SECURITIES AND EXCHANGE COMMISSION

FORM 8-K

Current report filing

Filing Date: **2021-07-27** | Period of Report: **2021-07-26**
SEC Accession No. 0001477932-21-004915

(HTML Version on secdatabase.com)

FILER

Iconic Brands, Inc.
CIK:**1350073**| IRS No.: **134362274** | State of Incorp.:**NV** | Fiscal Year End: **1231**
Type: **8-K** | Act: **34** | File No.: **000-53162** | Film No.: **211115997**
SIC: **2080** Beverages

Mailing Address
44 SEABRO AVENUE
AMITYVILLE NY 11701

Business Address
44 SEABRO AVENUE
AMITYVILLE NY 11701
866-219-8112

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

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

FORM 8-K

CURRENT REPORT

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

Date of Report (Date of Earliest Event Reported): **July 26, 2021**

Iconic Brands, Inc.

(Exact name of registrant as specified in its charter)

Nevada	**333-227420**	**13-4362274**
(State or other jurisdiction of incorporation)	(Commission File Number)	(IRS Employer Identification No.)

44 Seabro Avenue
Amityville, New York 11701
(Address of Principal Executive Offices)

(866) 219-8112
(Registrant's telephone number)

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

☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

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

Emerging growth company ☐

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

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

Title of each class	**Trading Symbol(s)**	**Name of each exchange on which registered**
N/A	N/A	N/A

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Item 1.01 Entry into a Material Definitive Agreement.

TopPop Acquisition Agreement

On July 26, 2021, Iconic Brands, Inc. (the "Company") entered into an acquisition agreement (the "TopPop Acquisition Agreement") with TopPop LLC, a New Jersey limited liability company ("TopPop"), and each of FrutaPop LLC ("Frutapop"), Innoaccel Investments LLC ("Innoaccel") and Thomas Martin ("Martin" and, together with Frutapop and Innoaccel, the "TopPop Members"), pursuant to which the TopPop Members sold to the Company and the Company acquired, all of the issued and outstanding membership interests of TopPop.

TopPop is a brand owner and contract manufacturing and packaging company specializing in flexible packaging solutions in the food, beverage and health categories. Its first branded and contract products are alcohol-infused ice pops. Its manufacturing facility in Marlton, New Jersey is registered by the Federal Drug Administration and holds a Safe Quality Food certification.

Upon consummation of the acquisition contemplated by the TopPop Acquisition Agreement, the TopPop Members received, in the aggregate: (a) $3,995,551.08 in cash by transfer of immediately available funds, (b) 26,009,600 shares of Company's common stock, par value $0.001 per share (the "Common Stock"), which shares were valued in the aggregate at $8,128,000, or $0.3125 per share, (c) $4,900,000.00 aggregate principal amount of promissory notes of the Company (the "Promissory Notes") and (d) future additional cash payments as earnout consideration (the "Total Consideration"). The earn-out payments, if any, will be made (i) following the 12-month period commencing on August 1, 2021 (the "First Year"), in an amount (the "First Year Earn-out Amount") equal to each TopPop Member's pro rata portion of the excess, if any, of: (A) 1.96 times TopPop's EBITDA for the First Year over (B) the aggregate amount of the Promissory Notes repaid in cash during the First Year; provided, however, no First Year Earn-out Amount shall be payable if (i)(A) does not exceed (i)(B); and (ii) following the 12-month period commencing on August 1, 2022 (the "Second Year"), in an amount (the "Second Year Earn-out Amount") equal to each TopPop Member's pro rata portion of the excess, if any, of: (A) 1.96 times TopPop's EBITDA for the Second Year over (B) the aggregate amount of the Promissory Notes repaid in cash during the Second Year; provided, however, no Second Year Earn-out Amount shall be payable if (ii)(A) does not exceed (ii)(B). The earn-out payments shall be made, at the election of each TopPop Member, in cash or in shares of Common Stock or a combination thereof, less any reserve for possible indemnification payments, provided that not less than 45% of the value of each earn-out payment shall be paid in Common Stock. If paid in shares of Common Stock, such shares shall be valued at the then-prevailing market rate.

The Promissory Notes bear interest at the rate of 10% per annum and mature on July 26, 2022. The Promissory Notes are not subject to pre-payment penalties; however, the Company may not pre-pay any amount on any Promissory Note without pre-paying a pro-rata portion of all Promissory Notes. In connection with the Promissory Notes, the Company granted to the TopPop Members a security interest in all of the Company's membership interests of TopPop pursuant to certain pledge agreements (the "Pledge Agreements") with each of the TopPop Members, each dated July 26, 2021. The Promissory Notes are not convertible into equity securities of the Company.

The TopPop Acquisition Agreement contains customary representations, warranties and covenants and customary indemnification obligations with regards to breaches of the representation and warranties of the Company, TopPop and the TopPop Members. With regards to breaches of ordinary representations, the Company's indemnitees are only entitled to recover losses in excess of $100,000. Losses incurred by either party's indemnitees as a result of breaches of ordinary representations are subject to a cap of $2,000,000. The TopPop Members' total liability for any indemnifiable losses, in the aggregate, may not exceed the Total Consideration.

The TopPop Acquisition Agreement contains representations and warranties that the parties made to, and solely for the benefit of, each other. Investors in, and security holders of, the Company should not rely on the representations and warranties as characterizations of the actual state of facts since they were made only as of the date of the TopPop Acquisition Agreement. Moreover, information concerning the subject matter of such

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

representation and warranties may change after the date of the TopPop Acquisition Agreement, which subsequent information may or may not be fully reflected in public disclosures.

The information provided under this Item 1.01 with respect to the TopPop Acquisition Agreement, the Promissory Notes and the Pledge Agreements is a summary of certain portions of the TopPop Acquisition Agreement, the Promissory Notes and the Pledge Agreements and does not purport to be a complete description and is subject to, and qualified in its entirety by, the complete text of the TopPop Acquisition Agreement, the form of Promissory Notes and the form of Pledge Agreements, which are filed as exhibits 10.1, 10.2 and 10.3 to this Current Report on Form 8-K.

Series A-2 Convertible Preferred Stock Financing

On July 26, 2021, the Company entered into securities purchase agreements dated as of July 26, 2021 (collectively, the "Purchase Agreement") with certain accredited investors (each an "Investor" and collectively, the "Investors") for the sale of an aggregate of 32,303.11 shares of the Company's newly-created Series A-2 Convertible Preferred Stock, par value $0.001 per share (the "Series A-2 Preferred Stock"), 11,320,201 shares of Common Stock, and warrants (the "Warrants") to purchase 114,690,150 shares of Common Stock, for gross proceeds of $35,840,672, before deducting placement agent and other offering expenses. Pursuant to the Purchase Agreement, the shares of Series A-2 Preferred Stock, Common Stock and Warrants are to be sold in two tranches, the first of which closed on July 26, 2021 for gross proceeds of $22,918,203 for the sale of 20,724.70 shares of Series A-2 Preferred Stock, 7,019,196 shares of Common Stock, and Warrants to purchase 73,338,203 shares of Common Stock. Of the $22,918,203 gross proceeds received by the Company upon the closing of the first tranche, $18,147,354 was paid in cash, $676,708 was paid by assignment to the Company of $676,708 aggregate principal and interest amount of the Company's outstanding original issue discount promissory notes and $3,762,000 was paid by assignment to the Company of $3,762,000 aggregate principal amount of TopPop's outstanding original issue discount promissory notes, all of which notes were cancelled by the Company. A $332,141 discount was applied to the cash component of the purchase price received upon the closing of the first tranche.

Pursuant to the Purchase Agreement, the closing of the second tranche, which will include the sale of an additional 11,578.40 shares of Series A Preferred Stock, 4,301,005 shares of Common Stock, and Warrants to purchase an additional 41,351,901 shares of Common Stock for gross proceeds of $12,690,901, all of which will be paid in cash, will occur within five trading days of the six-month anniversary of the closing of the first tranche. The closing of the transactions contemplated by the Purchase Agreement are subject to the satisfaction of certain closing conditions, including the execution of the Registration Rights Agreement (as defined below), and the consummation of the transactions contemplated by the TopPop Acquisition Agreement, the Exchange Agreement (as defined below), and the United Purchase Agreement (as defined below). The terms of the Series A-2 Preferred Stock are set forth under Items 3.02 and 5.03 below.

