the Common Stock is then listed or quoted for trading as reported by Bloomberg L.P. or Quotestream, a product of QuoteMedia, Inc. (based on a Trading Day from 9:30 a.m. (New York City time) to 4:02 p.m. (New York City time)); (b) if the Common Stock is not then traded on a national exchange, the volume weighted average price of the Common Stock for such date (or the nearest preceding date) on the OTCQX, OTCQB, OTC Pink or OTC Bulletin Board (as applicable); (c) if the Common Stock is not then quoted for trading on the OTCQX, OTCQB, OTC Pink or OTC Bulletin Board and if prices for the Common Stock are then reported in the OTC markets or a similar organization or agency, the most recent bid price per share of the Common Stock so reported that reflects the equivalent of a trading market for the Common Stock; or (d) in all other cases, the fair market value of a share of Common Stock as determined by an independent appraiser selected in good faith by the Investor and reasonably acceptable to the Company.

ARTICLE II

PURCHASE AND SALE OF COMMON STOCK

Section 2.1 PUTS. Upon the terms and conditions set forth herein (including, without limitation, the provisions of Article VII), the Company shall have the right, but not the obligation, to direct the Investor, to process an:

(a) Option 1 Put by its delivery to the Investor of a Put Notice from time to time during the Commitment Period, to purchase Put Shares, provided that notwithstanding any other terms of this Agreement, in each instance, (i) the Investment Amount is not more than the Option 1 Maximum Put Amount for any Option 1 Put, (ii) the aggregate Investment Amount of all Option 1 Puts and Option 2 Puts shall not exceed the Maximum Commitment Amount; (iii) the Trading Day prior to the subject Clearing Date did not have the lowest VWAP of the Common Stock out of the prior ten (10) consecutive Trading Days, (iv) at least two (2) Trading Days have lapsed since the most recent Clearing Date of an Option 1 Put, and (v) the aggregate Investment Amount of the Option 1 Put on any particular Put Date or Clearing Date does not exceed $500,000.00; and

(b) Option 2 Put by its delivery to the Investor of a Put Notice from time to time during the Commitment Period, to purchase Put Shares, provided that notwithstanding any other terms of this Agreement, in each instance, (i) an Option 1 Put has been previously and effectively processed and its Clearing Date is the same day as the Put Notice for the subject Option 2 Put, (ii) the Investment Amount is not more than the Option 2 Maximum Put Amount for any Option 2 Put, (iii) the aggregate Investment Amount of all Option 1 Puts and Option 2 Puts shall not exceed the Maximum Commitment Amount, (iv) the aggregate Investment Amount of Option 2 Put on any particular Put Date or Clearing Date does not exceed $2,000,000.00, and (v) if all shares of Common Stock resulting from prior submitted Put Notices for Option 1 Puts have been delivered.

Section 2.2 MECHANICS.

(a) PUT NOTICE. At any time and from time to time during the Commitment Period, except as provided in this Agreement, the Company may cause an Option 1 Put or an Option 2 Put by delivering a Put Notice to the Investor, subject to satisfaction of the conditions set forth in Section 2.1, Section 7.2 and otherwise provided in this Agreement. The Company shall deliver, or cause to be delivered, the Put Shares as DWAC Shares to the Investor within two (2) Trading Days following the Put Date.

(b) DATE OF DELIVERY OF PUT NOTICE . A Put Notice shall be deemed delivered on (i) the Trading Day it is received by e-mail by the Investor if such notice is received on or prior to 8:30 a.m. EST or (ii) the immediately succeeding Trading Day if it is received by e-mail after 8:30 a.m. EST on a Trading Day or at any time on a day which is not a Trading Day.

Section 2.3 CLOSINGS.

(a) TIMING. The Closing of an Option 1 Put shall occur within one (1) Trading Day following the end of the respective Option 1 Valuation Period, whereby the Investor shall deliver the Investment Amount by wire transfer of immediately available funds to an account designated by the Company. The Closing of an Option 2 Put shall occur within one (1) Trading Day following the Clearing Date, whereby the Investor shall deliver the Investment Amount by wire transfer of immediately available funds to an account designated by the Company. In addition, on or prior to any such Closing, each of the Company and the Investor shall deliver to each other all documents, instruments and writings required to be delivered or reasonably requested by either of them pursuant to this Agreement in order to implement and effect the transactions contemplated herein.

(b) RETURN OF SURPLUS. If the value of the Put Shares delivered to the Investor causes the Company to exceed the Maximum Commitment Amount, then the Investor shall return to the Company the surplus amount of Put Shares associated with such Option 1 Put or Option 2 Put, and the Option 1 Purchase Price or Option 2 Purchase Price with respect to such Option 1 Put or Option 2 Put shall be reduced by any Clearing Costs related to the return of such Put Shares.

(c) RESALES DURING VALUATION PERIOD. The parties acknowledge and agree that during the Option 1 Valuation Period or Option 2 Valuation Period (as applicable), the Investor may contract for, or otherwise effect, the resale of the subject purchased Put Shares to third-parties.

ARTICLE III
REPRESENTATIONS AND WARRANTIES OF INVESTOR

The Investor represents and warrants to the Company that:

Section 3.1 INTENT. The Investor is entering into this Agreement for its own account, and the Investor has no present arrangement (whether or not legally binding) at any time to sell the Securities to or through any Person in violation of the Securities Act or any applicable state securities laws; provided, however, that the Investor reserves the right to dispose of the Securities at any time in accordance with federal and state securities laws applicable to such disposition.

Section 3.2 NO LEGAL ADVICE FROM THE COMPANY . The Investor acknowledges that it has had the opportunity to review this Agreement and the transactions contemplated by this Agreement with its own legal counsel and investment and tax advisors. Except with respect to the representations, warranties and covenants contained in this Agreement, the Investor is relying solely on such counsel and advisors and not on any statements or representations of the Company or any of its representatives or agents for legal, tax or investment advice with respect to this investment, the transactions contemplated by this Agreement or the securities laws of any jurisdiction.

Section 3.3 ACCREDITED INVESTOR. The Investor is an accredited investor as defined in Rule 501(a)(3) of Regulation D, and the Investor has such experience in business and financial matters that it is capable of evaluating the merits and risks of an investment in the Securities. The Investor acknowledges that an investment in the Securities is speculative and involves a high degree of risk.

Section 3.4 AUTHORITY. The Investor has the requisite power and authority to enter into and perform its obligations under this Agreement and the other Transaction Documents and to consummate the transactions contemplated hereby and thereby. The execution and delivery of this Agreement and the other Transaction Documents and the consummation by it of the transactions contemplated hereby and thereby have been duly authorized by all necessary action and no further consent or authorization of the Investor is required. Each Transaction Document to which it is a party has been duly executed by the Investor, and when delivered by the Investor in accordance with the terms hereof, will constitute the valid and binding obligation of the Investor enforceable against it in accordance with its terms, subject to applicable bankruptcy, insolvency, or similar laws relating to, or affecting generally the enforcement of, creditors' rights and remedies or by other equitable principles of general application.

Section 3.5 NOT AN AFFILIATE . the Investor is not an officer, director or, to the Investor's knowledge, an "affiliate" (as such term is defined in Rule 405 of the Securities Act) of the Company.

Section 3.6 ORGANIZATION AND STANDING. The Investor is an entity duly formed, validly existing and in good standing under the laws of the jurisdiction of its formation with full right, limited liability company power and authority to enter into and to consummate the transactions contemplated by this Agreement and the other Transaction Documents.

Section 3.7 ABSENCE OF CONFLICTS. The execution and delivery of this Agreement and the other Transaction Documents, and the consummation of the transactions contemplated hereby and thereby and compliance with the requirements hereof and thereof, will not (a) violate any law, rule, regulation, order, writ, judgment, injunction, decree or award binding on the Investor, (b) violate any provision of any indenture, instrument or agreement to which the Investor is a party or is subject, or by which the Investor or any of its assets is bound, or conflict with or constitute a material default thereunder, (c) result in the creation or imposition of any lien pursuant to the terms of any such indenture, instrument or agreement, or constitute a breach of any fiduciary duty owed by the Investor to any third party, or (d) require the approval of any third-party (that has not been obtained) pursuant to any material contract, instrument, agreement, relationship or legal obligation to which the Investor is subject or to which any of its assets, operations or management may be subject.

Section 3.8 DISCLOSURE; ACCESS TO INFORMATION. The Investor had an opportunity to review copies of the SEC Documents filed on behalf of the Company and has had access to all publicly available information with respect to the Company; provided, however, that the Investor makes no representation or warranty hereunder with respect to any SEC Document and is relying on the representations and warranties of the Company in Article IV with respect to the SEC Documents.

Section 3.9 MANNER OF SALE. At no time was the Investor presented with or solicited by or through any leaflet, public promotional meeting, television advertisement or any other form of general solicitation or advertisement regarding the Securities.

ARTICLE IV
REPRESENTATIONS AND WARRANTIES OF THE COMPANY

The Company represents and warrants to the Investor that, except as set forth in the disclosure schedules hereto that as of the Execution Date and at each Closing Date:

Section 4.1 ORGANIZATION OF THE COMPANY. The Company is a corporation duly incorporated, validly existing and in good standing under the laws of the state of Delaware, with the requisite power and authority to own and use its properties and assets and to carry on its business as currently conducted. Each of the Subsidiaries is an entity duly incorporated or otherwise organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation or organization, with the requisite power and authority to own and use its properties and assets and to carry on its business as currently conducted. Each of the Company and the Subsidiaries is not in violation or default of any of the provisions of its respective certificate or articles of incorporation, bylaws or other organizational or charter documents. Each of the Company and the Subsidiaries is duly qualified to conduct business and is in good standing as a foreign corporation or other entity in each jurisdiction in which the nature of the business conducted or property owned by it makes such qualification necessary, except where the failure to be so qualified or in good standing, as the case may be, could not have or reasonably be expected to result in a Material Adverse Effect and no proceeding has been instituted in any such jurisdiction revoking, limiting or curtailing or seeking to revoke, limit or curtail such power and authority or qualification.

Section 4.2 AUTHORITY. The Company has the requisite corporate power and authority to enter into and perform its obligations under this Agreement and the other Transaction Documents. The execution and delivery of this Agreement and the other Transaction Documents by the Company and the consummation by it of the transactions contemplated hereby and thereby have been duly authorized by all necessary corporate action and no further consent or authorization of the Company or its board of directors or stockholders is required (except as may be required by Principal Market's listing rules). Each of this Agreement and the other Transaction Documents has been duly executed and delivered by the Company and constitutes a valid and binding obligation of the Company enforceable against the Company in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, or similar laws relating to, or affecting generally the enforcement of, creditors' rights and remedies or by other equitable principles of general application.

Section 4.3 CAPITALIZATION. As of the Execution Date, the authorized capital stock of the Company is as set forth in the SEC Documents. Except as set forth in the SEC Documents or on Schedule 4.3, the Company has not issued any capital stock since its most recently filed periodic report under the Exchange Act, other than pursuant to the exercise of employee stock options under the Company's stock option plans, the issuance of shares of Common Stock to employees pursuant to the Company's employee stock purchase plans and pursuant to the conversion and/or exercise of Common Stock Equivalents outstanding as of the date of the most recently filed periodic report under the Exchange Act. No Person has any right of first refusal, preemptive right, right of participation, or any similar right to participate in the transactions contemplated by the Transaction Documents. Except as set forth in the SEC Documents or on Schedule 4.3, and except as a result of the purchase and sale of the Securities, there are no outstanding options, warrants, scrip rights to subscribe to, calls or commitments of any character whatsoever relating to, or securities, rights or obligations convertible into or exercisable or exchangeable for, or giving any Person any right to subscribe for or acquire any shares of Common Stock, or contracts, commitments, understandings or arrangements by which the Company or any Subsidiary is or may become bound to issue additional shares of Common Stock or Common Stock Equivalents. The issuance and sale of the Securities will not obligate the Company to issue shares of Common Stock or other securities to any Person (other than the Investor) and will not result in a right of any holder of Company securities to adjust the exercise, conversion, exchange or reset price under any of such securities. There are no stockholders agreements, voting agreements or other similar agreements with respect to the Company's capital stock to which the Company is a party or, to the knowledge of the Company, between or among any of the Company's stockholders.

Section 4.4 LISTING AND MAINTENANCE REQUIREMENTS. The Common Stock is registered pursuant to Section 12(b) or 12(g) of the Exchange Act, and the Company has taken no action designed to, or which to its knowledge is likely to have the effect of, terminating the registration of the Common Stock under the Exchange Act, nor has the Company received any notification that the SEC is contemplating terminating such registration. Except as set forth on Schedule 4.4(a), the Company has not, in the twelve (12) months preceding the Execution Date, received notice from the Principal Market to the effect that the Company is not in compliance with the listing or maintenance requirements of such Principal Market. Except as set forth on Schedule 4.4(b), the Company is, and has no reason to believe that it will not in the foreseeable future continue to be, in compliance with all such listing and maintenance requirements.

Section 4.5 SEC DOCUMENTS; DISCLOSURE. The Company has filed all reports, schedules, forms, statements and other documents required to be filed by the Company under the Securities Act and the Exchange Act, including pursuant to Section 13(a) or 15(d) thereof, since May 17, 2021(the foregoing materials, including the exhibits thereto and documents incorporated by reference therein, being collectively referred to herein as the "SEC Documents") on a timely basis or has received a valid extension of such time of filing and has filed any such SEC Documents prior to the expiration of any such extension. As of their respective dates, the SEC Documents complied in all material respects with the requirements of the Securities Act and the Exchange Act, as applicable, and other federal laws, rules and regulations applicable to such SEC Documents, and none of the SEC Documents when filed contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading. The financial statements of the Company included in the SEC Documents comply as to form and substance in all material respects with applicable accounting requirements and the published rules and regulations of the SEC or other applicable rules and regulations with respect thereto. Such financial statements have been prepared in accordance with generally accepted accounting principles applied on a consistent basis during the periods involved (except (a) as may be otherwise indicated in such financial statements or the notes thereto or (b) in the case of unaudited

interim statements, to the extent they may not include footnotes or may be condensed or summary statements) and fairly present in all material respects the financial position of the Company as of the dates thereof and the results of operations and cash flows for the periods then ended (subject, in the case of unaudited statements, to normal, immaterial, year- end audit adjustments). The Company maintains a system of internal accounting controls appropriate for its size. There is no transaction, arrangement, or other relationship between the Company and an unconsolidated or other off balance sheet entity that is not disclosed by the Company in its financial statements or otherwise that would be reasonably likely to have a Material Adverse Effect. Except with respect to the material terms and conditions of the transactions contemplated by the Transaction Documents, the Company confirms that neither it nor any other Person acting on its behalf has provided the Investor or its agents or counsel with any information that it believes constitutes or might constitute material, non- public information. The Company understands and confirms that the Investor will rely on the foregoing representation in effecting transactions in securities of the Company.

Section 4.6 VALID ISSUANCES. The Securities are duly authorized and, when issued and paid for in accordance with the applicable Transaction Documents, will be validly issued, fully paid, and non-assessable, free and clear of all Liens imposed by the Company, other than restrictions on transfer provided for in the Transaction Documents and under the Securities Act.

Section 4.7 NO CONFLICTS. The execution, delivery and performance of this Agreement and the other Transaction Documents by the Company, and the consummation by the Company of the transactions contemplated hereby and thereby, including, without limitation, the issuance of the Put Shares and the Commitment Shares, do not and will not: (a) result in a violation of the Company's or any Subsidiary's certificate or articles of incorporation, by-laws or other organizational or charter documents, (b) conflict with, or constitute a material default (or an event that with notice or lapse of time or both would become a material default) under, result in the creation of any Lien upon any of the properties or assets of the Company or any Subsidiary, or give to others any rights of termination, amendment, acceleration or cancellation of, any agreement, indenture, instrument or any "lock-up" or similar provision of any underwriting or similar agreement to which the Company or any Subsidiary is a party, or (c) result in a violation of any federal, state or local law, rule, regulation, order, judgment or decree (including federal and state securities laws and regulations) applicable to the Company or any Subsidiary or by which any property or asset of the Company or any Subsidiary is bound or affected (except for such conflicts, defaults, terminations, amendments, accelerations, cancellations and violations as would not, individually or in the aggregate, have a Material Adverse Effect), nor is the Company otherwise in violation of, conflict with or in default under any of the foregoing. The business of the Company is not being conducted in violation of any law, ordinance or regulation of any governmental entity, except for possible violations that either singly or in the aggregate do not and will not have a Material Adverse Effect. The Company is not required under federal, state or local law, rule or regulation to obtain any consent, authorization or order of, or make any filing or registration with, any court or governmental agency in order for it to execute, deliver or perform any of its obligations under this Agreement or the other Transaction Documents (other than any SEC, FINRA or state securities filings that may be required to be made by the Company in connection with the issuance of the Commitment Shares or subsequent to any Closing or any registration statement that may be filed pursuant hereto); provided that, for purposes of the representation made in this sentence, the Company is assuming and relying upon the accuracy of the relevant representations and agreements of Investor herein.

Section 4.8 NO MATERIAL ADVERSE CHANGE. No event has occurred that would have a Material Adverse Effect on the Company or any Subsidiary that has not been disclosed in subsequent SEC filings.

Section 4.9 LITIGATION AND OTHER PROCEEDINGS. Except as set forth on Schedule 4.9, there are no actions, suits, investigations, inquiries or proceedings pending or, to the knowledge of the Company, threatened against or affecting the Company, any Subsidiary or any of their respective properties, nor has the Company received any written or oral notice of any such action, suit, proceeding, inquiry or investigation, which would have a Material Adverse Effect or would require disclosure under the Securities Act or the Exchange Act. No judgment, order, writ, injunction or decree or award has been issued by or, to the knowledge of the Company, requested of any court, arbitrator or governmental agency which would have a Material Adverse Effect. There has not been, and to the knowledge of the Company, there is not pending or contemplated, any investigation by the SEC involving the Company, any Subsidiary, or any current or former director or officer of the Company or any Subsidiary.

Section 4.10 REGISTRATION RIGHTS. Except as set forth on Schedule 4.10, no Person (other than the Investor) has any right to cause the Company to effect the registration under the Securities Act of any securities of the Company or any Subsidiary.

Section 4.11 INVESTOR'S STATUS. The Company acknowledges and agrees that the Investor is acting solely in the capacity of arm's length purchaser with respect to the Transaction Documents and the transactions contemplated hereby and thereby. The Company further acknowledges that the Investor is not acting as a financial advisor or fiduciary of the Company (or in any similar capacity) with respect to the Transaction Documents and the transactions contemplated hereby and thereby and any advice given by the Investor or any of its representatives or agents in connection with the Transaction Documents and the transactions contemplated hereby and thereby is merely incidental to the Investor's purchase of the Securities. The Company further represents to the Investor that the Company's decision to enter into the Transaction Documents has been based solely on the independent evaluation by the Company and its representatives and advisors.

Section 4.12 NO GENERAL SOLICITATION; NO INTEGRATED OFFERING. Neither the Company, any Subsidiary, nor any of their respective affiliates, nor any Person acting on their behalf, has engaged in any form of general solicitation or general advertising (within the meaning of Regulation D under the Securities Act) in connection with the offer or sale of the Securities. Neither the Company, any Subsidiary, nor any of their respective affiliates, nor any Person acting on their behalf has, directly or indirectly, made any offers or sales of any security or solicited any offers to buy any security, under circumstances that would require registration of the offer and sale of any of the Securities under the Securities Act, whether through integration with prior offerings or otherwise. Upon the receipt of stockholder approval, the issuance and sale of the Securities hereunder will not contravene the rules and regulations of the Principal Market.

Section 4.13 INTELLECTUAL PROPERTY RIGHTS. The Company and each Subsidiary own or possess adequate rights or licenses to use all material trademarks, trade names, service marks, service mark registrations, service names, patents, patent rights, copyrights, inventions, licenses, approvals, governmental authorizations, trade secrets and rights necessary to conduct their respective businesses as now conducted. None of the Company's, nor any Subsidiary's Intellectual Property has expired or terminated, or, by the terms and conditions thereof, could expire or terminate within three years from the date of this Agreement if such expiration or termination could reasonably be expected to have a Material Adverse Effect. The Company does not have any knowledge of any infringement by the Company and/or any Subsidiary of any material Intellectual Property of others, or of any such development of similar or identical trade secrets or technical information by others, and there is no claim, action or proceeding being made or brought against, or to the Company's knowledge, being threatened against, the Company and/or any Subsidiary regarding the infringement of any Intellectual Property, which could reasonably be expected to have a Material Adverse Effect.

Section 4.14 ENVIRONMENTAL LAWS. To the Company's knowledge, the Company and each Subsidiary (i) is in compliance with any and all applicable foreign, federal, state and local laws and regulations relating to the protection of human health and safety, the environment or hazardous or toxic substances or wastes, pollutants or contaminants ("Environmental Laws"), (ii) has received all permits, licenses or other approvals required of it under applicable Environmental Laws to conduct its respective businesses and (iii) is in compliance with all terms and conditions of any such permit, license or approval, except where, in each of the three foregoing clauses, the failure to so comply could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

Section 4.15 TITLE. Except as disclosed in the SEC Documents, the Company and each Subsidiary has good and marketable title in fee simple to all real property owned by it and good and marketable title in all personal property owned by it that is material to the business of the Company and each Subsidiary, in each case free and clear of all Liens and, except for Liens as do not materially affect the value of such property and do not materially interfere with the use made and proposed to be made of such property by the Company or any Subsidiary and Liens for the payment of federal, state or other taxes, the payment of which is neither delinquent nor subject to penalties. Any real property and facilities held under lease by the Company or any Subsidiary is held under valid, subsisting and enforceable leases with which the Company is in compliance with such exceptions as are not material and do not interfere with the use made and proposed to be made of such property and buildings by the Company or any Subsidiary.

Section 4.16 INSURANCE. The Company and each Subsidiary is insured by insurers of recognized financial responsibility against such losses and risks and in such amounts as management of the Company believes to be prudent and customary in the businesses in which the Company and each Subsidiary is engaged. Neither the Company, nor any Subsidiary has been refused any insurance coverage sought or applied for, and the Company has no reason to believe that it or any Subsidiary will not be able to renew its existing insurance coverage as and when such coverage expires or to obtain similar coverage from similar insurers as may be necessary to continue its business at a cost that would not materially and adversely affect the condition, financial or otherwise, or the earnings, business or operations of the Company, taken as a whole.

Section 4.17 REGULATORY PERMITS. The Company and each Subsidiary possesses all material certificates, authorizations and permits issued by the appropriate federal, state or foreign regulatory authorities necessary to conduct its businesses, and neither the Company, nor any Subsidiary has received any notice of proceedings relating to the revocation or modification of any such certificate, authorization or permit.

Section 4.18 TAX STATUS . The Company and each Subsidiary has made or filed all federal and state income and all other material tax returns, reports and declarations required by any jurisdiction to which it is subject (unless and only to the extent that the Company has set aside on its books provisions reasonably adequate for the payment of all unpaid and unreported taxes) and has paid all taxes and other governmental assessments and charges that are material in amount, shown on such returns, reports and declarations, except those being contested in good faith and has set aside on its books provision reasonably adequate for the payment of all taxes for periods subsequent to the periods to which such returns, reports or declarations apply. The Company has not received any notice that there are no unpaid taxes in any material amount claimed to be due by the taxing authority of any jurisdiction, and the officers of the Company know of no basis for any such claim.

Section 4.19 TRANSACTIONS WITH AFFILIATES. Except as set forth in the SEC Documents, none of the officers or directors of the Company or any Subsidiary, and to the knowledge of the Company, none of the employees of the Company or any Subsidiary is presently a party to any transaction with the Company or any Subsidiary (other than for services as employees, officers and directors), including any contract, agreement or other arrangement providing for the furnishing of services to or by, providing for rental of real or personal property to or from, or otherwise requiring payments to or from any officer, director or such employee or, to the knowledge of the Company, any entity in which any officer, director, or any such employee has a substantial interest or is an officer, director, trustee or partner, in each case in excess of the lesser of (i) $120,000 or (ii) one percent of the average of the Company's total assets at year end for the last two completed fiscal years, other than for (i) payment of salary or consulting fees for services rendered, (ii) reimbursement for expenses incurred on behalf of the Company or any Subsidiary and (iii) other employee benefits, including stock option agreements under any stock option plan of the Company.

Section 4.20 APPLICATION OF TAKEOVER PROTECTIONS . The Company and its board of directors have taken or will take prior to the Execution Date all necessary action, if any, in order to render inapplicable any control share acquisition, business combination, poison pill (including any distribution under a rights agreement) or other similar anti-takeover provision under the articles of incorporation or the laws of the state of its incorporation which is or could become applicable to the Investor as a result of the transactions contemplated by this Agreement, including, without limitation, the Company's issuance of the Securities and the Investor's ownership of the Securities.

Section 4.21 FOREIGN CORRUPT PRACTICES. Neither the Company, any Subsidiary, nor to the knowledge of the Company, any agent or other Person acting on behalf of the Company or any Subsidiary, has (i) directly or indirectly, used any funds for unlawful contributions, gifts, entertainment or other unlawful expenses related to foreign or domestic political activity, (ii) made any unlawful payment to foreign or domestic government officials or employees or to any foreign or domestic political parties or campaigns from corporate funds, (iii) failed to disclose fully any contribution made by the Company or any Subsidiary (or made by any Person acting on its behalf of which the Company is aware) which is in violation of law, or (iv) violated in any material respect any provision of the Foreign Corrupt Practices Act of 1977, as amended.

Section 4.22 SARBANES-OXLEY. The Company is in compliance with all provisions of the Sarbanes-Oxley Act of 2002, as amended, which are applicable to it.

Section 4.23 CERTAIN FEES. Except as Set forth on Schedule 4.23, no brokerage or finder's fees or commissions are or will be payable by the Company to any broker, financial advisor or consultant, finder, placement agent, investment banker, bank or other Person with respect to the transactions contemplated by the Transaction Documents. The Investor shall have no obligation with respect to any fees or with respect to any claims made by or on behalf of any Persons for fees of a type contemplated in this Section 4.23 that may be due in connection with the transactions contemplated by the Transaction Documents.

Section 4.24 INVESTMENT COMPANY. The Company is not an "investment company" within the meaning of the Investment Company Act of 1940, as amended.

Section 4.25 ACCOUNTANTS. The Company's accountants are set forth in the SEC Documents and, to the knowledge of the Company, such accountants are an independent registered public accounting firm as required by the Securities Act.

Section 4.26 NO MARKET MANIPULATION. Neither the Company, nor any Subsidiary has, and to its knowledge no Person acting on either of their behalf has, (i) taken, directly or indirectly, any action designed to cause or to result in the stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of any of the Securities, (ii) sold, bid for, purchased, or, paid any compensation for soliciting purchases of, any of the Securities, or (iii) paid or agreed to pay to any Person any compensation for soliciting another to purchase any other securities of the Company.

Section 4.27 NO DISQUALIFICATION EVENTS. None of the Company, any Subsidiary, any of their predecessors, any affiliated issuer, any director, executive officer, other officer of the Company or any Subsidiary participating in the offering contemplated hereby, any beneficial owner of 20% or more of the Company's outstanding voting equity securities, calculated on the basis of voting power, nor any promoter (as that term is defined in Rule 405 under the Securities Act) connected with the Company in any capacity at the time of sale (each, an "Issuer Covered Person") is subject to any of the "Bad Actor" disqualifications described in Rule 506(d)(1) under the Securities Act (a "Disqualification Event"), except for a Disqualification Event covered by Rule 506(d)(2) or (d)(3) under the Securities Act. The Company has exercised reasonable care to determine whether any Issuer Covered Person is subject to a Disqualification Event.

Section 4.28 MONEY LAUNDERING. The Company and each Subsidiary is in compliance with, and has not previously violated, the USA PATRIOT ACT of 2001

and all other applicable U.S. and non-U.S. anti-money laundering laws and regulations, including, but not limited to, the laws, regulations and Executive Orders and sanctions programs administered by the U.S. Office of Foreign Assets Control, including, but not limited, to (i) Executive Order 13224 of September 23, 2001 entitled, "Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism" (66 Fed. Reg. 49079 (2001)); and (ii) any regulations contained in 31 CFR, Subtitle B, Chapter V.

Section 4.29 ILLEGAL OR UNAUTHORIZED PAYMENTS;POLITICAL CONTRIBUTIONS. Neither the Company, nor any Subsidiary has, nor, to the best of the Company's knowledge (after reasonable inquiry of its officers and directors), any of the officers, directors, employees, agents or other representatives of the Company, any Subsidiary or any other business entity or enterprise with which the Company is or has been affiliated or associated, has, directly or indirectly, made or authorized any payment, contribution or gift of money, property, or services, whether or not in contravention of applicable law, (a) as a kickback or bribe to any Person or (b) to any political organization, or the holder of or any aspirant to any elective or appointive public office except for personal political contributions not involving the direct or indirect use of funds of the Company.

Section 4.30 SHELL COMPANY STATUS. The Company is not currently an issuer identified in Rule 144(i)(1)(i) under the Securities Act, is subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act, has filed all reports and other materials required to be filed by Section 13 or 15(d) of the Exchange Act, as applicable during the preceding 12 months, and, as of a date at least one year prior to the Execution Date, has filed current "Form 10 information" with the SEC (as defined in Rule 144(i)(3) of the Securities Act) reflecting its status as an entity that is no longer an issuer described in Rule 144(i)(1)(i) of the Securities Act.

Section 4.31 ABSENCE OF SCHEDULES. In the event that on the Execution Date, the Company does not deliver any disclosure schedule contemplated by this Agreement, the Company hereby acknowledges and agrees that (i) each such undelivered disclosure schedule shall be deemed to read as follows: "Nothing to Disclose", and (ii) the Investor has not otherwise waived delivery of such disclosure schedule.

ARTICLE V
COVENANTS OF INVESTOR

Section 5.1 COMPLIANCE WITH LAW; TRADING IN SECURITIES. The Investor's trading activities with respect to shares of Common Stock will be in compliance with all applicable state and federal securities laws and regulations and the rules and regulations of FINRA and the Principal Market.

Section 5.2 SHORT SALES AND CONFIDENTIALITY. Neither the Investor, nor any affiliate of the Investor acting on its behalf or pursuant to any understanding with it, will execute any Short Sales during the period from the Execution Date to the end of the Commitment Period. For the purposes hereof, and in accordance with Regulation SHO, the sale after delivery of a Put Notice of such number of shares of Common Stock reasonably expected to be purchased under a Put Notice shall not be deemed a Short Sale. The Investor shall, until such time as the transactions contemplated by this Agreement are publicly disclosed by the Company in accordance with the terms of this Agreement, maintain the confidentiality of the existence and terms of this transaction and the information included in the Transaction Documents. The Investor agrees not to disclose any Confidential Information of the Company to any third party, except for attorneys, accountants, advisors who have a need to know such Confidential Information and are bound by confidentiality, and shall not use any Confidential Information for any purpose other than in connection with, or in furtherance of, the transactions contemplated hereby. The Investor acknowledges that the Confidential Information of the Company shall remain the property of the Company and agrees that it shall take all reasonable measures to protect the secrecy of any Confidential Information disclosed by the Company.

ARTICLE VI
COVENANTS OF THE COMPANY

Section 6.1 REMOVED AND RESERVED.

Section 6.2 LISTING OF COMMON STOCK. The Company shall promptly secure the listing of all of the Put Shares and Commitment Shares to be issued to the Investor hereunder on the Principal Market (subject to official notice of issuance) and shall use commercially reasonable best efforts to maintain, so long as any shares of Common Stock shall be so listed, the listing of all such Put Shares and Commitment Shares from time to time issuable hereunder. The Company shall use its commercially reasonable efforts to continue the listing and trading of the Common Stock on the Principal Market (including, without limitation, maintaining sufficient net tangible assets) and will comply in all respects with the Company's reporting, filing and other obligations under the bylaws or rules of FINRA and the Principal Market. The Company shall not take any action that would reasonably be expected to result in the delisting or suspension of the Common Stock on the Principal Market. The Company shall promptly, and in no event later than the following Trading Day, provide to the Investor copies of any notices it receives from any Person regarding the continued eligibility of the Common Stock for listing on the Principal Market. The Company shall pay all fees and expenses in connection with satisfying its obligations under this Section 6.2). The Company shall take all action necessary to ensure that its Common Stock can be transferred electronically as DWAC Shares.

Section 6.3 OTHER EQUITY LINES. So long as this Agreement remains in effect, the Company covenants and agrees that it will not, without the prior written consent of the Investor, enter into any other equity line of credit agreement with any other party, without the Investor's prior written consent, which consent may be granted or withheld in the Investor's sole and absolute discretion.

Section 6.4 FILING OF CURRENT REPORT AND REGISTRATION STATEMENT. The Company agrees that it shall file a Current Report on Form 8-K, including the Transaction Documents as exhibits thereto, with the SEC within the time required by the Exchange Act, relating to the transactions contemplated by, and describing the material terms and conditions of, the Transaction Documents (the "Current Report"). The Company shall permit the Investor to review and comment upon the final pre-filing draft version of the Current Report at least two (2) Trading Days prior to its filing with the SEC, and the Company shall give reasonable consideration to all such comments. The Investor shall use its reasonable best efforts to comment upon the final pre-filing draft version of the Current Report within one (1) Trading Day from the date the Investor receives it from the Company. Pursuant to the terms of the Registration Rights Agreement, the Company shall also file with the SEC, on or before the fifth (5th) day following the Execution Date, a new registration statement on Form S-1 (the "Registration Statement") covering only the resale of the Put Shares and Commitment Shares.

Section 6.5 ISSUANCE OF COMMITMENT SHARES. In consideration for the Investor's execution and delivery of, and performance under this Agreement, the Company shall cause the Transfer Agent to issue the Commitment Shares to the Investor, based on the closing sale price per share on the Principal Market on the trading date prior to issuance (the "Issuance Reference Date"). On the earlier of (i) the date that is 9 months from the Execution Date, and (ii) the date that this Agreement is terminated in accordance with Section 10.6 (the "Reference Date"), if the closing sale price per share on the Principal Market on the trading date preceding the Reference Date is higher than the closing sale price on the Issuance Reference Date, then the Investor shall return to the Company a portion of the Commitment Shares equal to the amount of Commitment Shares required to be issued on the Execution Date minus the amount of Commitment Shares that would have been required to have been issued if the closing sale price per share on the Principal Market on the trading date preceding the Reference Date had been used to calculate the amount of Commitment Shares issuable on the Execution Date. For the avoidance of doubt, all of the Commitment Shares shall be fully earned as of the Execution Date, and the issuance of the Commitment Shares is not contingent upon any other event or condition, including, without limitation, the effectiveness of the Registration Statement or the Company's submission of a Put Notice to the Investor and

irrespective of any termination of this Agreement. The Company shall include on any registration statement filed with the SEC, all Commitment Shares, provided that, in addition to all other remedies at law or in equity or otherwise under this Agreement, failure to do so will result in liquidated damages of $25,000.00, being immediately due and payable to the Investor at its election in the form of cash payment.

Section 6.6 DUE DILIGENCE; CONFIDENTIALITY; NON-PUBLIC INFORMATION. The Investor shall have the right, from time to time as the Investor may reasonably deem appropriate, to perform reasonable due diligence on the Company during normal business hours. The Company, each Subsidiary and their respective officers and employees shall provide information and reasonably cooperate with the Investor in connection with any reasonable request by the Investor related to the Investor's due diligence of the Company. The Company agrees not to disclose any Confidential Information of the Investor to any third party, except for attorneys, accountants, advisors who have a need to know such Confidential Information and are bound by confidentiality, and shall not use any Confidential Information for any purpose other than in connection with, or in furtherance of, the transactions contemplated hereby. The Company acknowledges that the Confidential Information of the Investor shall remain the property of the Investor and agrees that it shall take all reasonable measures to protect the secrecy of any Confidential Information disclosed by the Investor. The Company confirms that neither it nor any other Person acting on its behalf shall provide the Investor or its agents or counsel with any information that constitutes or might constitute material, non-public information, unless a simultaneous public announcement thereof is made by the Company in the manner contemplated by Regulation FD. In the event of a breach of the foregoing covenant by the Company or any Person acting on its behalf (as determined in the reasonable good faith judgment of the Investor), in addition to any other remedy provided herein or in the other Transaction Documents, the Investor shall have the right to make a public disclosure, in the form of a press release, public advertisement or otherwise, of such material, non-public information without the prior approval by the Company; provided the Investor shall have first provided notice to the Company that it believes it has received information that constitutes material, non-public information, and the Company shall have had at least twenty-four (24) hours to publicly disclose such material, non-public information prior to any such disclosure by the Investor, and the Company shall have failed to publicly disclose such material, non-public information within such time period. The Investor shall not have any liability to the Company, any Subsidiary, or any of their respective directors, officers, employees, stockholders, affiliates or agents, for any such disclosure. The Company understands and confirms that the Investor shall be relying on the foregoing covenants in effecting transactions in securities of the Company.

Section 6.6 PURCHASE RECORDS. The Company shall maintain records showing the Available Amount at any given time and the date, Investment Amount and Put Shares for each Option 1 Put or Option 2 Put, contained in the applicable Put Notice.

Section 6.7 TAXES. The Company shall pay any and all transfer, stamp or similar taxes that may be payable with respect to the issuance and delivery of any shares of Common Stock to the Investor made under this Agreement.

Section 6.8 USE OF PROCEEDS. The Company will use the net proceeds from the offering of Put Shares hereunder in the manner described in the Registration Statement or the SEC Documents.

Section 6.9 OTHER TRANSACTIONS. The Company shall not enter into, announce or recommend to its stockholders any agreement, plan, arrangement or transaction in or of which the terms thereof would restrict, materially delay, conflict with or impair the ability or right of the Company to perform its obligations under the Transaction Documents, including, without limitation, the obligation of the Company to deliver the Put Shares and the Commitment Shares to the Investor in accordance with the terms of the Transaction Documents.

Section 6.12 [Intentionally Omitted.]

Section 6.13 TRANSACTION DOCUMENTS. On the Execution Date, the Company shall deliver to the Investor executed copies of all of the Transaction Documents.

ARTICLE VII
CONDITIONS TO DELIVERY OF PUT NOTICES AND CONDITIONS TO CLOSING

Section 7.1 CONDITIONS PRECEDENT TO THE RIGHT OF THE COMPANY TO ISSUE AND SELL PUT SHARES. The right of the Company to issue and sell the Put Shares to the Investor is subject to the satisfaction of each of the conditions set forth below:

(a) ACCURACY OF INVESTOR'S REPRESENTATIONS AND WARRANTIES. The representations and warranties of the Investor shall be true and correct in all material respects as of the Execution Date and as of the date of each Closing as though made at each such time.

(b) DELIVERY OF DOCUMENTS. The Investor shall have executed each of the Transaction Documents and delivered the same to the Company.

(c) REGISTRATION STATEMENT. The Company shall not have the right to issue any Put Shares if, as of the date of the Closing for such issuance and sale, the Registration Statement, and any amendment or supplement thereto, shall fail to be and remain effective for the resale by the Investor of the Put Shares and Commitment Shares.

Section 7.2 CONDITIONS PRECEDENT TO THE OBLIGATION OF INVESTOR TO PURCHASE PUT SHARES. The obligation of the Investor hereunder to purchase Put Shares is subject to the satisfaction of each of the following conditions:

(a) REGISTRATION STATEMENT. The Registration Statement, and any amendment or supplement thereto, shall be and remain effective for the resale by the Investor of the Put Shares and the Commitment Shares and (i) neither the Company nor the Investor shall have received notice that the SEC has issued or intends to issue a stop order with respect to such Registration Statement or that the SEC otherwise has suspended or withdrawn the effectiveness of such Registration Statement, either temporarily or permanently, or intends or has threatened to do so and (ii) no other suspension of the use of, or withdrawal of the effectiveness of, such Registration Statement or related prospectus shall exist. The Company shall have prepared and filed with the SEC a final and complete prospectus (the preliminary form of which shall be included in the Registration Statement) and shall have delivered to the Investor a true and complete copy thereof. Such prospectus shall be current and available for the resale by the Investor of all of the Securities covered thereby.

(b) ACCURACY OF THE COMPANY'S REPRESENTATIONS AND WARRANTIES. The representations and warranties of the Company shall be true and correct in all material respects as of the Execution Date and as of the date of each Closing (except for representations and warranties under the first sentence of Section 4.3, which are specifically made as of the Execution Date and shall be true and correct in all respects as of the Execution Date).

(c) PERFORMANCE BY THE COMPANY. The Company shall have performed, satisfied and complied in all material respects with all covenants, agreements and conditions required by this Agreement to be performed, satisfied or complied with by the Company.

(d) NO INJUNCTION. No statute, rule, regulation, executive order, decree, ruling or injunction shall have been enacted, entered, promulgated or adopted by any

court or governmental authority of competent jurisdiction that prohibits or directly and materially adversely affects any of the transactions contemplated by the Transaction Documents, and no proceeding shall have been commenced that may have the effect of prohibiting or materially adversely affecting any of the transactions contemplated by the Transaction Documents.

(e) ADVERSE CHANGES. Since the date of filing of the Company's most recent SEC Document, no event that had or is reasonably likely to have a Material Adverse Effect has occurred.

(f) NO SUSPENSION OF TRADING IN OR DELISTING OF COMMON STOCK. The trading of the Common Stock shall not have been suspended by the SEC, the Principal Market or FINRA, or otherwise halted for any reason, and the Common Stock shall have been approved for listing or quotation on and shall not have been delisted from the Principal Market. In the event of a suspension, delisting, or halting for any reason, of the trading of the Common Stock, as contemplated by this Section 7.2(f), the Investor shall have the right to return to the Company any remaining amount of Put Shares associated with such Option 1 Put or Option 2 Put, and the Option 1 Purchase Price or Option 2 Purchase Price (as applicable) with respect to such Option 1 Put or Option 2 Put shall be reduced accordingly.

(g) BENEFICIAL OWNERSHIP LIMITATION; SHAREHOLDER APPROVAL LIMITATION . As of the date of the Closing for such issuance and sale, the number of Put Shares to be purchased by the Investor shall not exceed the number of such shares that, when aggregated with all other shares of Common Stock then owned by the Investor beneficially or deemed beneficially owned by the Investor, would result in the Investor owning more than (i) the Beneficial Ownership Limitation (as defined below), as determined in accordance with Section 16 of the Exchange Act and the regulations promulgated thereunder, or (ii) the Shareholder Approval Limitation, unless shareholder approval shall have been obtained in respect of the transactions contemplated by this Agreement in accordance with the Principal Market's listing rules. For purposes of this Section 7.2(g), in the event that the amount of Common Stock outstanding, as determined in accordance with Section 16 of the Exchange Act and the regulations promulgated thereunder, is greater on a Closing Date than on the date upon which the Put Notice associated with such Closing Date is given, the amount of Common Stock outstanding on such Closing Date shall govern for purposes of determining whether the Investor, when aggregating all purchases of Common Stock made pursuant to this Agreement, would own more than the Beneficial Ownership Limitation following such Closing Date. The "Beneficial Ownership Limitation" shall be 9.99% of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock issuable pursuant to a Put Notice. The "Shareholder Approval Limitation" shall be 19.99% of the number of shares of the Common Stock outstanding as of the date hereof immediately after giving effect to the issuance of shares of Common Stock issuable pursuant to a Put Notice.

(h) NO KNOWLEDGE. The Company shall have no knowledge of any event more likely than not to have the effect of causing the Registration Statement to be suspended or otherwise ineffective (which event is more likely than not to occur within the fifteen (15) Trading Days following the Trading Day on which such Put Notice is deemed delivered). The Company shall have no knowledge of any untrue statement (or alleged untrue statement) of a material fact or omission (or alleged omission) of a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, in the Registration Statement, any effective registration statement filed pursuant to the Registration Rights Agreement or any post-effective amendment or prospectus which is a part of the foregoing, unless the Company has filed an amendment with the SEC or taken such other.

(i) SHAREHOLDER APPROVAL REQUIREMENT . To the extent the issuance of the Put Shares requires shareholder approval under the listing rules of the Principal Market, the Company has or will seek such approval.

(j) OFFICER'S CERTIFICATE. On the date of delivery of each Put Notice, the Investor shall have received the Closing Certificate executed by an executive officer of the Company and to the effect that all the conditions to such Closing shall have been satisfied as of the date of each such certificate.

(k) DWAC ELIGIBLE. The Common Stock must be DWAC Eligible and not subject to a "DTC chill."

(l) SEC DOCUMENTS. All reports, schedules, registrations, forms, statements, information and other documents required to have been filed by the Company with the SEC pursuant to the reporting requirements of the Exchange Act (other than Forms 8-K) shall have been filed with the SEC within the applicable time periods prescribed for such filings under the Exchange Act.

(m) TRANSFER AGENT INSTRUCTION LETTER. The Transfer Agent Instruction Letter shall have been executed and delivered by the Company to the Transfer Agent and acknowledged and agreed to in writing by the Transfer Agent, and the Company shall have no knowledge of any fact or circumstance that would prevent the Transfer Agent from complying with the terms of the Transfer Agent Instruction Letter.

(n) BROKER APPROVAL. The Put Shares and Commitment Shares shall have been approved for deposit to the account of the Investor's prime broker with the Depository Trust Company system.

(o) MINIMUM PRICING. The lowest traded price of the Common Stock in the five (5) Trading Days immediately preceding the respective Put Date must exceed the Floor Price.

(p) NO VIOLATION. No statute, regulation, order, guidance, decree, writ, ruling or injunction shall have been enacted, entered, promulgated, threatened or endorsed by any federal, state, local or foreign court or governmental authority of competent jurisdiction, including, without limitation, the SEC, which prohibits the consummation of or which would materially modify or delay any of the transactions contemplated by the Transaction Documents.

(q) LEGAL OPINION. The Company shall cause to be delivered to the Investor a written opinion of counsel reasonably satisfactory to the Investor, in form and substance reasonably satisfactory to the Investor and its counsel, relating to the availability and effectiveness of the Registration Statement, as supplemented by any prospectus supplement or amendment thereto, and regarding the Company's compliance with the Delaware Statutes and the federal securities laws of the United States in the issuance, sale and registration of the Put Shares and Commitment Shares.

ARTICLE VIII
LEGENDS

Section 8.1 NO RESTRICTIVE STOCK LEGEND. No restrictive stock legend shall be placed on the share certificates representing the Put Shares.

Section 8.2 INVESTOR'S COMPLIANCE. Nothing in this Article VIII shall affect in any way the Investor's obligations hereunder to comply with all applicable securities laws upon the sale of the Common Stock.

ARTICLE IX

Section 9.1 NOTICES. All notices, demands, requests, consents, approvals, and other communications required or permitted hereunder shall be in writing and, unless otherwise specified herein, shall be (a) personally served, (b) deposited in the mail, registered or certified, return receipt requested, postage prepaid, (c) delivered by reputable air courier service with charges prepaid, or (d) transmitted by hand delivery, telegram, or e-mail as a PDF, addressed as set forth below or to such other address as such party shall have specified most recently by written notice given in accordance herewith. Any notice or other communication required or permitted to be given hereunder shall be deemed effective (i) upon hand delivery or delivery by e-mail at the address designated below (if delivered on a business day during normal business hours where such notice is to be received), or the first business day following such delivery (if delivered other than on a business day during normal business hours where such notice is to be received) or (ii) on the second business day following the date of mailing by express courier service or on the fifth business day after deposited in the mail, in each case, fully prepaid, addressed to such address, or upon actual receipt of such mailing, whichever shall first occur.

The addresses for such communications shall be:

If to the Company:

Digital Brands Group, Inc.
1400 Lavaca Street
Austin, TX 78701
Attention: Hil Davis
E-mail: hil@dstld.la
Phone:

With a copy (which shall not constitute notice) to:

Manatt, Phelps & Phillips LLP
Attention: Thomas J. Poletti
E-mail: tpoletti@manatt.com

If to the Investor:

Oasis Capital, LLC
411 Dorado BCH E
Dorado PR 00646
E-mail: adam@oasis-cap.com
Attention: Adam Long, Managing Partner

with a copy to (that shall not constitute notice)

Lucosky Brookman LLP
101 Wood Avenue South
Woodbridge, NJ 08830
E-mail: sbrookman@lucbro.com
Attention: Seth Brookman

Either party hereto may from time to time change its address or e-mail for notices under this Section 9.1 by giving at least ten (10) days' prior written notice of such changed address to the other party hereto.

Section 9.2 INDEMNIFICATION. Each party hereto (an "Indemnifying Party") agrees to indemnify and hold harmless the other party along with its officers, directors, employees, and authorized agents and representatives, and each Person or entity, if any, who controls such party within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act or the rules and regulations thereunder (an "Indemnified Party") from and against any and all Damages, joint or several, and any and all actions in respect thereof to which the Indemnified Party becomes subject to, resulting from, arising out of or relating to (i) any misrepresentation, breach of warranty or nonfulfillment of or failure to perform any covenant or agreement on the part of the Indemnifying Party contained in this Agreement, (ii) any untrue statement or alleged untrue statement of a material fact contained in the Registration Statement, any registration statement pursuant to the Registration Rights Agreement or any post-effective amendment thereof or supplement thereto, or the omission or alleged omission therefrom of a material fact required to be stated therein or necessary to make the statements therein not misleading, (iii) any untrue statement or alleged untrue statement of a material fact contained in any preliminary prospectus or contained in the final prospectus (as amended or supplemented, if the Company files any amendment thereof or supplement thereto with the SEC) or the omission or alleged omission to state therein any material fact necessary to make the statements made therein, in the light of the circumstances under which the statements therein were made, not misleading, or (iv) any violation or alleged violation by the Company of the Securities Act, the Exchange Act, any state securities law or any rule or regulation under the Securities Act, the Exchange Act or any state securities law, as such Damages are incurred, except to the extent such Damages result primarily from the Indemnified Party's failure to perform any covenant or agreement contained in this Agreement or the Indemnified Party's negligence, recklessness, fraud, willful misconduct or bad faith in performing its obligations under this Agreement; provided, however, that the foregoing indemnity agreement shall not apply to any Damages of an Indemnified Party to the extent, but only to the extent, arising out of or based upon any untrue statement or alleged untrue statement or omission or alleged omission made by an Indemnifying Party in reliance upon and in conformity with written information furnished to the Indemnifying Party by the Indemnified Party expressly for use in the Registration Statement, any post- effective amendment thereof or supplement thereto, or any preliminary prospectus or final prospectus (as amended or supplemented).

Section 9.3 METHOD OF ASSERTING INDEMNIFICATION CLAIMS . All claims for indemnification by any Indemnified Party under Section 9.2 shall be asserted and resolved as follows:

In the event any claim or demand in respect of which an Indemnified Party might seek indemnity under Section 9.2 is asserted against or sought to be collected from such Indemnified Party by a Person other than a party hereto or an affiliate thereof (a "Third Party Claim"), the Indemnified Party shall deliver a written notification, enclosing a copy of all papers served, if any, and specifying the nature of and basis for such Third Party Claim and for the Indemnified Party's claim for indemnification that is being asserted under any provision of Section 9.2 against an Indemnifying Party, together with the amount or, if not then reasonably ascertainable, the estimated amount, determined in good faith, of such Third Party Claim (a "Claim Notice") with reasonable promptness to the Indemnifying Party. If the Indemnified Party fails to provide the Claim Notice

with reasonable promptness after the Indemnified Party receives notice of such Third Party Claim, the Indemnifying Party shall not be obligated to indemnify the Indemnified Party with respect to such Third Party Claim to the extent that the Indemnifying Party's ability to defend has been prejudiced by such failure of the Indemnified Party. The Indemnifying Party shall notify the Indemnified Party as soon as practicable within the period ending thirty (30) calendar days following receipt by the Indemnifying Party of either a Claim Notice or an Indemnity Notice (as defined below) (the "Dispute Period") whether the Indemnifying Party disputes its liability or the amount of its liability to the Indemnified Party under Section 9.2 and whether the Indemnifying Party desires, at its sole cost and expense, to defend the Indemnified Party against such Third Party Claim.

(i) If the Indemnifying Party notifies the Indemnified Party within the Dispute Period that the Indemnifying Party desires to defend the Indemnified Party with respect to the Third Party Claim pursuant to this Section 9.3(a), then the Indemnifying Party shall have the right to defend, with counsel reasonably satisfactory to the Indemnified Party, at the sole cost and expense of the Indemnifying Party, such Third Party Claim by all appropriate proceedings, which proceedings shall be vigorously and diligently prosecuted by the Indemnifying Party to a final conclusion or will be settled at the discretion of the Indemnifying Party (but only with the consent of the Indemnified Party in the case of any settlement that provides for any relief other than the payment of monetary damages or that provides for the payment of monetary damages as to which the Indemnified Party shall not be indemnified in full pursuant to Section 9.2). The Indemnifying Party shall have full control of such defense and proceedings, including any compromise or settlement thereof; provided, however, that the Indemnified Party may, at the sole cost and expense of the Indemnified Party, at any time prior to the Indemnifying Party's delivery of the notice referred to in the first sentence of this clause (i), file any motion, answer or other pleadings or take any other action that the Indemnified Party reasonably believes to be necessary or appropriate to protect its interests; and provided, further, that if requested by the Indemnifying Party, the Indemnified Party will, at the sole cost and expense of the Indemnifying Party, provide reasonable cooperation to the Indemnifying Party in contesting any Third Party Claim that the Indemnifying Party elects to contest. The Indemnified Party may participate in, but not control, any defense or settlement of any Third Party Claim controlled by the Indemnifying Party pursuant to this clause (i), and except as provided in the preceding sentence, the Indemnified Party shall bear its own costs and expenses with respect to such participation. Notwithstanding the foregoing, the Indemnified Party may take over the control of the defense or settlement of a Third Party Claim at any time if it irrevocably waives its right to indemnity under Section 9.2 with respect to such Third Party Claim.

(ii) If the Indemnifying Party fails to notify the Indemnified Party within the Dispute Period that the Indemnifying Party desires to defend the Third Party Claim pursuant to this Section 9.3(a), or if the Indemnifying Party gives such notice but fails to prosecute vigorously and diligently or settle the Third Party Claim, or if the Indemnifying Party fails to give any notice whatsoever within the Dispute Period, then the Indemnified Party shall have the right to defend, at the sole cost and expense of the Indemnifying Party, the Third Party Claim by all appropriate proceedings, which proceedings shall be prosecuted by the Indemnified Party in a reasonable manner and in good faith or will be settled at the discretion of the Indemnified Party(with the consent of the Indemnifying Party, which consent will not be unreasonably withheld). The Indemnified Party will have full control of such defense and proceedings, including any compromise or settlement thereof; provided, however, that if requested by the Indemnified Party, the Indemnifying Party will, at the sole cost and expense of the Indemnifying Party, provide reasonable cooperation to the Indemnified Party and its counsel in contesting any Third Party Claim which the Indemnified Party is contesting. Notwithstanding the foregoing provisions of this clause (ii), if the Indemnifying Party has notified the Indemnified Party within the Dispute Period that the Indemnifying Party disputes its liability or the amount of its liability hereunder to the Indemnified Party with respect to such Third Party Claim and if such dispute is resolved in favor of the Indemnifying Party in the manner provided in clause (iii) below, the Indemnifying Party will not be required to bear the costs and expenses of the Indemnified Party's defense pursuant to this clause (ii) or of the Indemnifying Party's participation therein at the Indemnified Party's request, and the Indemnified Party shall reimburse the Indemnifying Party in full for all reasonable costs and expenses incurred by the Indemnifying Party in connection with such litigation. The Indemnifying Party may participate in, but not control, any defense or settlement controlled by the Indemnified Party pursuant to this clause (ii), and the Indemnifying Party shall bear its own costs and expenses with respect to such participation.

