

SECURITIES AND EXCHANGE COMMISSION

FORM 424B5

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FILER

**TD Holdings, Inc.**

CIK: **1556266** | IRS No.: **454077653** | State of Incorporation: **DE** | Fiscal Year End: **1231**  
Type: **424B5** | Act: **33** | File No.: **333-239757** | Film No.: **221462829**  
SIC: **6021** National commercial banks

Mailing Address

25TH FL, BLOCK C, TAIRAN  
BUILDING, NO 31  
TAIRAN 8TH RD, FUTIAN  
DISTRICT, SHENZHEN  
GUANGDONG F4 PRC  
518000

Business Address

25TH FL, BLOCK C, TAIRAN  
BUILDING, NO 31  
TAIRAN 8TH RD, FUTIAN  
DISTRICT, SHENZHEN  
GUANGDONG F4 PRC  
518000  
86-0755- 88898711

Supplement No. 1 dated December 12, 2022  
To the Prospectus Supplement dated January 19, 2021  
(To Prospectus dated August 4, 2020)

## Up to 2,589,306 Shares of Common Stock

### TD HOLDINGS, INC.

This supplement, referred to as the Supplement, amends and supplements certain information contained in the prospectus supplement dated January 19, 2021, referred to as the prospectus supplement, relating to the issuance and sale of up to 15,775,000 shares of our common stock, \$0.001 par value per share, referred to as the Common Stock, from time to time directly to White Lion Capital LLC, a Nevada limited liability company, or White Lion Capital, under a Common Stock Purchase Agreement entered into on January 19, 2021, or the Purchase Agreement. This Supplement consists of the Current Report on Form 8-K filed by us with the Securities and Exchange Commission on December 14, 2022, which we refer to as the Form 8-K. This Supplement should be read in conjunction with the prospectus supplement and the prospectus dated August 4, 2020 (as amended and supplemented to date), which we refer to as the prospectus, to which the prospectus supplement relates. Defined terms used in this Supplement and not defined herein have the respective meanings ascribed to such terms in the prospectus supplement. This Supplement amends only those sections of the prospectus supplement affected by this Supplement; all other sections of the prospectus supplement remain unchanged. To the extent there is a discrepancy between the information contained herein and the information in the prospectus supplement or the prospectus, the information contained herein supersedes and replaces such conflicting information.

This Supplement is being filed to reflect the amendment and restatement of the Purchase Agreement pursuant to that certain Settlement and Restated Common Stock Purchase Agreement, dated December 12, 2022, by and between us and White Lion, which we refer to as the Amended and Restated Purchase Agreement, as described the Form 8-K, to reflect, among other things, that we now may offer and sell directly to White Lion up to 2,589,306 shares of Common Stock pursuant to the Amended and Restated Purchase Agreement under the registration statement of which this Supplement, the prospectus supplement and the prospectus are a part. Accordingly, each reference to, and description of, the "Purchase Agreement", including the shares of Common Stock we may sell directly to White Lion from time to time thereunder in the prospectus supplement is hereby amended to refer to "Amended and Restated Purchase Agreement," including that from the date of this Supplement may offer and sell directly to White Lion up to 2,589,306 shares of Common Stock thereunder. This Supplement, together with the prospectus supplement and the prospectus, is to be used by certain holders of the above-referenced securities or by their pledgees, donees, transferees or other successors-in-interest in connection with the offer and sale of such securities.

As of the date of this Supplement, we had sold 1,253,468 shares of our Common stock under the Purchase Agreement.

Our Common Stock is currently listed on the Nasdaq Capital Market under the symbol "GLG." On December 12, 2022, the last reported sale price for our Common Stock on the Nasdaq Capital Market was \$1.23 per share.

The aggregate market value of our outstanding shares of Common Stock held by non-affiliates was approximately \$53.46 million based on 55,699,386 outstanding shares of Common Stock, of which 11,518,385 shares are held by non-affiliates, and per share price of \$1.21, which was the last reported price on the Nasdaq Capital Market for our Common Stock on December 13, 2022. We have not offered any securities pursuant to General Instruction I.B.6. of Form S-3 during the prior 12 calendar month period that ends on and includes the date of this Supplement and we may sell up to approximately \$80 million of securities hereunder.

**Investing in our Common Stock involves risks. You should carefully review the risks described under the heading "Risk Factors" beginning on page 5 of the prospectus supplement which are incorporated by reference herein before you invest in our securities.**

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

The date of this Supplement is December 12, 2022

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

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of Earliest Event Reported): December 12, 2022

**TD Holdings, Inc.**

(Exact name of registrant as specified in its charter)

**Delaware**

(State or other jurisdiction  
of incorporation)

**001-36055**

(Commission File Number)

**45-4077653**

(IRS Employer  
Identification No.)

**25th Floor, Block C, Tairan Building  
No. 31 Tairan 8th Road, Futian District  
Shenzhen, Guangdong, PRC 518000**  
(Address of Principal Executive Offices)

**+86 (0755) 88898711**

(Issuer's telephone number)

(Former name or former address, if changed since last report)

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

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

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

Emerging growth company

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

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

| Title of each class             | Trading Symbol(s) | Name of each exchange on which registered |
|---------------------------------|-------------------|---|
| Common Stock, par value \$0.001 | GLG               | Nasdaq Capital Market                     |

### Item 1.01 Entry into a Material Definitive Agreement

As previously reported in the Current Report on Form 8-K filed on January 20, 2021, TD Holdings, Inc. (the “**Company**”) entered into a Common Stock Purchase Agreement (the “**Purchase Agreement**”), dated January 19, 2021, with White Lion Capital, LLC, a Nevada limited liability company (the “**Investor**”), and on September 13, 2021, the Company entered into a Settlement and Mutual Release Agreement (the “**Settlement Agreement**”) with the Investor. Pursuant to the Settlement Agreement, the Company and the Investor agreed that on any trading day selected by the Company, provided that the closing price of the Company’s common stock, par value \$0.001 per share (the “**Common Stock**”), on the date of purchase notice is greater than or equal to \$1.00 and there is an effective registration statement for the resale by the Investor of the Purchase Notice Shares (as defined in the Settlement Agreement), the Company has the right, but not the obligation, to present Investor with a purchase notice, directing the Investor to purchase up to certain amount shares of the Company’s Common Stock.

On December 12, 2022, the Company entered into a Settlement and Restated Common Stock Purchase Agreement (the “**Restated Agreement**”) with the Investor. Pursuant to the Restated Agreement, in consideration for the Investor’s execution and delivery of, and performance under the Restated Agreement, the Company agreed to issue to the Investor 300,000 unregistered shares of Common Stock (the “**Commitment Shares**”) within five business days of execution of the Restated Agreement. In addition, within thirty days of the execution of the Restated Agreement, the Company shall deliver to the Investor a purchase notice for 489,306 shares of Common Stock (the “**First Purchase Notice**”) at a purchase price of 80% of the lowest daily volume-weighted average price (“**VWAP**”) of the Company’s Common Stock during the valuation period as defined in the Restated Agreement (the “**Purchase Price**”). Within thirty days of the closing of the First Purchase Notice, the Company shall deliver to the Investor a purchase notice for 200,000 purchase notice shares (the “**Second Purchase Notice**”) at the Purchase Price. Between the closing date of the Second Purchase Notice and the period ending on the earlier of (i) March 31, 2023 or (ii) the date on which the Investor shall have purchased an aggregate of 2,889,306 purchase notice shares, the Company shall have the right, but not the obligation, to direct the Investor to purchase up to 1,900,000 purchase notice shares at which (i) the first 600,000 purchase notice shares shall be at the Purchase Price and (ii) any remaining purchase notice shares shall be at a purchase price of 85% of the lowest daily VWAP of the Company’s Common Stock during the valuation period as defined in the Restated Agreement.

The number of shares sold pursuant to any purchase notices under the Restated Agreement may not exceed the lower of (a) 200% of the Average Daily Trading Volume (as defined in the Restated Agreement) or (b) the Investment Limit (as defined in the Restated Agreement) divided by the highest closing price of the Common Stock over the five most recent business days.

No purchase notice may result in the Investor beneficially owning (as calculated pursuant to Section 13(d) of the Securities and Exchange Act of 1934, as amended, and Rule 13d-3 thereunder) more than 4.99% of the number of shares of Common Stock outstanding immediately prior to the issuance of shares of Common Stock issuable pursuant to such purchase notice.

An aggregate of 689,306 shares of Common Stock from the First Purchase Notice and the Second Purchase Notice, and up to an additional 1,900,000 shares of Common Stock will be registered for sale directly to the Investor pursuant to a prospectus supplement, dated of January 19, 2021, as supplemented by that certain supplement dated December 12, 2022, to the Registration Statement on Form S-3 (File No. 333-239757), as amended, filed with the Securities and Exchange Commission (the “**SEC**”) under the Securities Act of 1933, as amended (the “**Securities Act**”), which became effective on August 4, 2020. The Commitment Shares will not be

registered under the Securities Act, in reliance on the exemption from registration provided by Section 4(a)(2) of the Securities Act and/or Regulation D promulgated thereunder.

The Restated Agreement shall replace the Purchase Agreement and Settlement Agreement in their entirety, and the parties have agreed to mutually release each other for any and all past claims that may be due to each other prior to the execution of the Restated Agreement, including, but not limited to, claims or rights under the Purchase Agreement and Settlement Agreement.