The Warrants are exercisable for a period of five years from the date of issuance at an exercise price of $0.3125 per share. The Investors may exercise the Warrants on a cashless basis if the shares of Common Stock underlying the Warrants are not then registered for resale pursuant to an effective registration statement under the Securities Act of 1933, as amended (the "Securities Act").

The conversion price of the Series A-2 Preferred Stock and the exercise price of the Warrants are subject to anti-dilution adjustment for subsequent lower price issuances by the Company, as well as customary adjustments provisions for stock splits, stock dividends, recapitalizations and the like.

The Series A-2 Preferred Stock and the Warrants each contain beneficial ownership limitations that restrict the ability of each Investor to exercise the Warrants or convert the Series A-2 Preferred Stock such that the number of shares of the Common Stock held by any Investor and its affiliates after such conversion or exercise does not exceed 4.99% or 9.99% (at the election of the Investor) of the Company's then issued and outstanding shares of Common Stock.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

The Purchase Agreement also provides that, until January 26, 2022 (the six-month anniversary of the first closing date under the Purchase Agreement), in the event of a subsequent financing (except for certain exempt issuances as provided in the Purchase Agreement) by the Company, each Investor that invested over $1,000,000 pursuant to the Purchase Agreement will have the right to participate in such subsequent financing up to an amount equal to the Investor's proportionate share of the subsequent financing based on such Investor's percentage participation in the private placement effected by the Purchase Agreement on the same terms, conditions and price provided for in the subsequent financing up to an amount equal to 50% of the subsequent financing, or, if such subsequent financing is a firm commitment underwritten offering, up to an amount equal to 25% of such subsequent financing. The Purchase Agreement also provides that, for as long as the Series A-2 Preferred Stock or Warrants are outstanding, if the Company effects a subsequent financing, an Investor may elect, in its sole discretion, to exchange all or a portion of the Series A-2 Preferred Stock then held by such Investor for any securities issued in the subsequent financing on a $1.00 for $1.00 basis (assuming each share of Series A-2 Preferred Stock has a value equal to its Stated Value, which is $1,000 per share), provided such subsequent financing is not a firm commitment underwritten offering.

From the date of the Purchase Agreement until the date that is the earlier of (i) six months following the date of the Purchase Agreement and (ii) the later of (A) 90 days following the Effective Date (as defined in the Purchase Agreement) and (B) the date that the VWAP (as defined in the Purchase Agreement) for 10 consecutive trading days following the Effective Date is greater than $0.625, subject to adjustment for reverse and forward stock splits, stock dividends of the Common Stock, stock combinations and other similar transactions, the Company shall not (x) issue, enter into any agreement to issue or announce the issuance or proposed issuance of any shares of Common Stock or Common Stock equivalents or (y) file any registration statement or any amendment or supplement thereto with the Securities and Exchange Commission (the "Commission"), in each case, other than as contemplated pursuant to the Registration Rights Agreement (as defined below).

In connection with the transactions contemplated by the Purchase Agreement, the Company also entered into separate registration rights agreements (collectively, the "Registration Rights Agreement") with the Investors, pursuant to which the Company agreed to file with the Commission a registration statement under the Securities Act to register the resale of the shares of Common Stock underlying the Warrants on or prior to November 23, 2021 (120 days following the first closing date under the Purchase Agreement) (the "Filing Date"), to cause such registration statement to be declared effective within thirty (30) days following the Filing Date, and to maintain the effectiveness of the registration statement until all of such shares of Common Stock have been sold or are otherwise able to be sold pursuant to Rule 144 under the Securities Act, without any restrictions. If the Company fails to file the registration statement or have it declared effective by the dates set forth above, among other things, the Company is obligated to pay the Investors liquidated damages in the amount of 1% of their subscription amount, per month, until such events are satisfied.

Of the approximately $18,147,354 of net proceeds received by the Company on the initial closing date under the Purchase Agreement, $3,995,000 was applied to pay the cash portion of the purchase price of the TopPop Acquisition Agreement and the balance is expected to be used for working capital purposes, so as to further execute on the Company's existing business, while also actively pursuing several additional "iconic" brands. The anticipated net proceeds of approximately $12,690,901 from the closing of the second tranche under the Purchase Agreement are expected to be used for working capital.

In connection with this transaction, the Company entered into a Placement Agency Agreement (the "Placement Agency Agreement") with Dawson James Securities, Inc. (the "Placement Agent"), pursuant to which at the closing of the first tranche under the Purchase Agreement the Company paid to the Placement Agent a cash fee in the amount of $2,350,000 and the Company agreed to pay to the Placement Agent in connection with the closing of the second tranche under the Purchase Agreement a cash fee in the amount of $1,150,000. In addition, the Company agreed to pay to the Placement Agent a fee in connection with any cash exercise of any of the Warrants in an amount equal to 10% of the cash amount received by the Company upon any such exercise. Pursuant to the Placement Agency Agreement, as additional consideration for the services of the Placement Agent, the Company also issued to the Placement Agent or its designees in connection with the closing of the first tranche under the Purchase Agreement 2,194 shares of Series A-2 Preferred Stock and agreed to issue to the Placement Agent or its designees in

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

connection with the closing of the second tranche under the Purchase Agreement as additional 1,096 shares of Series A-2 Preferred Stock.

Exchange of Issued and Outstanding Series E, F and G Convertible Preferred Stock and Series E, F and G Common Stock Purchase Warrants

On July 26, 2021, the Company entered into securities exchange agreements (collectively, the "Exchange Agreement") with the holders (each a "Holder" and collectively, the "Holders") of the Company's outstanding (a) Series E Convertible Preferred Stock, Series F Convertible Preferred Stock and Series G Convertible Preferred Stock (the "Existing Preferred Stock"), and (b) Series E Common Stock Purchase Warrants, Series F Common Stock Purchase Warrants and Series G Common Stock Purchase Warrants (the "Existing Warrants" and together with the Existing Preferred Stock, collectively, the "Existing Securities"), pursuant to which the Holders exchanged (the "Exchange") (i) all Existing Preferred Stock held by each Holder for shares of Series A-2 Preferred Stock and Warrants, and (ii) all Existing Warrants held by each Holder for shares of Common Stock. In connection with the Exchange, the Holders exchanged all of their Existing Securities for an aggregate of 3,704.80 shares of Series A-2 Preferred Stock, Warrants to purchase 14,304,880 shares of Common Stock, and 2,449,517 shares of Common Stock. Upon the Exchange, the Existing Securities were cancelled and all contractual (or similar) rights, preferences and obligations relating to such Existing Securities became null and void and of no further effect whatsoever.

In conjunction with the closing of the transactions contemplated by the Exchange Agreement, all Holders entered into a lock-up agreement pursuant to which they have agreed not to sell their shares of Series A-2 Preferred Stock, Warrants, or Common Stock, including Common Stock issuable upon the conversion of the Series A-2 Preferred Stock or exercise of the Warrants, in each case issued pursuant to the Exchange Agreement, on or prior to January 26, 2022, at an effective price per share that is lower than $0.3125 (subject to adjustment for reverse and forward stock splits, combinations, recapitalizations and the like).

Redemption of Series F Convertible Preferred Stock

On July 26, 2021, the Company entered into a redemption agreement with Jason DiPaola, pursuant to which the Company redeemed and purchased from Mr. DiPaola, and Mr. DiPaola sold and delivered to the Company, 75 uncertificated shares of the Company's Series F Convertible Preferred Stock owned by Mr. DiPaola, for an aggregate purchase price of $75,000 in accordance with the terms of such redemption agreement.

On July 26, 2021, the Company entered into a redemption agreement with 32 Entertainment LLC, pursuant to which the Company redeemed and purchased from 32 Entertainment LLC, and 32 Entertainment LLC sold and delivered to the Company, 150 uncertificated shares Series F Convertible Preferred Stock owned by 32 Entertainment LLC, for an aggregate purchase price of $150,000 in accordance with the terms of such redemption agreement.

