

SECURITIES AND EXCHANGE COMMISSION

FORM SC 13D/A

Schedule filed to report acquisition of beneficial ownership of 5% or more of a class of equity securities [amend]

Filing Date: **2024-03-04**
SEC Accession No. [0000947871-24-000253](#)

([HTML Version](#) on [secdatabase.com](#))

SUBJECT COMPANY

Bakkt Holdings, Inc.

CIK: [1820302](#) | IRS No.: **981550750** | State of Incorporation: **DE** | Fiscal Year End: **1231**
Type: **SC 13D/A** | Act: **34** | File No.: [005-91712](#) | Film No.: **24716318**
SIC: **6199** Finance services

Mailing Address

10000 AVALON BOULEVARD,
SUITE 1000
ALPHARETTA GA 30009

Business Address

10000 AVALON BOULEVARD,
SUITE 1000
ALPHARETTA GA 30009
678-534-5849

FILED BY

Intercontinental Exchange, Inc.

CIK: [1571949](#) | IRS No.: **000000000** | State of Incorporation: **DE** | Fiscal Year End: **1231**
Type: **SC 13D/A**
SIC: **6200** Security & commodity brokers, dealers, exchanges & services

Mailing Address

5660 NEW NORTHSIDE
DRIVE,
THIRD FLOOR
ATLANTA GA 30328

Business Address

5660 NEW NORTHSIDE
DRIVE,
THIRD FLOOR
ATLANTA GA 30328
770-857-4700

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

SCHEDULE 13D

Under the Securities Exchange Act of 1934

(Amendment No. 3)

BAKKT HOLDINGS, INC.

(Name of Issuer)

Class A Common Stock
(Title of Class of Securities)

05759B107
(CUSIP Number)

**Andrew J. Surdykowski
Intercontinental Exchange, Inc.
5660 New Northside Drive
Atlanta, GA 30328
770-857-4700**

With a Copy to:

**Rory B. O'Halloran
Cody Wright
Shearman & Sterling LLP
599 Lexington Avenue
New York, NY 10022-6069
212-848-4000**

**(Name, Address and Telephone Number of Person Authorized
to Receive Notices and Communications)**

February 29, 2024
(Date of Event Which Requires Filing of this Statement)

If the filing person has previously filed a statement on Schedule 13G to report the acquisition that is the subject of this Schedule 13D, and is filing this schedule because of §§240.13d-1(e), 240.13d-1(f) or 240.13d-1(g), check the following box .

Note: Schedules filed in paper format shall include a signed original and five copies of the schedule, including all exhibits. See Rule 13d-7 for other parties to whom copies are to be sent.

* The remainder of this cover page shall be filled out for a reporting person's initial filing on this form with respect to the subject class of securities, and for any subsequent amendment containing information which would alter disclosures provided in a prior cover page.

The information required on the remainder of this cover page shall not be deemed to be "filed" for the purpose of Section 18 of the Securities Exchange Act of 1934 ("Act") or otherwise subject to the liabilities of that section of the Act but shall be subject to all other provisions of the Act (however, see the Notes).

SCHEDULE 13D

CUSIP No. 05759B107

1	NAME OF REPORTING PERSONS Intercontinental Exchange, Inc.	
2	CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (See Instructions) (a) <input type="checkbox"/> (b) <input checked="" type="checkbox"/>	
3	SEC USE ONLY	
4	SOURCE OF FUNDS (See Instructions) WC; OO	
5	CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEMS 2(d) or 2(e) <input type="checkbox"/>	
6	CITIZENSHIP OR PLACE OF ORGANIZATION Delaware	
NUMBER OF SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH	7	SOLE VOTING POWER 0
	8	SHARED VOTING POWER 177,555,807 ⁽¹⁾
	9	SOLE DISPOSITIVE POWER 0
	10	SHARED DISPOSITIVE POWER 177,555,807 ⁽²⁾

11	AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON 177,555,807
12	CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES (See Instructions) <input checked="" type="checkbox"/>
13	PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11) 56.6% ⁽³⁾
14	TYPE OF REPORTING PERSON (See Instructions) CO

⁽¹⁾ Based on (i) 7,476,345 shares of Class A common stock, par value \$0.0001 per share (“Class A Common Stock”), of Bakkt Holdings, Inc. (the “Issuer”) and (ii) 170,079,462 shares of Class V common stock, par value \$0.0001 per share (“Class V Common Stock”, and together with the Class A Common Stock, the “Common Stock”), of the Issuer beneficially owned by the Reporting Person as of the date hereof. This amount excludes 2,762,008 shares of Class A Common Stock underlying the Initial Closing Warrants (as defined in Item 6 of this Amendment) that are not exercisable until September 4, 2024, as described further in Item 6 of this Amendment. As reported herein, the Reporting Persons beneficially own 56.6% of the Common Stock; however, the voting power of the Reporting Persons in respect of the Common Stock is reduced to 30% pursuant to the Voting Agreement between Intercontinental Exchange Holdings, Inc. (“ICEH”), a wholly owned subsidiary of Intercontinental Exchange, Inc. (“ICE”), and the Issuer, so long as ICEH and its affiliates own 50% or more of the total voting power of the Issuer, as described further in Item 6 of the Initial Schedule 13D.

⁽²⁾ Based on (i) 7,476,345 shares of Class A Common Stock and (ii) 170,079,462 shares of Class V Common Stock beneficially owned by the Reporting Person as of the date hereof. As described in note 1 above, this amount excludes 2,762,008 shares of Class A Common Stock underlying the Initial Closing Warrants that are not exercisable until September 4, 2024, as described further in Item 6 of this Amendment.

⁽³⁾ Based on a total of 313,880,510 shares of Common Stock, consisting of 96,317,490 shares of Class A Common Stock and 179,883,479 shares of Class V Common Stock, outstanding as of February 28, 2024, as reported in the Issuer’s prospectus supplements filed with the Securities and Exchange Commission (“SEC”) on March 1, 2024 pursuant to Rule 424(b)(5), and 37,679,541 shares of Class A Common Stock issued on March 4, 2024 (which excludes 11,218,570 shares of Class A Common Stock underlying the Pre-Funded Warrants (as defined in Item 6 of this Amendment)), in the Concurrent Offerings (as defined in Item 6 of this Amendment), based on information contained in the Issuer’s Current Report on Form 8-K filed with the SEC on March 4, 2024. As described in note 1 above, the Reporting Persons beneficially own 56.6% of the Common Stock; however, the Reporting Persons’ voting power in respect of the Common Stock is reduced to 30% pursuant to the Voting Agreement between ICEH, a wholly owned subsidiary of ICE, and the Issuer, so long as ICEH and its affiliates own 50% or more of the total voting power of the Issuer, as described further in Item 6 of the Amended Schedule 13D. As of the date hereof, the Reporting Person beneficially owns 5.6% of the outstanding shares of Class A Common Stock (excluding any shares of Class V Common Stock).

SCHEDULE 13D

CUSIP No. 05759B107

1	NAME OF REPORTING PERSONS Intercontinental Exchange Holdings, Inc.	
2	CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (See Instructions) (a) <input type="checkbox"/> (b) <input checked="" type="checkbox"/>	
3	SEC USE ONLY	
4	SOURCE OF FUNDS (See Instructions) WC; OO	
5	CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEMS 2(d) or 2(e) <input type="checkbox"/>	
6	CITIZENSHIP OR PLACE OF ORGANIZATION Delaware	
NUMBER OF SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH	7	SOLE VOTING POWER 0
	8	SHARED VOTING POWER 177,555,807 ⁽⁴⁾
	9	SOLE DISPOSITIVE POWER 0
	10	SHARED DISPOSITIVE POWER 177,555,807 ⁽⁵⁾
11	AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON 177,555,807	
12	CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES (See Instructions) <input checked="" type="checkbox"/>	
13	PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11) 56.6% ⁽⁶⁾	
14	TYPE OF REPORTING PERSON (See Instructions) CO	

(4) Based on (i) 7,476,345 shares of Class A Common Stock and (ii) 170,079,462 shares of Class V Common Stock beneficially owned by the Reporting Person as of the date hereof. As described in note 1 above, this amount excludes 2,762,008 shares of Class A Common Stock underlying the Initial Closing Warrants that are not exercisable until September 4, 2024, as described further in Item 6 of this Amendment.

(5) Based on (i) 7,476,345 shares of Class A Common Stock and (ii) 170,079,462 shares of Class V Common Stock beneficially owned by the Reporting Person as of the date hereof. As described in note 1 above, this amount excludes 2,762,008 shares of Class A Common Stock underlying the Initial Closing Warrants that are not exercisable until September 4, 2024, as described further in Item 6 of this Amendment.

(6) Based on a total of 313,880,510 shares of Common Stock, consisting of 96,317,490 shares of Class A Common Stock and 179,883,479 shares of Class V Common Stock, outstanding as of February 28, 2024, as reported in the Issuer's prospectus supplements filed with the SEC on March 1, 2024 pursuant to Rule 424(b)(5), and 37,679,541 shares of Class A Common Stock issued on March 4, 2024 (which excludes 11,218,570 shares of Class A Common Stock underlying the Pre-Funded Warrants), in the Concurrent Offerings, based on information contained in the Issuer's Current Report on Form 8-K filed with the SEC on March 4, 2024. As described in note 1 above, the Reporting Persons beneficially own 56.6% of the Common Stock; however, the Reporting Persons' voting power in respect of the Common Stock is reduced to 30% pursuant to the Voting Agreement between ICEH and the Issuer, so long as ICEH and its affiliates own 50% or more of the total voting power of the Issuer as described further in Item 6 of the Amended Schedule 13D. As of the date hereof, the Reporting Person beneficially owns 5.6% of the outstanding shares of Class A Common Stock (excluding any shares of Class V Common Stock).

EXPLANATORY NOTE

This Amendment No. 3 (this "Amendment") is being jointly filed on behalf of: (a) Intercontinental Exchange, Inc., a Delaware corporation ("ICE"), and (b) Intercontinental Exchange Holdings, Inc., a Delaware corporation ("ICEH"), and together with ICE, the "Reporting Persons" and each a "Reporting Person"), and amends the (i) Statement on Schedule 13D filed by the Reporting Persons on October 21, 2021 (the "Initial Schedule 13D") as previously amended by (ii) Amendment No. 1 to the Initial Schedule 13D filed by the Reporting Persons on May 5, 2022 ("Amendment No. 1") and (iii) Amendment No. 2 to the Initial Schedule 13D filed by the Reporting Persons on April 28, 2023 ("Amendment No. 2"), and the Initial Schedule 13D as so amended, the "Amended Schedule 13D", which relates to the shares of Class A common stock, par value \$0.0001 per share ("Class A Common Stock"), of Bakkt Holdings, Inc., a Delaware corporation (the "Issuer"). Capitalized terms used and not otherwise defined in this Amendment have the same meanings ascribed to them in the Amended Schedule 13D.

Unless specifically amended hereby, the disclosure set forth in the Amended Schedule 13D remains unchanged.

Item 2. Identity and Background.

Schedules I and II to Item 2 of the Amended Schedule 13D are hereby amended and restated in their entirety as set forth in Schedules I and II attached hereto.

(d) – (e) During the last five years, none of the Reporting Persons, and to the best of each such Reporting Person's knowledge, none of the directors or executive officers of such Reporting Person listed in Schedules I and II hereto, have been: (i) convicted in a criminal proceeding (excluding traffic violations or similar misdemeanors) or (ii) a party to a civil proceeding of a judicial or administrative body of competent jurisdiction and as a result of such proceeding was or is subject to a judgment, decree or final order enjoining future violations of, or prohibiting or mandating activities subject to, federal or state securities laws or finding any violation with respect to such laws.

Item 3. Source and Amount of Funds or Other Consideration.

Item 3 of the Amended Schedule 13D is hereby supplemented and amended to add the following information:

The source of the funds for ICEH's acquisition of securities of the Issuer at the Initial Closing (as defined in Item 6 of this Amendment) was the working capital of the Reporting Persons.

Item 4. Purpose of Transaction.

Item 4 of the Amended Schedule 13D is hereby supplemented and amended to add the information contained in Item 6 of this Amendment, which is incorporated by reference into this Item 4 as if fully set forth herein.

Item 5. Interest in Securities of the Issuer.

Section (a) and Section (b) of Item 5 of the Amended Schedule 13D are hereby amended and restated in their entirety as follows:

(a) and (b) The percentage of beneficial ownership in this Amendment is based on: (i) with respect to the total amount of securities issued and outstanding, an aggregate of 96,317,490 shares of Class A Common Stock and 179,883,479 shares of Class V Common Stock outstanding as of February 28, 2024, as reported in the Issuer's prospectus supplements filed with the SEC on March 1, 2024 pursuant to Rule 424(b)(5), and 37,679,541 shares of Class A Common Stock issued on March 4, 2024 (which excludes 11,218,570 shares of Class A Common Stock underlying the Pre-Funded Warrants (as defined in Item 6 of this Amendment)), in connection with the Concurrent Offerings (as defined in Item 6 of this Amendment), based on information contained in the Issuer's Current Report on Form 8-K filed with the SEC on March 4, 2024, and (ii) with respect to the securities beneficially owned by the Reporting Persons, 7,476,345 shares of Class A Common Stock and 170,079,462 shares of Class A Common Stock underlying the Paired Interests (consisting of 170,079,462 Bakkt Opco Common Units and 170,079,462 shares of Class V Common Stock) beneficially owned by the Reporting Persons immediately following the Initial Closing (as defined in Item 6 of this Amendment).

The aggregate number and percentage of shares of Class A Common Stock and Class V Common Stock beneficially owned by the Reporting Persons, the number of shares as to which there is sole power to vote or to direct the vote, shared power to vote or to direct the vote, sole power to dispose or to direct the disposition, or shared power to dispose or to direct the disposition, are set forth on rows 7 through 11 and row 13 of the cover pages of this Amendment and are incorporated herein by reference.

As of the date hereof, ICEH directly holds 7,476,345 shares of Class A Common Stock, 170,079,462 shares of Class V Common Stock and 170,079,462 Bakkt Opco Common Units. Pursuant to the terms of the A&R Exchange Agreement (as defined in Item 6 of Amendment No. 1), Bakkt Opco Common Units, when coupled with an equivalent number of shares of Class V Common Stock, may be exchanged at the discretion of the holder for shares of Class A Common Stock on a one-for-one basis (subject to adjustment as set forth in the A&R Exchange Agreement), or, at the option of the Issuer, cash, subject to the following exceptions: (i) no holder of Bakkt Opco Common Units may exchange less than 25,000 Bakkt Opco Common Units in any single exchange unless exchanging all of their Bakkt Opco Common Units; and (ii) such exchange can only occur (a) upon a Permitted Exchange Event (as defined in the A&R Exchange Agreement) or (b) on (1) the last trading day of the second week of the first month of each quarter, (2) the last trading day of the first month of each quarter, (3) the third full trading day occurring after the Issuer publicly announces its results for a quarter and (4) the last trading day of the second month of each quarter.

Pursuant to the Voting Agreement (as described in Item 6 of the Initial Schedule 13D), as long as ICEH and its affiliates hold 50% or more of the issued and outstanding shares of Common Stock, a proxy designated by the Board will vote the Excess Shares (defined in Item 6 of the Initial Schedule 13D) beneficially owned by the Reporting Persons on any Stockholder Matter (as defined in Item 6 of the Initial Schedule 13D) in the same percentages for and against such Stockholder Matter as votes were cast for and against such Stockholder Matter by all stockholders of the Issuer other than ICEH and its affiliates. The Voting Agreement does not apply to the voting of shares of Common Stock beneficially owned by ICEH and its affiliates that are not Excess Shares. The Voting Agreement also does not apply to the giving or withholding of consent or approval in respect of any matter requiring the approval of the Required Interest (as defined in Item 6 of the Initial Schedule 13D) of Bakkt Opco equity holders under the Surviving Company LLC Agreement. The Voting Agreement will terminate if the voting power represented by the shares of Common Stock beneficially owned by ICEH and its affiliates falls below 50% of the total voting power of the shares of Common Stock issued and outstanding and entitled to vote at any time.

To the best knowledge of the Reporting Persons, the following persons beneficially own or may be deemed to beneficially own the shares of Class A Common Stock, Class V Common Stock and Bakkt Opco Common Units set forth below: ⁽⁷⁾

- Hon. Sharon Y. Bowen, Director, ICE, beneficially owns 242,544 shares of Class A Common Stock,⁽⁸⁾ 23,154 shares of Class V Common Stock and 23,154 Bakkt Opco Common Units.
- Thomas E. Noonan, Director, ICE, beneficially owns 13,231 shares of Class V Common Stock and 13,231 Bakkt Opco Common Units.
- Jeffrey C. Sprecher, Director (Chairman) and Chief Executive Officer, ICE, may be deemed to beneficially own 3,659,164 shares of Class V Common Stock and 3,659,164 Bakkt Opco Common Units, which shares and units are beneficially owned by his spouse through her holdings of vested incentive units in Bakkt Management. Mr. Sprecher disclaims beneficial ownership of the shares and units held indirectly by his spouse.

The Reporting Persons specifically disclaim beneficial ownership over such shares and units held by the persons listed above.

The share ownership reported herein for the Reporting Persons does not include any securities of the Issuer held by any party to the Stockholders Agreement (as defined and described in Item 6 of the Initial Schedule 13D) other than ICEH, and each of the Reporting Persons disclaims beneficial ownership of any such securities owned by such other parties.

(c) Other than ICEH's acquisition of Class A Common Stock and the Initial Closing Warrants at the Initial Closing (as described in Item 6 of this Amendment), the Reporting Persons have not effected any transactions in Class A Common Stock or Class V Common Stock during the past 60 days.

⁽⁷⁾ Except for the shares of Class A Common Stock beneficially owned by Ms. Bowen, the beneficial ownership information set forth herein is with respect to shares of Class V Common Stock and Bakkt Opco Common Units indirectly acquired by Ms. Bowen, Mr.

Noonan, and Mr. Sprecher's spouse in connection with the Closing in respect of incentive units held by such individuals under the Bakkt equity incentive plan in effect prior to the Closing and held directly by Bakkt Management LLC ("Bakkt Management").

(8) Includes 142,858 shares of Class A Common Stock underlying 142,858 unvested restricted stock units which vest within 60 days of the date of this Amendment.

(d) To the best knowledge of the Reporting Persons, no one other than the Reporting Persons has the right to receive or the power to direct the receipt of dividends from, or the proceeds from the sale of, the securities reported herein.

(e) Not applicable.

Item 6. Contracts, Arrangements, Understandings or Relationships with Respect to Securities of the Issuer.

Item 6 of the Amended Schedule 13D is hereby supplemented and amended to add: (i) the information contained in Item 5 of this Amendment, which is incorporated by reference into this Item 6 as if fully set forth herein; and (ii) the following information:

Securities Purchase Agreement

On February 29, 2024, ICEH entered into a securities purchase agreement (the "February 2024 Purchase Agreement") with the Issuer pursuant to which the Issuer agreed to sell and issue to ICEH up to 11,534,025 shares of Class A Common Stock, Class 1 Warrants (the "Class 1 Warrants") to purchase up to 5,767,012 shares of Class A Common Stock, and Class 2 Warrants (the "Class 2 Warrants") to purchase up to 5,767,012 shares of Class A Common Stock in a registered direct offering (the "ICE Offering"). The purchase price of each share of Class A Common Stock and accompanying Class 1 Warrant or Class 2 Warrant (each, a "Warrant") in the ICE Offering is \$0.8670.

The February 2024 Purchase Agreement was entered into concurrently with a securities purchase agreement (the "Third-Party Purchase Agreement" and, together with the February 2024 Purchase Agreement, the "Purchase Agreements") entered into between the Issuer and certain institutional investors (the "Third-Party Purchasers"), pursuant to which the Issuer agreed to sell and issue to the Third-Party Purchasers specified numbers of shares of Class A Common Stock, Warrants and Pre-Funded Warrants ("Pre-Funded Warrants") to purchase shares of Class A Common Stock in a concurrent registered direct offering (the "Third-Party Offering" and, together with the ICE Offering, the "Concurrent Offerings"). The purchase price of each share of Class A Common Stock and accompanying Warrant was \$0.8670 and the purchase price of each Pre-Funded Warrant and accompanying Warrant was \$0.8669.

