

SECURITIES AND EXCHANGE COMMISSION

FORM 8-K

Current report filing

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FILER

Staffing 360 Solutions, Inc.

CIK: **1499717** | IRS No.: **680680859** | State of Incorporation: **DE** | Fiscal Year End: **0102**
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**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549**

FORM 8-K

CURRENT REPORT

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

May 6, 2021

Date of Report (Date of earliest event reported)

STAFFING 360 SOLUTIONS, INC.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction
of incorporation)

001-37575
(Commission
File Number)

68-0680859
(I.R.S. Employer
Identification Number)

641 Lexington Avenue
27th Floor
New York, NY 10022
(Address of principal executive offices)

(646) 507-5710
(Registrant's telephone number, including area code)

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

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

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:

<u>Title of each class</u>	<u>Trading Symbol(s)</u>	<u>Name of each exchange on which registered</u>
Common stock	STAF	NASDAQ

Item 1.01 Entry Into a Material Definitive Agreement.

Exchange Agreement

On May 6, 2021, Staffing 360 Solutions, Inc. (the “Company”), entered into an Exchange Agreement (the “Exchange Agreement”) with Jackson Investment Group, LLC (“JIG”), pursuant to which, among other things, JIG agreed to exchange 6,172 shares of the Company’s Series E Convertible Preferred Stock, par value \$0.00001 per share, and 1,493 shares of the Company’s Series E-1 Convertible Preferred Stock, par value \$0.00001 per share (collectively, the “Series E Preferred Stock”) held by JIG, for an equivalent number of shares of the Company’s Series G Convertible Preferred Stock, par value \$0.00001 per share and Series G-1 Convertible Preferred Stock, par value \$0.00001 per share (collectively, the “Series G Preferred Stock”, and such transaction, the “Exchange”). The Exchange was consummated on May 6, 2021.

The foregoing description of the Exchange Agreement does not purport to be complete and is qualified in its entirety by reference to the full text of the Exchange Agreement, a copy of which is attached hereto as Exhibit 10.1 and incorporated herein by reference.

The Series G Preferred Stock ranks senior to each of the Company’s common stock, par value \$0.00001 (“Common Stock”), Series A Convertible Preferred Stock, Series B Convertible Preferred Stock and Series C Convertible Preferred Stock, and any other classes and series of stock of the Company now or hereafter authorized, issued or outstanding, which by their terms expressly provide that they are junior to the Series G Preferred Stock or which do not specify their rank (which includes the Series F Convertible Preferred Stock). Each share of Series G Preferred Stock is initially convertible into 1,000 shares of Common Stock at any time from and after, (i) with respect to the Series G Convertible Preferred Stock, the earlier of October 31, 2022 or the occurrence of a Preferred Default (as defined in the Certificate of Designation of Series G Preferred Stock (the “Certificate of Designation”)) and, (ii) with respect to the Series G-1 Convertible Preferred Stock, October 31, 2020. A holder of Series G Preferred Stock is not required to pay any additional consideration in exchange for conversion of the Series G Preferred Stock into the Company’s Common Stock.

The Series G Convertible Preferred Stock carries monthly dividend rights of (a) cash dividends accruing (i) at an annual rate per share equal to 12% from the date of issuance (plus any accrued dividends with respect to the Series E Preferred Stock unpaid as of the date of the Exchange) and (ii) 17% after the occurrence of a Preferred Default, and (b) a dividend payable in shares of Series G-1 Convertible Preferred Stock. The shares of Series G-1 Convertible Preferred Stock have all the same terms, preferences and characteristics as the Series G Convertible Preferred Stock (including, without limitation, the right to receive cash dividends), except Series G-1 Convertible Preferred Stock are mandatorily redeemable by the Company within thirty (30) days after written demand received from any holder at any time after the earlier of the occurrence of a Preferred Default or September 30, 2022, for a cash payment equal to the Liquidation Value (as defined in the Certificate of Designation) plus any accrued and unpaid dividends thereon.

The Series G Preferred Stock shall vote on an “as converted” basis on all matters submitted to the holders of Common Stock for approval.

The foregoing description of the Series G Preferred Stock does not purport to be complete and is qualified in its entirety by reference to the complete text of the Certificate of Designation, which is attached hereto as Exhibit 3.1 and incorporated herein by reference.

Side Letter Agreement regarding Amendment to NPA

On May 6, 2021, pursuant to a letter agreement (the “Side Letter Agreement Regarding Amendment to NPA”) between the Company, certain of its subsidiaries (collectively with the Company, the “Company Parties”) and JIG, the Company Parties and JIG agreed to update and conform certain terms of the Second Amended and Restated Note Purchase Agreement, dated as of October 26, 2020 (as amended, amended and restated, supplemented or otherwise modified from time to time, the “NPA”) in connection with the Exchange. The foregoing description of the Side Letter Agreement Regarding Amendment to NPA does not purport to be complete and is qualified in its entirety by reference to the full text of the Side Letter Agreement Regarding Amendment to NPA, a copy of which is attached hereto as Exhibit 10.2 and incorporated herein by reference.

Limited Waiver and Agreement Letter

On May 6, 2021, pursuant to a letter agreement (the “Limited Waiver and Agreement Letter”) between the Company and JIG, JIG agreed to extend its earlier agreement (previously disclosed in the Company’s Current Report on Form 8-K, filed on February 16, 2021) to not

convert JIG's convertible securities until June 30, 2021. The foregoing description of the Limited Waiver and Agreement Letter does not purport to be complete and is qualified in its entirety by reference to the full text of the Limited Waiver and Agreement Letter, a copy of which is attached hereto as Exhibit 10.3 and incorporated herein by reference.

Item 3.02 Unregistered Sales of Equity Securities.

The information set forth under Item 1.01 of this Current Report on Form 8-K with respect to the issuance of an aggregate of 6,172 shares of Series G Convertible Preferred Stock and 1,493 shares of Series G-1 Convertible Preferred Stock is incorporated herein by reference. The issuance of the Series G Preferred Stock was not registered under the U.S. Securities Act of 1933, as amended (the "Act") or any state securities law, and such issuance was undertaken in reliance upon the exemption from the registration requirements of the Act, pursuant to Section 3(a)(9).

Item 3.03 Material Modifications to Rights of Security Holders.

The information set forth under Item 1.01 above and Item 5.03 below with respect to the Series G Preferred Stock is incorporated herein by reference.

Item 5.03. Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year.

The information set forth under Item 1.01 with respect to the Series G Preferred Stock is incorporated herein by reference. In connection with the closing of the Exchange described under Item 1.01 above, on May 6, 2021 the Company filed with the Secretary of State of the State of Delaware the Certificate of Designation, which became effective on such date.

On May 11, 2021, the Company filed a certificate of correction to the Certificate of Designation (the "Certificate of Correction") with the Secretary of State of the State of Delaware to correct a typographical error related to the "Conversion Price". Apart from the foregoing correction, no changes were made to the Certificate of Designation.

The foregoing description of the Certificate of Correction is qualified in its entirety by reference to the full text of the Certificate of Correction, a copy of which is filed as Exhibit 3.2 to this Current Report on Form 8-K and is incorporated by reference herein.

Item 8.01 Other Events.

The Company is announcing today that the Board has determined to postpone indefinitely the Company's 2021 Annual Meeting of Stockholders, which was originally scheduled to be held at 10:00 a.m. New York time on June 15, 2021, and to cancel the related record date.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits.

Exhibit No.	Description
3.1	Certificate of Designation of Series G Convertible Preferred Stock, dated May 6, 2021
3.2	Certificate of Correction to Certificate of Designation of Series G Convertible Preferred Stock, dated May 11, 2021
10.1	Exchange Agreement, dated May 6, 2021
10.2	Side Letter Agreement Regarding Amendment to NPA, dated May 6, 2021
10.3	Limited Waiver and Agreement Letter, dated May 6, 2021

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.

Date: May 12, 2021

STAFFING 360 SOLUTIONS, INC.

By: */s/ Brendan Flood*

Brendan Flood
Chairman and Chief Executive Officer

CERTIFICATE OF DESIGNATION
OF
SERIES G CONVERTIBLE PREFERRED STOCK
OF
STAFFING 360 SOLUTIONS, INC.

Staffing 360 Solutions, Inc., a Delaware corporation (the “Corporation”), certifies that pursuant to the authority contained in its Amended and Restated Certificate of Incorporation (as amended to the date hereof, the “Certificate of Incorporation”), and in accordance with the provisions of Section 151 of the General Corporation Law of the State of Delaware, its Board of Directors (the “Board of Directors”) has adopted the following resolution creating a new series of its previously authorized preferred stock, par value \$0.00001 per share, designated as Series G Convertible Preferred Stock (which shall include Series G and Series G-1 Convertible Preferred Stock):

RESOLVED, that a new series of the authorized preferred stock, par value \$0.00001 per share, of the Corporation be hereby created, and that the designation and amount thereof and the voting powers, preferences, and relative, participating, optional, and other special rights of the shares of such series, and the qualifications, limitations, or restrictions thereof are as follows:

1. Designation and Amount.

The shares of the series of preferred stock created hereby shall be designated as the “Series G Convertible Preferred Stock” or the “Series G-1 Convertible Preferred Stock” (collectively, the “Series G Convertible Preferred Stock”) and the number of shares constituting such series shall be 19,500, consisting of 13,000 shares of Series G and 6,500 shares of Series G-1 shares. The initial liquidation preference of the Series G Convertible Preferred Stock shall be \$1,000.00 per share (the “Liquidation Value”).

The Series G Convertible Preferred Stock is intended to be substantially identical to the Series E Convertible Preferred Stock, other than the addition of certain voting rights.