Exchange of Issued and Outstanding Series A Preferred Stock

On July 26, 2021, the Company entered into a securities exchange agreement dated as of July 26, 2021 (the "Series A Preferred Exchange Agreement"), with Richard DeCicco, who, at the time of execution and delivery of such agreement, was the Company's Chief Executive Officer, Chief Financial Officer, chairman of the Company's board of directors (the "Board") and the holder of the Company's one issued and outstanding share of Series A Preferred Stock. Pursuant to the Series A Preferred Exchange Agreement, Mr. DeCicco exchanged his one share of Series A Preferred Stock for 25,600,000 shares of Common Stock. Upon such exchange, the Series A Preferred Stock, which previously gave Mr. DeCicco two votes for every one vote of the Company's outstanding voting securities, was cancelled and all contractual (or similar) rights, preferences and obligations relating to such Series A Preferred Stock became null and void and of no further effect whatsoever.

Purchase of all Issued and Outstanding Capital Stock of United Spirits, Inc.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

On July 26, 2021, the Company entered into a securities purchase agreement dated as of July 26, 2021 (the "United Purchase Agreement") with Mr. DeCicco pursuant to which the Company purchased from Mr. DeCicco, and Mr. DeCicco sold, all of the issued and outstanding capital stock of United Spirits, Inc., a New York corporation ("United"). Pursuant to the United Purchase Agreement, upon the closing of the transactions contemplated thereby, Mr. DeCicco transferred, and the Company acquired, 100% of the issued and outstanding capital stock of United in exchange for a purchase price of $1,000,000. The United Purchase Agreement contains customary representations, warranties and covenants of the parties thereto, and the closing of the transactions contemplated by the United Purchase Agreement was subject to the satisfaction of certain closing conditions, including, without limitation, certain approvals from various state liquor authorities. Prior to the closing of the transactions contemplated by the United Purchase Agreement, the Company marketed and sold its wine and spirts products pursuant to an exclusive marketing and distribution agreement between the Company and United.

Amended and Restated LLC Agreements of Bellissima Spirits LLC and BiVi LLC

On July 26, 2021, the Company, and each other member identified therein, including Mr. DeCicco and Rosanne Faltings, the Company's vice president of sales and a member of the Board, entered into an Amended and Restated Limited Liability Company Agreement dated as of July 26, 2021 (the "Bellissima LLC Agreement") of Bellissima Spirits LLC ("Bellissima"). The Bellissima LLC Agreement provides that the manager of Bellissima, currently Mr. DeCicco, may cause Bellissima to make distributions of available cash flow to the members pro rata in accordance with their cash flow ratios, of which the Company is entitled to 100% of any such distribution of available cash flow. The Bellissima LLC Agreement also provides that the manager shall cause Bellissima to make distributions of net proceeds attributable to certain capital events to members pro rata in accordance with their membership interest percentage, of which the Company is entitled to 54% of any such distribution of net proceeds and Mr. DeCicco and Ms. Faltings are entitled to 15.34% and 15.33%, respectively. Transfers of membership interests in Bellissima are generally restricted and the Bellissima LLC Agreement provides for preemptive rights, rights of first refusal, and rights of co-sale, in each case, in accordance with the terms and conditions set forth therein.

On July 26, 2021, the Company, and each other member identified therein, including Mr. DeCicco and Ms. Faltings, entered into an Amended and Restated Limited Liability Company Agreement dated as of July 26, 2021 (the "BiVi LLC Agreement") of BiVi LLC ("BiVi"). The BiVi LLC Agreement provides that the manager of BiVi, currently Mr. DeCicco, may cause BiVi to make distributions of available cash flow to the members pro rata in accordance with their cash flow ratios, of which the Company is entitled to 100% of any such distribution of available cash flow. The BiVi LLC Agreement also provides that the manager shall cause BiVi to make distributions of net proceeds attributable to certain capital events to members pro rata in accordance with their membership interest percentage, of which the Company is entitled to 54% of any such distribution of net proceeds and Mr. DeCicco and Ms. Faltings are entitled to 15.34% and 15.33%, respectively. Transfers of membership interests in BiVi are generally restricted and the BiVi LLC Agreement provides for preemptive rights, rights of first refusal, and rights of co-sale, in each case, in accordance with the terms and conditions set forth therein.

Waiver Agreement Relating to Promissory Notes

On July 26, 2021, in connection with the transactions contemplated by the Purchase Agreement, the Company entered into a waiver agreement (the "Waiver Agreement"), with The Special Equities Opportunity Fund, LLC, Anson Investments Master Fund LP, Joseph Reda and Gregory Castaldo (collectively, the "Lenders"), pursuant to which the Lenders terminated, waived all the terms and provisions of, and forgave and canceled any and all obligations of the Company provided under, the four original issue promissory notes issued by the Company to the respective Lenders on each of August 7, 2020, April 16, 2021, and June 7, 2021 (two of the four promissory notes were issued by the Company on June 7, 2021), in the aggregate principal and interest amount of $100,000, $330,000, $103,333.33 and $143,375, respectively, as partial consideration for the Securities purchased by the Lenders under the Purchase Agreement.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Immediately following the transactions described above, 69,332,213 shares of Common Stock, 26,623.49 shares of the Series A-2 Preferred Stock, and Warrants to purchase 87,643,083 shares of Common Stock were issued and outstanding.

The foregoing information is a summary of the agreements involved in the transactions described above, is not complete, and is qualified in its entirety by reference to the full text of such agreements, copies of which are attached to this Current Report on Form 8-K as Exhibits 10.1, 10.2, 10.3, 10.4, 10.5, 10.6, 10.7, 10.8, 10.9, 10.10, 10.11, 10.12, 10.13, 10.14 and 10.15, and are incorporated herein by reference. Readers should review such agreements for a complete understanding of the terms and conditions associated with such transactions.

Item 2.01 Completion of Acquisition or Disposition of Assets.

On July 26, 2021, the Company completed the acquisition of TopPop pursuant to the terms of the TopPop Acquisition Agreement. The terms of the acquisition and the information required to be reported under this Item are incorporated herein by reference to the information set forth under the heading "TopPop Acquisition Agreement" in Item 1.01 of this Current Report on Form 8-K.

Item 2.03 Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.

On July 26, 2021, the Company issued $4,900,000 aggregate principal amount of its Promissory Notes in connection with its acquisition of TopPop. The information required to be reported under this Item with respect to such promissory notes is incorporated by reference to the information set forth under the heading "TopPop Acquisition Agreement" in Item 1.01 of this Current Report on Form 8-K.

Item 3.02 Unregistered Sales of Equity Securities.

In connection with the transactions described in Item 1.01, the Company issued an aggregate of 70,832,213 shares of Common Stock, an aggregate of 26,623.49 shares of Series A-2 Preferred Stock, and Warrants to purchase an aggregate of 87,643,083 shares of Common Stock as described therein, which description is incorporated herein by reference.

The exchanges effected through the Exchange Agreement and the Series A Preferred Exchange Agreement were made in reliance on the exemption from registration provided by Section 3(a)(9) of the Securities Act. The above-described sales and issuances pursuant to the Purchase Agreement, the TopPop Acquisition Agreement, and the United Purchase Agreement were made in reliance on the exemption from registration provided by Section 4(a)(2) of the Securities Act and Regulation D promulgated thereunder on the basis that the sales or issuances did not involve a public offering and the recipients made certain representations to the Company, including without limitation, that the recipients of the securities were "accredited investors" as defined in Rule 501 under the Securities Act.

Item 5.01 Changes in Control of Registrant.

On July 26, 2021, the exchange by Mr. DeCicco of his one share of Series A Preferred Stock for 25,600,000 shares of Common Stock pursuant to the Series A Preferred Exchange Agreement constituted a change in control of the Company. Prior to such exchange, Mr. DeCicco, as the holder of the one outstanding share of Series A Preferred Stock, had two votes for every one vote of the Company's outstanding voting securities, which gave him a majority of the outstanding votes on any matter submitted to the vote of the Company's stockholders. Following such exchange, Mr. DeCicco no longer has a majority of the outstanding votes of the Company's stockholders and the Company no longer has a single controlling shareholder.