The description of terms and conditions of the Restated Agreement, set forth herein do not purport to be complete and is qualified in its entirety by reference to the full text of the form of Restated Agreement, which is attached hereto as Exhibit 10.1, and is incorporated by reference herein.

### Item 3.02 Unregistered Sales of Equity Securities

The description of the Commitment Shares set forth under Item 1.01 is incorporated herein by reference.

### Item 9.01 Financial Statement and Exhibits

(d) Exhibits

10.1 [Settlement and Restated Common Stock Purchase Agreement, dated December 12, 2022, by and between TD Holdings, Inc. and White Lion Capital, LLC](#)

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### SIGNATURES

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

**TD HOLDINGS, INC.**

Date: December 14, 2022

By: /s/ Renmei Ouyang

Name: Renmei Ouyang

Title: Chief Executive Officer

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**Exhibit 10.1**

### SETTLEMENT AND RESTATED COMMON STOCK PURCHASE AGREEMENT

This Settlement and Restated Common Stock Purchase Agreement is effective as of the Execution Date (this “Agreement”), by and between TD HOLDINGS, INC., a Delaware corporation (the “Company”), and WHITE LION CAPITAL LLC, a Nevada limited liability company (the “Investor,” together with the Company, the “Parties”).

### RECITALS

**WHEREAS**, the Company and the Investor are parties to that certain Common Stock Purchase Agreement dated January 19, 2021 (the “Original SPA”) and that certain Settlement and Mutual Release Agreement dated September 13, 2021 (the “2021 Settlement Agreement,” together with the Original SPA, the “Prior Agreements.”);

**WHEREAS**, the Investor alleges that it has certain claims against the Company arising out of the Prior Agreements (the “Dispute”);

**WHEREAS**, the Parties have been engaged in discussions regarding possible resolutions of the Dispute; and

**WHEREAS**, as a result of those discussions, the Parties desire to amicably resolve the Dispute by entering into this Agreement, which the Parties agree shall replace the Prior Agreements in their entirety.

**NOW, THEREFORE**, in consideration of the mutual covenants, representations, warranties and other terms and conditions contained herein, the sufficiency of which is hereby acknowledged, the Parties hereto agree as follows:

## **ARTICLE I CERTAIN DEFINITIONS**

Section 1.1 DEFINED TERMS. As used in this Agreement, the following terms shall have the following meanings specified or indicated (such meanings to be equally applicable to both the singular and plural forms of the terms defined):

“Affiliate” shall mean, with respect to a Party, any individual, a corporation or any other legal entity, directly or indirectly, controlling, controlled by or under common control with such Party. For purpose of this definition, the term “*control*,” as used with respect to any corporation or other entity, means (a) direct or indirect ownership of fifty percent (50%) or more of the securities or other ownership interests representing the equity voting stock or general partnership or membership interest of such corporation or other entity or (b) the power to direct or cause the direction of the management or policies of such corporation or other entity, whether through the ownership of voting securities, by contract or otherwise.

“Agreement” shall have the meaning specified in the preamble hereof.

“Average Daily Trading Volume” shall mean the median daily trading volume of the Company’s Common Stock over the most recent five (5) Business Days prior to the respective Purchase Notice Date, as reported by Bloomberg.

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“Bankruptcy Law” means Title 11, U.S. Code, or any similar federal or state law for the relief of debtors.

“Base Registration Statement” shall have the meaning specified in Section 4.15.

“Beneficial Ownership Limitation” shall have the meaning specified in Section 7.2(h).

“Bloomberg” means Bloomberg, L.P.

“Business Day” shall mean a day on which the Principal Market shall be open for business.

“Clearing Costs” shall mean all of the Investor’s broker and Transfer Agent costs with respect to the deposit of the Purchase Notice Shares.

“Clearing Date” shall mean the first entire Business Day on which the Investor receives the DWAC Shares set forth in the Purchase Notice in its brokerage account.

“Closing” shall mean any one of the closings of a purchase and sale of shares of Common Stock pursuant to Section 2.2.

“Closing Date” shall mean the date a Closing occurs.

“Commitment Amount” shall mean 689,306 Purchase Notice Shares.

“Commitment Period” shall mean the period commencing on the Execution Date and ending on the earlier of (i) March 31, 2023 or (ii) the date on which the Investor shall have purchased 2,889,306 Purchase Notice Shares.

“Commitment Shares” means 300,000 shares of restricted Common Stock issued by the Company to the Investor pursuant to Section 6.4.

“Common Stock” shall mean the Company’s common stock, \$0.001 par value per share, and any shares of any other class of common stock whether now or hereafter authorized, having the right to participate in the distribution of dividends (as and when declared) and assets (upon liquidation of the Company).

“Common Stock Equivalents” means any securities of the Company entitling the holder thereof to acquire at any time Common Stock, including, without limitation, any debt, preferred stock, right, option, warrant or other instrument that is at any time convertible into or exercisable or exchangeable for, or otherwise entitles the holder thereof to receive, Common Stock.

“Company” shall have the meaning specified in the preamble to this Agreement.

“Custodian” means any receiver, trustee, assignee, liquidator or similar official under any Bankruptcy Law.

“Current Report” has the meaning set forth in Section 6.2.

“Damages” shall mean any loss, claim, damage, liability, cost and expense (including, without limitation, reasonable attorneys’ fees and disbursements and costs and expenses of expert witnesses and investigation).

“DTC” shall mean The Depository Trust Company, or any successor performing substantially the same function for the Company.

“DTC/FAST Program” shall mean the DTC’s Fast Automated Securities Transfer Program.

“DWAC” shall mean Deposit Withdrawal at Custodian as defined by the DTC.

“DWAC Eligible” shall mean that (a) the Common Stock is eligible at DTC for full services pursuant to DTC’s Operational Arrangements, including, without limitation, transfer through DTC’s DWAC system, (b) the Company has been approved (without revocation) by the DTC’s underwriting department, (c) the Transfer Agent is approved as an agent in the DTC/FAST Program, (d) the Purchase Notice Shares and Commitment Shares are otherwise eligible for delivery via DWAC, and (e) the Transfer Agent does not have a policy prohibiting or limiting delivery of the Purchase Notice Shares and Commitment Shares, as applicable, via DWAC.

“DWAC Shares” means shares of Common Stock that are (i) issued in electronic form, (ii) freely tradable and transferable and without restriction on resale and (iii) timely credited by the Company to the Investor’s or its designee’s specified DWAC account with DTC under the DTC/FAST Program, or any similar program hereafter adopted by DTC performing substantially the same function.

“Escrow Account” means a non-interest-bearing account at the Escrow Agent in the beneficiary of the Company.

“Escrow Agent” means Wilmington Trust, National Association, having an office at Suite 2 R, 166 Mercer Street, New York, NY 10012.

“Escrow Amount” means a dollar amount equal to the closing price of the Common Stock on the Purchase Notice Date multiplied by the number of shares listed in each Purchase Notice multiplied by 50%, not to exceed 50% of the Investment Limit.

“Escrow Agreement” means the escrow agreement to be entered into by and among the Company, Univest, the Investor and the Escrow Agent, pursuant to which the Investor shall deposit the Investment Amounts.

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

“Exchange Cap” shall have the meaning set forth in Section 7.2(i).

“Execution Date” shall mean the date of the last signature of this Agreement.

“Investment Amount” shall mean the Purchase Notice Amount less Clearing Costs.

“Investment Limit” shall mean \$1,000,000 initially, subject to increase at the sole discretion of the Investor.

“Investor” shall have the meaning specified in the preamble to this Agreement.

“Lien” means a lien, charge, pledge, security interest, encumbrance, right of first refusal, preemptive right or other restriction.

“Material Adverse Effect” shall mean any effect on the business, operations, properties, or financial condition of the Company that is material and adverse to the Company and/or any condition, circumstance, or situation that would prohibit or otherwise materially interfere with the ability of the Company to enter into and perform its obligations under any Transaction Document.

“Person” shall mean an individual, a corporation, a partnership, an association, a trust or other entity or organization, including a government or political subdivision or an agency or instrumentality thereof.

“Principal Market” shall mean any of the national exchanges (i.e. NYSE, AMEX, Nasdaq), or principal quotation systems (i.e. OTCQX, OTCQB, OTC Pink, the OTC Bulletin Board), or other principal exchange or recognized quotation system which is at the time the principal trading platform or market for the Common Stock.

“Purchase Notice Amount” shall mean the Purchase Notice Shares referenced in the Purchase Notice multiplied by the applicable purchase price (Purchase Price I or Purchase Price II) in accordance with Section 2.1.

“Purchase Notice” shall mean a written notice from Company, substantially in the form of Exhibit A hereto, to the Investor setting forth the Purchase Notice Shares which the Company requires the Investor to purchase pursuant to the terms of this Agreement.

“Purchase Notice Date” shall have the meaning specified in Section 2.2(a).

“Purchase Notice Limit” shall mean for any Purchase Notice:

The Investor’s committed obligation under each Purchase Notice shall not exceed the Investment Limit; the maximum amount of Purchase Notice Shares the Company may request the Investor to purchase per each Purchase Notice shall be the lesser of: (i) 200% of the Average Daily Trading Volume or (ii) the then Investment Limit divided by the highest closing price of the Common Stock over the most recent five (5) Business Days including the respective Purchase Notice Date. Notwithstanding the forgoing, the Investor may waive the Purchase Notice Limit at any time to allow the Investor to purchase additional shares under a Purchase Notice. For the purpose of determining the closing price, the parties shall refer to the as reported closing price on Bloomberg.