On March 4, 2024, ICEH acquired 2,762,009 shares of Class A Common Stock, Class 1 Warrants to purchase up to 1,381,004 shares of Class A Common Stock (the "Initial Closing Class 1 Warrants"), and Class 2 Warrants to purchase up to 1,381,004 shares of Class A Common Stock (the "Initial Closing Class 2 Warrants" and, together with the Initial Closing Class 1 Warrants, the "Initial Closing Warrants") for an aggregate purchase price of \$2,394,661.80 pursuant to the ICE Offering, concurrently with the closing of the Third-Party Offering (the "Initial Closing"). The closing of the acquisition by ICEH of the remaining 8,772,016 shares of Class A Common Stock, Class 1 Warrants to purchase up to 4,386,008 shares of Class A Common Stock and Class 2 Warrants to purchase up to 4,386,008 shares of Class A Common Stock to be sold and issued by the Issuer pursuant to the ICE Offering

is conditioned on the Issuer obtaining stockholder approval for such issuances under the rules and regulations of the New York Stock Exchange (the “NYSE”) and other customary closing conditions.

The Warrants have an exercise price of \$1.0200 per share, which will be payable in cash or on a cashless basis, will generally be exercisable beginning six months after the date of the Initial Closing (September 4, 2024), and will expire five and one-half years after the date of the Initial Closing (September 4, 2029). The Warrants have identical terms, except that the Class 2 Warrants also contain an alternative cashless exercise provision that, after the Issuer obtains the Stockholder Approval (as defined below), will allow the holder of each Class 2 Warrant to exercise such Class 2 Warrant on a cashless basis and receive a number of shares of Class A Common Stock equal to 50% of the shares of Class A Common Stock then underlying the Class 2 Warrant if the closing trading price of shares of Class A Common Stock is lower than the exercise price of the Class 2 Warrants for each of the three consecutive trading days ending on the trading day prior to the date on which notice of exercise is given. ICE received 50% of its Warrants in Class 1 Warrants and the other 50% in Class 2 Warrants. The Warrants contain customary adjustment, assumption or cash-out provisions in the event of a sale of the Issuer.

Under the February 2024 Purchase Agreement, the Issuer agreed to seek stockholder approval for the issuance of the Class A Common Stock pursuant to the ICE Offering that remains unissued following the Initial Closing and Class A Common Stock underlying the related Warrants that exceed the limitations of the Listed Company Manual of the NYSE, as well as the shares of Class A Common Stock issuable under the alternative cashless exercise provision of the Class 2 Warrants issued in the Concurrent Offerings, each in accordance with the rules and regulations of the NYSE (the “Stockholder Approval”).

The February 2024 Purchase Agreement contains customary representations, warranties and agreements by the Issuer and by ICEH, conditions to closing, indemnification obligations of the Issuer, other obligations of the parties and termination provisions.

The foregoing descriptions of the February 2024 Purchase Agreement, the Class 1 Warrants and the Class 2 Warrants are not complete and are qualified in their entirety by reference to the full text thereof, copies of which are filed as Exhibits 99.15, 99.17 and 99.18 to this Amendment and are incorporated by reference herein.

Voting Support Agreement

On February 29, 2024, in connection with the Concurrent Offerings, ICEH entered into a voting support agreement (the “Voting Support Agreement”) with the Issuer, pursuant to which ICEH agreed, among other things, to vote in favor of proposals seeking to obtain the Stockholder Approval.

The foregoing description of the Voting Support Agreement is not complete and is qualified in its entirety by reference to the full text of the Voting Support Agreement, a copy of which is filed as Exhibit 99.16 to this Amendment and is incorporated by reference herein.

Item 7. Materials to be Filed as Exhibits.

<u>Exhibit 99.1*</u>	<u>Joint Filing Agreement, dated as of October 21, 2021, by and among the Reporting Persons (incorporated by reference to Exhibit 99.1 to the Schedule 13D filed by the Reporting Persons with the SEC on October 21, 2021).</u>
<u>Exhibit 99.2</u>	<u>Agreement and Plan of Merger (incorporated by reference to Exhibit 2.1 to the Issuer's Current Report on Form 8-K filed on January 11, 2021).</u>
<u>Exhibit 99.3</u>	<u>Amendment to Agreement and Plan of Merger (incorporated by reference to Exhibit 2.1 to the Issuer's Current Report on Form 8-K filed on March 31, 2021).</u>
<u>Exhibit 99.4</u>	<u>Amendment to Agreement and Plan of Merger (incorporated by reference to Exhibit 2.1 to the Issuer's Current Report on Form 8-K filed on September 30, 2021).</u>
<u>Exhibit 99.5</u>	<u>Certificate of Incorporation of the Issuer (incorporated by reference to Exhibit 3.1 to the Issuer's Current Report on Form 8-K filed on October 21, 2021).</u>
<u>Exhibit 99.6</u>	<u>Exchange Agreement (incorporated by reference to Exhibit 10.4 to the Issuer's Current Report on Form 8-K filed on October 21, 2021).</u>
<u>Exhibit 99.7</u>	<u>Amended and Restated Limited Liability Company Agreement (incorporated by reference to Exhibit 4.3 to the Issuer's Current Report on Form 8-K filed on October 21, 2021).</u>
<u>Exhibit 99.8</u>	<u>Voting Agreement (incorporated by reference to Exhibit 10.3 to the Issuer's Current Report on Form 8-K filed on October 21, 2021).</u>
<u>Exhibit 99.9</u>	<u>Stockholders Agreement (incorporated by reference to Exhibit 10.2 to the Issuer's Current Report on Form 8-K filed on October 21, 2021).</u>
<u>Exhibit 99.10</u>	<u>Registration Rights Agreement (incorporated by reference to Exhibit 10.1 to the Issuer's Current Report on Form 8-K filed on October 21, 2021).</u>
<u>Exhibit 99.11</u>	<u>Tax Receivable Agreement (incorporated by reference to Exhibit 10.5 to the Issuer's Current Report on Form 8-K filed on October 21, 2021).</u>
<u>Exhibit 99.12*</u>	<u>Amended and Restated Subscription Agreement.</u>
<u>Exhibit 99.13</u>	<u>Cooperation Agreement (incorporated by reference to Exhibit 10.6 to the Issuer's Current Report on Form 8-K filed on October 21, 2021).</u>
<u>Exhibit 99.14</u>	<u>Amended and Restated Exchange Agreement (incorporated by reference to Exhibit 10.1 to the Issuer's Current Report on Form 8-K filed on May 4, 2022).</u>
<u>Exhibit 99.15</u>	<u>Securities Purchase Agreement.</u>
<u>Exhibit 99.16</u>	<u>Voting Support Agreement.</u>
<u>Exhibit 99.17</u>	<u>Class 1 Warrant issued by the Issuer on March 4, 2024.</u>
<u>Exhibit 99.18</u>	<u>Class 2 Warrant issued by the Issuer on March 4, 2024.</u>

* Previously filed

SIGNATURES

After reasonable inquiry and to the best of the undersigned's knowledge and belief, the undersigned certifies that the information set forth in this statement is true, complete and correct.

Dated: March 4, 2024

Intercontinental Exchange, Inc.

By: /s/ Andrew J. Surdykowski
Name: Andrew J. Surdykowski
Title: General Counsel

Intercontinental Exchange Holdings, Inc.

By: /s/ Andrew J. Surdykowski
Name: Andrew J. Surdykowski
Title: General Counsel

[Signature Page to Schedule 13D]

SCHEDULE I

DIRECTORS AND EXECUTIVE OFFICERS OF
INTERCONTINENTAL EXCHANGE, INC.

The following table sets forth certain information with respect to the directors and executive officers of Intercontinental Exchange, Inc. The business address of each director and executive officer of Intercontinental Exchange, Inc. is 5660 New Northside Drive, Atlanta, Georgia 30328.

Name	Present Principal Occupation or Employment	Citizenship
Hon. Sharon Y. Bowen (Director)	Chair of the New York Stock Exchange (NYSE), a subsidiary of Intercontinental Exchange, Inc. and member of governing boards of certain subsidiaries of Intercontinental Exchange, Inc., including the subsidiary boards of certain NYSE U.S. regulated exchanges. Co-chair of the NYSE Board Advisory Council. Member of the board of directors of each of Akamai Technologies, Inc. and Neuberger Berman Group LLC and the board of Bakkt Trust Company.	United States
Shantella E. Cooper (Director)	Founder and Chief Executive Officer of Journey Forward Strategies, LLC. Member of the board of directors of SouthState Corporation and Southern Company.	United States
Duriya M. Farooqui (Director)	Executive coach and mentor with The ExCo Group. Member of the Board of Directors of InterContinental Hotels Group PLC (IHG).	United States

	<p>Member of governing boards of certain subsidiaries of Intercontinental Exchange, Inc., including the subsidiary boards of certain NYSE U.S. regulated exchanges and ICE NGX Canada.</p> <p>Co-chair of the NYSE Board Advisory Council.</p>	
<p>The Rt. Hon. the Lord Hague of Richmond (Director)</p>	<p>Chair of The Royal Foundation of the Prince and Princess of Wales, Chair of the United for Wildlife Taskforce.</p> <p>Chair for the International Advisory Board at the law firm Linklaters.</p> <p>Chair of the Board of Directors of ICE Futures Europe, a subsidiary of Intercontinental Exchange, Inc.</p> <p>Member of the House of Lords.</p>	<p>United Kingdom</p>

<p>Mark F. Mulhern (Director)</p>	<p>Former Executive Vice President and Chief Financial Officer of Highwoods Properties, Inc.</p> <p>Member of the board of directors of ICE Mortgage Technology Holdings, Inc., a subsidiary of Intercontinental Exchange, Inc.</p> <p>Member of the Board of Directors of Barings BDC, Inc., member of the Board of Trustees of Barings Global Short Duration High Yield Fund, and a member of the Board of Directors of each of Barings Private Credit Corporation and Barings Capital Investment Corporation.</p>	<p>United States</p>
<p>Thomas E. Noonan (Director)</p>	<p>Founding partner of TechOperators LLC, and Chairman of TEN Holdings, LLC.</p> <p>Member of the Board of Directors of Manhattan Associates, Inc.</p>	<p>United States</p>
<p>Caroline L. Silver (Director)</p>	<p>Senior advisor at Moelis & Company.</p> <p>Chair of the Board of Directors of ICE Clear Europe Limited, a subsidiary of Intercontinental Exchange, Inc.</p> <p>Chair of the Board of Directors of Barratt Developments PLC and member of the Board of Directors of Tesco PLC.</p> <p>Former Trustee of The Victoria and Albert Museum (appointed by the UK Prime Minister) and currently serves on the V&A Foundation.</p>	<p>United Kingdom</p>

Jeffrey C. Sprecher (Director and Chief Executive Officer)	Chair of the Board of Directors and Chief Executive Officer of Intercontinental Exchange, Inc.	United States
Judith A. Sprieser (Director)	Member of governing boards of certain subsidiaries of Intercontinental Exchange, Inc., including the Board of Managers of ICE Clear Credit LLC and ICE Mortgage Services, LLC, the governing board of MERSCORP Holdings, Inc. Member of the boards of directors of Allstate Insurance Company and Newell Brands Inc.	United States

Martha A. Tirinnanzi (Director)	Founder and President of Financial Standards, Inc. Member of governing boards of certain subsidiaries of Intercontinental Exchange, Inc., including the Board of Managers of ICE Mortgage Services, LLC, the governing board of MERSCORP Holdings, Inc. and Board of Directors of ICE Mortgage Technology Holdings, Inc. Member of the Board of Directors of The RBB Fund, Inc. and The RBB Fund Trust (together, the RBB Fund Complex).	United States
Christopher S. Edmonds (President, Fixed Income & Data Services)	President, Fixed Income & Data Services, Intercontinental Exchange, Inc.	United States
Douglas Foley (SVP, HR & Administration)	Senior Vice President, HR & Administration, Intercontinental Exchange, Inc.	United States
Warren Gardiner (Chief Financial Officer)	Chief Financial Officer, Intercontinental Exchange, Inc.	United States
Benjamin R. Jackson (President)	President, Intercontinental Exchange, Inc.	United States
Mayur Kapani (Chief Technology Officer)	Chief Technology Officer, Intercontinental Exchange, Inc.	United States
Elizabeth King (Global Head of Clearing & Chief Regulatory Officer)	Global Head of Clearing & Chief Regulatory Officer, Intercontinental Exchange, Inc.	United States
Lynn C. Martin (President – NYSE Group)	President – NYSE Group, Intercontinental Exchange, Inc.	United States
Andrew J. Surdykowski (General Counsel)	General Counsel, Intercontinental Exchange, Inc.	United States

Stuart G. Williams (Chief Operating Officer)	Chief Operating Officer, Intercontinental Exchange, Inc.	United States
---	--	---------------

SCHEDULE II

DIRECTORS AND EXECUTIVE OFFICERS OF
INTERCONTINENTAL EXCHANGE HOLDINGS, INC.

The following table sets forth certain information with respect to the directors and executive officers of Intercontinental Exchange Holdings, Inc. The business address of each director and executive officer of Intercontinental Exchange Holdings, Inc. is 5660 New Northside Drive, Atlanta, Georgia 30328.

Name	Present Principal Occupation or Employment	Citizenship
Jeffrey C. Sprecher (Director and Chief Executive Officer)	Chair of the Board and Chief Executive Officer of Intercontinental Exchange, Inc.	United States
Christopher S. Edmonds (President, Fixed Income & Data Services)	President, Fixed Income & Data Services, Intercontinental Exchange, Inc.	United States
Douglas Foley (SVP, HR & Administration)	Senior Vice President, HR & Administration, Intercontinental Exchange, Inc.	United States
Warren Gardiner (Director and Chief Financial Officer)	Chief Financial Officer, Intercontinental Exchange, Inc.	United States
Benjamin R. Jackson (President)	President, Intercontinental Exchange, Inc.	United States
Mayur Kapani (Chief Technology Officer)	Chief Technology Officer, Intercontinental Exchange, Inc.	United States
Elizabeth King (Global Head of Clearing & Chief Regulatory Officer)	Global Head of Clearing & Chief Regulatory Officer, Intercontinental Exchange, Inc.	United States
Lynn C. Martin (President – NYSE Group)	President – NYSE Group, Intercontinental Exchange, Inc.	United States
Andrew J. Surdykowski (Director and General Counsel)	General Counsel, Intercontinental Exchange, Inc.	United States
Stuart G. Williams (Chief Operating Officer)	Chief Operating Officer, Intercontinental Exchange, Inc.	United States

SECURITIES PURCHASE AGREEMENT

This Securities Purchase Agreement (this “Agreement”) is dated as of February 29, 2024, between Bakkt Holdings, Inc., a Delaware corporation (the “Company”), and Intercontinental Exchange Holdings, Inc. (including its successors and assigns, the “Purchaser”).

WHEREAS, subject to the terms and conditions set forth in this Agreement and pursuant to an effective registration statement under the Securities Act of 1933, as amended (the “Securities Act” or “Act”), and the rules and regulations (the “Rules and Regulations”) of the Securities and Exchange Commission (the “Commission”) 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.

WHEREAS, subject to the terms and conditions set forth in a separate securities purchase agreement (the “Concurrent Placement Agreement”) and pursuant to a separate prospectus supplement being filed with the Commission under the Registration Statement (as defined below), the Company is issuing securities of the Company to certain other purchasers as identified on the signature pages thereto (the “Concurrent Placement”).

WHEREAS, the Per Unit Purchase Price (as defined below) under this Agreement and in the Concurrent Placement Agreement are the same and the terms of such agreements are substantively consistent other than differences resulting from the relationships of the applicable purchaser(s) with the Company.

WHEREAS, pursuant to the Concurrent Placement Agreement, the Company and the Purchaser have agreed to provide a voting support agreement (the “Voting Support 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. In addition to the terms defined elsewhere in this Agreement, for all purposes of this Agreement, the following terms have the meanings set forth in this Section 1.1:

“Action” shall have the meaning ascribed to such term in Section 3.1(h).

“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.

“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; 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.

“Class 1 Warrants” means the warrants delivered to the Purchaser at each Closing in accordance with Section 2.2(a)(v) and Section 2.2(c)(iii) hereof, which Class 1 Warrants shall be exercisable at any time on or after the six (6) month anniversary of each Closing Date and generally be exercisable from the date of the six month anniversary of the issuance date through the date that is five and a half (5.5) years after the initial issuance date, in the form of Exhibit B-1 attached hereto.

“Class 2 Warrants” means the warrants delivered to the Purchaser at each Closing in accordance with Section 2.2(a)(vi) and Section 2.2(c)(iv) hereof, which Class 2 Warrants shall be exercisable at any time on or after the six (6) month anniversary of each Closing Date and generally be exercisable from the date of the six month anniversary of the issuance date through the date that is five and a half (5.5) years after the initial issuance date, in the form of Exhibit B-2 attached hereto.

“Closing” means a closing of the purchase and sale of the Securities as defined in Section 2.1.

“Closing Date” means the Initial Closing Date or the Subsequent Closing Date, as applicable.

“Commission” means the United States Securities and Exchange Commission.

“Common Stock” means the Class A 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 its 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.

“Common Warrants” means, collectively, the Class 1 Warrants and Class 2 Warrants, with half of the Common Warrants for the Purchaser being Class 1 Warrants and the other half of the Common Warrants for the Purchaser being Class 2 Warrants.

“Company Counsel” means Wilson Sonsini Goodrich & Rosati, P.C.

“Disclosure Schedules” means the Disclosure Schedules of the Company delivered concurrently herewith.

“Exchange Act” means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

“Exempt Issuance” means (i) the issuance of securities to directors, officers, employees and consultants of the Company pursuant to employee benefit plans, equity incentive plans or other employee compensation plans or other arrangements approved by the Board of Directors or the Compensation Committee thereof, (ii) the issuance of securities upon the exercise or exchange of or conversion of any Securities issued hereunder and/or the issuance of securities pursuant to the exercise, exchange or conversion of any options, warrants, restricted stock units, rights or convertible or exchangeable securities outstanding on the date hereof, provided that such options, warrants, restricted stock units, rights or convertible or exchangeable 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 or to extend the term of such securities, (iii) securities issued in connection with any joint venture, commercial or collaborative relationship, or the acquisition or license by the Company of the securities, businesses, property or other assets of another person, provided that such issuance is approved by the majority of the disinterested directors of the Company and provided such securities are issued as “restricted securities” (as defined in Rule 144) and carry no registration rights that require or permit the filing of any registration statement during the 120 day period following the Initial Closing Date and provided that any such issuance shall only be to a Person (or to the equityholders 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, (iv) securities issued pursuant to acquisitions or strategic transactions approved by a majority of the disinterested directors of the Company, provided that any such securities are issued as “restricted securities” (as defined in Rule 144) and carry no registration rights that require or permit the filing of any registration statement during the 120 day period following the Initial Closing Date and provided that any such issuance shall only be to a Person (or to the equityholders 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, (v) shares of Common Stock to consultants or vendors of the Company, provided that such securities are issued as “restricted securities” (as defined in Rule 144) and carry no registration rights that require or permit the filing of any registration statement in connection therewith during the 120 day period following the Initial Closing Date (unless issued under the Company’s share or option plan whose issuances are registered under Form S-8), (vi) issuances of shares of Common Stock in compliance with the terms of agreements or instruments outstanding as of the date hereof, 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 splits or combinations) or to extend the term of such securities, (vii) issuances of shares of Common Stock upon the exercise or exchange of rights issued pursuant to any shareholder rights agreement entered into between the Company and Transfer Agent, (viii) the issuance of securities pursuant to an “at the market” offering, as defined in Rule 415 under the Securities Act, pursuant to an agreement executed on or after June 30, 2024, at negotiated prices, at prices prevailing at the time of sale or at prices related to such prevailing market prices, including sales made directly on a national securities exchange or sales made through a market maker other than on an exchange or other similar offerings through sales agents, (ix) the issuance of securities in the Concurrent Placement, and (x) the issuance of securities upon the exercise or exchange of or conversion of any securities issued in the Concurrent Placement.

“Lock-Up Agreements” means the lock-up agreements in substantially the form of Exhibit A.

“Material Adverse Effect” shall have the meaning assigned to such term in Section 3.1(a).

“Per Unit Purchase Price” equals \$0.8670, subject to adjustment for reverse and forward stock splits, stock dividends, stock combinations and other similar transactions of the Common Stock that occur between the date of this Agreement and the applicable Closing Date.

“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), pending or, to the Company’s knowledge, threatened in writing against the Company.

“Prospectus Supplement” means the prospectus supplement filed pursuant to the Registration Statement relating to the offering of Securities pursuant to this Agreement, including the base prospectus included in the Registration Statement at the time it was declared effective and all information, documents and exhibits filed with or incorporated by reference into such final prospectus supplement.