Item 5.02 Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Appointment of Executive Officers

On July 26, 2021, the Board appointed Larry Romer as Chief Executive Officer of the Company, John Cosenza as Chief Operating Officer of the Company, and David Allen as Chief Financial Officer of the Company. Biographical information regarding Messrs. Romer, Cosenza, and Allen is set forth below:

Mr. Romer, age 68, is a 40 plus year veteran of the beverage business holding senior management positions with Coca Cola, The Paddington Corporation, Jim Beam and Southern Glazer Wine & Spirits. Mr. Romer holds a bachelor's degree in Health and Physical Education from Manhattan College and a master's degree in Health and Physical Education from Adelphi University.

Mr. Cosenza, age 53, started his Anheuser-Busch career as a sales representative for Lower Manhattan. As Chain Store Manager, he was responsible for all NYC chain store sales and innovations. Mr. Cosenza was Sr. Manager for AB's Corporate Social Responsibility (CSR) division, where he took part in promoting responsible drinking, the designated driver program and the prevention of underage drinking. Mr. Cosenza has an MBA in finance from Long Island University, and a bachelor's degree in Sports Management and Athletic Administration from St. John's University.

Mr. Allen, age 66, has over 22 years of experience serving as the chief financial officer of public companies and over 40 years of experience as a certified public accountant, starting his career with Arthur Andersen & Co. Additionally, Mr. Allen sits on the board of directors of two other public companies, Charlie's Holdings, Inc. (OTCMKTS: CHUC) and MariMed, Inc. (OTCMKTS: MRMD), where he serves as audit committee chairman. Mr. Allen is a licensed CPA and holds a bachelor's degree in accounting and a master's degree in taxation from Bentley College.

There are no arrangements or understandings between Messrs. Romer, Cosenza or Allen, and any other person or persons pursuant to which Messrs. Romer, Cosenza or Allen was appointed as an officer of the Company. With respect to Messrs. Romer, Cosenza, and Allen, there have been no events of the type listed under Item 401(f) of Regulation S-K promulgated by the Commission that occurred during the past ten years. In addition, there are no current or proposed transactions in which Messrs. Romer, Cosenza or Allen, or any member of the immediate family of any of Messrs. Romer, Cosenza or Allen, has an interest that is required to be disclosed under Item 404(a) of Regulation S-K promulgated by the Commission.

Compensatory Arrangements of Certain Officers

On July 26, 2021, the Company entered into two-year employment agreements with each of Messrs. DeCicco, Romer, Cosenza and Allen, and with Ms. Faltings. Unless earlier terminated, at the end of the initial term or any renewal term, each agreement automatically renews for additional two-year terms until either the Company or the executive provides the other party with a timely notice of non-renewal.

The following is a summary of the compensation arrangements set forth in each employment agreement described above:

Executive	Title	Annual Base Salary	Annual Targeted Bonus
Richard DeCicco	Chairman of the Board and President	$ 265,000	Determined by the Board, with a target of 25% of Annual Base Salary
Larry Romer	Chief Executive Officer	$ 250,000	Determined by the Board, with a target of 35% of Annual Base Salary
John Cosenza	Chief Operating Officer	$ 225,000	Determined by the Board, with a target of 25% of Annual Base Salary
David Allen	Chief Financial Officer	$ 250,000	Determined by the Board, with a target of 25% of Annual Base Salary

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Roseann Faltings	Board Member and Vice President	$ 200,000	Determined by the Board, with a target of 25% of Annual Base Salary

Each executive is also eligible to receive employee stock option grants and/or restricted stock grants during the term of their employment, with the amount, frequency and other details of such grants determined by the Board.

Pursuant to the terms of Mr. Romer's employment agreement, if the Company consummates a sale of its "*Bellissima*"™ product line during the term of the agreement ("***Bellissima Sale***"), Mr. Romer will be entitled to receive a payment equal to two and a half percent (2.5%) of the net proceeds received by the Company in connection with such sale. In addition, Mr. Romer has entered into a letter agreement with Mr. DeCicco and Ms. Faltings pursuant to which, in the event a Bellissima Sale is consummated during the term of Mr. Romer's employment, Mr. DeCicco and Ms. Faltings will pay Mr. Romer an amount equal to a total of two and a half percent (2.5%) of the net proceeds received by Mr. DeCicco and Ms. Faltings in connection with such sale.

Under the employment agreements, each executive will be entitled to severance in the event the Company terminates his or her employment without Cause (as defined in the applicable employment agreement), his or her employment is terminated as a result of a Disability (as defined in the applicable employment agreement), or, in the case of Messrs. DeCicco and Allen, and Ms. Faltings, he or she resigns from his or her employment for Good Reason (as defined in the applicable employment agreement). The severance for Messrs. DeCicco and Allen, and Ms. Faltings would be a lump sum amount equal to: (i) 24 months of base salary at the then current rate, plus (ii) a prorated bonus for the year of termination equal to the target bonus multiplied by a fraction, the numerator of which is the number of days such executive was employed by the Company in the year of termination and the denominator being 365; plus (iii) a bonus for the severance period equal to 2x the target bonus. The severance for Mr. Romer would be a lump sum amount equal to: (i) 12 months of base salary at his then current rate, plus (ii) a prorated bonus for the year of termination equal to his target bonus multiplied by a fraction, the numerator of which is the number of days Mr. Romer was employed by the Company in the year of termination and the denominator being 365. The severance for Mr. Cosenza would be a lump sum amount equal to: (i) six months of base salary at his then current rate, plus (ii) a prorated bonus for the year of termination equal to his target bonus multiplied by a fraction, the numerator of which is the number of days Mr. Cosenza was employed by the Company in the year of termination and the denominator being 365.

Additionally, if an executive elects to continue to receive group health insurance coverage under the Company's group health plan pursuant to COBRA, the Company will reimburse such executive for his or her monthly COBRA premiums for the duration of the applicable severance period; provided that the executive must show adequate documentation of his or her payment of the COBRA premiums and in the event that the executive becomes ineligible for COBRA coverage or fails to provide adequate documentation of his or her payment of the COBRA premiums, the Company shall no longer have any obligation to reimburse such COBRA amounts. An executive's entitlement to the severance benefits described above is conditioned upon such executive's timely executing an effective general release of claims in favor of the Company in connection with his or her termination of employment.

In connection with the execution of his or her employment agreement, each executive also executed the Company's standard confidentiality, restrictive covenant, and assignment agreement, containing customary confidentiality restrictions and work-product provisions, as well as customary non-competition, non-service, and non-solicitation covenants with respect to Company employees, consultants and customers.

The foregoing summary of the employment agreements of Messrs. DeCicco, Romer, Cosenza and Allen, and Ms. Faltings is qualified in its entirety by the copy of such agreements filed as Exhibits 10.16, 10.17, 10.18, 10.19, and 10.20 hereto and incorporated herein by reference. Readers should review such agreements for a complete understanding of the terms and conditions contained therein.

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

Certificate of Amendment to Articles of Incorporation

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

On July 26, 2021, the Company filed an Information Statement with the Commission, pursuant to Section 14 of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and Rule 14c-2 promulgated thereunder. The Company anticipates that such Information Statement will be furnished to the holders of record of all issued and outstanding shares of Common Stock and Series A-2 Preferred Stock in mid-August, 2021, to notify such holders that the Company plans to file a Certificate of Amendment to the Company's Articles of Incorporation, as amended, with the Secretary of State of Nevada in mid-September, 2021, which will become effective upon filing, so as to increase the number of authorized shares of Common Stock from Two Hundred Million (200,000,000) shares to Five Hundred Million (500,000,000) shares.

Certificate of Designation of Series A-2 Preferred Stock

On July 26, 2021, the Company filed a Certificate of Designation, Preferences and Rights of the Series A-2 Preferred Stock (the "Certificate of Designation") with the Secretary of State of Nevada, designating up to 45,000 shares of the Company's preferred stock as Series A-2 Preferred Stock. The following is only a summary of the Certificate of Designation and is qualified in its entirety by reference to the full text of the Certificate of Designation, a copy of which is filed as Exhibit 3.2 to this Current Report on Form 8-K and is incorporated by reference herein.