(iii) If the Indemnifying Party notifies the Indemnified Party that it does not dispute its liability or the amount of its liability to the Indemnified Party with respect to the Third Party Claim under Section 9.2 or fails to notify the Indemnified Party within the Dispute Period whether the Indemnifying Party disputes its liability or the amount of its liability to the Indemnified Party with respect to such Third Party Claim, the amount of Damages specified in the Claim Notice shall be conclusively deemed a liability of the Indemnifying Party under Section 9.2 and the Indemnifying Party shall pay the amount of such Damages to the Indemnified Party on demand. If the Indemnifying Party has timely disputed its liability or the amount of its liability with respect to such Third Party Claim, the Indemnifying Party and the Indemnified Party shall proceed in good faith to negotiate a resolution of such dispute; provided, however, that if the dispute is not resolved within thirty (30) days after the Claim Notice, the Indemnifying Party shall be entitled to institute such legal action as it deems appropriate.

(b) In the event any Indemnified Party should have a claim under Section 9.2 against the Indemnifying Party that does not involve a Third Party Claim, the Indemnified Party shall deliver a written notification of a claim for indemnity under Section 9.2 specifying the nature of and basis for such claim, together with the amount or, if not then reasonably ascertainable, the estimated amount, determined in good faith, of such claim (an "Indemnity Notice") with reasonable promptness to the Indemnifying Party. The failure by any Indemnified Party to give the Indemnity Notice shall not impair such party's rights hereunder except to the extent that the Indemnifying Party demonstrates that it has been irreparably prejudiced thereby. If the Indemnifying Party notifies the Indemnified Party that it does not dispute the claim or the amount of the claim described in such Indemnity Notice or fails to notify the Indemnified Party within the Dispute Period whether the Indemnifying Party disputes the claim or the amount of the claim described in such Indemnity Notice, the amount of Damages specified in the Indemnity Notice will be conclusively deemed a liability of the Indemnifying Party under Section 9.2 and the Indemnifying Party shall pay the amount of such Damages to the Indemnified Party on demand. If the Indemnifying Party has timely disputed its liability or the amount of its liability with respect to such claim, the Indemnifying Party and the Indemnified Party shall proceed in good faith to negotiate a resolution of such dispute; provided, however, that if the dispute is not resolved within thirty (30) days after the Claim Notice, the Indemnifying Party shall be entitled to institute such legal action as it deems appropriate.

(c) The Indemnifying Party agrees to pay the Indemnified Party, promptly as such expenses are incurred and are due and payable, for any reasonable legal fees or other reasonable expenses incurred by them in connection with investigating or defending any such Claim. To extent that the Company has made any periodic payments pursuant to the foregoing sentence, and there is a later final and binding determination that the Company was not liable in respect of the related indemnification obligations hereunder, there shall be a corresponding increase in the Option 1 Purchase Price or Option 2 Purchase Price, as the case may be, until such time as any such payments are reimbursed in full to the Company.

(d) The indemnity provisions contained herein shall be in addition to (i) any cause of action or similar rights of the Indemnified Party against the Indemnifying Party or others, and (ii) any liabilities the Indemnifying Party may be subject to.

ARTICLE X
MISCELLANEOUS

Section 10.1 GOVERNING LAW. This Agreement shall be governed by and interpreted in accordance with the laws of the State of New York without regard to the principles of conflicts of law (whether of the State of New York or any other jurisdiction).

Section 10.2 ARBITRATION. Any disputes, claims, or controversies arising out of or relating to the Transaction Documents, or the transactions, contemplated thereby, or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of this Agreement to arbitrate, shall be referred to and resolved solely and exclusively by binding arbitration to be conducted before the Judicial Arbitration and Mediation Service ("JAMS"), or its successor pursuant the

expedited procedures set forth in the JAMS Comprehensive Arbitration Rules and Procedures (the "Rules"), including Rules 16.1 and 16.2 of those Rules. The arbitration shall be held in New York, New York, before a tribunal consisting of three (3) arbitrators each of whom will be selected in accordance with the "strike and rank" methodology set forth in Rule 15. Either party to this Agreement may, without waiving any remedy under this Agreement, seek from any federal or state court sitting in the Southern District of New York any interim or provisional relief that is necessary to protect the rights or property of that party, pending the establishment of the arbitral tribunal. The costs and expenses of such arbitration shall be paid by and be the sole responsibility of the Company, including but not limited to the Investor's attorneys' fees and each arbitrator's fees. The arbitrators' decision must set forth a reasoned basis for any award of damages or finding of liability. The arbitrators' decision and award will be made and delivered as soon as reasonably possibly and in any case within sixty (60) days' following the conclusion of the arbitration hearing and shall be final and binding on the parties and may be entered by any court having jurisdiction thereof.

Section 10.3 JURY TRIAL WAIVER. THE COMPANY AND THE INVESTOR HEREBY WAIVE A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE OTHER IN RESPECT OF ANY MATTER ARISING OUT OF OR IN CONNECTION WITH THE TRANSACTION DOCUMENTS.

Section 10.4 ASSIGNMENT. This Agreement shall be binding upon and inure to the benefit of the Company and the Investor and their respective successors. Neither this Agreement nor any rights of the Investor or the Company hereunder may be assigned by either party to any other Person.

Section 10.5 NO THIRD PARTY BENEFICIARIES. This Agreement is intended for the benefit of the Company and the Investor and their respective successors, and is not for the benefit of, nor may any provision hereof be enforced by, any other Person, except as set forth in Article IX.

Section 10.6 TERMINATION. At any time after the effectiveness of the Registration Statement, the Company shall have the option to terminate this Agreement for any reason or for no reason by delivering written notice (a "Company Termination Notice") to the Investor electing to terminate this Agreement without any liability whatsoever of any party to any other party under this Agreement (except as set forth below). The Company Termination Notice shall not be effective until one business day after it has been received by the Investor, provided that this Agreement cannot be terminated (i) while the Investor holds any Put Shares and (ii) prior to the expiration of the Registration Period (as defined in the Registration Rights Agreement). In addition, this Agreement shall automatically terminate on the earlier of (i) the end of the Commitment Period; (ii) the date that the Company sells and the Investor purchases the Maximum Commitment Amount; or (iii) the date in which the Registration Statement is no longer effective, or (iv) the date that, pursuant to or within the meaning of any Bankruptcy Law, the Company commences a voluntary case or any Person commences a proceeding against the Company, a Custodian is appointed for the Company or for all or substantially all of its property or the Company makes a general assignment for the benefit of its creditors. Notwithstanding the foregoing, in the event of termination of this Agreement, the provisions of Articles III, IV, V, VI, IX and the agreements and covenants of the Company and the Investor set forth in this Article X shall survive the termination of this Agreement for the maximum length of time allowed under applicable law.

Section 10.7 ENTIRE AGREEMENT. The Transaction Documents, together with the exhibits and schedules thereto, contain the entire understanding of the Company and the Investor with respect to the matters covered herein and therein and supersede all prior agreements and understandings, oral or written, with respect to such matters, which the parties acknowledge have been merged into such documents, exhibits and schedules.

Section 10.8 FEES AND EXPENSES. Except as expressly set forth in the Transaction Documents or any other writing to the contrary, each party shall pay the fees and expenses of its advisers, counsel, accountants and other experts, if any, and all other expenses incurred by such party incident to the negotiation, preparation, execution, delivery and performance of this Agreement. The Company shall pay all Transfer Agent fees, stamp taxes and other taxes and duties levied in connection with the delivery of any Securities to the Investor. The Company shall pay $25,000 to the Investor on the Execution Date for reimbursement of the Investor's transaction fees relating to the preparation of the Transaction Documents.

Section 10.9 COUNTERPARTS. This Agreement may be executed in multiple counterparts, each of which may be executed by less than all of the parties and shall be deemed to be an original instrument which shall be enforceable against the parties actually executing such counterparts and all of which together shall constitute one and the same instrument. This Agreement may be delivered to the other parties hereto by e-mail of a copy of this Agreement bearing the signature of the parties so delivering this Agreement.

Section 10.10 SEVERABILITY. In the event that any provision of this Agreement becomes or is declared by a court of competent jurisdiction to be illegal, unenforceable or void, this Agreement shall continue in full force and effect without said provision; provided that such severability shall be ineffective if it materially changes the economic benefit of this Agreement to any party.

Section 10.11 FURTHER ASSURANCES. Each party shall do and perform, or cause to be done and performed, all such further acts and things, and shall execute and deliver all such other agreements, certificates, instruments and documents, as the other party may reasonably request in order to carry out the intent and accomplish the purposes of this Agreement and the consummation of the transactions contemplated hereby.

Section 10.12 NO STRICT CONSTRUCTION. The language used in this Agreement will be deemed to be the language chosen by the parties to express their mutual intent, and no rules of strict construction will be applied against any party.

Section 10.13 EQUITABLE RELIEF. Each party acknowledges that a breach by it of its obligations hereunder will cause irreparable harm to the other by vitiating the intent and purpose of the transaction contemplated hereby. Accordingly, each party acknowledges that the remedy at law for a breach of its obligations under this Agreement will be inadequate and agrees, in the event of a breach or threatened breach by the such party of the provisions of this Agreement, that the other party shall be entitled, in addition to all other available remedies at law or in equity, and in addition to the penalties assessable herein, to an injunction or injunctions restraining, preventing or curing any breach of this Agreement and to enforce specifically the terms and provisions hereof, without the necessity of showing economic loss and without any bond or other security being required.

Section 10.14 TITLE AND SUBTITLES. The titles and subtitles used in this Agreement are used for the convenience of reference and are not to be considered in construing or interpreting this Agreement.

Section 10.15 AMENDMENTS; WAIVERS. No provision of this Agreement may be amended or waived by the parties from and after the date that is one (1) Trading Day immediately preceding the initial filing of the Registration Statement with the SEC. Subject to the immediately preceding sentence, (i) no provision of this Agreement may be amended other than by a written instrument signed by both parties hereto and (ii) no provision of this Agreement may be waived other than in a written instrument signed by the party against whom enforcement of such waiver is sought. No failure or delay in the exercise of any power, right or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such power, right or privilege preclude other or further exercise thereof or of any other right, power or privilege

Section 10.16 PUBLICITY. The Company and the Investor shall consult with each other in issuing any press releases or otherwise making public statements with

respect to the transactions contemplated hereby and no party shall issue any such press release or otherwise make any such public statement, other than as required by law, without the prior written consent of the other parties, which consent shall not be unreasonably withheld or delayed, except that no prior consent shall be required if such disclosure is required by law, in which such case the disclosing party shall provide the other party with prior notice of such public statement. Notwithstanding the foregoing, the Company shall not publicly disclose the name of the Investor without the prior written consent of the Investor, except to the extent required by law. The Investor acknowledges that this Agreement and all or part of the Transaction Documents may be deemed to be "material contracts," as that term is defined by Item 601(b)(10) of Regulation S-K, and that the Company may therefore be required to file such documents as exhibits to reports or registration statements filed under the Securities Act or the Exchange Act. The Investor further agrees that the status of such documents and materials as material contracts shall be determined solely by the Company, in consultation with its counsel.

** Signature Page Follows **

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed by their respective officers thereunto duly authorized as of the Execution Date.

DIGITAL BRANDS GROUP, INC.

By: /s/ Hil Davis
Name: Hil Davis
Title: CEO

OASIS CAPITAL, LLC

By: /s/ Adam Long
Name: Adam Long
Title: Managing Partner

** Signature Page to Equity Purchase Agreement **

EXHIBIT A

FORM OF PUT NOTICE

TO: OASIS CAPITAL, LLC
DATE: _____

We refer to the Equity Purchase Agreement, dated August 27, 2021 (the "Agreement"), entered into by and between Digital Brands Group, Inc. and you. Capitalized terms defined in the Agreement shall, unless otherwise defined herein, have the same meaning when used herein.

We hereby:

1) Give you notice that we require you to purchase _____ Put Shares pursuant to an [ ] Option 1 Put or [ ] Option 2 Put; and

2) The purchase price per share, pursuant to the terms of the Agreement, is _____; and

3) Certify that, as of the date hereof, the conditions set forth in Section 7.2 of the Agreement are satisfied.

DIGITAL BRANDS GROUP, INC.

By: _____
Name:
Title:

EXHIBIT B

FORM OF OFFICER'S CERTIFICATE
OF
DIGITAL BRANDS GROUP, INC.

Pursuant to Section 7.2(j) of that certain equity purchase agreement, dated August 27, 2021 (the "Agreement"), by and between Digital Brands Group, Inc. (the "Company") and Oasis Capital, LLC (the "Investor"), the undersigned, in his capacity as Chief Executive Officer of the Company, and not in his individual capacity, hereby certifies, as of the date hereof (such date, the "Condition Satisfaction Date"), the following:

1. The representations and warranties of the Company contained in the Agreement are true and correct in all material respects as of the Condition Satisfaction Date as though made on the Condition Satisfaction Date (except for representations and warranties specifically made as of a particular date) with respect to all periods, and as to all events and circumstances occurring or existing to and including the Condition Satisfaction Date, except for any conditions which have temporarily caused any representations or warranties of the Company set forth in the Agreement to be incorrect and which have been corrected with no continuing impairment to the Company or the

Investor; and

2. All of the conditions precedent to the obligation of the Investor to purchase Put Shares set forth in the Agreement, including but not limited to Section 7.2 of the Agreement, have been satisfied as of the Condition Satisfaction Date.

Capitalized terms used herein shall have the meanings set forth in the Agreement unless otherwise defined herein.

IN WITNESS WHEREOF, the undersigned has hereunto affixed his hand as _____.

By: _____
Name:
Title:

EXHIBIT C

FORM OF TRANSFER AGENT
INSTRUCTION LETTER

[OMITTED]

EXHIBIT D

FORM OF REGISTRATION RIGHTS AGREEMENT

[OMITTED]

DISCLOSURE SCHEDULES

[OMITTED]

Exhibit 10.34

AMENDED AND RESTATED SECURITIES PURCHASE AGREEMENT

This Amended and Restated Securities Purchase Agreement (this "Agreement") is dated as of October 1, 2021, between Digital Brands Group, Inc. a Delaware corporation (the "Company"), Oasis Capital, LLC ("Oasis") and FirstFire Global Opportunities Fund, LLC ("FirstFire" and together with Oasis, individually each a "Purchaser" and collectively the "Purchasers").

WHEREAS, subject to the terms and conditions set forth in this Agreement and pursuant to an exemption from the registration requirements of Section 5 of the Securities Act contained in Section 4(a)(2) thereof and/or Rule 506(b) thereunder, the Company desires to issue and sell to the Purchasers, and the Purchasers desire to purchase from the Company, securities of the Company as more fully described in this Agreement.

NOW, THEREFORE, IN CONSIDERATION of the mutual covenants contained in this Agreement, and for other good and valuable consideration the receipt and adequacy of which are hereby acknowledged, the Company and the Purchasers agree as follows:

ARTICLE I.
DEFINITIONS

1.1 Definitions. For the purposes of this Agreement, the following words and phrases have the meanings set forth in this Section 1.1:

"Acquiring Person" shall have the meaning ascribed to such term in Section 4.5.

"Action" shall have the meaning ascribed to such term in Section 3.1(j).

"Affiliate" means any Person that, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with a Person as such terms are used in and construed under Rule 405 under the Securities Act.

"Board of Directors" means the board of directors of the Company.

"Closing" means each closing of the purchase and sale of the Securities pursuant to Section 2.1.

"Closing Date" means, as applicable, the Initial Closing Date or any Subsequent Closing Date.

"Closing Price" means, for any date, the price determined by the first of the following clauses that applies: (a) if the Common Stock is then listed or quoted on a Trading Market, the closing price of the Common Stock for such date (or the nearest preceding date) on the Trading Market on which the Common Stock is then listed or quoted as reported by Bloomberg L.P. (based on a Trading Day from 9:30 a.m. (New York City time) to 4:02 p.m. (New York City time)) (or a similar organization or agency succeeding to its functions of reporting prices), or (b) in all other cases, the fair market value of a share of Common Stock as determined by the Board of Directors of the Company.

"Common Stock" means the shares ofcommon 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.

"Common Stock Equivalents" means any securities of the Company or the Subsidiaries which would entitle the holder thereof to acquire Common Stock at any time, including, without limitation, any debt, preferred stock, right, option, warrant or other instrument that is at any time convertible into or exercisable or exchangeable for, or otherwise entitles the holder thereof to receive, Common Stock.

"Conversion Price" shall have the meaning ascribed to it in the Note.

"Disqualification Event" shall have the meaning ascribed to such term in Section 3.1(jj).

"Environmental Laws" shall have the meaning ascribed to such term in Section 3.1(m).

"Evaluation Date" shall have the meaning ascribed to such term in Section 3.1(s).

"Exchange Act" means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

"Exempt Issuance" means the issuance of (a) shares of Common Stock (ordinary shares) or options to employees, officers or directors of the Company, pursuant to any stock or option plan duly adopted for such purpose by the Board of Directors, (b) securities issuable pursuant to existing agreements, exercisable or exchangeable for or convertible into shares of Common Stock issued and outstanding on the date of this Agreement, provided that such securities have not been amended since the date of this Agreement to increase the number of such securities or to decrease the exercise price, exchange price or conversion price of such securities (other than in connection with stock dividends, stock splits or combinations) or to extend the term of such securities, (c) securities issued pursuant to acquisitions or strategic transactions approved by a majority of the directors of the Company, provided that any such issuance shall only be to a Person (or to the equity holders of a Person) which is, itself or through its subsidiaries, an operating company or an owner of an asset in a business synergistic with the business of the Company and shall provide to the Company additional benefits in addition to the investment of funds, but shall not include a transaction in which the Company is issuing securities primarily for the purpose of raising capital or to an entity whose primary business is investing in securities, or (d) securities issued for bonafide services provided to the Company not for the purpose of raising capital or to an entity whose primary business is investing in securities.

"FCPA" means the Foreign Corrupt Practices Act of 1977.

"GAAP" shall have the meaning ascribed to such term in Section 3.1(h).

"Governmental Authority" means any federal, state, local or foreign government or political subdivision thereof, or any agency or instrumentality of such government or political subdivision, or any self-regulated organization or other non-governmental regulatory authority or quasi-governmental authority (to the extent that the rules, regulations or orders of such organization or authority have the force of Laws), or any arbitrator, court or tribunal of competent jurisdiction.

"Hazardous Materials" shall have the meaning ascribed to such term in Section 3.1(m).

"Indebtedness" shall have the meaning ascribed to such term in Section 3.1(aa).

"Initial 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 applicable Purchaser's obligations to pay the Subscription Amount and (ii) the Company's obligations to deliver the Securities to be issued and sold, in each case, have been satisfied or waived.

"Intellectual Property" means all of the following in any jurisdiction throughout the world: (a) all inventions (whether patentable or unpatentable and whether or not reduced to practice), all improvements thereto, and all U.S. and foreign patents, patent applications, and patent disclosures, together with all reissuances, continuations, continuations-in-part, revisions, extensions, and reexaminations thereof, (b) all trademarks, service marks, brand names, certification marks, trade dress, logos, trade names, domain names, assumed names and corporate names, together with all colorable imitations thereof, and including all goodwill associated therewith, and all applications, registrations, and renewals in connection therewith, (c) all copyrights, and all applications, registrations, and renewals in connection therewith, (d) all trade secrets under applicable state laws and the common law and know-how (including formulas, techniques, technical data, designs, drawings, specifications, customer and supplier lists, pricing and cost information, and business and marketing plans and proposals), (e) all computer software (including source code, object code, diagrams, data and related documentation), and (f) all copies and tangible embodiments of the foregoing (in whatever form or medium).

"Issuer Covered Person" shall have the meaning ascribed to such term in Section 3.1(jj).

"Laws" means any U.S. federal, state, local, foreign or other laws, rules regulations, guidelines, orders, injunctions, building and other codes, ordinances, permits, licenses, authorizations, judgements, decrees of federal, state, local, foreign or other authorities, and all orders, writs, decrees and consents of any governmental or political subdivision or agency thereof, or any court of similar tribunal established by any such governmental or political subdivision or agency thereof.

"Liens" means a lien, charge, pledge, security interest, encumbrance, right of first refusal, preemptive right or other restriction.

"Material Adverse Effect" shall have the meaning assigned to such term in Section 3.1(b).

"Material Permits" shall have the meaning ascribed to such term in Section 3.1(n).

"Money Laundering Laws" shall have the meaning ascribed to such term in Section 3.1(oo).

"Note" mean each Senior Secured Convertible Note issued to the Purchasers, in the form ofExhibit A attached hereto, which bear interest at the rate of**6%** per annum, which for the avoidance of doubt includes the Note in the principal amount of $5,265,000, dated as of August 27, 2021, registered in the name of Oasis

"Person" means an individual or corporation, partnership, trust, incorporated or unincorporated association, joint venture, limited liability company, joint stock company, government (or an agency or subdivision thereof) or other entity of any kind.

"Proceeding" means an action, claim, suit, investigation or proceeding (including, without limitation, an informal investigation or partial proceeding, such as a deposition), whether commenced or threatened.

"Public Information Failure" shall have the meaning ascribed to such term in Section 4.2(b).

"Purchaser Party" shall have the meaning ascribed to such term in Section 4.8.

"Registration Rights Agreement" means the agreement in the form, and together with the RRA Joinder, attached hereto asExhibit C.

"Regulation FD" means Regulation FD promulgated by the SEC pursuant to the Exchange Act, as such Regulation may be amended or interpreted from time to time, or any similar rule or regulation hereafter adopted by the SEC having substantially the same purpose and effect as such Regulation.

"Required Approvals" shall have the meaning ascribed to such term in Section 3.1(e).

"Reserve Ratio" shall have the meaning ascribed to such term in Section 4.9.

"RRA Joinder" means that certain Joinder Agreement to the Registration Rights Agreement included in the form attached hereto asExhibit C.

"Rule 144" means Rule 144 promulgated by the SEC pursuant to the Securities Act, as such Rule may be amended or interpreted from time to time, or any similar rule or regulation hereafter adopted by the SEC (or similar United States law) having substantially the same purpose and effect as such Rule.

"SA Joinder" means that certain Joinder Agreement to the Security Agreement included in the form attached hereto asExhibit B.

"SEC" means the United States Securities and Exchange Commission.

"SEC Reports" shall have the meaning ascribed to such term in Section 3.1(h).

"Securities" means the Note and the Shares.

"Securities Act" means the Securities Act of 1933, and the rules and regulations promulgated thereunder.

"Security Agreement" means the agreement in the form, and together with the SA Joinder, attached hereto asExhibit B.

"Shares" means the Common Stock issuable upon conversion of the Note.

"Short Sales" means all "short sales" as defined in Rule 200 of Regulation SHO under the Exchange Act (but shall not be deemed to include the location and/or reservation of borrowable shares of Common Stock).

"Subscription Amount" means, as to the applicable Purchaser, the aggregate amount to be paid for the Securities purchased hereunder as specified the applicable

Purchaser's name on the signature page of this Agreement and next to the heading.

"Subsequent 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 applicable Purchaser's obligations to pay the Subscription Amount and (ii) the Company's obligations to deliver the Securities to be issued and sold, in each case, have been satisfied or waived.

"Subsidiary" means with respect to any entity at any date, any direct or indirect corporation, limited or general partnership, limited liability company, trust, estate, association, joint venture or other business entity of which (A) more than 50% of (i) the outstanding capital stock having (in the absence of contingencies) ordinary voting power to elect a majority of the Board of Directors or other managing body of such entity, (ii) in the case of a partnership or limited liability company, the interest in the capital or profits of such partnership or limited liability company or (iii) in the case of a trust, estate, association, joint venture or other entity, the beneficial interest in such trust, estate, association or other entity business is, at the time of determination, owned or controlled directly or indirectly through one or more intermediaries, by such entity, or (B) is under the actual control of the Company.

"Subsidiary Guarantee" means that certain guarantee, in a form acceptable to the Purchasers, executed by each of the Company's Subsidiaries, Harper & Jones, LLC and Bailey 44, LLC.

"Subsidiary Security Agreement" means that certain security agreement in a form acceptable to the Purchasers, executed by each of the Company's Subsidiaries, Harper & Jones, LLC and Bailey 44, LLC.

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

"Trading Market" means any of the following markets or exchanges on which the Common Stock is listed or quoted for trading on the date in question: the Nasdaq Capital Market, the Nasdaq Global Market, the Nasdaq Global Select Market, the New York Stock Exchange, and the NYSE American (or any successors to any of the foregoing).

"Transaction Documents" means this Agreement, the Note, the Registration Rights Agreement, the Security Agreement, the Subsidiary Guarantee, and the Subsidiary Security Agreement, and any other documents or agreements executed in connection with the transactions contemplated hereunder.

"Transfer Agent" means Vstock Transfer, LLC and a facsimile number of 646-536-3179, and any successor transfer agent of the Company.

"Variable Rate Transaction" shall have the meaning ascribed to such term in Section 4.16(a).

"VWAP" means, for any date, the price determined by the first of the following clauses that applies: (a) if the Common Stock is then listed or quoted on a Trading Market, the daily volume weighted average price of the Common Stock for such date (or the nearest preceding date) on the Trading Market on which the Common Stock is then listed or quoted as reported by Bloomberg L.P. (based on a Trading Day from 9:30 a.m. (New York City time) to 4:02 p.m. (New York City time)) (or a similar organization or agency succeeding to its functions of reporting prices), (b) if no volume weighted average price of the Common Stock can be ascertained from the Trading Market, the average closing price of the Common Stock during the 10 Trading Days preceding such date, or (c) in all other cases, the fair market value of a share of Common Stock as determined by the Board of Directors of the Company.

ARTICLE II.
PURCHASE AND SALE

2.1 Closings.

(a) Initial Closing. Subject to the terms and conditions set forth herein, the Company agreed to sell, and Oasis agreed to purchase a Note having a face value of **$5,265,000** for a total purchase price of **$5,000,000**. Oasis delivered to the Company, via wire transfer immediately available funds equal to Oasis' Subscription Amount as set forth on the signature page hereto executed by Oasis, and the Company delivered to Oasis a Note pursuant to Sections 2.2(a), and the Company and Oasis delivered the other items set forth in Sections 2.2(b) deliverable at the Initial Closing. Following satisfaction of the covenants and conditions set forth in Sections 2.2 and 2.3, the Initial Closing occurred on August 27, 2021 at the offices of Oasis' counsel or such other location as the parties mutually agreed.

(b) Subsequent Closing. Subject to the terms and conditions set forth herein, the Company agrees to sell, and FirstFire agrees to purchase a Note having a face value of **$1,575,000** for a total purchase price of **$1,500,000**. FirstFire shall deliver to the Company, via wire transfer immediately available funds equal to FirstFire's Subscription Amount as set forth on the signature page hereto executed by FirstFire, and the Company shall deliver to FirstFire a Note pursuant to Sections 2.2(c), and the Company and FirstFire shall deliver the other items set forth in Sections 2.2(d) deliverable at the Subsequent Closing. Upon satisfaction of the covenants and conditions set forth in Sections 2.2 and 2.3, the Subsequent Closing shall occur at the offices of FirstFire's counsel or such other location as the parties shall mutually agree.

2.2 Deliveries.

(a) On or prior to the Initial Closing Date, the Company delivered or caused to be delivered to Oasis the following:

(i) the Securities Purchase Agreement dated August 27, 2021 duly executed by the Company;

(ii) an original Note in the principal amount of $**5,265,000**, convertible at the Conversion Price, registered in the name of Oasis;

(iii) a reservation letter executed by the Company's Transfer Agent and the Company;

(iv) the Security Agreement dated August 27, 2021 duly executed by the Company;

(v) the Subsidiary Guarantee dated August 27, 2021 duly executed by each of Harper & Jones, LLC and Bailey 44, LLC.

(vi) the Subsidiary Security Agreement dated August 27, 2021 duly executed by each of Harper & Jones, LLC and Bailey 44, LLC.

(vii) the Registration Rights Agreement dated August 27, 2021 duly executed by the Company;

(viii) a Board Consent approving the issuance of the Note and the execution of the Transaction Documents on behalf of the Company; and

(ix) the Company provided Oasis with the Company's wire instructions in writing.

(b) On or prior to the Subsequent Closing Date, Oasis delivered or caused to be delivered to the Company the following:

(i) the Securities Purchase Agreement dated August 27, 2021 duly executed by Oasis;

(ii) the Security Agreement dated August 27, 2021 duly executed by Oasis;

(iii) the Subsidiary Security Agreement dated August 27, 2021 duly executed by Oasis;

(iv) the Registration Rights Agreement dated August 27, 2021 duly executed by Oasis; and

(v) Oasis' Subscription Amount of $5,000,000 by wire transfer to the Company.

(c) On or prior to the Subsequent Closing Date following the date hereof, the Company shall deliver or cause to be delivered to FirstFire the following:

(vi) this Agreement duly executed by the Company and Oasis;

(vii) an original Note in the principal amount of $**1,575,000**, convertible at the Conversion Price, registered in the name of FirstFire;

(viii) a reservation letter executed by the Company's Transfer Agent and the Company in the form attached asExhibit D;

(ix) the Security Agreement and SA Joinder duly executed by the Company and Oasis;

(x) the amendment to the Subsidiary Guarantee duly executed by each of Harper & Jones, LLC and Bailey 44, LLC.

(xi) the joinder to the Subsidiary Security Agreement duly executed by each of Harper & Jones, LLC and Bailey 44, LLC.

(xii) the Registration Rights Agreement and RRA Joinder duly executed by the Company and Oasis;

(xiii) a Board Consent approving the issuance of the Note and the execution of the Transaction Documents on behalf of the Company in the form attached as Exhibit E; and

(xiv) the Company shall have provided FirstFire with the Company's wire instructions in writing.

(d) On or prior to the Subsequent Closing Date, FirstFire shall deliver or cause to be delivered to the Company the following:

(xv) this Agreement duly executed by FirstFire;

(xvi) the SA Joinder duly executed by FirstFire;

(xvii) the joinder to Subsidiary Security Agreement duly executed by FirstFire;

(xviii) the RRA Joinder duly executed by FirstFire; and

(xix) FirstFire's Subscription Amount of $1,500,000 by wire transfer to the Company.

2.3 Closing Conditions.

(a) The obligations of the Company hereunder in connection with each Closing are subject to the following conditions being met:

(i) the accuracy in all material respects (or, to the extent representations or warranties are qualified by materiality or Material Adverse Effect, in all respects) on the applicable Closing Date of the representations and warranties of the applicable Purchaser contained herein (unless as of a specific date therein in which case they shall be accurate as of such date);

(ii) all obligations, covenants and agreements of the applicable Purchaser required to be performed at or prior to the Closing Date shall have been performed (or a waiver obtained with respect thereto); and

(iii) the delivery by the applicable Purchaser of the items set forth in Section 2.2 as applicable, of this Agreement.

(b) The respective obligations of the Purchaser hereunder in connection with each Closing are subject to the following conditions being met:

(i) the accuracy in all respects (or, to the extent representations or warranties are qualified by materiality or Material Adverse Effect, in all respects) when made and on the applicable Closing Date of the representations and warranties of the Company contained herein (unless as of a specific date therein);

(ii) all obligations, covenants and agreements of the Company required to be performed at or prior to the applicable Closing Date shall have been performed (or a waiver obtained with respect thereto);

(iii) the delivery by the Company of the items set forth in Sections 2.2, as applicable, 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 applicable Closing Date trading in the Common Stock shall not have been suspended by the SEC or the Company's principal Trading Market, and, at any time prior to the applicable 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 the Purchaser, makes it impracticable or inadvisable to purchase the Securities at the applicable Closing.

ARTICLE III.
REPRESENTATIONS AND WARRANTIES

3.1 Representations and Warranties of the Company. The Company hereby makes the following representations and warranties to the Purchasers which representations and warranties shall be true and correct as of the date hereof:

(a) Subsidiaries. All of the direct and indirect Subsidiaries of the Company are set forth in its SEC filings and/or on Schedule 3.1(a). Except as set forth in its SEC filings and/or on Schedule 3.1(a), the Company owns, directly or indirectly, all of the capital stock or other equity interests of each Subsidiary free and clear of any Liens, and all of the issued and outstanding shares of capital stock of each Subsidiary are validly issued and are fully paid, non-assessable and free of preemptive and similar rights to subscribe for or purchase securities.

(b) Organization and Qualification. Except as set forth in its SEC filings and/or on Schedule 3.1(b), the Company and each of the Subsidiaries is an entity duly incorporated or otherwise organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation or organization, with the requisite power and authority to own and use its properties and assets and to carry on its business as currently conducted. Neither the Company nor any Subsidiary is in violation nor default of any of the provisions of its respective formation document, bylaws or other organizational or charter documents. Each of the Company and the Subsidiaries is duly qualified to conduct business and is in good standing as a foreign corporation or other entity in each jurisdiction in which the nature of the business conducted or property owned by it makes such qualification necessary, except where the failure to be so qualified or in good standing, as the case may be, could not have or reasonably be expected to result in: (i) a Material Adverse Effect on the legality, validity or enforceability of any Transaction Document, (ii)a material adverse effect on the results of operations, assets, business, or financial condition of the Company and the Subsidiaries, taken as a whole, or (ii) a material adverse effect on the Company's ability to perform in any material respect on a timely basis its obligations under any Transaction Document (any of (i) or (ii), a "Material Adverse Effect"; *provided, however,* that "Material Adverse Effect" shall not include any event, occurrence, fact, condition or change, directly or indirectly, arising out of or attributable to: (A) general economic or political conditions, (B) conditions generally affecting the industry in which the Company operates, (C) any changes in financial or securities markets in general, (D) acts of war (whether or not declared), armed hostilities or terrorism, or the escalation or worsening thereof, (E) any pandemic, epidemics or human health crises (including COVID-19), (F) any changes in applicable laws or accounting rules (including GAAP), (G) the announcement, pendency or completion of the transactions contemplated by this Agreement, or (H) any action required or permitted by this Agreement or any action taken (or omitted to be taken) with the written consent of or at the written request of the Purchasers) and no Proceeding has been instituted in any such jurisdiction revoking, limiting or curtailing or seeking to revoke, limit or curtail such power and authority or qualification.

(c) Authorization; Enforcement. The Company has the requisite corporate power and authority to enter into and to consummate the transactions contemplated by this Agreement and each of the other Transaction Documents and otherwise to carry out its obligations hereunder and thereunder. The execution and delivery of this Agreement and each of the other Transaction Documents by the Company and the consummation by it of the transactions contemplated hereby and thereby have been duly authorized by all necessary action on the part of the Company and no further action is required by the Company, the Board of Directors or the Company's shareholders in connection herewith or therewith other than in connection with the Required Approvals. Subject to obtaining the Required Approvals, this Agreement and each other Transaction Document to which it is a party has been (or upon delivery will have been) duly executed by the Company and, when delivered in accordance with the terms hereof and thereof, will constitute the valid and binding obligation of the Company enforceable against the Company in accordance with its terms, except (i) as limited by general equitable principles and applicable bankruptcy, insolvency, reorganization, moratorium and other Laws of general application affecting enforcement of creditors' rights generally, (ii) as limited by Laws relating to the availability of specific performance, injunctive relief or other equitable remedies and (iii) insofar as indemnification and contribution provisions may be limited by applicable law.

(d) No Conflicts. Except as set forth in its SEC filings and/or in Schedule 3.1(d), the execution, delivery and performance by the Company of this Agreement and the other Transaction Documents to which it is a party, the issuance and sale of the Securities and the consummation by it of the transactions contemplated hereby and thereby do not and will not, subject to the Required Approvals, (i) conflict with or violate any provision of the Company's or any Subsidiary's formation documents, bylaws or other organizational or charter documents, (ii) constitute a default (or an event that with notice or lapse of time or both would become a default) under, result in the creation of any Lien upon any of the properties or assets of the Company or any Subsidiary, or give to others any rights of termination, amendment, acceleration or cancellation (with or without notice, lapse of time or both) of, any agreement, credit facility, debt or other instrument (evidencing a Company or Subsidiary debt or otherwise) or other understanding to which the Company or any Subsidiary is a party or by which any property or asset of the Company or any Subsidiary is bound or affected, or (iii) conflict with or result in a violation of any law, rule, regulation, order, judgment, injunction, decree or other restriction of any court or governmental authority to which the Company or a Subsidiary is subject (including federal and state securities Laws and regulations), or by which any property or asset of the Company or a Subsidiary is bound or affected; except in the case of each of clauses (ii) and (iii), such as could not have or reasonably be expected to result in a Material Adverse Effect.

(e) Filings, Consents and Approvals. Except as set forth in its SEC filings and/or on Schedule 3.1(e), the Company is not required to obtain any consent, waiver, authorization or order of, give any notice to, or make any filing or registration with, any court or other federal, state, local or other governmental authority or other Person in connection with the execution, delivery and performance by the Company of the Transaction Documents, other than: (i) the filings required pursuant to Section 4.4 of this Agreement, (ii) application(s) to each applicable Trading Market for the listing of the Shares for trading thereon in the time and manner required thereby, and (iii) such filings as are required to be made under applicable state or federal securities Laws (collectively, the "Required Approvals").

(f) Issuance of the Securities. The Note and Shares are duly authorized and, when issued and paid for in accordance with the applicable Transaction Documents, will be duly and validly issued, fully paid and nonassessable, free and clear of all Liens imposed by the Company. The Shares, when issued upon conversion of the Note, will be validly issued, fully paid and nonassessable, free and clear of all Liens imposed by the Company. The Company shall reserve from its duly authorized capital stock a number of shares of Common Stock issuable pursuant to the Note equal to the amount set forth in Section 4.9.

(g) Capitalization. The capitalization of the Company is as set forth in its SEC filings and/or on Schedule 3.1(g). The Company has not issued any capital stock since its most recently filed periodic report under the Exchange Act, other than as set forth in its SEC filings and/or on Schedule 3.1(g), pursuant to the exercise of employee stock awards under the Company's equity incentive plans, the issuance of shares of Common Stock to employees pursuant to the Company's employee stock purchase plans, the issuance of shares of Common Stock or Common Stock Equivalents pursuant to agreements outstanding as of the date of the most recently filed periodic report under the Exchange Act and pursuant to the conversion and/or exercise of Common Stock Equivalents outstanding as of the date of the most recently filed periodic report under the Exchange Act. No Person has any right of first refusal, preemptive right, right of participation, or any similar right to participate in the transactions contemplated by the Transaction Documents. Except as set forth in its SEC filings and/or on Schedule 3.1(g), there are no outstanding options, warrants, scrip rights to subscribe to, calls or commitments of any character whatsoever relating to, or securities, rights or obligations convertible into or exercisable or exchangeable for, or giving any Person any right to subscribe for or acquire, any shares of Common Stock or the capital stock of any Subsidiary, or contracts, commitments, understandings or arrangements by which the Company or any Subsidiary is or may become bound to issue additional shares of Common Stock or Common Stock Equivalents or capital stock of any Subsidiary. The issuance and sale of the Securities will not obligate the Company or any Subsidiary to issue shares of Common Stock or other securities to any Person (other than the Purchasers) and will not result in a right of any holder of Company Securities to adjust the exercise, conversion, exchange or reset price under any of such securities. There are no outstanding securities or instruments of the Company or any Subsidiary that contain any redemption or similar provisions, and there are no contracts, commitments, understandings or arrangements by which the Company or any Subsidiary is or may become bound to redeem a security of the Company or such Subsidiary. The Company does not have any stock appreciation rights or "phantom stock" plans or agreements or any similar plan or agreement. All of the outstanding shares of capital stock of the Company are duly authorized, validly issued, fully paid and nonassessable, have been issued in compliance with all federal and state securities Laws, and none of such outstanding shares was issued in violation of any preemptive rights or similar rights to subscribe for or purchase securities. Other than the Required Approvals, no further approval or authorization of any stockholder, the Board of Directors or others is required for the issuance and sale of the Securities. There are no shareholders agreements, voting agreements or other similar agreements with respect to the Company's capital stock to which the Company is a party or, to the knowledge of the Company, between or among any of the Company's shareholders.

(h) SEC Reports; Financial Statements. To the Company's knowledge, since May 17, 2021 the Company has filed all reports, schedules, forms, statements and other documents required to be filed by the Company under the Securities Act and the Exchange Act, including pursuant to Section 13(a) or 15(d) thereof, (the foregoing materials, including the exhibits thereto and documents incorporated by reference therein, being collectively referred to herein as the "SEC Reports"). As of their respective dates, the Company believes that the SEC Reports complied in all material respects with the requirements of the Securities Act and the Exchange Act, as applicable, and that none of the SEC Reports, when filed, contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. The financial statements of the Company included in the SEC Reports comply in all material respects with applicable accounting requirements and the rules and regulations of the SEC with respect thereto as in effect at the time of filing. Such financial statements have been prepared in accordance with United States generally accepted accounting principles applied on a consistent basis during the periods involved ("GAAP"), except as may be otherwise specified in such financial statements or the notes thereto and except that unaudited financial statements may not contain all footnotes required by GAAP, and fairly present in all material respects the financial position of the Company and its consolidated Subsidiaries as of and for the dates thereof and the results of operations and cash flows for the periods then ended, subject, in the case of unaudited statements, to normal, immaterial, year-end audit adjustments.

(i) Material Changes; Undisclosed Events, Liabilities or Developments. Other than as set forth in its SEC filings and/or on Schedule 3.1(i) since the date of the latest audited financial statements included within the SEC Reports, except as specifically disclosed in a subsequent SEC Report filed prior to the date hereof, to the best of the Company's knowledge (i) there has been no event, occurrence or development that has had or that could reasonably be expected to result in a Material Adverse Effect, (ii) the Company has not incurred any liabilities (contingent or otherwise) other than (A) trade payables and accrued expenses incurred in the ordinary course of business consistent with past practice, and (B) liabilities not required to be reflected in the Company's financial statements pursuant to GAAP or disclosed in filings made with the SEC, (iii) the Company has not altered its method of accounting, (iv) the Company has not declared or made any dividend or distribution of cash or other property to its shareholders or purchased, redeemed or made any agreements to purchase or redeem any shares of its capital stock and (v) the Company has not issued any equity securities to any officer, director or Affiliate, except pursuant to existing Company equity incentive plans. The Company does not have pending before the SEC any request for confidential treatment of information. To the knowledge of the Company, except for the issuance of the Securities contemplated by this Agreement or as set forth in its SEC filings and/or on Schedule 3.1(i), no event, liability, fact, circumstance, occurrence or development has occurred or exists or is reasonably expected to occur or exist with respect to the Company or its Subsidiaries or their respective businesses, prospects, properties, operations, assets or financial condition that would be required to be disclosed by the Company under applicable securities Laws at the time this representation is made or deemed made that has not been publicly disclosed at least one Trading Day prior to the date that this representation is made.

(j) Litigation. Except as set forth in its SEC filings and/or in Schedule 3.1(j), there is no action, suit, notice of violation, Proceeding or investigation, inquiry or other similar Proceeding of any federal or state governmental authority pending or, to the knowledge of the Company, threatened against or affecting the Company, any Subsidiary or any of their respective properties before or by any court, arbitrator, governmental or administrative agency or regulatory authority (federal, state, county, local or foreign) (collectively, an "Action") which (i) adversely affects or challenges the legality, validity or enforceability of any of the Transaction Documents or the issuance of the Securities or (ii) could, if there were an unfavorable decision, have or reasonably be expected to result in a Material Adverse Effect. Neither the Company nor any Subsidiary, nor to the Company's knowledge any director or officer thereof, is or has been the subject of any Action involving the Company and a claim of violation of or liability under federal or state securities Laws or a claim of breach of fiduciary duty. There has not been, and to the knowledge of the Company, there is not pending or contemplated, any investigation by the SEC involving the Company or any current or former director or officer of the Company. To the knowledge of the Company, the SEC has not issued any stop order or other order suspending the effectiveness of any registration statement filed by the Company or any Subsidiary under the Exchange Act or the Securities Act.

(k) Labor Relations. No labor dispute exists or, to the knowledge of the Company, is imminent with respect to any of the employees of the Company, which could reasonably be expected to result in a Material Adverse Effect. None of the Company's or its Subsidiaries' employees is a member of a union that relates to such employee's relationship with the Company or such Subsidiary, and neither the Company nor any of its Subsidiaries is a party to a collective bargaining agreement, and the Company and its Subsidiaries believe that their relationships with their employees are good. To the knowledge of the Company, no effort is underway to unionize or organize the employees of the Company or any Subsidiary. To the knowledge of the Company, no executive officer of the Company or any Subsidiary, is in violation of any material term of any employment contract, confidentiality, disclosure or proprietary information agreement or non-competition agreement, or any other contract or agreement or any restrictive covenant in favor of any third party, and the continued employment of each such executive officer does not subject the Company or any of its Subsidiaries to any liability with respect to any of the foregoing matters. The Company and its Subsidiaries are in compliance with all U.S. federal, state, local and foreign Laws and regulations relating to employment and employment practices, terms and conditions of employment and wages and hours, except where the failure to be in compliance could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. Except as set forth in its SEC filings and/or on Schedule 3.1(k), there is no workmen's compensation liability matter, employment-related charge, complaint, grievance, investigation, inquiry or obligation of any kind pending, or to the Company's knowledge, threatened, relating to an alleged violation or breach by the Company or its Subsidiaries of any law, regulation or

contract that could, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(l) Compliance. Except as set forth in its SEC filings and/or on Schedule 3.1(l), neither the Company nor any Subsidiary: (i) is in default under or in violation of (and no event has occurred that has not been waived that, with notice or lapse of time or both, would result in a default by the Company or any Subsidiary under), nor has the Company or any Subsidiary received notice of a claim that it is in default under or that it is in violation of, any indenture, loan or credit agreement or any other agreement or instrument to which it is a party or by which it or any of its properties is bound (whether or not such default or violation has been waived), (ii) is in violation of any judgment, decree or order of any court, arbitrator or other governmental authority or (iii) is or has been in violation of any statute, rule, ordinance or regulation of any governmental authority, including without limitation all foreign, federal, state and local Laws and regulations relating to taxes, securities, environmental protection, occupational health and safety, product quality and safety, and employment and labor matters, except in each case as could not have or reasonably be expected to result in a Material Adverse Effect.

(m) Environmental Laws. The Company and its Subsidiaries (i) are in compliance with all federal, state, local and foreign Laws relating to pollution or protection of human health or the environment (including ambient air, surface water, groundwater, land surface or subsurface strata), including Laws relating to emissions, discharges, releases or threatened releases of chemicals, pollutants, contaminants, or toxic or hazardous substances or wastes (collectively, "Hazardous Materials") into the environment, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials, as well as all authorizations, codes, decrees, demands, or demand letters, injunctions, judgments, licenses, notices or notice letters, orders, permits, plans or regulations, issued, entered, promulgated or approved thereunder ("Environmental Laws"); (ii) have received all permits licenses or other approvals required of them under applicable Environmental Laws to conduct their respective businesses; and (iii) are in compliance with all terms and conditions of any such permit, license or approval where in each clause (i), (ii) and (iii), the failure to so comply could be reasonably expected to have, individually or in the aggregate, a Material Adverse Effect.

(n) Regulatory Permits. The Company and the Subsidiaries possess all certificates, authorizations and permits issued by the appropriate federal, state, local or foreign regulatory authorities necessary to conduct their respective businesses as described in the SEC Reports, except where the failure to possess such permits could not reasonably be expected to result in a Material Adverse Effect ("Material Permits"), and neither the Company nor any Subsidiary has received any written notice of Proceedings relating to the revocation or modification of any Material Permit.

(o) Title to Assets. Except as set forth in its SEC filings and/or on Schedule 3.1(o), the Company and the Subsidiaries have good and marketable title in fee simple to all real property owned by them and good and marketable title in all personal property owned by them that is material to the business of the Company and the Subsidiaries, in each case free and clear of all Liens, except for (i) Liens as do not materially affect the value of such property and do not materially interfere with the use made and proposed to be made of such property by the Company and the Subsidiaries, and (ii) Liens for the payment of federal, state or other taxes, for which appropriate reserves have been made therefor in accordance with GAAP and, the payment of which is neither delinquent nor subject to penalties. To the Company's knowledge, any real property and facilities held under lease by the Company and the Subsidiaries are held by them under valid, subsisting and enforceable leases with which the Company and the Subsidiaries are in material compliance.

(p) Intellectual Property.

(i) Except as set forth in its SEC filings and/or in Schedule 3.1(p), the Company owns or possesses or has the right to use pursuant to a valid and enforceable written license, sublicense, agreement, or permission all Intellectual Property necessary for the operation of the business of the Company as presently conducted, except in each case as could not have or reasonably be expected to result in a Material Adverse Effect.

(ii) The Company has no knowledge that the Intellectual Property interferes with, infringe upon, misappropriate, or otherwise come into conflict with, any Intellectual Property rights of third parties, and the Company has no knowledge that facts exist which indicate a likelihood of the foregoing. The Company has not received any charge, complaint, claim, demand, or notice alleging any such interference, infringement, misappropriation, or conflict (including any claim that the Company must license or refrain from using any Intellectual Property rights of any third party). To the knowledge of the Company, no third party has interfered with, infringed upon, misappropriated, or otherwise come into conflict with, any Intellectual Property rights of the Company, except in each case as could not have or reasonably be expected to result in a Material Adverse Effect.

(q) Insurance. The Company and the Subsidiaries are insured by insurers of recognized financial responsibility against such losses and risks and in such amounts as are prudent and customary in the businesses in which the Company and the Subsidiaries are engaged.

(r) Transactions With Affiliates. Except as disclosed in its SEC filings, none of the current officers, directors or Affiliates of the Company or any Subsidiary is presently a party to any transaction with the Company or any Subsidiary (other than for services as employees, officers and directors), including any contract, agreement or other arrangement providing for the furnishing of services to or by, providing for rental of real or personal property to or from, providing for the borrowing of money from or lending of money to or otherwise requiring payments to or from any officer, director, Affiliate or such employee or, to the knowledge of the Company, any entity in which any officer, director, or any such employee has a substantial interest or is an officer, director, trustee, stockholder, member or partner, in each case in excess of $120,000 other than for (i) payment of salary or consulting fees for services rendered, (ii) reimbursement for expenses incurred on behalf of the Company and (iii) other employee benefits, including stock award agreements under any equity incentive plan of the Company.

(s) Sarbanes-Oxley; Internal Accounting Controls. Except as disclosed in its SEC filings and/or in Schedule 3.1(s), the Company and the Subsidiaries are in compliance with any and all applicable requirements of the Sarbanes-Oxley Act of 2002 that are effective as of the date hereof, and any and all applicable rules and regulations promulgated by the SEC thereunder that are effective as of the date hereof and as of the Closing Date. The Company and the Subsidiaries maintain a system of internal accounting controls as set forth in the SEC Reports. The Company's certifying officers have evaluated the effectiveness of the disclosure controls and procedures of the Company and the Subsidiaries as of the end of the period covered by the most recently filed periodic report under the Exchange Act (such date, the "Evaluation Date"). The Company presented in its most recently filed periodic report under the Exchange Act the conclusions of the certifying officers about the effectiveness of the disclosure controls and procedures based on their evaluations as of the Evaluation Date. Since the Evaluation Date, there have been no changes in the internal control over financial reporting (as such term is defined in the Exchange Act) of the Company and its Subsidiaries that have materially affected, or is reasonably likely to materially affect, the internal control over financial reporting of the Company and its Subsidiaries.

(t) Certain Fees. Other than as set forth in its SEC filings and/or on Schedule 3.1(t), no brokerage or finder's fees or commissions are or will be payable by the Company or any Subsidiary to any broker, financial advisor or consultant, finder, placement agent, investment banker, bank or other Person with respect to the transactions contemplated by the Transaction Documents. The Purchasers shall have no obligation with respect to any fees or with respect to any claims made by or on behalf of other Persons for fees of a type contemplated in this Section 3.1(t) that may be due in connection with the transactions contemplated by the Transaction Documents.

(u) Investment Company. The Company is not, and is not an Affiliate of, and immediately after receipt of payment for the Securities, will not be or be an Affiliate of, an "investment company" within the meaning of the Investment Company Act of 1940, as amended. The Company shall conduct its business in a manner so that it will not become an "investment company" subject to registration under the Investment Company Act of 1940, as amended.

(v) Registration Rights. Other than as set forth in its SEC filings and/or on Schedule 3.1(v), no Person has any right to cause the Company or any Subsidiary to effect the registration under the Securities Act of any securities of the Company or any Subsidiary.

(w) Listing and Maintenance Requirements. The Company has not, in the 12 months preceding the date hereof, received notice from any Trading Market on which the Common Stock is or has been listed or quoted to the effect that the Company is not in compliance with the listing or maintenance requirements of such Trading Market. The Company is, and has no reason to believe that it will not in the foreseeable future continue to be, in material compliance with all such listing and maintenance requirements. The Common Stock is currently eligible for electronic transfer through the Depository Trust Company ("DTC") or another established clearing corporation and the Company is current in payment of the fees to the DTC (or such other established clearing corporation) in connection with such electronic transfer. The Company is not subject to any "chill" issued by the DTC.

(x) Application of Takeover Protections. The Company and the Board of Directors have taken all necessary action, if any, in order to render inapplicable any control share acquisition, business combination, poison pill (including any distribution under a rights agreement) or other similar anti-takeover provision under the Company's formation documents (or similar charter documents) or the Laws of its state of incorporation that is or could become applicable to the Purchasers as a result of the Purchasers and the Company fulfilling their obligations or exercising their rights under the Transaction Documents, including without limitation as a result of the Company's issuance of the Securities and the Purchasers' ownership of the Securities.

(y) Disclosure. Except with respect to the material terms and conditions of the transactions contemplated by the Transaction Documents, the Company confirms that neither it nor any other Person acting on its behalf has provided any of the Purchasers or their agents or counsel with any information that it believes constitutes or might constitute material, non-public information which is not otherwise disclosed in the SEC Reports. The Company understands and confirms that the Purchasers will rely on the foregoing representation in effecting transactions in securities of the Company. The press releases disseminated by the Company since May 17, 2021 do not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made and when made, not misleading. The Company acknowledges and agrees that no Purchaser makes or has made any representations or warranties with respect to the transactions contemplated hereby other than those specifically set forth in Section 3.2 hereof.