“Purchaser Party” shall have the meaning ascribed to such term in Section 4.5.

“Registration Statement” means the effective registration statement filed with the Commission on February 14, 2024 (File No. 333-271361), including all information, documents and exhibits filed with or incorporated by reference into such registration statement, which registers the sale of the Shares, the Warrants and the Warrant Shares to the Purchaser.

“Restraint” means any statute (including the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended), rule, regulation, executive order, decree, ruling or injunction enacted, entered, promulgated or endorsed by any court or other Governmental Authority of competent jurisdiction.

“Rule 144” means Rule 144 promulgated by the Commission 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 Commission having substantially the same purpose and effect as such Rule.

“Rule 424” means Rule 424 promulgated by the Commission 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 Commission having substantially the same purpose and effect as such Rule.

“Securities” means the Shares, the Warrants and the Warrant Shares.

“Shares” means the shares of Common Stock issued or issuable to the Purchaser pursuant to this Agreement.

“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 locating and/or borrowing shares of Common Stock).

“Subscription Amount” means, as to the Purchaser, the aggregate amount to be paid for Shares and Common Warrants purchased hereunder (which amount is exclusive of the exercise price payable upon the exercise of Common Warrants for Warrant Shares) as specified below the Purchaser’s name on the signature page of this Agreement and next to the heading “Subscription Amount,” in United States dollars and in immediately available funds.

“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 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).

“Transaction Documents” means this Agreement, the Warrants, the Lock-Up Agreements, the Voting Support Agreement, all exhibits and schedules thereto and hereto and any other documents or agreements executed in connection with the transactions contemplated hereunder.

“Transfer Agent” means Equiniti Trust Company.

“Warrants” means the Common Warrants.

“Warrant Shares” means the shares of Common Stock issuable upon exercise of the Warrants.

ARTICLE II. PURCHASE AND SALE

2.1 Closing.

(a) The purchase, sale and issuance of the Shares and the Common Warrants pursuant to this Agreement shall take place at two closings, each of which is referred to in this Agreement as a closing (each, a “Closing”). The initial Closing (the “Initial Closing”) shall be held two (2) Trading Days after the date hereof, subject to the satisfaction or waiver of all applicable conditions set forth in Section 2.3 (the “Initial Closing Date”). At the Initial Closing, subject to the satisfaction of the conditions and limitations otherwise set forth herein, the Company shall issue and deliver, and the Purchaser shall purchase, the full amount of the Shares and the Common Warrants set forth on Schedule 1 hereto; provided that the Purchaser’s subscription at the Initial Closing shall be equal to the maximum amount allowable under the Listed Company Manual of the New York Stock Exchange (including Section 312.03 any other relevant limiting provision thereof) (together, the “LCM”) prior to obtaining Stockholder Approval, taking into account the concurrent closings occurring pursuant to the Concurrent Placement Agreement; provided further that the amounts listed on Schedule 1 hereto under the heading “Initial Closing” shall be adjusted to the extent that the amounts listed on Schedule 1 under the heading “Initial Closing” exceed the maximum amount allowable under the LCM and, in such case, any excess amounts removed from Schedule 1 under the heading “Initial Closing” shall be added to Schedule 1 under the heading “Subsequent Closing”. The Purchaser shall purchase the full amount of the Shares and Common Warrants set forth on Schedule 1 hereto not otherwise purchased at the Initial Closing promptly after the Company obtains Stockholder

Approval at a subsequent Closing (the “Subsequent Closing”). The sale and issuance in the Subsequent Closing shall be held two (2) Trading Days after receipt of the Stockholder Approval, subject to the satisfaction or waiver of all applicable conditions set forth in Section 2.3 (the “Subsequent Closing Date”).

(b) On each Closing Date, upon the terms and subject to the conditions set forth herein, including under Section 2.1(a), the Company agrees to sell, and the Purchaser agrees to purchase, at the Per Unit Purchase Price (i) the number of Shares set forth under the heading “Initial Closing” or “Subsequent Closing” on Schedule 1 hereto, as applicable, at the Per Unit Purchase Price and (ii) Common Warrants exercisable for shares of Common Stock as calculated pursuant to Section 2.2(a) and as set forth on Schedule 1 hereto. The Company and the Purchaser shall deliver the other items set forth in Section 2.2 deliverable at a Closing. Upon satisfaction of the covenants and conditions set forth in Sections 2.2 and 2.3, a Closing shall occur remotely or at such location as the parties shall mutually agree. Unless otherwise agreed by the Company and the Purchaser, on each Closing Date, the Company shall issue the Shares registered in the Purchaser’s name and address and released by the Transfer Agent directly to the account(s) identified by the Purchaser.

2.2 Deliveries.

(a) On or prior to the Initial 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) a legal opinion of Company Counsel substantially in the form delivered under the Concurrent Placement Agreement;

(iii) the Company shall have provided the Purchaser with the Company’s wire instructions, on Company letterhead and executed by the Chief Executive Officer or Chief Financial Officer;

(iv) subject to Section 2.1, a copy of the irrevocable instructions to the Transfer Agent instructing the Transfer Agent to deliver on an expedited basis via The Depository Trust Company Deposit or Withdrawal at Custodian system (“DWAC”) Shares equal to the Purchaser’s Subscription Amount paid at the Initial Closing divided by the Per Unit Purchase Price, registered in the name of the Purchaser;

(v) a Class 1 Warrant registered in the name of the Purchaser to purchase up to a number of shares of Common Stock equal to 50% of the Purchaser’s Shares purchased at the Initial Closing, rounded down to the nearest whole share, as set forth on Schedule 1 hereto, with an exercise price equal to \$1.0200, subject to adjustment therein;

(vi) a Class 2 Warrant registered in the name of the Purchaser to purchase up to a number of shares of Common Stock equal to 50% of the Purchaser’s Shares purchased at the Initial Closing, rounded down to the nearest whole share, as set forth on Schedule 1 hereto, with an exercise price equal to \$1.0200, subject to adjustment therein;

(vii) the Prospectus Supplement (which may be delivered in accordance with Rule 172 under the Securities Act);

(viii) an Officer’s Certificate substantially in the form delivered under the Concurrent Placement Agreement;

(ix) a Secretary’s Certificate substantially in the form delivered under the Concurrent Placement Agreement; and

(x) the Lock-Up Agreements duly executed by each executive officer and director of the Company.

- (b) On or prior to the Initial Closing Date, the Purchaser shall deliver or cause to be delivered to the Company the following:
- (i) this Agreement duly executed by the Purchaser; and
 - (ii) the Purchaser's Subscription Amount in respect of the Securities to be purchased by the Purchaser at the Initial Closing.
- (c) On or prior to the Subsequent Closing Date, the Company shall deliver or cause to be delivered to the Purchaser purchasing in such Subsequent Closing the following:
- (i) subject to Section 2.1, a copy of the irrevocable instructions to the Transfer Agent instructing the Transfer Agent to deliver on an expedited basis via DWAC Shares equal to the Purchaser's Subscription Amount paid at such Subsequent Closing divided by the Per Unit Purchase Price, registered in the name of the Purchaser;
 - (ii) a bringdown letter reasonably satisfactory to the Purchaser relating to the legal opinion of Company Counsel issued in connection with the Initial Closing;
 - (iii) a bringdown Officer Certificate reasonably satisfactory to the Purchaser;
 - (iv) a Class 1 Warrant registered in the name of the Purchaser to purchase up to a number of shares of Common Stock equal to 50% of the Purchaser's Shares purchased at such Subsequent Closing, rounded down to the nearest whole share, as set forth on Schedule 1 hereto, with an exercise price equal to \$1.0200, subject to adjustment therein; and
 - (v) a Class 2 Warrant registered in the name of the Purchaser to purchase up to a number of shares of Common Stock equal to 50% of the Purchaser's Shares purchased at such Subsequent Closing, rounded down to the nearest whole share, as set forth on Schedule 1 hereto, with an exercise price equal to \$1.0200, subject to adjustment therein.
- (d) On or prior to the Subsequent Closing Date, the Purchaser shall deliver or cause to be delivered to the Company the Purchaser's Subscription Amount in respect of the Securities to be purchased by the Purchaser at the Subsequent Closing.

2.3 Closing Conditions.

- (a) The obligations of the Company hereunder in connection with the applicable 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, in all respects) when made and on such Closing Date of the representations and warranties of the Purchaser contained herein (unless made as of a specific date therein in which case they shall be accurate in all material respects (or, to the extent representations or warranties are qualified by materiality, in all respects) as of such date);
 - (ii) all obligations, covenants and agreements of the Purchaser required to be performed at or prior to such Closing Date shall have been performed in all material respects;
 - (iii) the delivery by the Purchaser of the items set forth in Section 2.2(b) or Section 2.2(d), as applicable, of this Agreement;
 - (iv) no Restraint shall be in effect which prohibits the consummation of any of the transactions contemplated by the Transaction Documents; and

- (v) as to the Subsequent Closing, the Stockholder Approval shall have been obtained and become effective.
- (b) The respective obligations of the Purchaser in connection with the applicable 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) when made and on such Closing Date of the representations and warranties of the Company contained herein (unless made as of a specific date therein in which case they shall be accurate in all material respects (or, to the extent representations or warranties are qualified by materiality or Material Adverse Effect, in all respects) as of such date);
- (ii) all obligations, covenants and agreements of the Company required to be performed at or prior to such Closing Date shall have been performed;
- (iii) the delivery by the Company of the items set forth in Section 2.2(a) or Section 2.2(c), as applicable, of this Agreement;
- (iv) as to the Initial Closing, the Closing (as defined under the Concurrent Placement Agreement) shall be occurring simultaneously with the Initial Closing hereunder on terms consistent in all material respects with the terms set forth in the Concurrent Placement Agreement upon its execution on the date of this Agreement;
- (v) there shall have been no Material Adverse Effect with respect to the Company since the date hereof;
- (vi) from the date hereof to each applicable Closing Date, trading in the Common Stock shall not have been suspended by the Commission or the Company's principal Trading Market, and, at any time prior to a 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 a Closing;
- (vii) no Restraint shall be in effect which prohibits the consummation of any of the transactions contemplated by the Transaction Documents; and
- (viii) as to the Subsequent Closing, the Stockholder Approval shall have been obtained and become effective.

ARTICLE III. REPRESENTATIONS AND WARRANTIES

3.1 Representations and Warranties of the Company. Except as set forth in the Disclosure Schedules, which Disclosure Schedules shall be deemed a part hereof and shall qualify any representation or otherwise made herein to the extent of the disclosure contained in the corresponding section of the Disclosure Schedules, the Company hereby makes the following representations and warranties to the Purchaser:

- (a) Organization and Good Standing. Each of the subsidiaries of the Company are set forth on Schedule 3.1(a), and the Company owns, directly or indirectly, all of the capital stock or other equity interests of each such subsidiary, free and clear of any liens or encumbrances, and all of the issued and

outstanding shares of capital stock of each such subsidiary are validly issued and are fully paid, non-assessable and free of preemptive and similar rights to subscribe for or purchase securities. Each of the Company and its subsidiaries has been duly incorporated or organized, as applicable, is validly existing and is in good standing (to the extent the concept of good standing is applicable in such jurisdiction) under the laws of its jurisdiction of incorporation or organization. Each of the Company and its subsidiaries has the requisite power and authority to own its properties and conduct its business as currently being carried on and as described in the Registration Statement and the Prospectus Supplement, and is duly qualified to do business as a foreign corporation or other entity in good standing in each jurisdiction in which the conduct of its business or ownership of property makes such qualification necessary, except where the failure to so qualify would not have or be reasonably expected to result in (a) a material adverse effect upon the business, properties, operations, financial condition or results of operations of the Company and its subsidiaries, taken as a whole, or (b) a material adverse effect on the Company's ability to perform in any material respect on a timely basis its obligations under the Transaction Documents ("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.

(b) No Violations or Defaults. Except as set forth on Schedule 3.1(b), neither the Company nor any of its subsidiaries (A) is in violation of its charters, bylaws or other organizational documents, (B) is in breach of or otherwise in default and no event has occurred which, with notice or lapse of time or both, would constitute such a default, in the performance or observance of any term, covenant or condition contained in any contract, indenture, mortgage, deed of trust, loan agreement, lease or other agreement or instrument to which it is a party or by which it is bound or to which any of its material property or assets is subject, or (C) is in violation in any respect of any law, ordinance, governmental rule, regulation or court order, decree or judgment to which it or its property or assets may be subject, including the Sarbanes-Oxley Act and the Exchange Act; except, in the case of clauses (B) and (C) of this paragraph (b), for any breaches, violations or defaults which, singularly or in the aggregate, would not reasonably be expected to have a Material Adverse Effect.

(c) Authorization; No Conflicts; Authority. This Agreement has been duly authorized, executed and delivered by the Company. The Warrants have been duly authorized, and when executed and delivered by the Company, shall constitute a valid, legal and binding obligation of the Company, enforceable in accordance with their terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization or similar laws affecting the rights of creditors generally and subject to general principles of equity. The execution, delivery and performance of the Transaction Documents and the consummation of the transactions herein and therein contemplated will not (A) conflict with or result in a breach or violation of any of the terms or provisions of, or constitute a default under, or result in the creation or imposition of any lien, charge or encumbrance upon any property or assets of the Company or any of its subsidiaries pursuant to any indenture, mortgage, deed of trust, loan agreement or other agreement or instrument to which the Company or any of its subsidiaries is a party or by which the Company or any of its subsidiaries is bound or to which any of the property or assets of the Company or any of its subsidiaries is subject and which is material to the Company and its subsidiaries taken as a whole, (B) result in any violation of the provisions of the Company's charter or by-laws or (C) result in the violation of any law or statute or any judgment, order, rule, regulation or decree of any court or arbitrator or federal, state, local or foreign governmental agency or regulatory authority having jurisdiction over the Company or any of its subsidiaries or any of their properties or assets (each, a "Governmental Authority"), except in the case of clause (A) or (C) as would not result in a Material Adverse Effect. No consent, approval, authorization or order of, or registration or filing with any Governmental Authority is required for the execution, delivery and performance of this Agreement or for the consummation of the transactions contemplated hereby, including the issuance or sale of the Securities by the Company, except for the Stockholder Approval (solely with respect to the alternative cashless exercise option in the Class 2 Warrants and certain of the Securities issuable hereunder) and such as may be required under the Act, the rules of the Financial Industry Regulatory Authority ("FINRA") or state securities or blue sky laws; and the Company has full power and authority to enter into the Transaction Documents and to consummate the transactions contemplated hereby and thereby, including the authorization, issuance and sale of the Securities as contemplated by this Agreement.

(d) Issuance of the Securities; Registration. The 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 Warrant Shares are duly authorized and, when issued in accordance with the terms of the Warrants, will be validly issued, fully paid and nonassessable, free and clear of all Liens imposed by the Company.

The Company has reserved from its duly authorized capital stock the maximum number of shares of Common Stock issuable pursuant to this Agreement and the Warrants. The Company has prepared and filed the Registration Statement in conformity with the requirements of the Securities Act, which Registration Statement became effective on February 14, 2024, including the related base prospectus, and such amendments and supplements thereto as may have been required to the date of this Agreement. The Company is eligible to sell the Securities under Instruction I.B.1 of Form S-3. The Registration Statement is effective under the Securities Act and no stop order preventing or suspending the effectiveness of the Registration Statement or suspending or preventing the use of the Prospectus Supplement or the Prospectus Supplement has been issued by the Commission and no proceedings for that purpose have been instituted or, to the knowledge of the Company, are threatened by the Commission. The Company, if required by the rules and regulations of the Commission, shall file the Prospectus Supplement with the Commission pursuant to Rule 424(b). At the time the Registration Statement and any amendments thereto became effective, at the date of this Agreement and at each Closing Date, the Registration Statement and any amendments thereto conformed and will conform in all material respects to the requirements of the Securities Act and did not and will not 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 not misleading; and the Prospectus Supplement and any amendments or supplements thereto, at the time the Prospectus Supplement or any amendment or supplement thereto was issued and at each Closing Date, conformed and will conform in all material respects to the requirements of the Securities Act and did not and will not contain 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.

(e) Capitalization. The capitalization of the Company as of the date hereof is as set forth on Schedule 3.1(e). All of the issued and outstanding shares of capital stock of the Company, including the outstanding shares of Common Stock, are duly authorized and validly issued, fully paid and nonassessable, have been issued in compliance with all federal and state securities laws, were not issued in violation of or subject to any preemptive rights or other rights to subscribe for or purchase securities that have not been waived in writing, and the holders thereof are not subject to personal liability by reason of being such holders; the capital stock of the Company, including the Common Stock and the Warrants, conforms in all material respects to the description thereof in the Registration Statement and the Prospectus Supplement. Except as set forth on Schedule 3.1(e) and except for the Concurrent Placement, (A) there are no preemptive rights or other rights to subscribe for or to purchase, or any restriction upon the voting or transfer of, any shares of Common Stock pursuant to the Company's charter, by-laws or any agreement or other instrument to which the Company or any of its subsidiaries is a party or by which the Company or any of its subsidiaries is bound; and (B) neither the filing of the Registration Statement nor the offering or sale of the Securities as contemplated by this Agreement gives rise to any rights for or relating to the registration of any shares of Common Stock or other securities of the Company (collectively "Registration Rights"), except as have been validly waived or complied with in connection with the sale of Securities as contemplated by this Agreement. Except as a result of the purchase and sale of the Securities and as set forth in the SEC Reports, 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 capital stock of any subsidiary of the Company, or contracts, commitments, understandings or arrangements by which the Company or any of its subsidiaries is or may become bound to issue additional shares of Common Stock, Common Stock Equivalents or capital stock of any such 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). There are no outstanding securities or instruments of the Company or any Subsidiary with any provision that adjusts the exercise, conversion, exchange or reset price of such security or instrument upon an issuance of securities by the Company or any of its subsidiaries. There are no outstanding securities or instruments of the Company or any of its subsidiaries that contain any redemption or similar provisions, and there are no contracts, commitments,

understandings or arrangements by which the Company or any subsidiary of the Company 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. Except for the Stockholder Approval (solely with respect to the alternative cashless exercise option in the Class 2 Warrants and certain of the Securities issuable hereunder), no further approval or authorization of any stockholder, the Board of Directors or others is required for the issuance and sale of the Securities. Except as set forth in the SEC Reports (as defined below) and the Voting Support Agreement, 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.

(f) SEC Reports. 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, for the one year preceding the date hereof (or such shorter period as the Company was required by law or regulation to file such material) (the foregoing materials, including the exhibits thereto and documents incorporated by reference therein, together with the Prospectus Supplement, being collectively referred to herein as the “SEC Reports”) on a timely basis or has received a valid extension of such time of filing and has filed any such SEC Reports prior to the expiration of any such extension. Since January 1, 2022, as of their respective dates, the SEC Reports comply in all material respects with the requirements of the Securities Act and the Exchange Act, as applicable, and the SEC Reports, taken as a whole, as of the date hereof, do not contain 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 complied in all material respects with applicable accounting requirements and the rules and regulations of the Commission 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.

(g) Absence of Certain Events; Undisclosed Events, Liabilities or Developments. Except as set forth on Schedule 3.1(g), since the date of the latest financial statements filed by the Company with the SEC, the Company has not (i) incurred any material liabilities, direct or contingent, other than trade payables and accrued expenses incurred in the ordinary course of business consistent with past practices and liabilities not required to be reflected in the Company’s financial statements pursuant to generally accepted accounting principles or disclosed in filings made with the SEC, (ii) declared or paid any dividends or made any distribution of any kind with respect to its capital stock, (iii) had any change in the capital stock of the Company (other than a change in the number of outstanding shares of Common Stock due to the issuance of shares upon the exercise of outstanding options or warrants, the issuance of Common Stock in accordance with exchanges made under the Company’s Amended & Restated Exchange Agreement dated May 3, 2022, settlement of restricted stock units or conversion of convertible securities), or (iv) other than pursuant to the Concurrent Placement, had any issuance of options, warrants, restricted stock units, convertible securities or other rights to purchase the capital stock of the Company or any of its subsidiaries. Except for (i) the issuance of the Securities contemplated by this Agreement and the issuance of the securities in the Concurrent Placement, or (ii) as set forth on Schedule 3.1(g), 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, 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.