2. Rank.

The Series G Convertible Preferred Stock shall, with respect to dividend rights and rights on liquidation, winding up and dissolution, rank (i) senior to both the Corporation’s Common Stock and to the Corporation’s Series A, Series B and Series C Preferred Stock, as well as any other classes and series of stock of the Corporation now or hereafter authorized, issued or outstanding, which by their terms expressly provide that they are junior to the Series G Convertible Preferred Stock or which do not specify their rank, including, for the avoidance of doubt, the Series F Convertible Preferred Stock (collectively with the Common Stock, the “Junior Securities”); (ii) on a parity with each other class of capital stock or series of preferred stock authorized or issued by the Corporation after the date hereof, the terms of which specifically provide that such class or series will rank on a parity with the Series G Convertible Preferred Stock as to dividend distributions and distributions upon the liquidation, winding up and dissolution of the Corporation, but only if such class or series has been approved by the holders of Series G Convertible Preferred Stock as provided in Subsection 5.2 below (collectively referred to as “Parity Securities”); and (iii) junior to each other class of capital stock or other series of Preferred Stock issued by the Corporation after the date hereof the terms of which specifically provide that such class or series will rank senior to the Series G Convertible Preferred Stock as to dividend distributions or distributions upon the liquidation, winding up and dissolution of the Corporation, but only if such class or series has been approved by the holders of Series G Convertible Preferred Stock as provided in Subsection 5.1 below (collectively referred to as “Senior Securities”).

3. Dividends and Distributions.

3.1 Amount.

3.1.1 Cash Dividends.

(a) Subject to Section 3.1.1(b), the holders of shares of Series G Convertible Preferred Stock, in preference to the holders of any Junior Securities, shall be entitled to receive, when, as and if declared by the Board of Directors out of funds of the Corporation legally available therefor, cash dividends on the Series G Convertible Preferred Stock, which shall accrue at an annual rate per share equal to (i) 12% from the date of issuance of the shares of Series G Convertible Preferred Stock (the "Issue Date") until such time as there exists and is continuing a default by the Corporation on any of its obligations hereunder, which shall include the failure to pay the dividend provided for herein within three (3) business days of the monthly dividend payment dates specified below, or an Event of Default exists and is continuing under Article 9 of the Second Amended and Restated Note Purchase Agreement dated as of October 26, 2020, among the Corporation and certain of its subsidiaries and Jackson Investment Group, LLC ("JIG") (as such agreement may be further amended, restated or modified, the "Note Purchase Agreement") (which default or Event of Default shall be referred to herein as a "Preferred Default"), and (ii) after the occurrence and during the continuance of a Preferred Default, 17% (the "Cash Dividend Rate"), in either case with such applicable rate being paid on the Liquidation Value (which shall include the amount of the Optional PIK Dividends (as defined below) from the date that such Optional PIK Dividends are added to the Liquidation Value as provided by section 3.1.1 (b)) from and after the Issue Date and for so long any shares of Series G Convertible Preferred Stock remain outstanding.

(b) Notwithstanding the foregoing, solely during the Optional PIK Dividend Period (as defined below), the Corporation may, at its option, pay a portion, equal to fifty percent (50%) of the total cash dividends otherwise due and payable in respect of the Series G Convertible Preferred Stock (other than any Series G-1 Convertible Preferred Stock) on each Dividend Payment Date pursuant to Section 3.1.1(a), by adding such 50% portion of the total cash dividend to the aggregate Liquidation Value of the outstanding shares of Series G Preferred Stock, in lieu of the cash payment otherwise required pursuant to the above provisions of Section 3.1.1(a) (the portion of such dividend that is so added to the Liquidation Value of Series G Convertible Preferred Stock as set forth herein is referred to as an "Optional PIK Dividend"; and the portion of such dividend that is required to be paid or that the Corporation elects to pay in cash is referred to herein as a "Cash Dividend Payment"). Nothing in this Section 3.1.1 is intended to change or modify the obligations of the Corporation to pay PIK Dividends under Section 3.1.2. All cash dividends on the Series G Convertible Preferred Stock and the Series G-1 Convertible Preferred Stock, including, without limitation, any Cash Dividend Payment, are hereinafter sometimes referred to herein collectively as "Cash Dividends". As used herein the term "Optional PIK Dividend Period" means the period commencing on the Issue Date and ending on October 25, 2022.

(c) Upon each monthly payment of an Optional PIK Dividend by the Corporation, the Corporation shall issue to the holders of the Series G Preferred Stock as a fee (each such fee referred to herein as the "PIK Fee" and collectively as the "PIK Fees") shares of the Corporation's Common Stock (all such shares being referred to herein collectively as the "PIK Fee Shares"), for each such monthly PIK Fee, in an amount equal to \$10,000 divided by the average closing price of such shares of Common Stock as reflected on Nasdaq.com over the 5 trading days prior to the applicable monthly Dividend Payment Date relating to the applicable monthly Optional PIK Dividend (provided that if such average closing price is less than \$.50, or is otherwise undeterminable because such shares are no longer publicly traded or the closing price is no longer reported by Nasdaq.com, then the average closing price for these purposes shall be deemed to be \$.50 and if such average closing price is greater than \$3.50 then the market price for these purposes shall be deemed to be \$3.50). The PIK Fees shall be calculated and paid by the Corporation on a monthly basis on each Dividend Payment Date where an Optional PIK Dividend is paid. The PIK Fees represent additional fee compensation to the holders of Series G Preferred Stock in exchange for the Corporation being allowed to pay a portion of the dividends due on the Series G Preferred Stock as an Optional PIK Dividend in accordance with the terms of Section 3.1.1, and all such PIK Fees shall be fully earned and non-refundable when an Optional PIK Dividend is so paid. The PIK Fee Shares due and payable on each Dividend Payment Date pursuant to the above provisions shall (A) be issued in the name of the holder(s) of the Series G Preferred Stock on each Dividend Payment Date, (B) be issued in book-entry form via DRS and the Corporation shall cause its transfer agent to deliver a holding statement to the holder not later than ten (10) days after each applicable Dividend Payment Date. The Corporation further covenants and agrees that the PIK Fee Shares issued hereunder will be deemed to be "PIK Fee Shares" as used in Section 7.14 of the Note Purchase Agreement and therefore entitled to all rights to registration of such shares with the SEC that are provided in the Note Purchase Agreement.

3.1.2 PIK Dividends.

(a) The holders of shares of Series G Convertible Preferred Stock (other than Series G-1 Convertible Preferred Stock), in preference to the holders of any Junior Securities, shall also be entitled to receive dividends payable in shares of Series G-1 Convertible Preferred Stock of the Corporation having a Liquidation Value equal to 5% per annum of the Liquidation Value of the outstanding Series G Convertible Preferred Stock (such dividend, together with the Optional PIK Dividend, referred to collectively as a "PIK Dividend", and together with Cash Dividends, "Dividends").

(b) Shares of Series G-1 Convertible Preferred Stock shall have all the same terms, preferences and characteristics as are provided for in this Certificate of Designation with respect to Series G Convertible Preferred Stock (including, without limitation, the right to receive Cash Dividends) and references herein to Series G Convertible Preferred Stock shall include Series G-1 Convertible Preferred Stock unless otherwise indicated. Notwithstanding the foregoing, (i) Series G-1 Convertible Preferred Stock shall be mandatorily redeemable by the Corporation within thirty (30) days after written demand received from any holder at any time after the earlier of the occurrence of a Preferred Default or September 30, 2022, for a cash payment equal to the Liquidation Value plus any accrued and unpaid dividends thereon, (ii) the Series G-1 Conversion Price shall be as provided in Subsection 6.1.1, and (iii) the Corporation shall not have any right to pay any Dividends on Series G-1 Convertible Preferred Stock by issuance of Optional PIK Dividends, and all such Dividends must be paid in cash. If on the date of any such redemption, Delaware law governing distributions to stockholders prevents the Corporation from redeeming all Series G-1 Convertible Preferred Stock to be redeemed, the Corporation shall ratably redeem the maximum number of shares that it may redeem consistent with such law and thereafter shall take all actions that it may legally take in order to cause the Corporation to be able to redeem lawfully the remaining shares, and shall redeem the remaining shares as soon as it may lawfully do so.

(c) No fractional shares of Series G-1 Convertible Preferred Stock shall be issued to any holder pursuant to this Subsection 3.1.2 and in lieu of any such fractional share, the Corporation shall pay to such holder an amount in cash equal to the applicable fraction of a share of Series G-1 Convertible Preferred Stock multiplied by the Liquidation Value. The Corporation shall deliver to each holder on each Dividend Payment Date a statement evidencing the issuance of the Series G-1 Convertible Preferred Stock issued to such holder as a PIK Dividend. The Corporation shall not be required to issue certificates evidencing the Series G-1 Convertible Preferred Stock and all shares of Series G-1 Convertible Preferred Stock shall be issued in book entry form and the Corporation shall make appropriate entry in its stock transfer records to reflect such issuance and outstanding shares of Series G-1 Convertible Preferred Stock on each Dividend Payment Date.

3.2 Calculation and Payment. Dividends shall be (i) calculated and compounded monthly, and (ii) cumulative, whether or not declared or paid, and will accrue and be payable monthly, in arrears, on the first day of each month (each such date referred to herein as a “Dividend Payment Date”), except that if any Dividend Payment Date is not a Business Day, then they shall be payable on the next succeeding Business Day, Dividends payable on the Series G Convertible Preferred Stock will be computed on the basis of a 360-day year consisting of twelve 30-day months and the number of days actually elapsed, and will be deemed to accrue on a daily basis.

3.3 Priority. No dividends shall be declared or paid nor funds set apart for the payment of dividends on any Junior Securities for so long as any Series G Convertible Preferred Stock is issued and outstanding. Notwithstanding the foregoing, the Company shall be permitted to pay a quarterly cash dividend to the holders of its Common Stock in the amount of one cent per share of Common Stock issued and outstanding, *provided*, that such cash dividend does not exceed \$100,000 in the aggregate per fiscal quarter of the Company, and provided that at the time of the making of such dividend no Preferred Default shall exist or would result therefrom.