(z) No Integrated Offering. Assuming the accuracy of the Purchasers' representations and warranties set forth in Section 3.2, neither the Company, nor any of its Affiliates, nor any Person acting on its or their behalf has, directly or indirectly, made any offers or sales of any security or solicited any offers to buy any security, under circumstances that would cause this offering of the Securities to be integrated with prior offerings by the Company for purposes of any applicable shareholder approval provisions of any Trading Market on which any of the securities of the Company are listed or designated.

(aa) Solvency. The Company has not filed for reorganization or liquidation under the bankruptcy or reorganization Laws of any jurisdiction. Except as set forth in its SEC filings and/or Schedule 3.1(aa) sets forth as of the time immediately following the Closing hereof all outstanding Indebtedness of the Company or any Subsidiary. For the purposes of this Agreement, "Indebtedness" means (x) any liabilities for borrowed money or amounts owed in excess of $50,000 (other than trade accounts payable incurred in the ordinary course of business), (y) all guaranties, endorsements and other contingent obligations in respect of indebtedness of others, whether or not the same are or should be reflected in the Company's consolidated balance sheet (or the notes thereto), except guaranties by endorsement of negotiable instruments for deposit or collection or similar transactions in the ordinary course of business; and (z) the present value of any lease payments in excess of $50,000 due under leases required to be capitalized in accordance with GAAP. Except as set forth in its SEC filings and/or on Schedule 3.1(aa) or as would not have a Material Adverse Effect, neither the Company nor any Subsidiary is in default with respect to any Indebtedness.

(bb) Tax Status. Except for matters disclosed in its SEC filings and/or matters that would not, individually or in the aggregate, have or reasonably be expected to result in a Material Adverse Effect, the Company and its Subsidiaries each (i) has made or filed all United States federal, state and local income and all foreign income and franchise tax returns, reports and declarations required by any jurisdiction to which it is subject, (ii) has paid all taxes and other governmental assessments and charges that are material in amount, shown to be due on such returns, reports and declarations and (iii) has set aside on its books provision reasonably adequate for the payment of all material taxes for periods subsequent to the periods to which such returns, reports or declarations apply. There are no unpaid taxes in any material amount claimed to be due by the taxing authority of any jurisdiction.

(cc) Foreign Corrupt Practices. Neither the Company nor any Subsidiary, nor to the knowledge of the Company, any agent or other Person acting on behalf of the Company or any Subsidiary, has (i) directly or indirectly, used any funds for unlawful contributions, gifts, entertainment or other unlawful expenses related to foreign or domestic political activity, (ii) made any unlawful payment to foreign or domestic government officials or employees or to any foreign or domestic political parties or campaigns from corporate funds, (iii) failed to disclose fully any contribution made by the Company or any Subsidiary (or made by any Person acting on its behalf of which the Company is aware) which is in violation of Law, or (iv) violated any provision of FCPA.

(dd) Accountants. The Company's accounting firm is set forth in the SEC Reports. To the knowledge and belief of the Company, such accounting firm is a registered public accounting firm as required by the Exchange Act.

(ee) Acknowledgment Regarding each Purchaser's Purchase of Securities. The Company acknowledges and agrees that each Purchaser is acting solely in the capacity of an arm's length purchaser with respect to the Transaction Documents and the transactions contemplated thereby. The Company further acknowledges that no Purchaser is acting as a financial advisor or fiduciary of the Company (or in any similar capacity) with respect to the Transaction Documents and the transactions contemplated thereby and any advice given by any Purchaser or any of their respective representatives or agents in connection with the Transaction Documents and the transactions contemplated thereby is merely incidental to such Purchaser' purchase of the Securities. The Company further represents to the Purchasers that the Company's decision to enter into this Agreement and the other Transaction Documents has been based solely on the independent evaluation of the transactions contemplated hereby by the Company and its representatives.

(ff) Acknowledgement Regarding each Purchaser's Trading Activity. Notwithstanding anything in this Agreement or elsewhere to the contrary (except

for Sections 3.2(f) and 4.13 hereof), it is understood and acknowledged by the Company that: (i) no Purchaser has been asked by the Company to agree, nor has any Purchaser agreed, to desist from purchasing or selling, long and/or short, securities of the Company, or "derivative" securities based on securities issued by the Company or to hold the Securities for any specified term; (ii) past or future open market or other transactions by any Purchaser, specifically including, without limitation, Short Sales or "derivative" transactions, before or after the Closing of this or future private placement transactions, may negatively impact the market price of the Company's publicly-traded securities; (iii) each Purchaser, and counter-parties in "derivative" transactions to which any Purchaser is a party, directly or indirectly, presently may have a "short" position in the Common Stock, and (iv) no Purchaser shall be deemed to have any affiliation with or control over any arm's length counter-party in any "derivative" transaction. The Company further understands and acknowledges that (y) one or more Purchasers may engage in hedging activities at various times during the period that the Securities are outstanding, and (z) such hedging activities (if any) could reduce the value of the existing shareholders' equity interests in the Company at and after the time that the hedging activities are being conducted. The Company acknowledges that such aforementioned hedging activities do not constitute a breach of any of the Transaction Documents.

(gg) Regulation M Compliance. The Company has not, and to its knowledge no one acting on its behalf has, (i) taken, directly or indirectly, any action designed to cause or to result in the stabilization or manipulation of the price of the Common Stock to facilitate the sale of the Securities, or (ii) paid or agreed to pay to any Person any compensation for soliciting another to purchase the Securities or any other securities of the Company.

(hh) Private Placement. Assuming the accuracy of the Purchasers' representations and warranties set forth in Section 3.2, no registration under the Securities Act is required for the offer and sale of the Securities by the Company to the Purchasers as contemplated hereby.

(ii) No General Solicitation. Neither the Company nor, to the Company's knowledge, any Person acting on behalf of the Company has offered or sold any of the Securities by any form of general solicitation or general advertising. The Company has offered the Securities for sale only to the Purchasers and certain other "accredited investors" within the meaning of Rule 501 under the Securities Act.

(jj) No Disqualification Events. With respect to the Securities to be offered and sold hereunder in reliance on Rule 506(b) under the Securities Act, none of the Company, any of its predecessors, any affiliated issuer, any director, executive officer, other officer of the Company participating in the offering hereunder, any beneficial owner of 20% or more of the Company's outstanding voting equity securities, calculated on the basis of voting power, nor any promoter (as that term is defined in Rule 405 under the Securities Act) connected with the Company in any capacity at the time of sale, nor any Person, including a placement agent, who will receive a commission or fees for soliciting purchasers (each, an "Issuer Covered Person" and, together, "Issuer Covered Persons") is subject to any of the "Bad Actor" disqualifications described in Rule 506(d)(1)(i) to (viii) under the Securities Act (a "Disqualification Event"), except for a Disqualification Event covered by Rule 506(d)(2) or (d)(3). The Company has exercised reasonable care to determine whether any Issuer Covered Person is subject to a Disqualification Event. The Company has complied, to the extent applicable, with its disclosure obligations under Rule 506(e), and has furnished to the Purchasers a copy of any disclosures provided thereunder. Notwithstanding the above, the Company has specifically advised the Purchasers of certain prior disciplinary actions related to an officer/director of the Company which would not be designated a Disqualification Event.

(kk) Notice of Disqualification Events. The Company will notify the Purchasers in writing, prior to the Closing Date of the Company becoming aware of (i) any Disqualification Event relating to any Issuer Covered Person and (ii) any event that would, with the passage of time, reasonably be expected to become a Disqualification Event relating to any Issuer Covered Person, in each case of which it is aware.

(ll) Office of Foreign Assets Control. Neither the Company nor any Subsidiary nor, to the Company's knowledge, any director, officer, agent, employee or Affiliate of the Company or any Subsidiary is currently subject to any U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Treasury Department ("OFAC").

(mm) U.S. Real Property Holding Corporation. The Company is not and has never been a U.S. real property holding corporation within the meaning of Section 897 of the Internal Revenue Code of 1986, as amended, and the Company shall so certify upon any Purchaser's request.

(nn) Bank Holding Company Act. Neither the Company nor any of its Subsidiaries or Affiliates is subject to the Bank Holding Company Act of 1956, as amended (the "BHCA") and to regulation by the Board of Governors of the Federal Reserve System (the "Federal Reserve"). Neither the Company nor any of its Subsidiaries or Affiliates owns or controls, directly or indirectly, 5% or more of the outstanding shares of any class of voting securities or twenty-five percent or more of the total equity of a bank or any entity that is subject to the BHCA and to regulation by the Federal Reserve. Neither the Company nor any of its Subsidiaries or Affiliates exercises a controlling influence over the management or policies of a bank or any entity that is subject to the BHCA and to regulation by the Federal Reserve.

(oo) Money Laundering. The operations of the Company and its Subsidiaries are and have been conducted at all times in material compliance with applicable financial record-keeping and reporting requirements of the Currency and Foreign Transactions Reporting Act of 1970, as amended, applicable money laundering statutes and applicable rules and regulations thereunder (collectively, the "Money Laundering Laws"), and no Action by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any Subsidiary with respect to the Money Laundering Laws is pending or, to the knowledge of the Company or any Subsidiary, threatened.

3.2 Representations and Warranties of the Purchasers. Each Purchaser hereby represents and warrants, severally and not jointly, to the Company as follows which representations and warranties shall be true and correct as of the date hereof:

(a) Organization; Authority. The Purchaser is either an individual or an entity duly incorporated or formed, validly existing and in good standing under the Laws of the jurisdiction of its incorporation or formation with full right, corporate, partnership, limited liability company or similar power and authority to enter into and to consummate the transactions contemplated by this Agreement and otherwise to carry out its obligations hereunder and thereunder. The execution and delivery of this Agreement and performance by the Purchaser of the transactions contemplated by this Agreement have been duly authorized by all necessary corporate, partnership, limited liability company or similar action, as applicable, on the part of the Purchaser. Each Transaction Document to which it is a party has been duly executed by the Purchaser, and when delivered by the Purchaser in accordance with the terms hereof, will constitute the valid and legally binding obligation of the Purchaser, enforceable against it in accordance with its terms, except: (i) as limited by general equitable principles and applicable bankruptcy, insolvency, reorganization, moratorium and other Laws of general application affecting enforcement of creditors' rights generally, (ii) as limited by Laws relating to the availability of specific performance, injunctive relief or other equitable remedies and (iii) insofar as indemnification and contribution provisions may be limited by applicable law.

(b) Understandings or Arrangements. The Purchaser is acquiring the Securities 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 Securities (this representation and warranty not limiting the Purchaser's right to sell the Securities in compliance with applicable federal and state securities Laws). The Purchaser is acquiring the Securities hereunder in the ordinary course of its business. The Purchaser understands that the Securities are "restricted securities" and have not been registered under the Securities Act or any applicable state securities

law and is acquiring such Securities as principal for its own account and not with a view to or for distributing or reselling such Securities or any part thereof in violation of the Securities Act or any applicable state securities law, has no present intention of distributing any of such Securities in violation of the Securities Act or any applicable state securities law and has no direct or indirect arrangement or understandings with any other Persons to distribute or regarding the distribution of such Securities in violation of the Securities Act or any applicable state securities law (this representation and warranty not limiting the Purchaser's right to sell such Securities in compliance with applicable federal and state securities Laws).

(c) Risks of Investment. Purchase recognizes that the acquisition of the Securities involves a high degree of risk in that an investor could sustain the loss of its entire investment and the Company is and will be subject to numerous other risks and uncertainties, including, without limitation, significant and material risks relating to the Company's business and the industries, markets and geographic regions in which the Company competes.

(d) Accredited Investor Status. Purchaser represents that it is an "accredited investor" as such term is defined in Rule 501 ofRegulation D promulgated under the Securities Act of 1933, as amended, and that it is able to bear the economic risk of an investment in the Securities.

(e) Purchaser Status. At the time the Purchaser was offered the Securities, it was, and as of the date hereof it is, an accredited investor within the meaning of Rule 501 under the Securities Act. No Purchaser is subject to any of the "Bad Actor" disqualifications described in Rule 506(d)(1)(i) to (viii) under the Securities Act (a "Disqualification Event"), except for a Disqualification Event covered by Rule 506(d)(2) or (d)(3).

(f) Experience of The Purchaser. The Purchaser, either alone or together with its representatives, has such knowledge, sophistication and experience in business and financial matters so as to be capable of evaluating the merits and risks of the prospective investment in the Securities, and has so evaluated the merits and risks of such investment. The Purchaser is able to bear the economic risk of an investment in the Securities and, at the present time, is able to afford a complete loss of such investment.

(g) Access to Information. The Purchaser acknowledges that it has had the opportunity to review the Transaction Documents (including all exhibits and schedules thereto) and the SEC Reports and has been afforded, subject to Regulation FD, (i) the opportunity to ask such questions as it has deemed necessary of, and to receive answers from, representatives of the Company concerning the terms and conditions of the offering of the Securities and the merits and risks of investing in the Securities; (ii) access to information about the Company and its financial condition, results of operations, business, properties, management and prospects sufficient to enable it to evaluate its investment; and (iii) the opportunity to obtain such additional information that the Company possesses or can acquire without unreasonable effort or expense that is necessary to make an informed investment decision with respect to the investment. The Purchaser acknowledges and agrees that neither the Company nor anyone else has provided the Purchaser with any information or advice with respect to the Securities nor is such information or advice necessary or desired.

(h) Certain Transactions and Confidentiality. Other than consummating the transactions contemplated hereunder, the Purchaser has not, nor has any Person acting on behalf of or pursuant to any understanding with the Purchaser, directly or indirectly executed any purchases or sales, including Short Sales, of the securities of the Company during the period commencing as of the time that the Purchaser first received a term sheet (written or oral) from the Company or any other Person representing the Company setting forth the material terms of the transactions contemplated hereunder and ending immediately prior to the execution hereof. Notwithstanding the foregoing, in the case of the Purchaser that is a multi-managed investment vehicle whereby separate portfolio managers manage separate portions of the Purchaser's assets and the portfolio managers have no direct knowledge of the investment decisions made by the portfolio managers managing other portions of the Purchaser's assets, the representation set forth above shall only apply with respect to the portion of assets managed by the portfolio manager that made the investment decision to purchase the Securities covered by this Agreement. Other than to other Persons party to this Agreement or to the Purchaser's representatives, including, without limitation, its officers, directors, partners, legal and other advisors, employees, agents and Affiliates, the Purchaser has maintained the confidentiality of all disclosures made to it in connection with this transaction (including the existence and terms of this transaction). Notwithstanding the foregoing, for avoidance of doubt, nothing contained herein shall constitute a representation or warranty, or preclude any actions, with respect to the identification of the availability of, or securing of, available shares to borrow in order to effect Short Sales or similar transactions in the future.

The Company acknowledges and agrees that the representations contained in this Section 3.2 shall not modify, amend or affect the Purchasers' right to rely on the Company's representations and warranties contained in this Agreement or any representations and warranties contained in any other Transaction Document or any other document or instrument executed and/or delivered in connection with this Agreement or the consummation of the transaction contemplated hereby.

ARTICLE IV.
OTHER AGREEMENTS OF THE PARTIES

4.1 Removal of Legends.

(a) The Securities may only be disposed of in compliance with state and federal securities Laws. In connection with any transfer of the Shares, other than pursuant to an effective registration statement or Rule 144, to the Company or to an Affiliate of the Purchasers or in connection with a pledge as contemplated in Section 4.1(b), the Company may require the transferor to provide to the Company an opinion of counsel selected by the transferor and reasonably acceptable to the Company at the reasonable cost of the Company, the form and substance of which opinion shall be reasonably satisfactory to the Company, to the effect that such transfer does not require registration of such transferred Shares under the Securities Act.

(b) Each Purchaser agrees to the imprinting, so long as is required by this Section 4.1, of a legend on any of the Shares in the following form:

NEITHER THIS SECURITY NOR THE SECURITIES INTO WHICH THIS SECURITY IS CONVERTIBLE HAVE BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION OR THE SECURITIES COMMISSION OF ANY STATE IN RELIANCE UPON AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND, ACCORDINGLY, MAY NOT BE OFFERED OR SOLD EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR PURSUANT TO AN AVAILABLE EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS. THIS SECURITY AND THE SECURITIES ISSUABLE UPON EXERCISE OF THIS SECURITY MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT WITH A REGISTERED BROKER-DEALER OR OTHER LOAN WITH A FINANCIAL INSTITUTION THAT IS AN "ACCREDITED INVESTOR" AS DEFINED IN RULE 501(a) UNDER THE SECURITIES ACT OR OTHER LOAN SECURED BY SUCH SECURITIES.

The Company acknowledges and agrees that the Purchasers may from time to time pledge pursuant to a bona fide margin agreement with a registered broker-dealer or grant a security interest in some or all of the Shares to a financial institution that is an "accredited investor" as defined in Rule 501(a) under the Securities Act and who

agrees to be bound by the provisions of this Agreement and, if required under the terms of such arrangement, the Purchasers may transfer pledged or secured Shares to the pledgees or secured parties. Such a pledge or transfer would not be subject to approval of the Company and no legal opinion of legal counsel of the pledgee, secured party or pledgor shall be required in connection therewith. Further, no notice shall be required of such pledge. At the appropriate Purchaser's expense, the Company will execute and deliver such reasonable documentation as a pledgee or secured party of Shares may reasonably request in connection with a pledge or transfer of the Shares.

(c) Certificates evidencing the Shares (or the Transfer Agent's records if held in book entry form) shall not contain any legend (including the legend set forth in Section 4.1(b) hereof): (i) while a registration statement covering the resale of such securities is effective under the Securities Act (the "Effective Date"), (ii) following any sale of such Shares pursuant to Rule 144, (iii) if such Shares are eligible for sale under Rule 144, without the requirement for the Company to be in compliance with the current public information required under Rule 144 as to such Shares and without volume or manner-of-sale restrictions or (iv) if such legend is not required under applicable requirements of the Securities Act (including Sections 4(a)(1) and 4(a)(7) judicial interpretations and pronouncements issued by the staff of the SEC). The Company shall, at its expense, cause its counsel to issue a legal opinion to the Transfer Agent promptly after the Effective Date if required by the Transfer Agent to affect the removal of the legend hereunder. If all or any portion of a Note is converted at a time when there is an effective registration statement to cover the resale of the Shares or if such Shares or may be sold under Rule 144 and the Company is then in compliance with the current public information required under Rule 144, or if the Shares may be sold under Rule 144 without the requirement for the Company to be in compliance with the current public information required under Rule 144 as to such Shares and without volume or manner-of-sale restrictions or if such legend is not otherwise required under applicable requirements of the Securities Act (including Sections 4(a)(1) and 4(a)(7), judicial interpretations and pronouncements issued by the staff of the SEC) then such Shares shall be issued or reissued free of all legends. The Company agrees that following the effective date of any registration statement or at such time as such legend is no longer required under this Section 4.1(c), it will, no later than two Trading Days following the delivery by the applicable Purchaser to the Company or the Transfer Agent of a certificate representing restricted Shares, issued with a restrictive legend (such second Trading Day, the "Legend Removal Date"), deliver or cause to be delivered to the applicable Purchaser a certificate representing such Shares that is free from all restrictive and other legends. The Company may not make any notation on its records or give instructions to the Transfer Agent that enlarge the restrictions on transfer set forth in this Section 4.1. Certificates for Shares subject to legend removal hereunder shall be transmitted by the Transfer Agent to the applicable Purchaser by crediting the account of the applicable Purchaser's prime broker with the Depository Trust Company system as directed by the applicable Purchaser. The Company shall be responsible for any delays caused by its Transfer Agent.

(d) In addition to each Purchaser's other available remedies, (i) the Company shall pay to the Purchasers, in cash, as partial liquidated damages and not as a penalty, $3,000 per Trading Day until such certificate is delivered without a legend. Nothing herein shall limit any Purchaser's right to pursue actual damages for the Company's failure to deliver certificates representing any Securities as required by the Transaction Documents, and each Purchaser shall have the right to pursue all remedies available to it at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief, and (ii) if after the Legend Removal Date any Purchaser purchases (in an open market transaction or otherwise) shares of Common Stock to deliver in satisfaction of a sale by such Purchaser of all or any portion of the number of shares of Common Stock, or a sale of a number of shares of Common Stock equal to all or any portion of the number of shares of Common Stock that the applicable Purchaser anticipated receiving from the Company without any restrictive legend, then, the Company shall pay to the applicable Purchaser, in cash, an amount equal to the excess of the applicable Purchaser's total purchase price (including brokerage commissions and other out-of-pocket expenses, if any) for the shares of Common Stock so purchased (including brokerage commissions and other out-of-pocket expenses, if any) (the "Buy-In Price") over the product of (A) such number of Shares that the Company was required to deliver to the applicable Purchaser by the Legend Removal Date multiplied by (B) the highest closing sale price of the Common Stock on any Trading Day during the period commencing on the date of the delivery by the applicable Purchaser to the Company of the applicable Shares and ending on the date of such delivery and payment under this Section 4.1(d).

(e) In the event any Purchaser shall request delivery of unlegended shares as described in this Section 4.1 and the Company is required to deliver such unlegended shares, it shall pay all fees and expenses associated with or required by the legend removal and/or transfer including but not limited to reasonable legal fees, Transfer Agent fees and overnight delivery charges and taxes, if any, imposed by any applicable government upon the issuance of Common Stock; and (ii) the Company may not refuse to deliver unlegended shares based on any claim that a Purchaser or anyone associated or affiliated with such Purchaser has not complied with such Purchaser's obligations under the Transaction Documents, or for any other reason, unless, an injunction or temporary restraining order from a court, on notice, restraining and or enjoining delivery of such unlegended shares shall have been sought and obtained by the Company and the Company has posted a surety bond for the benefit of the applicable Purchaser in the amount of the greater of (i) 150% of the amount of the aggregate purchase price of the Shares (based on amount of principal and/or interest of the Note which was converted) which is subject to the injunction or temporary restraining order, or (ii) the VWAP of the Common Stock on the Trading Day before the issue date of the injunction multiplied by the number of unlegended shares to be subject to the injunction, which bond shall remain in effect until the completion of the litigation of the dispute and the proceeds of which shall be payable to the applicable Purchaser to the extent such Purchaser obtains judgment in such Purchaser's favor.

4.2 Furnishing of Information.

(a) So long as any Purchaser holds a Note or Shares, the Company covenants to timely file (or obtain extensions in respect thereof and file within the applicable grace period) all reports required to be filed by the Company after the date hereof pursuant to the Exchange Act even if the Company is not then subject to the reporting requirements of the Exchange Act.

(b) At any time while a Note or Shares are held by any Purchaser, if the Company (i) shall fail for any reason to satisfy the current public information requirement under Rule 144(c) for a period of more than 30 consecutive days or (ii) has ever been an issuer described in Rule 144(i)(1)(i) or becomes an issuer in the future, and the Company shall fail to satisfy any condition set forth in Rule 144(i)(2) for a period of more than 30 consecutive days (a "Public Information Failure") then, in addition to the Purchasers' other available remedies, the Company shall pay to the Purchasers, in cash, as partial liquidated damages and not as a penalty, by reason of any such delay in or reduction of its ability to sell the Shares, an amount in cash equal to two percent of the aggregate Conversion Price of the Note on the day of a Public Information Failure and on every 30^{th} day (pro-rated for periods totaling less than thirty days) thereafter until the earlier of (a) the date such Public Information Failure is cured and (b) such time that such public information is no longer required for any Purchaser to transfer the Shares pursuant to Rule 144, up to an aggregate amount of liquidated damages for all Public Information Failures equal to the Purchasers' Subscription Amount. Public Information Failure Payments shall be paid on the earlier of (i) the last day of the calendar month during which such Public Information Failure Payments are incurred and (ii) the second Trading Day after the event or failure giving rise to the Public Information Failure payments is cured. In the event the Company fails to make Public Information Failure payments in a timely manner, such Public Information Failure payments shall bear interest at the rate of one and one-half percent per month (prorated for partial months) until paid in full. Nothing herein shall limit the Purchasers' right to pursue actual damages for the Public Information Failure, and each Purchaser shall have the right to pursue all remedies available to it at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief.

4 . 3 Integration. The Company shall not sell, offer for sale or solicit offers to buy or otherwise negotiate in respect of any security (as defined in Section 2(a)(1) of the Securities Act) that would be integrated with the offer or sale of the Securities for purposes of the rules and regulations of any Trading Market such that it would require shareholder approval prior to the Closing of such other transaction unless shareholder approval is obtained before the Closing of such subsequent transaction.

4.4 Securities Laws Disclosure; Publicity. The Company shall file a Current Report on Form 8-K disclosing the material terms of this Agreement, including the Transaction Documents as exhibits thereto, with the SEC before the Trading Market opens the next Trading Day after the Closing. From and after the filing of the Form 8-K as provided in the preceding sentence, the Company represents to the Purchasers that it shall have publicly disclosed all material, non-public information delivered to the Purchasers by the Company or any of its Subsidiaries, or any of their respective officers, directors, employees or agents in connection with the transactions contemplated by the Transaction Documents. In addition, effective upon the issuance of such Form 8-K, the Company acknowledges and agrees that any and all confidentiality or similar obligations under any agreement, whether written or oral, between the Company, any of its Subsidiaries or any of their respective officers, directors, agents, employees or Affiliates on the one hand, and any of the Purchasers or any of their Affiliates on the other hand, shall terminate. The Company and the Purchasers shall consult with each other in issuing any press releases with respect to the transactions contemplated hereby, and neither the Company nor the Purchasers 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 a Purchaser, or without the prior consent of the applicable Purchaser, 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 Purchaser, or include the name of any Purchaser in any filing with the SEC or any regulatory agency or Trading Market, without the prior written consent of the applicable Purchaser, except (a) as required by the staff of the SEC in connection with the filing of final Transaction Documents with the SEC and (b) to the extent such disclosure is required by law or Trading Market regulations, in which case the Company shall, to the extent reasonably practicable, provide the Purchasers with prior notice of such disclosure permitted under this clause (b).

4.5 Shareholder Rights Plan. No claim will be made or enforced by the Company or, with the consent of the Company, any other Person, that any Purchaser is an "Acquiring Person" under any control share acquisition, business combination, poison pill (including any distribution under a rights agreement) or similar anti-takeover plan or arrangement in effect or hereafter adopted by the Company, or that any Purchaser could be deemed to trigger the provisions of any such plan or arrangement, by virtue of receiving Securities under the Transaction Documents or under any other agreement between the Company and any Purchaser.

4.6 Non-Public Information. Except with respect to the material terms and conditions of the transactions contemplated by the Transaction Documents, which shall be disclosed pursuant to Section 4.4, the Company covenants and agrees that neither it, nor any other Person acting on its behalf will provide the Purchasers or their respective agents or counsel with any information that constitutes, or the Company reasonably believes constitutes, material non-public information, unless prior thereto the Purchasers shall have consented to the receipt of such information and agreed with the Company to keep such information confidential. Prior to providing the Purchasers with any material non-public information, the Company shall provide the Purchasers with a consent substantially in the form attached as Exhibit F ("Consent") which shall not include any material non-public information. The Company shall not provide any Purchaser with the material non-public information if such Purchaser does not execute and return the Consent to the Company. The Company understands and confirms that the Purchasers shall be relying on the foregoing covenant in effecting transactions in securities of the Company. To the extent that the Company delivers any material, non-public information to any Purchaser without such Purchaser's consent, the Company hereby covenants and agrees that the applicable Purchaser 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, not to trade on the basis of, such material, non-public information, provided that the applicable Purchaser shall remain subject to applicable law. To the extent that any notice provided pursuant to any Transaction Document or any other communications made by the Company, or information provided, to the applicable Purchaser constitutes, or contains, material, non-public information regarding the Company or any Subsidiaries, the Company shall simultaneously file such notice or other material information with the SEC pursuant to a Current Report on Form 8-K. The Company understands and confirms that the Purchasers shall be relying on the foregoing covenant in effecting transactions in securities of the Company. In addition to any other remedies provided by this Agreement or other Transaction Documents, if the Company provides any material, non-public information to any Purchaser without their prior written consent, and it fails to immediately (no later than the next Trading Day) file a Form 8-K disclosing this material, non-public information, it shall pay the applicable Purchaser as partial liquidated damages and not as a penalty a sum equal to $5,000 per day beginning with the day the information is disclosed to the applicable Purchaser and ending and including the day the Form 8-K disclosing this information is filed.

4.7 Use of Proceeds. The Company shall use the net proceeds from the sale of the Securities hereunder to general business purposes.

4.8 Indemnification of the Purchasers. Subject to the provisions of this Section 4.8, the Company will indemnify and hold the Purchasers and their respective directors, officers, shareholders, members, partners, employees and agents (and any other Persons with a functionally equivalent role of a Person holding such titles notwithstanding a lack of such title or any other title), each Person who controls the applicable Purchaser (within the meaning of Section 15 of the Securities Act and Section 20 of the Exchange Act), and the directors, officers, shareholders, agents, members, partners or employees (and any other Persons with a functionally equivalent role of a Person holding such titles notwithstanding a lack of such title or any other title) of such controlling Persons (each, a "Purchaser Party") harmless from any and all losses, liabilities, obligations, claims, contingencies, damages, costs and expenses, including all judgments, amounts paid in settlements, court costs and reasonable attorneys' fees and costs of investigation (including local counsel, if retained) that any such Purchaser Party may suffer or incur as a result of or relating to (a) any breach of any of the representations, warranties, covenants or agreements made by the Company in this Agreement or in the other Transaction Documents, (b) any Action instituted against the Purchaser Parties in any capacity, or any of them or their respective Affiliates, by any shareholder of the Company who is not an Affiliate of such Purchaser Party, with respect to any of the transactions contemplated by the Transaction Documents (unless such Action is based upon a breach of such Purchaser Party's representations, warranties or covenants under the Transaction Documents or any agreements or understandings such Purchaser Party may have with any such shareholder or any conduct by such Purchaser Party which constitutes willful misconduct or gross negligence) or (c) any untrue or alleged untrue statement of a material fact contained in any registration statement, any prospectus or any form of prospectus or in any amendment or supplement thereto or in any preliminary prospectus, or arising out of or relating to any omission or alleged omission of a material fact required to be stated therein or necessary to make the statements therein (in the case of any prospectus or supplement thereto, in light of the circumstances under which they were made) not misleading. If any Action shall be brought against the Purchaser Party in respect of which indemnity may be sought pursuant to this Agreement, such Purchaser Party shall promptly notify the Company in writing, and the Company shall have the right to assume the defense thereof with counsel of its own choosing reasonably acceptable to the Purchaser Party. Any Purchaser Party shall have the right to employ separate counsel in any such Action and participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of such Purchaser Party except to the extent that (i) the employment thereof has been specifically authorized by the Company in writing, (ii) the Company has failed after a reasonable period of time to assume such defense and to employ counsel or (iii) in such Action there is, in the reasonable opinion of the Purchaser Party, a material conflict on any material issue between the position of the Company and the position of such Purchaser Party, in which case the Company shall be responsible for the reasonable fees and expenses of no more than one such separate counsel (in addition to local counsel, if retained). The Company will not be liable to the Purchaser Party under this Agreement (y) for any settlement by the Purchaser Party effected without the Company's prior written consent, which shall not be unreasonably withheld or delayed; or (z) to the extent, but only to the extent that a loss, claim, damage or liability is attributable to the Purchaser Party's breach of any of the representations, warranties, covenants or agreements made by such Purchaser Party in this Agreement or in the other Transaction Documents. The Purchaser Parties shall have the right to settle any Action against any of them by the payment of money provided that they cannot agree to any equitable relief and the Company, its officers, directors and Affiliates receive unconditional releases in customary form. The indemnification required by this Section 4.8 shall be made by periodic payments of the amount thereof during the course of the investigation or defense, as and when bills are received or are incurred. To extent that the Company has made any periodic payments pursuant to the foregoing sentence, and there is a later final and binding determination that the Company was not liable in respect of the related indemnification obligations hereunder, the Company may offset the amounts owing under the Note against such payments. The indemnity agreements contained herein shall be in addition to any cause of Action or similar right of the Purchaser Party against the Company or others and any liabilities the Company may be subject to pursuant to law.

4.9 Reservation of Common Stock. Immediately upon Closing, the Company shall reserve three times the number of shares of Common Stock issuable upon conversion of the Note (the "Reserve Ratio"). In addition to any other remedies provided by this Agreement or other Transaction Documents, if the Company at any time fails

to meet this reservation of Common Stock requirement within 60 days after written notice from the Holder, it shall pay the Purchasers as partial liquidated damages and not as a penalty a sum equal to $500 per day for each $100,000 of the Purchaser's Subscription Amount, up to an aggregate amount of liquidated damages equal to such Purchaser's Subscription Amount. The Company shall not enter into any agreement or file any amendment to its formation documents or other governing documents which conflicts with this Section 4.9 while the Note remains outstanding. The Company shall execute and cause the Transfer Agent to execute a reservation letter in the form attached as Exhibit D.

4.10 Listing of Common Stock. 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 or quoted; provided, however, the Company shall if it qualifies, list its Common Stock on a Trading Market which is a national securities exchange. The Company will then take all commercially reasonable action to continue the listing and trading of its Common Stock on a Trading Market and will comply in all respects with the Company's reporting, filing and other obligations under the bylaws or rules of the Trading Market. The Company agrees to maintain the eligibility of the Common Stock for electronic transfer through the DTC or another established clearing corporation, including, without limitation, by timely payment of fees to the DTC or such other established clearing corporation in connection with such electronic transfer.

4.11 Sale Volume Limitation. From the date hereof until the earlier of (i) 120 calendar days following the registration of the shares of Common Stock issuable upon conversion of the Note or (ii) 180 calendar days after the date hereof, FirstFire agrees that it and its permitted transferees shall not, in any one calendar day, sell a number of FirstFire Shares exceeding 3% of the total trading volume of shares of common stock of the Company for the trading day immediately preceding such calendar day.

4.12 Certain Transactions and Confidentiality. Each Purchaser covenants that neither it nor any Affiliate acting on its behalf or pursuant to any understanding with it will execute any purchases or sales, including Short Sales of any of the Company's securities during the period commencing with the execution of this Agreement and ending at such time that the transactions contemplated by this Agreement are first publicly announced pursuant to the initial press release as described in Section 4.4. Each Purchaser covenants that until such time as the transactions contemplated by this Agreement are publicly disclosed by the Company pursuant to the initial press release as described in Section 4.4, such Purchaser will maintain the confidentiality of the existence and terms of this transaction and the information included in the Disclosure Schedules. Notwithstanding the foregoing and notwithstanding anything contained in this Agreement to the contrary, the Company expressly acknowledges and agrees that (i) no Purchaser makes any representation, warranty or covenant hereby that it will not engage in effecting transactions in any securities of the Company after the time that the transactions contemplated by this Agreement are first publicly announced pursuant to the initial press release as described in Section 4.4, (ii) no Purchaser shall be restricted or prohibited from effecting any transactions in any securities of the Company in accordance with applicable securities Laws from and after the time that the transactions contemplated by this Agreement are first publicly announced pursuant to the initial press release as described in Section 4.4 and (iii) no Purchaser shall have any duty of confidentiality or duty not to trade in the securities of the Company to the Company or its Subsidiaries after the issuance of the initial press release as described in Section 4.4. Notwithstanding the foregoing, in the case of a Purchaser that is a multi-managed investment vehicle whereby separate portfolio managers manage separate portions of such Purchaser's assets and the portfolio managers have no direct knowledge of the investment decisions made by the portfolio managers managing other portions of such Purchaser's assets, the covenant set forth above shall only apply with respect to the portion of assets managed by the portfolio manager that made the investment decision to purchase the Securities covered by this Agreement.

4.13 Conversion Procedures. The form of conversion notice included in the Note (each, a "Conversion Notice") sets forth the totality of the procedures required of the Purchasers in order to convert such Purchaser's Note. No additional legal opinion, other information or instructions shall be required of the Purchaser to convert its Note. Without limiting the preceding sentences, no ink-original Conversion Notice shall be required, nor shall any medallion guarantee (or other type of guarantee or notarization) of any Conversion Notice form be required in order to convert the Notes. The Company shall honor conversions of the Notes and shall deliver Shares in accordance with the terms, conditions and time periods set forth in the Transaction Documents.

4.14 DTC Program. For so long as any Securities are outstanding, the Company will employ as the Transfer Agent for the Common Stock a participant in the DTC Automated Securities Transfer Program and cause the Common Stock to be transferable pursuant to such program.

4.15 Preservation of Corporate Existence. The Company shall preserve and maintain its corporate existence, rights, privileges and franchises in the jurisdiction of its incorporation, and qualify and remain qualified, as a foreign corporation in each jurisdiction in which such qualification is necessary in view of its business or operations and where the failure to qualify or remain qualified might reasonably have a Material Adverse Effect upon the financial condition, business or operations of the Company taken as a whole.

4.16 Subsequent Equity Sales.

(a) From the date hereof until such time as the Note is no longer outstanding, the Company will not, without the consent of the Purchasers, enter into any Equity Line of Credit or similar agreement, nor issue nor agree to issue any floating or Variable Priced Equity Linked Instruments nor any of the foregoing or equity with price reset rights (subject to adjustment for stock splits, distributions, dividends, recapitalizations and the like) (collectively, the "Variable Rate Transaction"). For purposes hereof, "Equity Line of Credit" shall include any transaction involving a written agreement between the Company and an investor or underwriter other than the Purchasers or an affiliate of the Purchasers whereby the Company has the right to "put" its securities to the investor or underwriter over an agreed period of time and at an agreed price or price formula, and "Variable Priced Equity Linked Instruments" shall include: (A) any debt or equity securities which are convertible into, exercisable or exchangeable for, or carry the right to receive additional shares of Common Stock either (1) at any conversion, exercise or exchange rate or other price that is based upon and/or varies with the trading prices of or quotations for Common Stock at any time after the initial issuance of such debt or equity security, or (2) with a fixed conversion, exercise or exchange price that is subject to being reset at some future date at any time after the initial issuance of such debt or equity security due to a change in the market price of the Company's Common Stock since date of initial issuance, and (B) any amortizing convertible security which amortizes prior to its maturity date, where the Company is required or has the option to (or any investor in such transaction has the option to require the Company to) make such amortization payments in shares of Common Stock which are valued at a price that is based upon and/or varies with the trading prices of or quotations for Common Stock at any time after the initial issuance of such debt or equity security (whether or not such payments in stock are subject to certain equity conditions). For the avoidance of doubt, a Section 3(a)(9) exchange and a settlement under a Section 3(a)(10) settlement, each under the Securities Act, or any other similar settlement or exchange shall be deemed a Variable Rate Transaction for the purposes of this Agreement.

(b) This section only applies to funding activities by the Company that shall directly affect any Purchaser's ability to get repaid on time by the Company; from the date hereof until the Note is no longer outstanding, in the event that the Company issues or sells any Common Stock Equivalents, if a Purchaser then holding Securities purchased under this Agreement reasonably believes that any of the terms and conditions appurtenant to such issuance or sale are more favorable to such investors than are the terms and conditions granted to the Purchasers hereunder, upon notice to the Company by the Purchasers within five Trading Days after disclosure of such issuance or sale, the Company shall amend the terms of this transaction as to the Purchasers only so as to give the Purchasers the benefit of such more favorable terms or conditions.

(c) Notwithstanding the foregoing, this Section 4.16 shall not apply in respect of an Exempt Issuance.

ARTICLE V.
MISCELLANEOUS

5 . 1 Termination. This Agreement may be terminated by a Purchaser, as to the applicable Purchaser's obligations hereunder only and without any effect whatsoever on the obligations between the Company and the other Purchaser, by written notice to the other parties, if the Closing has not been consummated on or before September 30, 2021; provided, however, that no such termination will affect the right of any party to sue for any breach by any other party (or parties).

5 . 2 Fees and Expenses. Except as expressly set forth below and in the Transaction Documents to the contrary, each party shall pay the fees and expenses of its advisers, counsel, accountants and other experts, if any, and all other expenses incurred by such party incident to the negotiation, preparation, execution, delivery and performance of this Agreement. The Company shall pay all Transfer Agent fees (including, without limitation, any fees required for same-day processing of any instruction letter delivered by the Company and any exercise notice delivered by a Purchaser), stamp taxes and other taxes and duties levied in connection with the delivery of any Securities to a Purchaser.

5.3 Entire Agreement. The Transaction Documents, together with the exhibits and schedules thereto, contain the entire understanding of the parties with respect to the subject matter hereof and thereof and supersede all prior agreements and understandings, oral or written, with respect to such matters, which the parties acknowledge have been merged into such documents, exhibits and schedules.

5 . 4 Notices. 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 date of transmission, if such notice or communication is delivered via facsimile or email attachment at the facsimile number or 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 date of transmission, if such notice or communication is delivered via facsimile or email attachment at the facsimile number or 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 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. To the extent that any notice provided pursuant to any Transaction Document constitutes, or contains, material, non-public information regarding the Company or any Subsidiaries, the Company shall simultaneously file such notice with the SEC pursuant to a Current Report on Form 8-K.

5.5 Amendments; Waivers. Except as provided in the last sentence of this Section 5.5, no provision of this Agreement may be waived, modified, supplemented or amended except in a written instrument signed, in the case of an amendment, by the Company and the Purchasers holding a majority of the aggregate principal amount of the Notes issued pursuant to this Agreement; or in the case of a waiver, by the party against whom enforcement of any such waived provision is sought.

5 . 6 Headings. The headings herein are for convenience only, do not constitute a part of this Agreement and shall not be deemed to limit or affect any of the provisions hereof.

5 . 7 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties and their successors and permitted assigns. The Company may not assign this Agreement or any rights or obligations hereunder without the prior written consent of the Purchasers (other than by merger). Any Purchaser may assign any or all of its rights under this Agreement to any Person to whom such Purchaser assigns or transfers any Securities, provided that such transferee agrees in writing to be bound, with respect to the transferred Securities, by the provisions of the Transaction Documents that apply to the "Purchaser."

5 . 8 No Third-Party Beneficiaries. This Agreement is intended for the benefit of the parties hereto and their respective successors and permitted assigns and is not for the benefit of, nor may any provision hereof be enforced by, any other Person, except as otherwise set forth in Section 4.8 and this Section 5.8.

5 . 9 Governing Law; Arbitration; Attorneys' Fees . All questions concerning the construction, validity, enforcement and interpretation of the Transaction Documents shall be governed by and construed and enforced in accordance with the internal Laws of the State of New York, without regard to the principles of conflicts of law thereof. Any disputes, claims, or controversies arising out of or relating to the Transaction Documents, or the transactions, contemplated thereby, or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of this Agreement to arbitrate, shall be referred to and resolved solely and exclusively by binding arbitration to be conducted before the Judicial Arbitration and Mediation Service ("JAMS"), or its successor pursuant the expedited procedures set forth in the JAMS Comprehensive Arbitration Rules and Procedures (the "Rules"), including Rules 16.1 and 16.2 of those Rules. The arbitration shall be held in New York, New York, before a tribunal consisting of three arbitrators each of whom will be selected in accordance with the "strike and rank" methodology set forth in Rule 15. Either party to this Agreement may, without waiving any remedy under this Agreement, seek from any federal or state court sitting in the State of New York any interim or provisional relief that is necessary to protect the rights or property of that party, pending the establishment of the arbitral tribunal. The costs and expenses of such arbitration shall be paid by and be the sole responsibility of the Company, including but not limited to the Buyer's attorneys' fees and each arbitrator's fees. The arbitrators' decision must set forth a reasoned basis for any award of damages or finding of liability. The arbitrators' decision and award will be made and delivered as soon as reasonably possibly and in any case within 60 days' following the conclusion of the arbitration hearing and shall be final and binding on the parties and may be entered by any court having jurisdiction thereof. If any party shall commence an Action to enforce any provisions of the Transaction Documents, then, in addition to the obligations of the Company elsewhere in this Agreement, the prevailing party in such Action shall be reimbursed by the non-prevailing party for its reasonable attorneys' fees and other costs and expenses incurred with the investigation, preparation and prosecution of such Action.

5.10 Survival. The representations and warranties contained herein shall survive the Closing and the delivery of the Securities.

5.11 Execution. This Agreement may be executed in two or more counterparts, all of which when taken together shall be considered one and the same agreement and shall become effective when counterparts have been signed by each party and delivered to each other party, it being understood that the parties need not sign the same counterpart. In the event that any signature is delivered by facsimile transmission or by e-mail delivery of a ".pdf" format data file, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or ".pdf" signature page were an original thereof.

5 . 1 2 Severability. If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction to be invalid, illegal, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions set forth herein shall remain in full force and effect and shall in no way be affected, impaired or invalidated, and the parties hereto shall use their commercially reasonable efforts to find and employ an alternative means to achieve the same or substantially the same result as that contemplated by such term, provision, covenant or restriction. It is hereby stipulated and declared to be the intention of the parties that they would have executed the remaining terms, provisions, covenants and restrictions without including any of such that may be hereafter declared invalid, illegal, void or unenforceable.

5 . 1 3 Rescission and Withdrawal Right. Notwithstanding anything to the contrary contained in (and without limiting any similar provisions of) any of the other Transaction Documents, whenever any Purchaser exercises a right, election, demand or option under a Transaction Document and the Company does not timely perform its

related obligations within the periods therein provided, then the applicable Purchaser may rescind or withdraw, in its sole discretion from time to time upon written notice to the Company, any relevant notice, demand or election in whole or in part without prejudice to its future actions and rights; provided, however, that in the case of a rescission of a conversion of a Note, the applicable Purchaser shall be required to return any shares of Common Stock subject to any such rescinded conversion notice concurrently with the return to the applicable Purchaser of the aggregate conversion price paid to the Company for such shares and the restoration of the applicable Purchaser's right to acquire such shares pursuant to the applicable Purchaser's Note (including, issuance of a replacement note certificate evidencing such restored right).

5.14 Replacement of Securities. If any certificate or instrument evidencing any Securities is mutilated, lost, stolen or destroyed, the Company shall issue or cause to be issued in exchange and substitution for and upon cancellation thereof (in the case of mutilation), or in lieu of and substitution therefor, a new certificate or instrument, but only upon receipt of evidence reasonably satisfactory to the Company of such loss, theft or destruction without requiring the posting of any bond.

5.15 Remedies. In addition to being entitled to exercise all rights provided herein or granted by law, including recovery of damages, each of the Purchasers and the Company will be entitled to specific performance under the Transaction Documents. The parties agree that monetary damages may not be adequate compensation for any loss incurred by reason of any breach of obligations contained in the Transaction Documents and hereby agree to waive and not to assert in any Action for specific performance of any such obligation the defense that a remedy at law would be adequate.

5.16 Payment Set Aside. To the extent the Company makes a payment or payments to any Purchaser pursuant to any Transaction Document or a Purchaser enforces or exercises its rights thereunder, and such payment or payments or the proceeds of such enforcement or exercise or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside, recovered from, disgorged by or are required to be refunded, repaid or otherwise restored to the Company, a trustee, receiver or any other Person under any Law (including, without limitation, any bankruptcy law, state or federal law, common law or equitable cause of Action), then to the extent of any such restoration the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such enforcement or setoff had not occurred.

5.17 Liquidated Damages. The Company's obligations to pay any partial liquidated damages or other amounts owing under the Transaction Documents is a continuing obligation of the Company and shall not terminate until all unpaid partial liquidated damages and other amounts have been paid notwithstanding the fact that the instrument or security pursuant to which such partial liquidated damages or other amounts are due and payable shall have been canceled.

5.18 Saturdays, Sundays, Holidays, etc. If the last or appointed day for the taking of any action or the expiration of any right required or granted herein shall not be a Trading Day, then such action may be taken or such right may be exercised on the next succeeding Trading Day.

5.19 Construction. The parties agree that each of them and/or their respective counsel have reviewed and had an opportunity to revise the Transaction Documents and, therefore, the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of the Transaction Documents or any amendments thereto. In addition, each and every reference to share prices and shares of Common Stock in any Transaction Document shall be subject to adjustment for reverse and forward stock splits, stock dividends, stock combinations and other similar transactions of the Common Stock that occur after the date of this Agreement.

5.20 **WAIVER OF JURY TRIAL. IN ANY ACTION, SUIT, OR PROCEEDING IN ANY JURISDICTION BROUGHT BY ANY PARTY AGAINST ANY OTHER PARTY, THE PARTIES EACH KNOWINGLY AND INTENTIONALLY, TO THE GREATEST EXTENT PERMITTED BY APPLICABLE LAW, HEREBY ABSOLUTELY, UNCONDITIONALLY, IRREVOCABLY AND EXPRESSLY WAIVE FOREVER TRIAL BY JURY**.

5.21 Non-Circumvention. The Company hereby covenants and agrees that the Company will not, by amendment of its formation documents or other governing documents, or through any reorganization, transfer of assets, consolidation, merger, scheme of arrangement, dissolution, issue or sale of securities, or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Agreement, and will at all times in good faith carry out all of the provision of this Agreement and take all action as may be required to protect the rights of all Holder. Without limiting the generality of the foregoing or any other provision of this Agreement or the other Transaction Documents, the Company (a) shall not increase the par value of any shares of Common Stock receivable upon conversion of the Note above the Conversion Price, then in effect and (b) shall take all such action as may be necessary or appropriate in order that the Company may validly and legally issue fully paid and nonassessable Shares upon the conversion of the Note.

(Signature Pages Follow)

IN WITNESS WHEREOF, the parties hereto have caused this Amended and Restated Securities Purchase Agreement to be duly executed by their respective authorized signatories as of the date first indicated above.

Digital Brands Group, Inc.

By: /s/ John Hilburn Davis IV
Name: John Hilburn Davis IV
Title: Chief Executive Officer

Address for Notice:

With a copy to (which shall not constitute notice):
Email:

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

PURCHASER SIGNATURE PAGES TO
AMENDED AND RESTATED SECURITIES PURCHASE AGREEMENT

IN WITNESS WHEREOF, the undersigned have caused this Amended and Restated Securities Purchase Agreement to be duly executed by their respective authorized signatories as of the date first indicated above.

Name of Purchaser: Oasis Capital, LLC

Signature of Authorized Signatory of Purchaser: */s/ Adam Long*

Name of Authorized Signatory: Adam Long

Title of Authorized Signatory: Manager

Email Address of Authorized Signatory: adam@oasis-cap.com

Facsimile Number of Authorized Signatory:

Address for Notice to Purchaser: 411 Dorado BCH E, Dorado PR 00646

Address for Delivery of Securities to Purchaser (if not same as address for notice):

Subscription Amount: $5,000,000

EIN Number: [REDACTED]

IN WITNESS WHEREOF, the undersigned have caused this Amended and Restated Securities Purchase Agreement to be duly executed by their respective authorized signatories as of the date first indicated above.

Name of Purchaser: FirstFire Global Opportunities Fund, LLC

Signature of Authorized Signatory of Purchaser: */s/ Eli Fireman*

Name of Authorized Signatory: Eli Fireman on behalf of FirstFire Capital Management, LLC

Title of Authorized Signatory: Manager

Email Address of Authorized Signatory: eli@firstfirecapital.com

Facsimile Number of Authorized Signatory:

Address for Notice to Purchaser: 1040 First Avenue, Suite 190 New York, NY 10022

Address for Delivery of Securities to Purchaser (if not same as address for notice):

Subscription Amount: $1,500,000

EIN Number:

NEITHER THE ISSUANCE NOR SALE OF THE SECURITIES REPRESENTED BY THIS CERTIFICATE NOR THE SECURITIES INTO WHICH THESE SECURITIES ARE CONVERTIBLE HAVE BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR APPLICABLE STATE SECURITIES LAWS. THE SECURITIES MAY NOT BE OFFERED FOR SALE, SOLD, TRANSFERRED OR ASSIGNED (I) IN THE ABSENCE OF (A) AN EFFECTIVE REGISTRATION STATEMENT FOR THE SECURITIES FILED PURSUANT TO THE SECURITIES ACT OF 1933, AS AMENDED, OR (B) AN OPINION OF COUNSEL (WHICH COUNSEL SHALL BE SELECTED BY THE HOLDER), IN A GENERALLY ACCEPTABLE FORM, THAT REGISTRATION IS NOT REQUIRED UNDER SAID ACT OR (II) UNLESS SOLD PURSUANT TO RULE 144 OR RULE 144A UNDER SAID ACT. NOTWITHSTANDING THE FOREGOING, THE SECURITIES MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN OR FINANCING ARRANGEMENT SECURED BY THE SECURITIES.

Principal Amount: $1,575,000 **Issue Date: October 1, 2021**

Original Issue Discount: $75,000

SENIOR SECURED CONVERTIBLE PROMISSORY NOTE

FOR VALUE RECEIVED, **Digital Brands Group, Inc.,** a Delaware corporation (the "Borrower"), as of **September 30, 2021** (the "Issue Date"), hereby promises to pay to the order of **FIRSTFIRE GLOBAL OPPORTUNITIES FUND, LLC**, a Delaware limited liability company, (the "Lender" and including its registered assigns, the "Holder"), the principal sum of **$1,575,000** (the "Principal Amount"), together with interest at the rate of **6**% per annum, at maturity or upon acceleration or otherwise, as set forth herein (this "Note"). This Note is being issued by the Borrower to the Lender pursuant to that certain Amended and Restated Securities Purchase Agreement (as may be amended from time to time, the "Purchase Agreement") entered into by Oasis Capital, LLC, the Borrower and the Lender on the Issue Date. The cash consideration to the Borrower for this Note $**1,500,000** (the "Consideration") in United States currency, due to the prorated original issuance discount of up to **$75,000** (the "OID"). The maturity date shall be the date that is 18 months from the Issue Date (the "Maturity Date"), and is the date upon which the applicable portion of the Principal Amount, as well as any accrued and unpaid interest and other fees, shall be due and payable. This Note may not be repaid in whole or in part except as otherwise explicitly set forth herein. Any amount of principal or interest on this Note that is not paid by the applicable Maturity Date shall bear interest at the rate of the lesser of (i) 18% per annum or (ii) the maximum amount allowed by law, from the due date thereof until the same is paid ("Default Interest"). All payments due hereunder (to the extent not converted into the Borrower's Common Stock, par value $0.0001 per share (the "Common Stock")) shall be made in lawful money of the United States of America. All payments shall be made at such address as the Holder shall hereafter give to the Borrower by written notice made in accordance with the provisions of this Note. Whenever any amount expressed to be due by the terms of this Note is due on any day which is not a business day, the same shall instead be due on the next succeeding day which is a business day and, in the case of any interest payment date which is not the date on which this Note is paid in full, the extension of the due date thereof shall not be taken into account for purposes of determining the amount of interest due on such date. As used in this Note, the term "business day" shall mean any day other than a Saturday, Sunday or a day on which commercial banks in the city of New York, New York are authorized or required by law or executive order to remain closed.