“Purchase Notice Shares” shall mean all shares of Common Stock that the Company shall be entitled to issue as set forth in all Purchase Notices in accordance with the terms and conditions of this Agreement.

“Purchase Price I” shall mean 80% of the lowest daily VWAP of the Common Stock during the Valuation Period.



“Purchase Price II” shall mean 85% of the lowest daily VWAP of the Common Stock during the Valuation Period.

“Registration Statement” shall have the meaning specified in Section 6.3.

“Regulation D” shall mean Regulation D promulgated under the Securities Act.

“Rule 144” shall mean Rule 144 under the Securities Act or any similar provision then in force under the Securities Act.

“SEC” shall mean the United States Securities and Exchange Commission.

“SEC Documents” shall have the meaning specified in Section 4.5.

“Securities” mean the Purchase Notice Shares and the Commitment Shares to be issued to the Investor pursuant to the terms of this Agreement.

“Securities Act” shall mean the Securities Act of 1933, as amended.

“Subsidiary” means any Person the Company wholly-owns or controls, or in which the Company, directly or indirectly, owns a majority of the voting stock or similar voting interest, in each case that would be disclosable pursuant to Item 601(b)(21) of Regulation S-K promulgated under the Securities Act.

“Transaction Documents” shall mean this Agreement and all exhibits hereto and thereto.

“Transfer Agent” shall mean the current transfer agent of the Company, and any successor transfer agent of the Company.

“Valuation Period” shall mean the three (3) Business days immediately prior to the Closing Date.

“VWAP” means, for any security as of any date, the dollar volume-weighted average price for such security on the Principal Market (or, if the Principal Market is not the principal trading market for such security, then on the principal securities exchange or securities market on which such security is then traded), during the period beginning at 9:30 a.m., New York time, and ending at 4:00 p.m., New York time, as reported by Bloomberg through its “VAP” function (set to 09:30 start time and 16:00 end time) or, if the foregoing does not apply, the dollar volume-weighted average price of such security in the over-the-counter market on the electronic bulletin board for such security during the period beginning at 9:30 a.m., New York time, and ending at 4:00 p.m., New York time, as reported by Bloomberg, or, if no dollar volume-weighted average price is reported for such security by Bloomberg for such hours, the average of the highest closing bid price and the lowest closing ask price of any of the market makers for such security as reported in the “pink sheets” by OTC Markets Group Inc. (formerly Pink Sheets LLC). If the VWAP cannot be calculated for such security on such date on any of the foregoing bases, the VWAP of such security on such date shall be the fair market value as mutually determined by the Company and the Investor. If the Company and the Investor are unable to agree upon the fair market value of such security, then such dispute shall be resolved in accordance with the procedures in Section 10.16. All such determinations shall be appropriately adjusted for any share dividend, share split, share combination, recapitalization or other similar transaction during such period.

## ARTICLE II PURCHASE AND SALE OF COMMON STOCK

### Section 2.1 PURCHASE NOTICES.

(a) FIRST PURCHASE NOTICE. Within thirty (30) days of the Execution Date, the Company shall deliver to the Investor a Purchase Notice for 489,306 Purchase Notice Shares (the “First Purchase Notice”) at the Purchase Price I.

(b) SECOND PURCHASE NOTICE. Within thirty (30) days of the Closing Date of the First Purchase Notice, the Company shall deliver to the Investor a Purchase Notice for 200,000 Purchase Notice Shares (the “Second Purchase Notice”) at the Purchase Price I.

(c) OPTIONAL ADDITIONAL PURCHASE NOTICES. During the period between the Closing Date of the Second Purchase Notice and the end of the Commitment Period, to the extent that all purchases of the Commitment Amount have been timely consummated, the Company shall have the right, but not the obligation, to direct the Investor, by its delivery to the Investor of a Purchase Notice from time to time, to purchase up to 1,900,000 Purchase Notice Shares of which (i) the first 600,000 Purchase Notice Shares shall be issuable at the Purchase Price I, and (ii) any remaining Purchase Notice Shares shall be issuable at Purchase Price II, provided that the amount of Purchase Notice Shares shall not exceed the Purchase Notice Limit or the Beneficial Ownership Limitation set forth in Section 7.2(h). The Company may not deliver a subsequent Purchase Notice until the Closing of an active Purchase Notice, except if waived by the Investor in writing.

## Section 2.2 MECHANICS.

(a) PURCHASE NOTICE. In accordance with Section 2.1 and subject to the satisfaction of the conditions set forth in Section 7.2, the Company shall deliver the Purchase Notice Shares as DWAC Shares to the Investor alongside delivery of each Purchase Notice. A Purchase Notice shall be deemed delivered on (i) the Business Day it is received by email by the Investor if such notice is received on or prior to 4:00 p.m. New York time or (ii) the next Business Day if it is received by email after 4:00 p.m. New York time on a Business Day or at any time on a day which is not a Business Day (the "Purchase Notice Date").

(b) ESCROW DEPOSIT. No later than 5:00 p.m. New York time on the second Business Day following the Purchase Notice Date pursuant to Section 2.2(a), Investor shall deposit into the Escrow Account the Escrow Amount (unless waived by Company).

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(c) DELIVERY OF PURCHASE NOTICE SHARES. No later than 5:00 p.m. New York time on the Business Day following the date when the Escrow Agent receives the Investor's deposit of the Escrow Amount (the "Escrow Wire"), the Company shall deliver the Purchase Notice Shares as DWAC Shares to the Investor. The Investor shall immediately notify the Company of its initiation of each Escrow Wire and upon such notification the Company shall confirm the same with the Escrow Agent.

(d) CLOSING. The Closing of a Purchase Notice shall occur on the second (2) Business Day after the Clearing Date, whereby the Investor shall deliver to the Escrow Agent, by 12:00 p.m. New York time on the Closing Date, any remaining balance of the applicable Investment Amount and instructions to disburse by wire transfer of immediately available funds from the Escrow Account subject to the Escrow Agreement (i) escrow expenses and wire transfer fees to an account designated by the Escrow Agent, (ii) the Investment Amount (less applicable placement agent fee and expenses) to an account designated by the Company, (iii) applicable placement agent fee and expenses to an account designated by Univest and (iv) any remaining amount to an account designated by the Investor, in each case as late in such day as possible as that would enable delivery of same-day funds in accordance with such instructions. The Investor shall deliver a copy of such instructions to the Company simultaneously with the instructions' delivery to the Escrow Agent. In the event that the Investment Amount exceeds the Investment Limit, the Investor shall waive the Investment Limit for that applicable Purchase Notice. The Company shall have the right to object to the release of funds from the Escrow Account only due to manifest error in the instructions, from the time the instructions are simultaneously delivered to the Escrow Agent and Company and before the funds are disbursed by the Escrow Agent. Upon such objection, Investor shall, as soon as practicable, inform the Escrow Agent that the instructions are withdrawn and that funds shall be returned to Investor until new instructions are delivered. Investor and Company shall work in good faith to cure any error and to provide new instructions to the Escrow Agent same day, but no later than the next business day. In the event the Company is unable to object to the release of funds from the Escrow Account due to manifest error in the instructions on the same day when the instruction is delivered to the Escrow Agent, the Company may raise such objection until the next Business Day the instruction is delivered and the Investor shall act in good faith to correct such error within two Business Days of such objection.

## **ARTICLE III REPRESENTATIONS AND WARRANTIES OF INVESTOR**

The Investor represents and warrants to the Company that:

Section 3.1 INTENT. The Investor is entering into this Agreement for its own account and the Investor has no present arrangement (whether or not legally binding) at any time to sell the Securities to or through any Person in violation of the Securities Act or any applicable state securities laws; provided, however, that the Investor reserves the right to dispose of the Securities at any time in accordance with federal and state securities laws applicable to such disposition.

Section 3.2 NO LEGAL ADVICE FROM THE COMPANY. The Investor acknowledges that it has had the opportunity to review this Agreement and the transactions contemplated by this Agreement with its own legal counsel and investment and tax advisors. The Investor is relying solely on such counsel and advisors and not on any statements or representations of the Company or any of its representatives or agents for legal, tax or investment advice with respect to this investment, the transactions contemplated by this Agreement or the securities laws of any jurisdiction.

Section 3.3 ACCREDITED INVESTOR. The Investor is an accredited investor as defined in Rule 501(a)(3) of Regulation D, and the Investor has such experience in business and financial matters that it is capable of evaluating the merits and risks of an investment in the Securities. The Investor acknowledges that an investment in the Securities is speculative and involves a high degree of risk.

Section 3.4 AUTHORITY. The Investor has the requisite power and authority to enter into and perform its obligations under the Transaction Documents and to consummate the transactions contemplated hereby and thereby. The execution and delivery of the Transaction Documents and the consummation by it of the transactions contemplated hereby and thereby have been duly authorized by all necessary action and no further consent or authorization of the Investor is required. The Transaction Documents to which it is a party has been duly executed by the Investor, and when delivered by the Investor in accordance with the terms hereof, will constitute the valid and binding obligation of the Investor enforceable against it in accordance with its terms, subject to applicable bankruptcy, insolvency, or similar laws relating to, or affecting generally the enforcement of, creditors' rights and remedies or by other equitable principles of general application.