3.4 Treatment of Accrued and Unpaid Dividends in respect of Series E and Series E-1 Preferred Stock, and Related Matters. Pursuant to and subject to the terms and conditions of that certain Exchange Agreement dated as of May 6, 2021 (the “Exchange Agreement”), between the Company and JIG, all of the outstanding Series E Convertible Preferred Stock and Series E-1 Convertible Preferred Stock of the Company are being exchanged for the Series G Convertible Preferred Stock and Series G-1 Convertible Preferred Stock, respectively, and upon the effective date of such exchange all such outstanding Series E and Series E-1 Convertible Preferred Stock of the Company shall no longer be considered outstanding and shall be canceled by the Company. Notwithstanding anything herein or in the Exchange Agreement to the contrary, all accrued and unpaid dividends (wherein in cash or pay in kind) as of the Closing (as defined in the Exchange Agreement) in respect of (a) the Series E Convertible Preferred Stock (other than Series E-1 Convertible Preferred Stock) of the Company shall be deemed to continue and constitute accrued dividends hereunder in respect of the Series G Convertible Preferred Stock (other than Series G-1 Convertible Preferred Stock), and (b) the Series E-1 Convertible Preferred Stock of the Company shall be deemed to continue and constitute accrued dividends hereunder in respect of the Series G-1 Convertible Preferred Stock, and such dividends shall be due and payable at the times and in the manner provided for above for payment of dividends; it being the intent of JIG and the Company that all such accrued and unpaid dividends in respect of the Series E and Series E-1 Convertible Preferred Stock shall survive the consummation of the exchange contemplated by the Exchange Agreement and shall be deemed to be a continuing obligation of the Company and shall be payable in accordance with the terms of this Certificate of Designation following the consummation of such exchange and the related cancellation of the Series E and Series E-1 Convertible Preferred Stock in connection therewith.

4. Liquidation, Dissolution or Winding Up; Certain Mergers, Consolidations and Asset Sales.

4.1 Preferential Payments to Holders of Series G Convertible Preferred Stock. In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation or Deemed Liquidation Event, the holders of shares of Series G Convertible Preferred Stock then outstanding shall be entitled to be paid out of the assets of the Corporation available for distribution to its stockholders before any payment shall be made to the holders of any Junior Securities by reason of their ownership thereof, an amount per share equal to the Liquidation Value, plus any accrued but unpaid dividends. If upon any such liquidation, dissolution or winding up of the Corporation or Deemed Liquidation Event, the assets of the Corporation available for distribution to its stockholders shall be insufficient to pay the holders of shares of Series G Convertible Preferred Stock the full amount to which they shall be entitled under this Subsection 4.1, the holders of shares of Series G Convertible Preferred Stock shall share ratably in any distribution of the assets available for distribution in proportion to the respective amounts which would otherwise be payable in respect of the shares held by them upon such distribution if all amounts payable on or with respect to such shares were paid in full. The aggregate amount which a holder of a share of Series G Convertible Preferred Stock is entitled to receive under this Subsection 4.1 is hereinafter referred to as the “Series G Liquidation Amount.”

4.2 Deemed Liquidation Events.

4.2.1 Definition. Each of the following events shall be considered a “Deemed Liquidation Event” unless the holders of at least a majority of the outstanding shares of Series G Convertible Preferred Stock elect otherwise by written notice sent to the Corporation at least 10 days prior to the effective date of any such event:

(a) a merger or consolidation in which the Corporation is a constituent party or a subsidiary of the Corporation is a constituent party and the Corporation issues shares of its capital stock pursuant to such merger or consolidation, except any such merger or consolidation involving the Corporation or a subsidiary in which the shares of capital stock of the Corporation outstanding immediately prior to such merger or consolidation continue to represent, or are converted into or exchanged for shares of capital stock that represent, immediately following such merger or consolidation, at least a majority, by voting power, of the capital stock of (1) the surviving or resulting corporation; or (2) if the surviving or resulting corporation is a wholly owned subsidiary of another corporation immediately following such merger or consolidation, the parent corporation of such surviving or resulting corporation; or

(b) the sale, lease, transfer, exclusive license or other disposition, in a single transaction or series of related transactions, by the Corporation or any subsidiary of the Corporation of all or substantially all the assets of the Corporation and its subsidiaries taken as a whole, or the sale or disposition (whether by merger, consolidation or otherwise) of one or more subsidiaries of the Corporation if substantially all of the assets of the Corporation and its subsidiaries taken as a whole are held by such subsidiary or subsidiaries, except where such sale, lease, transfer, exclusive license or other disposition is to a wholly owned subsidiary of the Corporation.

4.2.2 Effecting a Deemed Liquidation Event.

(a) The Corporation shall not have the power to effect a Deemed Liquidation Event referred to in Subsection 4.2.1(a) unless the agreement or plan of merger or consolidation for such transaction (the “Merger Agreement”) provides that the consideration payable to the stockholders of the Corporation shall be allocated among the holders of capital stock of the Corporation in accordance with Subsection 4.1.

(b) In the event of a Deemed Liquidation Event referred to in Subsection 4.2.1(a) or 4.2.1(b), if the Corporation does not effect a dissolution of the Corporation under the General Corporation Law within thirty (30) days after such Deemed Liquidation Event, then (i) the Corporation shall send a written notice to each holder of Series G Convertible Preferred Stock no later than the thirtieth (30th) day after the Deemed Liquidation Event advising such holders of their right (and the requirements to be met to secure such right) pursuant to the terms of the following clause; (ii) to require the redemption of such shares of Series G Convertible Preferred Stock, and (iii) if the holders of at least a majority of the then outstanding shares of Series G Convertible Preferred Stock so request in a written instrument delivered to the Corporation not later than sixty (60) days after such Deemed Liquidation Event, the Corporation shall use the consideration received by the Corporation for such Deemed Liquidation Event (net of any retained liabilities associated with the assets sold or technology licensed, as determined in good faith by the Board of Directors), together with any other assets of the Corporation available for distribution to its stockholders, all to the extent permitted by Delaware law governing distributions to stockholders (the “Available Proceeds”), on the ninetieth (90th) day after such Deemed Liquidation Event, to redeem all outstanding shares of Series G Convertible Preferred Stock at a price per share equal to the Liquidation Value plus any accrued but unpaid dividends on such shares. Notwithstanding the foregoing, in the event of a redemption pursuant to the preceding sentence, if the Available Proceeds

are not sufficient to redeem all outstanding shares of Series G Convertible Preferred Stock, the Corporation shall ratably redeem each holder's shares of Series G Convertible Preferred Stock to the fullest extent of such Available Proceeds, and shall redeem the remaining shares as soon as it may lawfully do so under Delaware law governing distributions to stockholders. Provided, however, if the liquidation, dissolution or winding up of the affairs of the Corporation is not within the Corporation's control, including not approved by its Board of Directors, a holder shall only be entitled to receive from the Corporation or any successor entity, as of the date of the liquidation, dissolution, or winding up of the affairs of the Corporation, the same type or form of consideration (and in the same proportion) that is being offered and paid to the holders of Common Stock of the Company in connection with the liquidation, dissolution, or winding up of the affairs of the Corporation, whether that consideration be in the form of cash, stock or any combination thereof, or whether the holders of Common Stock are given the choice to receive from among alternative forms of consideration. Prior to the distribution or redemption provided for in this [Subsection 4.2.2\(b\)](#), the Corporation shall not expend or dissipate the consideration received for such Deemed Liquidation Event, except to discharge expenses incurred in connection with such Deemed Liquidation Event or in the ordinary course of business.

4.3 Amount Deemed Paid or Distributed. The amount deemed paid or distributed to the holders of capital stock of the Corporation upon any such merger, consolidation, sale, transfer, exclusive license, other disposition or redemption shall be the cash or the value of the property, rights or securities paid or distributed to such holders by the Corporation or the acquiring person, firm or other entity. The value of such property, rights or securities shall be determined in good faith by the Board of Directors.

4.4 Allocation of Escrow and Contingent Consideration. In the event of a Deemed Liquidation Event pursuant to [Subsection 4.2.1\(a\)](#), if any portion of the consideration payable to the stockholders of the Corporation is payable only upon satisfaction of contingencies (the "[Additional Consideration](#)"), the Merger Agreement shall provide that (a) the portion of such consideration that is not Additional Consideration (such portion, the "[Initial Consideration](#)") shall be allocated among the holders of capital stock of the Corporation in accordance with [Subsection 4.1](#) as if the Initial Consideration were the only consideration payable in connection with such Deemed Liquidation Event; and (b) any Additional Consideration which becomes payable to the stockholders of the Corporation upon satisfaction of such contingencies shall be allocated among the holders of capital stock of the Corporation in accordance with [Subsection 4.1](#) after taking into account the previous payment of the Initial Consideration as part of the same transaction. For the purposes of this [Section 4.4](#), consideration placed into escrow or retained as holdback to be available for satisfaction of indemnification or similar obligations in connection with such Deemed Liquidation Event shall be deemed to be Additional Consideration.

5. Voting.

5.1 General. Except as provided by law or by the other provisions of the Certificate of Incorporation and as provided in [Section 5.2](#) and [Section 5.3](#) below, holders of Series G Convertible Preferred Stock shall have no right to vote on any matter presented to the stockholders of the Corporation for their action or consideration.

5.2 Series G Convertible Preferred Stock Protective Provisions. At any time that any shares of Series G Convertible Preferred Stock are outstanding, the Corporation shall not, either directly or indirectly by amendment, merger, consolidation or otherwise, do any of the following without (in addition to any other vote required by law or the Certificate of Incorporation) the written consent or affirmative vote of the holders of at least a majority of the then outstanding shares of Series G Convertible Preferred Stock, given in writing or by vote at a meeting, consenting or voting (as the case may be) separately as a class, and any such act or transaction entered into without such consent or vote shall be null and void *ab initio*, and of no force or effect:

5.2.1 liquidate, dissolve or wind-up the business and affairs of the Corporation, effect any merger or consolidation or any other Deemed Liquidation Event, or consent to any of the foregoing;

5.2.2 amend, alter or repeal any provision of the Certificate of Incorporation or Bylaws of the Corporation in a manner that adversely affects the powers, preferences or rights of the Series G Convertible Preferred Stock;

5.2.3 create or authorize the creation of any new class or series of capital stock, or issue or authorize or commit to the issuance of any shares of any class or series of capital stock of the Corporation or any security convertible into or excisable for any such capital stock, including pursuant to grants to directors, employees or contractors (other than pursuant to binding agreements entered into prior to the Issue Date), business acquisitions or combinations, or otherwise; provided, however, this [subsection 5.2.3](#) shall not prohibit the

Corporation from (i) issuing shares of Common Stock upon the conversion or exercise of warrants, options, notes, preferred stock or other instruments that are convertible into or exercisable for shares of Common Stock in accordance with their terms and outstanding as of the Issue Date, (ii) selling shares of Common Stock in a public or private offering on or before the first (1st) anniversary of the Issue Date for gross proceeds up to \$3,000,000, where proceeds are used for working capital purposes only (“Permitted Financing”), (iii) granting up to 75,000 shares of Common Stock on or before the second (2nd) anniversary of the Issue Date as part of one or more new management recruitment packages, and (iv) issuing up to 450,000 shares of Common Stock pursuant to a new long-term incentive plan providing for grants to management that would not vest or be payable until the later to occur of December 31, 2020 and the redemption in full of all Series G Convertible Preferred Stock pursuant to [Section 7](#) hereof.