This Note is free from all taxes, liens, claims and encumbrances with respect to the issue thereof and shall not be subject to preemptive rights or other similar rights of shareholders of the Borrower and will not impose personal liability upon the holder thereof. Capitalized terms used in this Note shall have the meanings set forth in the Purchase Agreement unless otherwise defined in this Note.

This Note is secured by a security interest granted pursuant to the terms of the Security Agreement.

The following additional terms shall also apply to this Note:

ARTICLE I.

1.1 Conversion Right; Company Cash Payment Option

(a) Conversion Right. Subject to the terms of this Section 1.1, the Holder shall have the right at any time following the Issue Date, to convert all or any part of the entire outstanding and unpaid Principal Amount and accrued and unpaid interest of this Note into fully paid and non-assessable shares of Common Stock, as such Common Stock exists on the Issue Date, or any shares of capital stock or other securities of the Borrower into which such Common Stock shall hereafter be changed or reclassified at the Conversion Price determined as provided herein (a "Conversion"); provided, however, that in no event shall the Holder be entitled to convert any portion of this Note in excess of that portion of this Note upon conversion of which the sum of (1) the number of shares of Common Stock beneficially owned by the Holder and its affiliates (excluding shares of Common Stock which may be deemed beneficially owned through the ownership of the unconverted portion of this Note or the unexercised or unconverted portion of any other security of the Borrower subject to a limitation on conversion or exercise analogous to the limitations contained herein) and (2) the number of shares of Common Stock issuable upon the conversion of the portion of this Note with respect to which the determination of this proviso is being made, would result in beneficial ownership by the Holder and its affiliates of more than 4.99% of the outstanding shares of Common Stock (the "Maximum Share Amount"). The Holder, upon not less than 61 days' prior written notice to the Borrower, may increase the Maximum Share Amount, provided that the Maximum Share Amount shall never exceed 9.99% of the number of shares of Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock upon conversion of this Note held by the Holder and the provisions of this Section 1.1 shall continue to apply. Any such increase will not be effective until the 61st day after such notice is delivered to the Borrower. The Maximum Share Amount provisions of this paragraph shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this Section 1.1 to correct this paragraph (or any portion hereof) which may be defective or inconsistent with the intended Maximum Share Amount provisions contained herein or to make changes or supplements necessary or desirable to properly give effect to such limitation. The limitations contained in this paragraph shall apply to any successor holder of this Note. For purposes of this Section 1.1, beneficial ownership shall be determined in accordance with Section 13(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and Regulations 13D-G thereunder, except as otherwise provided in clause (1) of such proviso. The number of shares of Common Stock to be issued upon each conversion of this Note shall be determined by dividing the Conversion Amount (as defined below) by the applicable Conversion Price then in effect on the date specified in the notice of conversion, in the form attached hereto as Exhibit A (the "Notice of Conversion"), delivered to the Borrower by the Holder in accordance with Section 1.3 below; provided that the Notice of Conversion is submitted by facsimile or e-mail (or by other means resulting in, or reasonably expected to result in, notice) to the Borrower before 6:00 p.m., New York, New York time on such conversion date (the "Conversion Date"). The term "Conversion Amount" means, with respect to any conversion of this Note, the sum of (A) the Principal Amount of this Note to be converted in such conversion, plus (B) at the Holder's option, accrued and unpaid interest, if any, on such Principal Amount at the interest rates provided in this Note to the Conversion Date, plus (C) at the Holder's option, Default Interest, if any, on the amounts referred to in the immediately preceding clauses (A) and/or (B), plus (D) at the Holder's option, any amounts owed to the Holder pursuant to Sections 1.2, 1.3(g), 4.11, and/or 4.12 and/or Article III hereof. Except following an Event of Default, the Holder shall not be permitted to submit Conversion Notices in any thirty day period, having Conversion Amounts equalling in the aggregate, in excess of $500,000.

(b) Cash Payment Option. If at any time following the Issue Date, the Conversion Price set forth in any Conversion Notice is less than $3.00 per share (the "Reference Floor Price"), at the option of the Borrower, the Borrower may choose to pay within three (3) business days to the Holder the applicable Conversion Amount in cash rather than issue shares of Common Stock; provided however that in no event shall the Borrower issue shares of Common Stock at less than the Reference Floor Price if such issuance would result in Borrower issuing more than 20% of its common stock outstanding as of the date hereof.

1.2 Conversion Price.

(a) Conversion Price. The Conversion Price shall be the lesser of (i) the 130% of the Closing Price on the last Trading Day prior to the Issue Date, and (ii) 90% of the average of the two lowest VWAPs during the five (5) consecutive Trading Day period ending and including the Trading Day immediately preceding the delivery or deemed delivery of the applicable Notice of Conversion (the "Conversion Price"). All such Conversion Price determinations are to be appropriately adjusted for any stock dividend, stock split, stock combination, reclassification or similar transaction that proportionately decreases or increases the Common Stock.

(b) Authorized Shares. The Borrower covenants that during the period the conversion right exists, the Borrower will reserve from its authorized and unissued Common Stock a sufficient number of shares, free from preemptive rights, to provide for the issuance of Common Stock upon the full conversion of this Note, which shall be at least **THREE** times the number of shares that is actually issuable upon full conversion of this Note (based on the Conversion Price of this Note in effect from time to time) (the "Reserved Amount"). The Reserved Amount shall be increased from time to time in accordance with the Borrower's obligations hereunder. The Borrower represents that upon issuance, such shares of Common Stock will be duly and validly issued, fully paid and non-assessable. In addition, if the Borrower shall issue any securities or make any change to its capital structure which would change the number of shares of Common Stock into which this Note shall be convertible at the Conversion Price, the Borrower shall at the same time make proper provision so that thereafter there shall be a sufficient number of shares of Common Stock authorized and reserved, free from preemptive rights, for conversion of this Note. The Borrower acknowledges that it has irrevocably instructed its transfer agent to issue certificates (or book-entry shares) for the Common Stock issuable upon conversion of this Note, and agrees that its issuance of this Note shall constitute full authority to its officers and agents who are charged with the duty of executing stock certificates (or applicable instructions for the issuance of book-entry shares) to execute and issue the necessary certificates (or book-entry shares) for shares of Common Stock in accordance with the terms and conditions of this Note.

If, at any time the Borrower does not maintain the Reserved Amount it will be considered an Event of Default under Section 3.2 of this Note; provided, that notwithstanding anything to the contrary herein, the Borrower shall only be required to confirm and adjust the Reserved Amount one time per calendar month.

1.3 Method of Conversion.

(a) Mechanics of Conversion. Subject to Section 1.1, this Note may be converted by the Holder in whole or in part at any time, (A) by submitting to the Borrower a Notice of Conversion (by facsimile, e-mail or other reasonable means of communication dispatched on the Conversion Date prior to 11:00 a.m., New York, New York time) and (B) subject to Section 1.3(b), surrendering this Note at the principal office of the Borrower.

(b) Surrender of Note Upon Conversion. Notwithstanding anything to the contrary set forth herein, upon conversion of this Note in accordance with the terms hereof, the Holder shall not be required to physically surrender this Note to the Borrower unless the entire unpaid Principal Amount of this Note is so converted. The Holder and the Borrower shall maintain records showing the Principal Amount so converted and the dates of such conversions or shall use such other method, reasonably satisfactory to the Holder and the Borrower, so as not to require physical surrender of this Note upon each such conversion. In the event of any dispute or discrepancy, such records of the Borrower shall, *prima facie,* be controlling and determinative in the absence of manifest error. Notwithstanding the foregoing, if any portion of this Note is converted as aforesaid, the Holder may not transfer this Note unless the Holder first physically surrenders this Note to the Borrower, whereupon the Borrower will forthwith issue and deliver upon the order of the Holder a new Note of like tenor, registered as the Holder (upon payment by the Holder of any applicable transfer taxes) may request, representing in the aggregate the remaining unpaid Principal Amount of this Note. The Holder and any assignee, by acceptance of this Note, acknowledge and agree that, by reason of the provisions of this paragraph, following conversion of a portion of this Note, the unpaid and unconverted Principal Amount of this Note represented by this Note may be less than the amount stated on the face hereof.

(c) Payment of Taxes. The Borrower shall not be required to pay any tax which may be payable in respect of any transfer involved in the issue and delivery of shares of Common Stock or other securities or property on conversion of this Note in a name other than that of the Holder (or in street name), and the Borrower shall not be required to issue or deliver any such shares or other securities or property unless and until the person or persons (other than the Holder or the custodian in whose street name such shares are to be held for the Holder's account) requesting the issuance thereof shall have paid to the Borrower the amount of any such tax or shall have established to the satisfaction of the Borrower that such tax has been paid.

(d) Delivery of Common Stock Upon Conversion. Upon receipt by the Borrower from the Holder of a facsimile transmission or e-mail (or other reasonable means of communication) of a Notice of Conversion meeting the requirements for conversion as provided in this Section 1.3, unless the Borrower shall have elected to pay to the Holder cash in lieu of the applicable Conversion Amounts in accordance with Section 1.1 hereof, the Borrower shall issue and deliver or cause to be issued and delivered to or upon the order of the Holder certificates for the Common Stock issuable upon such conversion within two business days after such receipt (the "Deadline") (and, solely in the case of conversion of the entire unpaid Principal Amount hereof, surrender of this Note) in accordance with the terms hereof.

(e) Obligation of Borrower to Deliver Common Stock. Upon receipt by the Borrower of a Notice of Conversion, the Holder shall be deemed to be the holder of record of the Common Stock issuable upon such conversion, the outstanding Principal Amount and the amount of accrued and unpaid interest on this Note shall be reduced to reflect such conversion, and, unless the Borrower defaults on its obligations under this Article I, all rights with respect to the portion of this Note being so converted shall forthwith terminate except the right to receive the Common Stock or other securities, cash or other assets, as herein provided, on such conversion. If the Holder shall have given a Notice of Conversion as provided herein, the Borrower's obligation to issue and deliver the certificates for Common Stock shall be absolute and unconditional, irrespective of the absence of any action by the Holder to enforce the same, any waiver or consent with respect to any provision thereof, the recovery of any judgment against any person or any action to enforce the same, any failure or delay in the enforcement of any other obligation of the Borrower to the holder of record, or any setoff, counterclaim, recoupment, limitation or termination, or any breach or alleged breach by the Holder of any obligation to the Borrower, and irrespective of any other circumstance which might otherwise limit such obligation of the Borrower to the Holder in connection with such conversion. The Conversion Date specified in the Notice of Conversion shall be the Conversion Date so long as the Notice of Conversion is received by the Borrower before 11:00 a.m., New York, New York time, on such date.

(f) Delivery of Common Stock by Electronic Transfer. In lieu of delivering physical certificates representing the Common Stock issuable upon conversion, provided the Borrower is participating in the Depository Trust Company ("DTC") Fast Automated Securities Transfer ("FAST") program, upon request of the Holder and its compliance with the provisions contained in Sections 1.1 and 1.2 and in this Section 1.3, the Borrower shall use its commercially reasonable efforts to cause its transfer agent to electronically transmit the Common Stock issuable upon conversion to the Holder by crediting the account of Holder's Prime Broker with DTC through its Deposit Withdrawal Agent Commission ("DWAC") system.

(g) Failure to Deliver Common Stock Prior to Deadline. Without in any way limiting the Holder's right to pursue other remedies, including actual damages and/or equitable relief, the parties agree that if delivery of the Common Stock issuable upon conversion of this Note is not delivered by the Deadline the Borrower shall pay to the Holder $3,000 per business day for each business day beyond the Deadline that the Borrower fails to deliver such Common Stock (unless such failure results from war, acts of terrorism, an epidemic, or natural disaster) ("Conversion Default Payments"). Such amount shall be paid to Holder in cash by the fifth day of the month following the month in which it has accrued or, at the option of the Holder (by written notice to the Borrower by the first day of the month following the month in which it has accrued), shall be added to the Principal Amount of this Note on the fifth day of the month following the month in which it has accrued, in which event interest shall accrue thereon in accordance with the terms of this Note and such additional Principal Amount shall be convertible into Common Stock in accordance with the terms of this Note. The Borrower agrees that the right to convert is a valuable right to the Holder. The damages resulting from a failure, attempt to frustrate, and/or interference with such conversion right are difficult if not impossible to quantify. Accordingly, the parties acknowledge that the liquidated damages provision contained in this Section 1.3(g) are justified.

1 . 4 Concerning the Shares. The shares of Common Stock issuable upon conversion of this Note may not be sold or transferred unless (i) such shares are sold pursuant to an effective registration statement under the Securities Act of 1933 (the "Securities Act"), or (ii) the Borrower or its transfer agent shall have been furnished with an opinion of counsel (which opinion shall be in form, substance and scope customary for opinions of counsel in comparable transactions) to the effect that the shares to be sold or transferred may be sold or transferred pursuant to an exemption from such registration or (iii) such shares are sold or transferred pursuant to Rule 144 under the Securities Act (or a successor rule) ("Rule 144") or (iv) such shares are transferred to an "affiliate" (as defined in Rule 144) of the Borrower who agrees to sell or otherwise transfer the shares only in accordance with this Section 1.4 and who is an "accredited investor" (as defined in Rule 501(a) of the Securities Act). Except as otherwise provided (and subject to the removal provisions set forth below), until such time as the shares of Common Stock issuable upon conversion of this Note have been registered under the Securities Act or otherwise may be sold pursuant to Rule 144 without any restriction as to the number of securities as of a particular date that can then be immediately sold, each certificate for shares of Common Stock issuable upon conversion of this Note that has not been so included in an effective registration statement or that has not been sold pursuant to an effective registration statement or an exemption that permits removal of the legend, shall bear a legend substantially in the following form, as appropriate:

"THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, OR APPLICABLE STATE SECURITIES LAWS. THE SECURITIES HAVE BEEN ACQUIRED FOR INVESTMENT AND MAY NOT BE OFFERED FOR SALE, SOLD, TRANSFERRED OR ASSIGNED IN THE ABSENCE OF AN EFFECTIVE REGISTRATION STATEMENT FOR THE SECURITIES UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR APPLICABLE STATE SECURITIES LAWS, UNLESS SOLD PURSUANT TO: (1) RULE 144 UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR (2) AN OPINION OF HOLDER'S COUNSEL, IN A CUSTOMARY FORM, THAT REGISTRATION IS NOT REQUIRED UNDER SAID ACT OR APPLICABLE STATE SECURITIES LAWS."

The legend set forth above shall be removed and the Borrower shall issue to the Holder a new certificate therefore free of any transfer legend if (i) the Borrower or its transfer agent shall have received an opinion of counsel, in form, substance and scope customary for opinions of counsel in comparable transactions, to the effect that a public sale or transfer of such Common Stock may be made without registration under the Securities Act, which opinion shall be accepted by the Borrower so that the sale or transfer is effected or (ii) in the case of the Common Stock issuable upon conversion of this Note, such security is registered for sale by the Holder under an effective registration statement filed under the Securities Act or otherwise may be sold pursuant to Rule 144 without any restriction as to the number of securities as of a particular date that can then be immediately sold.

1.5 Status as Shareholder. Upon submission of a Notice of Conversion by a Holder, (i) the shares covered thereby (other than the shares, if any, which cannot be issued because their issuance would exceed such Holder's allocated portion of the Reserved Amount or non-waived Maximum Share Amount) shall be deemed converted into shares of Common Stock and (ii) the Holder's rights as a Holder of such converted portion of this Note shall cease and terminate, excepting only the right to receive certificates for such shares of Common Stock and to any remedies provided herein or otherwise available at law or in equity to such Holder because of a failure by the Borrower to comply with the terms of this Note. Notwithstanding the foregoing, if a Holder has not received certificates or transmission of such shares pursuant to Section 1.3(f) for all shares of Common Stock prior to the tenth (10th) business day after the expiration of the Deadline with respect to a conversion of any portion of this Note for any reason, then (unless the Holder otherwise elects to retain its status as a holder of Common Stock by so notifying the Borrower) the Holder shall regain the rights of a Holder of this Note with respect to such unconverted portions of this Note and the Borrower shall, as soon as practicable, return such unconverted Note to the Holder or, if this Note has not been surrendered, adjust its records to reflect that such portion of this Note has not been converted. In all cases, the Holder shall retain all of its rights and remedies (including, without limitation, (i) the right to receive Conversion Default Payments pursuant to Section 1.3(g) to the extent required thereby for such conversion default and any subsequent conversion default and (ii) the right to have the Conversion Price with respect to subsequent conversions determined in accordance with Section 1.2) for the Borrower's failure to convert this Note.

ARTICLE II.
CERTAIN COVENANTS

2 . 1 Distributions on Capital Stock. So long as the Borrower shall have any obligation under this Note, the Borrower shall not without the Holder's written consent (a) pay, declare or set apart for such payment, any dividend or other distribution (whether in cash, property or other securities) on shares of capital stock other than dividends on shares of Common Stock solely in the form of additional shares of Common Stock or (b) directly or indirectly or through any Subsidiary make any other payment or distribution in respect of its capital stock except for distributions pursuant to any shareholders' rights plan which is approved by a majority of the Borrower's disinterested directors.

2 . 2 Restriction on Stock Repurchases. So long as the Borrower shall have any obligation under this Note, the Borrower shall not without the Holder's written consent redeem, repurchase or otherwise acquire (whether for cash or in exchange for property or other securities or otherwise) in any one transaction or series of related transactions any shares of capital stock of the Borrower or any warrants, rights or options to purchase or acquire any such shares (other than repurchases pursuant to the Borrower's equity incentive plans).

ARTICLE III.
EVENTS OF DEFAULT

The occurrence of any of the following shall each constitute an "Event of Default", with no right to notice or the right to cure except as specifically stated:

3 . 1 Failure to Pay Principal or Interest. The Borrower fails to pay the principal hereof or interest thereon when due on this Note, whether at the Maturity Date, upon acceleration, or otherwise.

3 . 2 Reserve/Issuance Failures. The Borrower fails to reserve a sufficient amount of shares of Common Stock as required under the terms of the Purchase Agreement, fails to issue shares of Common Stock to the Holder (or announces or threatens in writing that it will not honor its obligation to do so) upon exercise by the Holder

of the conversion rights of the Holder in accordance with the terms of any securities of the Borrower held by the Holder, fails to transfer or cause its transfer agent to transfer (issue) (electronically or in certificated form) shares of Common Stock issued to the Holder upon conversion of or otherwise pursuant to any securities of the Borrower held by the Holder as and when required by such securities, the Borrower directs its transfer agent not to transfer or delays, impairs, and/or hinders its transfer agent in transferring (or issuing) (electronically or in certificated form) shares of Common Stock to be issued to the Holder upon conversion of or otherwise pursuant to any securities of the Borrower held by the Holder as and when required by such securities, or fails to remove (or directs its transfer agent not to remove or impairs, delays, and/or hinders its transfer agent from removing) any restrictive legend (or to withdraw any stop transfer instructions in respect thereof) on any shares of Common Stock issued to the Holder upon conversion of or otherwise pursuant to any securities of the Borrower held by the Holder as and when required by such securities (or makes any written announcement, statement or threat that it does not intend to honor the obligations described in this paragraph) and any such failure shall continue uncured (or any written announcement, statement or threat not to honor its obligations shall not be rescinded in writing) for two business days after the Holder shall have delivered an applicable notice of conversion or exercise. It is an obligation of the Borrower to remain current in its obligations to its transfer agent. It shall be an event of default of this Note, if a conversion of any securities held by the Holder is delayed, hindered or frustrated due to a balance owed by the Borrower to its transfer agent. If at the option of the Holder, the Holder advances any funds to the Borrower's transfer agent in order to process a conversion or exercise (excluding for the avoidance of doubt, the conversion price which is the Holder's obligation to pay), such advanced funds shall be paid by the Borrower to the Holder within five business days, either in cash or as an addition to the balance of this Note, and such choice of payment method is at the discretion of the Borrower.

3.3 Breach of Covenants. The Borrower breaches any covenant or other term or condition contained in this Note or any other documents entered into between the Borrower and the Holder the breach of which has (or with the passage of time will have) a material adverse effect on the rights of the Holder with respect to this Note and such breach is not cured within 10 business days of the date of such breach.

3.4 Breach of Representations and Warranties. Any representation or warranty of the Borrower made in this Note or in any agreement, statement or certificate given in writing pursuant hereto or in connection herewith, or in connection with the Purchase Agreement or any Transaction Document, shall be false or misleading in any material respect when made and the breach of which has (or with the passage of time will have) a material adverse effect on the rights of the Holder with respect to this Note.

3.5 Receiver or Trustee. The Borrower or any Subsidiary of the Borrower shall make an assignment for the benefit of creditors, or apply for or consent to the appointment of a receiver or trustee for it or for a substantial part of its property or business, or such a receiver or trustee shall otherwise be appointed.

3.6 Judgments. Except as set forth in the Company's SEC filings, any money judgment, writ or similar process shall be entered or filed against the Borrower or any Subsidiary of the Borrower or any of their respective property or other assets for more than $500,000, and shall remain unvacated, unbonded or unstayed for a period of 10 days unless otherwise consented to by the Holder, which consent will not be unreasonably withheld.

3.7 Bankruptcy. Bankruptcy, insolvency, reorganization or liquidation proceedings or other proceedings, voluntary or involuntary, for relief under any bankruptcy law or any law for the relief of debtors shall be instituted by or against the Borrower or any Subsidiary of the Borrower and, in the case of involuntary proceedings, have not been dismissed within 61 days.

3.8 Delisting of Common Stock on the Trading Market. The Borrower shall fail to maintain the listing or quotation of the Common Stock on the Trading Market (as defined in the Purchase Agreement).

3.9 Failure to Comply with the Exchange Act. The Borrower shall fail to file with the SEC its Annual Reports on Form 10-K or its Quarterly Reports on Form 10-Q within the proscribed time periods allocated by the Exchange Act , and/or the Borrower shall cease to be subject to the reporting requirements of the Exchange Act.

3.10 Liquidation. The Borrower commences any dissolution, liquidation, or winding up of Borrower or any substantial portion of its business.

3.11 Cessation of Operations. The Borrower materially ceases operations or Borrower admits it is otherwise generally unable to pay its debts as such debts become due, provided, however, that any disclosure of the Borrower's ability to continue as a "going concern" shall not be an admission that the Borrower cannot pay its debts as they become due.

3.12 Financial Statement Restatement. The Borrower restates any financial statements filed by the Borrower with the SEC for any date or period from two years prior to the Issue Date of this Note and until this Note is no longer outstanding, if the result of such restatement would, by comparison to the unrestated financial statements, have constituted a material adverse effect on the business, operations or financial condition of the Borrower, provided, however, that if any restatement of any financial statements is required to be filed by the Borrower as a result of, or in response to, any new or modified federal or state statute, law, rule or regulation, including any rules and regulations of the SEC, then such restatement of the Borrower's financial statements shall not be an Event of Default.

3.13 Replacement of Transfer Agent. In the event that the Borrower replaces its transfer agent, and the Borrower fails to provide within 15 days of such replacement, a fully executed Irrevocable Transfer Agent Instructions (including but not limited to the provision to irrevocably reserve shares of Common Stock under Section 4.9 of the Purchase Agreement) signed by the successor transfer agent to Borrower and the Borrower that reserves **300**% of the total amount of shares previously held in reserve for the Borrower's immediately preceding transfer agent.

3.14 Inside Information. Any actual transmittal, conveyance, or disclosure by the Borrower or its officers, directors, and/or affiliates of, material non-public information concerning the Borrower, to the Holder or its successors and assigns, which is not immediately cured by Borrower's filing of a Form 8-K pursuant to Regulation FD on that same date.

3.15 No bid. The lowest Trading Price on the Trading Market for the Common Stock is equal to or less than $0.01. "Trading Price" means, for any security as of any date, the lowest VWAP price on the Trading Market as reported by a reliable reporting service designated by the Holder (i.e., www.Nasdaq.com) or, if Nasdaq is not the principal trading market for such security, on the principal securities exchange or trading market where such security is listed or traded or, if the lowest intraday trading price of such security is not available in any of the foregoing manners, the lowest intraday price of any market makers for such security that are quoted on the OTC Markets.

3.16 Prohibition on Debt and Variable Securities. The Borrower, without written consent of the Holder, enters into any Variable Rate Transaction or other similar transaction prohibited under Section 4.16 of the Purchase Agreement.

REMEDIES UPON A DEFAULT. UPON THE OCCURRENCE OF ANY EVENT OF DEFAULT SPECIFIED IN SECTION 3.2, UPON WRITTEN DEMAND BY THE HOLDER THIS NOTE SHALL BECOME IMMEDIATELY DUE AND PAYABLE AND THE BORROWER SHALL PAY TO THE HOLDER, IN FULL SATISFACTION OF ITS OBLIGATIONS HEREUNDER, AN AMOUNT EQUAL TO THE DEFAULT AMOUNT (AS DEFINED HEREIN). Upon the occurrence of any Event of Default specified in Sections 3.1, 3.3, 3.4, 3.5, 3.6, 3.7, 3.8, 3.9, 3.10, 3.11, 3.12, 3.13 and/or 3.14, solely upon written demand by the Holder, this Note shall become immediately due

and payable and the Borrower shall pay to the Holder, in full satisfaction of its obligations hereunder, an amount equal to (i) 125% (plus an additional 5% per each additional Event of Default that occurs hereunder) multiplied by the then outstanding entire balance of this Note (including principal and accrued and unpaid interest)plus (ii) Default Interest from the date of the Event of Default, if any, plus (iii) any amounts owed to the Holder pursuant to Section 1.3(g) in addition to this Remedies Upon Default section (collectively, in the aggregate of all of the above, the "Default Amount"), and all other amounts payable hereunder shall immediately become due and payable, all without demand, presentment or notice, all of which hereby are expressly waived, together with all costs, including, without limitation, legal fees and expenses, of collection, and the Holder shall be entitled to exercise all other rights and remedies available at law or in equity.

ARTICLE IV.
MISCELLANEOUS

4.1 Failure or Indulgence Not Waiver. No failure or delay on the part of the Holder in the exercise of any power, right or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such power, right or privilege preclude other or further exercise thereof or of any other right, power or privileges. All rights and remedies existing hereunder are cumulative to, and not exclusive of, any rights or remedies otherwise available.

4.2 Notices. All notices, offers, acceptance and any other acts under this Notice (except payment) shall be in writing, and shall be sufficiently given if delivered to the addressees in person, by e-mail, by FedEx or similar receipted next day delivery, as follows:

If to the Borrower, to:

If to the Company: Digital Brands Group, Inc.
Email: hil@dstld.la
Attention: John "Hil" Davis, CEO

with a copy to:
(which shall not constitute notice) Manatt, Phelps & Phillips LLP
tpoletti@manatt.om
Attention: Thomas J. Poletti

If to Holder: FIRSTFIRE GLOBAL OPPORTUNITIES FUND LLC
1040 First Avenue, Suite 190 New York, NY 10022
Attention: Eli Fireman
e-mail: eli@firstfirecapital.com

4.3 Amendments. This Note and any provision hereof may only be amended by an instrument in writing signed by the Borrower and the Holder. The term "Note" and all reference thereto, as used throughout this instrument, shall mean this instrument as originally executed, or if later amended or supplemented, then as so amended or supplemented.

4.4 Assignability. This Note shall be binding upon the Borrower and its successors and assigns, and shall inure to be the benefit of the Holder and its successors and assigns. Notwithstanding anything to the contrary herein, the rights, interests or obligations of the Borrower hereunder may not be assigned, by operation of law or otherwise, in whole or in part, by the Borrower without the prior signed written consent of the Holder, which consent may be withheld at the sole discretion of the Holder (any such assignment or transfer shall be null and void if the Borrower does not obtain the prior signed written consent of the Holder). This Note or any of the severable rights and obligations inuring to the benefit of or to be performed by Holder hereunder may be assigned by Holder to a third party, in whole or in part, without the need to obtain the Borrower's consent thereto. Each transferee of this Note must be an "accredited investor" (as defined in Rule 501(a) of the Securities Act). Notwithstanding anything in this Note to the contrary, this Note may be pledged as collateral in connection with a bona fide margin account or other lending arrangement.

4.5 Cost of Collection. If default is made in the payment of this Note, the Borrower shall pay the Holder hereof costs of collection, including reasonable attorneys' fees.

4.6 Governing Law. This Note shall be governed by and interpreted in accordance with the laws of the State of New York without regard to the principles of conflicts of law (whether New York or any other jurisdiction).

4.7 Arbitration. Any disputes, claims, or controversies arising out of or relating to this Note, or the transactions, contemplated thereby, or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of this Note to arbitrate, shall be referred to and resolved solely and exclusively by binding arbitration as provided for in the Purchase Agreement. Either party to this Note may, without waiving any remedy under this Note, seek from any federal or state court sitting in the State of New York any interim or provisional relief that is necessary to protect the rights or property of that party, pending the establishment of the arbitral tribunal. The costs and expenses of such arbitration shall be paid by and be the sole responsibility of the Borrower, including but not limited to the Holder's attorneys' fees, and each arbitrator's fees. The arbitrators' decision must set forth a reasoned basis for any award of damages or finding of liability. The arbitrators' decision and award will be made and delivered as soon as reasonably possible and in any case within sixty days' following the conclusion of the arbitration hearing and shall be final and binding on the parties and may be entered by any court having jurisdiction thereof. Notwithstanding the foregoing, the choice of arbitration shall not limit the Holder's exercise of remedies under the Uniform Commercial Code.

4.8 **JURY TRIAL WAIVER. THE BORROWER AND THE HOLDER HEREBY WAIVE A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE OTHER IN RESPECT OF ANY MATTER ARISING OUT OF OR IN CONNECTION WITH THIS NOTE.**

4.9 Certain Amounts. Whenever pursuant to this Note the Borrower is required to pay an amount in excess of the outstanding Principal Amount (or the portion thereof required to be paid at that time) plus accrued and unpaid interest plus Default Interest on such interest, the Borrower and the Holder agree that the actual damages to the Holder from the receipt of cash payment on this Note may be difficult to determine and the amount to be so paid by the Borrower represents stipulated damages and not a penalty and is intended to compensate the Holder in part for loss of the opportunity to convert this Note and to earn a return from the sale of shares of Common Stock acquired upon conversion of this Note at a price in excess of the price paid for such shares pursuant to this Note. The Borrower and the Holder hereby agree that such amount of stipulated damages is not plainly disproportionate to the possible loss to the Holder from the receipt of a cash payment without the opportunity to convert this Note into shares of Common Stock.

4.10 Remedies. The Borrower acknowledges that a breach by it of its obligations hereunder will cause irreparable harm to the Holder, by vitiating the intent and purpose of the transaction contemplated hereby. Accordingly, the Borrower acknowledges that the remedy at law for a breach of its obligations under this Note will be inadequate and agrees, in the event of a breach or threatened breach by the Borrower of the provisions of this Note, that the Holder shall be entitled, in addition to all other available remedies at law or in equity, and in addition to the penalties assessable herein, to an injunction or injunctions restraining, preventing or curing any breach of this Note and to enforce specifically the terms and provisions thereof, without the necessity of showing economic loss and without any bond or other security being required.

4.11 Section 3(a)(10) Transactions. If at any time while this Note is outstanding, the Borrower enters into a transaction structured in accordance with, based upon, or related or pursuant to, in whole or in part, Section 3(a)(10) of the Securities Act (a "3(a)(10) Transaction"), then a liquidated damages charge of 100% of the outstanding principal balance of this Note at that time, will be assessed and will become immediately due and payable to the Holder, either in the form of cash payment, an addition to the balance of this Note, or a combination of both forms of payment, as determined by the Holder. The damages resulting from such a 3(a)(10) Transaction and the potential sale of shares of the Borrower's capital stock resulting therefrom into the capital markets are difficult if not impossible to quantify. Accordingly, the parties acknowledge that the liquidated damages provision contained in this Section 4.11 are justified. The liquidated damages charge in this Section 4.11 shall be in addition to, and not in substitution of, any of the other rights of the Holder under this Note.

4.12 Usury. If it shall be found that any interest or other amount deemed interest due hereunder violates the applicable law governing usury, the applicable rate of interest due hereunder shall automatically be lowered to equal the maximum rate of interest permitted under applicable law. The Borrower covenants (to the extent that it may lawfully do so) that it shall not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension or usury law or other law which would prohibit or forgive the Borrower from paying all or any portion of the principal of or interest on this Note as contemplated herein, wherever enacted, now or at any time hereafter in force, or which may affect the covenants or the performance of this Note, and the Borrower (to the extent it may lawfully do so) hereby expressly waives all benefits or advantage of any such law, and covenants that it will not, by resort to any such law, hinder, delay or impede the execution of any power herein granted to the Holder, but will suffer and permit the execution of every such as though no such law has been enacted.

4.13 Repayment. Notwithstanding anything to the contrary contained in this Note and provided that the shares underlying this Note have been registered on an effective registration statement with the Securities and Exchange Commission, this Note may be repaid (i) from the Issuance Date until and through the day that falls on the sixty-day anniversary of the Issue Date (the "60 Day Anniversary") at an amount equal to 110% of the aggregate of the outstanding principal balance of the Note and accrued and unpaid interest, (ii) after the 60 Day Anniversary until and through the day that falls on the ninety-day anniversary of the Issue Date (the "90 Day Anniversary") at an amount equal to 115% of the aggregate of the outstanding principal balance of the Note and accrued and unpaid interest and (iii) anytime after the 90 Day Anniversary, 120% of the aggregate of the outstanding principal balance of the Note and accrued and unpaid interest. In order to repay this Note in accordance with the preceding sentence, the Borrower shall provide notice to the Holder 5 business days prior to such respective repayment date, and the Holder must receive such repayment no sooner than 7 business days of the Holder's receipt of the respective repayment notice (the "Repayment Period"). The Holder may convert the Note in whole or in part at any time during the Repayment Period, subject to the terms and conditions of this Note.

4.14 Terms of Future Financings. So long as this Note is outstanding, upon any issuance by the Borrower or any of its Subsidiariesof any Common Stock Equivalents with any term more favorable to the holder of such security or with a term in favor of the holder of such security that was not similarly provided to the Holder in this Note, then the Borrower shall notify the Holder of such additional or more favorable term and such term, at Holder's option and upon written notice to the Borrower, shall become a part of the transaction documents with the Holder. The types of terms contained in another security that may be more favorable to the holder of such security include, but are not limited to, terms addressing conversion discounts, prepayment rate, conversion look back periods, interest rates, original issue discounts, stock sale price, private placement price per share, and warrant coverage.

*** signature page to follow ***

IN WITNESS WHEREOF, Borrower has caused this Note to be signed in its name by its duly authorized officer on the Issue Date.

DIGITAL BRANDS GROUP, INC.

By: /s/ John Hilburn Davis IV
Name: John Hilburn Davis IV
Title: Chief Executive Officer

EXHIBIT A

TO SECURED CONVERTIBLE PROMISSORY-- NOTICE OF CONVERSION

The undersigned hereby elects to convert $_____ amount of this Note (defined below) into that number of shares of Common Stock to be issued pursuant to the conversion of this Note ("Common Stock") as set forth below, of **Digital Brands Group, Inc.** (the "Borrower"), according to the conditions of the secured convertible promissory note of the Borrower dated as of October 1, 2021 (the "Note"), as of the date written below. No fee will be charged to the Holder for any conversion, except for transfer taxes, if any.

Box Checked as to applicable instructions:

☐ The Borrower shall electronically transmit the Common Stock issuable pursuant to this Notice of Conversion to the account of the undersigned or its nominee with DTC through its Deposit Withdrawal Agent Commission system ("DWAC Transfer").

Name of DTC Prime
Broker: Account Number:

☐ The undersigned hereby requests that the Borrower issue a certificate or certificates for the number of shares of Common Stock set forth below (which numbers are based on the Holder's calculation attached hereto) in the name(s) specified immediately below or, if additional space is necessary, on an attachment hereto:

FIRSTFIRE GLOBAL OPPORTUNITIES FUND LLC
e-mail: eli@firstfirecapital.com

Date of Conversion:	_____

Applicable Conversion Price:	$_____
Number of Shares of Common Stock to be Issued Pursuant to Conversion of this Note:	_____
Amount of Principal Balance Due remaining Under this Note after this conversion:	_____

FIRSTFIRE GLOBAL OPPORTUNITIES FUND LLC

By: _____
Name: _____
Title: _____
Date: _____

Exhibit 10.36

SECURITY AGREEMENT

This **SECURITY AGREEMENT** (the "**Security Agreement**") dated as of August 27, 2021, is executed by **Digital Brands Group, Inc.**, a corporation incorporated under the laws of the State of Delaware (the "**Debtor**"), and **Oasis Capital, LLC**, a limited liability company organized and existing under the laws of Puerto Rico (the "**Secured Party**").

RECITALS:

WHEREAS, reference is made to that certain Securities Purchase Agreement, dated as of the date hereof (the "**Purchase Agreement**"), pursuant to which the Debtor desires to issue to Secured Party a senior secured convertible note dated on or about the date hereof (as amended, renewed, supplemented or modified from time to time, the "**Note**", and together with the Purchase Agreement and any and all documents or instruments executed or to be executed in connection therewith, together with all modifications, amendments, extensions, future advances, renewals, and substitutions thereof, the "**Transaction Documents**") and otherwise.

NOW, THEREFORE, in consideration of the credit extended in the past, now and in the future by Secured Party to the Debtor and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Debtor and Secured Party hereby agree as follows:

AGREEMENTS:

1 DEFINITIONS.

1.1 Defined Terms. Capitalized terms used but not otherwise defined in this Security Agreement (including the Recitals) shall have the meanings ascribed to them in the Purchase Agreement and/or Note, as applicable; provided that for purposes of this Security Agreement "**Obligations**" shall mean, now existing or in the future, any debt, liability or obligation of any nature whatsoever (including any required performance of any covenants or agreements), whether secured, unsecured, recourse, nonrecourse, liquidated, unliquidated, accrued, voluntary or involuntary, direct or indirect, absolute, fixed, contingent, ascertained, unascertained, known, unknown, whether or not jointly owed with others, whether or not from time to time decreased or extinguished and later decreased, created or incurred, or obligations existing or incurred under the Purchase Agreement, any Note, or any other Transaction Document, as such obligations may be amended, supplemented, converted, extended or modified from time to time.

1.2 Other Terms Defined in UCC. All other capitalized words and phrases used herein and not otherwise specifically defined herein or in the Note shall have the respective meanings assigned to such terms in the Uniform Commercial Code in effect in New York from time to time, to the extent the same are used or defined therein.

2 SECURITY FOR THE OBLIGATIONS.

2.1 Security for Obligations. Subject to that certain Intercreditor Agreement, dated as of the date hereof, among the Secured Party and bocm3-DSTLD-Senior Debt, LLC, as security for the payment and performance of the Obligations of the Debtor, Debtor does hereby pledge, assign, transfer, deliver and grant to Secured Party, for its own benefit, a continuing and unconditional first priority security interest in and to any and all property of Debtor, of any kind or description, tangible or intangible, wheresoever located and whether now existing or hereafter arising or acquired, including the following (all of which property for Debtor, along with the products and proceeds therefrom, are individually and collectively referred to as the "**Collateral**"):

(a) all property of, or for the account of, Debtor now or hereafter coming into the possession, control or custody of, or in transit to, Secured Party or any agent or bailee for Secured Party or any parent, affiliate or subsidiary of Secured Party or any participant with Secured Party in the Obligations (whether for safekeeping, deposit, collection, custody, pledge, transmission or otherwise), including all cash, earnings, dividends, interest, or other rights in connection therewith and the products and proceeds therefrom, including the proceeds of insurance thereon; and

(b) the additional property of Debtor, whether now existing or hereafter arising or acquired, and wherever now or hereafter located, together with all additions and accessions thereto, substitutions, betterments and replacements therefor, products and Proceeds therefrom, and all of Debtor's books and records and recorded data relating thereto (regardless of the medium of recording or storage), together with all of Debtor's right, title and interest in and to all computer software required to utilize, create, maintain and process any such records or data on electronic media, identified and set forth as follows:

(i) All Accounts and all goods whose sale, lease or other disposition by Debtor has given rise to Accounts and have been returned to, or repossessed or stopped in transit by, Debtor, or rejected or refused by a Customer;

(ii) All Inventory, including raw materials, work-in-process and finished goods;

(iii) All goods (other than Inventory), including embedded software, Equipment, vehicles, furniture and Fixtures;

(iv) All Software and computer programs;

(v) All Securities, Investment Property, Financial Assets and Deposit Accounts, and all funds at any time deposited therewith;

(vi) All As-Extracted Collateral, Commodity Accounts, Commodity Contracts, and Farm Products;

(vii) All Chattel Paper, Electronic Chattel Paper, Instruments, Documents, Letter of Credit Rights, all proceeds of letters of credit, Health-Care-Insurance Receivables, Supporting Obligations, notes secured by real estate, Commercial Tort Claims and General Intangibles, including Payment Intangibles; and

(viii) All real estate property owned by Debtor and the interest of Debtor in fixtures related to such real property;

(ix) All Proceeds (whether Cash Proceeds or Non-cash Proceeds) of the foregoing property, including all insurance policies and proceeds of insurance payable by reason of loss or damage to the foregoing property, including unearned premiums, and of eminent domain or condemnation awards.

Notwithstanding the foregoing, the Collateral shall not include those assets pledged to Hilldun Corporation, pursuant to the terms of that certain Discount Factoring Agreement, dated as of May 20, 2021 (the "Hilldun Agreement"), among the Debtor and Hilldun Corporation, so long as the Hilldun Agreement has not been terminated by its terms.

3 MISCELLANEOUS.

3.1 Amendments; Waivers. No delay on the part of Secured Party in the exercise of any right, power or remedy shall operate as a waiver thereof, nor shall any single or partial exercise by Secured Party of any right, power or remedy preclude other or further exercise thereof, or the exercise of any other right, power or remedy. No amendment, modification or waiver of, or consent with respect to, any provision of this Security Agreement or the other Transaction Documents shall in any event be effective unless the same shall be in writing and acknowledged by Secured Party, and then any such amendment, modification, waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

3.2 WAIVER OF DEFENSES. DEBTOR WAIVES EVERY PRESENT AND FUTURE DEFENSE, CAUSE OF ACTION, COUNTERCLAIM OR SETOFF WHICH DEBTOR MAY NOW HAVE OR HEREAFTER MAY HAVE TO ANY ACTION BY SECURED PARTY IN ENFORCING THIS SECURITY AGREEMENT. PROVIDED SECURED PARTY ACTS IN GOOD FAITH, DEBTOR RATIFIES AND CONFIRMS WHATEVER SECURED PARTY MAY DO PURSUANT TO THE TERMS OF THIS SECURITY AGREEMENT. THIS PROVISION IS A MATERIAL INDUCEMENT FOR SECURED PARTY GRANTING ANY FINANCIAL ACCOMMODATION TO DEBTOR.

3.3 MANDATORY FORUM SELECTION. TO INDUCE SECURED PARTY TO MAKE CERTAIN FINANCIAL ACCOMMODATIONS TO DEBTOR, DEBTOR IRREVOCABLY AGREES THAT ANY DISPUTE ARISING UNDER, RELATING TO, OR IN CONNECTION WITH, DIRECTLY OR INDIRECTLY, THIS SECURITY AGREEMENT OR RELATED TO ANY MATTER WHICH IS THE SUBJECT OF OR INCIDENTAL TO THIS SECURITY AGREEMENT ANY OTHER TRANSACTION DOCUMENT, OR THE COLLATERAL (WHETHER OR NOT SUCH CLAIM IS BASED UPON BREACH OF CONTRACT OR TORT) SHALL BE SUBJECT TO THE EXCLUSIVE JURISDICTION AND VENUE OF THE COURTS LOCATED IN THE SOUTHERN DISTRICT OF NEW YORK; PROVIDED, HOWEVER, SECURED PARTY MAY, AT SECURED PARTY'S SOLE OPTION, ELECT TO BRING ANY ACTION IN ANY OTHER JURISDICTION. THIS PROVISION IS INTENDED TO BE A "MANDATORY" FORUM SELECTION CLAUSE AND GOVERNED BY AND INTERPRETED CONSISTENT WITH NEW YORK LAW. DEBTOR HEREBY CONSENTS TO THE EXCLUSIVE JURISDICTION AND VENUE OF ANY COURT HAVING ITS SITUS IN SAID JURISDICTION (OR TO ANY OTHER JURISDICTION OR VENUE, IF SECURED PARTY SO ELECTS), AND WAIVES ANY OBJECTION BASED ON FORUM NON CONVENIENS. DEBTOR HEREBY WAIVES PERSONAL SERVICE OF ANY AND ALL PROCESS AND CONSENTS THAT ALL SUCH SERVICE OF PROCESS MAY BE MADE BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, DIRECTED TO DEBTOR, AS APPLICABLE, AS SET FORTH HEREIN IN THE MANNER PROVIDED BY APPLICABLE STATUTE, LAW, RULE OF COURT OR OTHERWISE.

3.4 WAIVER OF JURY TRIAL. DEBTOR AND SECURED PARTY, AFTER CONSULTING OR HAVING HAD THE OPPORTUNITY TO CONSULT WITH COUNSEL, EACH KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE IRREVOCABLY, ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS UNDER THIS SECURITY AGREEMENT, ANY NOTE, ANY OTHER LOAN DOCUMENT, ANY OF THE OTHER OBLIGATIONS, THE COLLATERAL, OR ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION HEREWITH OR THEREWITH OR ARISING FROM ANY LENDING RELATIONSHIP EXISTING IN CONNECTION WITH ANY OF THE FOREGOING, OR ANY COURSE OF CONDUCT OR COURSE OF DEALING IN WHICH SECURED PARTY AND DEBTOR ARE ADVERSE PARTIES, AND EACH AGREES THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY. THIS PROVISION IS A MATERIAL INDUCEMENT FOR SECURED PARTY GRANTING ANY FINANCIAL ACCOMMODATION TO DEBTOR.

3.5 Assignability. Secured Party, without consent from or notice to anyone, may at any time assign Secured Party's rights in this Security Agreement, the other Transaction Documents, the Obligations, or any part thereof and transfer Secured Party's rights in any or all of the Collateral, and Secured Party thereafter shall be relieved from all liability with respect to such Collateral. This Security Agreement shall be binding upon Secured Party and Debtor and its respective legal representatives and successors. All references herein to Debtor shall be deemed to include any successors, whether immediate or remote. In the case of a joint venture or partnership, the term "Debtor" shall be deemed to include all joint venturers or partners thereof, who shall be jointly and severally liable hereunder.

3.6 Binding Effect. This Security Agreement shall become effective upon execution by Debtor and Secured Party, and shall bind the Debtor and Secured Party, and their respective successors and permitted assigns.

3.7 Governing Law. This Security Agreement shall be delivered and accepted in and shall be deemed to be a contract made under and governed by the internal laws of the State of New York, and for all purposes shall be construed in accordance with the laws of such territory, without giving effect to the choice of law provisions of such State.

3.8 Enforceability. Wherever possible, each provision of this Security Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Security Agreement shall be prohibited by, unenforceable or invalid under any jurisdiction, such provision shall as to such jurisdiction, be severable and be ineffective to the extent of such prohibition or invalidity, without invalidating the remaining provisions of this Security Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

3.9 Time of Essence. Time is of the essence in making payments of all amounts due Secured Party under the Transaction Documents and in the performance and observance by Debtor of each covenant, agreement, provision and term of this Security Agreement and the other Transaction Documents.

3.10 Counterparts; Facsimile Signatures. This Security Agreement may be executed in any number of counterparts and by the different parties hereto on separate counterparts and each such counterpart shall be deemed to be an original, but all such counterparts shall together constitute but one and the same Security Agreement. Receipt of an executed signature page to this Security Agreement by facsimile or other electronic transmission shall constitute effective delivery thereof. Electronic records of executed Transaction Documents maintained by Secured Party shall be deemed to be originals thereof.

3.11 Notices. Except as otherwise provided herein, Debtor waives all notices and demands in connection with the enforcement of Secured Party's rights hereunder. All notices, requests, demands and other communications provided for hereunder shall be made in accordance with the terms of the Note.

3.12 Costs, Fees and Expenses. Debtor shall pay or reimburse Secured Party for all reasonable costs, fees and expenses incurred by Secured Party or for which Secured Party becomes obligated in connection with the enforcement of this Security Agreement, including search fees, costs and expenses and attorneys' fees, costs and time charges of counsel to Secured Party and all taxes payable in connection with this Security Agreement. In furtherance of the foregoing, Debtor shall pay any and all stamp and other taxes, UCC search fees, filing fees and other costs and expenses in connection with the execution and delivery of this Security Agreement and the other Transaction Documents to be delivered hereunder, and agrees to save and hold Secured Party harmless from and against any and all liabilities with respect to or resulting from any delay in paying or omission to pay such costs and expenses. That portion of the Obligations consisting of costs, expenses or advances to be reimbursed by Debtor to Secured Party pursuant to this Security Agreement or the other Transaction Documents which are not paid on or prior to the date hereof shall be payable by Debtor to Secured Party on demand. If at any time or times hereafter Secured Party: (a) employs counsel for advice or other representation: (i) to represent Secured Party in any litigation, contest, dispute, suit or proceeding or to commence, defend, or intervene or to take any other action in or with respect to any litigation, contest, dispute, suit, or proceeding (whether instituted by Secured Party, Debtor, or any other Person) in any way or respect relating to this Security Agreement; or (ii) to enforce any rights of Secured Party against Debtor or any other Person under of this Security Agreement; (b) takes any action to protect, collect, sell, liquidate, or otherwise dispose of any of the Collateral; and/or (c) attempts to or enforces any of Secured Party's rights or remedies under this Security Agreement, the costs and expenses incurred by Secured Party in any manner or way with respect to the foregoing, shall be part of the Obligations, payable by Debtor to Secured Party on demand.

3.13 Termination. This Security Agreement and the Liens and security interests granted hereunder shall not terminate until the full and complete performance and satisfaction and payment in full of all the Obligations (other than contingent indemnification obligations to the extent no claim giving rise thereto has been asserted). Upon termination of this Security Agreement, Secured Party shall also deliver to Debtor (at the sole expense of Debtor) such UCC termination statements, certificates for terminating the liens on the Motor Vehicles (if any) and such other documentation, without recourse, warranty or representation whatsoever, as shall be reasonably requested by Debtor to effect the termination and release of the Liens and security interests in favor of Secured Party affecting the Collateral; provided, however, to the extent any such terminations or releases require Secured Party to expend any sums in terminating or releasing any such Liens, Secured Party may refrain from terminating or releasing such Liens unless and until Debtor pays to Secured Party the estimated cost, as reasonably determined by Secured Party, of effectuating such terminations or releases.

3.14 Reinstatement. This Security Agreement shall remain in full force and effect and continue to be effective should any petition be filed by or against Debtor for liquidation or reorganization, should Debtor become insolvent or make an assignment for the benefit of any creditor or creditors or should a receiver or trustee be appointed for all or any significant part of Debtor's assets, and shall continue to be effective or be reinstated, as the case may be, if at any time payment and performance of the Obligations, or any part thereof, is, pursuant to applicable law, rescinded or reduced in amount, or must otherwise be restored or returned by any obligee of the Obligations, whether as a "voidable preference," "fraudulent conveyance," or otherwise, all as though such payment or performance had not been made. In the event that any payment, or any part thereof, is rescinded, reduced, restored or returned, the Obligations shall be reinstated and deemed reduced only by such amount paid and not so rescinded, reduced, restored or returned.

3.15 Increase in Obligations. It is the intent of the parties to secure payment of the Obligations, as the amount of such Obligations may increase from time to time, and all of the Obligations, as so increased from time to time, shall be and are secured hereby.

3.16 Arbitration. Any dispute, claim or controversy arising out of or relating to this Security Agreement or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of this agreement to arbitrate, shall be determined by arbitration in New York City before one arbitrator. The arbitration shall be administered by JAMS pursuant to its Comprehensive Arbitration Rules and Procedures pursuant to JAMS' Streamlined Arbitration Rules and Procedures. Judgment on the award may be entered in any court having jurisdiction. This clause shall not preclude parties from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Debtor and Secured Party have executed this Security Agreement as of the date first above written.

Debtor:

DIGITAL BRANDS GROUP, INC.

By: /s/ Hil Davis
Name: Hil Davis
Title: CEO

Agreed and accepted:

Secured Party:

OASIS CAPITAL, LLC

By: /s/ Adam Long
Name: Adam Long
Title: Manager

Exhibit 10.37

JOINDER AGREEMENT AND AMENDMENT TO SECURITY AGREEMENT

This Joinder Agreement and Amendment to Security Agreement (this "Joinder Agreement") is made effective as of October 1, 2021, by and among Digital Brands Group, Inc., a Delaware corporation (the "Company"), FirstFire Global Opportunities Fund, LLC, a Delaware limited liability company ("FirstFire"), and Oasis Capital, LLC, a Puerto Rico limited liability company ("Oasis") (each of the undersigned, a "Party" and collectively, the "Parties").

RECITALS

WHEREAS, the Company and Oasis previously entered into a Securities Purchase Agreement dated as of August 27, 2021 (the "Original Purchase Agreement") pursuant to which the Company issued to Oasis a secured convertible note dated August 27, 2021 (the "Note");

WHEREAS, in connection with the Original Purchase Agreement and the Note, the Company entered into that certain Security Agreement dated as of August 27, 2021 (the "Security Agreement") pursuant to which the Company granted to Oasis a security interest in substantially all its assets to secure its obligations under the Note;

WHEREAS, the Company, Oasis and FirstFire will enter into an Amended and Restated Securities Purchase Agreement (the "Amended Purchase Agreement"), which shall amend and restate the Original Purchase Agreement in its entirety and provide for the issuance of an additional secured convertible note to FirstFire on the terms and conditions set forth therein;

WHEREAS, the Parties desire to amend the Security Agreement to provide for the joinder of FirstFire as a "Secured Party" thereunder; and

WHEREAS, Section 3.1 of the Security Agreement requires the consent of Oasis to amend the Security Agreement.

NOW, THEREFORE, the Parties hereby agree as follows:

1. Capitalized Terms. Except as specifically set forth herein, capitalized terms not defined herein shall have the meaning set forth in the Security Agreement.

2. Effect of this Joinder Agreement. The Security Agreement will remain in full force and effect except as expressly modified by this Joinder Agreement.

3. Joinder and Amendment.

3.1 FirstFire hereby becomes a party to and will be bound by and subject to the terms of the Security Agreement as a Secured Party.

3.2 The definition of "Secured Party" in the preamble of the Security Agreement and all references to Secured Party in the Security Agreement are hereby amended and restated in their entirety to refer to, individually and collectively, Oasis Capital, LLC, a Puerto Rico limited liability company, and FirstFire Global Opportunities Fund, LLC, a Delaware limited liability company.

3.3 The references to "Purchase Agreement" in the Security Agreement shall refer to the Amended Purchase Agreement as defined herein.