Designation, Amount and Par Value. The number of shares of Series A-2 Preferred Stock designated is up to 45,000. Each share of Series A-2 Preferred Stock has a par value of $0.001 per share and a stated value equal to One Thousand Dollars ($1,000) (the "Stated Value"), subject to the potential adjustment set forth in the paragraph immediately below entitled "Dividends".

Dividends. The holders shall be entitled to receive, and the Company shall pay, dividends on shares of Series A-2 Preferred Stock equal (on an as-if-converted-to Common Stock basis) to and in the same form as dividends actually paid on shares of Common Stock when, as and if such dividends are paid on shares of Common Stock. Additionally, in the event that the average of the VWAP (as defined in the Certificate of Designation) for each of the 15 consecutive trading days (as defined in the Certificate of Designation) ending on the trading day immediately prior to July 1, 2022 is less than the then Conversion Price in effect, then retroactively, as of the Original Issue Date (as defined in the Certificate of Designation), the holders of the Series A-2 Preferred Stock shall be entitled to receive, and the Company shall pay, a one-time dividend payment equal to six percent (6%) of the Stated Value per share of the outstanding Series A-2 Preferred Stock (such date, the "Dividend Payment Date") in cash or, at the Company's option, in shares of Common Stock, or a combination thereof. Any dividends that are not paid or issued, as applicable, within three trading days following the Dividend Payment Date shall entail a late fee, which must be paid in cash, at the rate of eighteen percent (18%) per annum or the lesser rate permitted by applicable law which shall accrue daily form the Dividend Payment Date through and including the date of actual payment in full.

Liquidation. Upon any liquidation, dissolution or winding-up of the Company, whether voluntary or involuntary, the holders shall be entitled to receive out of the assets, whether capital or surplus, of the Company, an amount equal to the Stated Value, plus any accrued and unpaid dividends thereon, if any, and any other fees or liquidated damages then due and owing thereon under the Certificate of Designation, for each share of Series A-2 Preferred Stock before any distribution or payment shall be made to the holder of any Junior Securities (as defined in the Certificate of Designation), and if the assets of the Company shall be insufficient to pay in full such amounts, then the entire assets to be distributed to all holders of Series A-2 Preferred Stock shall be ratably distributed among such holders in accordance with the respective amounts that would be payable on such shares if all amounts payable thereon were paid in full.

Voting Rights. The Series A-2 Preferred Stock shall have no voting rights; provided, however, as long as any shares of Series A-2 Preferred Stock are outstanding, the Company shall not, without the affirmative vote of the holders of a majority of the then outstanding shares of the Series A-2 Preferred Stock, (a) alter or change adversely the powers, preferences or rights given to the Series A-2 Preferred Stock or alter or amend the Certificate of Designation, (b) create any equity securities that are senior in preference or liquidation to the Series A-2 Preferred Stock, (c) amend its articles of incorporation or other charter documents in any manner that adversely affects any rights of the holders of the Series A-2 Preferred Stock, (d) increase the number of authorized shares of Series A-2

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Preferred Stock, (e) repay, repurchase or offer to repay, repurchase or otherwise acquire more than a de minimis number of Shares of Common Stock, common stock equivalents, or Junior Securities (subject to certain exceptions provided therein), (f) pay cash dividends or distributions on Junior Securities, (g) enter into any transaction with an Affiliate (as defined in the Certificate of Designation) that would require any public filing with the Commission (subject to certain exceptions provided therein), or (h) enter into any agreement with respect to any of the foregoing.

Conversion Price. The conversion price for the Series A-2 Preferred Stock shall equal $0.3125, subject to adjustment as provided in the Certificate of Incorporation.

Conversion. Each share of Series A-2 Preferred Stock is convertible, at the option of the holder thereof, but subject to the restrictions on conversion set forth below, at any time after the issuance of such share, into that number of shares of Common Stock determined by dividing the Stated Value of such share of Series A-2 Preferred Stock by the Conversion Price, subject to adjustment for reverse and forward stock splits, combinations, recapitalizations and the like.

Convertibility. A holder may not convert any portion of the Series A-2 Preferred Stock to the extent that the holder, together with its Affiliates and any other person or entity acting as a group, would own more than 4.99% (or, upon election by a holder prior to issuance, 9.99%) of the outstanding shares of Common Stock after conversion, except that upon notice from the holder to the Company, the holder may increase or decrease the amount of ownership outstanding shares after converting the holder's Series A-2 Preferred Stock up to 9.99% of the number of shares of Common Stock outstanding immediately after giving effect to the conversion, as such percentage ownership is determined in accordance with the terms of the Series A-2 Preferred Stock, provided that any increase in such Beneficial Ownership Limitation shall not be effective until 61 days following notice to the Company.

Fundamental Transaction. If the Company consummates any merger, consolidation, sale or other reorganization event in which the Common Stock is converted into or exchanged for securities, cash or other property, or if the Company consummates certain sales or other business combinations, then following any such event, the holders of the Series A-2 Preferred Stock will be entitled to receive, upon any subsequent conversion of the Series A-2 Preferred Stock, the kind and amount of securities, cash or other property that the holders would have received had they converted the Series A-2 Preferred Stock to Common Stock immediately prior to such event.

Item 8.01 Other Information.

On July 27, 2021, the Company issued a press release announcing the transactions described under Item 1.01 above, a copy of which is attached to this Current Report on Form 8-K as Exhibit 99.1 and is incorporated herein by reference.

The information under this Item 8.01, including Exhibit 99.1, is deemed "furnished" and not "filed" under Section 18 of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), or otherwise subject to the liability of that section, and shall not be incorporated by reference into any registration statement or other document filed under the Securities Act, or the Exchange Act, except as shall be expressly set forth by specific reference in such filing.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits

Exhibit No.	Description
3.1	Certificate of Designation of Series A-2 Convertible Preferred Stock.
10.1*	Acquisition Agreement, dated as of July 26, 2021, by and among Iconic Brands, Inc., TopPop LLC, FrutaPop LLC, Innoaccel Investments LLC, and Thomas Martin.
10.2	Form of Promissory Note, dated as of July 26, 2021, relating to the $4,900,000.00 aggregate principal amount of promissory notes of Iconic Brands, Inc.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

10.3	Form of Pledge Agreement, dated as of July 26, 2021, with Iconic Brands, Inc.
10.4	Form of Securities Purchase Agreement, dated as of July 26, 2021, by and among Iconic Brands, Inc. and the signatories thereto.
10.5	Form of Common Stock Purchase Warrant, dated as of July 26, 2021, by and among Iconic Brands, Inc. and the signatories thereto.
10.6	Form of Registration Rights Agreement, dated as of July 26, 2021, by and among Iconic Brands, Inc. and the signatories thereto.
10.7	Form of Exchange Agreement, dated as of July 26, 2021, by and among Iconic Brands, Inc. and the signatories thereto.
10.8	Form of Lock-Up Agreement, dated as of July 26, 2021, by and among Iconic Brands, Inc. and the signatories thereto.
10.9	Exchange Agreement, dated as of July 26, 2021, by and between Iconic Brands, Inc. and Richard DeCicco, as holder of the Iconic Brands, Inc.'s one (1) issued and outstanding share of Series A Preferred Stock.
10.10	Securities Purchase Agreement, dated as of July 26, 2021, by and between Iconic Brands, Inc. and Richard DeCicco, as owner of one hundred percent (100%) of the issued and outstanding capital stock of United Spirits, Inc.
10.11	Amended and Restated Limited Liability Company Agreement of Bellissima Spirits LLC, dated as of July 26, 2021.
10.12	Amended and Restated Limited Liability Company Agreement of BiVi LLC, dated as of July 26, 2021.
10.13	Redemption Agreement, dated as of July 26, 2021, by and between Iconic Brands, Inc. and Jason DiPaola, dated as of July 26, 2021.
10.14	Redemption Agreement, dated as of July 26, 2021, by and between Iconic Brands, Inc. and 32 Entertainment LLC.
10.15	Waiver Agreement, dated as of July 26, 2021, by and among Iconic Brands, Inc., The Special Equities Opportunity Fund, LLC, Anson Investments Master Fund LP, Joseph Reda, and Gregory Castaldo.
10.16	Employment Agreement, dated as of July 26, 2021, by and between Iconic Brands, Inc. and Richard DeCicco.
10.17	Employment Agreement, dated as of July 26, 2021, by and between Iconic Brands, Inc. and Roseann Faltings.
10.18	Employment Agreement, dated as of July 26, 2021, by and between Iconic Brands, Inc. and Larry Romer.
10.19	Employment Agreement, dated as of July 26, 2021, by and between Iconic Brands, Inc. and David Allen.
10.20	Employment Agreement, dated as of July 26, 2021, by and between Iconic Brands, Inc. and John Cosenza.
99.1	Press release of Iconic Brands, Inc., dated as of July 27, 2021.