5.2.4reclassify, alter or amend (i) any existing Parity Securities if such reclassification, alteration or amendment would render such other security senior to the Series G Convertible Preferred Stock in respect of any such right, preference, or privilege, or (ii) any existing Junior Securities of the Corporation if such reclassification, alteration or amendment would render such other security senior to or *pari passu* with the Series G Convertible Preferred Stock in respect of any such right, preference or privilege;

5.2.5purchase or redeem (or permit any subsidiary to purchase or redeem) or pay or declare any dividend or make any distribution on, any shares of capital stock of the Corporation other than (i) redemptions of or dividends or distributions on the Series G Convertible Preferred Stock as expressly authorized herein, (ii) dividends or other distributions payable on the Common Stock solely in the form of additional shares of Common Stock and (iii) repurchases of stock from former employees, officers, directors, consultants or other persons who performed services for the Corporation or any subsidiary in connection with the cessation of such employment or service at the lower of the original purchase price or the then-current fair market value thereof; or

5.2.6enter into any transaction with a “related person” as defined in Item 404 of Regulation S-K under the Securities Exchange Act of 1934, as amended, or with any director, officer, or employee of the Corporation or any “associate” (as defined in Rule 12b-2 promulgated under the Securities Exchange Act of 1934, as amended) of any such director, officer, or employee.

5.3 Voting Rights. Except as otherwise provided herein or as otherwise required by law, the Series G Convertible Preferred Stock shall vote on an “as converted” basis on all matters submitted to the holders of Common Stock for approval (the “Voting Right”); provided, that such Voting Right shall expire on the day that is the sixth month anniversary of the Issue Date.

6. Optional Conversion.

The holders of the Series G Convertible Preferred Stock shall have conversion rights as follows (the “Conversion Rights”):

6.1 Right to Convert.

6.1.1Conversion Ratio. Each share of Series G Convertible Preferred Stock shall be convertible, at the option of the holder thereof, at any time from and after a Conversion Trigger (as defined below), and without the payment of additional consideration by the holder thereof, into such number of fully paid and non-assessable shares of Common Stock as is determined by dividing the Series G Liquidation Value plus any accrued but unpaid dividends on such share by the Series G Conversion Price or the Series G-1 Conversion Price (as defined below) in effect at the time of conversion. The “Series G Conversion Price” and the “Series G-1 Conversion Price” shall be \$0.61. Such Series G Conversion Price and Series G-1 Conversion Price, and the rate at which shares of Series G and Series G-1 Convertible Preferred Stock may be converted into shares of Common Stock, shall be subject to adjustment as provided below. As used herein, the term “Conversion Trigger” means (i) with respect to the Series G Convertible Preferred Stock, the earlier of October 31, 2022 or the occurrence of a Preferred Default (as defined in Section 3.1 herein) and (ii) with respect to the Series G-1 Convertible Preferred Stock, October 31, 2020.

6.1.2Termination of Conversion Rights. In the event of a notice of redemption of any shares of Series G Convertible Preferred Stock pursuant to [Section 7](#), the Conversion Rights of the shares designated for redemption shall terminate at the close of business on the last full business day preceding the Redemption Date (as defined below) for such shares, unless the Redemption Price (as defined below) is not fully paid on such Redemption Date, in which case the Conversion Rights for such shares shall continue until such price is paid in full. In the event of a liquidation, dissolution or winding up of the Corporation or a Deemed Liquidation Event, the Conversion Rights shall terminate at the close of business on the last full business day preceding the date fixed for the payment of any such amounts distributable on such event to the holders of Series G Convertible Preferred Stock.

6.2 Fractional Shares. No fractional shares of Common Stock shall be issued upon conversion of the Series G Convertible Preferred Stock. In lieu of any fractional shares to which the holder would otherwise be entitled, the Corporation shall pay cash equal to such fraction multiplied by the fair market value of a share of Common Stock as determined in good faith by the Board of Directors. Whether or not fractional shares would be issuable upon such conversion shall be determined on the basis of the total number of shares of Series G Convertible Preferred Stock the holder is at the time converting into Common Stock and the aggregate number of shares of Common Stock issuable upon such conversion.

6.3 Mechanics of Conversion.

6.3.1 Notice of Conversion. In order for a holder of Series G Convertible Preferred Stock to voluntarily convert shares of Series G Convertible Preferred Stock into shares of Common Stock, such holder shall (a) provide written notice to the Corporation's transfer agent at the office of the transfer agent for the Series G Convertible Preferred Stock (or at the principal office of the Corporation if the Corporation serves as its own transfer agent) that such holder elects to convert all or any number of such holder's shares of Series G Convertible Preferred Stock and, if applicable, any event on which such conversion is contingent, and (b) if such holder's shares are certificated, surrender the certificate or certificates for such shares of Series G Convertible Preferred Stock (or, if such registered holder alleges that such certificate has been lost, stolen or destroyed, a lost certificate affidavit and agreement reasonably acceptable to the Corporation to indemnify the Corporation against any claim that may be made against the Corporation on account of the alleged loss, theft or destruction of such certificate), at the office of the transfer agent for the Series G Convertible Preferred Stock (or at the principal office of the Corporation if the Corporation serves as its own transfer agent). Such notice shall state such holder's name or the names of the nominees in which such holder wishes the shares of Common Stock to be issued. If required by the Corporation, any certificates surrendered for conversion shall be endorsed or accompanied by a written instrument or instruments of transfer, in form satisfactory to the Corporation, duly executed by the registered holder or his, her or its attorney duly authorized in writing. The close of business on the date of receipt by the transfer agent (or by the Corporation if the Corporation serves as its own transfer agent) of such notice and, if applicable, certificates (or lost certificate affidavit and agreement) shall be the time of conversion (the "Conversion Time"), and the shares of Common Stock issuable upon conversion of the specified shares shall be deemed to be outstanding of record as of such date. The Corporation shall, as soon as practicable after the Conversion Time (i) issue and deliver to such holder of Series G Convertible Preferred Stock, or to his, her or its nominees, a notice of issuance of uncertificated shares and may, upon written request, issue and deliver a certificate or certificates for the number of full shares of Common Stock issuable upon such conversion in accordance with the provisions hereof and may, if applicable and upon written request, issue and deliver a certificate for the number (if any) of the shares of Series G Convertible Preferred Stock represented by the surrendered certificate that were not converted into Common Stock, and (ii) pay in cash such amount as provided in Subsection 6.2 in lieu of any fraction of a share of Common Stock otherwise issuable upon such conversion.

6.3.2 Reservation of Shares. Following the Reverse Stock Split Date, the Corporation shall at all times when the Series G Convertible Preferred Stock shall be outstanding, reserve and keep available out of its authorized but unissued capital stock, for the purpose of effecting the conversion of the Series G Convertible Preferred Stock, such number of its duly authorized shares of Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding Series G Convertible Preferred Stock; and if at any time the number of authorized but unissued shares of Common Stock shall not be sufficient to effect the conversion of all then outstanding shares of the Series G Convertible Preferred Stock, the Corporation shall take such corporate action as may be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purposes, including, without limitation, engaging in best efforts to obtain the requisite stockholder approval of any necessary amendment to the Certificate of Incorporation. Before taking any action which would cause an adjustment reducing the Series G Conversion Price below the then par value of the shares of Common Stock issuable upon conversion of the Series G Convertible Preferred Stock, the Corporation will take any corporate action which may, in the opinion of its counsel, be necessary in order that the Corporation may validly and legally issue fully paid and non-assessable shares of Common Stock at such adjusted Series G or Series G-1 Conversion Price. Notwithstanding anything to the contrary herein, any failure by the Company to increase its authorized and unissued shares of Common Stock to such number of shares of Common Stock as shall be sufficient to cover the sum of (i) the shares of Common Stock issuable upon any conversion of the Series G Convertible Preferred Stock and (ii) the shares of Common Stock issuable upon the exercise of the Existing Warrant (as defined in the Note Purchase Agreement) by June 30, 2021, for any reason whatsoever (unless JIG in its sole discretion agrees in writing to an extension of such date), shall constitute a Preferred Default hereunder.

“Reverse Stock Split Date” means, subject to Amendment Approval, the date on which the Amendment (as defined below in the definition of “Amendment Approval”) is filed and accepted with the State of Delaware and the Reverse Stock Split is deemed effective.

“Amendment Approval” means the approval by the stockholders of the Corporation of the amendment to the Corporation’s Certificate of Incorporation to effect the Reverse Stock Split (the “Amendment”).

“Reverse Stock Split” means a reverse stock split of the Common Stock between a range of 2-into-1 to up to 20-into-1 to be determined by the Board of Directors immediately following the Amendment Approval, in any case in a ratio sufficient to allow for the exercise in full of the Series G Convertible Preferred Stock and to satisfy the minimum bid requirements of the Nasdaq Stock Exchange.

6.3.3Effect of Conversion. All shares of Series G Convertible Preferred Stock which shall have been surrendered for conversion as herein provided shall no longer be deemed to be outstanding and all rights with respect to such shares shall immediately cease and terminate at the Conversion Time, except only the right of the holders thereof to receive shares of Common Stock in exchange therefor, to receive payment in lieu of any fraction of a share otherwise issuable upon such conversion as provided in Subsection 6.2 and to receive payment of any dividends declared but unpaid thereon. Any shares of Series G Convertible Preferred Stock so converted shall be retired and cancelled and may not be reissued as shares of such series, and the Corporation may thereafter take such appropriate action (without the need for stockholder action) as may be necessary to reduce the authorized number of shares of Series G Convertible Preferred Stock accordingly.