3.4 The references to "Note" in the Security Agreement shall refer to such term as defined in the Amended Purchase Agreement.

4. Counterparts and Signatures. This Joinder Agreement may be executed in one or more counterparts and each of such counterparts shall be deemed to be an original for all purposes, and all of such counterparts shall together constitute one and the same instrument. It is agreed that an original, photocopy, PDF or facsimile copy of a signature may serve as an original. No objection shall be raised as to the authenticity of any signature due solely to the fact that said signature is represented in a photocopy, PDF or facsimile copy.

[*Signature Page Follows*]

IN WITNESS WHEREOF, the Parties hereto have executed this Joinder Agreement and Amendment effective as of the date first above written.

Company:

DIGITAL BRANDS GROUP, INC.

By: /s/ John Hilburn Davis IV
Name: John Hilburn Davis IV
Title: Chief Executive Officer

Secured Party:

OASIS CAPITAL, LLC

By: /s/ Adam Long
Name: Adam Long
Title: Manager

FIRSTFIRE GLOBAL OPPORTUNITIES FUND, LLC

By: FirstFire Capital Management, LLC

By: /s/ Eli Fireman
Name: Eli Fireman
Title: Manager

Exhibit 10.38

REGISTRATION RIGHTS AGREEMENT

REGISTRATION RIGHTS AGREEMENT (this "Agreement"), dated as of August 27, 2021 (the "Execution Date"), is entered into by and between Digital Brands Group, Inc., a Delaware corporation (the "Company"), and **OASIS CAPITAL**, **LLC**, a Puerto Rico limited liability company (together with its permitted assigns, the "Investor"). Capitalized terms used herein and not otherwise defined herein shall have the respective meanings set forth in that certain Securities Purchase Agreement by and between the parties hereto, dated as of the Execution Date (as amended, restated, supplemented or otherwise modified from time to time, the "Purchase Agreement").

WHEREAS:

The Company has agreed, upon the terms and subject to the conditions of the Purchase Agreement, and to induce the Investor to enter into the Purchase Agreement, the Company has agreed to provide certain registration rights under the Securities Act of 1933, as amended, and the rules and regulations thereunder, or any similar successor statute (collectively, the "Securities Act"), and applicable state securities laws.

NOW, THEREFORE, in consideration of the promises and the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company and the Investor hereby agree as follows:

1. DEFINITIONS.

Capitalized terms used in this Agreement shall have the meanings set forth in the Purchase Agreement unless otherwise defined in this Agreement.

a. **"**Business Day**"** means any day except any Saturday, any Sunday, any day which is a federal legal holiday in the United States or any day on which banking institutions in the State of New York are authorized or required by law or other governmental action to close.

b. "Investor" means the Investor, any transferee or assignee thereof to whom the Investor assigns its rights under this Agreement in accordance with Section 9 and who agrees to become bound by the provisions of this Agreement, and any transferee or assignee thereof to whom a transferee or assignee assigns its rights under this Agreement in accordance with Section 9 and who agrees to become bound by the provisions of this Agreement.

c. "Person" means any individual or entity including, but not limited to, any corporation, a limited liability company, an association, a partnership, an organization, a business, an individual, a governmental or political subdivision thereof or a governmental agency.

d. "Register," "Registered," and "Registration" refer to a registration effected by preparing and filing one or more registration statements of the Company in compliance with the Securities Act and/or pursuant to Rule 415 under the Securities Act or any successor rule providing for the offering of securities on a continuous basis ("Rule 415"), and the declaration or ordering of effectiveness of such registration statement(s) by the United States Securities and Exchange Commission (the "SEC").

e. "Registrable Securities" means all of the (i) Shares (as defined in the Purchase Agreement), (ii) any and all shares of capital stock issued or issuable with respect to each of the Transaction Documents, and (iii) any and all shares of capital stock issued or issuable with respect to the Execution Shares and the Purchase Agreement as a result of any stock split, stock dividend, recapitalization, exchange or similar event or otherwise, without regard to any limitation on purchases under the Purchase Agreement.

f. "Registration Statement" means one or more registration statements of the Company on Form S-1 covering the resale of the Registrable Securities including the Initial Registration Statement and any New Registration Statement or Other Registration Statement (each as defined herein).

2. REGISTRATION.

a. Registration. The Company shall, by October __, 2021, file with the SEC an initial Registration Statement on Form S-1 covering the maximum number of Registrable Securities as shall be permitted to be included thereon in accordance with applicable SEC rules, regulations and interpretations so as to permit the resale of such Registrable Securities by the Investor, including but not limited to under Rule 415 under the Securities Act at then prevailing market prices (and not fixed prices), as mutually determined by both the Company and the Investor in consultation with their respective legal counsel (the "Initial Registration Statement"). The Initial Registration Statement shall register only Registrable Securities. The Company shall use its best efforts to have the Initial Registration Statement and any amendment thereto declared effective by the SEC at the earliest possible date (in any event, within 90 calendar days after funds are received by the Company from Investor).

b. Rule 424 Prospectus. In addition to the Initial Registration Statement, the Company shall, as required by applicable securities regulations, from time to time file with the SEC, pursuant to Rule 424 promulgated under the Securities Act, such prospectuses and prospectus supplements, if any, to be used in connection with sales of the Registrable Securities under each Registration Statement. The Investor and its counsel shall have a reasonable opportunity to review and comment upon such prospectuses prior to its filing with the SEC, and the Company shall give due consideration to all such comments. The Investor shall use its reasonable best efforts to comment upon any prospectus within two Business Days from the date the Investor receives the final pre-filing version of such prospectus.

c. Sufficient Number of Shares Registered. In the event the number of shares available under the Initial Registration Statement is insufficient to cover all of the Registrable Securities, the Company shall amend the Initial Registration Statement or file a new Registration Statement (a "New Registration Statement"), so as to cover all of such Registrable Securities (subject to the limitations set forth in Section 2(e)) as soon as practicable, but in any event not later than 10 Business Days after the necessity therefor arises, subject to any limits that may be imposed by the SEC pursuant to Rule 415 under the Securities Act. The Company shall use its reasonable best efforts to cause such amendment and/or New Registration Statement to become effective as soon as practicable following the filing thereof. In the event that any of the Registrable Securities are not included in the Initial Registration Statement, or have not been included in any New Registration Statement, and the Company files any other registration statement under the Securities Act (other than on Form S-4, Form S-8, or with respect to other employee related plans or rights offerings) (an "Other Registration Statement"), then the Company shall include in such Other Registration Statement first all of such Registrable Securities that have not been previously Registered, and second any other securities the Company wishes to include in such Other Registration Statement. The Company agrees that it shall not file any such Other Registration Statement unless all of the Registrable Securities have been included in such Other Registration Statement or otherwise have been Registered for resale as described above.

d. Effectiveness. The Investor and its counsel shall have a reasonable opportunity to review and comment upon any Registration Statement and any amendment or supplement to such Registration Statement and any related prospectus prior to its filing with the SEC, and the Company shall give due consideration to all

reasonable comments. The Company shall not be responsible for any legal expenses of the Investor's counsel in connection with its review of such Registration Statement. The Investor shall furnish all information reasonably requested by the Company for inclusion therein. The Company shall use reasonable best efforts to keep all Registration Statements effective, including, but not limited to, pursuant to Rule 415 promulgated under the Securities Act and available for the resale by the Investor of all of the Registrable Securities covered thereby at all times until the earlier of (i) the date as of which the Investor may sell all of the Registrable Securities without restriction pursuant to Rule 144 promulgated under the Securities Act without any restrictions (including any restrictions under Rule 144(c) or Rule 144(i)) and (ii) the date on which the Investor shall have sold all the Registrable Securities covered thereby (the "Registration Period"). In the event that any Registration Statement filed hereunder is no longer effective and Rule 144 is available for sales of the Registrable Securities, the Company shall provide an opinion upon request of the Investor that the Investor may sell any such Registrable Securities held by the Investor pursuant to Rule 144 with all costs related to such opinion to be borne by the Company. Each Registration Statement (including any amendments or supplements thereto and prospectuses contained therein) shall not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein, or necessary to make the statements therein, in light of the circumstances in which they were made, not misleading.

e. Offering. If the staff of the SEC (the "Staff") or the SEC seeks to characterize any offering pursuant to a Registration Statement filed pursuant to this Agreement as constituting an offering of securities that does not permit such Registration Statement to become or remain effective and be used for resales by the Investor under Rule 415 at then-prevailing market prices (and not fixed prices) by comment letter or otherwise, or if after the filing of the Initial Registration Statement with the SEC pursuant to Section 2(a), the Company is otherwise required by the Staff or the SEC to reduce the number of Registrable Securities included in such initial Registration Statement, then the Company shall reduce the number of Registrable Securities to be included in such Initial Registration Statement (with the prior consent, which shall not be unreasonably withheld, of the Investor and its legal counsel as to the specific Registrable Securities to be removed therefrom) until such time as the Staff and the SEC shall so permit such Registration Statement to become effective and be used as aforesaid. In the event of any reduction in Registrable Securities pursuant to this paragraph, the Company shall file one or more New Registration Statements in accordance with Section 2(c) until such time as all Registrable Securities have been included in Registration Statements that have been declared effective and the prospectus contained therein is available for use by the Investor. Notwithstanding any provision herein or in the Purchase Agreement to the contrary, the Company's obligations to register Registrable Securities (and any related conditions to the Investor's obligations) shall be qualified as necessary to comport with any requirement of the SEC or the Staff as addressed in this Section 2(e).

3. RELATED OBLIGATIONS.

With respect to a Registration Statement and whenever any Registrable Securities are to be Registered pursuant to Section 2, including on any Other Registration Statement, the Company shall use its reasonable best efforts to effect the registration of the Registrable Securities in accordance with the intended method of disposition thereof and, pursuant thereto, the Company shall have the following obligations:

a. The Company shall prepare and file with the SEC such amendments (including post-effective amendments on Form S-1) and supplements to any Registration Statement and any Other Registration Statement and the prospectus used in connection with such Registration Statement and Other Registration Statement, which prospectus is to be filed pursuant to Rule 424 promulgated under the Securities Act, as may be necessary to keep the Registration Statement effective at all times during the Registration Period, and, during such period, comply with the provisions of the Securities Act with respect to the disposition of all Registrable Securities of the Company covered by the Registration Statement or applicable Other Registration Statement until such time as all of such Registrable Securities shall have been disposed of in accordance with the intended methods of disposition by the seller or sellers thereof as set forth in such registration statement.

b. The Company shall permit the Investor to review and comment upon each Registration Statement or any Other Registration Statement and all amendments and supplements thereto at least two Business Days prior to their filing with the SEC, and not file any document in a form to which Investor reasonably objects. The Investor shall use its reasonable best efforts to comment upon the Registration Statement or any Other Registration Statement and any amendments or supplements thereto within two Business Days from the date the Investor receives the final version thereof. The Company shall furnish to the Investor, without charge, and within one Business Day, any comments and/or any other correspondence from the SEC or the Staff to the Company or its representatives relating to the Registration Statement or any Other Registration Statement. The Company shall respond to the SEC or the Staff, as applicable, regarding the resolution of any such comments and/or correspondence as promptly as practicable and in any event within two weeks upon receipt thereof.

c. Upon request of the Investor, the Company shall furnish to the Investor, (i) promptly after the same is prepared and filed with the SEC, at least one copy of such Registration Statement and any amendment(s) thereto, including financial statements and schedules, all documents incorporated therein by reference and all exhibits, (ii) upon the effectiveness of any Registration Statement, a copy of the prospectus included in such Registration Statement and all amendments and supplements thereto (or such other number of copies as the Investor may reasonably request) and (iii) such other documents, including copies of any preliminary or final prospectus, as the Investor may reasonably request from time to time in order to facilitate the disposition of the Registrable Securities owned by the Investor. For the avoidance of doubt, any filing available to the Investor via the SEC's live EDGAR system shall be deemed "furnished to the Investor" hereunder.

d. The Company shall use reasonable best efforts to (i) register and qualify the Registrable Securities covered by a Registration Statement under such other securities or "blue sky" laws of Puerto Rico and such other jurisdictions in the United States as the Investor reasonably requests, (ii) prepare and file in those jurisdictions, such amendments (including post-effective amendments) and supplements to such registrations and qualifications as may be necessary to maintain the effectiveness thereof during the Registration Period, (iii) take such other actions as may be necessary to maintain such registrations and qualifications in effect at all times during the Registration Period, and (iv) take all other actions reasonably necessary or advisable to qualify the Registrable Securities for sale in such jurisdictions; provided, however, that the Company shall not be required in connection therewith or as a condition thereto to (x) qualify to do business in any jurisdiction where it would not otherwise be required to qualify but for this Section 3(d), (y) subject itself to general taxation in any such jurisdiction, or (z) file a general consent to service of process in any such jurisdiction. The Company shall promptly notify the Investor who holds Registrable Securities of the receipt by the Company of any notification with respect to the suspension of the registration or qualification of any of the Registrable Securities for sale under the securities or "blue sky" laws of any jurisdiction in the United States or its receipt of actual notice of the initiation or threatening of any proceeding for such purpose.

e. As promptly as practicable after becoming aware of such event or facts, the Company shall notify the Investor in writing of the happening of any event or existence of such facts as a result of which the prospectus included in any Registration Statement, as then in effect, includes an untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, and promptly prepare a supplement or amendment to such Registration Statement to correct such untrue statement or omission, and deliver a copy of such supplement or amendment to the Investor (or such other number of copies as the Investor may reasonably request). The Company shall also promptly notify the Investor in writing (i) when a prospectus or any prospectus supplement or post-effective amendment has been filed, and when a Registration Statement or any post-effective amendment thereto has become effective (notification of such effectiveness shall be delivered to the Investor by email or facsimile on the same day of such effectiveness and by overnight mail), (ii) of any request by the SEC for amendments or supplements to any Registration Statement or related prospectus or related information, and (iii) of the Company's reasonable determination that a post-effective amendment to a Registration Statement would be appropriate.

f. The Company shall use its reasonable best efforts to prevent the issuance of any stop order or other suspension of effectiveness of any registration

statement, or the suspension of the qualification of any Registrable Securities for sale in any jurisdiction and, if such an order or suspension is issued, to obtain the withdrawal of such order or suspension at the earliest possible moment and to notify the Investor of the issuance of such order and the resolution thereof or its receipt of actual notice of the initiation or threat of any proceeding for such purpose. In addition, if the Company shall receive any comment letter from the SEC relating to any Registration Statement under which Registrable Securities are Registered, the Company shall notify the Investor of the issuance of such order and use its best efforts to address such comments in a manner satisfactory to the SEC.

g. The Company shall (i) cause all the Registrable Securities to be listed on each securities exchange on which securities of the same class or series issued by the Company are then listed, if any, if the listing of such Registrable Securities is then permitted under the rules of such exchange, or (ii) secure designation and quotation of all the Registrable Securities on the Principal Market. The Company shall pay all fees and expenses in connection with satisfying its obligation under this Section.

h. The Company shall cooperate with the Investor to facilitate the timely preparation and delivery of DWAC Shares representing the Registrable Securities to be offered pursuant to any Registration Statement. "DWAC Shares" means shares of Common Stock that are (i) issued in electronic form, (ii) freely tradable and transferable and without restriction on resale and (iii) timely credited by the Company to the Investor's or its designee's specified DWAC account with The Depository Trust Company ("DTC") under the DTC/FAST Program, or any similar program hereafter adopted by DTC performing substantially the same function.

i. The Company shall at all times maintain the services of its Transfer Agent and registrar with respect to its Common Stock.

j. If reasonably requested by the Investor, the Company shall (i) as soon as practically possible incorporate in a prospectus supplement or post-effective amendment such information as the Investor believes should be included therein relating to the sale and distribution of Registrable Securities, including, without limitation, information with respect to the number of Registrable Securities being sold, the purchase price being paid therefor and any other terms of the offering of the Registrable Securities; (ii) make all required filings of such prospectus supplement or post-effective amendment as soon as practicable upon notification of the matters to be incorporated in such prospectus supplement or post-effective amendment; and (iii) supplement or make amendments to any Registration Statement.

k. The Company shall use its reasonable best efforts to cause the Registrable Securities covered by any Registration Statement to be registered with or approved by such other governmental agencies or authorities as may be necessary to consummate the disposition of such Registrable Securities.

l. Within one Business Day after any Registration Statement which includes Registrable Securities is ordered effective by the SEC, or any prospectus supplement or post-effective amendment including Registrable Securities is filed with the SEC, the Company shall deliver, and shall cause legal counsel for the Company to deliver, to the Transfer Agent for such Registrable Securities (with copies to the Investor) confirmation that such Registration Statement has been declared effective by the SEC. Thereafter, if requested by the Investor at any time, the Company shall require its counsel to deliver to the Investor a written confirmation whether or not (i) the effectiveness of such Registration Statement has lapsed at any time for any reason (including, without limitation, the issuance of a stop order) (ii) any comment letter has been issued by the SEC and (iii) whether or not the Registration Statement is current and available to the Investor for sale of all of the Registrable Securities.

m. The Company shall take all other reasonable actions necessary to expedite and facilitate disposition by the Investor of Registrable Securities pursuant to any Registration Statement.

4. OBLIGATIONS OF THE INVESTOR.

a. The Company shall notify the Investor in writing of the information the Company reasonably requires from the Investor in connection with any Registration Statement hereunder. The Investor shall furnish to the Company such information regarding itself, the Registrable Securities held by it and the intended method of disposition of the Registrable Securities held by it as shall be reasonably required to effect the registration of such Registrable Securities and shall execute such documents in connection with such registration as the Company may reasonably request. Notwithstanding the foregoing, the Registration Statement shall contain the "Selling Stockholder" and "Plan of Distribution" sections, each in substantially the form provided to the Company by the Investor.

b. The Investor agrees to cooperate with the Company as reasonably requested by the Company in connection with the preparation and filing of any Registration Statement hereunder.

c. The Investor agrees that, upon receipt of any notice from the Company of the happening of any event or existence of facts of the kind described in Section 3(f) or the first sentence of Section 3(e), the Investor will immediately discontinue disposition of Registrable Securities pursuant to any Registration Statement(s) covering such Registrable Securities until withdrawal of a stop order contemplated by Section 3(f) or the Investor's receipt of the copies of the supplemented or amended prospectus contemplated by Section 3(e). Notwithstanding anything to the contrary, the Company shall cause its Transfer Agent to promptly issue DWAC Shares in accordance with the terms of the Purchase Agreement in connection with any sale of Registrable Securities with respect to which an Investor has entered into a contract for sale prior to the Investor's receipt of a notice from the Company of the happening of any event of the kind described in Section 3(f) or the first sentence of Section 3(e) and for which the Investor has not yet settled.

5. EXPENSES OF REGISTRATION.

All reasonable expenses, other than sales or brokerage commissions, incurred in connection with registrations, filings or qualifications pursuant toSections 2 and 3, including, without limitation, all registration, listing and qualifications fees, printers and accounting fees, and fees and disbursements of counsel for the Company, shall be paid by the Company. the Company shall not be responsible for fees of the Investor's counsel in reviewing the S-1.

6. INDEMNIFICATION.

a. To the fullest extent permitted by law, the Company will, and hereby does, indemnify, hold harmless and defend the Investor, each Person, if any, who controls or is under common control with the Investor, the members, the directors, officers, partners, employees, agents, representatives of the Investor and each Person, if any, who is an "affiliate" of the Investor within the meaning of the Securities Act or the Securities Exchange Act of 1934, as amended (the " Exchange Act") (each, an "Indemnified Person"), against any losses, claims, damages, liabilities, judgments, fines, penalties, charges, costs, attorneys' fees, amounts paid in settlement or expenses, joint or several, (collectively, "Claims") incurred in investigating, preparing or defending any action, claim, suit, inquiry, proceeding, investigation or appeal taken from the foregoing by or before any court or governmental, administrative or other regulatory agency, body or the SEC, whether pending or threatened, whether or not an Indemnified Person is or may be a party thereto ("Indemnified Damages"), to which any of them may become subject insofar as such Claims (or actions or proceedings, whether commenced or threatened, in respect thereof) arise out of or are based upon: (i) any untrue statement or alleged untrue statement of a material fact in a Registration Statement, any Other Registration Statement or any post-effective amendment thereto or in any filing made in connection with the qualification of the offering under the securities or other "blue sky" laws of any jurisdiction in which Registrable Securities are offered ("Blue Sky Filing"), or the omission or alleged omission to state a material fact required to be stated therein or necessary

to make the statements therein not misleading, (ii) any untrue statement or alleged untrue statement of a material fact contained in the final prospectus (as amended or supplemented, if the Company files any amendment thereof or supplement thereto with the SEC) or the omission or alleged omission to state therein any material fact necessary to make the statements made therein, in light of the circumstances under which the statements therein were made, not misleading, (iii) any violation or alleged violation by the Company of the Securities Act, the Exchange Act, any other law, including, without limitation, any state securities law, or any rule or regulation thereunder relating to the offer or sale of the Registrable Securities pursuant to a Registration Statement or any Other Registration Statement or (iv) any material violation by the Company of this Agreement (the matters in the foregoing clauses (i) through (iv) being, collectively, "Violations"). The Company shall reimburse each Indemnified Person promptly as such expenses are incurred and are due and payable, for any reasonable legal fees or other reasonable expenses incurred by them in connection with investigating or defending any such Claim. Notwithstanding anything to the contrary contained herein, the indemnification agreement contained in this Section 6(a): (i) shall not apply to a Claim by an Indemnified Person arising out of or based upon a Violation which occurs in reliance upon and in conformity with information about the Investor furnished in writing to the Company by such Indemnified Person expressly for use in connection with the preparation of a Registration Statement, any Other Registration Statement or any such amendment thereof or supplement thereto, if such prospectus was timely made available by the Company pursuant to Section 3(c) or Section 3(e); (ii) with respect to any superseded prospectus, shall not inure to the benefit of any such person from whom the person asserting any such Claim purchased the Registrable Securities that are the subject thereof (or to the benefit of any person controlling such person) if the untrue statement or omission of material fact contained in the superseded prospectus was corrected in the revised prospectus, as then amended or supplemented, if such revised prospectus was timely made available by the Company pursuant to Section 3(c) or Section 3(e), and the Indemnified Person was promptly advised in writing not to use the incorrect prospectus prior to the use giving rise to a violation and such Indemnified Person, notwithstanding such advice, used it; (iii) shall not be available to the extent such Claim is based on a failure of the Investor to deliver or to cause to be delivered the prospectus made available by the Company, if such prospectus was timely made available by the Company pursuant to Section 3(c) or Section 3(e); and (iv) shall not apply to amounts paid in settlement of any Claim if such settlement is effected without the prior written consent of the Company, which consent shall not be unreasonably withheld. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of the Indemnified Person and shall survive the transfer of the Registrable Securities by the Investor pursuant to Section 9.

b. Promptly after receipt by an Indemnified Person under this Section 6 of notice of the commencement of any action or proceeding (including any governmental action or proceeding) involving a Claim, such Indemnified Person shall, if a Claim in respect thereof is to be made against the Company under this Section 6, deliver to the Company a written notice of the commencement thereof, and the Company shall have the right to participate in, and, to the extent the Company so desires, to assume control of the defense thereof with counsel mutually satisfactory to the Company and to the Indemnified Person; provided, however, that an Indemnified Person shall have the right to retain its own counsel with the fees and expenses to be paid by the Company, if, in the reasonable opinion of counsel retained by the Company, the representation by such counsel of the Indemnified Person and the Company would be inappropriate due to actual or potential differing interests between such Indemnified Person and any other party represented by such counsel in such proceeding. The Indemnified Person shall cooperate fully with the Company in connection with any negotiation or defense of any such action or Claim by the Company and shall furnish to the Company all information reasonably available to the Indemnified Person which relates to such action or Claim. The indemnifying party shall keep the Indemnified Person fully apprised at all times as to the status of the defense or any settlement negotiations with respect thereto. The Company shall not be liable for any settlement of any action, Claim or proceeding effectuated without its written consent, provided, however, that the Company shall not unreasonably withhold, delay or condition its consent. The Company shall not, without the consent of the Indemnified Person, consent to entry of any judgment or enter into any settlement or other compromise which does not include as an unconditional term thereof the giving by the claimant or plaintiff to such Indemnified Person of a release from all liability in respect to such Claim or litigation. Following indemnification as provided for hereunder, the Company shall be subrogated to all rights of the Indemnified Person with respect to all third parties, firms or corporations relating to the matter for which indemnification has been made. The failure to deliver written notice to the Company within a reasonable time of the commencement of any such action shall not relieve the Company of any liability to the Indemnified Person under this Section 6, except to the extent that the Company is prejudiced in its ability to defend such action.

c. The indemnification required by this Section 6 shall be made by periodic payments of the amount thereof during the course of the investigation or defense, as and when bills are received or Indemnified Damages are incurred.

d. The indemnity agreements contained herein shall be in addition to (i) any cause of action or similar right of the Indemnified Person against the Company or others, and (ii) any liabilities the Company may be subject to pursuant to the law.

7. CONTRIBUTION.

To the extent any indemnification by the Company is prohibited or limited by law, the Company agrees to make the maximum contribution with respect to any amounts for which it would otherwise be liable under Section 6 to the fullest extent permitted by law; provided, however, that: (i) no seller of Registrable Securities guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any seller of Registrable Securities who was not guilty of fraudulent misrepresentation; and (ii) contribution by any seller of Registrable Securities shall be limited to $100,000.

8. REPORTS AND DISCLOSURE UNDER THE SECURITIES ACTS.

With a view to making available to the Investor the benefits of Rule 144 promulgated under the Securities Act or any other similar rule or regulation of the SEC that may at any time permit the Investor to sell securities of the Company to the public without registration ("Rule 144"), the Company agrees, at the Company's sole expense, to:

a. make and keep "current public information" available, as such term is understood and defined in Rule 144;

b. file with the SEC in a timely manner all reports and other documents required of the Company under the Securities Act and the Exchange Act;

c. furnish to the Investor so long as the Investor owns Registrable Securities, promptly upon request, (i) a written statement by the Company that it has complied with the reporting and or disclosure provisions of Rule 144, the Securities Act and the Exchange Act, (ii) a copy of the most recent annual or quarterly report of the Company and such other reports and documents so filed by the Company, and (iii) such other information as may be reasonably requested to permit the Investor to sell such securities pursuant to Rule 144 without registration; and

d. take such additional action as is requested by the Investor to enable the Investor to sell the Registrable Securities pursuant to Rule 144, including, without limitation, delivering all such legal opinions, consents, certificates, resolutions and instructions to the Company's Transfer Agent as may be requested from time to time by the Investor at the Company's expense and otherwise fully cooperate with Investor and Investor's broker to effect such sale of securities pursuant to Rule 144.

The Company agrees that damages may be an inadequate remedy for any breach of the terms and provisions of this Section 8 and that Investor shall, whether or not it is pursuing any remedies at law, be entitled to equitable relief in the form of a preliminary or permanent injunctions, without having to post any bond or other security, upon any breach or threatened breach of any such terms or provisions.

9. ASSIGNMENT OF REGISTRATION RIGHTS.

The Company shall not assign this Agreement or any rights or obligations hereunder without the prior written consent of the Investor, or any Investor as assignee pursuant to this Section 9. The Investor may not assign its rights under this Agreement without the written consent of the Company other than to an affiliate of such Investor.

10. AMENDMENT OF REGISTRATION RIGHTS.

No provision of this Agreement may be (i) amended other than by a written instrument signed by both parties hereto or (ii) waived other than in a written instrument signed by the party against whom enforcement of such waiver is sought. Failure of any party to exercise any right or remedy under this Agreement or otherwise, or delay by a party in exercising such right or remedy, shall not operate as a waiver thereof.

11. MISCELLANEOUS.

a. A Person is deemed to be a holder of Registrable Securities whenever such Person owns or is deemed to own of record such Registrable Securities. If the Company receives conflicting instructions, notices or elections from two or more Persons with respect to the same Registrable Securities, the Company shall act upon the basis of instructions, notice or election received from the registered owner of such Registrable Securities.

b. Any notices, consents, waivers or other communications required or permitted to be given under the terms of this Agreement must be in writing and shall meet the requirements of Section 9.1of the Purchase Agreement.

c. All questions concerning the construction, validity, enforcement and interpretation of this Agreement shall be governed by the internal laws of the State of New York, without giving effect to any choice of law or conflict of law provision or rule (whether of the State of New York or any other jurisdictions) that would cause the application of the laws of any jurisdictions other than the State of New York.

d. Any disputes, claims, or controversies hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein shall be referred to and resolved solely and exclusively by binding arbitration to be conducted before the Judicial Arbitration and Mediation Service ("JAMS"), or its successor pursuant the expedited procedures set forth in the JAMS Comprehensive Arbitration Rules and Procedures (the "Rules"), including Rules 16.1 and 16.2 of those Rules. The arbitration shall be held in New York, New York, before a tribunal consisting of three arbitrators each of whom will be selected in accordance with the "strike and rank" methodology set forth in Rule 15. Either party to this Agreement may, without waiving any remedy under this Agreement, seek from any federal or state court sitting in the State of New York any or provisional relief that is necessary to protect the rights or property of that party, pending the establishment of the arbitral tribunal. The costs and expenses of such arbitration shall be paid by and be the sole responsibility of the Company, including but not limited to the Holder's attorneys' fees and each arbitrator's fees. The arbitrators' decision must set forth a reasoned basis for any award of damages or finding of liability. The arbitrators' decision and award will be made and delivered as soon as reasonably possibly and in any case within 60 days' following the conclusion of the arbitration hearing and shall be final and binding on the parties and may be entered by any court having jurisdiction thereof.

e. If any provision of this Agreement shall be invalid or unenforceable in any jurisdiction, such invalidity or unenforceability shall not affect the validity or enforceability of the remainder of this Agreement in that jurisdiction or the validity or enforceability of any provision of this Agreement in any other jurisdiction.

f. **EACH PARTY HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE , AND AGREES NOT TO REQUEST, A JURY TRIAL FOR THE ADJUDICATION OF ANY DISPUTE HEREUNDER OR IN CONNECTION HEREWITH OR ARISING OUT OF THIS AGREEMENT OR ANY TRANSACTION CONTEMPLATED HEREBY**.

g. This Agreement and the Purchase Agreement constitute the entire agreement among the parties hereto with respect to the subject matter hereof and thereof. There are no restrictions, promises, warranties or undertakings, other than those set forth or referred to herein and therein. This Agreement and the Purchase Agreement supersede all prior agreements and understandings among the parties hereto with respect to the subject matter hereof and thereof.

h. Subject to the requirements of Section 9, this Agreement shall inure to the benefit of and be binding upon the successors and permitted assigns of each of the parties hereto.

i. The headings in this Agreement are for convenience of reference only and shall not limit or otherwise affect the meaning hereof.

j. This Agreement may be executed in identical counterparts, each of which shall be deemed an original but all of which shall constitute one and the same agreement. This Agreement, once executed by a party, may be delivered to the other party hereto by facsimile transmission, digitally certified electronic signature (for example, DocuSign) or by e-mail in a ".pdf" format data file of a copy of this Agreement bearing the signature of the party so delivering this Agreement.

k. Each party shall do and perform, or cause to be done and performed, all such further acts and things, and shall execute and deliver all such other agreements, certificates, instruments and documents, as the other party may reasonably request in order to carry out the intent and accomplish the purposes of this Agreement and the consummation of the transactions contemplated hereby.

l. The language used in this Agreement will be deemed to be the language chosen by the parties to express their mutual intent and no rules of strict construction will be applied against any party.

m. This Agreement is intended for the benefit of the parties hereto and their respective successors and permitted assigns, and is not for the benefit of, nor may any provision hereof be enforced by, any other Person.

* * * * * *

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed as of the Execution Date.

THE COMPANY:

DIGITAL BRANDS GROUP, INC.

By: /s/ John Hilburn Davis IV
Name: John Hilburn Davis IV
Title: Chief Executive Officer

INVESTOR:

OASIS CAPITAL, LLC

By: /s/ Adam Long
Name: Adam Long
Title: Managing Partner

Exhibit 10.39

AMENDMENT TO
REGISTRATION RIGHTS AGREEMENT

This Amendment to Registration Rights Agreement (this "Amendment") is made effective as of November 16, 2021, by and among Digital Brands Group, Inc., a Delaware corporation (the "Company"), FirstFire Global Opportunities Fund, LLC, a Delaware limited liability company ("FirstFire"), and Oasis Capital, LLC, a Puerto Rico limited liability company ("Oasis") (each of the undersigned, a "Party" and collectively, the "Parties").

RECITALS

WHEREAS, the Company and Oasis previously entered into a Securities Purchase Agreement dated as of August 27, 2021 (the "Original Purchase Agreement") pursuant to which the Company issued to Oasis a secured convertible note dated August 27, 2021 (the "Note");

WHEREAS, in connection with the Original Purchase Agreement and the Note, the Company entered into that certain Registration Rights Agreement dated as of August 27, 2021 (the "RRA") pursuant to which the Company granted to Oasis certain registration rights in connection with the Note and the securities issued thereunder;

WHEREAS, the Company, Oasis and FirstFire previously entered into an Amended and Restated Securities Purchase Agreement dated October 1, 2021 (the "Amended Purchase Agreement"), which amended and restated the Original Purchase Agreement in its entirety and provided for the issuance of an additional secured convertible note to FirstFire on the terms and conditions set forth therein;

WHEREAS, the Parties previously amended the RRA to provide for the joinder of FirstFire as an "Investor" thereunder;

WHEREAS, the Company and FirstFire have entered into a Securities Purchase Agreement dated November 16, 2021 (the "Second FirstFire Purchase Agreement") which provides for the issuance of an additional convertible note to FirstFire on the terms and conditions set forth therein;

WHEREAS, in connection with the Second FirstFire Purchase Agreement, the Company shall issue (a) 30,000 additional shares of Common Stock to FirstFire and (b) 100,000 additional shares of Common Stock to Oasis, as set forth in the waivers and consents dated November 16, 2021 executed by each of FirstFire and Oasis (collectively, the "Waiver Shares") in consideration of certain waivers and consents to the transactions contemplated by the Second FirstFire Purchase Agreement;

WHEREAS, the Parties desire that securities issuable further to the Second FirstFire Purchase Agreement and the Waiver Shares also be subject to the RRA; and

WHEREAS, Section 10 of the Security Agreement requires the consent of Oasis and FirstFire to amend the RRA.

NOW, THEREFORE, the Parties hereby agree as follows:

1. Capitalized Terms. Except as specifically set forth herein, capitalized terms not defined herein shall have the meaning set forth in the RRA.

2. Effect of this Amendment. The RRA will remain in full force and effect except as expressly modified by this Amendment.

3. Amendments.

3.1The references to "Purchase Agreement" in the RRA shall refer to the Amended Purchase Agreement and the Second FirstFire Purchase Agreement as defined herein.

3.2The reference to "Registrable Securities" in the RRA shall include reference to the securities issuable under the Amended Purchase Agreement and the Second FirstFire Purchase Agreement and the Waiver Shares.

3.3 Section 2.a. of the RRA shall be amended and restated in its entirety as follows (bolded text indicates amendment for reference purposes only):

"Registration. The Company shall, by **November 30**, 2021, file with the SEC an initial Registration Statement on Form S-1 covering the maximum number of Registrable Securities as shall be permitted to be included thereon in accordance with applicable SEC rules, regulations and interpretations so as to permit the resale of such Registrable Securities by the Investor, including but not limited to under Rule 415 under the Securities Act at then prevailing market prices (and not fixed prices), as mutually determined by both the Company and the Investor in consultation with their respective legal counsel (the "Initial Registration Statement").The Initial Registration Statement shall register only Registrable Securities. The Company shall use its best efforts to have the Initial Registration Statement and any amendment thereto declared effective by the SEC at the earliest possible date (in any event, within **120** calendar days after funds are received by the Company from Investor)."

4. Counterparts and Signatures. This Amendment may be executed in one or more counterparts and each of such counterparts shall be deemed to be an original for all purposes, and all of such counterparts shall together constitute one and the same instrument. It is agreed that an original, photocopy, PDF or facsimile copy of a signature may serve as an original. No objection shall be raised as to the authenticity of any signature due solely to the fact that said signature is represented in a photocopy, PDF or facsimile copy.

[*Signature Page Follows*]

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment effective as of the date first above written.

Company:

DIGITAL BRANDS GROUP, INC.

By: /s/ John Hilburn Davis IV
Name: John Hilburn Davis IV
Title: Chief Executive Officer

Investors:

OASIS CAPITAL, LLC

By: /s/ Adam Long
Name: Adam Long
Title: Manager

FIRSTFIRE GLOBAL OPPORTUNITIES FUND, LLC

By: FirstFire Capital Management, LLC

By: /s/ Eli Fireman
Name: Eli Fireman
Title: Manager

Exhibit 10.40

SECURITIES PURCHASE AGREEMENT

This Securities Purchase Agreement (this "Agreement") is dated as of November 16, 2021, between Digital Brands Group, Inc. a Delaware corporation (the "Company") and FirstFire Global Opportunities Fund, LLC ("FirstFire" or the "Purchaser").

WHEREAS, subject to the terms and conditions set forth in this Agreement and pursuant to an exemption from the registration requirements of Section 5 of the Securities Act contained in Section 4(a)(2) thereof and/or Rule 506(b) thereunder, the Company desires to issue and sell to the Purchaser, and the Purchaser desires to purchase from the Company, securities of the Company as more fully described in this Agreement.

NOW, THEREFORE, IN CONSIDERATION of the mutual covenants contained in this Agreement, and for other good and valuable consideration the receipt and adequacy of which are hereby acknowledged, the Company and the Purchaser agree as follows:

ARTICLE I.
DEFINITIONS

1.1 Definitions. For the purposes of this Agreement, the following words and phrases have the meanings set forth in this Section 1.1:

"Acquiring Person" shall have the meaning ascribed to such term in Section 4.5.

"Action" shall have the meaning ascribed to such term in Section 3.1(j).

"Affiliate" means any Person that, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with a Person as such terms are used in and construed under Rule 405 under the Securities Act.

"Board of Directors" means the board of directors of the Company.

"Closing" means each closing of the purchase and sale of the Securities pursuant to Section 2.1.

"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 Purchaser's obligations to pay the Subscription Amount and (ii) the Company's obligations to deliver the Securities to be issued and sold, in each case, have been satisfied or waived.

"Closing Price" means, for any date, the price determined by the first of the following clauses that applies: (a) if the Common Stock is then listed or quoted on a Trading Market, the closing price of the Common Stock for such date (or the nearest preceding date) on the Trading Market on which the Common Stock is then listed or quoted as reported by Bloomberg L.P. (based on a Trading Day from 9:30 a.m. (New York City time) to 4:02 p.m. (New York City time)) (or a similar organization or agency succeeding to its functions of reporting prices), or (b) in all other cases, the fair market value of a share of Common Stock as determined by the Board of Directors of the Company.

"Common Stock" means the shares of 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.

"Common Stock Equivalents" means any securities of the Company or the Subsidiaries which would entitle the holder thereof to acquire Common Stock at any time, including, without limitation, any debt, preferred stock, right, option, warrant or other instrument that is at any time convertible into or exercisable or exchangeable for, or otherwise entitles the holder thereof to receive, Common Stock.

"Conversion Price" shall have the meaning ascribed to it in the Note.

"Disqualification Event" shall have the meaning ascribed to such term in Section 3.1(jj).

"Environmental Laws" shall have the meaning ascribed to such term in Section 3.1(m).

"Evaluation Date" shall have the meaning ascribed to such term in Section 3.1(s).

"Exchange Act" means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

"Exempt Issuance" means the issuance of (a) shares of Common Stock (ordinary shares) or options to employees, officers or directors of the Company, pursuant to any stock or option plan duly adopted for such purpose by the Board of Directors, (b) securities issuable pursuant to existing agreements, exercisable or exchangeable for or convertible into shares of Common Stock issued and outstanding on the date of this Agreement, provided that such securities have not been amended since the date of this Agreement to increase the number of such securities or to decrease the exercise price, exchange price or conversion price of such securities (other than in connection with stock dividends, stock splits or combinations) or to extend the term of such securities, (c) securities issued pursuant to acquisitions or strategic transactions approved by a majority of the directors of the Company, provided that any such issuance shall only be to a Person (or to the equity holders of a Person) which is, itself or through its subsidiaries, an operating company or an owner of an asset in a business synergistic with the business of the Company and shall provide to the Company additional benefits in addition to the investment of funds, but shall not include a transaction in which the Company is issuing securities primarily for the purpose of raising capital or to an entity whose primary business is investing in securities, or (d) securities issued for bonafide services provided to the Company not for the purpose of raising capital or to an entity whose primary business is investing in securities.

"FCPA" means the Foreign Corrupt Practices Act of 1977.

"GAAP" shall have the meaning ascribed to such term in Section 3.1(h).

"Governmental Authority" means any federal, state, local or foreign government or political subdivision thereof, or any agency or instrumentality of such government or political subdivision, or any self-regulated organization or other non-governmental regulatory authority or quasi-governmental authority (to the extent that the rules, regulations or orders of such organization or authority have the force of Laws), or any arbitrator, court or tribunal of competent jurisdiction.

"Hazardous Materials" shall have the meaning ascribed to such term in Section 3.1(m).

"Indebtedness" shall have the meaning ascribed to such term in Section 3.1(aa).

"Intellectual Property" means all of the following in any jurisdiction throughout the world: (a) all inventions (whether patentable or unpatentable and whether or not reduced to practice), all improvements thereto, and all U.S. and foreign patents, patent applications, and patent disclosures, together with all reissuances, continuations, continuations-in-part, revisions, extensions, and reexaminations thereof, (b) all trademarks, service marks, brand names, certification marks, trade dress, logos, trade names, domain names, assumed names and corporate names, together with all colorable imitations thereof, and including all goodwill associated therewith, and all applications, registrations, and renewals in connection therewith, (c) all copyrights, and all applications, registrations, and renewals in connection therewith, (d) all trade secrets under applicable state laws and the common law and know- how (including formulas, techniques, technical data, designs, drawings, specifications, customer and supplier lists, pricing and cost information, and business and marketing plans and proposals), (e) all computer software (including source code, object code, diagrams, data and related documentation), and (f) all copies and tangible embodiments of the foregoing (in whatever form or medium).

"Issuer Covered Person" shall have the meaning ascribed to such term in Section 3.1(jj).

"Laws" means any U.S. federal, state, local, foreign or other laws, rules regulations, guidelines, orders, injunctions, building and other codes, ordinances, permits, licenses, authorizations, judgements, decrees of federal, state, local, foreign or other authorities, and all orders, writs, decrees and consents of any governmental or political subdivision or agency thereof, or any court of similar tribunal established by any such governmental or political subdivision or agency thereof.

"Liens" means a lien, charge, pledge, security interest, encumbrance, right of first refusal, preemptive right or other restriction.

"Material Adverse Effect" shall have the meaning assigned to such term in Section 3.1(b).

"Material Permits" shall have the meaning ascribed to such term in Section 3.1(n).

"Money Laundering Laws" shall have the meaning ascribed to such term in Section 3.1(oo).

"Note" mean that Convertible Note issued to the Purchaser, in the form of Exhibit A attached hereto, which bear interest at the rate of **6%** per annum, which for the avoidance of doubt includes the Note in the principal amount of $2,625,000, dated as of November 16, 2021, registered in the name of FirstFire.

"Person" means an individual or corporation, partnership, trust, incorporated or unincorporated association, joint venture, limited liability company, joint stock company, government (or an agency or subdivision thereof) or other entity of any kind.

"Proceeding" means an action, claim, suit, investigation or proceeding (including, without limitation, an informal investigation or partial proceeding, such as a deposition), whether commenced or threatened.

"Public Information Failure" shall have the meaning ascribed to such term in Section 4.2(b).

"Purchaser Party" shall have the meaning ascribed to such term in Section 4.8.

"RRA Amendement" means that certain Amendment to Registration Rights Agreement included in the form attached hereto as Exhibit B.

"Registration Rights Agreement" means the agreement in the form, and together with the RRA Amendment, attached hereto as Exhibit B.

"Regulation FD" means Regulation FD promulgated by the SEC pursuant to the Exchange Act, as such Regulation may be amended or interpreted from time to time, or any similar rule or regulation hereafter adopted by the SEC having substantially the same purpose and effect as such Regulation.

"Required Approvals" shall have the meaning ascribed to such term in Section 3.1(e).

"Reserve Ratio" shall have the meaning ascribed to such term in Section 4.9.

"Rule 144" means Rule 144 promulgated by the SEC pursuant to the Securities Act, as such Rule may be amended or interpreted from time to time, or any similar rule or regulation hereafter adopted by the SEC (or similar United States law) having substantially the same purpose and effect as such Rule.

"SEC" means the United States Securities and Exchange Commission.

"SEC Reports" shall have the meaning ascribed to such term in Section 3.1(h).

"Securities" means the Note and the Shares.

"Securities Act" means the Securities Act of 1933, and the rules and regulations promulgated thereunder.

"Shares" means the Common Stock issuable upon conversion of the Note.

"Short Sales" means all "short sales" as defined in Rule 200 of Regulation SHO under the Exchange Act (but shall not be deemed to include the location and/or reservation of borrowable shares of Common Stock).

"Subscription Amount" means the aggregate amount to be paid for the Securities purchased hereunder as specified next to Purchaser's name on the signature page of this Agreement and next to the heading.

"Subsidiary" means with respect to any entity at any date, any direct or indirect corporation, limited or general partnership, limited liability company, trust, estate, association, joint venture or other business entity of which (A) more than 50% of (i) the outstanding capital stock having (in the absence of contingencies) ordinary voting power to elect a majority of the Board of Directors or other managing body of such entity, (ii) in the case of a partnership or limited liability company, the interest in the capital or profits of such partnership or limited liability company or (iii) in the case of a trust, estate, association, joint venture or other entity, the beneficial interest in such trust, estate, association or other entity business is, at the time of determination, owned or controlled directly or indirectly through one or more intermediaries, by such entity, or (B) is under

the actual control of the Company.

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

"Trading Market" means any of the following markets or exchanges on which the Common Stock is listed or quoted for trading on the date in question: the Nasdaq Capital Market, the Nasdaq Global Market, the Nasdaq Global Select Market, the New York Stock Exchange, and the NYSE American (or any successors to any of the foregoing).

"Transaction Documents" means this Agreement, the Note, the Registration Rights Agreement, and any other documents or agreements executed in connection with the transactions contemplated hereunder.

"Transfer Agent" means Vstock Transfer, LLC and a facsimile number of 646-536-3179, and any successor transfer agent of the Company.

"Variable Rate Transaction" shall have the meaning ascribed to such term in Section 4.16(a).

"VWAP" means, for any date, the price determined by the first of the following clauses that applies: (a) if the Common Stock is then listed or quoted on a Trading Market, the daily volume weighted average price of the Common Stock for such date (or the nearest preceding date) on the Trading Market on which the Common Stock is then listed or quoted as reported by Bloomberg L.P. (based on a Trading Day from 9:30 a.m. (New York City time) to 4:02 p.m. (New York City time)) (or a similar organization or agency succeeding to its functions of reporting prices), (b) if no volume weighted average price of the Common Stock can be ascertained from the Trading Market, the average closing price of the Common Stock during the 10 Trading Days preceding such date, or (c) in all other cases, the fair market value of a share of Common Stock as determined by the Board of Directors of the Company.

ARTICLE II.
PURCHASE AND SALE

2.1 Closing. Subject to the terms and conditions set forth herein, the Company agrees to sell, and FirstFire agrees to purchase a Note having a face value of **$2,625,000** for a total purchase price of **$2,500,000**. FirstFire shall deliver to the Company, via wire transfer immediately available funds equal to the Subscription Amount as set forth on the signature page hereto executed by FirstFire, and the Company shall deliver to FirstFire a Note pursuant to Sections 2.2(c), and the Company and FirstFire shall deliver the other items set forth in Sections 2.2(d) deliverable at the Closing. Upon satisfaction of the covenants and conditions set forth in Sections 2.2 and 2.3, the Closing shall occur at the offices of FirstFire's counsel or such other location as the parties shall mutually agree.

2.2 Deliveries.

(a) On or prior to the Closing Date, each of Oasis Capital, LLC ("Oasis" and the Company shall have delivered or caused to be delivered to the other the following, duly executed as set forth therein, the RRA Amendment.

(b) On or prior to the Closing Date, the Company shall deliver or cause to be delivered to FirstFire the following:

(i) an original Note in the principal amount of $**2,625,000**, convertible at the Conversion Price, registered in the name of FirstFire;

(ii) a reservation letter executed by the Company's Transfer Agent and the Company in the form attached asExhibit C;

(iii) the RRA Amendment duly executed by the Company and Oasis;a Board Consent approving the issuance of the Note and the execution of the Transaction Documents on behalf of the Company in the form attached as Exhibit D; and

(iv) the Company's wire instructions in writing.

(c) On or prior to the Closing Date, FirstFire shall deliver or cause to be delivered to the Company the following:

(i) this Agreement duly executed by FirstFire;

(ii) the RRA Amendment duly executed by FirstFire; and

(iii) FirstFire's Subscription Amount of $2,500,000 by wire transfer to the Company.

2.3 Closing Conditions.

(a) The obligations of the Company hereunder in connection with the Closing are subject to the following conditions being met:

(i) the accuracy in all material respects (or, to the extent representations or warranties are qualified by materiality or Material Adverse Effect, in all respects) on the Closing Date of the representations and warranties of the Purchaser contained herein (unless as of a specific date therein in which case they shall be accurate as of such date);

(ii) all obligations, covenants and agreements of the Purchaser required to be performed at or prior to the Closing Date shall have been performed (or a waiver obtained with respect thereto); and

(iii) the delivery by the Purchaser of the items set forth in Section 2.2 of this Agreement.

(b) The obligations of the Purchaser hereunder in connection with the Closing are subject to the following conditions being met:

(i) the accuracy in all respects (or, to the extent representations or warranties are qualified by materiality or Material Adverse Effect, in all respects) when made and on the Closing Date of the representations and warranties of the Company contained herein (unless as of a specific date therein);

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

(iii) the delivery by the Company of the items set forth in Sections 2.2 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 SEC 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 the Purchaser, makes it impracticable or inadvisable to purchase the Securities at the Closing.

ARTICLE III.
REPRESENTATIONS AND WARRANTIES

3.1 Representations and Warranties of the Company. The Company hereby makes the following representations and warranties to the Purchaser which representations and warranties shall be true and correct as of the date hereof:

(a) Subsidiaries. All of the direct and indirect Subsidiaries of the Company are set forth in its SEC filings and/or onSchedule 3.1(a). Except as set forth in its SEC filings and/or on Schedule 3.1(a), the Company owns, directly or indirectly, all of the capital stock or other equity interests of each Subsidiary free and clear of any Liens, and all of the issued and outstanding shares of capital stock of each Subsidiary are validly issued and are fully paid, non-assessable and free of preemptive and similar rights to subscribe for or purchase securities.

(b) Organization and Qualification. Except as set forth in its SEC filings and/or onSchedule 3.1(b), the Company and each of the Subsidiaries is an entity duly incorporated or otherwise organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation or organization, with the requisite power and authority to own and use its properties and assets and to carry on its business as currently conducted. Neither the Company nor any Subsidiary is in violation nor default of any of the provisions of its respective formation document, bylaws or other organizational or charter documents. Each of the Company and the Subsidiaries is duly qualified to conduct business and is in good standing as a foreign corporation or other entity in each jurisdiction in which the nature of the business conducted or property owned by it makes such qualification necessary, except where the failure to be so qualified or in good standing, as the case may be, could not have or reasonably be expected to result in: (i) a Material Adverse Effect on the legality, validity or enforceability of any Transaction Document, (ii)a material adverse effect on the results of operations, assets, business, or financial condition of the Company and the Subsidiaries, taken as a whole, or (ii) a material adverse effect on the Company's ability to perform in any material respect on a timely basis its obligations under any Transaction Document (any of (i) or (ii), a "Material Adverse Effect"; *provided, however,* that "Material Adverse Effect" shall not include any event, occurrence, fact, condition or change, directly or indirectly, arising out of or attributable to: (A) general economic or political conditions, (B) conditions generally affecting the industry in which the Company operates, (C) any changes in financial or securities markets in general, (D) acts of war (whether or not declared), armed hostilities or terrorism, or the escalation or worsening thereof, (E) any pandemic, epidemics or human health crises (including COVID-19), (F) any changes in applicable laws or accounting rules (including GAAP), (G) the announcement, pendency or completion of the transactions contemplated by this Agreement, or (H) any action required or permitted by this Agreement or any action taken (or omitted to be taken) with the written consent of or at the written request of the Purchaser) and no Proceeding has been instituted in any such jurisdiction revoking, limiting or curtailing or seeking to revoke, limit or curtail such power and authority or qualification.

(c) Authorization; Enforcement. The Company has the requisite corporate power and authority to enter into and to consummate the transactions contemplated by this Agreement and each of the other Transaction Documents and otherwise to carry out its obligations hereunder and thereunder. The execution and delivery of this Agreement and each of the other Transaction Documents by the Company and the consummation by it of the transactions contemplated hereby and thereby have been duly authorized by all necessary action on the part of the Company and no further action is required by the Company, the Board of Directors or the Company's shareholders in connection herewith or therewith other than in connection with the Required Approvals. Subject to obtaining the Required Approvals, this Agreement and each other Transaction Document to which it is a party has been (or upon delivery will have been) duly executed by the Company and, when delivered in accordance with the terms hereof and thereof, will constitute the valid and binding obligation of the Company enforceable against the Company in accordance with its terms, except (i) as limited by general equitable principles and applicable bankruptcy, insolvency, reorganization, moratorium and other Laws of general application affecting enforcement of creditors' rights generally, (ii) as limited by Laws relating to the availability of specific performance, injunctive relief or other equitable remedies and (iii) insofar as indemnification and contribution provisions may be limited by applicable law.

(d) No Conflicts. Except as set forth in its SEC filings and/or inSchedule 3.1(d), the execution, delivery and performance by the Company of this Agreement and the other Transaction Documents to which it is a party, the issuance and sale of the Securities and the consummation by it of the transactions contemplated hereby and thereby do not and will not, subject to the Required Approvals, (i) conflict with or violate any provision of the Company's or any Subsidiary's formation documents, bylaws or other organizational or charter documents, (ii) constitute a default (or an event that with notice or lapse of time or both would become a default) under, result in the creation of any Lien upon any of the properties or assets of the Company or any Subsidiary, or give to others any rights of termination, amendment, acceleration or cancellation (with or without notice, lapse of time or both) of, any agreement, credit facility, debt or other instrument (evidencing a Company or Subsidiary debt or otherwise) or other understanding to which the Company or any Subsidiary is a party or by which any property or asset of the Company or any Subsidiary is bound or affected, or (iii) conflict with or result in a violation of any law, rule, regulation, order, judgment, injunction, decree or other restriction of any court or governmental authority to which the Company or a Subsidiary is subject (including federal and state securities Laws and regulations), or by which any property or asset of the Company or a Subsidiary is bound or affected; except in the case of each of clauses (ii) and (iii), such as could not have or reasonably be expected to result in a Material Adverse Effect.