(h) Absence of Proceedings. Except as set forth on Schedule 3.1(h), there is not pending or, to the knowledge of the Company, threatened, any action, suit or proceeding (a) to which the Company or any of its subsidiaries is a party or (b) which has as the subject thereof any officer or director of the Company or

any subsidiary, any employee benefit plan sponsored by the Company or any subsidiary or any property or assets owned or leased by the Company or any subsidiary before or by any court or Governmental Authority, or any arbitrator (collectively, an “Action”), which, individually or in the aggregate, would reasonably be expected to result in any Material Adverse Effect, or would materially and adversely affect the ability of the Company to perform its obligations under the Transaction Documents. There are no current or, to the knowledge of the Company, pending, legal, governmental or regulatory actions, suits or proceedings (x) to which the Company or any of its subsidiaries is subject or (y) which has as the subject thereof any officer or director of the Company or any subsidiary, any employee plan sponsored by the Company or any subsidiary or any property or assets owned or leased by the Company or any subsidiary, that are required to be described in the Registration Statement and the Prospectus Supplement by the Securities Act or by the Rules and Regulations and that have not been so described in all material respects.

(i) Labor Relations. No material labor dispute with the employees of the Company or any of its subsidiaries exists or, to the Company’s knowledge, is threatened or imminent, and the Company is not aware of any existing or imminent labor disturbance by the employees of any of its or its subsidiaries’ principal suppliers, contractors or customers, that would reasonably be expected to have a Material Adverse Effect.

(j) Regulatory Permits. The Company and its subsidiaries possess or own all licenses, certificates, permits and other authorizations (collectively, “Permits”) issued by, and have made all declarations and filings with, the applicable federal, state, local or foreign governmental or regulatory authorities that are necessary for the current ownership or lease of its properties or the conduct of its businesses as described in the Registration Statement, except where the failure to possess such Permits would not reasonably be expected to result in a Material Adverse Effect; the Company and its subsidiaries are not in violation of, or in default under, any such Permit, except where such violation would not reasonably be expected to result in a Material Adverse Effect; and the Company and its subsidiaries have not received written notice of any revocation or modification of any such Permit and do not have any reason to believe that any such Permit will not be renewed in the ordinary course, except in each case as would not reasonably be expected to result in a Material Adverse Effect.

(k) Compliance with Environmental Laws. Except as disclosed in the Prospectus Supplement or that would not result in a Material Adverse Effect, neither the Company nor any of its subsidiaries is (i) in violation of any statute, any rule, regulation, decision or order of any Governmental Authority or any court, domestic or foreign, relating to the use, disposal or release of hazardous or toxic substances or relating to the protection or restoration of the environment or human exposure to hazardous or toxic substances (collectively, “Environmental Laws”), (ii) owns or operates any real property contaminated with any substance that is subject to any Environmental Laws, (iii) is liable for any off-site disposal or contamination pursuant to any Environmental Laws, or (iv) is subject to any claim relating to any Environmental Laws.

(l) Ownership of Assets. The Company and its subsidiaries have good and marketable title to all property (whether real or personal) described in the Registration Statement and the Prospectus Supplement as being owned by them which is material to the Company and its subsidiaries taken as a whole, in each case free and clear of all liens, claims, security interests, other encumbrances or defects except such as are described in the Registration Statement and the Prospectus Supplement or as would not, individually or in the aggregate, be reasonably expected to result in a Material Adverse Effect. The property held under lease by the Company and its subsidiaries is held by them under valid, subsisting and enforceable leases with only such exceptions with respect to any particular lease as do not interfere in any material respect with the conduct of the business of the Company or its subsidiaries.

(m) Intellectual Property. The Company and each of its subsidiaries owns, possesses, or can acquire on reasonable terms, all Intellectual Property (as defined below) necessary for the conduct of the Company’s and its subsidiaries’ business as now conducted or as described in the Registration Statement and the Prospectus Supplement to be conducted, except as such failure to own, possess, or acquire such rights would not reasonably be expected to result in a Material Adverse Effect. Furthermore, except as described in the Registration Statement and the Prospectus Supplement, (A) to the knowledge of the Company, there is no infringement, misappropriation or violation by third parties of any such Intellectual Property, except

as such infringement, misappropriation or violation would not result in a Material Adverse Effect; (B) there is no pending or, to the knowledge of the Company, threatened, action, suit, proceeding or claim by others challenging the Company's or any of its subsidiaries' rights in or to any such Intellectual Property, and the Company is unaware of any material objective facts which would form a reasonable basis for any such claim, except as such action, suit, proceeding or claim would not reasonably be expected to result in a Material Adverse Effect; (C) the Intellectual Property owned by the Company and its subsidiaries, and to the knowledge of the Company, the Intellectual Property licensed to the Company and its subsidiaries, has not been adjudged invalid or unenforceable, in whole or in part, except as such adjudgment would not result in a Material Adverse Effect, and there is no pending or, to the knowledge of the Company, threatened action, suit, proceeding or claim by others challenging the validity or scope of any such Intellectual Property, except as such action, suit, proceeding or claim would not reasonably be expected to result in a Material Adverse Effect; (D) there is no pending or, to the knowledge of the Company, threatened action, suit, proceeding or claim by others that the Company or any of its subsidiaries infringes, misappropriates or otherwise violates any Intellectual Property or other proprietary rights of others, and neither the Company or any of its subsidiaries has received any written notice of such claim, except as such action, suit, proceeding or claim would not reasonably be expected to result in a Material Adverse Effect; and (E) to the Company's knowledge, no employee of the Company or any of its subsidiaries is in or has ever been in violation 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 any of its subsidiaries or actions undertaken by the employee while employed with the Company or any of its subsidiaries, except as such violation would not result in a Material Adverse Effect. "Intellectual Property" shall mean all patents, patent applications, trademarks, trademark registrations, service marks, service mark registrations, trade names, copyrights, copyright registrations, licenses, inventions, trade secrets, Internet domain names, Internet domain name registrations, technology, registrations, trade secret rights, know-how and other intellectual property.

(n) Insurance. Except as would not have a Material Adverse Effect, the Company and each of its subsidiaries carries, or is covered by, insurance from insurers of recognized financial responsibility in such amounts and covering such risks as is customary for companies engaged in similar businesses in similar industries; all policies of insurance and any fidelity or surety bonds insuring the Company or any of its subsidiaries or its business, assets, employees, officers and directors are in full force and effect, except as would not have a Material Adverse Effect; the Company and its subsidiaries are in compliance with the terms of such policies and instruments in all material respects; and neither the Company nor any of its subsidiaries has reason to believe that it 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 have a Material Adverse Effect.

(o) Internal Accounting Controls. The Company and its subsidiaries maintain a system of internal accounting controls in compliance with the Sarbanes-Oxley Act of 2002. Since the end of the latest audited fiscal year, except as disclosed in the SEC Reports, there has been no change in the Company's internal control over financial reporting (whether or not remediated) that has materially affected, or is reasonably likely to materially affect, the Company's internal control over financial reporting. The Company's board of directors has, subject to the exceptions, cure periods and the phase in periods specified in the applicable stock exchange rules ("Exchange Rules"), validly appointed an audit committee to oversee internal accounting controls whose composition satisfies the applicable requirements of the Exchange Rules and the Company's board of directors and/or the audit committee has adopted a charter that satisfies the requirements of the Exchange Rules.

(p) Certain Fees. Except as set forth in the Prospectus Supplement, 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 (for the avoidance of doubt, except for such placement agent fees as may be payable in connection with the Concurrent Placement). Other than for Persons engaged by the Purchaser, if any, 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 that may be due in connection with the transactions contemplated by the Transaction Documents.

(q) Investment Company. The Company is not, and immediately after receipt of payment for the Securities, will not be, required to register as an “investment company” within the meaning of the Investment Company Act of 1940, as amended.

(r) 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 Commission is contemplating terminating such registration. Except as set forth in SEC Reports, 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 compliance with all such listing and maintenance requirements. The Common Stock is currently eligible for electronic transfer through the Depository Trust Company or another established clearing corporation and the Company is current in payment of the fees to the Depository Trust Company (or such other established clearing corporation) in connection with such electronic transfer.

(s) Tax Status. The Company and its subsidiaries (A) have timely filed all federal, state, local and foreign income and franchise tax returns required to be filed and (B) are not in default in the payment of any taxes which were payable pursuant to said returns or any assessments with respect thereto, other than any which the Company or any of its subsidiaries is contesting in good faith; except those, in each of the cases described in clauses (A) and (B) of this paragraph (x), that would not, singularly or in the aggregate, reasonably be expected to have a Material Adverse Effect. There is no pending material dispute with any taxing authority relating to any of such returns, and the Company has no knowledge of any proposed material liability for any tax to be imposed upon the properties or assets of the Company for which there is not an adequate reserve reflected in the Company’s financial statements included in the Registration Statement and the Prospectus Supplement.

(t) Acknowledgment Regarding Purchaser’s 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 the Purchaser 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 thereby and any advice given by the Purchaser or any of its respective 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.

(u) Anti-Bribery Laws. Each of the Company and its subsidiaries and, to the Company’s knowledge, its affiliates and any of their respective officers, directors, or employees, each in their respective roles with the Company, has not violated, and the Company has instituted and maintains policies and procedures designed to ensure continued compliance in all material respects with, each of the following laws: applicable anti-bribery laws, including but not limited to any applicable law, rule, or regulation promulgated to implement the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, signed December 17, 1997, including the U.S. Foreign Corrupt Practices Act of 1977 (the “FCPA”), as amended, the U.K. Bribery Act 2010 (to the extent applicable), or any other applicable law, rule or regulation of similar purposes and scope.

(v) Acknowledgment Regarding Purchaser’s Trading Activity. Anything in this Agreement or elsewhere herein to the contrary notwithstanding (except for Sections 3.2(f) and 4.10 hereof), it is understood and acknowledged by the Company that: (i) the Purchaser has not 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, if any, 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) 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) would reduce the value of the existing stockholders' 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, if otherwise conducted in compliance with Sections 3.2(f) and 4.10 hereof, do not constitute a breach of any of the Transaction Documents.

(w) 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 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, other than, in the case of clauses (ii) and (iii), compensation paid to the Company's placement agent in connection with the Concurrent Placement.

(x) Cybersecurity. Except as would not, individually or in the aggregate, have a Material Adverse Effect, (i) the Company and the Subsidiaries are presently in compliance with all applicable laws or statutes and all judgments, orders, rules and regulations of any court or arbitrator or governmental or regulatory authority, internal policies and contractual obligations relating to the privacy and security of the Company's or any Subsidiary's information technology and computer systems, networks, hardware, software, data (including the data of its respective customers, employees, suppliers, vendors and any third party data maintained by or on behalf of it), equipment or technology (collectively, "IT Systems and Data") and to the protection of such IT Systems and Data from unauthorized use, access, misappropriation or modification, (ii) the Company and the Subsidiaries have implemented and maintained commercially reasonable safeguards to maintain and protect its material confidential information and the integrity, continuous operation, redundancy and security of all IT Systems and Data, and (iii) the Company and the Subsidiaries have implemented backup and disaster recovery technology consistent with commercially reasonable industry standards and practices.

(y) Stock Option Plans. Except as described in the Registration Statement and the Prospectus Supplement, since September 30, 2023, there are no options, warrants, restricted stock units, agreements, contracts or other rights in existence to purchase or acquire from the Company or any subsidiary of the Company any shares of the capital stock of the Company or any subsidiary of the Company.

(z) 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").

(aa) Anti-Money Laundering Laws. The operations of the Company and its subsidiaries are and have been conducted in compliance with applicable anti-money laundering laws, including, but not limited to, the Bank Secrecy Act of 1970, as amended by the USA PATRIOT ACT of 2001, and the rules and regulations promulgated thereunder, and the anti-money laundering laws of the various jurisdictions in which the Company and its subsidiaries conduct business.

(bb) 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 certificate of incorporation (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.

3.2 Representations and Warranties of the Purchaser. The Purchaser hereby represents and warrants as of the date hereof and as of the applicable Closing Date to the Company as follows (unless as of a specific date therein, in which case they shall be accurate as of such date):

(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 the Transaction Documents and otherwise to carry out its obligations hereunder and thereunder. The execution and delivery of the Transaction Documents and performance by the Purchaser of the transactions contemplated by the Transaction Documents 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 pursuant to the Registration Statement or otherwise 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 is acquiring such Securities as principal for his, her or 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 pursuant to a registration statement or otherwise in compliance with applicable federal and state securities laws).

(c) Purchaser Status. At the time the Purchaser was offered the Securities, it was, and as of the date hereof it is, and on each date on which it exercises any Warrants, it will be (1) either: (i) an "accredited investor" as defined in Rule 501(a)(1), (a)(2), (a)(3), (a)(7),(a)(8), (a)(9), (a)(12) or (a)(13) under the Securities Act, or (ii) a "qualified institutional buyer" as defined in Rule 144A(a) under the Securities Act; and (2) an "institutional account" as defined in FINRA Rule 4512(c).

(d) 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.

(e) Access to Information. The Purchaser acknowledges that it has had the opportunity to review the Transaction Documents (including all exhibits and schedules thereto), the SEC Reports, the Registration Statement and the Prospectus Supplement and has been afforded, (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.

(f) 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. 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 the avoidance of doubt, nothing contained herein shall constitute a representation or warranty, or preclude any actions, with respect to locating or borrowing shares in order to effect Short Sales or similar transactions in the future.

(g) General Solicitation. The Purchaser is not purchasing the Securities as a result of any advertisement, article, notice or other communication regarding the Securities published in any newspaper, magazine or similar media or broadcast over television or radio or presented at any seminar or, to the knowledge of the Purchaser, any other general solicitation or general advertisement.

(h) Independent Advice. The Purchaser understands that nothing in this Agreement or any other materials presented by or on behalf of the Company to the Purchaser in connection with the purchase of the Securities constitutes legal, tax or investment advice. The Purchaser has consulted such legal, tax and investment advisors as it, in its sole discretion, has deemed necessary or appropriate in connection with its purchase of the Securities.

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 transactions contemplated hereby. Notwithstanding the foregoing, for the avoidance of doubt, nothing contained herein shall constitute a representation or warranty, or preclude any actions, except as set forth in this Agreement, with respect to locating or borrowing shares in order to effect Short Sales or similar transactions in the future.

ARTICLE IV. OTHER AGREEMENTS OF THE PARTIES

4.1 Legends. The Shares and the Warrants shall be issued free of legends.

4.2 Integration. Other than the Concurrent Placement, 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 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, other than the Stockholder Approval.

4.3 Securities Laws Disclosure; Publicity. The Company shall file a Current Report on Form 8-K, including the Transaction Documents as exhibits thereto, with the Commission within the time required by the Exchange Act.

4.4 Use of Proceeds. The Company shall use the net proceeds from the sale of the Securities hereunder for working capital and other general corporate purposes but shall not use such proceeds: (a) for the redemption of any Common Stock or Common Stock Equivalents or (b) in violation of FCPA or OFAC regulations.

4.5 Indemnification of the Purchaser. Subject to the provisions of this Section 4.5, the Company will indemnify and hold the Purchaser and its directors, officers, employees and Affiliates (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 and documented out-of-pocket attorneys’ fees and costs of investigation that any such Purchaser Party may suffer or incur as a result of or relating to (a) any material breach of any of the representations, warranties, covenants or agreements made by the Company in this Agreement or in the other Transaction Documents or (b) any action instituted against the Purchaser Parties in any capacity, or any of them or their respective Affiliates, by any stockholder 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 material 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 stockholder or any violations by such Purchaser Party of state or federal securities laws or any conduct by a Purchaser Party which is finally judicially determined to constitute fraud, gross negligence or willful misconduct). If any action shall be brought against any 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 (x) the employment thereof has been specifically authorized by the Company in writing, (y) the Company has failed after a reasonable period of time to assume such defense and to employ counsel or (z) in such action there is, in the reasonable opinion of counsel, 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. The Company will not be liable to any Purchaser Party under this Agreement (1) for any settlement by a Purchaser Party effected without the Company’s prior written consent, which shall not be unreasonably withheld or delayed; or (2) to the extent that a loss, claim, damage or liability is attributable to any 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 indemnification required by this Section 4.5 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; provided, however, that if it is subsequently determined by a final, non-appealable judgment of a court of competent jurisdiction that the Purchaser was not entitled to receive such payments, the Purchaser shall promptly (but in no event later than five (5) Business Days) return such payments to the Company. The indemnity agreements contained herein shall be in addition to any cause of action or similar right of any Purchaser Party against the Company or others and any liabilities the Company may be subject to pursuant to law.

4.6 Reservation of Common Stock. Prior to or in connection with the Initial Closing, the Company will reserve and the Company shall continue to reserve and keep available at all times, free of preemptive rights, a sufficient number of shares of Common Stock for the purpose of enabling the Company to issue Shares pursuant to this Agreement and the Warrant Shares pursuant to any exercise of the Warrants.

4.7 Listing of Common Stock. Concurrently with the Initial Closing, the Company shall apply to list or quote all of the Shares and Warrant Shares on such Trading Market and promptly secure the listing of all of the Shares and Warrant Shares on such Trading Market, subject to the Company obtaining Stockholder Approval (solely with respect to the Warrant Shares relating to the alternative cashless exercise option in the Class 2 Warrants and certain of the Securities issuable hereunder). The Company further agrees, if the Company applies to have the Common Stock traded on any other Trading Market, it will then include in such application all of the Shares and Warrant Shares, and will take such other action as is necessary to cause all of the Shares and Warrant Shares to be listed or quoted on such other Trading Market as promptly as possible. For so long as the Company maintains a listing or quotation of the Common Stock on a Trading Market, and the Company agrees to comply in all material respects with the Company’s reporting, filing and other obligations under the bylaws or rules of the Trading Market, and to use commercially reasonable efforts to maintain the eligibility of the Common Stock for electronic transfer through the Depository Trust Company or another established clearing corporation, including, without limitation, by timely

payment of fees to the Depository Trust Company or such other established clearing corporation in connection with such electronic transfer.

4.8 Subsequent Equity Sales.

(a) From the date hereof until one hundred and twenty (120) days after the Initial Closing Date, neither the Company nor any Subsidiary shall (i) issue, enter into any agreement to issue or announce the issuance or proposed issuance of any shares of Common Stock or Common Stock Equivalents (each, a “Subsequent Placement”), or (ii) file any registration statement or amendment or supplement thereto, other than the Prospectus Supplement, filing a registration statement on Form S-8 in connection with any employee benefit plan, or filing a registration statement on Form S-4 in connection with any acquisition.

(b) From the date hereof until the eighteen (18) month anniversary of the Initial Closing Date, the Company shall be prohibited from effecting or entering into an agreement to effect any issuance by the Company or any of its subsidiaries of shares of Common Stock or Common Stock Equivalents (or a combination of units thereof) involving a Variable Rate Transaction. “Variable Rate Transaction” means a transaction in which the Company (i) issues or sells any debt or equity securities that are convertible into, exchangeable or exercisable for, or include the right to receive additional shares of Common Stock either (A) at a conversion price, exercise price or exchange rate or other price that is based upon and/or varies with the trading prices of or quotations for the Common Stock at any time after the initial issuance of such debt or equity securities, or (B) with a conversion, exercise or exchange price that is subject to being reset at some future date after the initial issuance of such debt or equity security or upon the occurrence of specified or contingent events directly or indirectly related to the business of the Company or the market for shares of Common Stock or (ii) enters into, or effects a transaction under, any agreement, including, but not limited to, an equity line of credit or an “at-the-market” offering, whereby the Company may issue securities at a future determined price regardless of whether shares pursuant to such agreement have actually been issued and regardless of whether such agreement is subsequently canceled. Any Purchaser shall be entitled to obtain injunctive relief against the Company to preclude any such issuance, which remedy shall be in addition to any right to collect damages.

(c) Notwithstanding the foregoing, this Section 4.8 shall not apply in respect of, nor shall the definition of Subsequent Placement be deemed to include, an Exempt Issuance.

4.9 [Reserved]

4.10 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 disclosed by the Company pursuant to Section 4.3. The Purchaser covenants that until such time as the transactions contemplated by this Agreement are publicly disclosed by the Company as described in Section 4.3, the Purchaser will maintain the confidentiality of the existence and terms of this transaction and the information included in the Disclosure Schedules (other than as disclosed to its legal and other representatives).