6.3.4No Further Adjustment. Upon any such conversion, no adjustment to the Series G or Series G-1 Conversion Price shall be made for any declared but unpaid dividends on the Series G Convertible Preferred Stock surrendered for conversion or on the Common Stock delivered upon conversion.

6.3.5Taxes. The Corporation shall pay any and all issue and other similar taxes that may be payable in respect of any issuance or delivery of shares of Common Stock upon conversion of shares of Series G Convertible Preferred Stock pursuant to this Section 6. The Corporation shall not, however, be required to pay any tax which may be payable in respect of any transfer involved in the issuance and delivery of shares of Common Stock in a name other than that in which the shares of Series G Convertible Preferred Stock so converted were registered, and no such issuance or delivery shall be made unless and until the person or entity requesting such issuance has paid to the Corporation the amount of any such tax or has established, to the satisfaction of the Corporation, that such tax has been paid.

6.4Adjustments to Series G and Series G-1 Conversion Price.

6.4.1Adjustment for Stock Splits and Combinations. If the Corporation shall at any time or from time to time after the Issue Date effect a subdivision of the outstanding Common Stock, the Series G and Series G-1 Conversion Price in effect immediately before that subdivision shall be proportionately decreased so that the number of shares of Common Stock issuable on conversion of each share of Series G Convertible Preferred Stock shall be increased in proportion to such increase in the aggregate number of shares of Common Stock outstanding. If the Corporation shall at any time or from time to time after the Issue Date combine the outstanding shares of Common Stock, the Series G and Series G-1 Conversion Price in effect immediately before the combination shall be proportionately increased so that the number of shares of Common Stock issuable on conversion of each share of Series G Convertible Preferred Stock shall be decreased in proportion to such decrease in the aggregate number of shares of Common Stock outstanding. Any adjustment under this subsection shall become effective at the close of business on the date the subdivision or combination becomes effective.

6.4.2Adjustment for Certain Dividends and Distributions. In the event the Corporation at any time or from time to time after the Issue Date shall make or issue, or fix a record date for the determination of holders of Common Stock entitled to receive, a dividend or other distribution payable on the Common Stock in additional shares of Common Stock, then and in each such event the Series G and Series G-1 Conversion Price in effect immediately before such event shall be decreased as of the time of such issuance or, in the event such a record date shall have been fixed, as of the close of business on such record date, by multiplying the Series G and Series G-1 Conversion Price then in effect by a fraction:

(a)the numerator of which shall be the total number of shares of Common Stock issued and outstanding immediately prior to the time of such issuance or the close of business on such record date, and

(b)the denominator of which shall be the total number of shares of Common Stock issued and outstanding immediately prior to the time of such issuance or the close of business on such record date plus the number of shares of Common Stock issuable in payment of such dividend or distribution.

Notwithstanding the foregoing (i) if such record date shall have been fixed and such dividend is not fully paid or if such distribution is not fully made on the date fixed therefor, the Series G and Series G-1 Conversion Price shall be recomputed accordingly as of the close of business on such record date and thereafter the Series G and Series G-1 Conversion Price shall be adjusted pursuant to this subsection as of the time of actual payment of such dividends or distributions; and (ii) no such adjustment shall be made if the holders of Series G Convertible Preferred Stock simultaneously receive a dividend or other distribution of shares of Common Stock in a number equal to the number of shares of Common Stock as they would have received if all outstanding shares of Series G Convertible Preferred Stock had been converted into Common Stock on the date of such event.

6.4.3 Adjustments for Other Dividends and Distributions. In the event the Corporation at any time or from time to time after the Issue Date shall make or issue, or fix a record date for the determination of holders of Common Stock entitled to receive, a dividend or other distribution payable in securities of the Corporation (other than a distribution of shares of Common Stock in respect of outstanding shares of Common Stock) or in other property and the provisions of Subsection 6.4.2 do not apply to such dividend or distribution, then and in each such event the holders of Series G Convertible Preferred Stock shall receive, simultaneously with the distribution to the holders of Common Stock, a dividend or other distribution of such securities or other property in an amount equal to the amount of such securities or other property as they would have received if all outstanding shares of Series G Convertible Preferred Stock had been converted into Common Stock on the date of such event.

6.4.4 Adjustment for Reorganization, Reclassification, Merger or Reorganization. Subject to the provisions of Subsection 4.2, if there shall occur any reorganization, recapitalization, reclassification, consolidation or merger involving the Corporation in which the Common Stock (but not the Series G Convertible Preferred Stock) is converted into or exchanged for securities, cash or other property (other than a transaction covered by Subsections 6.4.1, 6.4.2 or 6.4.3), then, following any such reorganization, recapitalization, reclassification, consolidation or merger, each share of Series G Convertible Preferred Stock shall thereafter be convertible in lieu of the Common Stock into which it was convertible prior to such event into the kind and amount of securities, cash or other property which a holder of the number of shares of Common Stock of the Corporation issuable upon conversion of one share of Series G Convertible Preferred Stock immediately prior to such reorganization, recapitalization, reclassification, consolidation or merger would have been entitled to receive pursuant to such transaction; and, in such case, appropriate adjustment (as determined in good faith by the Board of Directors) shall be made in the application of the provisions in this Subsection 6.4.4 with respect to the rights and interests thereafter of the holders of the Series G Convertible Preferred Stock, to the end that the provisions set forth in this Subsection 6.4.4 (including provisions with respect to changes in and other adjustments of the Series G and Series G-1 Conversion Price) shall thereafter be applicable, as nearly as reasonably may be, in relation to any securities or other property thereafter deliverable upon the conversion of the Series G Convertible Preferred Stock. For the avoidance of doubt, nothing in this Subsection 6.4.4 shall be construed as preventing the holders of Series G Convertible Preferred Stock from seeking any appraisal rights to which they are otherwise entitled under the DGCL in connection with a merger triggering an adjustment hereunder, nor shall this Subsection 6.4.4 be deemed conclusive evidence of the fair value of the shares of Series G Convertible Preferred Stock in any such appraisal proceeding.

6.4.5 Certificate as to Adjustments. Upon the occurrence of each adjustment or readjustment of the Series G and Series G-1 Conversion Price pursuant to this Subsection 6.4, the Corporation at its expense shall, as promptly as reasonably practicable but in any event not later than ten (10) days thereafter, compute such adjustment or readjustment in accordance with the terms hereof and furnish to each holder of Series G Convertible Preferred Stock a certificate setting forth such adjustment or readjustment (including the kind and amount of securities, cash or other property into which the Series G Convertible Preferred Stock is convertible) and showing in detail the facts upon which such adjustment or readjustment is based. The Corporation shall, as promptly as reasonably practicable after the written request at any time of any holder of Series G Convertible Preferred Stock (but in any event not later than ten (10) days thereafter), furnish or cause to be furnished to such holder a certificate setting forth (i) the Series G and Series G-1 Conversion Price then in effect, and (ii) the number of shares of Common Stock and the amount, if any, of other securities, cash or property which then would be received upon the conversion of Series G Convertible Preferred Stock.

6.5 Notice of Record Date. In the event:

(a) the Corporation shall take a record of the holders of its Common Stock (or other capital stock or securities at the time issuable upon conversion of the Series G Convertible Preferred Stock) for the purpose of entitling or enabling them to receive any dividend or other

distribution, or to receive any right to subscribe for or purchase any shares of capital stock of any class or any other securities, or to receive any other security; or

(b) of any capital reorganization of the Corporation, any reclassification of the Common Stock of the Corporation, or any Deemed Liquidation Event; or

(c) of the voluntary or involuntary dissolution, liquidation or winding-up of the Corporation,

then, and in each such case, the Corporation will send or cause to be delivered to the holders of the Series G Convertible Preferred Stock a notice specifying, as the case may be, (i) the record date for such dividend, distribution or right, and the amount and character of such dividend, distribution or right, or (ii) the effective date on which such reorganization, reclassification, consolidation, merger, transfer, dissolution, liquidation or winding-up is proposed to take place, and the time, if any is to be fixed, as of which the holders of record of Common Stock (or such other capital stock or securities at the time issuable upon the conversion of the Series G Convertible Preferred Stock) shall be entitled to exchange their shares of Common Stock (or such other capital stock or securities) for securities or other property deliverable upon such reorganization, reclassification, consolidation, merger, transfer, dissolution, liquidation or winding-up, and the amount per share and character of such exchange applicable to the Series G Convertible Preferred Stock and the Common Stock. Such notice shall be sent at least ten (10) business days prior to the record date or effective date for the event specified in such notice.

7. Redemption.

7.1 General. Unless prohibited by Delaware law governing distributions to stockholders, shares of Series G Convertible Preferred Stock may be redeemed by the Corporation at a per share price equal to the Liquidation Value, plus all accrued but unpaid dividends thereon (the "Redemption Price"), at any time on or after the Issue Date. Notwithstanding the foregoing, all proceeds from sales of any equity securities by the Corporation after the Issue Date (other than the Permitted Financing) must be used exclusively to redeem shares of Series G Convertible Preferred Stock pursuant to the provisions of this Section 7, unless otherwise agreed in writing in advance of the sale of such equity by holders of at least a majority of the outstanding shares of Series G Convertible Preferred Stock. For clarity, the Corporation shall not be required to use the proceeds of the Permitted Financing to redeem the Preferred Stock and the Corporation may use such proceeds for working capital purposes.

7.2 Redemption Notice. The Corporation shall send written notice of any redemption (the "Redemption Notice") to each holder of record of Series G Convertible Preferred Stock not less than forty (40) days prior to the date that such shares are to be redeemed (the "Redemption Date"). Each Redemption Notice shall state:

(a) the number of shares of Series G Convertible Preferred Stock held by the holder that the Corporation shall redeem on the Redemption Date specified in the Redemption Notice;

(b) the Redemption Date and the Redemption Price;

(c) the date upon which the holder's right to convert such shares terminates (as determined in accordance with Section 6); and

(d) for holders of shares in certificated form, that the holder is to surrender to the Corporation, in the manner and at the place designated, his, her or its certificate or certificates representing the shares of Series G Convertible Preferred Stock to be redeemed.