Section 3.5 NOT AN AFFILIATE. The Investor is not an officer, director or "affiliate" (as that term is defined in Rule 405 of the Securities Act) of the Company.

Section 3.6 ORGANIZATION AND STANDING. The Investor is an entity duly 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.

Section 3.7 ABSENCE OF CONFLICTS. The execution and delivery of the Transaction Documents and the consummation of the transactions contemplated hereby and thereby and compliance with the requirements hereof and thereof, will not (a) violate any law, rule, regulation, order, writ, judgment, injunction, decree or award binding on the Investor, (b) violate any provision of any indenture, instrument or agreement to which the Investor is a party or is subject, or by which the Investor or any of its assets is bound, or conflict with or constitute a material default thereunder, (c) result in the creation or imposition of any lien pursuant to the terms of any such indenture, instrument or agreement, or constitute a breach of any fiduciary duty owed by the Investor to any third party, or (d) require the approval of any third-party (that has not been obtained) pursuant to any material contract, instrument, agreement, relationship or legal obligation to which the Investor is subject or to which any of its assets, operations or management may be subject.

Section 3.8 DISCLOSURE; ACCESS TO INFORMATION. The Investor had an opportunity to review copies of the SEC Documents filed on behalf of the Company and has had access to all publicly available information with respect to the Company.

Section 3.9 MANNER OF SALE. At no time was the Investor presented with or solicited by or through any leaflet, public promotional meeting, television advertisement or any other form of general solicitation or advertising.

Section 3.10 COMMITMENT SHARES AS RESTRICTED SECURITIES. The Investor understands that the Commitment Shares have not been, and will not be, registered under the Securities Act, and are being issued by reason of a specific exemption from the registration provisions of the Securities Act, which depends upon, among other things, the bona fide nature of the investment intent and the accuracy of the Investor's representations as expressed herein. The Investor understands that the Commitment Shares are "restricted securities" under applicable U.S. federal and state securities laws and that, pursuant to these laws, the Investor must hold the Commitment Shares indefinitely unless they are registered with the SEC and qualified by state authorities, or an exemption from such registration and qualification requirements is available. Except as otherwise provided herein, the Investor acknowledges that the Company has no

obligation to register or qualify the Commitment Shares. The Investor further acknowledges that if an exemption from registration or qualification is available, it may be conditioned on various requirements including, but not limited to, the time and manner of sale, the holding period for the Commitment Shares, and requirements outside of the Company's control, which the Company is under no obligation and may not be able to satisfy.

#### **ARTICLE IV REPRESENTATIONS AND WARRANTIES OF THE COMPANY**

Except as set forth in the SEC Documents, the Company represents and warrants to the Investor, as of the Execution Date, that:

Section 4.1 ORGANIZATION OF THE COMPANY. The Company is an entity duly incorporated or otherwise organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation or organization, with the requisite power and authority to own and use its properties and assets and to carry on its business as currently conducted. The Company is not in violation or default of any of the provisions of its certificate of incorporation, bylaws or other organizational or charter documents. The Company is duly qualified to conduct business and is in good standing as a foreign corporation in each jurisdiction in which the nature of the business conducted or property owned by it makes such qualification necessary, except where the failure to be so qualified or in good standing, as the case may be, could not have or reasonably be expected to result in a Material Adverse Effect and no proceeding has been instituted in any such jurisdiction revoking, limiting or curtailing or seeking to revoke, limit or curtail such power and authority or qualification. The Company has no Subsidiaries.

Section 4.2 AUTHORITY. The Company has the requisite corporate power and authority to enter into and perform its obligations under the Transaction Documents. The execution and delivery of the Transaction Documents by the Company and the consummation by it of the transactions contemplated hereby and thereby have been duly authorized by all necessary corporate action and no further consent or authorization of the Company or its Board of Directors or stockholders is required. The Transaction Documents have been duly executed and delivered by the Company and constitutes a valid and binding obligation of the Company enforceable against the Company in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, or similar laws relating to, or affecting generally the enforcement of, creditors' rights and remedies or by other equitable principles of general application.

Section 4.3 CAPITALIZATION. As of the date hereof, the authorized capital stock of the Company consists of 600,000,000 shares of Common Stock, par value of \$0.001 per share, of which approximately 55,403,026 shares of Common Stock are issued and outstanding. The Company has not issued any capital stock since its most recently filed periodic report under the Exchange Act, other than pursuant to the exercise of employee stock options under the Company's stock option plans, the issuance of shares of Common Stock to employees pursuant to the Company's employee stock purchase plans and pursuant to the conversion and/or exercise of Common Stock Equivalents outstanding as of the date of the most recently filed periodic report under the Exchange Act. No Person has any right of first refusal, preemptive right, right of participation, or any similar right to participate in the transactions contemplated by the Transaction Documents. Except as set forth in the SEC Documents and this Agreement, there are no outstanding options, warrants, scrip rights to subscribe to, calls or commitments of any character whatsoever relating to, or securities, rights or obligations convertible into or exercisable or exchangeable for, or giving any Person any right to subscribe for or acquire any shares of Common Stock, or contracts, commitments, understandings or arrangements by which the Company is or may become bound to issue additional shares of Common Stock or Common Stock Equivalents. The issuance and sale of the Securities will not obligate the Company to issue shares of Common Stock or other securities to any Person (other than the Investor) and will not result in a right of any holder of Company securities to adjust the exercise, conversion, exchange or reset price under any of such securities. There are no stockholders agreements, voting agreements or other similar agreements with respect to the Company's capital stock to which the Company is a party or, to the knowledge of the Company, between or among any of the Company's stockholders.

Section 4.4 LISTING AND MAINTENANCE REQUIREMENTS. The Common Stock is registered pursuant to Section 12(b) of the Exchange Act, and the Company has taken no action designed to, or which to its knowledge is likely to have the effect of, terminating the registration of the Common Stock under the Exchange Act nor has the Company received any notification that the SEC is contemplating terminating such registration. The Company has not, in the twelve (12) months preceding the date hereof, received notice from the Principal 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 Principal 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.

Section 4.5 SEC DOCUMENTS; DISCLOSURE. The Company has filed all reports, schedules, forms, statements and other documents required to be filed by the Company under the Securities Act and the Exchange Act, including pursuant to Section 13(a) thereof, for the one (1) 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, being collectively referred to herein as the “SEC Documents”) on a timely basis or has received a valid extension of such time of filing and has filed any such SEC Documents prior to the expiration of any such extension. As of their respective dates, the SEC Documents complied in all material respects with the requirements of the Securities Act and the Exchange Act, as applicable, and other federal laws, rules and regulations applicable to such SEC Documents, and none of the SEC Documents when filed contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading. The financial statements of the Company included in the SEC Documents comply as to form and substance in all material respects with applicable accounting requirements and the published rules and regulations of the SEC or other applicable rules and regulations with respect thereto. Such financial statements have been prepared in accordance with generally accepted accounting principles applied on a consistent basis during the periods involved (except (a) as may be otherwise indicated in such financial statements or the notes thereto or (b) in the case of unaudited interim statements, to the extent they may not include footnotes or may be condensed or summary statements) and fairly present in all material respects the financial position of the Company as of the dates thereof and the results of operations and cash flows for the periods then ended (subject, in the case of unaudited statements, to normal, immaterial, year-end audit adjustments). Except with respect to the material terms and conditions of the transactions contemplated by the Transaction Documents, the Company confirms that neither it nor any other Person acting on its behalf has provided the Investor or its agents or counsel with any information that it believes constitutes or might constitute material, non-public information. The Company understands and confirms that the Investor will rely on the foregoing representation in effecting transactions in securities of the Company.

Section 4.6 VALID ISSUANCES. The Securities are duly authorized and, when issued and paid for in accordance with the applicable Transaction Documents, will be duly and validly issued, fully paid, and non-assessable, free and clear of all Liens imposed by the Company other than restrictions on transfer provided for in the Transaction Documents.

Section 4.7 NO CONFLICTS. The execution, delivery and performance of the Transaction Documents by the Company and the consummation by the Company of the transactions contemplated hereby and thereby, including, without limitation, the issuance of the Purchase Notice Shares and Commitment Shares, do not and will not: (a) result in a violation of the Company’s certificate or articles of incorporation, by-laws or other organizational or charter documents, (b) conflict with, or constitute a material default (or an event that with notice or lapse of time or both would become a material default) under, result in the creation of any Lien upon any of the properties or assets of the Company, or give to others any rights of termination, amendment, acceleration or cancellation of, any agreement, indenture, instrument or any “lock-up” or similar provision of any underwriting or similar agreement to which the Company is a party, or (c) result in a violation of any federal, state or local law, rule, regulation, order, judgment or decree (including federal and state securities laws and regulations) applicable to the Company or by which any property or asset of the Company is bound or affected (except for such conflicts, defaults, terminations, amendments, accelerations, cancellations and violations as would not, individually or in the aggregate, have a Material Adverse Effect) nor is the Company otherwise in violation of, conflict with or in default under any of the foregoing. The business of the Company is not being conducted in violation of any law, ordinance or regulation of any governmental entity, except for possible violations that either singly or in the aggregate do not and will not have a Material Adverse Effect. The Company is not required under federal, state or local law, rule or regulation to obtain any consent, authorization or order of, or make any filing or registration with, any court or governmental agency in order for it to execute, deliver or perform any of its obligations under the Transaction Documents (other than any SEC, or state securities filings that may be required to be made by the Company in connection with the issuance of Commitment Shares or subsequent to any Closing or any registration statement that may be filed pursuant hereto); provided that, for purposes of the representation made in this sentence, the Company is assuming and relying upon the accuracy of the relevant representations and agreements of Investor herein.