4.11 Lock-Up Agreements. The Company shall not amend, modify, waive or terminate any provision of any of the Lock-Up Agreements (or any successor lock-up agreements signed by transferees of the initial parties to the Lock-Up Agreements), except to extend the term of the lock-up period and shall enforce the provisions of each Lock-Up Agreement (or any successor lock-up agreements signed by transferees of the initial parties to the Lock-Up Agreements) in accordance with its terms. If any party to a Lock-Up Agreement (or any successor lock-up agreements signed by transferees of the initial parties to the Lock-Up Agreements) breaches any provision of a Lock-Up Agreement (or any successor lock-up agreements signed by transferees of the initial parties to the Lock-Up Agreements), the Company shall promptly use its reasonable efforts to seek specific performance of the terms of such agreement.

4.12 Stockholder Approval. Within sixty (60) calendar days after the Initial Closing Date, the Company shall use commercially reasonable efforts to file with the Securities and Exchange Commission (the “SEC”) a definitive proxy statement, at the expense of the Company, for a meeting (special or otherwise) of holders of Common Stock

(the “Stockholder Meeting”) to be held within ninety (90) calendar days after the Initial Closing Date, soliciting each such stockholder’s affirmative vote at the Stockholder Meeting for approval of resolutions approving the issuance and listing of (i) the Securities to be issued to the Purchaser at the Subsequent Closing, pursuant to Section 312.03 and any other relevant limiting provisions of the LCM, and (ii) the shares of Common Stock issuable pursuant to the alternative cashless exercise provision in Section 2(d) of the Class 2 Warrants in accordance with applicable law and the rules and regulations of the Trading Market without giving effect to any limitation on the exercise of the Warrants and the Common Stock to be issued or that may be issuable under the purchase agreement and the related warrants in the Concurrent Placement (such affirmative approval being referred to herein collectively as the “Stockholder Approval”), and the Company shall use commercially reasonable efforts to solicit its stockholders’ approval of such resolutions in connection with the Stockholder Approval.

4.13 Participation Right. From the date hereof until the date that is 18 months after the Initial Closing Date, neither the Company nor any of its subsidiaries shall, directly or indirectly, effect any Subsequent Placement unless the Company shall have first complied with this Section 4.13.

(a) At least five (5) days prior to any proposed or intended Subsequent Placement, the Company shall deliver to the Purchaser a written notice of its proposal or intention to effect a Subsequent Placement (each such notice, a “Pre-Notice”), which Pre-Notice shall not contain any information (including, without limitation, material, non-public information) other than: (A) if the Company believes that the proposed Offer Notice (as defined below) constitutes or contains material, non-public information, a statement asking whether the Purchaser is willing to accept material non-public information or (B) if the Company believes that the proposed Offer Notice does not constitute or contain material, non-public information, (y) a statement that the Company proposes or intends to effect a Subsequent Placement and (z) a statement informing the Purchaser that it is entitled to receive an Offer Notice (as defined below) with respect to such Subsequent Placement upon its written request. Upon the written request of a Purchaser within one (1) day after the Company’s delivery to the Purchaser of such Pre-Notice, and only upon a written request by the Purchaser, the Company shall promptly deliver to the Purchaser an irrevocable written notice (the “Offer Notice”) of any proposed or intended issuance or sale or exchange (the “Offer”) of the securities being offered (the “Offered Securities”) in a Subsequent Placement, which Offer Notice shall (A) identify and describe the Offered Securities, (B) describe the price and other terms upon which they are to be issued, sold or exchanged, and the number or amount of the Offered Securities to be issued, sold or exchanged, and (C) offer to issue and sell to or exchange with the Purchaser in accordance with the terms of the Offer 8.75% in total of the Offered Securities. The Company shall not be permitted to deliver more than one such Offer Notice to a Purchaser in any sixty (60) day period nor shall the Company be permitted to effect a Subsequent Placement within 18 months of the Initial Closing Date without providing such Purchaser with an Offer Notice.

(b) The Company shall have fifteen (15) Business Days from the expiration of the Offer Period above (A) to offer, issue, sell or exchange all or any part of such Offered Securities as to which a Notice of Acceptance has not been given by the Purchaser (the “Refused Securities”) pursuant to a definitive agreement(s) (the “Subsequent Placement Agreement”) and (B) to publicly announce the execution of such Subsequent Placement Agreement.

(c) In the event the Company shall propose to sell less than all the Refused Securities (any such sale to be in the manner and on the terms specified in Section 4.13(b) above), then the Purchaser may, at its sole option and in its sole discretion, reduce the number or amount of the Offered Securities specified in its Notice of Acceptance to an amount that shall be not less than the number or amount of the Offered Securities that the Purchaser elected to purchase pursuant to Section 4.13(a) above multiplied by a fraction, (A) the numerator of which shall be the number or amount of Offered Securities the Company actually proposes to issue, sell or exchange and (B) the denominator of which shall be the original amount of the Offered Securities.

(d) Upon the closing of the issuance, sale or exchange of all or less than all of the Refused Securities, the Purchaser shall acquire from the Company, and the Company shall issue to the Purchaser, the number or amount of Offered Securities specified in its Notice of Acceptance, as reduced pursuant to Section 4.13(c) above if the Purchaser has so elected, upon the terms and conditions specified in the Offer.

The purchase by the Purchaser of any Offered Securities is subject in all cases to the preparation, execution and delivery by the Company and the Purchaser of a separate purchase agreement relating to such Offered Securities reasonably satisfactory in form and substance to the Company and the Purchaser and its counsel.

(e) Notwithstanding anything to the contrary in this Section 4.13 and unless otherwise agreed to by the Purchaser, the Company shall either confirm in writing to the Purchaser that the transaction with respect to the Subsequent Placement has been abandoned or shall publicly disclose its intention to issue the Offered Securities, in either case, in such a manner such that the Purchaser will not be in possession of any material, non-public information, by the tenth (10th) business day following delivery of the Offer Notice. If by such tenth (10th) business day, no public disclosure regarding a transaction with respect to the Offered Securities 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 in possession of any material, non-public information with respect to the Company or any of its subsidiaries.

(f) The Company and each Purchaser agree that if any Purchaser elects to participate in the Subsequent Placement, the transaction documents related to the Subsequent Placement shall not include any term or provision whereby such Purchaser shall be required to consent to any amendment to or termination of, or grant any waiver, release or the like under or in connection with, this Agreement, without the prior written consent of such Purchaser.

(g) The restrictions contained in this Section 4.13 shall not apply in connection with any Exempt Issuance. Furthermore, notwithstanding any provision in this Section 4.13, the Company shall not be obligated to take any action that would violate applicable securities laws.

4.14 Registration Rights. The Company and the Purchaser are parties to a Registration Rights Agreement, dated as of October 15, 2021 (as amended from time to time, the “RRA”). In the event that the Purchaser (or its Affiliate) elects, after the date of this Agreement, to exercise any rights under the RRA in respect of Registrable Securities (as defined in the RRA) and desires to also include, in the transaction that is subject to such exercise, any shares of Common Stock acquired by the Purchaser (or its Affiliate) from the Company that are not Registrable Securities, the Company shall, upon the reasonable request of the Purchaser (or its Affiliate), cooperate in good faith with the Purchaser (or its Affiliate) and use commercially reasonable efforts (in each case, in a manner consistent with the terms of the RRA) to facilitate the inclusion of such shares in such transaction.

ARTICLE V. MISCELLANEOUS

5.1 Termination. This Agreement may be terminated by the Purchaser by written notice to the Company if (a) the Initial Closing has not been consummated on or before the fifth (5th) Trading Day following the date hereof or (b) the Subsequent Closing has not been consummated on or before the date that is the earlier of (i) the one-year anniversary of the date of this Agreement and (ii) 120 days after the Stockholder Meeting (if the requisite approvals are not received at such Stockholder Meeting held pursuant to Section 4.12); 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 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, 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 time of transmission, if such notice or communication is delivered via facsimile at the facsimile number or email attachment at the email address as set forth on the signature pages attached hereto at or prior to 5:30 p.m. (New York City time) on a Trading Day, (b) the next Trading Day after the time of transmission, if such notice or communication is delivered via facsimile at the facsimile number or email attachment at the email address as set forth on the signature pages attached hereto on a day that is not a Trading Day or later than 5:30 p.m. (New York City time) on any Trading Day, (c) the second (2nd) 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 Commission pursuant to a Current Report on Form 8-K.

5.5 Amendments; Waivers. 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. No waiver of any default with respect to any provision, condition or requirement of this Agreement shall be deemed to be a continuing waiver in the future or a waiver of any subsequent default or a waiver of any other provision, condition or requirement hereof, nor shall any delay or omission of any party to exercise any right hereunder in any manner impair the exercise of any such right. Any amendment effected in accordance with this Section 5.5 shall be binding upon the Purchaser and holder of Securities and the Company.

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 respective 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."

5.8 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 4.5.

5.9 Governing Law. 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. Each party agrees that all legal Proceedings concerning the interpretations, enforcement and defense of the transactions contemplated by this Agreement and any other Transaction Documents (whether brought against a party hereto or its affiliates, directors, officers, shareholders, partners, members, employees or agents) shall be commenced exclusively in the state and federal courts sitting in the City of New York. Each party 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 (including with respect to the enforcement of any of the Transaction Documents), and hereby irrevocably waives, and agrees not to assert in any Action or Proceeding, any claim that it is not personally subject to the jurisdiction of any such court, that such Action or Proceeding is improper or is an inconvenient venue for such Proceeding. Each party hereby irrevocably waives personal service of process and consents to process being served in any such 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 Agreement 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 law.

5.10 Survival. The representations and warranties contained herein shall survive the Initial Closing for a period of six (6) years.

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 or any electronic signature complying with the U.S. federal ESIGN Act of 2000, the Uniform Electronic Transactions Act, or other applicable law (e.g., www.docusign.com), 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. Notwithstanding anything to the contrary contained herein, upon the request of any Purchaser, the Company shall deliver “wet ink” originals of each Warrant, which shall not contain any electronic signatures.

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 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. The applicant for a new certificate or instrument under such circumstances shall also pay any reasonable third-party costs (including customary indemnity) associated with the issuance of such replacement Securities.

5.14 Remedies. In addition to being entitled to exercise all rights provided herein or granted by law, including recovery of damages, 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 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.

5.16 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.

5.17 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 WAIVES FOREVER TRIAL BY JURY.

(Signature Pages Follow)

IN WITNESS WHEREOF, the undersigned has caused this Securities Purchase Agreement to be duly executed by its authorized signatory as of the date first indicated above.

BAKKT HOLDINGS, INC.

By: /s/ Gavin Michael
Name: Gavin Michael
Title: CEO

Address for Notice:

1000 Avalon Boulevard, Suite 1000 Alpharetta, Georgia
30009
E-mail: legal-notices@bakkt.com

With a copy to (which shall not constitute notice):

Wilson Sonsini Goodrich & Rosati,
Professional Corporation
650 Page Mill Road
Palo Alto, CA 94304
Attn: J. Matthew Lyons
Email: mlyons@wsgr.com

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

[PURCHASER SIGNATURE PAGE TO SECURITIES PURCHASE AGREEMENT]

IN WITNESS WHEREOF, the undersigned has caused this Securities Purchase Agreement to be duly executed by its authorized signatory as of the date first indicated above.

Name of Purchaser: Intercontinental Exchange Holdings, Inc.

Signature of Authorized Signatory of Purchaser: /s/ Andrew J. Surdykowski

Name of Authorized Signatory: Andrew J. Surdykowski

Title of Authorized Signatory: General Counsel

Email Address of Authorized Signatory: Andrew.Surdykowski@ice.com

Address for Notice to Purchaser: Intercontinental Exchange, Inc.
5560 New Northside Drive
Atlanta, GA 30328
Attention: General Counsel
Email: legal-notices@theice.com

Address for Delivery of Warrants to Purchaser (if not same as address for notice): _____

Subscription Amount: \$ \$9,999,999.68

EIN Number: 58-2555670

Notwithstanding anything contained in this Agreement to the contrary, by checking this box (i) the obligations of the above-signed to purchase the securities set forth in this Agreement to be purchased from the Company by the above-signed, and the obligations of the Company to sell such securities to the above-signed, shall be unconditional and all conditions to Closing shall be disregarded, (ii) the Initial Closing shall occur by the second (2nd) Trading Day following the date of this Agreement, (iii) the Subsequent Closing shall occur promptly after Stockholder Approval, and (iv) any condition to Closing contemplated by this Agreement (but prior to being disregarded by clause (i) above) that required delivery by the Company or the above-signed of any agreement, instrument, certificate or the like or purchase price (as applicable) shall no longer be a condition and shall instead be an unconditional obligation of the Company or the above-signed (as applicable) to deliver such agreement, instrument, certificate or the like or purchase price (as applicable) to such other party on the Initial Closing Date.

Schedule 1

Initial Closing

Shares:	2,762,009
Class 1 Warrant Shares:	1,381,004
Class 2 Warrant Shares:	1,381,004

Subsequent Closing

Shares:	8,772,016
Class 1 Warrant Shares:	4,386,008
Class 2 Warrant Shares:	4,386,008

Exhibit A
Form of Lock-Up Agreement

(See attached)

Exhibit B-1
Form of Class 1 Warrant

(See attached)

Exhibit B-2
Form of Class 2 Warrant

(See attached)

Exhibit C

Form of Voting Support Agreement

(See attached)

VOTING SUPPORT AGREEMENT

This Voting Support Agreement (this “**Agreement**”), dated as of February 29, 2024, is entered into by and between Bakkt Holdings, Inc., a Delaware corporation (the “**Company**”), and Intercontinental Exchange Holdings, Inc. (the “**Supporting Stockholder**”). Capitalized terms used but not otherwise defined in this Agreement shall have the meanings ascribed to them in the Securities Purchase Agreements (as defined below).

RECITALS

WHEREAS, the Company is entering into, or has entered into two Securities Purchase Agreements (together, the “**Securities Purchase Agreements**”) with certain investors identified on the signature pages thereto (together, the “**Investors**”), pursuant to which (and subject to the terms and conditions set forth therein) the Company will issue and sell to the Investors, and the Investors will purchase from the Company, certain shares of the Company’s Class A common stock (or, in lieu of such shares, pre-funded warrants to purchase shares of the Company’s Class A common stock) and warrants (the “**Warrants**”) to purchase the Company’s Class A common stock;

WHEREAS, as of the date hereof, the Supporting Stockholder is the record and/or “beneficial owner” (within the meaning of Rule 13d-3 under the Securities Exchange Act of 1934, as amended (together with the rules and regulations promulgated thereunder, the “**Exchange Act**”), of and is entitled to dispose of, or to direct the disposition of, and vote, or to direct the voting of, the shares of the Company’s Class A common stock or Class V common stock indicated, the currently owned amount of which is on the Supporting Stockholder’s signature page below (the “**Owned Shares**”; the Owned Shares and any additional securities of the Company (or any securities convertible into or exercisable or exchangeable for shares of the Company’s Class A common stock or Class V common stock) in which the Supporting Stockholder acquires record and/or beneficial ownership after the date hereof, including, without limitation, by purchase, as a result of a stock dividend, stock split, recapitalization, combination, reclassification, exchange or change of such securities, or upon exercise or conversion of any securities, the “**Covered Shares**”); and

WHEREAS, as a condition and inducement to the willingness of the Investors (other than the Supporting Stockholder) to enter into the applicable Securities Purchase Agreement, the Company agreed to deliver this Agreement executed by the Supporting Stockholder to such Investors at or prior to the closing of the consummation of the transactions contemplated by the Securities Purchase Agreements.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the Company and the Supporting Stockholder hereby agree as follows:

(1) Agreement to Vote. Subject to the earlier termination of this Agreement in accordance with Section 2, and, as applicable, except to the extent limited by the terms of the Voting Agreement, dated October 15, 2021, by and between the Company and Intercontinental Exchange Holdings, Inc. (the “**ICE Voting Amendment**”), the Supporting Stockholder, in its direct or indirect capacity as a stockholder of the Company, irrevocably and unconditionally agrees that, at any meeting of the Company’s Stockholders (whether annual or special and whether or not an adjourned or postponed meeting, however called and including any adjournment or postponement thereof) convened pursuant to Section 4.12 of the Securities Purchase Agreement to which the Supporting Stockholder is a party (the “**ICE SPA**”), the Supporting Stockholder shall, and shall cause any other holder of record of any of the Supporting Stockholder’s Covered Shares to:

(a) if and when such meeting is held, appear at such meeting (and at every adjournment or postponement thereof) or otherwise cause the Covered Shares to be counted as present thereat for the purpose of establishing a quorum;

(b) vote, or cause to be voted (including via proxy), at such meeting all of the Covered Shares owned as of the record date for such meeting to approve any matters necessary or reasonably

requested by the Company to enable the Company to issue any shares of Class A common stock and the shares of Class A common stock underlying the related Warrants (as defined in the Securities Purchase Agreements) that may not be issued pursuant the Securities Purchase Agreements without first obtaining stockholder approval under the rules and regulations of the New York Stock Exchange and to enable the Company to issue the shares of Class A common stock under the alternative cashless exercise provision of the Class 2 Warrants (as defined in the Securities Purchase Agreements); and

(c) the Supporting Stockholder hereby revokes any and all previous proxies granted or has caused the holder(s) of record of any Covered Shares to revoke any and all previous proxies granted with respect to the Covered Shares, other than the ICE Voting Agreement, as applicable.

For clarity, any vote cast pursuant to this Section (1) will (i) give effect to the ICE Voting Agreement and (ii) be calculated consistent with the Listed Company Manual of the New York Stock Exchange, in each case, as applicable.

(2) Termination. This Agreement shall automatically terminate, without any notice or other action by any parties hereto, be void *ab initio* and no parties hereto shall have any further obligations or liabilities under this Agreement, upon the earliest of (a) the Company obtaining Stockholder Approval and (b) the termination of the ICE SPA (the earliest such date under clause (a) or (b) being referred to herein as the “**Termination Date**”); provided, that termination of this Agreement shall not relieve any parties hereto from any liability for any breach of, or actual and intentional fraud in connection with, this Agreement prior to such termination.

(3) Representations and Warranties of the Supporting Stockholder. The Supporting Stockholder hereby represents and warrants as follows:

(a) The Supporting Stockholder is the beneficial owner (within the meaning of Rule 13d-3 under the Exchange Act) and/or record owner of, and, directly or indirectly, has good, valid and marketable title to, the Owned Shares, free and clear of liens (other than as created by this Agreement or the organizational documents of the Company or arising under applicable securities laws). As of the date hereof, other than the Owned Shares, the Supporting Stockholder does not own beneficially or of record any shares of capital stock of the Company (or any securities convertible into shares of capital stock of the Company).

(b) The Supporting Stockholder, other than as set forth in the ICE Voting Agreement, (i) except as provided in this Agreement, has full or, with an Affiliate of the Supporting Stockholder, shared voting power, full power of disposition and full power to issue instructions with respect to the matters set forth herein, in each case, with respect to the Supporting Stockholder’s Covered Shares, (ii) has not entered into or caused or permitted any Affiliate to enter into any voting agreement or voting trust with respect to any of the Supporting Stockholder’s Covered Shares that is inconsistent with the Supporting Stockholder’s obligations pursuant to this Agreement, (iii) has not granted or caused or permitted any Affiliate to grant a proxy or power of attorney with respect to any of the Supporting Stockholder’s Covered Shares that is inconsistent with the Supporting Stockholder’s obligations pursuant to this Agreement and (iv) has not entered into or caused or permitted any Affiliate to enter into any agreement or undertaking that is otherwise inconsistent with, or would interfere with, or prohibit or prevent it from satisfying, its obligations pursuant to this Agreement.

(c) The Supporting Stockholder, (i) if a legal entity, is duly organized, validly existing and, to the extent such concept is applicable, in good standing under the laws of the jurisdiction of its organization and has all requisite corporate or other power and authority and has taken all corporate or other action necessary in order to, execute, deliver and perform its obligations under this Agreement and to consummate the transactions contemplated hereby or, (ii) if an individual, has legal competence and capacity to enter into this Agreement and all necessary authority to execute, deliver and perform its obligations under this Agreement and to consummate the transactions contemplated hereby. This Agreement has been duly executed and delivered by the Supporting Stockholder and constitutes a valid and binding agreement of the Supporting Stockholder enforceable against the Supporting Stockholder in accordance with its terms, subject to the exceptions set forth in the last sentence of Section 3.2(a) of the ICE SPA.