* Schedules, exhibits and similar supporting attachments or agreements to the Acquisition Agreement are omitted pursuant to Item 601(b)(2) of Regulation S-K. The Company agrees to furnish a supplemental copy of any omitted schedule or similar attachment to the Securities and Exchange Commission upon request.

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.

Iconic Brands, Inc.

Dated: July 27, 2021

By: */s/ Richard DeCicco*
Name: Richard DeCicco
Title: Chief Executive Officer

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

EXHIBIT 3.1

CERTIFICATE OF DESIGNATION
OF THE RIGHTS, PREFERENCES, PRIVILEGES
AND RESTRICTIONS, WHICH HAVE NOT BEEN SET
FORTH IN THE ARTICLES OF INCORPORATION,
OR IN ANY AMENDMENT THERETO,
OF THE
SERIES A-2 CONVERTIBLE PREFERRED STOCK
OF
ICONIC BRANDS, INC.

The undersigned, Richard J. DeCicco, on this 26th day of July, 2021, does hereby certify that:

A. He is the President of Iconic Brands, Inc., a Nevada corporation (the "Corporation").

B. The Articles of Incorporation, as amended, of the Corporation authorizes a class of stock designated as Preferred Stock, with a par value of $0.001 per share (the "Preferred Class"), comprising One Hundred Million (100,000,000) shares, and provides that the Board of Directors of the Corporation ("Board of Directors") may fix the terms, including any dividend rights, dividend rates, conversion rights, voting rights, rights and terms of any redemption, redemption, redemption price or prices, and liquidation preferences, if any, of the Preferred Class;

C. The Board of Directors believes it in the best interests of the Corporation to create a new series of preferred stock consisting of 45,000 shares and designated as the "Series A-2 Convertible Preferred Stock" having certain rights, preferences, privileges, restrictions and other matters relating to the Series A-2 Convertible Preferred Stock; and

D. None of the Series A-2 Convertible Preferred Stock are issued or outstanding.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors does hereby fix and determine the rights, preferences, privileges, restrictions and other matters relating to the Series A-2 Convertible Preferred Stock as follows:

TERMS OF PREFERRED STOCK

Section 1. Definitions. **Capitalized terms used and not otherwise defined herein that are defined in the Purchase Agreement shall have the meanings given such terms in the Purchase Agreement.** For the purposes hereof, the following terms shall have the following meanings:

"Affiliate" means any Person that, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with a Person, as such terms are used in and construed under Rule 405 of the Securities Act.

"Alternate Consideration" shall have the meaning set forth in Section 7(c).

"Beneficial Ownership Limitation" shall have the meaning set forth in Section 6(d).

"Business Day" means any day other than Saturday, Sunday or other day on which commercial banks in The City of New York are authorized or required by law to remain closed; provided, however, for clarification, commercial banks shall not be deemed to be authorized or required by law to remain closed due to "stay at home", "shelter-in-place", "non-essential employee" or any other similar orders or restrictions or the closure of any physical branch locations at the direction of any governmental authority so long as the electronic funds transfer systems (including for wire transfers) of commercial banks in The City of New York generally are open for use by customers on such day.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

"Buy-In" shall have the meaning set forth in Section 6(c)(iv).

"Commission" means the United States Securities and Exchange Commission.

"Common Stock" means the Corporation's common stock, par value $0.001 per share, and stock of any other class of securities into which such securities may hereafter be reclassified or changed.

"Common Stock Equivalents" means any securities of the Corporation or the Subsidiaries which would entitle the holder thereof to acquire at any time Common Stock, including, without limitation, any debt, preferred stock, rights, options, warrants or other instrument that is at any time convertible into or exercisable or exchangeable for, or otherwise entitles the holder thereof to receive, Common Stock.

"Conversion Amount" means the sum of the Stated Value at issue.

"Conversion Date" shall have the meaning set forth in Section 6(a).

"Conversion Price" shall have the meaning set forth in Section 6(b).

"Conversion Shares" means, collectively, the shares of Common Stock issuable upon conversion of the shares of Preferred Stock in accordance with the terms hereof.

"Dividend Conversion Rate" means the lesser of (a) the Conversion Price and (b) 90% of the average of the VWAP for each of the five consecutive Trading Days ending on the Trading Day that is immediately prior to the Dividend Payment Date.

"Dividend Conversion Shares" shall have the meaning set forth in Section 3(a).

"Dividend Notice Period" shall have the meaning set forth in Section 3(a).

"Dividend Payment Date" shall have the meaning set forth in Section 3(a).

"Dividend Share Amount" shall have the meaning set forth in Section 3(a).

"Equity Conditions" means, during the period in question, (a) the Corporation shall have duly honored all conversions scheduled to occur or occurring by virtue of one or more Notices of Conversion of the applicable Holder on or prior to the dates so requested or required, if any, (b) the Corporation shall have paid all liquidated damages and other amounts owing to the applicable Holder in respect of the Preferred Stock, (c)(i) there is an effective Registration Statement pursuant to which the Holders are permitted to utilize the prospectus thereunder to resell all of the shares of Common Stock issuable pursuant to the Transaction Documents (and the Corporation believes, in good faith, that such effectiveness will continue uninterrupted for the foreseeable future) or (ii) all of the Conversion Shares issuable pursuant to the Transaction Documents (and shares issuable in lieu of cash payments of dividends) may be resold pursuant to Rule 144 without volume or manner-of-sale restrictions or current public information requirements as determined by the counsel to the Corporation as set forth in a written opinion letter to such effect, addressed and acceptable to the Transfer Agent and the affected Holders, (d) the Common Stock is trading on a Trading Market and all of the shares issuable pursuant to the Transaction Documents are listed or quoted for trading on such Trading Market (and the Corporation believes, in good faith, that trading of the Common Stock on a Trading Market will continue uninterrupted for the foreseeable future), (e) there is a sufficient number of authorized, but unissued and otherwise unreserved, shares of Common Stock for the issuance of all of the shares then issuable pursuant to the Transaction Documents, (f) the issuance of the shares in question to the applicable Holder would not violate the limitations set forth in Section 6(d) and herein, (g) there has been no public announcement of a pending or proposed Fundamental Transaction or Change of Control Transaction that has not been consummated, (h) the applicable Holder is not in possession of any information provided by the

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Corporation, any of its Subsidiaries, or any of their officers, directors, employees, agents or Affiliates, that constitutes, or may constitute, material non-public information and (i) for each Trading Day in a period of 10 consecutive Trading Days prior to the applicable date in question, the daily dollar trading volume for the Common Stock on the principal Trading Market exceeds $50,000.

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

"Fundamental Transaction" shall have the meaning set forth in Section 7(d).

"GAAP" means United States generally accepted accounting principles.

"Holder" shall have the meaning set forth in Section 2.

"Junior Securities" means the Common Stock and all other Common Stock Equivalents of the Corporation other than those securities which are explicitly senior or pari passu to the Preferred Stock in dividend rights or liquidation preference.

"Liquidation" shall have the meaning set forth in Section 5.

"New York Courts" shall have the meaning set forth in Section 8(d).

"Notice of Conversion" shall have the meaning set forth in Section 6(a).