Section 4.8 NO MATERIAL ADVERSE EFFECT. No event has occurred that would have a Material Adverse Effect on the Company that has not been disclosed in subsequent SEC Documents.

Section 4.9 LITIGATION AND OTHER PROCEEDINGS. Except as disclosed in the SEC Documents, there are no material actions, suits, investigations, SEC inquiries, FINRA inquiries, NASDAQ inquiries, or similar proceedings (however any governmental agency may name them) pending or, to the actual knowledge of the Company, threatened against or affecting the Company or its properties, nor has the Company received any written or oral notice of any such action, suit, proceeding, SEC inquiry, FINRA inquiry,



NASDAQ inquiry or investigation, which would have a Material Adverse Effect. No judgment, order, writ, injunction or decree or award against the Company has been issued by or, to the actual knowledge of the Company, requested of any court, arbitrator or governmental agency which would have a Material Adverse Effect. There has not been, and to the actual knowledge of the Company, there is no pending investigation by the SEC involving the Company or any current officer or director of the Company.

Section 4.10 Intentionally omitted.

Section 4.11 ACKNOWLEDGMENT REGARDING INVESTOR'S PURCHASE OF SECURITIES. Based solely on the Investor's representation and warranties, the Company acknowledges and agrees that the Investor is acting solely in the capacity of an arm's length purchaser with respect to this Agreement and the transactions contemplated hereby and thereby and that the Investor is not (i) an officer or director of the Company, or (ii) an "affiliate" (as defined in Rule 144) of the Company. The Company further acknowledges that the Investor is not acting as a financial advisor or fiduciary of the Company (or in any similar capacity) with respect to this Agreement and the transactions contemplated hereby and thereby, and any advice given by the Investor or any of its representatives or agents in connection with the Agreement and the transactions contemplated hereby and thereby is merely incidental to the Investor's purchase of the Purchase Notice Shares. The Company further represents to the Investor that the Company's decision to enter into this Agreement has been based solely on the independent evaluation by the Company and its representatives.

Section 4.12 NO GENERAL SOLICITATION; PLACEMENT AGENT. Neither the Company, nor any Person acting on its behalf, has engaged in any form of general solicitation or general advertising (within the meaning of Regulation D under the Securities Act) in connection with the offer or sale of the Securities. The Company engaged Univest Securities, LLC ("Univest") as placement agent in connection with the sale of the Securities in 2020 and (to the Investor's knowledge) the Company had issued 25,000 shares of Common Stock as initial consideration to Univest which had been registered in a prospectus supplement as required in Section 6.3.

Section 4.13 NO INTEGRATED OFFERING. None of the Company, its Affiliates, and any Person acting on their behalf has, directly or indirectly, made any offers or sales of any security or solicited any offers to buy any security, under circumstances that would cause this offering of the Securities to be integrated with prior offerings for purposes of any applicable stockholder approval provisions, including, without limitation, under the rules and regulations of any exchange or automated quotation system on which any of the securities of the Company are listed or designated, but excluding stockholder consents required to authorize and issue the Securities or waive any anti-dilution provisions in connection therewith.

Section 4.14 OTHER COVERED PERSONS. The Company is not aware of any Person that has been or will be paid (directly or indirectly) remuneration for solicitation of the Investor in connection with the sale of any Regulation D Securities.

Section 4.15 REGISTRATION STATEMENT. The Company has prepared and filed a Registration Statement on Form S-3 with the SEC in accordance with the provisions of the Securities Act, which was declared effective by order of the SEC on August 4, 2020 (File No. 333-239757) (the "Base Registration Statement"). The Base Registration Statement is effective under the Securities Act and the Company has not received any written notice that the SEC has issued or intends to issue a stop order or other similar order with respect to the Base Registration Statement or the prospectus contained therein dated August 4, 2020 (the "Prospectus"), or that the SEC otherwise has (i) suspended or withdrawn the effectiveness of the Base Registration Statement or (ii) issued any order preventing or suspending the use of the Prospectus or any prospectus supplement thereto, in either case, either temporarily or permanently or intends or has threatened in writing to do so. The "Plan of Distribution" section of the Prospectus permits the issuance of the Securities hereunder. The SEC has not notified the Company of any objection to the use of the form of the Base Registration Statement pursuant to Rule 401(g)(1) of the Securities Act. The Company was at the time of the filing of the Base Registration Statement eligible to use Form S-3. As of the Execution Date, the Company is currently eligible to use Form S-3 under the Securities Act and it meets the transaction requirements with respect to the aggregate market value of the Purchase Notice Shares that may be issued pursuant to this Agreement and during the twelve (12) months prior to this Agreement, as set forth in General Instruction I.B.6 of Form S-3. All corporate action required to be taken for the authorization, issuance and sale of the Purchase Notice Shares has been duly and validly taken. The Purchase Notice Shares conform in all material respects to all statements with respect thereto contained in the Base Registration Statement, the Prospectus and the Prospectus Supplement (as defined below).

## ARTICLE V COVENANTS OF INVESTOR

Section 5.1 SHORT SALES AND CONFIDENTIALITY. Neither the Investor, nor any Affiliate of the Investor acting on its behalf or pursuant to any understanding with it, will execute any short sales during the period from the Execution Date to the end of the Commitment Period. For the purposes hereof, and in accordance with Regulation SHO, the sale after delivery of the Purchase Notice of such number of shares of Common Stock reasonably expected to be purchased under the Purchase Notice shall not be deemed a short sale. The Investor shall, until such time as the transactions contemplated by the Transaction Documents are publicly disclosed by the Company in accordance with the terms of the Transaction Documents, maintain the confidentiality of the existence and terms of this transaction and the information included in the Transaction Documents.

Section 5.2 COMPLIANCE WITH LAW; TRADING IN SECURITIES. The Investor's trading activities with respect to shares of Common Stock will be in compliance with all applicable state and federal securities laws and regulations and the rules and regulations of the Principal Market. The Investor agrees and covenants that it shall not sell more than 35% of the Commitment Shares on any Business Day unless the closing bid price of the Common Stock on the Business Day immediately prior is above \$1.25.

## **ARTICLE VI COVENANTS OF THE COMPANY**

Section 6.1 LISTING OF COMMON STOCK. The Company shall use its commercially reasonable efforts to continue the listing or quotation and trading of the Common Stock on the Principal Market (including, without limitation, maintaining sufficient net tangible assets, if required) and will comply in all respects with the Company's reporting, filing and other obligations under the bylaws or rules of the Principal Market.

Section 6.2 FILING OF CURRENT REPORT. The Company agrees that it shall file a Current Report on Form 8-K, including the Transaction Documents as exhibits thereto, with the SEC within the time required by the Exchange Act, relating to the execution of the transactions contemplated by, and describing the material terms and conditions of, the Transaction Documents (the "Current Report"). The Company shall permit the Investor to review and comment upon the final pre-filing draft version of the Current Report at least two (2) Business Days prior to its filing with the SEC, and the Company shall give reasonable consideration to all such comments. The Investor shall use its reasonable best efforts to comment upon the final pre-filing draft version of the Current Report within one (1) Business Day from the date the Investor receives it from the Company.

Section 6.3 FILING OF REGISTRATION STATEMENT. The Company shall file with the SEC, within two (2) Business Days from the Execution Date, a prospectus supplement covering the offering and sale of the Purchase Notice Shares (the "Prospectus Supplement"). The Prospectus Supplement shall relate to the transactions contemplated by, and describing the material terms and conditions of, this Agreement, containing required information previously omitted from the Prospectus at the time of effectiveness of the Base Registration Statement in reliance on Rule 430B under the Securities Act, and disclosing all information relating to the transactions contemplated hereby required to be disclosed in the Base Registration Statement and the Prospectus as of the date of the Prospectus Supplement, including, without limitation, information required to be disclosed in the section captioned "Plan of Distribution" in the Prospectus. The Company shall permit the Investor to review and comment upon the Prospectus Supplement within a reasonable time prior to their filing with the SEC, the Company shall give reasonable consideration to all such comments, and the Company shall not file the Current Report or the Prospectus Supplement with the SEC in a form to which the Investor reasonably objects. The Investor shall furnish to the Company such information regarding itself, the Company's securities beneficially owned by the Investor and the intended method of distribution thereof, including any arrangement between the Investor and any other person or relating to the sale or distribution of the Company's securities, as shall be reasonably requested by the Company in connection with the preparation and filing of the Current Report and the Prospectus Supplement, and shall otherwise cooperate with the Company as reasonably requested by the Company in connection with the preparation and filing of the Current Report and the Prospectus Supplement with the SEC. At the time of the filing of the Prospectus Supplement, the Company shall have no knowledge of any untrue statement (or alleged untrue statement) of a material fact in the Prospectus (as supplemented by the Prospectus Supplement) or omission (or alleged omission) of a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, and there shall be no such untrue statement of material fact or omission in any effective registration statement filed or any post-effective amendment or prospectus which is a part of the foregoing. The Company shall promptly give the Investor notice of any event (including the passage of time) which makes the Prospectus not to be in compliance with Section 5(b) or 10 of the Securities Act and shall use its best efforts thereafter to file with the SEC any Post-Effective Amendment to the Base Registration Statement, amended prospectus or prospectus supplement in order to comply with Section 5(b) or 10 of the Securities Act.