(e) Filings, Consents and Approvals. Except as set forth in its SEC filings and/or onSchedule 3.1(e), the Company is not required to obtain any consent, waiver, authorization or order of, give any notice to, or make any filing or registration with, any court or other federal, state, local or other governmental authority or other Person in connection with the execution, delivery and performance by the Company of the Transaction Documents, other than: (i) the filings required pursuant to Section 4.4 of this Agreement, (ii) application(s) to each applicable Trading Market for the listing of the Shares for trading thereon in the time and manner required thereby, and (iii) such filings as are required to be made under applicable state or federal securities Laws (collectively, the "Required Approvals").

(f) Issuance of the Securities. The Note and Shares are duly authorized and, when issued and paid for in accordance with the applicable Transaction Documents, will be duly and validly issued, fully paid and nonassessable, free and clear of all Liens imposed by the Company. The Shares, when issued upon conversion

of the Note, will be validly issued, fully paid and nonassessable, free and clear of all Liens imposed by the Company. The Company shall reserve from its duly authorized capital stock a number of shares of Common Stock issuable pursuant to the Note equal to the amount set forth in Section 4.9.

(g) Capitalization. The capitalization of the Company is as set forth in its SEC filings and/or onSchedule 3.1(g). The Company has not issued any capital stock since its most recently filed periodic report under the Exchange Act, other than as set forth in its SEC filings and/or on Schedule 3.1(g), pursuant to the exercise of employee stock awards under the Company's equity incentive plans, the issuance of shares of Common Stock to employees pursuant to the Company's employee stock purchase plans, the issuance of shares of Common Stock or Common Stock Equivalents pursuant to agreements outstanding as of the date of the most recently filed periodic report under the Exchange Act and pursuant to the conversion and/or exercise of Common Stock Equivalents outstanding as of the date of the most recently filed periodic report under the Exchange Act. No Person has any right of first refusal, preemptive right, right of participation, or any similar right to participate in the transactions contemplated by the Transaction Documents. Except as set forth in its SEC filings and/or on Schedule 3.1(g), there are no outstanding options, warrants, scrip rights to subscribe to, calls or commitments of any character whatsoever relating to, or securities, rights or obligations convertible into or exercisable or exchangeable for, or giving any Person any right to subscribe for or acquire, any shares of Common Stock or the capital stock of any Subsidiary, or contracts, commitments, understandings or arrangements by which the Company or any Subsidiary is or may become bound to issue additional shares of Common Stock or Common Stock Equivalents or capital stock of any Subsidiary. The issuance and sale of the Securities will not obligate the Company or any Subsidiary to issue shares of Common Stock or other securities to any Person (other than the Purchaser) and will not result in a right of any holder of Company Securities to adjust the exercise, conversion, exchange or reset price under any of such securities. There are no outstanding securities or instruments of the Company or any Subsidiary that contain any redemption or similar provisions, and there are no contracts, commitments, understandings or arrangements by which the Company or any Subsidiary is or may become bound to redeem a security of the Company or such Subsidiary. The Company does not have any stock appreciation rights or "phantom stock" plans or agreements or any similar plan or agreement. All of the outstanding shares of capital stock of the Company are duly authorized, validly issued, fully paid and nonassessable, have been issued in compliance with all federal and state securities Laws, and none of such outstanding shares was issued in violation of any preemptive rights or similar rights to subscribe for or purchase securities. Other than the Required Approvals, no further approval or authorization of any stockholder, the Board of Directors or others is required for the issuance and sale of the Securities. There are no shareholders agreements, voting agreements or other similar agreements with respect to the Company's capital stock to which the Company is a party or, to the knowledge of the Company, between or among any of the Company's shareholders.

(h) SEC Reports; Financial Statements. To the Company's knowledge, since May 17, 2021 the Company has filed all reports, schedules, forms, statements and other documents required to be filed by the Company under the Securities Act and the Exchange Act, including pursuant to Section 13(a) or 15(d) thereof, (the foregoing materials, including the exhibits thereto and documents incorporated by reference therein, being collectively referred to herein as the "SEC Reports"). As of their respective dates, the Company believes that the SEC Reports complied in all material respects with the requirements of the Securities Act and the Exchange Act, as applicable, and that none of the SEC Reports, when filed, contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. The financial statements of the Company included in the SEC Reports comply in all material respects with applicable accounting requirements and the rules and regulations of the SEC with respect thereto as in effect at the time of filing. Such financial statements have been prepared in accordance with United States generally accepted accounting principles applied on a consistent basis during the periods involved ("GAAP"), except as may be otherwise specified in such financial statements or the notes thereto and except that unaudited financial statements may not contain all footnotes required by GAAP, and fairly present in all material respects the financial position of the Company and its consolidated Subsidiaries as of and for the dates thereof and the results of operations and cash flows for the periods then ended, subject, in the case of unaudited statements, to normal, immaterial, year-end audit adjustments.

(i) Material Changes; Undisclosed Events, Liabilities or Developments. Other than as set forth in its SEC filings and/or onSchedule 3.1(i) since the date of the latest audited financial statements included within the SEC Reports, except as specifically disclosed in a subsequent SEC Report filed prior to the date hereof, to the best of the Company's knowledge (i) there has been no event, occurrence or development that has had or that could reasonably be expected to result in a Material Adverse Effect, (ii) the Company has not incurred any liabilities (contingent or otherwise) other than (A) trade payables and accrued expenses incurred in the ordinary course of business consistent with past practice, and (B) liabilities not required to be reflected in the Company's financial statements pursuant to GAAP or disclosed in filings made with the SEC, (iii) the Company has not altered its method of accounting, (iv) the Company has not declared or made any dividend or distribution of cash or other property to its shareholders or purchased, redeemed or made any agreements to purchase or redeem any shares of its capital stock and (v) the Company has not issued any equity securities to any officer, director or Affiliate, except pursuant to existing Company equity incentive plans. The Company does not have pending before the SEC any request for confidential treatment of information. To the knowledge of the Company, except for the issuance of the Securities contemplated by this Agreement or as set forth in its SEC filings and/or on Schedule 3.1(i), no event, liability, fact, circumstance, occurrence or development has occurred or exists or is reasonably expected to occur or exist with respect to the Company or its Subsidiaries or their respective businesses, prospects, properties, operations, assets or financial condition that would be required to be disclosed by the Company under applicable securities Laws at the time this representation is made or deemed made that has not been publicly disclosed at least one Trading Day prior to the date that this representation is made.

(j) Litigation. Except as set forth in its SEC filings and/or inSchedule 3.1(j), there is no action, suit, notice of violation, Proceeding or investigation, inquiry or other similar Proceeding of any federal or state governmental authority pending or, to the knowledge of the Company, threatened against or affecting the Company, any Subsidiary or any of their respective properties before or by any court, arbitrator, governmental or administrative agency or regulatory authority (federal, state, county, local or foreign) (collectively, an "Action") which (i) adversely affects or challenges the legality, validity or enforceability of any of the Transaction Documents or the issuance of the Securities or (ii) could, if there were an unfavorable decision, have or reasonably be expected to result in a Material Adverse Effect. Neither the Company nor any Subsidiary, nor to the Company's knowledge any director or officer thereof, is or has been the subject of any Action involving the Company and a claim of violation of or liability under federal or state securities Laws or a claim of breach of fiduciary duty. There has not been, and to the knowledge of the Company, there is not pending or contemplated, any investigation by the SEC involving the Company or any current or former director or officer of the Company. To the knowledge of the Company, the SEC has not issued any stop order or other order suspending the effectiveness of any registration statement filed by the Company or any Subsidiary under the Exchange Act or the Securities Act.

(k) Labor Relations. No labor dispute exists or, to the knowledge of the Company, is imminent with respect to any of the employees of the Company, which could reasonably be expected to result in a Material Adverse Effect. None of the Company's or its Subsidiaries' employees is a member of a union that relates to such employee's relationship with the Company or such Subsidiary, and neither the Company nor any of its Subsidiaries is a party to a collective bargaining agreement, and the Company and its Subsidiaries believe that their relationships with their employees are good. To the knowledge of the Company, no effort is underway to unionize or organize the employees of the Company or any Subsidiary. To the knowledge of the Company, no executive officer of the Company or any Subsidiary, is in violation of any material term of any employment contract, confidentiality, disclosure or proprietary information agreement or non-competition agreement, or any other contract or agreement or any restrictive covenant in favor of any third party, and the continued employment of each such executive officer does not subject the Company or any of its Subsidiaries to any liability with respect to any of the foregoing matters. The Company and its Subsidiaries are in compliance with all U.S. federal, state, local and foreign Laws and regulations relating to employment and employment practices, terms and conditions of employment and wages and hours, except where the failure to be in compliance could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. Except as set forth in its SEC filings and/or on Schedule 3.1(k), there is no workmen's compensation liability matter, employment-related charge, complaint, grievance, investigation, inquiry or obligation of

any kind pending, or to the Company's knowledge, threatened, relating to an alleged violation or breach by the Company or its Subsidiaries of any law, regulation or contract that could, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(l) Compliance. Except as set forth in its SEC filings and/or onSchedule 3.1(l), neither the Company nor any Subsidiary: (i) is in default under or in violation of (and no event has occurred that has not been waived that, with notice or lapse of time or both, would result in a default by the Company or any Subsidiary under), nor has the Company or any Subsidiary received notice of a claim that it is in default under or that it is in violation of, any indenture, loan or credit agreement or any other agreement or instrument to which it is a party or by which it or any of its properties is bound (whether or not such default or violation has been waived), (ii) is in violation of any judgment, decree or order of any court, arbitrator or other governmental authority or (iii) is or has been in violation of any statute, rule, ordinance or regulation of any governmental authority, including without limitation all foreign, federal, state and local Laws and regulations relating to taxes, securities, environmental protection, occupational health and safety, product quality and safety, and employment and labor matters, except in each case as could not have or reasonably be expected to result in a Material Adverse Effect.

(m) Environmental Laws. The Company and its Subsidiaries (i) are in compliance with all federal, state, local and foreign Laws relating to pollution or protection of human health or the environment (including ambient air, surface water, groundwater, land surface or subsurface strata), including Laws relating to emissions, discharges, releases or threatened releases of chemicals, pollutants, contaminants, or toxic or hazardous substances or wastes (collectively, "Hazardous Materials") into the environment, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials, as well as all authorizations, codes, decrees, demands, or demand letters, injunctions, judgments, licenses, notices or notice letters, orders, permits, plans or regulations, issued, entered, promulgated or approved thereunder ("Environmental Laws"); (ii) have received all permits licenses or other approvals required of them under applicable Environmental Laws to conduct their respective businesses; and (iii) are in compliance with all terms and conditions of any such permit, license or approval where in each clause (i), (ii) and (iii), the failure to so comply could be reasonably expected to have, individually or in the aggregate, a Material Adverse Effect.

(n) Regulatory Permits. The Company and the Subsidiaries possess all certificates, authorizations and permits issued by the appropriate federal, state, local or foreign regulatory authorities necessary to conduct their respective businesses as described in the SEC Reports, except where the failure to possess such permits could not reasonably be expected to result in a Material Adverse Effect ("Material Permits"), and neither the Company nor any Subsidiary has received any written notice of Proceedings relating to the revocation or modification of any Material Permit.

(o) Title to Assets. Except as set forth in its SEC filings and/or onSchedule 3.1(o), the Company and the Subsidiaries have good and marketable title in fee simple to all real property owned by them and good and marketable title in all personal property owned by them that is material to the business of the Company and the Subsidiaries, in each case free and clear of all Liens, except for (i) Liens as do not materially affect the value of such property and do not materially interfere with the use made and proposed to be made of such property by the Company and the Subsidiaries, and (ii) Liens for the payment of federal, state or other taxes, for which appropriate reserves have been made therefor in accordance with GAAP and, the payment of which is neither delinquent nor subject to penalties. To the Company's knowledge, any real property and facilities held under lease by the Company and the Subsidiaries are held by them under valid, subsisting and enforceable leases with which the Company and the Subsidiaries are in material compliance.

(p) Intellectual Property.

(i) Except as set forth in its SEC filings and/or inSchedule 3.1(p), the Company owns or possesses or has the right to use pursuant to a valid and enforceable written license, sublicense, agreement, or permission all Intellectual Property necessary for the operation of the business of the Company as presently conducted, except in each case as could not have or reasonably be expected to result in a Material Adverse Effect.

(ii) The Company has no knowledge that the Intellectual Property interferes with, infringe upon, misappropriate, or otherwise come into conflict with, any Intellectual Property rights of third parties, and the Company has no knowledge that facts exist which indicate a likelihood of the foregoing. The Company has not received any charge, complaint, claim, demand, or notice alleging any such interference, infringement, misappropriation, or conflict (including any claim that the Company must license or refrain from using any Intellectual Property rights of any third party). To the knowledge of the Company, no third party has interfered with, infringed upon, misappropriated, or otherwise come into conflict with, any Intellectual Property rights of the Company, except in each case as could not have or reasonably be expected to result in a Material Adverse Effect.

(q) Insurance. The Company and the Subsidiaries are insured by insurers of recognized financial responsibility against such losses and risks and in such amounts as are prudent and customary in the businesses in which the Company and the Subsidiaries are engaged.

(r) Transactions With Affiliates. Except as disclosed in its SEC filings, none of the current officers, directors or Affiliates of the Company or any Subsidiary is presently a party to any transaction with the Company or any Subsidiary (other than for services as employees, officers and directors), including any contract, agreement or other arrangement providing for the furnishing of services to or by, providing for rental of real or personal property to or from, providing for the borrowing of money from or lending of money to or otherwise requiring payments to or from any officer, director, Affiliate or such employee or, to the knowledge of the Company, any entity in which any officer, director, or any such employee has a substantial interest or is an officer, director, trustee, stockholder, member or partner, in each case in excess of $120,000 other than for (i) payment of salary or consulting fees for services rendered, (ii) reimbursement for expenses incurred on behalf of the Company and (iii) other employee benefits, including stock award agreements under any equity incentive plan of the Company.

(s) Sarbanes-Oxley; Internal Accounting Controls. Except as disclosed in its SEC filings and/or inSchedule 3.1(s), the Company and the Subsidiaries are in compliance with any and all applicable requirements of the Sarbanes-Oxley Act of 2002 that are effective as of the date hereof, and any and all applicable rules and regulations promulgated by the SEC thereunder that are effective as of the date hereof and as of the Closing Date. The Company and the Subsidiaries maintain a system of internal accounting controls as set forth in the SEC Reports. The Company's certifying officers have evaluated the effectiveness of the disclosure controls and procedures of the Company and the Subsidiaries as of the end of the period covered by the most recently filed periodic report under the Exchange Act (such date, the "Evaluation Date"). The Company presented in its most recently filed periodic report under the Exchange

Act the conclusions of the certifying officers about the effectiveness of the disclosure controls and procedures based on their evaluations as of the Evaluation Date. Since the Evaluation Date, there have been no changes in the internal control over financial reporting (as such term is defined in the Exchange Act) of the Company and its Subsidiaries that have materially affected, or is reasonably likely to materially affect, the internal control over financial reporting of the Company and its Subsidiaries.

(t) Certain Fees. Other than as set forth in its SEC filings and/or onSchedule 3.1(t), no brokerage or finder's fees or commissions are or will be payable by the Company or any Subsidiary to any broker, financial advisor or consultant, finder, placement agent, investment banker, bank or other Person with respect to the transactions contemplated by the Transaction Documents. The Purchaser shall have no obligation with respect to any fees or with respect to any claims made by or on behalf of other Persons for fees of a type contemplated in this Section 3.1(t) that may be due in connection with the transactions contemplated by the Transaction

Documents.

(u) Investment Company. The Company is not, and is not an Affiliate of, and immediately after receipt of payment for the Securities, will not be or be an Affiliate of, an "investment company" within the meaning of the Investment Company Act of 1940, as amended. The Company shall conduct its business in a manner so that it will not become an "investment company" subject to registration under the Investment Company Act of 1940, as amended.

(v) Registration Rights. Other than as set forth in its SEC filings and/or onSchedule 3.1(v), no Person has any right to cause the Company or any Subsidiary to effect the registration under the Securities Act of any securities of the Company or any Subsidiary.

(w) Listing and Maintenance Requirements. The Company has not, in the 12 months preceding the date hereof, received notice from any Trading Market on which the Common Stock is or has been listed or quoted to the effect that the Company is not in compliance with the listing or maintenance requirements of such Trading Market. The Company is, and has no reason to believe that it will not in the foreseeable future continue to be, in material compliance with all such listing and maintenance requirements. The Common Stock is currently eligible for electronic transfer through the Depository Trust Company ("DTC") or another established clearing corporation and the Company is current in payment of the fees to the DTC (or such other established clearing corporation) in connection with such electronic transfer. The Company is not subject to any "chill" issued by the DTC.

(x) Application of Takeover Protections. The Company and the Board of Directors have taken all necessary action, if any, in order to render inapplicable any control share acquisition, business combination, poison pill (including any distribution under a rights agreement) or other similar anti-takeover provision under the Company's formation documents (or similar charter documents) or the Laws of its state of incorporation that is or could become applicable to the Purchaser as a result of the Purchaser and the Company fulfilling their obligations or exercising their rights under the Transaction Documents, including without limitation as a result of the Company's issuance of the Securities and the Purchaser's ownership of the Securities.

(y) Disclosure. Except with respect to the material terms and conditions of the transactions contemplated by the Transaction Documents, the Company confirms that neither it nor any other Person acting on its behalf has provided the Purchaser or its agents or counsel with any information that it believes constitutes or might constitute material, non-public information which is not otherwise disclosed in the SEC Reports. The Company understands and confirms that the Purchaser will rely on the foregoing representation in effecting transactions in securities of the Company. The press releases disseminated by the Company since May 17, 2021 do not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made and when made, not misleading. The Company acknowledges and agrees that no Purchaser makes or has made any representations or warranties with respect to the transactions contemplated hereby other than those specifically set forth in Section 3.2 hereof.

(z) No Integrated Offering. Assuming the accuracy of the Purchaser's representations and warranties set forth in Section 3.2, neither the Company, nor any of its Affiliates, nor any Person acting on its or their behalf has, directly or indirectly, made any offers or sales of any security or solicited any offers to buy any security, under circumstances that would cause this offering of the Securities to be integrated with prior offerings by the Company for purposes of any applicable shareholder approval provisions of any Trading Market on which any of the securities of the Company are listed or designated.

(aa) Solvency. The Company has not filed for reorganization or liquidation under the bankruptcy or reorganization Laws of any jurisdiction. Except as set forth in its SEC filings and/or Schedule 3.1(aa) sets forth as of the time immediately following the Closing hereof all outstanding Indebtedness of the Company or any Subsidiary. For the purposes of this Agreement, "Indebtedness" means (x) any liabilities for borrowed money or amounts owed in excess of $50,000 (other than trade accounts payable incurred in the ordinary course of business), (y) all guaranties, endorsements and other contingent obligations in respect of indebtedness of others, whether or not the same are or should be reflected in the Company's consolidated balance sheet (or the notes thereto), except guaranties by endorsement of negotiable instruments for deposit or collection or similar transactions in the ordinary course of business; and (z) the present value of any lease payments in excess of $50,000 due under leases required to be capitalized in accordance with GAAP. Except as set forth in its SEC filings and/or on Schedule 3.1(aa) or as would not have a Material Adverse Effect, neither the Company nor any Subsidiary is in default with respect to any Indebtedness.

(bb) Tax Status. Except for matters disclosed in its SEC filings and/or matters that would not, individually or in the aggregate, have or reasonably be expected to result in a Material Adverse Effect, the Company and its Subsidiaries each (i) has made or filed all United States federal, state and local income and all foreign income and franchise tax returns, reports and declarations required by any jurisdiction to which it is subject, (ii) has paid all taxes and other governmental assessments and charges that are material in amount, shown to be due on such returns, reports and declarations and (iii) has set aside on its books provision reasonably adequate for the payment of all material taxes for periods subsequent to the periods to which such returns, reports or declarations apply. There are no unpaid taxes in any material amount claimed to be due by the taxing authority of any jurisdiction.

(cc) Foreign Corrupt Practices. Neither the Company nor any Subsidiary, nor to the knowledge of the Company, any agent or other Person acting on behalf of the Company or any Subsidiary, has (i) directly or indirectly, used any funds for unlawful contributions, gifts, entertainment or other unlawful expenses related to foreign or domestic political activity, (ii) made any unlawful payment to foreign or domestic government officials or employees or to any foreign or domestic political parties or campaigns from corporate funds, (iii) failed to disclose fully any contribution made by the Company or any Subsidiary (or made by any Person acting on its behalf of which the Company is aware) which is in violation of Law, or (iv) violated any provision of FCPA.

(dd) Accountants. The Company's accounting firm is set forth in the SEC Reports. To the knowledge and belief of the Company, such accounting firm is a registered public accounting firm as required by the Exchange Act.

(ee) Acknowledgment Regarding each Purchaser's Purchase of Securities. The Company acknowledges and agrees that each Purchaser is acting solely in the capacity of an arm's length purchaser with respect to the Transaction Documents and the transactions contemplated thereby. The Company further acknowledges that no Purchaser is acting as a financial advisor or fiduciary of the Company (or in any similar capacity) with respect to the Transaction Documents and the transactions contemplated thereby and any advice given by any Purchaser or any of its representatives or agents in connection with the Transaction Documents and the transactions contemplated thereby is merely incidental to the Purchaser's purchase of the Securities. The Company further represents to the Purchaser that the Company's decision to enter into this Agreement and the other Transaction Documents has been based solely on the independent evaluation of the transactions contemplated hereby by the Company and its representatives.

(ff) Acknowledgement Regarding each Purchaser's Trading Activity. Notwithstanding anything in this Agreement or elsewhere to the contrary (except for Sections 3.2(f) and 4.13 hereof), it is understood and acknowledged by the Company that: (i) no Purchaser has been asked by the Company to agree, nor has any Purchaser agreed, to desist from purchasing or selling, long and/or short, securities of the Company, or "derivative" securities based on securities issued by the Company or to hold the Securities for any specified term; (ii) past or future open market or other transactions by any Purchaser, specifically including, without limitation, Short Sales or "derivative" transactions, before or after the Closing of this or future private placement transactions, may negatively impact the market price of the Company's

publicly-traded securities; (iii) each Purchaser, and counter-parties in "derivative" transactions to which any Purchaser is a party, directly or indirectly, presently may have a "short" position in the Common Stock, and (iv) the Purchaser shall not be deemed to have any affiliation with or control over any arm's length counter-party in any "derivative" transaction. The Company further understands and acknowledges that (y) the Purchaser may engage in hedging activities at various times during the period that the Securities are outstanding, and (z) such hedging activities (if any) could reduce the value of the existing shareholders' equity interests in the Company at and after the time that the hedging activities are being conducted. The Company acknowledges that such aforementioned hedging activities do not constitute a breach of any of the Transaction Documents.

(gg) Regulation M Compliance. The Company has not, and to its knowledge no one acting on its behalf has, (i) taken, directly or indirectly, any action designed to cause or to result in the stabilization or manipulation of the price of the Common Stock to facilitate the sale of the Securities, or (ii) paid or agreed to pay to any Person any compensation for soliciting another to purchase the Securities or any other securities of the Company.

(hh) Private Placement. Assuming the accuracy of the Purchaser's representations and warranties set forth in Section 3.2, no registration under the Securities Act is required for the offer and sale of the Securities by the Company to the Purchaser as contemplated hereby.

(ii) No General Solicitation. Neither the Company nor, to the Company's knowledge, any Person acting on behalf of the Company has offered or sold any of the Securities by any form of general solicitation or general advertising. The Company has offered the Securities for sale only to the Purchaser and certain other "accredited investors" within the meaning of Rule 501 under the Securities Act.

(jj) No Disqualification Events. With respect to the Securities to be offered and sold hereunder in reliance on Rule 506(b) under the Securities Act, none of the Company, any of its predecessors, any affiliated issuer, any director, executive officer, other officer of the Company participating in the offering hereunder, any beneficial owner of 20% or more of the Company's outstanding voting equity securities, calculated on the basis of voting power, nor any promoter (as that term is defined in Rule 405 under the Securities Act) connected with the Company in any capacity at the time of sale, nor any Person, including a placement agent, who will receive a commission or fees for soliciting purchasers (each, an "Issuer Covered Person" and, together, "Issuer Covered Persons") is subject to any of the "Bad Actor" disqualifications described in Rule 506(d)(1)(i) to (viii) under the Securities Act (a "Disqualification Event"), except for a Disqualification Event covered by Rule 506(d)(2) or (d)(3). The Company has exercised reasonable care to determine whether any Issuer Covered Person is subject to a Disqualification Event. The Company has complied, to the extent applicable, with its disclosure obligations under Rule 506(e), and has furnished to the Purchaser a copy of any disclosures provided thereunder. Notwithstanding the above, the Company has specifically advised the Purchaser of certain prior disciplinary actions related to an officer/director of the Company which would not be designated a Disqualification Event.

(kk) Notice of Disqualification Events. The Company will notify the Purchaser in writing, prior to the Closing Date of the Company becoming aware of (i) any Disqualification Event relating to any Issuer Covered Person and (ii) any event that would, with the passage of time, reasonably be expected to become a Disqualification Event relating to any Issuer Covered Person, in each case of which it is aware.

(ll) Office of Foreign Assets Control. Neither the Company nor any Subsidiary nor, to the Company's knowledge, any director, officer, agent, employee or Affiliate of the Company or any Subsidiary is currently subject to any U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Treasury Department ("OFAC").

(mm) U.S. Real Property Holding Corporation. The Company is not and has never been a U.S. real property holding corporation within the meaning of Section 897 of the Internal Revenue Code of 1986, as amended, and the Company shall so certify upon any Purchaser's request.

(nn) Bank Holding Company Act. Neither the Company nor any of its Subsidiaries or Affiliates is subject to the Bank Holding Company Act of 1956, as amended (the "BHCA") and to regulation by the Board of Governors of the Federal Reserve System (the "Federal Reserve"). Neither the Company nor any of its Subsidiaries or Affiliates owns or controls, directly or indirectly, 5% or more of the outstanding shares of any class of voting securities or twenty-five percent or more of the total equity of a bank or any entity that is subject to the BHCA and to regulation by the Federal Reserve. Neither the Company nor any of its Subsidiaries or Affiliates exercises a controlling influence over the management or policies of a bank or any entity that is subject to the BHCA and to regulation by the Federal Reserve.

(oo) Money Laundering. The operations of the Company and its Subsidiaries are and have been conducted at all times in material compliance with applicable financial record-keeping and reporting requirements of the Currency and Foreign Transactions Reporting Act of 1970, as amended, applicable money laundering statutes and applicable rules and regulations thereunder (collectively, the "Money Laundering Laws"), and no Action by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any Subsidiary with respect to the Money Laundering Laws is pending or, to the knowledge of the Company or any Subsidiary, threatened.

3.2 Representations and Warranties of the Purchaser. Purchaser hereby represents and warrants to the Company as follows which representations and warranties shall be true and correct as of the date hereof:

(a) Organization; Authority. The Purchaser is either an individual or an entity duly incorporated or formed, validly existing and in good standing under the Laws of the jurisdiction of its incorporation or formation with full right, corporate, partnership, limited liability company or similar power and authority to enter into and to consummate the transactions contemplated by this Agreement and otherwise to carry out its obligations hereunder and thereunder. The execution and delivery of this Agreement and performance by the Purchaser of the transactions contemplated by this Agreement have been duly authorized by all necessary corporate, partnership, limited liability company or similar action, as applicable, on the part of the Purchaser. Each Transaction Document to which it is a party has been duly executed by the Purchaser, and when delivered by the Purchaser in accordance with the terms hereof, will constitute the valid and legally binding obligation of the Purchaser, enforceable against it in accordance with its terms, except: (i) as limited by general equitable principles and applicable bankruptcy, insolvency, reorganization, moratorium and other Laws of general application affecting enforcement of creditors' rights generally, (ii) as limited by Laws relating to the availability of specific performance, injunctive relief or other equitable remedies and (iii) insofar as indemnification and contribution provisions may be limited by applicable law.

(b) Understandings or Arrangements. The Purchaser is acquiring the Securities 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 Securities (this representation and warranty not limiting the Purchaser's right to sell the Securities in compliance with applicable federal and state securities Laws). The Purchaser is acquiring the Securities hereunder in the ordinary course of its business. The Purchaser understands that the Securities are "restricted securities" and have not been registered under the Securities Act or any applicable state securities law and is acquiring such Securities as principal for its own account and not with a view to or for distributing or reselling such Securities or any part thereof in violation of the Securities Act or any applicable state securities law, has no present intention of distributing any of such Securities in violation of the Securities Act or any applicable state securities law and has no direct or indirect arrangement or understandings with any other Persons to distribute or regarding the distribution of such Securities in violation of the Securities Act or any applicable state securities law (this representation and warranty not limiting the Purchaser's right to sell such Securities

in compliance with applicable federal and state securities Laws).

(c) Risks of Investment. Purchase recognizes that the acquisition of the Securities involves a high degree of risk in that an investor could sustain the loss of its entire investment and the Company is and will be subject to numerous other risks and uncertainties, including, without limitation, significant and material risks relating to the Company's business and the industries, markets and geographic regions in which the Company competes.

(d)Accredited Investor Status. Purchaser represents that it is an "accredited investor" as such term is defined in Rule 501 of Regulation D promulgated under the Securities Act of 1933, as amended, and that it is able to bear the economic risk of an investment in the Securities.

(e) Purchaser Status. At the time the Purchaser was offered the Securities, it was, and as of the date hereof it is, an accredited investor within the meaning of Rule 501 under the Securities Act. No Purchaser is subject to any of the "Bad Actor" disqualifications described in Rule 506(d)(1)(i) to (viii) under the Securities Act (a "Disqualification Event"), except for a Disqualification Event covered by Rule
506(d)(2) or (d)(3).

(f) Experience of The Purchaser. The Purchaser, either alone or together with its representatives, has such knowledge, sophistication and experience in business and financial matters so as to be capable of evaluating the merits and risks of the prospective investment in the Securities, and has so evaluated the merits and risks of such investment. The Purchaser is able to bear the economic risk of an investment in the Securities and, at the present time, is able to afford a complete loss of such investment.

(g) Access to Information. The Purchaser acknowledges that it has had the opportunity to review the Transaction Documents (including all exhibits and schedules thereto) and the SEC Reports and has been afforded, subject to Regulation FD, (i) the opportunity to ask such questions as it has deemed necessary of, and to receive answers from, representatives of the Company concerning the terms and conditions of the offering of the Securities and the merits and risks of investing in the Securities; (ii) access to information about the Company and its financial condition, results of operations, business, properties, management and prospects sufficient to enable it to evaluate its investment; and (iii) the opportunity to obtain such additional information that the Company possesses or can acquire without unreasonable effort or expense that is necessary to make an informed investment decision with respect to the investment. The Purchaser acknowledges and agrees that neither the Company nor anyone else has provided the Purchaser with any information or advice with respect to the Securities nor is such information or advice necessary or desired.

(h) Certain Transactions and Confidentiality. Other than consummating the transactions contemplated hereunder, the Purchaser has not, nor has any Person acting on behalf of or pursuant to any understanding with the Purchaser, directly or indirectly executed any purchases or sales, including Short Sales, of the securities of the Company during the period commencing as of the time that the Purchaser first received a term sheet (written or oral) from the Company or any other Person representing the Company setting forth the material terms of the transactions contemplated hereunder and ending immediately prior to the execution hereof. Notwithstanding the foregoing, in the case of the Purchaser that is a multi-managed investment vehicle whereby separate portfolio managers manage separate portions of the Purchaser's assets and the portfolio managers have no direct knowledge of the investment decisions made by the portfolio managers managing other portions of the Purchaser's assets, the representation set forth above shall only apply with respect to the portion of assets managed by the portfolio manager that made the investment decision to purchase the Securities covered by this Agreement. Other than to other Persons party to this Agreement or to the Purchaser's representatives, including, without limitation, its officers, directors, partners, legal and other advisors, employees, agents and Affiliates, the Purchaser has maintained the confidentiality of all disclosures made to it in connection with this transaction (including the existence and terms of this transaction). Notwithstanding the foregoing, for avoidance of doubt, nothing contained herein shall constitute a representation or warranty, or preclude any actions, with respect to the identification of the availability of, or securing of, available shares to borrow in order to effect Short Sales or similar transactions in the future.

The Company acknowledges and agrees that the representations contained in this Section 3.2 shall not modify, amend or affect the Purchaser's right to rely on the Company's representations and warranties contained in this Agreement or any representations and warranties contained in any other Transaction Document or any other document or instrument executed and/or delivered in connection with this Agreement or the consummation of the transaction contemplated hereby.

ARTICLE IV.
OTHER AGREEMENTS OF THE PARTIES

4.1 Removal of Legends.

(a) The Securities may only be disposed of in compliance with state and federal securities Laws. In connection with any transfer of the Shares, other than pursuant to an effective registration statement or Rule 144, to the Company or to an Affiliate of the Purchaser or in connection with a pledge as contemplated in Section 4.1(b), the Company may require the transferor to provide to the Company an opinion of counsel selected by the transferor and reasonably acceptable to the Company at the reasonable cost of the Company, the form and substance of which opinion shall be reasonably satisfactory to the Company, to the effect that such transfer does not require registration of such transferred Shares under the Securities Act.

(b) The Purchaser agrees to the imprinting, so long as is required by this Section 4.1, of a legend on any of the Shares in the following form:

NEITHER THIS SECURITY NOR THE SECURITIES INTO WHICH THIS SECURITY IS CONVERTIBLE HAVE BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION OR THE SECURITIES COMMISSION OF ANY STATE IN RELIANCE UPON AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND, ACCORDINGLY, MAY NOT BE OFFERED OR SOLD EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR PURSUANT TO AN AVAILABLE EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS. THIS SECURITY AND THE SECURITIES ISSUABLE UPON EXERCISE OF THIS SECURITY MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT WITH A REGISTERED BROKER- DEALER OR OTHER LOAN WITH A FINANCIAL INSTITUTION THAT IS AN "ACCREDITED INVESTOR" AS DEFINED IN RULE 501(a) UNDER THE SECURITIES ACT OR OTHER LOAN SECURED BY SUCH SECURITIES.

The Company acknowledges and agrees that the Purchaser may from time to time pledge pursuant to a bona fide margin agreement with a registered broker-dealer or grant a security interest in some or all of the Shares to a financial institution that is an "accredited investor" as defined in Rule 501(a) under the Securities Act and who agrees to be bound by the provisions of this Agreement and, if required under the terms of such arrangement, the Purchaser may transfer pledged or secured Shares to the pledgees or secured parties. Such a pledge or transfer would not be subject to approval of the Company and no legal opinion of legal counsel of the pledgee, secured party or pledgor shall be required in connection therewith. Further, no notice shall be required of such pledge. At the Purchaser's expense, the Company will execute and deliver such reasonable documentation as a pledgee or secured party of Shares may reasonably request in connection with a pledge or transfer of the Shares.

(c) Certificates evidencing the Shares (or the Transfer Agent's records if held in book entry form) shall not contain any legend (including the legend set forth in Section 4.1(b) hereof): (i) while a registration statement covering the resale of such securities is effective under the Securities Act (the "Effective Date"), (ii) following any sale of such Shares pursuant to Rule 144, (iii) if such Shares are eligible for sale under Rule 144, without the requirement for the Company to be in compliance with the current public information required under Rule 144 as to such Shares and without volume or manner-of-sale restrictions or (iv) if such legend is not required under applicable requirements of the Securities Act (including Sections 4(a)(1) and 4(a)(7) judicial interpretations and pronouncements issued by the staff of the SEC). The Company shall, at its expense, cause its counsel to issue a legal opinion to the Transfer Agent promptly after the Effective Date if required by the Transfer Agent to affect the removal of the legend hereunder. If all or any portion of a Note is converted at a time when there is an effective registration statement to cover the resale of the Shares or if such Shares or may be sold under Rule 144 and the Company is then in compliance with the current public information required under Rule 144, or if the Shares may be sold under Rule 144 without the requirement for the Company to be in compliance with the current public information required under Rule 144 as to such Shares and without volume or manner-of-sale restrictions or if such legend is not otherwise required under applicable requirements of the Securities Act (including Sections 4(a)(1) and 4(a)(7), judicial interpretations and pronouncements issued by the staff of the SEC) then such Shares shall be issued or reissued free of all legends. The Company agrees that following the effective date of any registration statement or at such time as such legend is no longer required under this Section 4.1(c), it will, no later than two Trading Days following the delivery by the Purchaser to the Company or the Transfer Agent of a certificate representing restricted Shares, issued with a restrictive legend (such second Trading Day, the "Legend Removal Date"), deliver or cause to be delivered to the Purchaser a certificate representing such Shares that is free from all restrictive and other legends. The Company may not make any notation on its records or give instructions to the Transfer Agent that enlarge the restrictions on transfer set forth in this Section 4.1. Certificates for Shares subject to legend removal hereunder shall be transmitted by the Transfer Agent to the Purchaser by crediting the account of the Purchaser's prime broker with the Depository Trust Company system as directed by the Purchaser. The Company shall be responsible for any delays caused by its Transfer Agent.

(d) In addition to the Purchaser's other available remedies, (i) the Company shall pay to the Purchaser, in cash, as partial liquidated damages and not as a penalty, $3,000 per Trading Day until such certificate is delivered without a legend. Nothing herein shall limit the Purchaser's right to pursue actual damages for the Company's failure to deliver certificates representing any Securities as required by the Transaction Documents, and the Purchaser shall have the right to pursue all remedies available to it at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief, and (ii) if after the Legend Removal Date the Purchaser purchases (in an open market transaction or otherwise) shares of Common Stock to deliver in satisfaction of a sale by the Purchaser of all or any portion of the number of shares of Common Stock, or a sale of a number of shares of Common Stock equal to all or any portion of the number of shares of Common Stock that the Purchaser anticipated receiving from the Company without any restrictive legend, then, the Company shall pay to the Purchaser, in cash, an amount equal to the excess of the Purchaser's total purchase price (including brokerage commissions and other out-of-pocket expenses, if any) for the shares of Common Stock so purchased (including brokerage commissions and other out-of-pocket expenses, if any) (the "Buy-In Price") over the product of (A) such number of Shares that the Company was required to deliver to the Purchaser by the Legend Removal Date multiplied by (B) the highest closing sale price of the Common Stock on any Trading Day during the period commencing on the date of the delivery by the Purchaser to the Company of the applicable Shares and ending on the date of such delivery and payment under this Section 4.1(d).

(e) In the event the Purchaser shall request delivery of unlegended shares as described in this Section 4.1 and the Company is required to deliver such unlegended shares, it shall pay all fees and expenses associated with or required by the legend removal and/or transfer including but not limited to reasonable legal fees, Transfer Agent fees and overnight delivery charges and taxes, if any, imposed by any applicable government upon the issuance of Common Stock; and (ii) the Company may not refuse to deliver unlegended shares based on any claim that the Purchaser or anyone associated or affiliated with the Purchaser has not complied with the Purchaser's obligations under the Transaction Documents, or for any other reason, unless, an injunction or temporary restraining order from a court, on notice, restraining and or enjoining delivery of such unlegended shares shall have been sought and obtained by the Company and the Company has posted a surety bond for the benefit of the Purchaser in the amount of the greater of (i) 150% of the amount of the aggregate purchase price of the Shares (based on amount of principal and/or interest of the Note which was converted) which is subject to the injunction or temporary restraining order, or (ii) the VWAP of the Common Stock on the Trading Day before the issue date of the injunction multiplied by the number of unlegended shares to be subject to the injunction, which bond shall remain in effect until the completion of the litigation of the dispute and the proceeds of which shall be payable to the Purchaser to the extent the Purchaser obtains judgment in the Purchaser's favor.

4.2 Furnishing of Information.

(a) So long as the Purchaser holds a Note or Shares, the Company covenants to timely file (or obtain extensions in respect thereof and file within the applicable grace period) all reports required to be filed by the Company after the date hereof pursuant to the Exchange Act even if the Company is not then subject to the reporting requirements of the Exchange Act.

(b) At any time while a Note or Shares are held by the Purchaser, if the Company (i) shall fail for any reason to satisfy the current public information requirement under Rule 144(c) for a period of more than 30 consecutive days or (ii) has ever been an issuer described in Rule 144(i)(1)(i) or becomes an issuer in the future, and the Company shall fail to satisfy any condition set forth in Rule 144(i)(2) for a period of more than 30 consecutive days (a "Public Information Failure") then, in addition to the Purchaser's other available remedies, the Company shall pay to the Purchaser, in cash, as partial liquidated damages and not as a penalty, by reason of any such delay in or reduction of its ability to sell the Shares, an amount in cash equal to two percent of the aggregate Conversion Price of the Note on the day of a Public Information Failure and on every 30th day (pro-rated for periods totaling less than thirty days) thereafter until the earlier of (a) the date such Public Information Failure is cured and (b) such time that such public information is no longer required for the Purchaser to transfer the Shares pursuant to Rule 144, up to an aggregate amount of liquidated damages for all Public Information Failures equal to the Purchaser's Subscription Amount. Public Information Failure Payments shall be paid on the earlier of (i) the last day of the calendar month during which such Public Information Failure Payments are incurred and (ii) the second Trading Day after the event or failure giving rise to the Public Information Failure payments is cured. In the event the Company fails to make Public Information Failure payments in a timely manner, such Public Information Failure payments shall bear interest at the rate of one and one-half percent per month (prorated for partial months) until paid in full. Nothing herein shall limit the Purchaser's right to pursue actual damages for the Public Information Failure, and the Purchaser shall have the right to pursue all remedies available to it at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief.

4.3 Integration. The Company shall not sell, offer for sale or solicit offers to buy or otherwise negotiate in respect of any security (as defined in Section 2(a)(1) of the Securities Act) that would be integrated with the offer or sale of the Securities for purposes of the rules and regulations of any Trading Market such that it would require shareholder approval prior to the Closing of such other transaction unless shareholder approval is obtained before the Closing of such subsequent transaction.

4.4 Securities Laws Disclosure; Publicity. The Company shall file a Current Report on Form 8-K disclosing the material terms of this Agreement, including the Transaction Documents as exhibits thereto, with the SEC before the Trading Market opens the next Trading Day after the Closing. From and after the filing of the Form 8-K as provided in the preceding sentence, the Company represents to the Purchaser that it shall have publicly disclosed all material, non-public information delivered to the Purchaser

by the Company or any of its Subsidiaries, or any of its officers, directors, employees or agents in connection with the transactions contemplated by the Transaction Documents. In addition, effective upon the issuance of such Form 8-K, the Company acknowledges and agrees that any and all confidentiality or similar obligations under any agreement, whether written or oral, between the Company, any of its Subsidiaries or any of their respective officers, directors, agents, employees or Affiliates on the one hand, and the Purchaser or any of their Affiliates on the other hand, shall terminate. The Company and the Purchaser shall consult with each other in issuing any press releases with respect to the transactions contemplated hereby, and neither the Company nor the Purchaser 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 the Purchaser, or without the prior consent of the Purchaser, 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 the Purchaser, or include the name of the Purchaser in any filing with the SEC or any regulatory agency or Trading Market, without the prior written consent of the Purchaser, except (a) as required by the staff of the SEC in connection with the filing of final Transaction Documents with the SEC and (b) to the extent such disclosure is required by law or Trading Market regulations, in which case the Company shall, to the extent reasonably practicable, provide the Purchaser with prior notice of such disclosure permitted under this clause (b).

4.5 Shareholder Rights Plan. No claim will be made or enforced by the Company or, with the consent of the Company, any other Person, that the Purchaser is an "Acquiring Person" under any control share acquisition, business combination, poison pill (including any distribution under a rights agreement) or similar anti-takeover plan or arrangement in effect or hereafter adopted by the Company, or that the Purchaser could be deemed to trigger the provisions of any such plan or arrangement, by virtue of receiving Securities under the Transaction Documents or under any other agreement between the Company and any Purchaser.

4.6 Non-Public Information. Except with respect to the material terms and conditions of the transactions contemplated by the Transaction Documents, which shall be disclosed pursuant to Section 4.4, the Company covenants and agrees that neither it, nor any other Person acting on its behalf will provide the Purchaser or its agents or counsel with any information that constitutes, or the Company reasonably believes constitutes, material non-public information, unless prior thereto the Purchaser shall have consented to the receipt of such information and agreed with the Company to keep such information confidential. Prior to providing the Purchaser with any material non-public information, the Company shall provide the Purchaser with a consent substantially in the form attached as Exhibit E ("Consent") which shall not include any material non-public information. The Company shall not provide any Purchaser with the material non-public information if such Purchaser does not execute and return the Consent to the Company. The Company understands and confirms that the Purchaser shall be relying on the foregoing covenant in effecting transactions in securities of the Company. To the extent that the Company delivers any material, non-public information to the Purchaser without such Purchaser's consent, the Company hereby covenants and agrees that the Purchaser 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, not to trade on the basis of, such material, non-public information, provided that the Purchaser shall remain subject to applicable law. To the extent that any notice provided pursuant to any Transaction Document or any other communications made by the Company, or information provided, to the Purchaser constitutes, or contains, material, non-public information regarding the Company or any Subsidiaries, the Company shall simultaneously file such notice or other material information with the SEC pursuant to a Current Report on Form 8-K. The Company understands and confirms that the Purchaser shall be relying on the foregoing covenant in effecting transactions in securities of the Company. In addition to any other remedies provided by this Agreement or other Transaction Documents, if the Company provides any material, non-public information to the Purchaser without their prior written consent, and it fails to immediately (no later than the next Trading Day) file a Form 8-K disclosing this material, non-public information, it shall pay the Purchaser as partial liquidated damages and not as a penalty a sum equal to $5,000 per day beginning with the day the information is disclosed to the Purchaser and ending and including the day the Form 8-K disclosing this information is filed.

4.7 Use of Proceeds. The Company shall use the net proceeds from the sale of the Securities hereunder to general business purposes.

4.8 Indemnification of the Purchaser. Subject to the provisions of this Section 4.8, the Company will indemnify and hold the Purchaser and its directors, officers, shareholders, members, partners, employees and agents (and any other Persons with a functionally equivalent role of a Person holding such titles notwithstanding a lack of such title or any other title), each Person who controls the Purchaser (within the meaning of Section 15 of the Securities Act and Section 20 of the Exchange Act), and the directors, officers, shareholders, agents, members, partners or employees (and any other Persons with a functionally equivalent role of a Person holding such titles notwithstanding a lack of such title or any other title) of such controlling Persons (each, a "Purchaser Party") harmless from any and all losses, liabilities, obligations, claims, contingencies, damages, costs and expenses, including all judgments, amounts paid in settlements, court costs and reasonable attorneys' fees and costs of investigation (including local counsel, if retained) that any such Purchaser Party may suffer or incur as a result of or relating to (a) any breach of any of the representations, warranties, covenants or agreements made by the Company in this Agreement or in the other Transaction Documents, (b) any Action instituted against the Purchaser Parties in any capacity, or any of them or their respective Affiliates, by any shareholder of the Company who is not an Affiliate of such Purchaser Party, with respect to any of the transactions contemplated by the Transaction Documents (unless such Action is based upon a breach of such Purchaser Party's representations, warranties or covenants under the Transaction Documents or any agreements or understandings such Purchaser Party may have with any such shareholder or any conduct by such Purchaser Party which constitutes willful misconduct or gross negligence) or (c) any untrue or alleged untrue statement of a material fact contained in any registration statement, any prospectus or any form of prospectus or in any amendment or supplement thereto or in any preliminary prospectus, or arising out of or relating to any omission or alleged omission of a material fact required to be stated therein or necessary to make the statements therein (in the case of any prospectus or supplement thereto, in light of the circumstances under which they were made) not misleading. If any Action shall be brought against the Purchaser Party in respect of which indemnity may be sought pursuant to this Agreement, such Purchaser Party shall promptly notify the Company in writing, and the Company shall have the right to assume the defense thereof with counsel of its own choosing reasonably acceptable to the Purchaser Party. Any Purchaser Party shall have the right to employ separate counsel in any such Action and participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of such Purchaser Party except to the extent that (i) the employment thereof has been specifically authorized by the Company in writing, (ii) the Company has failed after a reasonable period of time to assume such defense and to employ counsel or (iii) in such Action there is, in the reasonable opinion of the Purchaser Party, a material conflict on any material issue between the position of the Company and the position of such Purchaser Party, in which case the Company shall be responsible for the reasonable fees and expenses of no more than one such separate counsel (in addition to local counsel, if retained). The Company will not be liable to the Purchaser Party under this Agreement (y) for any settlement by the Purchaser Party effected without the Company's prior written consent, which shall not be unreasonably withheld or delayed; or (z) to the extent, but only to the extent that a loss, claim, damage or liability is attributable to the Purchaser Party's breach of any of the representations, warranties, covenants or agreements made by such Purchaser Party in this Agreement or in the other Transaction Documents. The Purchaser Parties shall have the right to settle any Action against any of them by the payment of money provided that they cannot agree to any equitable relief and the Company, its officers, directors and Affiliates receive unconditional releases in customary form. The indemnification required by this Section 4.8 shall be made by periodic payments of the amount thereof during the course of the investigation or defense, as and when bills are received or are incurred. To extent that the Company has made any periodic payments pursuant to the foregoing sentence, and there is a later final and binding determination that the Company was not liable in respect of the related indemnification obligations hereunder, the Company may offset the amounts owing under the Note against such payments. The indemnity agreements contained herein shall be in addition to any cause of Action or similar right of the Purchaser Party against the Company or others and any liabilities the Company may be subject to pursuant to law.

4.9 Reservation of Common Stock. Immediately upon Closing, the Company shall reserve three times the number of shares of Common Stock issuable upon conversion of the Note (the "Reserve Ratio"). In addition to any other remedies provided by this Agreement or other Transaction Documents, if the Company at any time fails to meet this reservation of Common Stock requirement within 60 days after written notice from the Holder, it shall pay the Purchaser as partial liquidated damages and not as a penalty a sum equal to $500 per day for each $100,000 of the Purchaser's Subscription Amount, up to an aggregate amount of liquidated damages equal to such Purchaser's

Subscription Amount. The Company shall not enter into any agreement or file any amendment to its formation documents or other governing documents which conflicts with this Section 4.9 while the Note remains outstanding. The Company shall execute and cause the Transfer Agent to execute a reservation letter in the form attached as Exhibit C.

4.10 Listing of Common Stock. 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 or quoted; provided, however, the Company shall if it qualifies, list its Common Stock on a Trading Market which is a national securities exchange. The Company will then take all commercially reasonable action to continue the listing and trading of its Common Stock on a Trading Market and will comply in all respects with the Company's reporting, filing and other obligations under the bylaws or rules of the Trading Market. The Company agrees to maintain the eligibility of the Common Stock for electronic transfer through the DTC or another established clearing corporation, including, without limitation, by timely payment of fees to the DTC or such other established clearing corporation in connection with such electronic transfer.

4.11 Certain Transactions and Confidentiality. Each Purchaser covenants that neither it nor any Affiliate acting on its behalf or pursuant to any understanding with it will execute any purchases or sales, including Short Sales of any of the Company's securities during the period commencing with the execution of this Agreement and ending at such time that the transactions contemplated by this Agreement are first publicly announced pursuant to the initial press release as described in Section 4.4. Each Purchaser covenants that until such time as the transactions contemplated by this Agreement are publicly disclosed by the Company pursuant to the initial press release as described in Section 4.4, such Purchaser will maintain the confidentiality of the existence and terms of this transaction and the information included in the Disclosure Schedules. Notwithstanding the foregoing and notwithstanding anything contained in this Agreement to the contrary, the Company expressly acknowledges and agrees that (i) no Purchaser makes any representation, warranty or covenant hereby that it will not engage in effecting transactions in any securities of the Company after the time that the transactions contemplated by this Agreement are first publicly announced pursuant to the initial press release as described in Section 4.4, (ii) no Purchaser shall be restricted or prohibited from effecting any transactions in any securities of the Company in accordance with applicable securities Laws from and after the time that the transactions contemplated by this Agreement are first publicly announced pursuant to the initial press release as described in Section 4.4 and (iii) no Purchaser shall have any duty of confidentiality or duty not to trade in the securities of the Company to the Company or its Subsidiaries after the issuance of the initial press release as described in Section 4.4. Notwithstanding the foregoing, in the case of a Purchaser that is a multi-managed investment vehicle whereby separate portfolio managers manage separate portions of such Purchaser's assets and the portfolio managers have no direct knowledge of the investment decisions made by the portfolio managers managing other portions of such Purchaser's assets, the covenant set forth above shall only apply with respect to the portion of assets managed by the portfolio manager that made the investment decision to purchase the Securities covered by this Agreement.

4.12 Conversion Procedures. The form of conversion notice included in the Note (each, a "Conversion Notice") sets forth the totality of the procedures required of the Purchaser in order to convert the Purchaser's Note. No additional legal opinion, other information or instructions shall be required of the Purchaser to convert its Note. Without limiting the preceding sentences, no ink-original Conversion Notice shall be required, nor shall any medallion guarantee (or other type of guarantee or notarization) of any Conversion Notice form be required in order to convert the Notes. The Company shall honor conversions of the Notes and shall deliver Shares in accordance with the terms, conditions and time periods set forth in the Transaction Documents.

4.13 DTC Program. For so long as any Securities are outstanding, the Company will employ as the Transfer Agent for the Common Stock a participant in the DTC Automated Securities Transfer Program and cause the Common Stock to be transferable pursuant to such program.

4.14 Preservation of Corporate Existence. The Company shall preserve and maintain its corporate existence, rights, privileges and franchises in the jurisdiction of its incorporation, and qualify and remain qualified, as a foreign corporation in each jurisdiction in which such qualification is necessary in view of its business or operations and where the failure to qualify or remain qualified might reasonably have a Material Adverse Effect upon the financial condition, business or operations of the Company taken as a whole.

4.15 Participation in Subsequent Financings.

(a) From the Execution Date until the earlier of six months from the date hereof or that date upon which no amounts remain oustanding under the Note, and on a one time basis only, the Company will not, directly or indirectly, effect an offering of any equity security or any equity-linked or related security (including, without limitation, any "equity security" (as that tenn is defined under Rule 405 promulgated under the Securities Act), any Convertible Securities, debt (with or related to equity}, any preferred stock or any purchase rights) (a **"Subsequent Financing"),** unless in each case the Company shall have first offered to sell to the Purchaser an amount of securities equal to the Purchaser's Subscription Amount (the **"Participation Maximum")** on the same terms, conditions and price provided to other investors in the Subsequent Financing.