7.3 Surrender of Certificates; Payment. On or before the applicable Redemption Date, each holder of shares of Series G Convertible Preferred Stock to be redeemed on such Redemption Date, unless such holder has exercised his, her or its right to convert such shares as provided in Section 6, shall, if a holder of shares in certificated form, surrender the certificate or certificates representing such shares (or, if such registered holder alleges that such certificate has been lost, stolen or destroyed, a lost certificate affidavit and agreement reasonably acceptable to the Corporation to indemnify the Corporation against any claim that may be made against the Corporation on account of the alleged loss, theft or destruction of such certificate) to the Corporation, in the manner and at the place designated in the Redemption Notice, and thereupon the Redemption Price for such shares shall be payable to the order of the person whose name appears on such certificate or certificates as the owner thereof. In the event less than all of the shares of Series G Convertible Preferred Stock represented by a certificate are redeemed, a new certificate, instrument, or book entry representing the unredeemed shares of Series G Convertible Preferred Stock shall promptly be issued to such holder.

7.4 Rights Subsequent to Redemption. If the Redemption Notice shall have been duly given, and if on the applicable Redemption Date the Redemption Price payable upon redemption of the shares of Series G Convertible Preferred Stock to be redeemed on such Redemption Date is paid or tendered for payment or deposited with an independent payment agent so as to be available therefor in a timely manner, then notwithstanding that any certificates evidencing any of the shares of Series G Convertible Preferred Stock so called for redemption shall not have been surrendered, dividends with respect to such shares of Series G Convertible Preferred Stock shall cease to accrue after such Redemption Date and all rights with respect to such shares shall forthwith after the Redemption Date terminate, except only the right of the holders to receive the Redemption Price without interest upon surrender of any such certificate or certificates therefor.

7.5 [Reserved]

7.6 Additional Mandatory Redemption. In addition to and not in limitation of any other provisions set forth in this Section 7, the Corporation shall be required to redeem a portion of the Series G Preferred Stock in an amount equal to the entire amount of all cash proceeds now or hereafter received from the sale of the assets of the Corporation's subsidiary, Staffing 360 Georgia, LLC, a Georgia limited liability company ("S360 Georgia"), as required pursuant to that certain Consent Agreement, dated as of September 22, 2020, by and among the Corporation, S360 Georgia, certain other subsidiaries of the Corporation party thereto, and the holder of the Series G Convertible Preferred Stock party thereto.

8. Redeemed or Otherwise Acquired Shares.

Any shares of Series G Convertible Preferred Stock that are redeemed or otherwise acquired by the Corporation or any of its subsidiaries shall be automatically and immediately cancelled and retired and shall not be reissued, sold or transferred. Neither the Corporation nor any of its subsidiaries may exercise any voting or other rights granted to the holders of Series G Convertible Preferred Stock following redemption.

IN WITNESS WHEREOF, the Company has caused this Certificate of Designations to be duly executed by its duly authorized officer on this 6th day of May, 2021.

STAFFING 360 SOLUTIONS, INC.

By: /s/ Brendan Flood

Name: Brendan Flood

Title: Chairman and Chief Executive Officer

**CERTIFICATE OF CORRECTION
TO THE
CERTIFICATE OF DESIGNATION
OF
SERIES G CONVERTIBLE PREFERRED STOCK
OF
STAFFING 360 SOLUTIONS, INC.**

**Pursuant to Section 103 of the
General Corporation Law of the State of Delaware**

The corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware does hereby certify as follows:

FIRST. The name of the corporation is Staffing 360 Solutions, Inc.

SECOND. That a Certificate of Designation for Series G Convertible Preferred Stock (the “**Certificate of Designation**”) was filed by the Secretary of State of Delaware on May 6, 2021, and said Certificate of Designation requires correction as permitted by Section 103 of the General Corporation Law of the State of Delaware.

THIRD. The inaccuracy or defect of the Certificate of Designation to be corrected is a typographical error in Section 6.1.1, whereby a value that should have been stated to be “\$1.00” was stated as “\$0.61”.

FOURTH. Section 6.1.1 of the Certificate of Designation is corrected in its entirety to read as follows:

6.1.1 Conversion Ratio. Each share of Series G Convertible Preferred Stock shall be convertible, at the option of the holder thereof, at any time from and after a Conversion Trigger (as defined below), and without the payment of additional consideration by the holder thereof, into such number of fully paid and non-assessable shares of Common Stock as is determined by dividing the Series G Liquidation Value plus any accrued but unpaid dividends on such share by the Series G Conversion Price or the Series G-1 Conversion Price (as defined below) in effect at the time of conversion. The “Series G Conversion Price” and the “Series G-1 Conversion Price” shall be \$1.00. Such Series G Conversion Price and Series G-1 Conversion Price, and the rate at which shares of Series G and Series G-1 Convertible Preferred Stock may be converted into shares of Common Stock, shall be subject to adjustment as provided below. As used herein, the term “Conversion Trigger” means (i) with respect to the Series G Convertible Preferred Stock, the earlier of October 31, 2022 or the occurrence of a Preferred Default (as defined in Section 3.1 herein) and (ii) with respect to the Series G-1 Convertible Preferred Stock, October 31, 2020.

FIFTH. All other provisions of the Certificate of Designation shall remain unchanged.

[Signature Page to Follow]

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Correction as of the 11th day of May, 2021.

STAFFING 360 SOLUTIONS, INC.,
a Delaware corporation

By: /s/ Brendan Flood
Brendan Flood,
Chairman and Chief Executive Officer



EXCHANGE AGREEMENT

THIS EXCHANGE AGREEMENT (the “Agreement”) is dated as of May 6, 2021, by and between Staffing 360 Solutions, Inc., a Delaware corporation (the “Company”), and Jackson Investment Group, LLC (“JIG”).

WHEREAS:

A. As of the date hereof, JIG holds 6,172 shares of the Company’s Series E Convertible Preferred Stock, par value \$0.00001 per share (the “Series E Shares”), and 1,493 shares of Series E-1 Convertible Preferred Stock, par value \$0.00001 per share (the “Series E-1 Shares” and, collectively, the “Original Shares”);

B. The Company and JIG desire to enter into this Agreement, pursuant to which the Company and JIG shall exchange the Series E Shares and Series E-1 Shares for an equivalent number of newly issued shares of the Company’s Series G Convertible Preferred Stock, par value \$0.00001 per share (the “Series G Shares”) and Series G-1 Convertible Preferred Stock, par value \$0.00001 per share (the “Series G-1 Shares”; together with the Series G Shares, collectively, the “New Shares”) created pursuant to the Certificate of Designations of Series G Convertible Preferred Stock (the “Certificate of Designation”), a copy of which is attached hereto as Exhibit A;

C. The exchange of (i) the Series E Shares for the Series G Shares and (ii) the Series E-1 Shares for the Series G-1 Shares at the Closing are each being made in reliance upon the exemption from registration provided by Section 3(a)(9) of the Securities Act of 1933, as amended (the “Securities Act”).

NOW, THEREFORE, in consideration of the foregoing premises and the mutual covenants hereinafter contained, the parties hereto agree as follows:

1. EXCHANGE.

(a) Exchange. The closing (the “Closing”) of the Exchange (as defined herein) shall occur on the date hereof concurrently with the execution of this Agreement, and pursuant to Section 3(a)(9) of the Securities Act, and at the Closing (i) JIG shall exchange the Original Shares for the New Shares (the “Exchange”), and (ii) in consideration therefore, the Company shall issue to JIG the New Shares, which New Shares shall be validly issued, fully paid and nonassessable and outstanding when so issued on the date hereof. No additional consideration shall be paid by JIG to the Company, or by the Company to JIG, for the issuance of the New Shares or the Exchange. The effectiveness of the Exchange is subject further to the execution and delivery by the Company and the Guarantors (as defined in the NPA referenced below) to JIG of that certain Side Letter Amendment Agreement dated as of the date hereof, pursuant to which certain provisions of that certain Second Amended and Restated Note Purchase Agreement, dated as of October 26, 2020, among the Company and certain of its subsidiaries and JIG (as amended prior to the date hereof, the “NPA”) are being amended.

(b) Delivery. In connection with the Exchange (a) JIG shall promptly following the Closing deliver to the Company the original stock certificates previously issued and delivered by the Company to JIG representing the Original Shares, together with a stock power duly endorsed to the Company, and (b) the Company shall furnish to JIG evidence that the Company has notified and instructed its stock transfer agent to reflect on the stock transfer records of the Company JIG’s ownership of the New Shares. Upon consummation of the Exchange and delivery by the Company to JIG of the evidence described in the immediately preceding clause above, all of JIG’s rights under the Original Shares shall be extinguished as of the date hereof, and all of the Original Shares will be cancelled by the Company and no longer be considered outstanding.

(c) Other Documents. The Company and JIG shall execute and/or deliver such other documents and agreements as are reasonably necessary to effectuate the Exchange, in each case, at the sole cost and expense of the Company.