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Section 6.4 ISSUANCE OF COMMITMENT SHARES. In consideration for the Investor's execution and delivery of, and performance under this Agreement, the Company shall cause the Transfer Agent to issue the Commitment Shares to the Investor within five (5) Business Days of the Execution Date, which issuance shall be evidenced by one or more book-entry statement(s) reflecting the shares in the name of the Investor or its designee. Such book-entry statement(s) shall be delivered to the Investor by overnight courier at its address set forth in Section 11.16

**ARTICLE VII**  
**CONDITIONS TO DELIVERY OF**  
**PURCHASE NOTICE AND CONDITIONS TO CLOSING**

Section 7.1 CONDITIONS PRECEDENT TO THE OBLIGATION OF THE COMPANY TO ISSUE AND SELL PURCHASE NOTICE SHARES. The obligation of the Company to issue and sell the Purchase Notice Shares to the Investor is subject to the satisfaction of each of the conditions set forth below:

(a) ACCURACY OF INVESTOR'S REPRESENTATIONS AND WARRANTIES. The representations and warranties of the Investor shall be true and correct in all material respects as of the Execution Date and as of the date of each Closing as though made at each such time.

(b) PERFORMANCE BY INVESTOR. Investor shall have performed, satisfied and complied in all respects with all covenants, agreements and conditions required by this Agreement to be performed, satisfied or complied with by the Investor at or prior to each Closing.

(c) PRINCIPAL MARKET REGULATION. The Company shall have no obligation to issue any Purchase Notice Shares, and the Investor shall have no right to receive any Purchase Notice Shares, if the issuance of such Purchase Notice Shares would exceed the aggregate number of shares of Common Stock which the Company may issue without breaching the Company's obligations under the rules or regulations of the Principal Market.

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Section 7.2 CONDITIONS PRECEDENT TO THE OBLIGATION OF INVESTOR TO PURCHASE THE PURCHASE NOTICE SHARES. The obligation of the Investor hereunder to purchase the Purchase Notice Shares is subject to the satisfaction of each of the following conditions:

(a) ESCROW ACCOUNT. As soon as reasonably practicable after the execution of this Agreement but prior to the date of the First Purchase Notice, the Parties shall use reasonable best efforts to enter into an Escrow Agreement with the Escrow Agent in connection with the Escrow Account

(b) EFFECTIVE REGISTRATION STATEMENT. The Base Registration Statement, and any amendment or supplement thereto, shall remain effective for the offering and sale of the Purchase Notice Shares and (i) the Company shall not have received notice that the SEC has issued or intends to issue a stop order with respect to such Base Registration Statement or that the SEC otherwise has suspended or withdrawn the effectiveness of such Base Registration Statement, either temporarily or permanently, or intends or has threatened to do so and (ii) no other suspension of the use of, or withdrawal of the effectiveness of, such Base Registration Statement, the Prospectus or the Prospectus Supplement shall exist. The Investor shall not have received any notice from the Company that the Prospectus, Prospectus Supplement and/or any prospectus supplement or amendment thereto fails to meet the requirements of Section 5(b) or Section 10 of the Securities Act.

(c) ACCURACY OF THE COMPANY'S REPRESENTATIONS AND WARRANTIES. The representations and warranties of the Company shall be true and correct in all material respects as of the date of this Agreement and as of the date of each Closing (except for representations and warranties specifically made as of a particular date).



(d) PERFORMANCE BY THE COMPANY. The Company shall have performed, satisfied and complied in all material respects with all covenants, agreements and conditions required by this Agreement to be performed, satisfied or complied with by the Company.

(e) NO INJUNCTION. No statute, rule, regulation, executive order, decree, ruling or injunction shall have been enacted, entered, promulgated or adopted by any court or governmental authority of competent jurisdiction that prohibits or directly and materially adversely affects any of the transactions contemplated by the Transaction Documents, and no proceeding shall have been commenced that may have the effect of prohibiting or materially adversely affecting any of the transactions contemplated by the Transaction Documents.

(f) ADVERSE CHANGES. Since the date of filing of the Company's most recent annual report on Form 10-K, no event that had or is reasonably likely to have a Material Adverse Effect has occurred.

(g) NO SUSPENSION OF TRADING IN OR DELISTING OF COMMON STOCK. The trading of the Common Stock shall not have been suspended by the SEC or the Principal Market, or otherwise halted for any reason, and the Common Stock shall have been approved for listing or quotation on and shall not have been delisted from or no longer quoted on the Principal Market. In the event of a suspension, delisting, or halting for any reason, of the trading of the Common Stock, as contemplated by this Section 7.2(g), the Investor shall have the right to return to the Company any amount of Purchase Notice Shares associated with such Purchase Notice, and the Investment Amount with respect to such Purchase Notice shall be refunded accordingly.

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(h) BENEFICIAL OWNERSHIP LIMITATION. The number of Purchase Notice Shares then to be purchased by the Investor shall not exceed the number of such shares that, when aggregated with all other shares of Common Stock then owned by the Investor beneficially or deemed beneficially owned by the Investor, would result in the Investor owning more than the Beneficial Ownership Limitation (as defined below), as determined in accordance with Section 13 of the Exchange Act. For purposes of this Section 7.2(h), in the event that the amount of Common Stock outstanding is greater or lesser on a Closing Date than on the date upon which the Purchase Notice associated with such Closing Date is given, the amount of Common Stock outstanding on such issuance of a Purchase Notice shall govern for purposes of determining whether the Investor, when aggregating all purchases of Common Stock made pursuant to this Agreement, would own more than the Beneficial Ownership Limitation following a purchase on any such Closing Date. In the event the Investor claims that compliance with a Purchase Notice would result in the Investor owning more than the Beneficial Ownership Limitation, upon request of the Company the Investor will provide the Company with evidence of the Investor's then existing shares beneficially or deemed beneficially owned. The "Beneficial Ownership Limitation" shall be 4.99% of the number of shares of the Common Stock outstanding immediately prior to the issuance of shares of Common Stock issuable pursuant to a Purchase Notice. Notwithstanding the foregoing, the Investor may increase the Beneficial Ownership Limitation up to 9.99% at its sole discretion. To the extent that the Beneficial Ownership Limitation would be exceeded in connection with a Closing, the number of shares of Common Stock issuable to the Investor shall be reduced so it does not exceed the Beneficial Ownership Limitation.

(i) PRINCIPAL MARKET REGULATION. The Company shall have no right to issue and the Investor shall have no obligation to purchase any Purchase Notice Shares if the issuance of aggregate Purchase Notice Shares would exceed 11,075,065<sup>1</sup> shares of Common Stock (the "Exchange Cap").

(j) NO KNOWLEDGE. The Company shall have no knowledge of any event more likely than not to have the effect of causing the effectiveness of the Base Registration Statement to be suspended or the Prospectus or any prospectus supplement thereto failing to meet the requirement of Sections 5(b) or 10 of the Securities Act (which event is more likely than not to occur within the fifteen (15) Business Days following the Business Day on which such Purchase Notice is deemed delivered).

(k) NO VIOLATION OF SHAREHOLDER APPROVAL REQUIREMENT. The issuance of the Purchase Notice Shares shall not violate the shareholder approval requirements of the Principal Market.

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<sup>1</sup> 19.99% of the Company's current I/O shares as of the Execution Date.

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(l) DWAC ELIGIBLE. The Common Stock must be DWAC Eligible and not subject to a “DTC chill”.

(m) SEC DOCUMENTS. All reports, schedules, registrations, forms, statements, information and other documents required to have been filed by the Company with the SEC pursuant to the reporting requirements of the Exchange Act shall have been filed with the SEC within the applicable time periods prescribed for such filings under the Exchange Act. To the best knowledge of the Company, as of their respective dates, the SEC Documents complied in all material respects with the requirements of the Securities Act and the Exchange Act, as applicable, and other federal laws, rules and regulations applicable to such SEC Documents, and none of the SEC Documents contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading.

## ARTICLE VIII LEGENDS

Section 8.1 NO RESTRICTIVE STOCK LEGEND. No restrictive stock legend shall be placed on the share certificates representing the Purchase Notice Shares.

Section 8.2 INVESTOR’S COMPLIANCE. Nothing in this Article VIII shall affect in any way the Investor’s obligations hereunder to comply with all applicable securities laws upon the sale of the Common Stock.