(d) The execution, delivery and performance of this Agreement by the Supporting Stockholder do not, and the consummation of the transactions contemplated hereby, will not, constitute or result in,

(i) if the Supporting Stockholder is a legal entity, a breach or violation of, or a default under, the certificate of incorporation, bylaws, limited liability company agreement or similar governing documents of the Supporting Stockholder, (ii) with or without notice, lapse of time or both, a breach or violation of, a termination (or right of termination) of or a default under, the loss of any benefit under, the creation, modification or acceleration of any obligations under or the creation of a lien (other than as created by this Agreement or the organizational documents of the Company or arising under applicable securities laws) on the Covered Shares pursuant to any contract binding upon the Supporting Stockholder or under any applicable law to which the Supporting Stockholder is subject, (iii) a conflict with, or constitute breach, violation, or default (or an event which with notice or lapse of time or both would become a default) in any respect under, or give to others any rights of termination, amendment, acceleration or cancellation of, any contract, agreement, indenture or instrument to which the Supporting Stockholder is a party, or (iv) any change in the rights or obligations of any parties hereto under any contract legally binding upon the Supporting Stockholder, except, in the case of clauses (ii) through (iv) directly above, for any such breach, violation, termination, default, creation, loss, acceleration, lien or change that would not, individually or in the aggregate, reasonably be expected to prevent or materially delay or impair the Supporting Stockholder's ability to perform its obligations hereunder or to consummate the transactions contemplated hereby.

(e) As of the date of this Agreement, there is no action, proceeding or, to the Supporting Stockholder's knowledge, investigation pending against the Supporting Stockholder or, to the knowledge of the Supporting Stockholder, threatened against the Supporting Stockholder that questions the beneficial or record ownership of the Supporting Stockholder's Owned Shares, the validity of this Agreement or the performance by the Supporting Stockholder of its obligations under this Agreement.

(4) Certain Covenants of the Supporting Stockholder. Except in accordance with the terms of this Agreement, the Supporting Stockholder shall not, and shall cause each of its Affiliates not to, at any time prior to the Termination Date, (i) enter into any voting agreement or voting trust with respect to any of the Supporting Stockholder's Covered Shares that is inconsistent with the Supporting Stockholder's obligations pursuant to this Agreement, (ii) grant a proxy or power of attorney with respect to any of the Supporting Stockholder's Covered Shares that is inconsistent with the Supporting Stockholder's obligations pursuant to this Agreement, or (iii) enter into any agreement or undertaking that is otherwise inconsistent with, or would interfere with, or prohibit or prevent it from satisfying, its obligations pursuant to this Agreement. Such covenant shall in no way impact the Supporting Stockholder's obligations under and its ability to comply with the terms of the ICE Voting Agreement, as applicable.

(5) Definitions. When used in this Agreement, the following terms shall have the meanings assigned to them in this Section 5.

"Affiliate" shall mean with respect to any Person, any other Person that, directly or indirectly, controls, is controlled by or is under common control with such Person, including, without limitation, any general partner, managing member, officer, director or trustee of such Person, or any venture capital fund or other investment fund now or hereafter existing that is controlled by one (1) or more general partners, managing members or investment adviser of, or shares the same management company or investment adviser with, such Person; provided, however, that in no case shall the Company or any of its Subsidiaries be deemed to be an Affiliate of the Supporting Stockholder. For purposes of this definition, the term **"control"** (including, with correlative meanings, the terms "controlling," "controlled by" and "under common control with"), as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of that Person, whether through the ownership of voting securities, by contract or otherwise.

"Person" means an individual, a limited liability company, a partnership, a joint venture, a corporation, a trust, an unincorporated organization, any other entity and any governmental entity or any department or agency thereof.

(6) Further Assurances. From time to time, at the Company's request and without further consideration, the Supporting Stockholder shall execute and deliver such additional documents and take all such further action as may be reasonably necessary or reasonably requested to effect the actions and consummate the transactions contemplated by this Agreement.

(7) Amendment and Modification. This Agreement may not be amended, modified or supplemented in any manner, whether by course of conduct or otherwise, except by an instrument in writing signed the Company and the Supporting Stockholder.

(8) Notices. All notices, requests and other communications to any of the parties hereto shall be in writing (including email transmission, so long as a receipt of such email is requested and received) and shall be given,

(a) if to the Company:

Bakkt Holdings, Inc.
1000 Avalon Boulevard, Suite 1000
Alpharetta, Georgia 30009
Telephone: 678-534-5849
Attention: General Counsel
Email: legal-notices@bakkt.com
with a copy (for informational purposes only) to:

Wilson Sonsini Goodrich & Rosati,
Professional Corporation
900 South Capital of Texas Highway
Las Cimas IV, Fifth Floor
Austin, Texas 78746
Attention: J. Matthew Lyons
Email: mlyons@wsgr.com

(b) if to the Supporting Stockholder, to such address indicated on the Company's records with respect to the Supporting Stockholder or to such other address or addresses as the Supporting Stockholder may from time to time designate in writing.

All such notices, requests and other communications will be deemed to have been delivered: (i) upon receipt, when delivered personally; (ii) upon delivery, when sent by electronic mail; or (iii) two (2) Business Days after deposit with a U.S. nationally recognized overnight courier service, in each case properly addressed to the party to receive the same.

(9) Entire Agreement. This Agreement and the documents and instruments and other agreements among the parties hereto as contemplated by or referred to herein constitute the entire agreement among the parties hereto with respect to the subject matter hereof and supersede all prior agreements and understandings, both written and oral, among the parties hereto with respect to the subject matter hereof.

(10) Third-Party Beneficiaries. Each of the Supporting Stockholder and the Company acknowledges and agrees that this Agreement is being entered into in order to induce the Investors (other than the Supporting Stockholder) to execute and deliver the Securities Purchase Agreements, and without the representations, warranties, covenants and agreements of the Supporting Stockholder set forth herein, the Investors would not enter into the Securities Purchase Agreements. Notwithstanding the foregoing, this Agreement is intended only for the benefit of the parties hereto and their respective permitted successors and assigns, and is not for the benefit of, nor may any provision hereof be enforced by, any other Person.

(11) Governing Law and Venue; Service of Process; Waiver of Jury Trial. All questions concerning the construction, validity, enforcement and interpretation of this Agreement shall be governed by the internal laws of the State of Delaware, without giving effect to any choice of law or conflict of law provision or rule (whether of the State of Delaware or any other jurisdictions) that would cause the application of the laws of any jurisdictions other than the State of Delaware. Each of the parties hereto irrevocably consents to the exclusive jurisdiction and venue of the Court of Chancery of the State of Delaware, provided, that if subject matter jurisdiction over the matter that is the subject of the legal proceeding is vested exclusively in the U.S. federal courts, such legal proceeding shall be heard in the U.S. District Court for the District of Delaware (together with the Court of Chancery of the State of

Delaware “**Chosen Courts**”), in connection with any matter based upon or arising out of this Agreement. Each party hereto hereby waives, and shall not assert as a defense in any legal dispute, that (a) such Person is not personally subject to the jurisdiction of the Chosen Courts for any reason, (b) such legal proceeding may not be brought or is not maintainable in the Chosen Courts, (c) such Person’s property is exempt or immune from execution, (d) such legal proceeding is brought in an inconvenient forum or (e) the venue of such legal proceeding is improper. 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 to such party at the address for such notices to it under this Agreement 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 manner permitted by law. **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 WITH OR ARISING OUT OF THIS AGREEMENT OR ANY TRANSACTION CONTEMPLATED HEREBY.**

(12) Assignment; Successors. No party hereto may assign either this Agreement or any of its rights, interests, or obligations hereunder, by operation of law or otherwise, without the prior written approval of the other party hereto and, in the case of assignment by the Supporting Stockholder, without the prior written approval of the Investors representing a majority of the Class A common stock being purchased under each of the Securities Purchase Agreements. Subject to the preceding sentence, this Agreement will be binding upon and will inure to the benefit of, and be enforceable by, the parties hereto and their respective successors and permitted assigns. Any purported assignment of this Agreement without the consent required by this Section 12 is null and void.

(13) Remedies. In addition to being entitled to exercise all rights provided herein or granted by law, including recovery of damages, the Company will be entitled to specific performance hereunder. The parties agree that monetary damages may not be adequate compensation for any loss incurred by reason of any breach of obligations contained in this Agreement 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.

(14) Severability. If any provision of this Agreement 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 Agreement so long as this Agreement 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).

(15) Counterparts. This Agreement may be executed in two or more identical counterparts, all of which shall be considered one and the same agreement (it being understood that the parties need not sign the same counterpart) and shall become effective when counterparts have been signed by each party and delivered to the other party; provided that a facsimile, .pdf signature or any electronic signature complying with the U.S. federal E-SIGN Act of 2000 (e.g., www.docusign.com) shall be considered due execution and shall be binding upon the signatory thereto with the same force and effect as if the signature were an original, not a facsimile or .pdf signature.

[The remainder of this page is intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed (where applicable, by their respective officers or other authorized Persons thereunto duly authorized) as of the date first written above.

COMPANY:

BAKKT HOLDINGS, INC.

By: /s/ Gavin Michael
Name: Gavin Michael
Title: CEO

Signature Page to Voting Support Agreement

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed (where applicable, by their respective officers or other authorized Persons thereunto duly authorized) as of the date first written above.

SUPPORTING STOCKHOLDER:

INTERCONTINENTAL EXCHANGE HOLDINGS, INC.

By: /s/ Andrew J. Surdykowski
Name: Andrew J. Surdykowski
Title: General Counsel

Owned Shares Held Directly:

Common Stock: 174,793,798
Comprised of:
Class A Common Stock: 4,714,336
Class V Common Stock: 170,079,462

Signature Page to Voting Support Agreement

COMMON STOCK PURCHASE WARRANT
(Class 1)

BAKKT HOLDINGS, INC.

Warrant Shares: 1,381,004

Original Issuance Date: March 4, 2024

Initial Exercise Date: September 4, 2024

Termination Date: September 4, 2029

THIS COMMON STOCK PURCHASE WARRANT (Class 1) (the “Warrant”) certifies that, for value received, Intercontinental Exchange Holdings, Inc., or its assigns (the “Holder”) is entitled, upon the terms and subject to the limitations on exercise and the conditions hereinafter set forth, at any time on or after September 4, 2024 (the “Initial Exercise Date”) and on or prior to 5:00 p.m. (New York City time) on September 4, 2029 (the “Termination Date”) but not thereafter, to subscribe for and purchase from BAKKT HOLDINGS, INC., a Delaware corporation (the “Company”), up to 1,381,004 shares (as subject to adjustment hereunder, the “Warrant Shares”) of the Company’s Class A Common Stock, par value \$0.0001 per share (the “Common Stock”). The purchase price of one share of Common Stock under this Warrant shall be equal to the Exercise Price, as defined in Section 2(b).

Section 1. Definitions. Capitalized terms used and not otherwise defined herein shall have the meanings set forth in that certain Securities Purchase Agreement (the “Purchase Agreement”), dated February 29, 2024, among the Company and the purchaser signatory thereto.

Section 2. Exercise.

a. Exercise of Warrant. Exercise of the purchase rights represented by this Warrant may be made, in whole or in part, at any time or times on or after the Initial Exercise Date and on or before the Termination Date by delivery to the Company of a duly executed facsimile copy or PDF copy submitted by e-mail (or e-mail attachment) of the Notice of Exercise in the form annexed hereto (the “Notice of Exercise”). Within the earlier of (i) two (2) Trading Days (as defined in Section 2(c) herein) and (ii) the number of Trading Days comprising the Standard Settlement Period (as defined in Section 2(e)(i) herein) following the date of exercise as aforesaid, the Holder shall deliver the aggregate Exercise Price for the number of Warrant 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 2(c) 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 be required. Notwithstanding anything herein to the contrary, the Holder shall not be required to physically surrender this Warrant to the Company until the Holder has purchased all of the Warrant Shares available hereunder and the Warrant has been exercised in full, in which case, the Holder shall surrender this Warrant to the Company for cancellation within three (3) Trading Days of the date on which the final Notice of Exercise is delivered to the Company. Partial exercises of this Warrant resulting in purchases of a portion of the total number of Warrant Shares available hereunder 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 Company shall maintain records showing the number of Warrant Shares purchased and the date of such purchases. The Company shall deliver any objection to any Notice of Exercise within one (1) Trading Day of receipt of such notice. **The Holder and any assignee, by acceptance of this Warrant, acknowledge and agree that, by reason of the provisions of this paragraph, following the purchase of a portion of the Warrant Shares hereunder, the number of Warrant Shares available for purchase hereunder at any given time may be less than the amount stated on the face hereof.**

b. Exercise Price. The exercise price per share of Common Stock under this Warrant shall be \$1.02, subject to adjustment hereunder (the “Exercise Price”).

c. Cashless Exercise. This Warrant may also be exercised, in whole or in part, at any time or times on or after the Initial Exercise Date and on or before the Termination Date by means of a “cashless exercise” in which the Holder shall be entitled to receive a number of Warrant Shares equal to the quotient 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) 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 Stock 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 of this Warrant, as adjusted hereunder; and

(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.

“Bid 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 bid price of the Common Stock for the time in question (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 the Common Stock is then not listed on a Trading Market and if the Shares are listed or quoted for trading on the OTC Market Group’s OTCQB exchange (“OTCQB”) or OTCQX exchange (“OTCQX”), 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 on The Pink Open Market (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 Securities then outstanding and reasonably acceptable to the Company, the fees and expenses of which shall be paid by the Company.

“Trading Day” means any day on which the Trading Market is open for trading, including any day on which the Trading Market is open for trading for a period of time less than the customary time.

“Trading Market” means any of the following markets or exchanges on which the shares of Common Stock are listed or quoted for trading on the date in question: 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).

“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 the Common Stock is then not listed or quoted on a Trading Market and if the Shares are listed or quoted for trading on OTCQB or OTCQX, 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 on The Pink Open Market (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.

If Warrant Shares are issued in such a cashless exercise, the parties acknowledge and agree 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. The Company agrees not to take any position contrary to this Section 2(c).

d. [Reserved]

e. Mechanics of Exercise.

i. Delivery of Warrant Shares Upon Exercise. 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 The Depository Trust Company 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) this 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 (A) the earlier of (i) two (2) Trading Days and (ii) the number of days comprising the Standard Settlement Period, in each case after the delivery to the Company of the Notice of Exercise and (B) one (1) Trading Day after delivery of the aggregate Exercise Price to the Company (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 this 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 by the Warrant Share Delivery Date. 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 third 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 Automated Securities Transfer ("FAST") program so long as this Warrant remains 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.

ii. Delivery of New Warrants Upon Exercise. If this Warrant shall have been exercised in part, the Company shall, at the request of a Holder and upon surrender of this Warrant certificate, at the time of delivery of the Warrant Shares, deliver to the Holder a new Warrant evidencing the rights of the Holder to purchase the unpurchased Warrant Shares called for by this Warrant, which new Warrant shall in all other respects be identical with this Warrant.

iii. Rescission Rights. If the Company fails to cause the Transfer Agent to transmit to the Holder the Warrant Shares pursuant to Section 2(e)(i) by the Warrant Share Delivery Date, then the Holder will have the right to rescind such exercise.

-3-

iv. 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 2(e)(i) 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 this Warrant to purchase 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 reasonably satisfactory to the Company with respect to 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.

v. No Fractional Shares or Scrip. No fractional shares or scrip representing fractional shares shall be issued upon the exercise of this Warrant. As to any fraction of a share which the Holder would otherwise be entitled to purchase upon

such exercise, the Company shall, at its election, either pay a cash adjustment in respect of such final fraction in an amount equal to such fraction multiplied by the Exercise Price or round up to the next whole share.

vi. Charges, Taxes and Expenses. Issuance and delivery 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 that Warrant Shares are to be issued in a name other than the name of the Holder, this 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 Depository Trust Company (or another established clearing corporation performing similar functions) required for same-day electronic delivery of the Warrant Shares.

vii. Closing of Books. The Company will not close its stockholder books or records in any manner which prevents the timely exercise of this Warrant, pursuant to the terms hereof.

-4-

f. Holder's Exercise Limitations. The Company shall not effect any exercise of this Warrant, and a Holder shall not have the right to exercise any portion of this Warrant, pursuant to Section 2 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, 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 this 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, nonexercised portion of this Warrant beneficially owned by the Holder or any of its Affiliates or Attribution Parties and (ii) exercise or conversion of the unexercised or nonconverted portion of any other securities of the Company (including, without limitation, any other 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 2(f), beneficial ownership shall be calculated in accordance with Section 13(d) of 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 2(f) applies, the determination of whether this Warrant is exercisable (in relation to other securities owned by the Holder together with any Affiliates and Attribution Parties) and of which portion of this 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 this Warrant is exercisable (in relation to other securities owned by the Holder together with any Affiliates and Attribution Parties) and of which portion of this 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 and shall have no liability for exercises of this Warrant that are not in compliance with the Beneficial Ownership Limitation (other than to the extent that information on the number of outstanding shares of Common Stock is provided by the Company, either directly or through one or more public filings, and relied upon by the Holder). 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 and the Company shall have no obligation to verify or confirm the accuracy of such determination and shall have no liability for exercises of this Warrant that are not in compliance with the Beneficial Ownership Limitation (other than to the extent that information on the number of outstanding shares of Common Stock is provided by the Company, either directly or through one or more public filings, and relied upon by the Holder). For purposes of this Section 2(f), 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 one (1) Trading Day 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 this 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, at the election of the Holder prior to the issuance of this Warrant, 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 this Warrant. The Holder, upon written notice to the Company, may increase or decrease the Beneficial Ownership Limitation provisions of this Section 2(f), 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 this Warrant held by the Holder and the provisions of this Section 2(f) shall continue to apply. Any increase in the Beneficial Ownership Limitation will not be effective until the 61st 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 2(f) 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 this Warrant. If this Warrant is unexercisable as a result of the Holder's Beneficial Ownership Limitation, no alternate consideration is owing to the Holder. For the avoidance of doubt, the restrictions on exercise of any portion of this Warrant in this Section 2(f), the restrictions on participation in any Purchase Right in Section 3(b) and the restrictions on participation in any Distribution in Section 3(c) shall not prevent or limit any such exercise or participation by the Holder if the number of shares of Common Stock beneficially owned by the Holder and its Affiliates and Attribution Parties immediately prior to giving effect to such exercise or participation exceeds 9.99% of the number of shares of the Common Stock outstanding immediately prior to giving effect to such exercise or participation.

Section 3. Certain Adjustments; Rights Offering.

a. Stock Dividends and Splits. If the Company, at any time while this Warrant is 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 this Warrant), (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 outstanding immediately after such event, and the number of shares issuable upon exercise of this Warrant shall be proportionately adjusted such that the aggregate Exercise Price of this Warrant shall remain unchanged. Any adjustment made pursuant to this Section 3(a) 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.

-5-

b. Subsequent Rights Offerings. If at any time this Warrant is outstanding the Company grants, issues or sells any Common Stock Equivalents or rights to purchase shares, warrants, securities or other property pro rata to all of 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 this 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, that, 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).

c. Pro Rata Distributions. During such time as this Warrant is outstanding, if the Company shall declare or make any dividend or other distribution of its assets (or rights to acquire its assets) to holders of shares of Common Stock, by way of return of capital or otherwise (including, without limitation, any distribution of cash, stock or other securities, property or options by way of a dividend, spin off, reclassification, corporate rearrangement, scheme 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 shares of Common Stock acquirable upon complete exercise of this Warrant (without regard to any limitations on exercise hereof, including without limitation, the Beneficial Ownership Limitation) immediately before the date of which a record is taken for such Distribution, 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 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 exceeding the Beneficial Ownership Limitation, then the Holder shall not be entitled to participate in such Distribution to such extent (or in the beneficial ownership of any shares of Common Stock as a result of such Distribution to such extent) and the portion of such Distribution shall be held in abeyance for the benefit of the Holder until such time, if ever, as its right thereto would not result in the Holder exceeding the Beneficial Ownership Limitation).