(b) At least five (5) Trading Days prior to the closing of such Subsequent Financing, the Company shall deliver to the Purchaser a written notice of the Company's intention to effect a Subsequent Financing (a **"Subsequent Financing Notice"),** which notice shall describe in reasonable detail the proposed terms of such Subsequent Financing, the amount of proceeds intended to be raised thereunder and the Person or Persons through or with whom such Subsequent Financing is proposed to be effected and shall include a tenn sheet and transaction documents relating thereto as an attachment.

(c) Should the Purchaser desire to participate in such Subsequent Financing, it must provide written notice to the Company by 6:30 pm (New York City time) on the third (3) Trading Day following the date on which the Subsequent Financing Notice is delivered to the Purchaser (the **"Notice Termination Time")** that the Purchaser is willing to participate in the Subsequent Financing, the amount of the Purchaser's participation (which shall be up to the Participation Maximum), and representing and warranting that the Purchaser is ready and willing to deliver payment to the Company to pay the purchase price of the offered securities and agree to the other tenns set forth in the Subsequent Financing Notice. If the Company receives no such notice from a Purchaser as of such Notice Tennination Time, the Purchaser shall be deemed to have notified the Company that it does not elect to participate in such Subsequent Financing.

(d) Notwithstanding anything to the contrary in this Section 4.15 and unless otherwise agreed to by the Purchaser, the Company shall either continn in writing to the Purchaser that the transaction with respect to the Subsequent Financing has been abandoned or shall publicly disclose its intention to issue the securities in the Subsequent Financing, in either case in such a manner such that the Purchaser will not be in possession of any material, non public infonnation, by 9:30 am (New York City time) on the second (2nd) Trading Day following date of delivery of the Subsequent Financing Notice. If by 9:30 am (New York City time) on such second (2nd) Trading Day, no public disclosure regarding a transaction with respect to the Subsequent Financing has been made, and no notice regarding the abandonment of such transaction has been received by the Purchaser, such transaction shall be deemed to have been abandoned and the Purchaser shall not be deemed to be in possession of any material, non-public infonnation with respect to the Company or any of its Subsidiaries.

(e) Notwithstanding the foregoing, to the extent that the issuance of any security meets one or more of the following criteria, such issuance shall be deemed to not be a "Subsequent Financing" for any purpose of this Agreement: (A) an issuance of shares of Common Stock or standard options to purchase shares of Common Stock to directors (who are also employees of the Company), officers, employees or consultants of the Company, (B) an issuance of shares of Common Stock upon the conversion or exercise of any convertible securities issued prior to the date hereof, or (C) the issuance of shares of common stock upon conversion of the Note.

4.16 Subsequent Equity Sales.

(a) From the date hereof until such time as the Note is no longer outstanding, the Company will not, without the consent of the Purchaser, enter into any Equity Line of Credit or similar agreement, nor issue nor agree to issue any floating or Variable Priced Equity Linked Instruments nor any of the foregoing or equity with price reset rights (subject to adjustment for stock splits, distributions, dividends, recapitalizations and the like) (collectively, the "Variable Rate Transaction"). For purposes hereof, "Equity Line of Credit" shall include any transaction involving a written agreement between the Company and an investor or underwriter other than the Purchaser or an affiliate of the Purchaser whereby the Company has the right to "put" its securities to the investor or underwriter over an agreed period of time and at an agreed price or price formula, and "Variable Priced Equity Linked Instruments" shall include: (A) any debt or equity securities which are convertible into, exercisable or exchangeable for, or carry the right to receive additional shares of Common Stock either (1) at any conversion, exercise or exchange rate or other price that is based upon and/or varies with the trading prices of or quotations for Common Stock at any time after the initial issuance of such debt or equity security, or (2) with a fixed conversion, exercise or exchange price that is subject to being reset at some future date at any time after the initial issuance of such debt or equity security due to a change in the market price of the Company's Common Stock since date of initial issuance, and (B) any amortizing convertible security which amortizes prior to its maturity date, where the Company is required or has the option to (or any investor in such transaction has the option to require the Company to) make such amortization payments in shares of Common Stock which are valued at a price that is based upon and/or varies with the trading prices of or quotations for Common Stock at any time after the initial issuance of such debt or equity security (whether or not such payments in stock are subject to certain equity conditions). For the avoidance of doubt, a Section 3(a)(9) exchange and a settlement under a Section 3(a)(10) settlement, each under the Securities Act, or any other similar settlement or exchange shall be deemed a Variable Rate Transaction for the purposes of this Agreement.

(b) This section only applies to funding activities by the Company that shall directly affect the Purchaser's ability to get repaid on time by the Company; from the date hereof until the Note is no longer outstanding, in the event that the Company issues or sells any Common Stock Equivalents, if the Purchaser then holding Securities purchased under this Agreement reasonably believes that any of the terms and conditions appurtenant to such issuance or sale are more favorable to such investors than are the terms and conditions granted to the Purchaser hereunder, upon notice to the Company by the Purchaser within five Trading Days after disclosure of such issuance or sale, the Company shall amend the terms of this transaction as to the Purchaser only so as to give the Purchaser the benefit of such more favorable terms or conditions.

(c) Notwithstanding the foregoing, this Section 4.15 shall not apply in respect of an Exempt Issuance.

ARTICLE V.
MISCELLANEOUS

5.1 Fees and Expenses. Except as expressly set forth below and in the Transaction Documents to the contrary, each party shall pay the fees and expenses of its advisers, counsel, accountants and other experts, if any, and all other expenses incurred by such party incident to the negotiation, preparation, execution, delivery and performance of this Agreement. The Company shall pay all Transfer Agent fees (including, without limitation, any fees required for same-day processing of any instruction letter delivered by the Company and any exercise notice delivered by the Purchaser), stamp taxes and other taxes and duties levied in connection with the delivery of any Securities to the Purchaser.

5.2 Entire Agreement. The Transaction Documents, together with the exhibits and schedules thereto, contain the entire understanding of the parties with respect to the subject matter hereof and thereof and supersede all prior agreements and understandings, oral or written, with respect to such matters, which the parties acknowledge have been merged into such documents, exhibits and schedules.

5.3 Notices. 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 date of transmission, if such notice or communication is delivered via facsimile or email attachment at the facsimile number or 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 date of transmission, if such notice or communication is delivered via facsimile or email attachment at the facsimile number or 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 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. To the extent that any notice provided pursuant to any Transaction Document constitutes, or contains, material, non-public information regarding the Company or any Subsidiaries, the Company shall simultaneously file such notice with the SEC pursuant to a Current Report on Form 8-K.

5.4 Amendments; Waivers. Except as provided in the last sentence of this Section 5.5, no provision of this Agreement may be waived, modified, supplemented or amended except in a written instrument signed, in the case of an amendment, by the Company and the Purchaser; or in the case of a waiver, by the party against whom enforcement of any such waived provision is sought.

5.5 Headings. The headings herein are for convenience only, do not constitute a part of this Agreement and shall not be deemed to limit or affect any of the provisions hereof.

5.6 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties and their successors and permitted assigns. The Company may not assign this Agreement or any rights or obligations hereunder without the prior written consent of the Purchaser (other than by merger). The Purchaser may assign any or all of its rights under this Agreement to any Person to whom the Purchaser assigns or transfers any Securities, provided that such transferee agrees in writing to be bound, with respect to the transferred Securities, by the provisions of the Transaction Documents that apply to the "Purchaser."

5.7 No Third-Party Beneficiaries. This Agreement is intended for the benefit of the parties hereto and their respective successors and permitted assigns and is not for the benefit of, nor may any provision hereof be enforced by, any other Person, except as otherwise set forth in Section 4.8 and this Section 5.8.

5.8 Governing Law; Arbitration; Attorneys' Fees . All questions concerning the construction, validity, enforcement and interpretation of the Transaction Documents shall be governed by and construed and enforced in accordance with the internal Laws of the State of Delaware, without regard to the principles of conflicts of law thereof. Any disputes, claims, or controversies arising out of or relating to the Transaction Documents, or the transactions, contemplated thereby, or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of this Agreement to arbitrate, shall be referred to and resolved solely and exclusively by binding arbitration to be conducted before the Judicial Arbitration and Mediation Service ("JAMS"), or its successor pursuant the expedited procedures set forth in the JAMS Comprehensive Arbitration Rules and Procedures (the "Rules"), including Rules 16.1 and 16.2 of those Rules. The arbitration shall be held in New York, New York, before a tribunal consisting of three arbitrators each of whom will be selected in accordance with the "strike and rank" methodology set forth in Rule 15. Either party to this Agreement may, without waiving any remedy under this Agreement, seek from any federal or state court sitting in the State of New York any interim or provisional

relief that is necessary to protect the rights or property of that party, pending the establishment of the arbitral tribunal. The costs and expenses of such arbitration shall be paid by and be the sole responsibility of the Company, including but not limited to the Purchaser's attorneys' fees and each arbitrator's fees. The arbitrators' decision must set forth a reasoned basis for any award of damages or finding of liability. The arbitrators' decision and award will be made and delivered as soon as reasonably possibly and in any case within 60 days' following the conclusion of the arbitration hearing and shall be final and binding on the parties and may be entered by any court having jurisdiction thereof. If any party shall commence an Action to enforce any provisions of the Transaction Documents, then, in addition to the obligations of the Company elsewhere in this Agreement, the prevailing party in such Action shall be reimbursed by the non-prevailing party for its reasonable attorneys' fees and other costs and expenses incurred with the investigation, preparation and prosecution of such Action.

5.9 Survival. The representations and warranties contained herein shall survive the Closing and the delivery of the Securities.

5.10 Execution. This Agreement may be executed in two or more counterparts, all of which when taken together shall be considered one and the same agreement and shall become effective when counterparts have been signed by each party and delivered to each other party, it being understood that the parties need not sign the same counterpart. In the event that any signature is delivered by facsimile transmission or by e-mail delivery of a ".pdf" format data file, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or ".pdf" signature page were an original thereof.

5.11 Severability. If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction to be invalid, illegal, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions set forth herein shall remain in full force and effect and shall in no way be affected, impaired or invalidated, and the parties hereto shall use their commercially reasonable efforts to find and employ an alternative means to achieve the same or substantially the same result as that contemplated by such term, provision, covenant or restriction. It is hereby stipulated and declared to be the intention of the parties that they would have executed the remaining terms, provisions, covenants and restrictions without including any of such that may be hereafter declared invalid, illegal, void or unenforceable.

5.12 Rescission and Withdrawal Right. Notwithstanding anything to the contrary contained in (and without limiting any similar provisions of) any of the other Transaction Documents, whenever the Purchaser exercises a right, election, demand or option under a Transaction Document and the Company does not timely perform its related obligations within the periods therein provided, then the Purchaser may rescind or withdraw, in its sole discretion from time to time upon written notice to the Company, any relevant notice, demand or election in whole or in part without prejudice to its future actions and rights; provided, however, that in the case of a rescission of a conversion of a Note, the Purchaser shall be required to return any shares of Common Stock subject to any such rescinded conversion notice concurrently with the return to the Purchaser of the aggregate conversion price paid to the Company for such shares and the restoration of the Purchaser's right to acquire such shares pursuant to the Purchaser's Note (including, issuance of a replacement note certificate evidencing such restored right).

5.13 Replacement of Securities. If any certificate or instrument evidencing any Securities is mutilated, lost, stolen or destroyed, the Company shall issue or cause to be issued in exchange and substitution for and upon cancellation thereof (in the case of mutilation), or in lieu of and substitution therefor, a new certificate or instrument, but only upon receipt of evidence reasonably satisfactory to the Company of such loss, theft or destruction without requiring the posting of any bond.

5.14 Remedies. In addition to being entitled to exercise all rights provided herein or granted by law, including recovery of damages, each of the Purchaser and the Company will be entitled to specific performance under the Transaction Documents. The parties agree that monetary damages may not be adequate compensation for any loss incurred by reason of any breach of obligations contained in the Transaction Documents and hereby agree to waive and not to assert in any Action for specific performance of any such obligation the defense that a remedy at law would be adequate.

5.15 Payment Set Aside. To the extent the Company makes a payment or payments to the Purchaser pursuant to any Transaction Document or the Purchaser enforces or exercises its rights thereunder, and such payment or payments or the proceeds of such enforcement or exercise or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside, recovered from, disgorged by or are required to be refunded, repaid or otherwise restored to the Company, a trustee, receiver or any other Person under any Law (including, without limitation, any bankruptcy law, state or federal law, common law or equitable cause of Action), then to the extent of any such restoration the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such enforcement or setoff had not occurred.

5.16 Liquidated Damages. The Company's obligations to pay any partial liquidated damages or other amounts owing under the Transaction Documents is a continuing obligation of the Company and shall not terminate until all unpaid partial liquidated damages and other amounts have been paid notwithstanding the fact that the instrument or security pursuant to which such partial liquidated damages or other amounts are due and payable shall have been canceled.

5.17 Saturdays, Sundays, Holidays, etc. If the last or appointed day for the taking of any action or the expiration of any right required or granted herein shall not be a Trading Day, then such action may be taken or such right may be exercised on the next succeeding Trading Day.

5.18 Construction. The parties agree that each of them and/or their respective counsel have reviewed and had an opportunity to revise the Transaction Documents and, therefore, the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of the Transaction Documents or any amendments thereto. In addition, each and every reference to share prices and shares of Common Stock in any Transaction Document shall be subject to adjustment for reverse and forward stock splits, stock dividends, stock combinations and other similar transactions of the Common Stock that occur after the date of this Agreement.

5.19 **WAIVER OF JURY TRIAL. IN ANY ACTION, SUIT, OR PROCEEDING IN ANY JURISDICTION BROUGHT BY ANY PARTY AGAINST ANY OTHER PARTY, THE PARTIES EACH KNOWINGLY AND INTENTIONALLY, TO THE GREATEST EXTENT PERMITTED BY APPLICABLE LAW, HEREBY ABSOLUTELY, UNCONDITIONALLY, IRREVOCABLY AND EXPRESSLY WAIVE FOREVER TRIAL BY JURY**.

5.20 Non-Circumvention. The Company hereby covenants and agrees that the Company will not, by amendment of its formation documents or other governing documents, or through any reorganization, transfer of assets, consolidation, merger, scheme of arrangement, dissolution, issue or sale of securities, or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Agreement, and will at all times in good faith carry out all of the provision of this Agreement and take all action as may be required to protect the rights of all Holder. Without limiting the generality of the foregoing or any other provision of this Agreement or the other Transaction Documents, the Company (a) shall not increase the par value of any shares of Common Stock receivable upon conversion of the Note above the Conversion Price, then in effect and (b) shall take all such action as may be necessary or appropriate in order that the Company may validly and legally issue fully paid and nonassessable Shares upon the conversion of the Note.

(Signature Pages Follow)

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

Digital Brands Group, Inc.

Address for Notice:

By: /s/ John Hilburn Davis IV
Name: John Hilburn Davis IV
Title: Chief Executive Officer

With a copy to (which shall not constitute notice):
Email:

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

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

Name of Purchaser:	FirstFire Global Opportunities Fund, LLC
Signature of Authorized Signatory of Purchaser:	/s/ Eli Fireman
Name of Authorized Signatory:	Eli Fireman on behalf of FirstFire Capital Management, LLC
Title of Authorized Signatory:	Manager
Email Address of Authorized Signatory:	eli@firstfirecapital.com
Facsimile Number of Authorized Signatory:	

Address for Notice to Purchaser: 1040 First Avenue, Suite 190 New York, NY 10022

Address for Delivery of Securities to Purchaser (if not same as address for notice):

Subscription Amount: $2,500,000

EIN Number:

EXHIBIT A
Form of Note

NEITHER THE ISSUANCE NOR SALE OF THE SECURITIES REPRESENTED BY THIS CERTIFICATE NOR THE SECURITIES INTO WHICH THESE SECURITIES ARE CONVERTIBLE HAVE BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR APPLICABLE STATE SECURITIES LAWS. THE SECURITIES MAY NOT BE OFFERED FOR SALE, SOLD, TRANSFERRED OR ASSIGNED (I) IN THE ABSENCE OF (A) AN EFFECTIVE REGISTRATION STATEMENT FOR THE SECURITIES FILED PURSUANT TO THE SECURITIES ACT OF 1933, AS AMENDED, OR (B) AN OPINION OF COUNSEL (WHICH COUNSEL SHALL BE SELECTED BY THE HOLDER), IN A GENERALLY ACCEPTABLE FORM, THAT REGISTRATION IS NOT REQUIRED UNDER SAID ACT OR (II) UNLESS SOLD PURSUANT TO RULE 144 OR RULE 144A UNDER SAID ACT. NOTWITHSTANDING THE FOREGOING, THE SECURITIES MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN OR FINANCING ARRANGEMENT SECURED BY THE SECURITIES.

Principal Amount: $2,625,000 **Issue Date: November 16, 2021**

Original Issue Discount: $125,000

CONVERTIBLE PROMISSORY NOTE

FOR VALUE RECEIVED, **Digital Brands Group, Inc.,** a Delaware corporation (the "Borrower"), as of **November 16, 2021** (the "Issue Date"), hereby promises to pay to the order of FirstFire Global Opportunities Fund, LLC (the "Lender" and including its registered assigns, the "Holder"), the principal sum of **$2,625,000** (the "Principal Amount"), together with interest at the rate of **6**% per annum, at maturity or upon acceleration or otherwise, as set forth herein (this "Note"). This Note is being issued by the Borrower to the Lender pursuant to that certain Securities Purchase Agreement (the "Purchase Agreement") entered into by the Borrower and the Lender on the Issue Date. The cash consideration to the Borrower for this Note **$2,500,000** (the "Consideration") in United States currency, due to the prorated original issuance discount of up to **$125,000** (the "OID"). The maturity date shall be the date that is 18 months from the Issue Date (the "Maturity Date"), and is the date upon which the applicable portion of the Principal Amount, as well as any accrued and unpaid interest and other fees, shall be due and payable. This Note may not be repaid in whole or in part except as otherwise explicitly set forth herein. Any amount of principal or interest on this Note that is not paid by the applicable Maturity Date shall bear interest at the rate of the lesser of (i) 18% per annum or (ii) the maximum amount allowed by law, from the due date thereof until the same is paid ("Default Interest"). All payments due hereunder (to the extent not converted into the Borrower's Common Stock, par value $0.0001 per share (the "Common Stock")) shall be made in lawful money of the United States of America. All payments shall be made at such address as the Holder shall hereafter give to the Borrower by written notice made in accordance with the provisions of this Note. Whenever any amount expressed to be due by the terms of this Note is due on any day which is not a business day, the same shall instead be due on the next succeeding day which is a business day and, in the case of any interest payment date which is not the date on which this Note is paid in full, the extension of the due date thereof shall not be taken into account for purposes of determining the amount of interest due on such date. As used in this Note, the term "business day" shall mean any day other than a Saturday, Sunday or a day on which commercial banks in the city of New York, New York are authorized or required by law or executive order to remain closed.

This Note is free from all taxes, liens, claims and encumbrances with respect to the issue thereof and shall not be subject to preemptive rights or other similar rights of shareholders of the Borrower and will not impose personal liability upon the holder thereof. Capitalized terms used in this Note shall have the meanings set forth in the Purchase Agreement unless otherwise defined in this Note.

The following additional terms shall also apply to this Note:

ARTICLE I.

1.1 Conversion Price. The Conversion Price shall be the lesser of (i) the 130% of the Closing Price on the last Trading Day prior to the Issue Date, and (ii) 90% of the average of the two lowest VWAPs during the five (5) consecutive Trading Day period ending and including the Trading Day immediately preceding the delivery or deemed delivery of the applicable Notice of Conversion (the "Conversion Price"). All such Conversion Price determinations are to be appropriately adjusted for any stock dividend, stock split, stock combination, reclassification or similar transaction that proportionately decreases or increases the Common Stock.

1.2 Conversion; Company Cash Payment Option.

(a) Automatic Conversion Upon Qualified Financing. At the closing of a public or private sale of common stock or notes convertible into common stock in which the aggregate gross proceeds to the Borrower is at least $30.0 million and where the per share price paid by the investors participating in the financing or the conversion price, respectively, is at least $5.00 (a "Qualifying Financing") and if the shares of Common Stock underlying this Note are then subject to an effective resale registration statement as filed with the Securities and Exchange Commission, the outstanding principal and accrued but unpaid interest of this Note shall be automatically converted into the number of fully paid and non-assessable shares of Common Sock at $3.29 per share. The number of shares of Common Stock to be issued upon such conversion of this Note shall be determined by dividing the sum of the outstanding Principal Amount of this Note, plus accrued and unpaid interest, if any, on such Principal Amount at the interest rates provided in this Note to the date of such conversion, by $3.29. The Holder, by acceptance of this Note, agrees with the Company that, if this Note is converted pursuant to this Section 1.1(a), then the Holder shall deliver the original of this Note to the Company with appropriate endorsements at the closing of the Qualified Financing; provided, however, this Note shall for all purposes be deemed paid and cancelled regardless of whether the Holder delivers the original of this Note.

(b) Optional Conversion Right. The Holder shall have the right at any time to convert all or any part of the entire outstanding and unpaid Principal Amount and accrued and unpaid interest of this Note into fully paid and non-assessable shares of Common Stock, as such Common Stock exists on the Issue Date, or any shares of capital stock or other securities of the Borrower into which such Common Stock shall hereafter be changed or reclassified at the Conversion Price (a "Conversion"). The number of shares of Common Stock to be issued upon each such conversion of this Note shall be determined by dividing the Conversion Amount (as defined below) by the applicable Conversion Price then in effect on the date specified in the notice of conversion, in the form attached hereto as Exhibit A (the "Notice of Conversion"), delivered to the Borrower by the Holder in accordance with Section 1.3 below; provided that the Notice of Conversion is submitted by facsimile or e-mail (or by other means resulting in, or reasonably expected to result in, notice) to the Borrower before 6:00 p.m., New York, New York time on such conversion date (the "Conversion Date"). The term "Conversion Amount" means, with respect to any conversion of this Note further to this Section 1.1(b), the sum of (A) the Principal Amount of this Note to be converted in such conversion, plus (B) at the Holder's option, accrued and unpaid interest, if any, on such Principal Amount at the interest rates provided in this Note to the Conversion Date, plus (C) at the Holder's option, Default Interest, if any, on the amounts referred to in the immediately preceding clauses (A) and/or (B), plus (D) at the Holder's option, any amounts owed to the Holder pursuant to Sections 1.2, 1.3(g), 4.11, and/or 4.12 and/or Article III hereof. Except following an Event of Default, the Holder shall not be permitted to submit Conversion Notices in any thirty day period, having Conversion Amounts equalling in the aggregate, in excess of $500,000.

(c) Maximum Share Limitaion. Notwithstanding the provisions of Sections 1.1(a) and 1.1(b), in no event shall the Holder be entitled to convert any portion of this Note in excess of that portion of this Note upon conversion of which the sum of (1) the number of shares of Common Stock beneficially owned by the Holder and its affiliates (excluding shares of Common Stock which may be deemed beneficially owned through the ownership of the unconverted portion of this Note or the unexercised or unconverted portion of any other security of the Borrower subject to a limitation on conversion or exercise analogous to the limitations contained herein) and (2) the number of shares of Common Stock issuable upon the conversion of the portion of this Note with respect to which the determination of this proviso is being made, would result in beneficial ownership by the Holder and its affiliates of more than 4.99% of the outstanding shares of Common Stock (the "Maximum Share Amount"). The Holder, upon not less than 61 days' prior written notice to the Borrower, may increase the Maximum Share Amount, provided that the Maximum Share Amount shall never exceed 9.99% of the number of shares of Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock upon conversion of this Note held by the Holder and the provisions of this Section 1.1 shall continue to apply. Any such increase will not be effective until the 61st day after such notice is delivered to the Borrower. The Maximum Share Amount provisions of this paragraph shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this Section 1.1 to correct this paragraph (or any portion hereof) which may be defective or inconsistent with the intended Maximum Share Amount provisions contained herein or to make changes or supplements necessary or desirable to properly give effect to such limitation. The limitations contained in this paragraph shall apply to any successor holder of this Note. For purposes of this Section 1.1, beneficial ownership shall be determined in accordance with Section 13(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and Regulations 13D-G thereunder, except as otherwise provided in clause (1) of such proviso.

(d) Nasdaq 19.99% Cap. Notwithstanding anything to the contrary contained in this Note or the other Transaction Documents, Borrower and Holder agree that the total cumulative number of shares of Common Stock issued to Holder hereunder together with all other Transaction Documents may not exceed the requirements of Nasdaq Listing Rule 5635(d) ("Nasdaq 19.99% Cap"), except that such limitation will not apply following Approval (defined below). If the number of shares of Common Stock issued to Holder reaches the Nasdaq 19.99% Cap, so as not to violate the 20% limit established in Listing Rule 5635(d), Borrower, at its election, will use reasonable commercial efforts to obtain stockholder approval of the Note and the issuance of additional shares of Common Stock issuable upon the conversion of the portion of this Note, if necessary, in accordance with the requirements of Nasdaq Listing Rule 5635(d) (the "Approval"). If the Borrower is unable to obtain such Approval, any remaining outstanding balance of this Note must be repaid in cash.

1.3 Authorized Shares. The Borrower covenants that during the period the conversion right exists, the Borrower will reserve from its authorized and unissued Common Stock a sufficient number of shares, free from preemptive rights, to provide for the issuance of Common Stock upon the full conversion of this Note, which shall be at least **THREE** times the number of shares that is actually issuable upon full conversion of this Note (based on the Conversion Price of this Note in effect from time to time) (the "Reserved Amount"). The Reserved Amount shall be increased from time to time in accordance with the Borrower's obligations hereunder. The Borrower represents that upon issuance, such shares of Common Stock will be duly and validly issued, fully paid and non-assessable. In addition, if the Borrower shall issue any securities or make any change to its capital structure which would change the number of shares of Common Stock into which this Note shall be convertible at the Conversion Price, the Borrower shall at the same time make proper provision so that thereafter there shall be a sufficient number of shares of Common Stock authorized and reserved, free from preemptive rights, for conversion of this Note. The Borrower acknowledges that it has irrevocably instructed its transfer agent to issue certificates (or book-entry shares) for the Common Stock issuable upon conversion of this Note, and agrees that its issuance of this Note shall constitute full authority to its officers and agents who are charged with the duty of executing stock certificates (or applicable instructions for the issuance of book-entry shares) to execute and issue the necessary certificates (or book-entry shares) for shares of Common Stock in accordance with the terms and conditions of this Note.

If, at any time the Borrower does not maintain the Reserved Amount it will be considered an Event of Default under Section 3.2 of this Note; provided, that notwithstanding anything to the contrary herein, the Borrower shall only be required to confirm and adjust the Reserved Amount one time per calendar month.

1.4 Method of Conversion.

(a) Mechanics of Conversion. Subject to Section 1.1(c), this Note may be converted by the Holder further to Section 1.1(b) in whole or in part at any time as described thereunder, (A) by submitting to the Borrower a Notice of Conversion (by facsimile, e-mail or other reasonable means of communication dispatched on the Conversion Date prior to 11:00 a.m., New York, New York time) and (B) subject to Section 1.3(b), surrendering this Note at the principal office of the Borrower.

(b) Surrender of Note Upon Conversion. Notwithstanding anything to the contrary set forth herein, upon conversion of this Note in accordance with the terms hereof, the Holder shall not be required to physically surrender this Note to the Borrower unless the entire unpaid Principal Amount of this Note is so converted. The Holder and the Borrower shall maintain records showing the Principal Amount so converted and the dates of such conversions or shall use such other method, reasonably satisfactory to the Holder and the Borrower, so as not to require physical surrender of this Note upon each such conversion. In the event of any dispute or discrepancy, such records of the Borrower shall, *prima facie,* be controlling and determinative in the absence of manifest error. Notwithstanding the foregoing, if any portion of this Note is converted as aforesaid, the Holder may not transfer this Note unless the Holder first physically surrenders this Note to the Borrower, whereupon the Borrower will forthwith issue and deliver upon the order of the Holder a new Note of like tenor, registered as the Holder (upon payment by the Holder of any applicable transfer taxes) may request, representing in the aggregate the remaining unpaid Principal Amount of this Note. The Holder and any assignee, by acceptance of this Note, acknowledge and agree that, by reason of the provisions of this paragraph, following conversion of a portion of this Note, the unpaid and unconverted Principal Amount of this Note represented by this Note may be less than the amount stated on the face hereof.

(c) Payment of Taxes. The Borrower shall not be required to pay any tax which may be payable in respect of any transfer involved in the issue and delivery of shares of Common Stock or other securities or property on conversion of this Note in a name other than that of the Holder (or in street name), and the Borrower shall not be required to issue or deliver any such shares or other securities or property unless and until the person or persons (other than the Holder or the custodian in whose street name such shares are to be held for the Holder's account) requesting the issuance thereof shall have paid to the Borrower the amount of any such tax or shall have established to the satisfaction of the Borrower that such tax has been paid.

(d) Delivery of Common Stock Upon Conversion. Upon an Automatic Conversion further to Section 1.1(a) or, in the case of a voluntary conversion further to Section 1.1(b), upon receipt by the Borrower from the Holder of a facsimile transmission or e-mail (or other reasonable means of communication) of a Notice of Conversion meeting the requirements for conversion as provided in this Section 1.3, , the Borrower shall issue and deliver or cause to be issued and delivered to or upon the order of the Holder certificates for the Common Stock issuable upon such conversion within two business days after such receipt (the "Deadline") (and, solely in the case of conversion of the entire unpaid Principal Amount hereof, surrender of this Note) in accordance with the terms hereof.

(e) Obligation of Borrower to Deliver Common Stock. Upon an Automatic Conversion further to Section 1.1(a) or, in the case of a voluntary conversion further to Section 1.1(b), upon receipt by the Borrower of a Notice of Conversion, the Holder shall be deemed to be the holder of record of the Common Stock issuable upon such conversion, the outstanding Principal Amount and the amount of accrued and unpaid interest on this Note shall be reduced to reflect such conversion, and, unless the Borrower defaults on its obligations under this Article I, all rights with respect to the portion of this Note being so converted shall forthwith terminate except the right to receive the Common Stock or other securities, cash or other assets, as herein provided, on such conversion. Upon an Automatic Conversion further to Section 1.1(a) or, in the case of a voluntary conversion further to Section 1.1(b), if the Holder shall have given a Notice of Conversion as provided herein, the Borrower's obligation to issue and deliver the certificates for Common Stock shall be absolute and unconditional, irrespective of the absence of any action by the Holder to enforce the same, any waiver or consent with respect to any provision thereof, the recovery of any judgment against any person or any action to enforce the same, any failure or delay in the enforcement of any other obligation of the Borrower to the holder of record, or any setoff, counterclaim, recoupment, limitation or termination, or any breach or alleged breach by the Holder of any obligation to the Borrower, and irrespective of any other circumstance which might otherwise limit such obligation of the Borrower to the Holder in connection with such conversion. In the case of a voluntary conversion further to Section 1.1(b), the Conversion Date specified in the Notice of Conversion shall be the Conversion Date so long as the Notice of Conversion is received by the Borrower before 11:00 a.m., New York, New York time, on such date.

(f) Delivery of Common Stock by Electronic Transfer. In lieu of delivering physical certificates representing the Common Stock issuable upon conversion, provided the Borrower is participating in the Depository Trust Company ("DTC") Fast Automated Securities Transfer ("FAST") program, upon request of the Holder and its compliance with the provisions contained in Sections 1.1 and 1.2 and in this Section 1.3, the Borrower shall use its commercially reasonable efforts to cause its transfer agent to electronically transmit the Common Stock issuable upon conversion to the Holder by crediting the account of Holder's Prime Broker with DTC through its Deposit Withdrawal Agent Commission ("DWAC") system.

(g) Failure to Deliver Common Stock Prior to Deadline. Without in any way limiting the Holder's right to pursue other remedies, including actual damages and/or equitable relief, the parties agree that if delivery of the Common Stock issuable upon conversion of this Note is not delivered by the Deadline the Borrower shall pay to the Holder $3,000 per business day for each business day beyond the Deadline that the Borrower fails to deliver such Common Stock (unless such failure results from war, acts of terrorism, an epidemic, or natural disaster) ("Conversion Default Payments"). Such amount shall be paid to Holder in cash by the fifth day of the month following the month in which it has accrued or, at the option of the Holder (by written notice to the Borrower by the first day of the month following the month in which it has accrued), shall be added to the Principal Amount of this Note on the fifth day of the month following the month in which it has accrued, in which event interest shall accrue thereon in accordance with the terms of this Note and such additional Principal Amount shall be convertible into Common Stock in accordance with the terms of this Note. The Borrower agrees that the right to convert is a valuable right to the Holder. The damages resulting from a failure, attempt to frustrate, and/or interference with such conversion right are difficult if not impossible to quantify. Accordingly, the parties acknowledge that the liquidated damages provision contained in this Section 1.3(g) are justified.

1.5 Concerning the Shares. The shares of Common Stock issuable upon conversion of this Note may not be sold or transferred unless (i) such shares are sold pursuant to an effective registration statement under the Securities Act of 1933 (the "Securities Act"), or (ii) the Borrower or its transfer agent shall have been furnished with an opinion of counsel (which opinion shall be in form, substance and scope customary for opinions of counsel in comparable transactions) to the effect that the shares to be sold or transferred may be sold or transferred pursuant to an exemption from such registration or (iii) such shares are sold or transferred pursuant to Rule 144 under the Securities Act (or a successor rule) ("Rule 144") or (iv) such shares are transferred to an "affiliate" (as defined in Rule 144) of the Borrower who agrees to sell or otherwise transfer the shares only in accordance with this Section 1.4 and who is an "accredited investor" (as defined in Rule 501(a) of the Securities Act). Except as otherwise provided (and subject to the removal provisions set forth below), until such time as the shares of Common Stock issuable upon conversion of this Note have been registered under the Securities Act or otherwise may be sold pursuant to Rule 144 without any restriction as to the number of securities as of a particular date that can then be immediately sold, each certificate for shares of Common Stock issuable upon conversion of this Note that has not been so included in an effective registration statement or that has not been sold pursuant to an effective registration statement or an exemption that permits removal of the legend, shall bear a legend substantially in the following form, as appropriate:

"THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, OR APPLICABLE STATE SECURITIES LAWS. THE SECURITIES HAVE BEEN ACQUIRED FOR INVESTMENT AND MAY NOT BE OFFERED FOR SALE, SOLD, TRANSFERRED OR ASSIGNED IN THE ABSENCE OF AN EFFECTIVE REGISTRATION STATEMENT FOR THE SECURITIES UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR APPLICABLE STATE SECURITIES LAWS, UNLESS SOLD PURSUANT TO: (1) RULE 144 UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR (2) AN OPINION OF HOLDER'S COUNSEL, IN A CUSTOMARY FORM, THAT REGISTRATION IS NOT REQUIRED UNDER SAID ACT OR APPLICABLE STATE SECURITIES LAWS."

The legend set forth above shall be removed and the Borrower shall issue to the Holder a new certificate therefore free of any transfer legend if (i) the Borrower or its transfer agent shall have received an opinion of counsel, in form, substance and scope customary for opinions of counsel in comparable transactions, to the effect that a public sale or transfer of such Common Stock may be made without registration under the Securities Act, which opinion shall be accepted by the Borrower so that the sale or transfer is effected or (ii) in the case of the Common Stock issuable upon conversion of this Note, such security is registered for sale by the Holder under an effective registration statement filed under the Securities Act or otherwise may be sold pursuant to Rule 144 without any restriction as to the number of securities as of a particular date that can then be immediately sold.

1.6 Status as Shareholder. Upon an Automatic Conversion further to Section 1.1(a) or, in the case of a voluntary conversion further to Section 1.1(b), upon submission of a Notice of Conversion by a Holder, (i) the shares covered thereby (other than the shares, if any, which cannot be issued because their issuance would exceed such Holder's allocated portion of the Reserved Amount or non-waived Maximum Share Amount) shall be deemed converted into shares of Common Stock and (ii) the Holder's rights as a Holder of such converted portion of this Note shall cease and terminate, excepting only the right to receive certificates for such shares of Common Stock and to any remedies provided herein or otherwise available at law or in equity to such Holder because of a failure by the Borrower to comply with the terms of this Note. Notwithstanding the foregoing, if a Holder has not received certificates or transmission of such shares pursuant to Section 1.3(f) for all shares of Common Stock prior to the tenth (10th) business day after the expiration of the Deadline with respect to a conversion of any portion of this Note for any reason, then (unless the Holder otherwise elects to retain its status as a holder of Common Stock by so notifying the Borrower) the Holder shall regain the rights of a Holder of this Note with respect to such unconverted portions of this Note and the Borrower shall, as soon as practicable, return such unconverted Note to the Holder or, if this Note has not been surrendered, adjust its records to reflect that such portion of this Note has not been converted. In all cases, the Holder shall retain all of its rights and remedies (including, without limitation, (i) the right to receive Conversion Default Payments pursuant to Section 1.3(g) to the extent required thereby for such conversion default and any subsequent conversion default and (ii) the right to have the Conversion Price with respect to subsequent conversions determined in accordance with Section 1.2) for the Borrower's failure to convert this Note.

ARTICLE II.
CERTAIN COVENANTS

2.1 Distributions on Capital Stock. So long as the Borrower shall have any obligation under this Note, the Borrower shall not without the Holder's written consent (a) pay, declare or set apart for such payment, any dividend or other distribution (whether in cash, property or other securities) on shares of capital stock other than dividends on shares of Common Stock solely in the form of additional shares of Common Stock or (b) directly or indirectly or through any Subsidiary make any other payment or distribution in respect of its capital stock except for distributions pursuant to any shareholders' rights plan which is approved by a majority of the Borrower's disinterested directors.

2.2 Restriction on Stock Repurchases. So long as the Borrower shall have any obligation under this

Note, the Borrower shall not without the Holder's written consent redeem, repurchase or otherwise acquire (whether for cash or in exchange for property or other securities or otherwise) in any one transaction or series of related transactions any shares of capital stock of the Borrower or any warrants, rights or options to purchase or acquire any such shares (other than repurchases pursuant to the Borrower's equity incentive plans).

2.3 Limitation on Sale Volume. Following conversion of this Note, the shares of Common Stock issuable upon conversion of this Note shall be subject to that certain volume sale limitation set forth in Section 4.11 of the Purchase Agreement.

ARTICLE III.
EVENTS OF DEFAULT

The occurrence of any of the following shall each constitute an "Event of Default", with no right to notice or the right to cure except as specifically stated:

3.1 Failure to Pay Principal or Interest. The Borrower fails to pay the principal hereof or interest thereon when due on this Note, whether at the Maturity Date, upon acceleration, or otherwise.

3.2 Reserve/Issuance Failures. The Borrower fails to reserve a sufficient amount of shares of Common Stock as required under the terms of the Purchase Agreement, fails to issue shares of Common Stock to the Holder (or announces or threatens in writing that it will not honor its obligation to do so) upon exercise by the Holder of the conversion rights of the Holder in accordance with the terms of any securities of the Borrower held by the Holder, fails to transfer or cause its transfer agent to transfer (issue) (electronically or in certificated form) shares of Common Stock issued to the Holder upon conversion of or otherwise pursuant to any securities of the Borrower held by the Holder as and when required by such securities, the Borrower directs its transfer agent not to transfer or delays, impairs, and/or hinders its transfer agent in transferring (or issuing) (electronically or in certificated form) shares of Common Stock to be issued to the Holder upon conversion of or otherwise pursuant to any securities of the Borrower held by the Holder as and when required by such securities, or fails to remove (or directs its transfer agent not to remove or impairs, delays, and/or hinders its transfer agent from removing) any restrictive legend (or to withdraw any stop transfer instructions in respect thereof) on any shares of Common Stock issued to the Holder upon conversion of or otherwise pursuant to any securities of the Borrower held by the Holder as and when required by such securities (or makes any written announcement, statement or threat that it does not intend to honor the obligations described in this paragraph) and any such failure shall continue uncured (or any written announcement, statement or threat not to honor its obligations shall not be rescinded in writing) for two business days after the Holder shall have delivered an applicable notice of conversion or exercise. It is an obligation of the Borrower to remain current in its obligations to its transfer agent. It shall be an event of default of this Note, if a conversion of any securities held by the Holder is delayed, hindered or frustrated due to a balance owed by the Borrower to its transfer agent. If at the option of the Holder, the Holder advances any funds to the Borrower's transfer agent in order to process a conversion or exercise (excluding for the avoidance of doubt, the conversion price which is the Holder's obligation to pay), such advanced funds shall be paid by the Borrower to the Holder within five business days, either in cash or as an addition to the balance of this Note, and such choice of payment method is at the discretion of the Borrower.

3.3 Breach of Covenants. The Borrower breaches any covenant or other term or condition contained in this Note or any other documents entered into between the Borrower and the Holder the breach of which has (or with the passage of time will have) a material adverse effect on the rights of the Holder with respect to this Note and such breach is not cured within 10 business days of the date of such breach.

3.4 Breach of Representations and Warranties. Any representation or warranty of the Borrower made in this Note or in any agreement, statement or certificate given in writing pursuant hereto or in connection herewith, or in connection with the Purchase Agreement or any Transaction Document, shall be false or misleading in any material respect when made and the breach of which has (or with the passage of time will have) a material adverse effect on the rights of the Holder with respect to this Note.

3.5 Receiver or Trustee. The Borrower or any Subsidiary of the Borrower shall make an assignment for the benefit of creditors, or apply for or consent to the appointment of a receiver or trustee for it or for a substantial part of its property or business, or such a receiver or trustee shall otherwise be appointed.

3.6 Judgments. Except as set forth in the Company's SEC filings, any money judgment, writ or similar process shall be entered or filed against the Borrower or any Subsidiary of the Borrower or any of their respective property or other assets for more than $500,000, and shall remain unvacated, unbonded or unstayed for a period of 10 days unless otherwise consented to by the Holder, which consent will not be unreasonably withheld.

3.7 Bankruptcy. Bankruptcy, insolvency, reorganization or liquidation proceedings or other proceedings, voluntary or involuntary, for relief under any bankruptcy law or any law for the relief of debtors shall be instituted by or against the Borrower or any Subsidiary of the Borrower and, in the case of involuntary proceedings, have not been dismissed within 61 days.

3.8 Delisting of Common Stock on the Trading Market. The Borrower shall fail to maintain the listing or quotation of the Common Stock on the Trading Market (as defined in the Purchase Agreement).

3.9 Failure to Comply with the Exchange Act. The Borrower shall fail to file with the SEC its Annual Reports on Form 10-K or its Quarterly Reports on Form 10-Q within the proscribed time periods allocated by the Exchange Act , and/or the Borrower shall cease to be subject to the reporting requirements of the Exchange Act.

3.10 Liquidation. The Borrower commences any dissolution, liquidation, or winding up of Borrower or any substantial portion of its business.

3.11 Cessation of Operations. The Borrower materially ceases operations or Borrower admits it is otherwise generally unable to pay its debts as such debts become due, provided, however, that any disclosure of the Borrower's ability to continue as a "going concern" shall not be an admission that the Borrower cannot pay its debts as they become due.

3.12 Financial Statement Restatement. The Borrower restates any financial statements filed by the Borrower with the SEC for any date or period from two years prior to the Issue Date of this Note and until this Note is no longer outstanding, if the result of such restatement would, by comparison to the unrestated financial statements, have constituted a material adverse effect on the business, operations or financial condition of the Borrower; provided, however, that if any restatement of any financial statements is required to be filed by the Borrower as a result of, or in response to, any new or modified federal or state statute, law, rule or regulation, including any rules and regulations of the SEC, then such restatement of the Borrower's financial statements shall not be an Event of Default.

3.13 Replacement of Transfer Agent. In the event that the Borrower replaces its transfer agent, and the Borrower fails to provide within 15 days of such replacement, a fully executed Irrevocable Transfer Agent Instructions (including but not limited to the provision to irrevocably reserve shares of Common Stock under Section 4.9 of the Purchase Agreement) signed by the successor transfer agent to Borrower and the Borrower that reserves **300**% of the total amount of shares previously held in reserve for the Borrower's immediately preceding transfer agent.

3.14 Inside Information. Any actual transmittal, conveyance, or disclosure by the Borrower or its officers, directors, and/or affiliates of, material non-public information concerning the Borrower, to the Holder or its successors and assigns, which is not immediately cured by Borrower's filing of a Form 8-K pursuant to Regulation FD on that same date.

3.15 No bid. The lowest Trading Price on the Trading Market for the Common Stock is equal to or less than $0.01. "Trading Price" means, for any security as of any date, the lowest VWAP price on the Trading Market as reported by a reliable reporting service designated by the Holder (i.e., www.Nasdaq.com) or, if Nasdaq is not the principal trading market for such security, on the principal securities exchange or trading market where such security is listed or traded or, if the lowest intraday trading price of such security is not available in any of the foregoing manners, the lowest intraday price of any market makers for such security that are quoted on the OTC Markets.

3.16 Prohibition on Debt and Variable Securities. The Borrower, without written consent of the Holder, enters into any Variable Rate Transaction or other similar transaction prohibited under Section 4.16 of the Purchase Agreement.

REMEDIES UPON A DEFAULT . UPON THE OCCURRENCE OF ANY EVENT OF DEFAULT SPECIFIED IN SECTION 3.2, UPON WRITTEN DEMAND BY THE HOLDER THIS NOTE SHALL BECOME IMMEDIATELY DUE AND PAYABLE AND THE BORROWER SHALL PAY TO THE HOLDER, IN FULL SATISFACTION OF ITS OBLIGATIONS HEREUNDER, AN AMOUNT EQUAL TO THE DEFAULT AMOUNT (AS DEFINED HEREIN). Upon the occurrence of any Event of Default specified in Sections 3.1, 3.3, 3.4, 3.5, 3.6, 3.7, 3.8, 3.9, 3.10, 3.11, 3.12, 3.13 and/or 3.14, solely upon written demand by the Holder, this Note shall become immediately due and payable and the Borrower shall pay to the Holder, in full satisfaction of its obligations hereunder, an amount equal to (i) 125% (plus an additional 5% per each additional Event of Default that occurs hereunder) multiplied by the then outstanding entire balance of this Note (including principal and accrued and unpaid interest)plus (ii) Default Interest from the date of the Event of Default, if any, plus (iii) any amounts owed to the Holder pursuant toSection 1.3(g) in addition to this Remedies Upon Default section (collectively, in the aggregate of all of the above, the "Default Amount"), and all other amounts payable hereunder shall immediately become due and payable, all without demand, presentment or notice, all of which hereby are expressly waived, together with all costs, including, without limitation, legal fees and expenses, of collection, and the Holder shall be entitled to exercise all other rights and remedies available at law or in equity.

ARTICLE IV.
MISCELLANEOUS

4.1 Failure or Indulgence Not Waiver. No failure or delay on the part of the Holder in the exercise of any power, right or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such power, right or privilege preclude other or further exercise thereof or of any other right, power or privileges. All rights and remedies existing hereunder are cumulative to, and not exclusive of, any rights or remedies otherwise available.

4.2 Notices. All notices, offers, acceptance and any other acts under this Notice (except payment) shall be in writing, and shall be sufficiently given if delivered to the addressees in person, by e-mail, by FedEx or similar receipted next day delivery, as follows:

If to the Borrower, to:

If to the Company: Digital Brands Group, Inc.
Email: hil@dstld.la

Attention: John "Hil" Davis, CEO

with a copy to: Manatt, Phelps & Phillips LLP

(which shall not constitute notice) tpoletti@manatt.com
Attention: Thomas J. Poletti

If to Holder: FirstFire Global Opportunities Fund, LLC
1040 First Avenue, Suite 190
New York, NY 10022
Email: eli@firstfirecapital.com
Attention: Eli Fireman, CEO

4.3 Amendments. This Note and any provision hereof may only be amended by an instrument in writing signed by the Borrower and the Holder. The term "Note" and all reference thereto, as used throughout this instrument, shall mean this instrument as originally executed, or if later amended or supplemented, then as so amended or supplemented.

4.4 Assignability. This Note shall be binding upon the Borrower and its successors and assigns, and shall inure to be the benefit of the Holder and its successors and assigns. Notwithstanding anything to the contrary herein, the rights, interests or obligations of the Borrower hereunder may not be assigned, by operation of law or otherwise, in whole or in part, by the Borrower without the prior signed written consent of the Holder, which consent may be withheld at the sole discretion of the Holder (any such assignment or transfer shall be null and void if the Borrower does not obtain the prior signed written consent of the Holder). This Note or any of the severable rights and obligations inuring to the benefit of or to be performed by Holder hereunder may be assigned by Holder to a third party, in whole or in part, without the need to obtain the Borrower's consent thereto. Each transferee of this Note must be an "accredited investor" (as defined in Rule 501(a) of the Securities Act). Notwithstanding anything in this Note to the contrary, this Note may be pledged as collateral in connection with a bona fide margin account or other lending arrangement.

4.5 Cost of Collection. If default is made in the payment of this Note, the Borrower shall pay the

Holder hereof costs of collection, including reasonable attorneys' fees.

4.6 Governing Law. This Note shall be governed by and interpreted in accordance with the laws of the State of Delaware without regard to the principles of conflicts of law (whether Delaware or any other jurisdiction).

4.7 Arbitration. Any disputes, claims, or controversies arising out of or relating to this Note, or the transactions, contemplated thereby, or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of this Note to arbitrate, shall be referred to and resolved solely and exclusively by binding arbitration as provided for in the Purchase Agreement. Either party to this Note may, without waiving any remedy under this Note, seek from any federal or state court sitting in the State of Delaware any interim or provisional relief that is necessary to protect the rights or property of that party, pending the establishment of the arbitral tribunal. The costs and expenses of such arbitration shall be paid by and be the sole responsibility of the Borrower, including but not limited to the Holder's attorneys' fees, and each arbitrator's fees. The arbitrators' decision must set forth a reasoned basis for any award of damages or finding of liability. The arbitrators' decision and award will be made and delivered as soon as reasonably possible and in any case within sixty days' following the conclusion of the arbitration hearing and shall be final and binding on the parties and may be entered by any court having jurisdiction thereof. Notwithstanding the foregoing, the choice of arbitration shall not limit the Holder's exercise of remedies under the Uniform Commercial Code.

4.8 **JURY TRIAL WAIVER. THE BORROWER AND THE HOLDER HEREBY WAIVE A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE OTHER IN RESPECT OF ANY MATTER ARISING OUT OF OR IN CONNECTION WITH THIS NOTE.**

4.9 Certain Amounts. Whenever pursuant to this Note the Borrower is required to pay an amount in excess of the outstanding Principal Amount (or the portion thereof required to be paid at that time) plus accrued and unpaid interest plus Default Interest on such interest, the Borrower and the Holder agree that the actual damages to the Holder from the receipt of cash payment on this Note may be difficult to determine and the amount to be so paid by the Borrower represents stipulated damages and not a penalty and is intended to compensate the Holder in part for loss of the opportunity to convert this Note and to earn a return from the sale of shares of Common Stock acquired upon conversion of this Note at a price in excess of the price paid for such shares pursuant to this Note. The Borrower and the Holder hereby agree that such amount of stipulated damages is not plainly disproportionate to the possible loss to the Holder from the receipt of a cash payment without the opportunity to convert this Note into shares of Common Stock.

4.10 Remedies. The Borrower acknowledges that a breach by it of its obligations hereunder will cause irreparable harm to the Holder, by vitiating the intent and purpose of the transaction contemplated hereby. Accordingly, the Borrower acknowledges that the remedy at law for a breach of its obligations under this Note will be inadequate and agrees, in the event of a breach or threatened breach by the Borrower of the provisions of this Note, that the Holder shall be entitled, in addition to all other available remedies at law or in equity, and in addition to the penalties assessable herein, to an injunction or injunctions restraining, preventing or curing any breach of this Note and to enforce specifically the terms and provisions thereof, without the necessity of showing economic loss and without any bond or other security being required.

4.11 Section 3(a)(10) Transactions. If at any time while this Note is outstanding, the Borrower enters into a transaction structured in accordance with, based upon, or related or pursuant to, in whole or in part, Section 3(a)(10) of the Securities Act (a "3(a)(10) Transaction"), then a liquidated damages charge of 100% of the outstanding principal balance of this Note at that time, will be assessed and will become immediately due and payable to the Holder, either in the form of cash payment, an addition to the balance of this Note, or a combination of both forms of payment, as determined by the Holder. The damages resulting from such a 3(a)(10) Transaction and the potential sale of shares of the Borrower's capital stock resulting therefrom into the capital markets are difficult if not impossible to quantify. Accordingly, the parties acknowledge that the liquidated damages provision contained in this Section 4.11 are justified. The liquidated damages charge in this Section 4.11 shall be in addition to, and not in substitution of, any of the other rights of the Holder under this Note.

4.12 Usury. If it shall be found that any interest or other amount deemed interest due hereunder violates the applicable law governing usury, the applicable rate of interest due hereunder shall automatically be lowered to equal the maximum rate of interest permitted under applicable law. The Borrower covenants (to the extent that it may lawfully do so) that it shall not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension or usury law or other law which would prohibit or forgive the Borrower from paying all or any portion of the principal of or interest on this Note as contemplated herein, wherever enacted, now or at any time hereafter in force, or which may affect the covenants or the performance of this Note, and the Borrower (to the extent it may lawfully do so) hereby expressly waives all benefits or advantage of any such law, and covenants that it will not, by resort to any such law, hinder, delay or impede the execution of any power herein granted to the Holder, but will suffer and permit the execution of every such as though no such law has been enacted.

4.13 Repayment. Notwithstanding anything to the contrary contained in this Note and provided that the shares underlying this Note have been registered on an effective registration statement with the Securities and Exchange Commission, this Note may be repaid (i) from the Issuance Date until and through the day that falls on the

sixty-day anniversary of the Issue Date (the "60 Day Anniversary") at an amount equal to 110% of the aggregate of the outstanding principal balance of the Note and accrued and unpaid interest, (ii) after the 60 Day Anniversary until and through the day that falls on the ninety-day anniversary of the Issue Date (the "90 Day Anniversary") at an amount equal to 115% of the aggregate of the outstanding principal balance of the Note and accrued and unpaid interest and (iii) anytime after the 90 Day Anniversary, 120% of the aggregate of the outstanding principal balance of the Note and accrued and unpaid interest. In order to repay this Note in accordance with the preceding sentence, the Borrower shall provide notice to the Holder 5 business days prior to such respective repayment date, and the Holder must receive such repayment no sooner than 7 business days of the Holder's receipt of the respective repayment notice (the "Repayment Period"). The Holder may convert the Note in whole or in part at any time during the Repayment Period, subject to the terms and conditions of this Note.