## ARTICLE IX INDEMNIFICATION

Section 9.1 Each party (an “Indemnifying Party”) agrees to indemnify and hold harmless the other party along with its officers, directors, employees, and authorized agents (an “Indemnified Party”) from and against any claim or suite by third parties for Damages resulting from or arising out of (i) any misrepresentation, breach of warranty or nonfulfillment of or failure to perform any covenant or agreement on the part of the Indemnifying Party contained in this Agreement, (ii) any untrue statement or alleged untrue statement of a material fact contained in the Base Registration Statement or any post-effective amendment thereof or Prospectus or Prospectus Supplement, or the omission or alleged omission therefrom of a material fact required to be stated therein or necessary to make the statements therein not misleading, (iii) any untrue statement or alleged untrue statement of a material fact contained in any preliminary prospectus or contained in the final prospectus (as amended or supplemented, if the Company files any amendment thereof or supplement thereto with the SEC) or the omission or alleged omission to state therein any material fact necessary to make the statements made therein, in the light of the circumstances under which the statements therein were made, not misleading, or (iv) any violation by the Indemnifying Party of the Securities Act, the Exchange Act, any state securities law or any rule or regulation under the Securities Act, the Exchange Act or any state securities law, as such Damages are incurred by the Indemnified Party except to the extent that such Damages result primarily from the Indemnified Party’s failure to perform any covenant or agreement contained in this Agreement or the Indemnified Party’s negligent, recklessness or willful misconduct; provided, however, that the foregoing indemnity agreement shall not apply to any Damages of the Investor to the extent, but only to the extent, arising out of or based upon any untrue statement or alleged untrue statement or omission or alleged omission made by the Company in reliance upon and in conformity with information furnished to the Company by the Investor for use in the Base Registration Statement, any post-effective amendment thereof, Prospectus, Prospectus Supplement thereto, or any preliminary prospectus or final prospectus (as amended or supplemented).

## ARTICLE X MUTUAL RELEASES

Section 10.1 RELEASE OF THE COMPANY. In consideration of the promises and covenants made in this Agreement and the performance thereof, the Investor, for itself and for its Affiliates, agents, current and former partners, shareholders, members, directors, officers, employees, representatives, attorneys, insurers, predecessors, successors and assigns (together the “**Investor Releasers**”), hereby knowingly, voluntarily and unconditionally, other than as set forth herein, release, acquit and forever discharge, to the full extent permitted by law, the Company and its Subsidiaries (direct and indirect), Affiliates, and predecessor or successor companies, and each of its and their present, former and future agents, partners, shareholders, members, directors, officers, employees, representatives,

attorneys, insurers, and assigns (together the “**Company Releasees**”), from any and all charges, complaints, claims, liabilities, grievances, obligations, promises, agreements, controversies, Damages, actions, causes of action, suits, rights, demands, costs, losses, Damages and expenses (including attorneys’ fees and costs actually incurred) of any nature whatsoever, known or unknown, suspected or unsuspected, which the Investor Releasors now have, own, or hold, or claim to have, own or hold, or which at any time heretofore, had owned or held, or claimed to have owned or held, or which the Investor Releasors at any time hereafter may have, own, or hold, or claim to have owned or held against each, or any or all of the Company Releasees, based upon, arising out of or in connection with any circumstances, matter or state of fact relating to the Company Releasees from the beginning of the world to the Execution Date, including, but not limited to, claims or rights under the Prior Agreements or under any federal, state or local statutory and/or common law in any way regulating or affecting the Parties’ relationship.

Section 10.2 RELEASE OF THE INVESTOR. In consideration of the promises and covenants made in this Agreement, the Company, for itself and for its Affiliates, agents, current and former partners, shareholders, members, directors, officers, employees, representatives, attorneys, insurers, predecessors, successors and assigns (together the “**Company Releasors**”), hereby knowingly, voluntarily and unconditionally, other than as set forth herein, release, acquit and forever discharge, to the full extent permitted by law, the Investor and its Subsidiaries (direct and indirect), Affiliates, and predecessor or successor companies, and each of its and their present, former and future agents, partners, shareholders, members, directors, officers, employees, representatives, attorneys, insurers, and assigns (together the “**Investor Releasees**”), from any and all charges, complaints, claims, liabilities, grievances, obligations, promises, agreements, controversies, Damages, actions, causes of action, suits, rights, demands, costs, losses, Damages and expenses (including attorneys’ fees and costs actually incurred) of any nature whatsoever, known or unknown, suspected or unsuspected, which the Company Releasors now have, own, or hold, or claim to have, own or hold, or which at any time heretofore, had owned or held, or claimed to have owned or held, or which the Company Releasors at any time hereafter may have, own, or hold, or claim to have owned or held against each, or any or all of the Investor Releasees, based upon, arising out of or in connection with any circumstances, matter or state of fact relating to the Investor Releasees from the beginning of the world to the Execution Date, including, but not limited to, claims or rights under the Prior Agreements or under any federal, state or local statutory and/or common law in any way regulating or affecting the Parties’ relationship.

Section 10.3 SECTION 1542 OF THE CALIFORNIA CIVIL CODE. It is the intention of the Parties that the foregoing releases shall be effective as a bar to all demands, liens, assignments, contracts, covenants, actions, suits, causes of action, obligations, costs, expenses, attorneys’ fees, Damages, losses, claims, controversies, judgments, orders, and liabilities of whatsoever character, nature and kind, known or unknown, suspected or unsuspected, and whether or not concealed or hidden, hereinabove specified to be so barred as of the Execution Date. In furtherance of this intention, the Parties expressly, knowingly and voluntarily waive any and all rights and benefits conferred upon them by the provisions of Section 1542 of the California Civil Code, which are as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, AND THAT IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

The Parties expressly consent that these releases shall be given full force and effect in accordance with each and all of its express terms and provisions, relating to unknown and unsuspected claims, demands or causes of action.

Section 10.4 NO ADMISSION. The Parties acknowledge that this Agreement has been executed in connection with a compromise and settlement of the Dispute. This Agreement and the actions taken pursuant thereto do not constitute an acknowledgment or admission of any liability or any wrongdoing of any kind by any Party. It is expressly understood that any and all acts that are to be performed pursuant to this Agreement are not to be and will not be construed as a concession and/or an admission by any of the Parties hereto or any of them, or by anyone else, of the truth of any of the allegations or assertions made against any of the Parties by any other Party.

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**ARTICLE XI  
MISCELLANEOUS**

Section 11.1 FORCE MAJEURE. NO PARTY shall be liable for any failure to fulfill its obligations hereunder due to causes beyond its reasonable control, including but not limited to acts of God, epidemic or pandemic, natural disaster, labor disturbances, terrorist attack, riots or wars, and any action taken, or restrictions or limitations imposed, by government or public authorities.

Section 11.2 GOVERNING LAW. This Agreement shall be governed by and interpreted in accordance with the laws of the State of New York without regard to the principles of conflicts of law.

Section 11.3 ASSIGNMENT. The Transaction Documents shall be binding upon and inure to the benefit of the Company and the Investor and their respective successors. Neither any of the Transaction Documents nor any rights of the Investor or the Company hereunder may be assigned by either Party to any other Person.

Section 11.4 NO THIRD-PARTY BENEFICIARIES. This Agreement is intended for the benefit of the Company and the Investor and their respective successors, and is not for the benefit of, nor may any provision hereof be enforced by, any other Person, except as contemplated by Article XI.

Section 11.5 TERMINATION. This Agreement shall automatically terminate on the earlier of (i) the end of the Commitment Period; or (ii) the date that, pursuant to or within the meaning of any Bankruptcy Law, the Company commences a voluntary case or any Person commences a proceeding against the Company, a Custodian is appointed for the Company or for all or substantially all of its property or the Company makes a general assignment for the benefit of its creditors.

Section 11.6 ENTIRE AGREEMENT. The Transaction Documents, together with the exhibits thereto, contain the entire understanding of the Company and the Investor with respect to the matters covered herein and therein and supersede all prior agreements and understandings, oral or written, with respect to such matters.

Section 11.7 FEES AND EXPENSES. Except as expressly set forth in the Transaction Documents or any other writing to the contrary, each Party shall pay the fees and expenses of its advisers, counsel, accountants and other experts, if any, and all other expenses incurred by such Party incidental to the negotiation, preparation, execution, delivery and performance of the Transaction Documents. The Company shall pay the Clearing Cost associated with each Closing, and any Transfer Agent fees (including any fees required for same-day processing of any instruction letter delivered by the Company), stamp taxes and other taxes and duties levied on the Company in connection with the delivery of any Securities to the Investor.

Section 11.8 COUNTERPARTS AND EXECUTION. The Transaction Documents may be executed in multiple counterparts, each of which may be executed by less than all of the Parties and shall be deemed to be an original instrument which shall be enforceable against the Parties actually executing such counterparts and all of which together shall constitute one and the same instrument. The Transaction Documents may be delivered to the other Party hereto by email of a copy of the Transaction Documents bearing the signature of the Party so delivering the Transaction Documents. The signatories to this Agreement each represent and warrant that they are duly authorized by the Parties with the power and authority to bind the Parties to the terms and conditions thereof.

Section 11.9 SEVERABILITY. In the event that any provision of this Agreement becomes or is declared by a court of competent jurisdiction to be illegal, unenforceable or void, this Agreement shall continue in full force and effect without said provision; provided that such severability shall be ineffective if it materially changes the economic benefit of this Agreement to any Party.

Section 11.10 FURTHER ASSURANCES. Each Party shall do and perform, or cause to be done and performed, all such further acts and things, and shall execute and deliver all such other agreements, certificates, instruments and documents, as the other Party may reasonably request in order to carry out the intent and accomplish the purposes of this Agreement and the consummation of the transactions contemplated hereby.

Section 11.11 NOT TO BE CONSTRUED AGAINST DRAFTER. The Parties acknowledge that they have had an adequate opportunity to review each and every provision contained in this Agreement and to submit the same to legal counsel for review and comment. The Parties agree with each and every provision contained in this Agreement and agree that the rule of construction that a contract be construed against the drafter, if any, shall not be applied in the interpretation and construction of this Agreement.