-6-

d. Fundamental Transaction. If, at any time while this Warrant is 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 (or any subsidiary of the Company), directly or indirectly, effects any sale, lease, license, assignment, transfer, conveyance or other disposition of all or substantially all of the Company's consolidated assets in one or a series of related transactions (provided that, for the avoidance of doubt, the sale by the Company of its loyalty and travel redemption business comprised of certain entities and any assets thereof shall not be deemed to be a sale or other disposition of all or substantially all of the Company's assets), (iii) any, direct or indirect, purchase offer, tender offer or exchange offer (whether by the Company or another Person) is completed pursuant to which 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 voting power of the common equity of the Company, (iv) the Company, directly or indirectly, in one or more related transactions effects any reclassification, reorganization or recapitalization of shares of Common Stock or any compulsory share exchange pursuant to which the 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, merger or scheme of arrangement) with another Person or group of Persons whereby such other Person or group acquires more than 50% of the voting power of the common equity of the Company (each a "Fundamental Transaction"), then, upon any subsequent exercise of this 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, at the option of the Holder (without regard to any limitation in Section 2(f) on the exercise of this 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 any additional consideration (the "Alternate Consideration") receivable as a result of such Fundamental Transaction by a holder of the number of shares of Common Stock for which this Warrant is exercisable immediately prior to such Fundamental Transaction (without regard to any limitation in Section 2(f) on the exercise of this 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 this Warrant following such Fundamental Transaction. The Company shall use commercially reasonable efforts to 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 this Warrant and the other Transaction Documents in accordance with the provisions of this Section 3(d) pursuant to written agreements in form and substance reasonably satisfactory to the Holder prior to such Fundamental Transaction and shall, at the option of the Holder, 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 which is exercisable for a corresponding number of shares of capital stock of such Successor Entity (or its parent entity) equivalent to the shares of Common Stock 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 shares of capital stock (but taking into account the relative value of the shares of Common Stock pursuant to such Fundamental Transaction and the value of such shares of capital stock, such number of shares of capital stock 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 which is reasonably satisfactory in form and substance to the Holder. 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 this Warrant and the other Transaction Documents 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 and the other Transaction Documents with the same effect as if such Successor Entity had been named as the Company herein. Notwithstanding anything to the contrary, in the event of a Fundamental Transaction, the Company or any Successor Entity (as defined below) shall, at the Holder's option, exercisable at any time concurrently with, or within thirty (30) days after, the consummation of the Fundamental Transaction (or, if later, the date of the public announcement of the applicable Fundamental Transaction), purchase this Warrant from the Holder by paying to the Holder, as described below, an amount of cash equal to the Black Scholes Value (as defined below) of the remaining unexercised portion of this Warrant on the date of the consummation of

such Fundamental Transaction, provided, however, that, if the Fundamental Transaction is not within the Company's control, including not approved by the board of directors of the Company, Holder shall only be entitled to receive from the Company or any Successor Entity, as of the date of the consummation of such Fundamental Transaction the same type or form of consideration (and in the same proportion), valued at the Black Scholes Value of the unexercised portion of this Warrant, that is being offered and paid to the holders of Common Stock of the Company in connection with the Fundamental Transaction, whether that consideration be in the form of cash, stock or any combination thereof, or whether the holders of Common Stock are given the choice to receive from among alternative forms of consideration in connection with the Fundamental Transaction; provided further, that if holders of Common Stock of the Company are not offered or paid any consideration in such Fundamental Transaction, such holders of Common Stock will be deemed to have received shares of the Successor Entity (which Successor Entity may be the Company following such Fundamental Transaction) in such Fundamental Transaction. "Black Scholes Value" means the value of this Warrant based on the Black-Scholes Option Pricing Model obtained from the "OV" function on Bloomberg determined as of the day of consummation of the applicable Fundamental Transaction for pricing purposes and reflecting (A) a risk-free interest rate corresponding to the U.S. Treasury rate for a period equal to the time between the date of the public announcement of the applicable contemplated Fundamental Transaction and the Termination Date, (B) an expected volatility equal to 100%, (C) the underlying price per share used in such calculation shall be the greater of (i) the sum of the price per share being offered in cash, if any, plus the value of any non-cash consideration, if any, being offered in such Fundamental Transaction and (ii) the highest VWAP 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 this Section 3(d) and (D) a remaining option time equal to the time between the date of the public announcement of the applicable Fundamental Transaction and the Termination Date and (E) a zero cost of borrow. The payment of the Black Scholes Value will be made by wire transfer of immediately available funds within five Business Days of the Holder's election (or, if later, on the effective date of the Fundamental Transaction). For the avoidance of doubt, the Holder shall be entitled to the benefits of the provisions of this Section 3(d) regardless of whether the Company has sufficient authorized shares of Common Stock for the issuance of the Warrant Shares.

-7-

e. Calculations. All calculations under this Section 3 shall be made to the nearest cent or the nearest 1/100th of a share, as the case may be. For purposes of this Section 3, the number of shares of Common Stock deemed to be issued and outstanding as of a given date shall be the sum of the number of shares of Common Stock (excluding treasury shares, if any) issued and outstanding.

f. Notice to Holder.

i. Adjustment to Exercise Price. Whenever the Exercise Price is adjusted pursuant to any provision of this Section 3, 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.

ii. 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 shares of Common Stock rights or warrants to subscribe for or purchase any shares of capital stock of any class or any rights, (D) the approval of any stockholders of the Company shall be required in connection with a Fundamental Transaction, 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 provided in this Warrant constitutes, or contains, material, non-public information regarding the Company or any of the Company's subsidiaries, the Company shall simultaneously file such notice with the Commission pursuant to a Current Report on Form 8-K. The Holder shall remain

entitled to exercise this 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.

g. Voluntary Adjustment by Company. Subject to the rules and regulations of the Trading Market, the Company may at any time while this Warrant is outstanding, reduce (temporarily or permanently) the then-current Exercise Price to any amount and for any period of time deemed appropriate by the board of directors of the Company in its sole discretion.

Section 4. Transfer of Warrant.

a. Transferability. This Warrant and all rights hereunder (including, without limitation, any registration rights) are transferable, in whole or in part, upon surrender of this Warrant at the principal office of the Company or its designated agent, together with a written assignment of this Warrant substantially in the form attached hereto duly executed by the Holder or its agent or attorney and funds sufficient to pay any transfer taxes payable upon the making of such transfer. Upon such surrender and, if required, such payment, the Company shall execute and deliver a new Warrant or Warrants in the name of the assignee or assignees, as applicable, and in the denomination or denominations specified in such instrument of assignment, and shall issue to the assignor a new Warrant evidencing the portion of this Warrant not so assigned, and this Warrant shall promptly be cancelled. Notwithstanding anything herein to the contrary, the Holder shall not be required to physically surrender this Warrant to the Company unless the Holder has assigned this Warrant in full, in which case, the Holder shall surrender this Warrant to the Company within three (3) Trading Days of the date on which the Holder delivers an assignment form to the Company assigning this Warrant in full. The Warrant, if properly assigned in accordance herewith, may be exercised by a new holder for the purchase of Warrant Shares without having a new Warrant issued.

-8-

b. New Warrants. This Warrant may be divided or combined with other Warrants upon presentation hereof at the aforesaid office of the Company, together with a written notice specifying the names and denominations in which new Warrants are to be issued, signed by the Holder or its agent or attorney. Subject to compliance with Section 4(a), as to any transfer which may be involved in such division or combination, the Company shall execute and deliver a new Warrant or Warrants in exchange for the Warrant or Warrants to be divided or combined in accordance with such notice. All Warrants issued on transfers or exchanges shall maintain the Original Issuance Date of this Warrant and shall be identical with this Warrant except as to the number of Warrant Shares issuable pursuant thereto.

c. Warrant Register. The Company shall register this Warrant, upon records to be maintained by the Company for that purpose (the “Warrant Register”), in the name of the record Holder hereof from time to time. The Company may deem and treat the registered Holder of this Warrant as the absolute owner hereof for the purpose of any exercise hereof or any distribution to the Holder, and for all other purposes, absent actual notice to the contrary.

Section 5. Miscellaneous.

a. No Rights as Stockholder Until Exercise; No Settlement in Cash. This Warrant does not entitle the Holder to any voting rights, dividends or other rights as a stockholder of the Company prior to the exercise hereof as set forth in Section 2(e)(i), except as expressly set forth in Section 3. Without limiting the rights of a Holder to receive Warrant Shares on a “cashless exercise” and to receive the cash payments contemplated pursuant to Sections 2(e)(i) and 2(e)(iv), in no event will the Company be required to net cash settle an exercise of this Warrant.

b. Loss, Theft, Destruction or Mutilation of Warrant. The Company covenants that upon receipt by the Company of evidence reasonably satisfactory to it of the loss, theft, destruction or mutilation of this Warrant, and in case of loss, theft or destruction, of indemnity or security reasonably satisfactory to it (which shall not include the posting of any bond), and upon surrender and cancellation of such Warrant, if mutilated, the Company will make and deliver a new Warrant of like tenor and dated as of such cancellation, in lieu of such Warrant. The applicant for a new certificate or instrument under such circumstances shall pay any reasonable third-party costs (including customary indemnity) associated with the issuance of such replacement warrant.

c. 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.

d. Authorized Shares. The Company covenants that, at all times during the period the Warrant is outstanding, it will reserve from its authorized and unissued Common Stock a sufficient number of shares to provide for the issuance of the Warrant Shares upon the exercise of any purchase rights under this Warrant. The Company further covenants that its issuance of this Warrant shall constitute full authority to its officers who are charged with the duty of issuing the necessary Warrant Shares upon the exercise of the purchase rights under this Warrant. The Company will take all such reasonable action as may be necessary to assure that such Warrant Shares may be issued as provided herein without violation of any applicable law or regulation, or of any requirements of the Trading Market upon which the Common Stock may be listed. The Company covenants that all Warrant Shares that may be issued upon the exercise of the purchase rights represented by this Warrant will, upon exercise of the purchase rights represented by this Warrant and payment for such Warrant Shares in accordance herewith, be duly authorized, validly issued, fully paid and nonassessable and free from all taxes, liens and charges created by the Company in respect of the issue thereof (other than taxes in respect of any transfer occurring contemporaneously with such issue).

-9-

Except and to the extent as waived or consented to by the Holder, the Company shall not by any action, including, without limitation, amending its certificate of incorporation or through any 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 of this Warrant, but will at all times in good faith assist in the carrying out of all such terms and in the taking of all such actions as may be necessary or appropriate to protect the rights of Holder as set forth in this Warrant against impairment. Without limiting the generality of the foregoing, the Company will (i) not increase the par value of any Warrant Shares above the amount payable therefor upon such exercise immediately prior to such increase in par value, (ii) take all such action as may be necessary or appropriate in order that the Company may validly and legally issue fully paid and nonassessable Warrant Shares upon the exercise of this Warrant and (iii) use commercially reasonable efforts to obtain all such authorizations, exemptions or consents from any public regulatory body having jurisdiction thereof, as may be, necessary to enable the Company to perform its obligations under this Warrant.

Before taking any action, which would result in an adjustment in the number of Warrant Shares for which this Warrant is exercisable or in the Exercise Price, the Company shall obtain all such authorizations or exemptions thereof, or consents thereto, as may be necessary from any public regulatory body or bodies having jurisdiction thereof.

e. Jurisdiction. All questions concerning the construction, validity, enforcement and interpretation of this Warrant shall be determined in accordance with the provisions of the Purchase Agreement.

f. Restrictions. The Holder acknowledges that the Warrant Shares acquired upon the exercise of this Warrant, if not registered, and the Holder does not utilize cashless exercise, will have restrictions upon resale imposed by state and federal securities laws.

g. Nonwaiver and Expenses. No course of dealing or any delay or failure to exercise any right hereunder on the part of Holder shall operate as a waiver of such right or otherwise prejudice the Holder's rights, powers or remedies. For the avoidance of doubt, the foregoing shall in no way modify or qualify the right to exercise this Warrant terminating on the Termination Date. Without limiting any other provision of this Warrant, if the Company willfully and knowingly fails to comply with any provision of this Warrant or the Purchase Agreement, which results in any material damages to the Holder, the Company shall pay to the Holder such amounts as shall be sufficient to cover any costs and expenses including, but not limited to, reasonable attorneys' fees, including those of appellate proceedings, incurred by the Holder in collecting any amounts due pursuant hereto or in otherwise enforcing any of its rights, powers or remedies hereunder.

h. Notices. Any notice, request or other document required or permitted to be given or delivered to the Holder by the Company shall be delivered in accordance with the notice provisions of the Purchase Agreement.

i. Limitation of Liability. No provision hereof, in the absence of any affirmative action by the Holder to exercise this Warrant to purchase Warrant Shares, and no enumeration herein of the rights or privileges of the Holder, shall give rise to any liability of the Holder for the purchase price of any shares of Common Stock or as a stockholder of the Company, whether such liability is asserted by the Company or by creditors of the Company.

j. Remedies. The Holder, in addition to being entitled to exercise all rights granted by law, including recovery of damages, will be entitled to specific performance of its rights under this Warrant. The Company agrees that monetary damages would not be

adequate compensation for any loss incurred by reason of a breach by it of the provisions of this Warrant and hereby agrees to waive and not to assert the defense in any action for specific performance that a remedy at law would be adequate.

k. Successors and Assigns. Subject to applicable securities laws, this Warrant and the rights and obligations evidenced hereby shall inure to the benefit of and be binding upon the successors and permitted assigns of the Company and the successors and permitted assigns of Holder. The provisions of this Warrant are intended to be for the benefit of any Holder from time to time of this Warrant and shall be enforceable by the Holder or holder of Warrant Shares.

l. Amendment. This Warrant may be modified or amended or the provisions hereof waived with the written consent of the Company, on the one hand, and the Holder of this Warrant, on the other hand.

m. Severability. Wherever possible, each provision of this Warrant shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Warrant shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions or the remaining provisions of this Warrant.

-10-

n. Headings. The headings used in this Warrant are for the convenience of reference only and shall not, for any purpose, be deemed a part of this Warrant.

(Signature Page Follows)

-11-

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.

BAKKT HOLDINGS, INC.

By: /s/ Gavin Michael

Name: Gavin Michael

Title: Chief Executive Officer

[Signature Page to Common Stock Purchase Warrant (Class 1)]

EXHIBIT A

NOTICE OF EXERCISE

TO: **BAKKT HOLDINGS, 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 Section 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 Section 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:

Date:

A-1

EXHIBIT B

ASSIGNMENT FORM

(To assign the foregoing Warrant, execute this form and supply required information. Do not use this form to exercise the Warrant 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:

B-1

COMMON STOCK PURCHASE WARRANT
(Class 2)

BAKKT HOLDINGS, INC.

Warrant Shares: 1,381,004

Original Issuance Date: March 4, 2024

Initial Exercise Date: September 4, 2024

Termination Date: September 4, 2029

THIS COMMON STOCK PURCHASE WARRANT (Class 2) (the “Warrant”) certifies that, for value received, Intercontinental Exchange Holdings, Inc. or its assigns (the “Holder”) is entitled, upon the terms and subject to the limitations on exercise and the conditions hereinafter set forth, at any time on or after March 4, 2024 (the “Initial Exercise Date”) and on or prior to 5:00 p.m. (New York City time) on September 4, 2029 (the “Termination Date”) but not thereafter, to subscribe for and purchase from BAKKT HOLDINGS, INC., a Delaware corporation (the “Company”), up to 1,381,004 shares (as subject to adjustment hereunder, the “Warrant Shares”) of the Company’s Class A Common Stock, par value \$0.0001 per share (the “Common Stock”). The purchase price of one share of Common Stock under this Warrant shall be equal to the Exercise Price, as defined in Section 2(b).

Section 1. Definitions. Capitalized terms used and not otherwise defined herein shall have the meanings set forth in that certain Securities Purchase Agreement (the “Purchase Agreement”), dated February 29, 2024, among the Company and the purchaser signatory thereto.

Section 2. Exercise.

a. Exercise of Warrant. Exercise of the purchase rights represented by this Warrant may be made, in whole or in part, at any time or times on or after the Initial Exercise Date and on or before the Termination Date by delivery to the Company of a duly executed facsimile copy or PDF copy submitted by e-mail (or e-mail attachment) of the Notice of Exercise in the form annexed hereto (the “Notice of Exercise”). Within the earlier of (i) two (2) Trading Days (as defined in Section 2(c) herein) and (ii) the number of Trading Days comprising the Standard Settlement Period (as defined in Section 2(e)(i) herein) following the date of exercise as aforesaid, the Holder shall deliver the aggregate Exercise Price for the number of Warrant 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 or alternative cashless exercise procedure specified in Section 2(c) or Section 2(d) 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 be required. Notwithstanding anything herein to the contrary, the Holder shall not be required to physically surrender this Warrant to the Company until the Holder has purchased all of the Warrant Shares available hereunder and the Warrant has been exercised in full, in which case, the Holder shall surrender this Warrant to the Company for cancellation within three (3) Trading Days of the date on which the final Notice of Exercise is delivered to the Company. Partial exercises of this Warrant resulting in purchases of a portion of the total number of Warrant Shares available hereunder 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 Company shall maintain records showing the number of Warrant Shares purchased and the date of such purchases. The Company shall deliver any objection to any Notice of Exercise within one (1) Trading Day of receipt of such notice. **The Holder and any assignee, by acceptance of this Warrant, acknowledge and agree that, by reason of the provisions of this paragraph, following the purchase of a portion of the Warrant Shares hereunder, the number of Warrant Shares available for purchase hereunder at any given time may be less than the amount stated on the face hereof.**

b. Exercise Price. The exercise price per share of Common Stock under this Warrant shall be \$1.02, subject to adjustment hereunder (the “Exercise Price”).

c. Cashless Exercise. This Warrant may also be exercised, in whole or in part, at any time or times on or after the Initial Exercise Date and on or before the Termination Date by means of a “cashless exercise” in which the Holder shall be entitled to receive a number of Warrant Shares equal to the quotient 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) 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 Stock 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 of this Warrant, as adjusted hereunder; and

(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.

“Bid 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 bid price of the Common Stock for the time in question (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 the Common Stock is then not listed on a Trading Market and if the Shares are listed or quoted for trading on the OTC Market Group’s OTCQB exchange (“OTCQB”) or OTCQX exchange (“OTCQX”), 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 on The Pink Open Market (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 Securities then outstanding and reasonably acceptable to the Company, the fees and expenses of which shall be paid by the Company.

“Trading Day” means any day on which the Trading Market is open for trading, including any day on which the Trading Market is open for trading for a period of time less than the customary time.

“Trading Market” means any of the following markets or exchanges on which the shares of Common Stock are listed or quoted for trading on the date in question: 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).

“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 the Common Stock is not then listed or quoted on a Trading Market and if the Shares are listed or quoted for trading on OTCQB or OTCQX, 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 on The Pink Open Market (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.

-2-

If Warrant Shares are issued in such a cashless exercise, the parties acknowledge and agree 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. The Company agrees not to take any position contrary to this Section 2(c).

d. Alternative Cashless Exercise. After the Company has obtained Stockholder Approval, then, while the Warrant remains outstanding, if at any time during the period beginning on Initial Exercise Date the Reference Value is less than the Exercise Price (the “Trigger Event”), then the Holder shall have the option, exercisable at any time when the Trigger Event shall have occurred or shall be continuing to occur, to effect an “alternative cashless exercise” by providing the Company with a Notice of Exercise specifying the aggregate number of Warrant Shares subject to such alternative cashless exercise with the number of shares issuable upon such alternative

cashless exercise being equal to the product of (x) the aggregate number of Warrant Shares subject to the alternative cashless exercise Notice of Exercise (up to the full number of 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) and (y) 0.5. For purposes of this Warrant, the “Reference Value” shall mean the last reported sales price of the Common Stock for each of the three (3) Trading Days ending on the Trading Day prior to the date on which Notice of Exercise is given. If Warrant Shares are issued in such an alternative cashless exercise, the parties acknowledge and agree 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.

e. Mechanics of Exercise.

i. Delivery of Warrant Shares Upon Exercise. 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 The Depository Trust Company 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) this Warrant is being exercised via cashless exercise or alternative 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 (A) the earlier of (i) two (2) Trading Days and (ii) the number of days comprising the Standard Settlement Period, in each case after the delivery to the Company of the Notice of Exercise and (B) one (1) Trading Day after delivery of the aggregate Exercise Price to the Company (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 this 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 or alternative cashless exercise) is received by the Warrant Share Delivery Date. 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 third 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 Automated Securities Transfer (“FAST”) program so long as this Warrant remains 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.

ii. Delivery of New Warrants Upon Exercise. If this Warrant shall have been exercised in part, the Company shall, at the request of a Holder and upon surrender of this Warrant certificate, at the time of delivery of the Warrant Shares, deliver to the Holder a new Warrant evidencing the rights of the Holder to purchase the unpurchased Warrant Shares called for by this Warrant, which new Warrant shall in all other respects be identical with this Warrant.

iii. Rescission Rights. If the Company fails to cause the Transfer Agent to transmit to the Holder the Warrant Shares pursuant to Section 2(e)(i) by the Warrant Share Delivery Date, then the Holder will have the right to rescind such exercise.