"Original Issue Date" means the date of the first issuance of any shares of the Preferred Stock regardless of the number of transfers of any particular shares of Preferred Stock and regardless of the number of certificates which may be issued to evidence such Preferred Stock.

"Person" means an individual or corporation, partnership, trust, incorporated or unincorporated association, joint venture, limited liability company, joint stock company, government (or an agency or subdivision thereof) or other entity of any kind.

"Preferred Stock" shall have the meaning set forth in Section 2.

"Rule 144" means Rule 144 promulgated by the Commission pursuant to the Securities Act, as such Rule may be amended from time to time, or any similar rule or regulation hereafter adopted by the Commission having substantially the same effect as such Rule.

"Rule 424" means Rule 424 promulgated by the Commission pursuant to the Securities Act, as such Rule may be amended or interpreted from time to time, or any similar rule or regulation hereafter adopted by the Commission having substantially the same purpose and effect as such Rule.

"Securities" means the Preferred Stock and the Underlying Shares.

"Securities Act" means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

"Share Delivery Date" shall have the meaning set forth in Section 6(c)(i).

"Stated Value" shall have the meaning set forth in Section 2, as the same may be increased pursuant to Section 2.

"Successor Entity" shall have the meaning set forth in Section 7(d).

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

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

"Trading Market" means any of the following markets or exchanges on which the Common Stock is listed or quoted for trading on the date in question: the NYSE American, the Nasdaq Capital Market, the Nasdaq Global Market, the Nasdaq Global Select Market, the New York Stock Exchange, OTCQB or OTCQX (or any successors to any of the foregoing).

"Transfer Agent" means Securities Transfer Corporation, the current transfer agent of the Corporation, and any successor transfer agent of the Corporation.

"Underlying Shares" means the shares of Common Stock issued and issuable upon conversion of the Preferred Stock and issuable in lieu of the cash payment of dividends on the Preferred Stock.

"VWAP" means, for any date, the price determined by the first of the following clauses that applies: (a) if the Common Stock is then listed or quoted on a Trading Market, the daily volume weighted average price of the Common Stock for such date (or the nearest preceding date) on the Trading Market on which the Common Stock is then listed or quoted as reported by Bloomberg L.P. (based on a Trading Day from 9:30 a.m. (New York City time) to 4:02 p.m. (New York City time)), (b) if OTCQB or OTCQX is not a Trading Market, the volume weighted average price of the Common Stock for such date (or the nearest preceding date) on OTCQB or OTCQX as applicable, (c) if the Common Stock is not then listed or quoted for trading on OTCQB or OTCQX and if prices for the Common Stock are then reported on the Pink Open Market (or a similar organization or agency succeeding to its functions of reporting prices), the most recent bid price per share of the Common Stock so reported, or (d) in all other cases, the fair market value of a share of Common Stock as determined by an independent appraiser selected in good faith by the Purchasers of a majority in interest of the Securities then outstanding and reasonably acceptable to the Corporation, the fees and expenses of which shall be paid by the Corporation.

Section 2. Designation, Amount and Par Value. The series of preferred stock shall be designated as its Series A-2 Convertible Preferred Stock (the "Preferred Stock") and the number of shares so designated shall be up to 45,000 (which shall not be subject to increase without the written consent of all of the holders of the Preferred Stock (each, a "Holder" and collectively, the "Holders")). Each share of Preferred Stock shall have a par value of $0.001 per share and a stated value equal to $1,000 subject to increase set forth in Section 3 below (the "Stated Value").

Section 3. Dividends. Except for stock dividends or distributions for which adjustments are to be made pursuant to Section 7, Holders shall be entitled to receive, and the Corporation shall pay, dividends on shares of Preferred Stock (or any fraction of a share of Preferred Stock) equal (on an as-if-converted-to-Common-Stock basis) to and in the same form as dividends actually paid on shares of the Common Stock when, as and if such dividends are paid on shares of the Common Stock. Additionally, in the event that the average of the VWAPs for each of the fifteen consecutive Trading Days ending on the Trading Day immediately prior to July 1, 2022 is less than the then Conversion Price in effect, then retroactively as of the Original Issue Date the Holders shall be entitled to receive, and the Corporation shall pay, a one-time dividend payment equal to 6% of the Stated Value per share of Preferred Stock (or any fraction of a share of Preferred Stock) (such date, the "Dividend Payment Date") (if the Dividend Payment Date is not a Trading Day, the payment shall be due on the next succeeding Trading Day) in cash or, at the Corporation's option, in duly authorized, validly issued, fully paid and non-assessable shares of Common Stock as set forth in this Section 3(a), or a combination thereof (the dollar amount to be paid in shares of Common Stock, the "Dividend Share Amount"). The form of dividend payments to each Holder shall be determined in the following order of priority: (i) if funds are legally available for the payment of dividends and the Equity Conditions have not been met during the 5 consecutive Trading Days immediately prior to the Dividend Payment Date (the "Dividend Notice Period"), in cash only, (ii) if funds are legally available for the payment of dividends and the Equity Conditions have

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

been met during the Dividend Notice Period, at the sole election of the Corporation, in cash or shares of Common Stock which shall be valued at the Dividend Conversion Rate, (iii) if funds are not legally available for the payment of dividends and the Equity Conditions have been met during the Dividend Notice Period, in shares of Common Stock which shall be valued at the Dividend Conversion Rate and (iv) if funds are not legally available for the payment of dividends and the Equity Conditions have not been met during the Dividend Notice Period, then the dividend shall be accreted to, and increase, the outstanding Stated Value. The aggregate number of shares of Common Stock issuable to a Holder on the Dividend Payment Date shall equal to the quotient of (x) the Dividend Share Amount divided by (y) the Dividend Conversion Rate (the "Dividend Conversion Shares"). Payment of dividends in shares of Common Stock shall otherwise occur pursuant to Section 6(c)(i) herein and, solely for purposes of the payment of dividends in shares, the Dividend Payment Date shall be deemed the Conversion Date and the Holders shall have the same rights and remedies with respect to the delivery of any such shares as if such shares were being issued pursuant to Section 6. Any dividends that are not paid (or issued as applicable) within three Trading Days following the Dividend Payment Date shall entail a late fee, which must be paid in cash, at the rate of 18% per annum or the lesser rate permitted by applicable law which shall accrue daily from the Dividend Payment Date through and including the date of actual payment in full.

Section 4. Voting Rights. The Preferred Stock shall have no voting rights; provided, however, as long as any shares of Preferred Stock (or any fraction of a share of Preferred Stock) are outstanding, the Corporation shall not, without the affirmative vote of the Holders of a majority of the then outstanding shares of the Preferred Stock (or any fraction of a share of Preferred Stock):

(a) alter or change adversely the powers, preferences or rights given to the Preferred Stock or alter or amend this Certificate of Designation;

(b) create any equity securities that are senior in preference or liquidation to the Preferred Stock;

(c) amend its articles of incorporation or other charter documents in any manner that adversely affects any rights of the Holders;

(d) increase the number of authorized shares of Preferred Stock;

(e) repay, repurchase or offer to repay, repurchase or otherwise acquire more than a de minimis number of shares of its Common Stock, Common Stock Equivalents or Junior Securities, other than as to (i) the Conversion Shares or Warrant Shares as permitted or required under the Transaction Documents and (ii) repurchases of Common Stock or Common Stock Equivalents of departing officers and directors of the Corporation, provided that such repurchases shall not exceed an aggregate of $100,000 for all officers and directors for so long as the Preferred Stock is outstanding;

(f) pay cash dividends or distributions on Junior Securities of the Corporation;

(g) enter into any transaction with any Affiliate of the Corporation which would be required to be disclosed in any public filing with the Commission, unless such transaction is made on an arm's-length basis and expressly approved by a majority of the disinterested directors of the Corporation (even if less than a quorum otherwise required for board approval); or

(h) enter into any agreement with respect to any of the foregoing.