Section 11.12 TITLE AND SUBTITLES. The titles and subtitles used in this Agreement are used for the convenience of reference and are not to be considered in construing or interpreting this Agreement.

Section 11.13 AMENDMENTS; WAIVERS. No provision of this Agreement may be amended other than by a written instrument signed by both Parties hereto and no provision of this Agreement may be waived other than in a written instrument signed by the Party against whom enforcement of such waiver is sought. No failure or delay in the exercise of any power, right or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such power, right or privilege preclude other or further exercise thereof or of any other right, power or privilege.

Section 11.14 PUBLICITY. The Company and the Investor shall consult with each other in issuing any press releases or otherwise making public statements with respect to the transactions contemplated hereby and no Party shall issue any such press release or otherwise make any such public statement, other than as required by law or for legal compliance, without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed, except that no prior consent shall be required if such disclosure is required by law, in which such case the disclosing Party shall provide the other Party with prior notice of such public statement. The Investor acknowledges that the Transaction Documents may be deemed to be "material contracts," as that term is defined by Item 601(b)(10) of Regulation S-K, and that the Company may therefore be required to file such documents as exhibits to reports or registration statements filed under the Securities Act or the Exchange Act. The Investor further agrees that the status of such documents and materials as material contracts shall be determined solely by the Company, in consultation with its counsel.

Section 11.15 DISPUTE RESOLUTION.

(a) AVERAGE DAILY TRADING VOLUME, PURCHASE NOTICE LIMIT OR VWAP.

(i) In the case of a dispute relating to the Average Daily Trading Volume, Purchase Notice Limit or VWAP (as the case may be) (including, without limitation, a dispute relating to the determination of any of the foregoing), the Company or the Investor (as the case may be) shall submit the dispute to the other Party via facsimile or electronic mail within five (5) Business Days after the Party learned of the circumstances giving rise to such dispute. If the Investor and the Company are unable to promptly resolve such dispute relating to such Average Daily Trading Volume, Purchase Notice Limit or VWAP (as the case may be), at any time after the second (2nd) Business Day following such initial notice by the Company or the Investor (as the case may be) of such dispute to the Company or the Investor (as the case may be), then the Company and the Investor may select an independent, reputable investment bank as mutually agreed upon to resolve such dispute. In the event that the Parties cannot agree upon such an investment bank within ten (10) Business Days of the date of the initial notice, the Parties shall submit the dispute to arbitration pursuant to Section 11.15(b).

(ii) The Investor and the Company shall each deliver to such investment bank (A) a copy of the initial dispute submission so delivered in accordance with the above and (B) written documentation supporting its position with respect to such dispute, in each case, no later than 5:00 p.m. (New York time) by the fifth (5th) Business Day immediately following the date on which such investment bank was selected (the "Dispute Submission Deadline") (the documents referred to in the immediately preceding clauses (A) and (B) are collectively referred to herein as the "Required Dispute Documentation") (it being understood and agreed that if either the Investor or the Company fails to so deliver all of the Required Dispute Documentation by the Dispute Submission Deadline, then the Party who fails to so submit all of the Required Dispute Documentation shall no longer be entitled to (and hereby waives its right to) deliver or submit any written documentation or other support to such investment bank with respect to such dispute and such investment bank shall resolve such dispute based solely on the Required Dispute Documentation that was delivered to such investment bank prior to the Dispute Submission Deadline). Unless otherwise agreed to in writing by both the Company and the Investor or otherwise requested by such investment bank, neither the Company nor the Investor shall be entitled to deliver or submit any written documentation or other support to such investment bank in connection with such dispute (other than the Required Dispute Documentation).

(iii) The Company and the Investor shall cause such investment bank to determine the resolution of such dispute and notify the Company and the Investor of such resolution no later than ten (10) Business Days immediately following the Dispute Submission Deadline. The fees and expenses of such investment bank shall be borne by the losing Party, and such investment bank's resolution of such dispute shall be final and binding upon all Parties. The terms of this Agreement and each other applicable Transaction Document shall serve as the basis for the selected investment bank's resolution of the applicable dispute, such investment bank shall be entitled (and is hereby expressly authorized) to make all findings, determinations and the like that such investment bank determines are required to be



made by such investment bank in connection with its resolution of such dispute and in resolving such dispute such investment bank shall apply such findings, determinations and the like to the terms of this Agreement and any other applicable Transaction Documents.

(iv) Both the Company and the Investor expressly acknowledge and agree that (i) this Section 11.15(a) constitutes an agreement to arbitrate between the Company and the Investor (and constitutes an arbitration agreement) under § 7501, et seq. of the New York Civil Practice Law and Rules (“CPLR”) with respect to the dispute described in Section 11.15(a)(i) and that both the Company and the Investor are authorized to apply for an order to compel arbitration pursuant to CPLR § 7503(a) in order to compel compliance with this Section 11.15(a).

(b) ARBITRATION. Subject to Section 11.15(a), any dispute, controversy or claim arising out of or relating to this Agreement or any Transaction Document (including whether any such dispute is arbitrable), shall be determined by arbitration administered by the American Arbitration Association (“AAA”) pursuant to the AAA Commercial Arbitration Rules in effect at the time of the filing of the relevant arbitration demand. The parties will cooperate with the AAA through its case management staff in choosing a single arbitrator from the AAA’s list of neutral arbitrators and in otherwise proceeding with the arbitration. Any award resulting from an arbitration initiated pursuant to this Agreement shall be enforceable in courts of applicable jurisdiction. The Parties consent to the jurisdiction of courts located in New York County, New York including Supreme Court of the State of New York, and the United States District Court for the Southern District of New York for all purposes in connection with any such arbitration. The Parties further waive any right to any jury trial in any action, and as to all claims hereunder. Any arbitration pursuant to this section shall be governed by the Federal Arbitration Act. Except as may be required by law, neither a party nor the arbitrator may disclose the content or results of any arbitration proceeding conducted pursuant to this Agreement without the prior written consent of both Parties. Each party will be responsible for 50% of any administrative costs imposed by the AAA and the arbitrator’s fees. Each party may choose, at its own expense, to retain a court reporter for the arbitration hearing. If both parties decide to use a court reporter for the arbitration hearing, the parties shall jointly retain a court reporter and split evenly the court reporter’s fees. The prevailing party in any arbitration conducted pursuant to this Agreement shall be entitled to recover from the other party its reasonable attorneys’ fees and costs.

(c) The Company and the Investor agree that all dispute resolution proceedings in accordance with this Section 11.15 may be conducted in a virtual setting.

Section 11.16 NOTICES. All notices, demands, requests, consents, approvals, and other communications required or permitted hereunder shall be in writing and, unless otherwise specified herein, shall be (a) personally served, (b) delivered by reputable air courier service with charges prepaid for next Business Day delivery, or (c) transmitted by hand delivery, or email as a PDF (with read receipt or a written confirmation of delivery or receipt), addressed as set forth below or to such other address as such Party shall have specified most recently by written notice given in accordance herewith. Any notice or other communication required or permitted to be given hereunder shall be deemed effective upon delivery by either hand delivery or courier, or upon transmission by email, at the address designated below (if delivered on a Business Day during normal business hours where such notice is to be received), or the first Business Day following such delivery (if delivered other than on a Business Day during normal business hours where such notice is to be received).

The addresses for such communications shall be:

If to the Company:

TD HOLDINGS, INC.  
25th Floor, Block C, Tairan Building  
No. 31 Tairan 8th Road, Futian District  
Shenzhen, Guangdong, PRC  
Email: stanley.yang@tdglg.com

with a copy (not constituting notice) to:

jwu@htflawyers.com

If to the Investor:

WHITE LION CAPITAL LLC  
17631 Ventura Blvd., Suite 1008  
Encino, CA 91316  
Telephone Number: (818) 217-1706  
Email: team@whitelioncapital.com

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

Greenburg Traurig, P.A.  
333 S.E. 2nd Avenue  
Miami, FL 33131  
Email: owensjohn@gtlaw.com  
Attention: John D. Owens III, Esq.

Either Party hereto may from time to time change its address or email for notices under this clause by giving prior written notice of such changed address to the other party hereto.

*[Signature Page Follows]*

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**IN WITNESS WHEREOF**, the Parties have caused this Agreement to be duly executed by their respective officers thereunto duly authorized as of the Execution Date.

**TD HOLDINGS, INC.**

By: /s/ Renmei Ouyang  
Name: Renmei Ouyang  
Title: Chief Executive Officer  
Date: December 12, 2022

**WHITE LION CAPITAL LLC**

By: /s/ Sam Yaffa  
Name: Sam Yaffa  
Title: Managing Director  
Date: December 12, 2022

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**EXHIBIT A**

**FORM OF PURCHASE NOTICE**

TO: WHITE LION CAPITAL LLC

We refer to the Settlement and Restated Common Stock Purchase Agreement, dated as of December \_\_, 2022 (the “Agreement”), entered into by and between TD HOLDINGS, INC., and you. Capitalized terms defined in the Agreement shall, unless otherwise defined herein, have the same meaning when used herein.

We hereby:

- 1) Give you notice that we require you to purchase \_\_\_\_\_ Purchase Notice Shares; and
- 2) Certify that, as of the date hereof, the conditions set forth in Section 7 of the Agreement are satisfied.

TD HOLDINGS, INC.

By: \_\_\_\_\_  
Name: Renmei Ouyang  
Title: Chief Executive Officer