2. REPRESENTATIONS AND WARRANTIES

(a) JIG Representations and Warranties. JIG hereby represents and warrants to the Company as follows:

i. *Organization; Authority.* JIG is duly incorporated or formed, validly existing and in good standing under the laws of its jurisdiction of formation, with full capacity, right, limited liability company power and authority to enter into and to consummate the transactions contemplated by this Agreement and otherwise to carry out its obligations hereunder. The execution and delivery of this Agreement and performance by JIG of the transactions contemplated by this Agreement have been duly authorized by all necessary limited liability company action on the part of JIG. This Agreement has been duly executed by JIG, and when delivered by JIG in accordance with the terms hereof, will constitute the valid and legally binding obligation of JIG, enforceable against it in accordance with its terms, except: (i) as limited by general equitable principles and applicable bankruptcy, insolvency, reorganization, moratorium and other laws of general application affecting enforcement of creditors' rights generally, (ii) as limited by laws relating to the availability of specific performance, injunctive relief or other equitable remedies and (iii) insofar as indemnification and contribution provisions may be limited by applicable law.

ii. *Understandings or Arrangements.* JIG is acquiring the New Shares hereunder as principal for its own account and has no direct or indirect arrangement or understandings with any other persons to distribute or regarding the distribution of such New Shares (this representation and warranty not limiting JIG's right to sell the New Shares pursuant to any effective registration statement or otherwise in compliance with applicable federal and state securities laws). JIG is acquiring the New Shares hereunder in the ordinary course of its business.

iii. *Reliance on Exemptions.* JIG understands that the New Shares are being offered and sold to it in reliance upon specific exemptions from the registration requirements of the Securities Act and state securities laws, and that the Company is relying upon the truth and accuracy of, and JIG's compliance with, the representations, warranties, covenants, agreements, acknowledgments and understandings of JIG contained in this Agreement in order to determine the availability of such exemptions and the eligibility of JIG to acquire the New Shares.

iv. *Risk of Loss.* JIG understands that its investment in the New Shares hereunder involves a significant degree of risk, including a risk of total loss of JIG's investment, and JIG has full cognizance of and understands all of the risk factors related to its purchase of the New Shares, including, but not limited to, those risk factors included in all reports, schedules, forms, statements and other documents filed by the Company under the Securities Act and the Securities Exchange Act of 1934, as amended (the "Exchange Act"), including pursuant to Section 13(a) or 15(d) thereof, for the two years preceding the date hereof, including the exhibits thereto and documents incorporated by reference therein. JIG understands that no representation is being made as to the future value of the New Shares.

v. *Investor Status.* At the time JIG was offered the New Shares hereunder, it was, and as of the date hereof it is, and on each date on which it converts any New Shares it will be either: (i) an "accredited investor" as defined in Rule 501 of Regulation D promulgated under the Securities Act or (ii) a "qualified institutional buyer" as defined in Rule 144A under the Securities Act.

vi. *Experience of JIG.* JIG, either alone or together with its representatives, has such knowledge, sophistication and experience in business and financial matters so as to be capable of evaluating the merits and risks of the prospective investment in the New Shares, and has so evaluated the merits and risks of such investment. JIG is able to bear the economic risk of an investment in the New Shares and, at the present time, is able to afford a complete loss of such investment.

(b) Company Representations and Warranties.

i. *Organization and Qualification.* 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 nor default of any of the provisions of its respective certificate or articles of incorporation, bylaws or other organizational or charter documents (other than in respect of any violation or default related to there being an inadequate number of shares of common stock ("Common Shares") of the Company available for issuance if JIG were to convert into Common Shares any or all of its Series E and/or Series E-1 Preferred Stock). The Company is duly qualified to conduct business and is in good standing as a foreign corporation or other entity in each jurisdiction in which the nature of the business conducted or property owned by it makes such qualification necessary, except where the failure to be so qualified or in good standing, as the case may be, could not have or reasonably be expected to result in a (i) a material adverse effect on the legality, validity or enforceability of this Agreement, (ii) a material adverse effect on the results of operations, assets, business, prospects or condition (financial or otherwise) of the Company and its Subsidiaries, taken as a whole, or (iii) a material adverse effect on the Company's ability to perform in any material respect on a timely basis its obligations under this Agreement (any of (i), (ii) or (iii), a "Material Adverse Effect") and no action, claim, suit, investigation or proceeding (including, without limitation, an informal investigation

or partial proceeding, such as a deposition), whether commenced or threatened has been instituted in any such jurisdiction revoking, limiting or curtailing or seeking to revoke, limit or curtail such power and authority or qualification.

ii. *Authorization; Enforcement.* The Company has the requisite corporate power and authority to enter into and to consummate the transactions contemplated by this Agreement and otherwise to carry out its obligations hereunder and thereunder and under the Certificate of Designation. The execution and delivery of this Agreement by the Company and the consummation by it of the transactions contemplated hereby and by the Certificate of Designation have been duly authorized by all necessary action on the part of the Company and no further action is required by the Company, the Board of Directors of the Company or the Company's stockholders in connection herewith (other than with respect to the Reverse Stock Split (as defined in the Certificate of Designation)). This Agreement has been (or upon delivery will have been) duly executed by the Company and, when delivered in accordance with the terms hereof, together with the Certificate of Designation, will constitute the valid and binding obligation of the Company enforceable against the Company in accordance with its terms, except: (i) as limited by general equitable principles and applicable bankruptcy, insolvency, reorganization, moratorium and other laws of general application affecting enforcement of creditors' rights generally, (ii) as limited by laws relating to the availability of specific performance, injunctive relief or other equitable remedies and (iii) insofar as indemnification and contribution provisions may be limited by applicable law.

iii. *No Conflicts.* The execution, delivery and performance by the Company of this Agreement, the issuance and sale of the New Shares hereunder and the consummation by it of the transactions contemplated hereby and by the Certificate of Designation do not and will not: (i) conflict with or violate any provision of the Company's certificate or articles of incorporation, bylaws or other organizational or charter documents, (ii) conflict with, or constitute a default (or an event that with notice or lapse of time or both would become a default) under, result in the creation of any lien upon any of the properties or assets of the Company, or give to others any rights of termination, amendment, acceleration or cancellation (with or without notice, lapse of time or both) of, any agreement, credit facility, debt or other instrument (evidencing a Company debt or otherwise) or other understanding to which the Company is a party or by which any property or asset of the Company is bound or affected, or (iii) conflict with or result in a violation of any law, rule, regulation, order, judgment, injunction, decree or other restriction of any court or governmental authority to which the Company is subject, or by which any property or asset of the Company is bound or affected; except in the case of each of clauses (ii) and (iii), such as could not have or reasonably be expected to result in a Material Adverse Effect.

iv. *Issuance of the New Shares.* The New Shares to be issued hereunder are duly authorized and, when issued and paid for in accordance with this Agreement, will be duly and validly issued, fully paid and nonassessable, free and clear of all liens imposed by the Company. The Common Shares of the Company to be received upon the exercise of any conversion of the New Shares pursuant to the Certificate of Designation will be validly issued, fully paid and nonassessable, free and clear of all liens imposed by the Company. Upon and following the Reverse Stock Split Date (as defined in the Certificate of Designation), the Company hereby covenants and agrees (i) to reserve and keep available out of its authorized but unissued capital stock, for the purpose of effecting the conversion of any and all New Shares (including any additional shares of Series G-1 Shares issued after the date hereof in accordance with the Certificate of Designation), such number of its duly authorized Common Shares as shall from time to time be sufficient to effect the conversion of all outstanding New Shares (including any additional shares of Series G-1 Shares issued after the date hereof in accordance with the Certificate of Designation) and (ii) if at any time after such date the number of authorized but unissued Common Shares shall not be sufficient to effect the conversion of all then outstanding shares of the New Shares (including any additional shares of Series G-1 Shares issued after the date hereof in accordance with the Certificate of Designation), then the Company shall take such corporate action as may be necessary to increase its authorized but unissued Common Shares to such number of shares as shall be sufficient for such purposes, including, without limitation, engaging in best efforts to obtain the requisite stockholder approval of any necessary amendment to the Certificate of Incorporation, and any failure by the Company to comply with the foregoing covenants shall constitute a Preferred Default (as such term is defined in the Certificate of Designation). The Company further acknowledges and agrees that notwithstanding anything herein or in the Certificate of Designation to the contrary, if the Company fails by June 30, 2021 for any reason whatsoever to increase its authorized and unissued Common Shares to such number of Common Shares as shall be sufficient to cover the conversion of all New Shares (including any additional shares of Series G-1 Shares issued after the date hereof in accordance with the Certificate of Designation) into Common Shares in accordance with the Certificate of Designation as well as all of the Common Shares issuable upon exercise by JIG of the Existing Warrant (as such term is defined in the NPA), then such failure shall constitute an immediate Preferred Default (as such term is defined in the Certificate of Designation).

3. MISCELLANEOUS.

(a) No Commissions. Neither the Company nor JIG has paid or given, or will pay or give, to any person, any commission or other remuneration, directly or indirectly, in connection with the transactions contemplated by this Agreement.

(b) Notice. All notices, demands, requests, consents, approvals, and other communications required or permitted hereunder shall be in writing and, unless otherwise specified herein, shall be (i) personally served, (ii) deposited in the mail, registered or certified, return receipt requested, postage prepaid, (iii) delivered by reputable air courier service with charges prepaid, or (iv) transmitted via electronic mail, in each case addressed as set forth below or to such other address as such party shall have specified most recently by written notice. Any notice or other communication required or permitted to be given hereunder shall be deemed effective (a) upon hand delivery at the address or number 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), (b) on the second business day following the date of mailing by express courier service, fully prepaid, addressed to such address, or upon actual receipt of such mailing, whichever shall first occur or (c) on the date sent by e-mail of a PDF document (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next Business Day if sent after normal business hours of the recipient. The addresses for such communications shall be: (i) if to the Company, to: 641 Lexington Avenue, Suite 2701, New York, New York 10022, Attn: Brendan Flood, Chief Executive Officer, E-mail: brendan.flood@staffing360solutions.com, with a copy by electronic mail only to (which shall not constitute notice): Rick Werner, 30 Rockefeller Plaza, 26th Floor, New York, New York 10112, E-mail: rick.werner@haynesboone.com, and (ii) if to JIG, to: the addresses indicated on the signature pages hereto.

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IN WITNESS WHEREOF, JIG and the Company have caused their respective signature pages to this Exchange Agreement to be duly executed as of the date first written above.

STAFFING 360 SOLUTIONS, INC.

By: /s/ Brendan Flood

Name: Brendan Flood

Title: Chairman and Chief Executive Officer

Address for Notice to Company:
Staffing 360 Solutions
641 Lexington Avenue, Suite 2701
New York, NY 10022

Email Address for Notice: Brendan.Flood@Staffing360Solutions.com

Facsimile Number for Notice: 646-507-5725

JACKSON INVESTMENT GROUP, LLC:

By: /s/ Richard L. Jackson

Name: Richard L. Jackson

Title: Chief Executive Officer

Number of Series E Shares and Series E-1 Shares exchanged:

Series E Shares: 6,172

Series E-1 Shares: 1,493

Address for Notice to JIG: See Section 10.1 of NPA

Exhibit A —Certificate of Designation

May 6, 2021

Via Electronic Mail

Staffing 360 Solutions, Inc.
3A London Wall Buildings
London Wall
London EC2M 5SY
United Kingdom
Attn: Brendan Flood, Chairman and Chief Executive Officer

Re: Side Letter Agreement regarding Amendment to NPA

Ladies and Gentlemen:

Reference is hereby made to that certain (a) Second Amended and Restated Note Purchase Agreement, dated as of October 26, 2020 (as amended, amended and restated, supplemented or otherwise modified from time to time, the “**Purchase Agreement**”), among Jackson Investment Group, LLC (“**Purchaser**”), Staffing 360 Solutions, Inc., a Delaware corporation (the “**Company**”), and certain subsidiaries of the Company signatory thereto (the “**Subsidiary Guarantors**”). Capitalized terms used in this letter agreement (this “**Agreement**”) and not otherwise defined shall have the meanings ascribed to such terms in the Purchase Agreement.