4.14 Terms of Future Financings. So long as this Note is outstanding, upon any issuance by the Borrower or any of its Subsidiaries of any Common Stock Equivalents with any term more favorable to the holder of such security or with a term in favor of the holder of such security that was not similarly provided to the Holder in this Note, then the Borrower shall notify the Holder of such additional or more favorable term and such term, at Holder's option and upon written notice to the Borrower, shall become a part of the transaction documents with the Holder. The types of terms contained in another security that may be more favorable to the holder of such security include, but are not limited to, terms addressing conversion discounts, prepayment rate, conversion look back periods, interest rates, original issue discounts, stock sale price, private placement price per share, and warrant coverage.

*** signature page to follow ***

IN WITNESS WHEREOF, Borrower has caused this Note to be signed in its name by its duly authorized officer on the Issue Date.

DIGITAL BRANDS GROUP, INC.

By: /s/ John Hilburn Davis IV
Name: John Hilburn Davis IV
Title: Chief Executive Officer

EXHIBIT A

TO CONVERTIBLE PROMISSORY-- NOTICE OF CONVERSION

The undersigned hereby elects to convert $ _____ amount of this Note (defined below) into that number of shares of Common Stock to be issued pursuant to the conversion of this Note ("Common Stock") as set forth below, of **Digital Brands Group, Inc.** (the "Borrower"), according to the conditions of the convertible promissory note of the Borrower dated as of **November 16, 2021** (the "Note"), as of the date written below. No fee will be charged to the Holder for any conversion, except for transfer taxes, if any.

Box Checked as to applicable instructions:

☐ The Borrower shall electronically transmit the Common Stock issuable pursuant to this Notice of Conversion to the account of the undersigned or its nominee with DTC through its Deposit Withdrawal Agent Commission system ("DWAC Transfer").

Name of DTC Prime
Broker: Account Number:

☐ The undersigned hereby requests that the Borrower issue a certificate or certificates for the number of shares of Common Stock set forth below (which numbers are based on the Holder's calculation attached hereto) in the name(s) specified immediately below or, if additional space is necessary, on an attachment hereto:

[_____]
e-mail: **[_____]**

Date of Conversion:	_____
Applicable Conversion Price:	$_____
Number of Shares of Common Stock to be Issued Pursuant to Conversion of this Note:	_____
Amount of Principal Balance Due remaining Under this Note after this conversion:	_____

[_____]

By: _____
Name: _____
Title: _____
Date: _____

EXHIBIT B

EXHIBIT C

Form of Reserve Letter

EXHIBIT D

Form of Board Consent

EXHIBIT E

Form of Consent

DIGITAL BRANDS GROUP, INC. (the "Company") has information or notice of a proposed event (collectively, the "Information") that it is either required to provide you pursuant to that certain Securities Purchase Agreement dated November 16, 2021 ("Agreement") between you and the Company or believes that you would be interested in obtaining.

If the Company **is** required to provide this Information to you under the Agreement, you acknowledge that receipt of this information may restrict you from trading in the Company's securities until this Information is made public in accordance with the Agreement.
e
If the Company is **not** required to provide this Information to you under the Agreement, you acknowledge that this may restrict you from trading in the Company's securities until this Information is made public in accordance with the Agreement.

Please respond in writing if you do or do not want to be provided with the Information. If the Company does not receive your response within three business days, we will have the right to assume that you have chosen not to receive the Information and, if applicable, waived your right to any rights provided for under the Agreements that require notice, for which this Information (including notice) is being given.

Please sign below and check the appropriate box below.

Sincerely,

By: _____
Name: _____
Title: Chief Executive Officer

___ Yes. Please provide me with the Information

___ No. Do not provide me with the Information

_____
_____

Exhibit 10.41

NEITHER THE ISSUANCE NOR SALE OF THE SECURITIES REPRESENTED BY THIS CERTIFICATE NOR THE SECURITIES INTO WHICH THESE SECURITIES ARE CONVERTIBLE HAVE BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR APPLICABLE STATE SECURITIES LAWS. THE SECURITIES MAY NOT BE OFFERED FOR SALE, SOLD, TRANSFERRED OR ASSIGNED (I) IN THE ABSENCE OF (A) AN EFFECTIVE REGISTRATION STATEMENT FOR THE SECURITIES FILED PURSUANT TO THE SECURITIES ACT OF 1933, AS AMENDED, OR (B) AN OPINION OF COUNSEL (WHICH COUNSEL SHALL BE SELECTED BY THE HOLDER), IN A GENERALLY ACCEPTABLE FORM, THAT REGISTRATION IS NOT REQUIRED UNDER SAID ACT OR (II) UNLESS SOLD PURSUANT TO RULE 144 OR RULE 144A UNDER SAID ACT. NOTWITHSTANDING THE FOREGOING, THE SECURITIES MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN OR FINANCING ARRANGEMENT SECURED BY THE SECURITIES.

Principal Amount: $2,625,000 **Issue Date: November 16, 2021**

Original Issue Discount: $125,000

CONVERTIBLE PROMISSORY NOTE

FOR VALUE RECEIVED, **Digital Brands Group, Inc.,** a Delaware corporation (the "Borrower"), as of **November 16, 2021** (the "Issue Date"), hereby promises to pay to the order of FirstFire Global Opportunities Fund, LLC (the "Lender" and including its registered assigns, the "Holder"), the principal sum of **$2,625,000** (the "Principal Amount"), together with interest at the rate of **6**% per annum, at maturity or upon acceleration or otherwise, as set forth herein (this "Note"). This Note is being issued by the Borrower to the Lender pursuant to that certain Securities Purchase Agreement (the "Purchase Agreement") entered into by the Borrower and the Lender on the Issue Date. The cash consideration to the Borrower for this Note **$2,500,000** (the "Consideration") in United States currency, due to the prorated original issuance discount of up to **$125,000** (the "OID"). The maturity date shall be the date that is 18 months from the Issue Date (the "Maturity Date"), and is the date upon which the applicable portion of the Principal Amount, as well as any accrued and unpaid interest and other fees, shall be due and payable. This Note may not be repaid in whole or in part except as otherwise explicitly set forth herein. Any amount of principal or interest on this Note that is not paid by the applicable Maturity Date shall bear interest at the rate of the lesser of (i) 18% per annum or (ii) the maximum amount allowed by law, from the due date thereof until the same is paid ("Default Interest"). All payments due hereunder (to the extent not converted into the Borrower's Common Stock, par value $0.0001 per share (the "Common Stock")) shall be made in lawful money of the United States of America. All payments shall be made at such address as the Holder shall hereafter give to the Borrower by written notice made in accordance with the provisions of this Note. Whenever any amount expressed to be due by the terms of this Note is due on any day which is not a business day, the same shall instead be due on the next succeeding day which is a business day and, in the case of any interest payment date which is not the date on which this Note is paid in full, the extension of the due date thereof shall not be taken into account for purposes of determining the amount of interest due on such date. As used in this Note, the term "business day" shall mean any day other than a Saturday, Sunday or a day on which commercial banks in the city of New York, New York are authorized or required by law or executive order to remain closed.

This Note is free from all taxes, liens, claims and encumbrances with respect to the issue thereof and shall not be subject to preemptive rights or other similar rights of shareholders of the Borrower and will not impose personal liability upon the holder thereof. Capitalized terms used in this Note shall have the meanings set forth in the Purchase Agreement unless otherwise defined in this Note.

The following additional terms shall also apply to this Note:

ARTICLE I.

1.1 Conversion Price. The Conversion Price shall be the lesser of (i) the 130% of the Closing Price on the last Trading Day prior to the Issue Date, and (ii) 90% of the average of the two lowest VWAPs during the five (5) consecutive Trading Day period ending and including the Trading Day immediately preceding the delivery or deemed delivery of the applicable Notice of Conversion (the "Conversion Price"). All such Conversion Price determinations are to be appropriately adjusted for any stock dividend, stock split, stock combination, reclassification or similar transaction that proportionately decreases or increases the Common Stock.

1.2 Conversion; Company Cash Payment Option.

(a) Automatic Conversion Upon Qualified Financing. At the closing of a public or private sale of common stock or notes convertible into common stock in which the aggregate gross proceeds to the Borrower is at least $30.0 million and where the per share price paid by the investors participating in the financing or the conversion price, respectively, is at least $5.00 (a "Qualifying Financing") and if the shares of Common Stock underlying this Note are then subject to an effective resale registration statement as filed with the Securities and Exchange Commission, the outstanding principal and accrued but unpaid interest of this Note shall be automatically converted into the number of fully paid and non-assessable shares of Common Sock at $3.29 per share. The number of shares of Common Stock to be issued upon such conversion of this Note shall be determined by dividing the sum of the outstanding Principal Amount of this Note, plus accrued and unpaid interest, if any, on such Principal Amount at the interest rates provided in this Note to the date of such conversion, by $3.29. The Holder, by acceptance of this Note, agrees with the Company that, if this Note is converted pursuant to this Section 1.1(a), then the Holder shall deliver the original of this Note to the Company with appropriate endorsements at the closing of the Qualified Financing; provided, however, this Note shall for all purposes be deemed paid and cancelled regardless of whether the Holder delivers the original of this Note.

(b) Optional Conversion Right. The Holder shall have the right at any time to convert all or any part of the entire outstanding and unpaid Principal Amount and accrued and unpaid interest of this Note into fully paid and non-assessable shares of Common Stock, as such Common Stock exists on the Issue Date, or any shares of capital stock or other securities of the Borrower into which such Common Stock shall hereafter be changed or reclassified at the Conversion Price (a "Conversion"). The number of shares of Common Stock to be issued upon each such conversion of this Note shall be determined by dividing the Conversion Amount (as defined below) by the applicable Conversion Price then in effect on the date specified in the notice of conversion, in the form attached hereto as Exhibit A (the "Notice of Conversion"), delivered to the Borrower by the Holder in accordance with Section 1.3 below; provided that the Notice of Conversion is submitted by facsimile or e-mail (or by other means resulting in, or reasonably expected to result in, notice) to the Borrower before 6:00 p.m., New York, New York time on such conversion date (the "Conversion Date"). The term "Conversion Amount" means, with respect to any conversion of this Note further to this Section 1.1(b), the sum of (A) the Principal Amount of this Note to be converted in such conversion, plus (B) at the Holder's option, accrued and unpaid interest, if any, on such Principal Amount at the interest rates provided in this Note to the Conversion Date, plus (C) at the Holder's option, Default Interest, if any, on the amounts referred to in the immediately preceding clauses (A) and/or (B), plus (D) at the Holder's option, any amounts owed to the Holder pursuant to Sections 1.2, 1.3(g), 4.11, and/or 4.12 and/or Article III hereof. Except following an Event of Default, the Holder shall not be permitted to submit Conversion Notices in any thirty day period, having Conversion Amounts equalling in the aggregate, in excess of $500,000.

(c) Maximum Share Limitaion. Notwithstanding the provisions of Sections 1.1(a) and 1.1(b), in no event shall the Holder be entitled to convert any

portion of this Note in excess of that portion of this Note upon conversion of which the sum of (1) the number of shares of Common Stock beneficially owned by the Holder and its affiliates (excluding shares of Common Stock which may be deemed beneficially owned through the ownership of the unconverted portion of this Note or the unexercised or unconverted portion of any other security of the Borrower subject to a limitation on conversion or exercise analogous to the limitations contained herein) and (2) the number of shares of Common Stock issuable upon the conversion of the portion of this Note with respect to which the determination of this proviso is being made, would result in beneficial ownership by the Holder and its affiliates of more than 4.99% of the outstanding shares of Common Stock (the "Maximum Share Amount"). The Holder, upon not less than 61 days' prior written notice to the Borrower, may increase the Maximum Share Amount, provided that the Maximum Share Amount shall never exceed 9.99% of the number of shares of Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock upon conversion of this Note held by the Holder and the provisions of this Section 1.1 shall continue to apply. Any such increase will not be effective until the 61st day after such notice is delivered to the Borrower. The Maximum Share Amount provisions of this paragraph shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this Section 1.1 to correct this paragraph (or any portion hereof) which may be defective or inconsistent with the intended Maximum Share Amount provisions contained herein or to make changes or supplements necessary or desirable to properly give effect to such limitation. The limitations contained in this paragraph shall apply to any successor holder of this Note. For purposes of this Section 1.1, beneficial ownership shall be determined in accordance with Section 13(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and Regulations 13D-G thereunder, except as otherwise provided in clause (1) of such proviso.

(d) Nasdaq 19.99% Cap. Notwithstanding anything to the contrary contained in this Note or the other Transaction Documents, Borrower and Holder agree that the total cumulative number of shares of Common Stock issued to Holder hereunder together with all other Transaction Documents may not exceed the requirements of Nasdaq Listing Rule 5635(d) ("Nasdaq 19.99% Cap"), except that such limitation will not apply following Approval (defined below). If the number of shares of Common Stock issued to Holder reaches the Nasdaq 19.99% Cap, so as not to violate the 20% limit established in Listing Rule 5635(d), Borrower, at its election, will use reasonable commercial efforts to obtain stockholder approval of the Note and the issuance of additional shares of Common Stock issuable upon the conversion of the portion of this Note, if necessary, in accordance with the requirements of Nasdaq Listing Rule 5635(d) (the "Approval"). If the Borrower is unable to obtain such Approval, any remaining outstanding balance of this Note must be repaid in cash.

1.3 Authorized Shares. The Borrower covenants that during the period the conversion right exists, the Borrower will reserve from its authorized and unissued Common Stock a sufficient number of shares, free from preemptive rights, to provide for the issuance of Common Stock upon the full conversion of this Note, which shall be at least **THREE** times the number of shares that is actually issuable upon full conversion of this Note (based on the Conversion Price of this Note in effect from time to time) (the "Reserved Amount"). The Reserved Amount shall be increased from time to time in accordance with the Borrower's obligations hereunder. The Borrower represents that upon issuance, such shares of Common Stock will be duly and validly issued, fully paid and non-assessable. In addition, if the Borrower shall issue any securities or make any change to its capital structure which would change the number of shares of Common Stock into which this Note shall be convertible at the Conversion Price, the Borrower shall at the same time make proper provision so that thereafter there shall be a sufficient number of shares of Common Stock authorized and reserved, free from preemptive rights, for conversion of this Note. The Borrower acknowledges that it has irrevocably instructed its transfer agent to issue certificates (or book-entry shares) for the Common Stock issuable upon conversion of this Note, and agrees that its issuance of this Note shall constitute full authority to its officers and agents who are charged with the duty of executing stock certificates (or applicable instructions for the issuance of book-entry shares) to execute and issue the necessary certificates (or book-entry shares) for shares of Common Stock in accordance with the terms and conditions of this Note.

If, at any time the Borrower does not maintain the Reserved Amount it will be considered an Event of Default under Section 3.2 of this Note; provided, that notwithstanding anything to the contrary herein, the Borrower shall only be required to confirm and adjust the Reserved Amount one time per calendar month.

1.4 Method of Conversion.

(a) Mechanics of Conversion. Subject to Section 1.1(c), this Note may be converted by the Holder further to Section 1.1(b) in whole or in part at any time as described thereunder, (A) by submitting to the Borrower a Notice of Conversion (by facsimile, e-mail or other reasonable means of communication dispatched on the Conversion Date prior to 11:00 a.m., New York, New York time) and (B) subject to Section 1.3(b), surrendering this Note at the principal office of the Borrower.

(b) Surrender of Note Upon Conversion. Notwithstanding anything to the contrary set forth herein, upon conversion of this Note in accordance with the terms hereof, the Holder shall not be required to physically surrender this Note to the Borrower unless the entire unpaid Principal Amount of this Note is so converted. The Holder and the Borrower shall maintain records showing the Principal Amount so converted and the dates of such conversions or shall use such other method, reasonably satisfactory to the Holder and the Borrower, so as not to require physical surrender of this Note upon each such conversion. In the event of any dispute or discrepancy, such records of the Borrower shall, *prima facie,* be controlling and determinative in the absence of manifest error. Notwithstanding the foregoing, if any portion of this Note is converted as aforesaid, the Holder may not transfer this Note unless the Holder first physically surrenders this Note to the Borrower, whereupon the Borrower will forthwith issue and deliver upon the order of the Holder a new Note of like tenor, registered as the Holder (upon payment by the Holder of any applicable transfer taxes) may request, representing in the aggregate the remaining unpaid Principal Amount of this Note. The Holder and any assignee, by acceptance of this Note, acknowledge and agree that, by reason of the provisions of this paragraph, following conversion of a portion of this Note, the unpaid and unconverted Principal Amount of this Note represented by this Note may be less than the amount stated on the face hereof.

(c) Payment of Taxes. The Borrower shall not be required to pay any tax which may be payable in respect of any transfer involved in the issue and delivery of shares of Common Stock or other securities or property on conversion of this Note in a name other than that of the Holder (or in street name), and the Borrower shall not be required to issue or deliver any such shares or other securities or property unless and until the person or persons (other than the Holder or the custodian in whose street name such shares are to be held for the Holder's account) requesting the issuance thereof shall have paid to the Borrower the amount of any such tax or shall have established to the satisfaction of the Borrower that such tax has been paid.

(d) Delivery of Common Stock Upon Conversion. Upon an Automatic Conversion further to Section 1.1(a) or, in the case of a voluntary conversion further to Section 1.1(b), upon receipt by the Borrower from the Holder of a facsimile transmission or e-mail (or other reasonable means of communication) of a Notice of Conversion meeting the requirements for conversion as provided in this Section 1.3, , the Borrower shall issue and deliver or cause to be issued and delivered to or upon the order of the Holder certificates for the Common Stock issuable upon such conversion within two business days after such receipt (the "Deadline") (and, solely in the case of conversion of the entire unpaid Principal Amount hereof, surrender of this Note) in accordance with the terms hereof.

(e) Obligation of Borrower to Deliver Common Stock. Upon an Automatic Conversion further to Section 1.1(a) or, in the case of a voluntary conversion further to Section 1.1(b), upon receipt by the Borrower of a Notice of Conversion, the Holder shall be deemed to be the holder of record of the Common Stock issuable upon such conversion, the outstanding Principal Amount and the amount of accrued and unpaid interest on this Note shall be reduced to reflect such conversion, and, unless the Borrower defaults on its obligations under this Article I, all rights with respect to the portion of this Note being so converted shall forthwith terminate except the right to receive the Common Stock or other securities, cash or other assets, as herein provided, on such conversion. Upon an Automatic Conversion further to Section 1.1(a) or, in the case of a voluntary conversion further to Section 1.1(b), if the Holder shall have given a Notice of Conversion as provided herein, the Borrower's obligation to issue and deliver the certificates for Common Stock shall be absolute and unconditional, irrespective of the absence of any action by the Holder to enforce the same, any waiver or consent with

respect to any provision thereof, the recovery of any judgment against any person or any action to enforce the same, any failure or delay in the enforcement of any other obligation of the Borrower to the holder of record, or any setoff, counterclaim, recoupment, limitation or termination, or any breach or alleged breach by the Holder of any obligation to the Borrower, and irrespective of any other circumstance which might otherwise limit such obligation of the Borrower to the Holder in connection with such conversion. In the case of a voluntary conversion further to Section 1.1(b), the Conversion Date specified in the Notice of Conversion shall be the Conversion Date so long as the Notice of Conversion is received by the Borrower before 11:00 a.m., New York, New York time, on such date.

(f) Delivery of Common Stock by Electronic Transfer. In lieu of delivering physical certificates representing the Common Stock issuable upon conversion, provided the Borrower is participating in the Depository Trust Company ("DTC") Fast Automated Securities Transfer ("FAST") program, upon request of the Holder and its compliance with the provisions contained in Sections 1.1 and 1.2 and in this Section 1.3, the Borrower shall use its commercially reasonable efforts to cause its transfer agent to electronically transmit the Common Stock issuable upon conversion to the Holder by crediting the account of Holder's Prime Broker with DTC through its Deposit Withdrawal Agent Commission ("DWAC") system.

(g) Failure to Deliver Common Stock Prior to Deadline. Without in any way limiting the Holder's right to pursue other remedies, including actual damages and/or equitable relief, the parties agree that if delivery of the Common Stock issuable upon conversion of this Note is not delivered by the Deadline the Borrower shall pay to the Holder $3,000 per business day for each business day beyond the Deadline that the Borrower fails to deliver such Common Stock (unless such failure results from war, acts of terrorism, an epidemic, or natural disaster) ("Conversion Default Payments"). Such amount shall be paid to Holder in cash by the fifth day of the month following the month in which it has accrued or, at the option of the Holder (by written notice to the Borrower by the first day of the month following the month in which it has accrued), shall be added to the Principal Amount of this Note on the fifth day of the month following the month in which it has accrued, in which event interest shall accrue thereon in accordance with the terms of this Note and such additional Principal Amount shall be convertible into Common Stock in accordance with the terms of this Note. The Borrower agrees that the right to convert is a valuable right to the Holder. The damages resulting from a failure, attempt to frustrate, and/or interference with such conversion right are difficult if not impossible to quantify. Accordingly, the parties acknowledge that the liquidated damages provision contained in this Section 1.3(g) are justified.

1.5 Concerning the Shares. The shares of Common Stock issuable upon conversion of this Note may not be sold or transferred unless (i) such shares are sold pursuant to an effective registration statement under the Securities Act of 1933 (the "Securities Act"), or (ii) the Borrower or its transfer agent shall have been furnished with an opinion of counsel (which opinion shall be in form, substance and scope customary for opinions of counsel in comparable transactions) to the effect that the shares to be sold or transferred may be sold or transferred pursuant to an exemption from such registration or (iii) such shares are sold or transferred pursuant to Rule 144 under the Securities Act (or a successor rule) ("Rule 144") or (iv) such shares are transferred to an "affiliate" (as defined in Rule 144) of the Borrower who agrees to sell or otherwise transfer the shares only in accordance with this Section 1.4 and who is an "accredited investor" (as defined in Rule 501(a) of the Securities Act). Except as otherwise provided (and subject to the removal provisions set forth below), until such time as the shares of Common Stock issuable upon conversion of this Note have been registered under the Securities Act or otherwise may be sold pursuant to Rule 144 without any restriction as to the number of securities as of a particular date that can then be immediately sold, each certificate for shares of Common Stock issuable upon conversion of this Note that has not been so included in an effective registration statement or that has not been sold pursuant to an effective registration statement or an exemption that permits removal of the legend, shall bear a legend substantially in the following form, as appropriate:

"THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, OR APPLICABLE STATE SECURITIES LAWS. THE SECURITIES HAVE BEEN ACQUIRED FOR INVESTMENT AND MAY NOT BE OFFERED FOR SALE, SOLD, TRANSFERRED OR ASSIGNED IN THE ABSENCE OF AN EFFECTIVE REGISTRATION STATEMENT FOR THE SECURITIES UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR APPLICABLE STATE SECURITIES LAWS, UNLESS SOLD PURSUANT TO: (1) RULE 144 UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR (2) AN OPINION OF HOLDER'S COUNSEL, IN A CUSTOMARY FORM, THAT REGISTRATION IS NOT REQUIRED UNDER SAID ACT OR APPLICABLE STATE SECURITIES LAWS."

The legend set forth above shall be removed and the Borrower shall issue to the Holder a new certificate therefore free of any transfer legend if (i) the Borrower or its transfer agent shall have received an opinion of counsel, in form, substance and scope customary for opinions of counsel in comparable transactions, to the effect that a public sale or transfer of such Common Stock may be made without registration under the Securities Act, which opinion shall be accepted by the Borrower so that the sale or transfer is effected or (ii) in the case of the Common Stock issuable upon conversion of this Note, such security is registered for sale by the Holder under an effective registration statement filed under the Securities Act or otherwise may be sold pursuant to Rule 144 without any restriction as to the number of securities as of a particular date that can then be immediately sold.

1.6 Status as Shareholder. Upon an Automatic Conversion further to Section 1.1(a) or, in the case of a voluntary conversion further to Section 1.1(b), upon submission of a Notice of Conversion by a Holder, (i) the shares covered thereby (other than the shares, if any, which cannot be issued because their issuance would exceed such Holder's allocated portion of the Reserved Amount or non-waived Maximum Share Amount) shall be deemed converted into shares of Common Stock and (ii) the Holder's rights as a Holder of such converted portion of this Note shall cease and terminate, excepting only the right to receive certificates for such shares of Common Stock and to any remedies provided herein or otherwise available at law or in equity to such Holder because of a failure by the Borrower to comply with the terms of this Note. Notwithstanding the foregoing, if a Holder has not received certificates or transmission of such shares pursuant to Section 1.3(f) for all shares of Common Stock prior to the tenth (10th) business day after the expiration of the Deadline with respect to a conversion of any portion of this Note for any reason, then (unless the Holder otherwise elects to retain its status as a holder of Common Stock by so notifying the Borrower) the Holder shall regain the rights of a Holder of this Note with respect to such unconverted portions of this Note and the Borrower shall, as soon as practicable, return such unconverted Note to the Holder or, if this Note has not been surrendered, adjust its records to reflect that such portion of this Note has not been converted. In all cases, the Holder shall retain all of its rights and remedies (including, without limitation, (i) the right to receive Conversion Default Payments pursuant to Section 1.3(g) to the extent required thereby for such conversion default and any subsequent conversion default and (ii) the right to have the Conversion Price with respect to subsequent conversions determined in accordance with Section 1.2) for the Borrower's failure to convert this Note.

ARTICLE II.
CERTAIN COVENANTS

2.1 Distributions on Capital Stock. So long as the Borrower shall have any obligation under this Note, the Borrower shall not without the Holder's written consent (a) pay, declare or set apart for such payment, any dividend or other distribution (whether in cash, property or other securities) on shares of capital stock other than dividends on shares of Common Stock solely in the form of additional shares of Common Stock or (b) directly or indirectly or through any Subsidiary make any other payment or distribution in respect of its capital stock except for distributions pursuant to any shareholders' rights plan which is approved by a majority of the Borrower's disinterested directors.

2.2 Restriction on Stock Repurchases. So long as the Borrower shall have any obligation under this Note, the Borrower shall not without the Holder's written consent redeem, repurchase or otherwise acquire (whether for cash or in exchange for property or other securities or otherwise) in any one transaction or series of related transactions any shares of capital stock of the Borrower or any warrants, rights or options to purchase or acquire any such shares (other than repurchases pursuant to the Borrower's equity incentive plans).

2.3 Limitation on Sale Volume. Following conversion of this Note, the shares of Common Stock issuable upon conversion of this Note shall be subject to that certain volume sale limitation set forth in Section 4.11 of the Purchase Agreement.

ARTICLE III.
EVENTS OF DEFAULT

The occurrence of any of the following shall each constitute an "Event of Default", with no right to notice or the right to cure except as specifically stated:

3.1 Failure to Pay Principal or Interest. The Borrower fails to pay the principal hereof or interest thereon when due on this Note, whether at the Maturity Date, upon acceleration, or otherwise.

3.2 Reserve/Issuance Failures. The Borrower fails to reserve a sufficient amount of shares of Common Stock as required under the terms of the Purchase Agreement, fails to issue shares of Common Stock to the Holder (or announces or threatens in writing that it will not honor its obligation to do so) upon exercise by the Holder of the conversion rights of the Holder in accordance with the terms of any securities of the Borrower held by the Holder, fails to transfer or cause its transfer agent to transfer (issue) (electronically or in certificated form) shares of Common Stock issued to the Holder upon conversion of or otherwise pursuant to any securities of the Borrower held by the Holder as and when required by such securities, the Borrower directs its transfer agent not to transfer or delays, impairs, and/or hinders its transfer agent in transferring (or issuing) (electronically or in certificated form) shares of Common Stock to be issued to the Holder upon conversion of or otherwise pursuant to any securities of the Borrower held by the Holder as and when required by such securities, or fails to remove (or directs its transfer agent not to remove or impairs, delays, and/or hinders its transfer agent from removing) any restrictive legend (or to withdraw any stop transfer instructions in respect thereof) on any shares of Common Stock issued to the Holder upon conversion of or otherwise pursuant to any securities of the Borrower held by the Holder as and when required by such securities (or makes any written announcement, statement or threat that it does not intend to honor the obligations described in this paragraph) and any such failure shall continue uncured (or any written announcement, statement or threat not to honor its obligations shall not be rescinded in writing) for two business days after the Holder shall have delivered an applicable notice of conversion or exercise. It is an obligation of the Borrower to remain current in its obligations to its transfer agent. It shall be an event of default of this Note, if a conversion of any securities held by the Holder is delayed, hindered or frustrated due to a balance owed by the Borrower to its transfer agent. If at the option of the Holder, the Holder advances any funds to the Borrower's transfer agent in order to process a conversion or exercise (excluding for the avoidance of doubt, the conversion price which is the Holder's obligation to pay), such advanced funds shall be paid by the Borrower to the Holder within five business days, either in cash or as an addition to the balance of this Note, and such choice of payment method is at the discretion of the Borrower.

3.3 Breach of Covenants. The Borrower breaches any covenant or other term or condition contained in this Note or any other documents entered into between the Borrower and the Holder the breach of which has (or with the passage of time will have) a material adverse effect on the rights of the Holder with respect to this Note and such breach is not cured within 10 business days of the date of such breach.

3.4 Breach of Representations and Warranties. Any representation or warranty of the Borrower made in this Note or in any agreement, statement or certificate given in writing pursuant hereto or in connection herewith, or in connection with the Purchase Agreement or any Transaction Document, shall be false or misleading in any material respect when made and the breach of which has (or with the passage of time will have) a material adverse effect on the rights of the Holder with respect to this Note.

3.5 Receiver or Trustee. The Borrower or any Subsidiary of the Borrower shall make an assignment for the benefit of creditors, or apply for or consent to the appointment of a receiver or trustee for it or for a substantial part of its property or business, or such a receiver or trustee shall otherwise be appointed.

3.6 Judgments. Except as set forth in the Company's SEC filings, any money judgment, writ or similar process shall be entered or filed against the Borrower or any Subsidiary of the Borrower or any of their respective property or other assets for more than $500,000, and shall remain unvacated, unbonded or unstayed for a period of 10 days unless otherwise consented to by the Holder, which consent will not be unreasonably withheld.

3.7 Bankruptcy. Bankruptcy, insolvency, reorganization or liquidation proceedings or other proceedings, voluntary or involuntary, for relief under any bankruptcy law or any law for the relief of debtors shall be instituted by or against the Borrower or any Subsidiary of the Borrower and, in the case of involuntary proceedings, have not been dismissed within 61 days.

3.8 Delisting of Common Stock on the Trading Market. The Borrower shall fail to maintain the listing or quotation of the Common Stock on the Trading Market (as defined in the Purchase Agreement).

3.9 Failure to Comply with the Exchange Act. The Borrower shall fail to file with the SEC its Annual Reports on Form 10-K or its Quarterly Reports on Form 10-Q within the proscribed time periods allocated by the Exchange Act , and/or the Borrower shall cease to be subject to the reporting requirements of the Exchange Act.

3.10 Liquidation. The Borrower commences any dissolution, liquidation, or winding up of Borrower or any substantial portion of its business.

3.11 Cessation of Operations. The Borrower materially ceases operations or Borrower admits it is otherwise generally unable to pay its debts as such debts become due, provided, however, that any disclosure of the Borrower's ability to continue as a "going concern" shall not be an admission that the Borrower cannot pay its debts as they become due.

3.12 Financial Statement Restatement. The Borrower restates any financial statements filed by the Borrower with the SEC for any date or period from two years prior to the Issue Date of this Note and until this Note is no longer outstanding, if the result of such restatement would, by comparison to the unrestated financial statements, have constituted a material adverse effect on the business, operations or financial condition of the Borrower, provided, however, that if any restatement of any financial statements is required to be filed by the Borrower as a result of, or in response to, any new or modified federal or state statute, law, rule or regulation, including any rules and regulations of the SEC, then such restatement of the Borrower's financial statements shall not be an Event of Default.

3.13 Replacement of Transfer Agent. In the event that the Borrower replaces its transfer agent, and the Borrower fails to provide within 15 days of such replacement, a fully executed Irrevocable Transfer Agent Instructions (including but not limited to the provision to irrevocably reserve shares of Common Stock under Section 4.9 of the Purchase Agreement) signed by the successor transfer agent to Borrower and the Borrower that reserves **300**% of the total amount of shares previously held in reserve for the Borrower's immediately preceding transfer agent.

3.14 Inside Information. Any actual transmittal, conveyance, or disclosure by the Borrower or its officers, directors, and/or affiliates of, material non-public information concerning the Borrower, to the Holder or its successors and assigns, which is not immediately cured by Borrower's filing of a Form 8-K pursuant to Regulation FD on that same date.

3.15 No bid. The lowest Trading Price on the Trading Market for the Common Stock is equal to or less than $0.01. "Trading Price" means, for any security as of any date, the lowest VWAP price on the Trading Market as reported by a reliable reporting service designated by the Holder (i.e., www.Nasdaq.com) or, if Nasdaq is not the principal trading market for such security, on the principal securities exchange or trading market where such security is listed or traded or, if the lowest intraday trading price of such security is not available in any of the foregoing manners, the lowest intraday price of any market makers for such security that are quoted on the OTC Markets.

3.16 Prohibition on Debt and Variable Securities. The Borrower, without written consent of the Holder, enters into any Variable Rate Transaction or other similar transaction prohibited under Section 4.16 of the Purchase Agreement.

REMEDIES UPON A DEFAULT . UPON THE OCCURRENCE OF ANY EVENT OF DEFAULT SPECIFIED IN SECTION 3.2, UPON WRITTEN DEMAND BY THE HOLDER THIS NOTE SHALL BECOME IMMEDIATELY DUE AND PAYABLE AND THE BORROWER SHALL PAY TO THE HOLDER, IN FULL SATISFACTION OF ITS OBLIGATIONS HEREUNDER, AN AMOUNT EQUAL TO THE DEFAULT AMOUNT (AS DEFINED HEREIN). Upon the occurrence of any Event of Default specified in Sections 3.1, 3.3, 3.4, 3.5, 3.6, 3.7, 3.8, 3.9, 3.10, 3.11, 3.12, 3.13 and/or 3.14, solely upon written demand by the Holder, this Note shall become immediately due and payable and the Borrower shall pay to the Holder, in full satisfaction of its obligations hereunder, an amount equal to (i) 125% (plus an additional 5% per each additional Event of Default that occurs hereunder) multiplied by the then outstanding entire balance of this Note (including principal and accrued and unpaid interest)plus (ii) Default Interest from the date of the Event of Default, if any, plus (iii) any amounts owed to the Holder pursuant to Section 1.3(g) in addition to this Remedies Upon Default section (collectively, in the aggregate of all of the above, the "Default Amount"), and all other amounts payable hereunder shall immediately become due and payable, all without demand, presentment or notice, all of which hereby are expressly waived, together with all costs, including, without limitation, legal fees and expenses, of collection, and the Holder shall be entitled to exercise all other rights and remedies available at law or in equity.

ARTICLE IV.
MISCELLANEOUS

4.1 Failure or Indulgence Not Waiver. No failure or delay on the part of the Holder in the exercise of any power, right or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such power, right or privilege preclude other or further exercise thereof or of any other right, power or privileges. All rights and remedies existing hereunder are cumulative to, and not exclusive of, any rights or remedies otherwise available.

4.2 Notices. All notices, offers, acceptance and any other acts under this Notice (except payment) shall be in writing, and shall be sufficiently given if delivered to the addressees in person, by e-mail, by FedEx or similar receipted next day delivery, as follows:

If to the Borrower, to:

If to the Company:	Digital Brands Group, Inc. Email: hil@dstld.la Attention: John "Hil" Davis, CEO
with a copy to: (which shall not constitute notice)	Manatt, Phelps & Phillips LLP tpoletti@manatt.com Attention: Thomas J. Poletti
If to Holder:	FirstFire Global Opportunities Fund, LLC 1040 First Avenue, Suite 190 New York, NY 10022 Email: eli@firstfirecapital.com Attention: Eli Fireman, CEO

4.3 Amendments. This Note and any provision hereof may only be amended by an instrument in writing signed by the Borrower and the Holder. The term "Note" and all reference thereto, as used throughout this instrument, shall mean this instrument as originally executed, or if later amended or supplemented, then as so amended or supplemented.

4.4 Assignability. This Note shall be binding upon the Borrower and its successors and assigns, and shall inure to be the benefit of the Holder and its successors and assigns. Notwithstanding anything to the contrary herein, the rights, interests or obligations of the Borrower hereunder may not be assigned, by operation of law or otherwise, in whole or in part, by the Borrower without the prior signed written consent of the Holder, which consent may be withheld at the sole discretion of the Holder (any such assignment or transfer shall be null and void if the Borrower does not obtain the prior signed written consent of the Holder). This Note or any of the severable rights and obligations inuring to the benefit of or to be performed by Holder hereunder may be assigned by Holder to a third party, in whole or in part, without the need to obtain the Borrower's consent thereto. Each transferee of this Note must be an "accredited investor" (as defined in Rule 501(a) of the Securities Act). Notwithstanding anything in this Note to the contrary, this Note may be pledged as collateral in connection with a bona fide margin account or other lending arrangement.

4.5 Cost of Collection. If default is made in the payment of this Note, the Borrower shall pay the Holder hereof costs of collection, including reasonable attorneys' fees.

4.6 Governing Law. This Note shall be governed by and interpreted in accordance with the laws of the State of Delaware without regard to the principles of conflicts of law (whether Delaware or any other jurisdiction).

4.7 Arbitration. Any disputes, claims, or controversies arising out of or relating to this Note, or the transactions, contemplated thereby, or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of this Note to arbitrate, shall be referred to and resolved solely and exclusively by binding arbitration as provided for in the Purchase Agreement. Either party to this Note may, without waiving any remedy under this Note, seek from any federal or state court sitting in the State of Delaware any interim or provisional relief that is necessary to protect the rights or property of that party, pending the establishment of the arbitral tribunal. The costs and expenses of such arbitration shall be paid by and be the sole responsibility of the Borrower, including but not limited to the Holder's attorneys' fees, and each arbitrator's fees. The arbitrators' decision must set forth a reasoned basis for any award of damages or finding of liability. The arbitrators' decision and award will be made and delivered as soon as reasonably possible and in any case within sixty days' following the conclusion of the arbitration hearing and shall be final and binding on the parties and may be entered by any court having jurisdiction thereof. Notwithstanding the foregoing, the choice of arbitration shall not limit the Holder's exercise of remedies under the Uniform Commercial Code.

4.8 **JURY TRIAL WAIVER. THE BORROWER AND THE HOLDER HEREBY WAIVE A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE OTHER IN RESPECT OF ANY MATTER ARISING OUT OF OR IN CONNECTION WITH THIS NOTE.**

4.9 Certain Amounts. Whenever pursuant to this Note the Borrower is required to pay an amount in excess of the outstanding Principal Amount (or the portion thereof required to be paid at that time) plus accrued and unpaid interest plus Default Interest on such interest, the Borrower and the Holder agree that the actual damages to the Holder from the receipt of cash payment on this Note may be difficult to determine and the amount to be so paid by the Borrower represents stipulated damages and not a penalty and is intended to compensate the Holder in part for loss of the opportunity to convert this Note and to earn a return from the sale of shares of Common Stock acquired upon conversion of this Note at a price in excess of the price paid for such shares pursuant to this Note. The Borrower and the Holder hereby agree that such amount of stipulated damages is not plainly disproportionate to the possible loss to the Holder from the receipt of a cash payment without the opportunity to convert this Note into shares of Common Stock.

4.10 Remedies. The Borrower acknowledges that a breach by it of its obligations hereunder will cause irreparable harm to the Holder, by vitiating the intent and purpose of the transaction contemplated hereby. Accordingly, the Borrower acknowledges that the remedy at law for a breach of its obligations under this Note will be inadequate and agrees, in the event of a breach or threatened breach by the Borrower of the provisions of this Note, that the Holder shall be entitled, in addition to all other available remedies at law or in equity, and in addition to the penalties assessable herein, to an injunction or injunctions restraining, preventing or curing any breach of this Note and to enforce specifically the terms and provisions thereof, without the necessity of showing economic loss and without any bond or other security being required.

4.11 Section 3(a)(10) Transactions. If at any time while this Note is outstanding, the Borrower enters into a transaction structured in accordance with, based upon, or related or pursuant to, in whole or in part, Section 3(a)(10) of the Securities Act (a "3(a)(10) Transaction"), then a liquidated damages charge of 100% of the outstanding principal balance of this Note at that time, will be assessed and will become immediately due and payable to the Holder, either in the form of cash payment, an addition to the balance of this Note, or a combination of both forms of payment, as determined by the Holder. The damages resulting from such a 3(a)(10) Transaction and the potential sale of shares of the Borrower's capital stock resulting therefrom into the capital markets are difficult if not impossible to quantify. Accordingly, the parties acknowledge that the liquidated damages provision contained in this Section 4.11 are justified. The liquidated damages charge in this Section 4.11 shall be in addition to, and not in substitution of, any of the other rights of the Holder under this Note.

4.12 Usury. If it shall be found that any interest or other amount deemed interest due hereunder violates the applicable law governing usury, the applicable rate of interest due hereunder shall automatically be lowered to equal the maximum rate of interest permitted under applicable law. The Borrower covenants (to the extent that it may lawfully do so) that it shall not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension or usury law or other law which would prohibit or forgive the Borrower from paying all or any portion of the principal of or interest on this Note as contemplated herein, wherever enacted, now or at any time hereafter in force, or which may affect the covenants or the performance of this Note, and the Borrower (to the extent it may lawfully do so) hereby expressly waives all benefits or advantage of any such law, and covenants that it will not, by resort to any such law, hinder, delay or impede the execution of any power herein granted to the Holder, but will suffer and permit the execution of every such as though no such law has been enacted.

4.13 Repayment. Notwithstanding anything to the contrary contained in this Note and provided that the shares underlying this Note have been registered on an effective registration statement with the Securities and Exchange Commission, this Note may be repaid (i) from the Issuance Date until and through the day that falls on the sixty-day anniversary of the Issue Date (the "60 Day Anniversary") at an amount equal to 110% of the aggregate of the outstanding principal balance of the Note and accrued and unpaid interest, (ii) after the 60 Day Anniversary until and through the day that falls on the ninety-day anniversary of the Issue Date (the "90 Day Anniversary") at an amount equal to 115% of the aggregate of the outstanding principal balance of the Note and accrued and unpaid interest and (iii) anytime after the 90 Day Anniversary, 120% of the aggregate of the outstanding principal balance of the Note and accrued and unpaid interest. In order to repay this Note in accordance with the preceding sentence, the Borrower shall provide notice to the Holder 5 business days prior to such respective repayment date, and the Holder must receive such repayment no sooner than 7 business days of the Holder's receipt of the respective repayment notice (the "Repayment Period"). The Holder may convert the Note in whole or in part at any time during the Repayment Period, subject to the terms and conditions of this Note.

4.14 Terms of Future Financings. So long as this Note is outstanding, upon any issuance by the Borrower or any of its Subsidiaries of any Common Stock Equivalents with any term more favorable to the holder of such security or with a term in favor of the holder of such security that was not similarly provided to the Holder in this Note, then the Borrower shall notify the Holder of such additional or more favorable term and such term, at Holder's option and upon written notice to the Borrower, shall become a part of the transaction documents with the Holder. The types of terms contained in another security that may be more favorable to the holder of such security include, but are not limited to, terms addressing conversion discounts, prepayment rate, conversion look back periods, interest rates, original issue discounts, stock sale price, private placement price per share, and warrant coverage.

*** signature page to follow ***

IN WITNESS WHEREOF, Borrower has caused this Note to be signed in its name by its duly authorized officer on the Issue Date.

DIGITAL BRANDS GROUP, INC.

By: /s/ John Hilburn Davis IV
Name: John Hilburn Davis IV
Title: Chief Executive Officer

EXHIBIT A
TO CONVERTIBLE PROMISSORY-- NOTICE OF CONVERSION

The undersigned hereby elects to convert $ _____ amount of this Note (defined below) into that number of shares of Common Stock to be issued pursuant to the conversion of this Note ("Common Stock") as set forth below, of **Digital Brands Group, Inc.** (the "Borrower"), according to the conditions of the convertible promissory note of the Borrower dated as of **November 16, 2021** (the "Note"), as of the date written below. No fee will be charged to the Holder for any conversion, except for transfer taxes, if any.

Box Checked as to applicable instructions:

☐ The Borrower shall electronically transmit the Common Stock issuable pursuant to this Notice of Conversion to the account of the undersigned or its nominee with DTC through its Deposit Withdrawal Agent Commission system ("DWAC Transfer").

Name of DTC Prime
Broker: Account Number:

☐ The undersigned hereby requests that the Borrower issue a certificate or certificates for the number of shares of Common Stock set forth below (which numbers are based on the Holder's calculation attached hereto) in the name(s) specified immediately below or, if additional space is necessary, on an attachment hereto:

[_____]
e-mail: **[_____]**

Date of Conversion:	_____
Applicable Conversion Price:	$_____
Number of Shares of Common Stock to be Issued Pursuant to Conversion of this Note:	_____
Amount of Principal Balance Due remaining Under this Note after this conversion:	_____

[_____]

By: _____
Name: _____
Title: _____
Date: _____

Exhibit 10.42

November 16, 2021

RE: FirstFire Waiver and Consent

Reference is made to that certain (i) Securities Purchase Agreement dated as of November 16, 2021 (the "Agreement"), by and between Digital Brands Group, Inc. (the "Company") and FirstFire Global Opportunities Fund, LLC, a Delaware limited liability company ("FirstFire"), providing for, among other things, the issuance of a Convertible Promissory Note in the principal amount of US$2,625,000 (the "Note"), convertible into shares of common stock of the Company ("Common Stock), (ii) Amended and Restated Securities Purchase Agreement dated as of October 1, 2021 (the "Oasis/FirstFire Purchase Agreement") by and among the Company, FirstFire and Oasis Capital, LLC, a Puerto Rico limited liability company ("Oasis"), and (iii) Registration Rights Agreement, dated August 27, 2021, as amended by the Joinder Agreement and Amendment dated October 1, 2021 (as amended, the "RRA") among the Company, Oasis and FirstFire. Capitalized terms used but not defined herein shall have the meanings set forth in the Oasis/FirstFire Purchase Agreement or the RRA, as applicable.

Pursuant to Section 4.16 of the Oasis/FirstFire Purchase Agreement, the Company agreed not to, without the consent of Oasis and FirstFire, enter into any Variable Rate Transaction. In addition, pursuant to the RRA, the Company agreed to file a registration statement on Form S-1 covering the Registrable Securities by October 27, 2021 and for such registration statement to be declared effective by November 27, 2021 (the "Registration Deadline).

In consideration of the issuance by the Company to FirstFire of 15,000 shares of Common Stock, FirstFire agrees to consent to, and waive any restrictions contained in the Oasis/FirstFire Purchase Agreement with respect to, the entry by the Company into the Variable Rate Transaction and the other transactions contemplated by the Agreement. In addition, in consideration of the issuance by the Company to FirstFire of an additional 15,000 shares of Common Stock, FirstFire agrees to permit the extension of the Registration Deadline to the date set forth in the Amendment to the RRA dated the date hereof, and waives any breach for failure to comply with the original Registration Deadline set forth in the RRA. The foregoing shares shall be included as Registrable Securities under the RRA.

The waiver set forth in this letter constitutes a one-time waiver and is limited to the matters expressly waived herein and should not be construed as an indication that FirstFire has agreed to any modifications to, consent of, or waiver of any other terms or provisions of the RRA or any Transaction Document or of the terms of any other agreement, instrument or security or any modifications to, consents of, or waiver of any default that may exist or occur thereunder.

The Company shall file a Form 8-K with the Securities and Exchange Commission disclosing the terms of this waiver as proscribed by law.

The Company hereby represents and warrants and covenants to you that nothing contained herein or otherwise disclosed to FirstFire by the Company in connection herewith constitutes material non-public information. As of the date hereof, the Company shall have disclosed all material, non-public information (if any) provided up to the date hereof to FirstFire by the Company or any of its Subsidiaries or any of their respective officers, directors, employees, affiliates or agents, that has not previously been publicly disclosed by the Company in a filing with the Securities and Exchange Commission.

The Company hereby covenants and agrees that, as of the date hereof, (i) FirstFire has no confidentiality or similar obligation under any agreement to the Company, any of its Subsidiaries or any of their respective officers, directors, employees, affiliates or agent and (ii) FirstFire has made no agreement to the Company, any of its Subsidiaries or any of their respective officers, directors, employees, affiliates or agent to not purchase or sell, long and/or short, the Common Stock or any other securities of the Company.

[*Signature Page Follows*]

Sincerely,

FIRSTFIRE GLOBAL OPPORTUNITIES FUND, LLC

By: FirstFire Capital Management, LLC

By: /s/ Eli Fireman
Eli Fireman
Manager

Acknowledged and Agreed:

DIGITAL BRANDS GROUP, INC.

By: /s/ John Hilburn Davis IV
John Hilburn Davis IV
President and Chief Executive Officer

Exhibit 10.43

November 16, 2021

RE: Oasis Waiver and Consent

Reference is made to that certain (i) Securities Purchase Agreement dated as of November 16, 2021 (the "Agreement"), by and between Digital Brands Group, Inc., a Delaware corporation (the "Company"), and FirstFire Global Opportunities Fund, LLC, a Delaware limited liability company ("FirstFire"), providing for, among other things, the issuance of a Convertible Promissory Note in the principal amount of US$2,625,000 (the "Note"), convertible into shares of common stock of the Company ("Common Stock), (ii) Amended and Restated Securities Purchase Agreement dated as of October 1, 2021 (the "Oasis/FirstFire Purchase Agreement") by and among the Company, FirstFire and Oasis Capital, LLC, a Puerto Rico limited liability company ("Oasis"), and (iii) Registration Rights Agreement, dated August 27, 2021, as amended by the Joinder Agreement and Amendment dated October 1, 2021 (as amended, the "RRA") among the Company, Oasis and FirstFire. Capitalized terms used but not defined herein shall have the meanings set forth in the Oasis/FirstFire Purchase Agreement or the RRA, as applicable.

Pursuant to Section 4.16 of the Oasis/FirstFire Purchase Agreement, the Company agreed not to, without the consent of Oasis and FirstFire, enter into any Variable Rate Transaction. In addition, pursuant to the RRA, the Company agreed to file a registration statement on Form S-1 covering the Registrable Securities by October 27, 2021 and for such registration statement to be declared effective by November 27, 2021 (the "Registration Deadline).

In consideration of the issuance by the Company to Oasis of 50,000 shares of Common Stock, Oasis agrees to consent to, and waive any restrictions contained in the Oasis/FirstFire Purchase Agreement with respect to, the entry by the Company into the Variable Rate Transaction and the other transactions contemplated by the Agreement. In addition, in consideration of the issuance by the Company to Oasis of an additional 50,000 shares of Common Stock, Oasis agrees to permit the extension of Registration Deadline to the date set forth in the Amendment to the RRA dated the date hereof, and waives any breach for failure to comply with the original Registration Deadline set forth in the RRA. The foregoing shares shall be included as Registrable Securities under the RRA.

The waiver set forth in this letter constitutes a one-time waiver and is limited to the matters expressly waived herein and should not be construed as an indication that Oasis has agreed to any modifications to, consent of, or waiver of any other terms or provisions of the RRA or any Transaction Document or of the terms of any other agreement, instrument or security or any modifications to, consents of, or waiver of any default that may exist or occur thereunder.

The Company shall file a Form 8-K with the Securities and Exchange Commission disclosing the terms of this waiver as proscribed by law.

The Company hereby represents and warrants and covenants to you that nothing contained herein or otherwise disclosed to Oasis by the Company in connection herewith constitutes material non-public information. As of the date hereof, the Company shall have disclosed all material, non-public information (if any) provided up to the date hereof to Oasis by the Company or any of its Subsidiaries or any of their respective officers, directors, employees, affiliates or agents, that has not previously been publicly disclosed by the Company in a filing with the Securities and Exchange Commission.

The Company hereby covenants and agrees that, as of the date hereof, (i) Oasis has no confidentiality or similar obligation under any agreement to the Company, any of its Subsidiaries or any of their respective officers, directors, employees, affiliates or agent and (ii) Oasis has made no agreement to the Company, any of its Subsidiaries or any of their respective officers, directors, employees, affiliates or agent to not purchase or sell, long and/or short, the Common Stock or any other securities of the Company.

[*Signature Page Follows*]

Sincerely,

OASIS CAPITAL, LLC

By: /s/ Adam Long
Adam Long
Managing Partner

Acknowledged and Agreed:

DIGITAL BRANDS GROUP, INC.

By: /s/ John Hilburn Davis IV
John Hilburn Davis IV
President and Chief Executive Officer

Exhibit 23.1

Consent of Independent Registered Public Accounting Firm

We consent to the use, in this Registration Statement on Form S-1, of our report dated April 12, 2021, except for the effects of the reverse stock split discussed in Note 14 to the consolidated financial statements, as to which the date is May 12, 2021, related to the consolidated financial statements of Digital Brands Group, Inc (the "Company") as of December 31, 2020 and 2019, and for the years then ended, which includes an explanatory paragraph regarding the substantial doubt about the Company's ability to continue as a going concern. We also consent to the reference to us under the heading "Experts" in such Registration Statement.

/s/ dbbmckennon

Newport Beach, California
December 16, 2021

Exhibit 23.2

Consent of Independent Auditor

We consent to the use, in this Registration Statement on Form S-1, of our report dated April 9, 2021 related to the financial statements of Harper & Jones, LLC (the "Company") as of December 31, 2020 and 2019, and for the years then ended, which includes an explanatory paragraph regarding the substantial doubt about the Company's ability to continue as a going concern.

/s/ dbbmckennon

Newport Beach, California
December 16, 2021

Exhibit 23.3

Consent of Independent Auditor

We consent to the use, in this Registration Statement on Form S-1, of our report dated December 29, 2020, except as described in Note 2 under Restatement, for which the date is February 16, 2021, related to the financial statements of Bailey 44, LLC (the "Company") as of December 31, 2019, and for the year then ended, which includes an explanatory paragraph regarding the substantial doubt about the Company's ability to continue as a going concern.

/s/ dbbmckennon

Newport Beach, California
December 16, 2021

Exhibit 23.4

Consent of Independent Auditors

We consent to the use in this Registration Statement of Digital Brands Group, Inc. on Form S-1 of our audit report dated October 7, 2019, except for note 1, as to which the date is December 29, 2020 relating to the financial statements of Bailey 44, LLC as of December 31, 2018, and for the year then ended, and to the reference to our firm under the heading "Experts" in the Prospectus that is part of this Registration Statement.

/s/ Moss Adams LLP

December 16, 2021

Exhibit 23.5

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors and
Stockholders of Digital Brands Group, Inc.:

We consent to the use in this registration statement on Form S-1/A of Digital Brands Group, Inc. filed on December 16, 2021, of our report dated September 2, 2021, with respect to the balance sheet of Mosbest, LLC, dba Stateside, as of December 31, 2020, and the related statements of operations, member's equity, and cash flows for the year ended December 31, 2020 and the related notes. We also consent to the reference to our firm under the heading "Experts" in the registration statement.

/s/ Armanino LLP
Los Angeles, California

December 16, 2021