-3-

iv. 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 2(e)(i) 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 this Warrant to purchase 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 reasonably satisfactory to the Company with respect to 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.

v. No Fractional Shares or Scrip. No fractional shares or scrip representing fractional shares shall be issued upon the exercise of this Warrant. As to any fraction of a share which the Holder would otherwise be entitled to purchase upon such exercise, the Company shall, at its election, either pay a cash adjustment in respect of such final fraction in an amount equal to such fraction multiplied by the Exercise Price or round up to the next whole share. As to any fraction of a share which the Holder would otherwise be entitled to upon an alternative cashless exercise pursuant to Section 2(d), the Company shall round down the number of shares deliverable upon redemption to the next whole share.

vi. Charges, Taxes and Expenses. Issuance and delivery 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 that Warrant Shares are to be issued in a name other than the name of the Holder, this 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 Depository Trust Company (or another established clearing corporation performing similar functions) required for same-day electronic delivery of the Warrant Shares.

vii. Closing of Books. The Company will not close its stockholder books or records in any manner which prevents the timely exercise of this Warrant, pursuant to the terms hereof.

-4-

f. Holder's Exercise Limitations. The Company shall not effect any exercise of this Warrant, and a Holder shall not have the right to exercise any portion of this Warrant, pursuant to Section 2 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, 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 this 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, nonexercised portion of this Warrant beneficially owned by the Holder or any of its Affiliates or Attribution Parties and (ii) exercise or conversion of the unexercised or nonconverted portion of any other securities of the Company (including, without limitation, any other 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 2(f), beneficial ownership shall be calculated in accordance with Section 13(d) of 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 2(f) applies, the determination of whether this Warrant is exercisable (in relation to other securities owned by the Holder together with any Affiliates and Attribution Parties) and of which portion of this 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 this Warrant is exercisable (in relation to other securities owned by the Holder together with any Affiliates and Attribution Parties) and of which portion of this 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 and shall have no liability for exercises of this Warrant that are not in compliance with the Beneficial Ownership Limitation (other than to the extent that information on the number of outstanding shares

of Common Stock is provided by the Company, either directly or through one or more public filings, and relied upon by the Holder). 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 and the Company shall have no obligation to verify or confirm the accuracy of such determination and shall have no liability for exercises of this Warrant that are not in compliance with the Beneficial Ownership Limitation (other than to the extent that information on the number of outstanding shares of Common Stock is provided by the Company, either directly or through one or more public filings, and relied upon by the Holder). For purposes of this Section 2(f), 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 one (1) Trading Day 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 this 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, at the election of the Holder prior to the issuance of this Warrant, 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 this Warrant. The Holder, upon written notice to the Company, may increase or decrease the Beneficial Ownership Limitation provisions of this Section 2(f), 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 this Warrant held by the Holder and the provisions of this Section 2(f) shall continue to apply. Any increase in the Beneficial Ownership Limitation will not be effective until the 61st 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 2(f) 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 this Warrant. If this Warrant is unexercisable as a result of the Holder's Beneficial Ownership Limitation, no alternate consideration is owing to the Holder. For the avoidance of doubt, the restrictions on exercise of any portion of this Warrant in this Section 2(f), the restrictions on participation in any Purchase Right in Section 3(b) and the restrictions on participation in any Distribution in Section 3(c) shall not prevent or limit any such exercise or participation by the Holder if the number of shares of Common Stock beneficially owned by the Holder and its Affiliates and Attribution Parties immediately prior to giving effect to such exercise or participation exceeds 9.99% of the number of shares of the Common Stock outstanding immediately prior to giving effect to such exercise or participation.

Section 3. Certain Adjustments; Rights Offering.

a. Stock Dividends and Splits. If the Company, at any time while this Warrant is 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 this Warrant), (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 outstanding immediately after such event, and the number of shares issuable upon exercise of this Warrant shall be proportionately adjusted such that the aggregate Exercise Price of this Warrant shall remain unchanged. Any adjustment made pursuant to this Section 3(a) 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.

-5-

b. Subsequent Rights Offerings. If at any time this Warrant is outstanding the Company grants, issues or sells any Common Stock Equivalents or rights to purchase shares, warrants, securities or other property pro rata to all of 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 this 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, that, 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).

c. Pro Rata Distributions. During such time as this Warrant is outstanding, if the Company shall declare or make any dividend or other distribution of its assets (or rights to acquire its assets) to holders of shares of Common Stock, by way of return of capital or otherwise (including, without limitation, any distribution of cash, stock or other securities, property or options by way of a dividend, spin off, reclassification, corporate rearrangement, scheme 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 shares of Common Stock acquirable upon complete exercise of this Warrant (without regard to any limitations on exercise hereof, including without limitation, the Beneficial Ownership Limitation) immediately before the date of which a record is taken for such Distribution, 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 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 exceeding the Beneficial Ownership Limitation, then the Holder shall not be entitled to participate in such Distribution to such extent (or in the beneficial ownership of any shares of Common Stock as a result of such Distribution to such extent) and the portion of such Distribution shall be held in abeyance for the benefit of the Holder until such time, if ever, as its right thereto would not result in the Holder exceeding the Beneficial Ownership Limitation).

-6-

d. Fundamental Transaction. If, at any time while this Warrant is 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 (or any subsidiary of the Company), directly or indirectly, effects any sale, lease, license, assignment, transfer, conveyance or other disposition of all or substantially all of the Company’s consolidated assets in one or a series of related transactions (provided that, for the avoidance of doubt, the sale by the Company of its loyalty and travel redemption business comprised of certain entities and any assets thereof shall not be deemed to be a sale or other disposition of all or substantially all of the Company’s assets), (iii) any, direct or indirect, purchase offer, tender offer or exchange offer (whether by the Company or another Person) is completed pursuant to which 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 voting power of the common equity of the Company, (iv) the Company, directly or indirectly, in one or more related transactions effects any reclassification, reorganization or recapitalization of shares of Common Stock or any compulsory share exchange pursuant to which the 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, merger or scheme of arrangement) with another Person or group of Persons whereby such other Person or group acquires more than 50% of the voting power of the common equity of the Company (each a “Fundamental Transaction”), then, upon any subsequent exercise of this 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, at the option of the Holder (without regard to any limitation in Section 2(f) on the exercise of this 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 any additional consideration (the “Alternate Consideration”) receivable as a result of such Fundamental Transaction by a holder of the number of shares of Common Stock for which this Warrant is exercisable immediately prior to such Fundamental Transaction (without regard to any limitation in Section 2(f) on the exercise of this 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 this Warrant following such Fundamental Transaction. The Company shall use commercially reasonable efforts to 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 this Warrant and the other Transaction Documents in accordance with the provisions of this Section 3(d) pursuant to written agreements in form and substance reasonably satisfactory to the Holder prior to such Fundamental Transaction and shall, at the option of the Holder, 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 which is exercisable for a corresponding number of shares of capital

stock of such Successor Entity (or its parent entity) equivalent to the shares of Common Stock 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 shares of capital stock (but taking into account the relative value of the shares of Common Stock pursuant to such Fundamental Transaction and the value of such shares of capital stock, such number of shares of capital stock 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 which is reasonably satisfactory in form and substance to the Holder. 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 this Warrant and the other Transaction Documents 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 and the other Transaction Documents with the same effect as if such Successor Entity had been named as the Company herein. Notwithstanding anything to the contrary, the alternative cashless exercise rights contemplated under Section 2(d) shall cease upon the consummation of a Fundamental Transaction. To the extent the Holder is entitled and elects to have this Warrant exercised in accordance with Section 2(d) prior to the consummation of a Fundamental Transaction, the Holder may condition such exercise on the consummation of a Fundamental Transaction, such that the alternative cashless exercise is effected immediately prior to the consummation of a Fundamental Transaction. Notwithstanding anything to the contrary, in the event of a Fundamental Transaction, the Company or any Successor Entity (as defined below) shall, at the Holder’s option, exercisable at any time concurrently with, or within thirty (30) days after, the consummation of the Fundamental Transaction (or, if later, the date of the public announcement of the applicable Fundamental Transaction), purchase this Warrant from the Holder by paying to the Holder, as described below, an amount of cash equal to the Black Scholes Value (as defined below) of the remaining unexercised portion of this Warrant on the date of the consummation of such Fundamental Transaction, provided, however, that, if the Fundamental Transaction is not within the Company’s control, including not approved by the board of directors of the Company, Holder shall only be entitled to receive from the Company or any Successor Entity, as of the date of the consummation of such Fundamental Transaction the same type or form of consideration (and in the same proportion), valued at the Black Scholes Value of the unexercised portion of this Warrant, that is being offered and paid to the holders of Common Stock of the Company in connection with the Fundamental Transaction, whether that consideration be in the form of cash, stock or any combination thereof, or whether the holders of Common Stock are given the choice to receive from among alternative forms of consideration in connection with the Fundamental Transaction; provided further, that if holders of Common Stock of the Company are not offered or paid any consideration in such Fundamental Transaction, such holders of Common Stock will be deemed to have received shares of the Successor Entity (which Successor Entity may be the Company following such Fundamental Transaction) in such Fundamental Transaction. “Black Scholes Value” means the value of this Warrant based on the Black-Scholes Option Pricing Model obtained from the “OV” function on Bloomberg determined as of the day of consummation of the applicable Fundamental Transaction for pricing purposes and reflecting (A) a risk-free interest rate corresponding to the U.S. Treasury rate for a period equal to the time between the date of the public announcement of the applicable contemplated Fundamental Transaction and the Termination Date, (B) an expected volatility equal to 100%, (C) the underlying price per share used in such calculation shall be the greater of (i) the sum of the price per share being offered in cash, if any, plus the value of any non-cash consideration, if any, being offered in such Fundamental Transaction and (ii) the highest VWAP 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 this Section 3(d) and (D) a remaining option time equal to the time between the date of the public announcement of the applicable Fundamental Transaction and the Termination Date and (E) a zero cost of borrow. The payment of the Black Scholes Value will be made by wire transfer of immediately available funds within five Business Days of the Holder’s election (or, if later, on the effective date of the Fundamental Transaction). For the avoidance of doubt, the Holder shall be entitled to the benefits of the provisions of this Section 3(d) regardless of whether the Company has sufficient authorized shares of Common Stock for the issuance of the Warrant Shares.

-7-

e. Calculations. All calculations under this Section 3 shall be made to the nearest cent or the nearest 1/100th of a share, as the case may be. For purposes of this Section 3, the number of shares of Common Stock deemed to be issued and outstanding as of a given date shall be the sum of the number of shares of Common Stock (excluding treasury shares, if any) issued and outstanding.

f. Notice to Holder.

i. Adjustment to Exercise Price. Whenever the Exercise Price is adjusted pursuant to any provision of this Section 3, 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.

ii. 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 shares of Common Stock rights or warrants to subscribe for or purchase any shares of capital stock of any class or any rights, (D) the approval of any stockholders of the Company shall be required in connection with a Fundamental Transaction, 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 provided in this Warrant constitutes, or contains, material, non-public information regarding the Company or any of the Company's subsidiaries, the Company shall simultaneously file such notice with the Commission pursuant to a Current Report on Form 8-K. The Holder shall remain entitled to exercise this 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.

g. Voluntary Adjustment by Company. Subject to the rules and regulations of the Trading Market, the Company may at any time while this Warrant is outstanding, reduce (temporarily or permanently) the then-current Exercise Price to any amount and for any period of time deemed appropriate by the board of directors of the Company in its sole discretion.

Section 4. Transfer of Warrant.

a. Transferability. This Warrant and all rights hereunder (including, without limitation, any registration rights) are transferable, in whole or in part, upon surrender of this Warrant at the principal office of the Company or its designated agent, together with a written assignment of this Warrant substantially in the form attached hereto duly executed by the Holder or its agent or attorney and funds sufficient to pay any transfer taxes payable upon the making of such transfer. Upon such surrender and, if required, such payment, the Company shall execute and deliver a new Warrant or Warrants in the name of the assignee or assignees, as applicable, and in the denomination or denominations specified in such instrument of assignment, and shall issue to the assignor a new Warrant evidencing the portion of this Warrant not so assigned, and this Warrant shall promptly be cancelled. Notwithstanding anything herein to the contrary, the Holder shall not be required to physically surrender this Warrant to the Company unless the Holder has assigned this Warrant in full, in which case, the Holder shall surrender this Warrant to the Company within three (3) Trading Days of the date on which the Holder delivers an assignment form to the Company assigning this Warrant in full. The Warrant, if properly assigned in accordance herewith, may be exercised by a new holder for the purchase of Warrant Shares without having a new Warrant issued.

-8-

b. New Warrants. This Warrant may be divided or combined with other Warrants upon presentation hereof at the aforesaid office of the Company, together with a written notice specifying the names and denominations in which new Warrants are to be issued, signed by the Holder or its agent or attorney. Subject to compliance with Section 4(a), as to any transfer which may be involved in such division or combination, the Company shall execute and deliver a new Warrant or Warrants in exchange for the Warrant or Warrants to be divided or combined in accordance with such notice. All Warrants issued on transfers or exchanges shall maintain the Original Issuance Date of this Warrant and shall be identical with this Warrant except as to the number of Warrant Shares issuable pursuant thereto.

c. Warrant Register. The Company shall register this Warrant, upon records to be maintained by the Company for that purpose (the "Warrant Register"), in the name of the record Holder hereof from time to time. The Company may deem and treat the registered Holder of this Warrant as the absolute owner hereof for the purpose of any exercise hereof or any distribution to the Holder, and for all other purposes, absent actual notice to the contrary.

Section 5. Miscellaneous.

a. No Rights as Stockholder Until Exercise; No Settlement in Cash. This Warrant does not entitle the Holder to any voting rights, dividends or other rights as a stockholder of the Company prior to the exercise hereof as set forth in Section 2(e)(i), except as expressly set forth in Section 3. Without limiting the rights of a Holder to receive Warrant Shares on a “cashless exercise” or an “alternative cashless exercise”, and to receive the cash payments contemplated pursuant to Sections 2(e)(i) and 2(e)(iv), in no event will the Company be required to net cash settle an exercise of this Warrant.

b. Loss, Theft, Destruction or Mutilation of Warrant. The Company covenants that upon receipt by the Company of evidence reasonably satisfactory to it of the loss, theft, destruction or mutilation of this Warrant, and in case of loss, theft or destruction, of indemnity or security reasonably satisfactory to it (which shall not include the posting of any bond), and upon surrender and cancellation of such Warrant, if mutilated, the Company will make and deliver a new Warrant of like tenor and dated as of such cancellation, in lieu of such Warrant. The applicant for a new certificate or instrument under such circumstances shall pay any reasonable third-party costs (including customary indemnity) associated with the issuance of such replacement warrant.

c. 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.

d. Authorized Shares. The Company covenants that, at all times during the period the Warrant is outstanding, it will reserve from its authorized and unissued Common Stock a sufficient number of shares to provide for the issuance of the Warrant Shares upon the exercise of any purchase rights under this Warrant. The Company further covenants that its issuance of this Warrant shall constitute full authority to its officers who are charged with the duty of issuing the necessary Warrant Shares upon the exercise of the purchase rights under this Warrant. The Company will take all such reasonable action as may be necessary to assure that such Warrant Shares may be issued as provided herein without violation of any applicable law or regulation, or of any requirements of the Trading Market upon which the Common Stock may be listed. The Company covenants that all Warrant Shares that may be issued upon the exercise of the purchase rights represented by this Warrant will, upon exercise of the purchase rights represented by this Warrant and payment for such Warrant Shares in accordance herewith, be duly authorized, validly issued, fully paid and nonassessable and free from all taxes, liens and charges created by the Company in respect of the issue thereof (other than taxes in respect of any transfer occurring contemporaneously with such issue).

-9-

Except and to the extent as waived or consented to by the Holder, the Company shall not by any action, including, without limitation, amending its certificate of incorporation or through any 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 of this Warrant, but will at all times in good faith assist in the carrying out of all such terms and in the taking of all such actions as may be necessary or appropriate to protect the rights of Holder as set forth in this Warrant against impairment. Without limiting the generality of the foregoing, the Company will (i) not increase the par value of any Warrant Shares above the amount payable therefor upon such exercise immediately prior to such increase in par value, (ii) take all such action as may be necessary or appropriate in order that the Company may validly and legally issue fully paid and nonassessable Warrant Shares upon the exercise of this Warrant and (iii) use commercially reasonable efforts to obtain all such authorizations, exemptions or consents from any public regulatory body having jurisdiction thereof, as may be, necessary to enable the Company to perform its obligations under this Warrant.

Before taking any action, which would result in an adjustment in the number of Warrant Shares for which this Warrant is exercisable or in the Exercise Price, the Company shall obtain all such authorizations or exemptions thereof, or consents thereto, as may be necessary from any public regulatory body or bodies having jurisdiction thereof.

e. Jurisdiction. All questions concerning the construction, validity, enforcement and interpretation of this Warrant shall be determined in accordance with the provisions of the Purchase Agreement.

f. Restrictions. The Holder acknowledges that the Warrant Shares acquired upon the exercise of this Warrant, if not registered, and the Holder does not utilize cashless exercise or alternative cashless exercise, will have restrictions upon resale imposed by state and federal securities laws.

g. Nonwaiver and Expenses. No course of dealing or any delay or failure to exercise any right hereunder on the part of Holder shall operate as a waiver of such right or otherwise prejudice the Holder’s rights, powers or remedies. For the avoidance of

doubt, the foregoing shall in no way modify or qualify the right to exercise this Warrant terminating on the Termination Date. Without limiting any other provision of this Warrant, if the Company willfully and knowingly fails to comply with any provision of this Warrant or the Purchase Agreement, which results in any material damages to the Holder, the Company shall pay to the Holder such amounts as shall be sufficient to cover any costs and expenses including, but not limited to, reasonable attorneys' fees, including those of appellate proceedings, incurred by the Holder in collecting any amounts due pursuant hereto or in otherwise enforcing any of its rights, powers or remedies hereunder.

h. Notices. Any notice, request or other document required or permitted to be given or delivered to the Holder by the Company shall be delivered in accordance with the notice provisions of the Purchase Agreement.

i. Limitation of Liability. No provision hereof, in the absence of any affirmative action by the Holder to exercise this Warrant to purchase Warrant Shares, and no enumeration herein of the rights or privileges of the Holder, shall give rise to any liability of the Holder for the purchase price of any shares of Common Stock or as a stockholder of the Company, whether such liability is asserted by the Company or by creditors of the Company.

j. Remedies. The Holder, in addition to being entitled to exercise all rights granted by law, including recovery of damages, will be entitled to specific performance of its rights under this Warrant. The Company agrees that monetary damages would not be adequate compensation for any loss incurred by reason of a breach by it of the provisions of this Warrant and hereby agrees to waive and not to assert the defense in any action for specific performance that a remedy at law would be adequate.

k. Successors and Assigns. Subject to applicable securities laws, this Warrant and the rights and obligations evidenced hereby shall inure to the benefit of and be binding upon the successors and permitted assigns of the Company and the successors and permitted assigns of Holder. The provisions of this Warrant are intended to be for the benefit of any Holder from time to time of this Warrant and shall be enforceable by the Holder or holder of Warrant Shares.

l. Amendment. This Warrant may be modified or amended or the provisions hereof waived with the written consent of the Company, on the one hand, and the Holder of this Warrant, on the other hand.

m. Severability. Wherever possible, each provision of this Warrant shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Warrant shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions or the remaining provisions of this Warrant.

-10-

n. Headings. The headings used in this Warrant are for the convenience of reference only and shall not, for any purpose, be deemed a part of this Warrant.

(Signature Page Follows)

-11-

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.

BAKKT HOLDINGS, INC.

By: /s/ Gavin Michael

Name: Gavin Michael

Title: Chief Executive Officer

[Signature Page to Common Stock Purchase Warrant (Class 2)]

EXHIBIT A

NOTICE OF EXERCISE

TO: **BAKKT HOLDINGS, 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;

if permitted the cancellation of such number of Warrant Shares as is necessary, in accordance with the formula set forth in Section 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 Section 2(c); or

if permitted the cancellation of such number of Warrant Shares as is necessary, in accordance with the formula set forth in Section 2(d), to exercise this Warrant with respect to the maximum number of Warrant Shares purchasable pursuant to the alternative cashless exercise procedure set forth in Section 2(d).

(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:

Date:

A-1

EXHIBIT B

ASSIGNMENT FORM

(To assign the foregoing Warrant, execute this form and supply required information. Do not use this form to exercise the Warrant 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:

B-1