A. Whereas, Purchaser and the Company intend to enter into that certain Exchange Agreement dated as of the date hereof (the “**Exchange Agreement**”), and in connection therewith desire to amend certain provisions of the Purchase Agreement in accordance with the terms hereof.

B. Whereas, it is a condition precedent to the effectiveness of the Exchange Agreement that this Agreement be executed and delivered by the Company and each Subsidiary Guarantor to Purchaser.

NOW THEREFORE, in order to induce Purchaser to enter into the Exchange Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Amendments to Purchase Agreement. Subject to the satisfaction of the conditions precedent in Section 2 hereof, the parties hereto agree that the Purchase Agreement is hereby amended effective as of the date of this Agreement as follows:

(a) the defined terms “Amendment No. 1 to the Certificate of Designation” and “Amendment No. 2 to the Certificate of Designation” in Section 1.1 of the Purchase Agreement are hereby deleted.

(b) the definition of “Certificate of Designation” in Section 1.1 of the Purchase Agreement is hereby amended and restated in its entirety to read as follows:

“Certificate of Designation” means the Certificate of Designation creating the Series G Preferred Stock and the Series G-1 Preferred Stock, in the form of Exhibit A to the Preferred Exchange Agreement, as the same may hereafter be further amended, restated or otherwise modified; provided that any such further amendments, restatements or other modifications to such Certificate of Designation in order to be effective and to be permitted hereunder must be consented to in writing by the Purchaser, which consent may be granted or denied by the Purchaser in its sole discretion.

Staffing 360 Solutions, Inc.
May 6, 2021
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(c) The defined term “Series E Preferred Stock” in Section 1.1 of the Purchase Agreement is hereby amended and restated in its entirety to read as follows:

“Series G Preferred Stock” shall mean the Series G Convertible Preferred Stock of the Company.

(d) The defined term “Series E-1 Preferred Stock” in Section 1.1 of the Purchase Agreement is hereby amended and restated in its entirety to read as follows:

“Series G-1 Preferred Stock” shall mean the Series G-1 Convertible Preferred Stock of the Company.

(e) All references to Series E Preferred Stock in the Purchase Agreement shall be deemed to refer to the Series G Preferred Stock, and all references to Series E-1 Preferred Stock in the Purchase Agreement shall be deemed to refer to the Series G-1 Preferred Stock.

(f) All references to the term PIK Fee Shares appearing in Section 7.14 of the Purchase Agreement shall be deemed to also include the PIK Fee Shares (as such term is defined in the Prior Certificate of Designation) and the PIK Fee Shares (as such term is defined in the Certificate of Designation). The second sentence of Section 7.14(a) of the Purchase Agreement is hereby amended and restated in its entirety to read as follows:

“The Company further covenants and agrees that (i) the PIK Fee Shares to be issued pursuant to this Agreement, (ii) the PIK Fee Shares (as such term is defined in the Prior Certificate of Designation) previously issued by the Company to Purchaser in connection with the Prior Certificate of Designation, and (iii) the PIK Fee Shares (as such term is defined in the Certificate of Designation) will be included in a new resale registration statement, which (A) in the case of the immediately preceding clauses (i) and (ii) shall be filed by the Company with the SEC at the Company’s sole expense not later than sixty (60) days after the Closing Date, and (B) in the case of the immediately preceding clause (iii) shall be filed by the Company with the SEC at the Company’s sole expense not later than sixty (60) days after the date of the Preferred Exchange Agreement.”

(g) Section 1.1 of the Purchase Agreement is hereby amended to add in alphabetical order the following new definitions:

“Preferred Exchange Agreement” means the Exchange Agreement as such term is defined in that certain Side Letter Amendment Agreement dated as of May 6, 2021, by and among Purchaser, the Company and the Guarantors.

“Prior Certificate of Designation” means that certain Certificate of Designation creating the Series E Preferred Stock and the Series E-1 Preferred Stock of the Company, in the form of Exhibit B to the Debt Exchange Agreement, as amended prior to the date of the Preferred Exchange Agreement.

Staffing 360 Solutions, Inc.
May 6, 2021
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2. Conditions to Effectiveness. This Agreement and the amendments set forth in Section 1 hereof shall be effective as of the date of this Agreement upon the satisfaction of the following conditions precedent: (a) the parties hereto shall have duly executed and delivered this Agreement, and (b) the Company and Purchaser shall have executed and delivered the Preferred Exchange Agreement.

3. Miscellaneous. Each of the Company and the Subsidiary Guarantors represents and warrants to Purchaser that the terms of this Agreement do not violate (i) any of its organizational documents or (ii) any material contract to which it is a party (except in the case of (ii), such as could not have or reasonably be expected to result in a Material Adverse Effect), and all consents and approvals required to enter into this Agreement have been obtained (or will be obtained by the effective time of this Agreement). The foregoing amendments set forth in Section 1 above relate solely to the specific matters addressed above and shall not be construed to constitute a consent, waiver, or amendment in respect of any other matter or to any other Transaction Document, whether now or hereafter existing. This Agreement shall not modify or limit in any manner the obligations of the Company under the Purchase Agreement or any other Transaction Document, except for the amendments to the extent expressly set forth above in Section 1 of this Agreement, and the Purchase Agreement, the Security Agreement, the Pledge Agreement and the other Transaction Documents shall remain in full force and effect in accordance with their terms after giving effect to this Agreement. This Agreement shall constitute a Note Document and

a Transaction Document. Each of the Company and the Subsidiary Guarantors hereby reaffirms (a) all of its obligations under the Transaction Documents to which it is a party, including, without limitation, all of the outstanding indebtedness owing under the Purchase Agreement and the Senior Notes, and agrees that this Agreement, and all documents, agreements and instruments executed in connection herewith and therewith and the consummation of the transactions contemplated hereby and thereby do not operate to reduce or discharge any Obligor's obligations under such Transaction Documents or constitute a novation of any indebtedness or other obligations under any Transaction Documents, and (b) the continuing security interests in its respective assets granted in favor of Purchaser pursuant to Security Agreement, the Pledge Agreement and each of the other Security Documents. This Agreement may be executed by one or more of the parties to this Agreement on any number of separate counterparts (including by telecopy or other electronic transmissions, e.g. .pdf), and all of said counterparts taken together shall be deemed to constitute one and the same instrument. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK (WITHOUT REGARD TO THE PRINCIPLES THEREOF REGARDING CONFLICTS OF LAWS). THE TERMS OF SECTIONS 10.12 AND 10.13 OF THE PURCHASE AGREEMENT WITH RESPECT TO SUBMISSION TO JURISDICTION, CONSENT TO SERVICE OF PROCESS, VENUE AND WAIVER OF JURY TRIAL ARE INCORPORATED HEREIN BY REFERENCE, MUTATIS MUTANDIS, AND THE PARTIES HERETO AGREE TO SUCH TERMS.

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Staffing 360 Solutions, Inc.
May 6, 2021
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Sincerely,

Jackson Investment Group, LLC

By: /s/ Richard L. Jackson

Name: Richard L. Jackson

Title: Chief Executive Officer

Staffing 360 Solutions, Inc.
May 6, 2021
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ACCEPTED AND AGREED TO:

COMPANY:

STAFFING 360 SOLUTIONS, INC.

By: /s/ Brendan Flood

Name: Brendan Flood

Title: Chairman and Chief Executive Officer

SUBSIDIARY GUARANTORS:

FARO RECRUITMENT AMERICA, INC.

By: /s/ Brendan Flood

Name: Brendan Flood

Title: President and Chief Executive Officer

MONROE STAFFING SERVICES, LLC

By: /s/ Brendan Flood

Name: Brendan Flood

Title: President and Chief Executive Officer

Staffing 360 Solutions, Inc.

May 6, 2021

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STAFFING 360 GEORGIA, LLC

By: /s/ Brendan Flood

Name: Brendan Flood

Title: President and Chief Executive Officer

LIGHTHOUSE PLACEMENT SERVICES, INC.

By: /s/ Brendan Flood

Name: Brendan Flood

Title: President

KEY RESOURCES, INC.

By: /s/ Brendan Flood

Name: Brendan Flood

Title: President and Chief Executive Officer

May 6, 2021

Via Electronic Mail

Staffing 360 Solutions, Inc.
3A London Wall Buildings
London Wall
London EC2M 5SY
United Kingdom
Attn: Brendan Flood, Chairman and Chief Executive Officer

Re: Limited Waiver and Agreement

Ladies and Gentlemen:

Reference is made to the Limited Waiver and Agreement (the “**Agreement**”) dated February 5, 2021, among Jackson Investment Group, LLC (“**JIG**”) and Staffing 360 Solutions, Inc., a Delaware corporation (the “**Company**”). Capitalized terms used herein but not otherwise defined herein shall have the respective meanings given such terms in the Agreement.

By this letter JIG hereby agrees that the period for which it agreed not to exercise Convertible Securities in the Agreement is extended to June 30, 2021. In consideration of such extension, the Company agrees that it will take all actions necessary to fulfill its obligations set forth in the Agreement to increase the Company’s authorized and unissued shares of common stock as soon as possible, and in any event by not later than June 30, 2021.

IN WITNESS WHEREOF, the parties hereto have caused this Limited Waiver and Agreement to be duly executed by their duly authorized representatives as of the day and year hereof.

Sincerely,

Jackson Investment Group, LLC

By: /s/ Richard L. Jackson

Name: Richard L. Jackson

Title: Chief Executive Officer

Staffing 360 Solutions, Inc.

By: /s/ Brendan Flood

Name: Brendan Flood

Title: Chairman and Chief Executive Officer