Section 5. Liquidation. Upon any liquidation, dissolution or winding-up of the Corporation, whether voluntary or involuntary (a "Liquidation"), the Holders shall be entitled to receive out of the assets, whether capital or surplus, of the Corporation an amount equal to the Stated Value, plus any accrued and unpaid dividends thereon, if any, and any other fees or liquidated damages then due and owing thereon under this Certificate of Designation, for each share of Preferred Stock (or any fraction of a share of Preferred Stock) before any distribution or payment shall be made to the holders of any Junior Securities, and if the assets of the Corporation shall be insufficient to pay in full such amounts, then the entire assets to be distributed to the Holders shall be ratably distributed among the Holders in

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

accordance with the respective amounts that would be payable on such shares if all amounts payable thereon were paid in full. The Corporation shall mail written notice of any such Liquidation, not less than 45 days prior to the payment date stated therein, to each Holder.

Section 6. Conversion.

a) Conversions at Option of Holder. Each share of Preferred Stock (or any fraction of a share of Preferred Stock) shall be convertible, at any time and from time to time from and after the Original Issue Date at the option of the Holder thereof, into that number of shares of Common Stock (subject to the limitations set forth in Section 6(d)) determined by dividing the Stated Value of such share of Preferred Stock (or any fraction of a share of Preferred Stock) by the Conversion Price. Holders shall effect conversions by providing the Corporation with the form of conversion notice attached hereto as Annex A (a "Notice of Conversion"). Each Notice of Conversion shall specify the number of shares of Preferred Stock to be converted, the number of shares of Preferred Stock owned prior to the conversion at issue, the number of shares of Preferred Stock owned subsequent to the conversion at issue and the date on which such conversion is to be effected, which date may not be prior to the date the applicable Holder delivers by facsimile such Notice of Conversion to the Corporation (such date, the "Conversion Date"). If no Conversion Date is specified in a Notice of Conversion, the Conversion Date shall be the date that such Notice of Conversion to the Corporation is deemed delivered hereunder. No ink-original Notice of Conversion shall be required, nor shall any medallion guarantee (or other type of guarantee or notarization) of any Notice of Conversion form be required. The calculations and entries set forth in the Notice of Conversion shall control in the absence of manifest or mathematical error. To effect conversions of shares of Preferred Stock, a Holder shall not be required to surrender the certificate(s) representing the shares of Preferred Stock to the Corporation unless all of the shares of Preferred Stock represented thereby are so converted, in which case such Holder shall deliver the certificate representing such shares of Preferred Stock promptly following the Conversion Date at issue. Shares of Preferred Stock converted into Common Stock shall be canceled and shall not be reissued.

b) Conversion Price. The conversion price for the Preferred Stock shall equal $0.3125, subject to adjustment herein (the "Conversion Price").

c) Mechanics of Conversion.

i. Delivery of Conversion Shares Upon Conversion. Not later than the earlier of (i) two (2) Trading Days and (ii) the number of Trading Days comprising the Standard Settlement Period (as defined below) after each Conversion Date (the "Share Delivery Date"), the Corporation shall deliver, or cause to be delivered, to the converting Holder (A) Conversion Shares which, on or after the earlier of (i) the six month anniversary of the Original Issue Date or (ii) the Effective Date, shall be free of restrictive legends and trading restrictions (other than those which may then be required by the Purchase Agreement) representing the number of Conversion Shares being acquired upon the conversion of the Preferred Stock, and (B) a bank check in the amount of accrued and unpaid dividends, if applicable. On or after the earlier of (i) the six-month anniversary of the Original Issue Date or (ii) the Effective Date, the Corporation shall use its best efforts to deliver the Conversion Shares required to be delivered by the Corporation under this Section 6 electronically through the Depository Trust Company or another established clearing corporation performing similar functions (assuming such Conversion Shares are required to be issued without legend as required by the Purchase Agreement). As used herein, "Standard Settlement Period" means the standard settlement period, expressed in a number of Trading Days, on the Company's primary Trading Market with respect to the Common Stock as in effect on the date of delivery of the Notice of Conversion.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

ii. Failure to Deliver Conversion Shares. If, in the case of any Notice of Conversion, such Conversion Shares are not delivered to or as directed by the applicable Holder by the Share Delivery Date, the Holder shall be entitled to elect by written notice to the Corporation at any time on or before its receipt of such Conversion Shares, to rescind such Conversion, in which event the Corporation shall promptly return to the Holder any original Preferred Stock certificate delivered to the Corporation and the Holder shall promptly return to the Corporation the Conversion Shares issued to such Holder pursuant to the rescinded Notice of Conversion.

iii. Obligation Absolute; Partial Liquidated Damages. The Corporation's obligation to issue and deliver the Conversion Shares upon conversion of Preferred Stock in accordance with the terms hereof are absolute and unconditional, irrespective of any action or inaction by a Holder to enforce the same, any waiver or consent with respect to any provision hereof, the recovery of any judgment against any Person or any action to enforce the same, or any setoff, counterclaim, recoupment, limitation or termination, or any breach or alleged breach by such Holder or any other Person of any obligation to the Corporation or any violation or alleged violation of law by such Holder or any other person, and irrespective of any other circumstance which might otherwise limit such obligation of the Corporation to such Holder in connection with the issuance of such Conversion Shares; provided, however, that such delivery shall not operate as a waiver by the Corporation of any such action that the Corporation may have against such Holder. In the event a Holder shall elect to convert any or all of the Stated Value of its Preferred Stock, the Corporation may not refuse conversion based on any claim that such Holder or any one associated or affiliated with such Holder has been engaged in any violation of law, agreement or for any other reason, unless an injunction from a court, on notice to Holder, restraining and/or enjoining conversion of all or part of the Preferred Stock of such Holder shall have been sought and obtained, and the Corporation posts a surety bond for the benefit of such Holder in the amount of 150% of the Stated Value of Preferred Stock which is subject to the injunction, which bond shall remain in effect until the completion of arbitration/litigation of the underlying dispute and the proceeds of which shall be payable to such Holder to the extent it obtains judgment. In the absence of such injunction, the Corporation shall issue Conversion Shares and, if applicable, cash, upon a properly noticed conversion. If the Corporation fails to deliver to a Holder such Conversion Shares pursuant to Section 6(c)(i) by the Share Delivery Date applicable to such conversion, the Corporation shall pay to such Holder, in cash, as liquidated damages and not as a penalty, for each $5,000 of Stated Value of Preferred Stock being converted, $50 per Trading Day (increasing to $100 per Trading Day on the third Trading Day and increasing to $200 per Trading Day on the sixth Trading Day after such damages begin to accrue) for each Trading Day after the Share Delivery Date until such Conversion Shares are delivered or Holder rescinds such conversion. Nothing herein shall limit a Holder's right to pursue actual damages for the Corporation's failure to deliver Conversion Shares within the period specified herein and such Holder shall have the right to pursue all remedies available to it hereunder, at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief. The exercise of any such rights shall not prohibit a Holder from seeking to enforce damages pursuant to any other Section hereof or under applicable law.

iv. Compensation for Buy-In on Failure to Timely Deliver Conversion Shares Upon Conversion. In addition to any other rights available to the Holder, if the Corporation fails for any reason to deliver to a Holder the applicable Conversion Shares by the Share Delivery Date pursuant to Section 6(c)(i), and if after such Share Delivery Date such Holder is required by its brokerage firm to purchase (in an open market transaction or otherwise), or the Holder's brokerage firm otherwise purchases, shares of Common Stock to deliver in satisfaction of a sale by such Holder of the Conversion Shares which such Holder was entitled to receive upon the conversion relating to such Share Delivery Date (a "Buy-In"), then the Corporation shall (A) pay in cash to such Holder (in addition to any other remedies available to or elected by such Holder) the amount, if any, by which (x) such Holder's total purchase price (including any brokerage commissions) for the Common Stock so purchased exceeds (y) the product of (1) the aggregate number of shares of Common Stock that such Holder was entitled to receive from the conversion at issue multiplied by (2) the actual

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

sale price at which the sell order giving rise to such purchase obligation was executed (including any brokerage commissions) and (B) at the option of such Holder, either reissue (if surrendered) the shares of Preferred Stock equal to the number of shares of Preferred Stock submitted for conversion (in which case, such conversion shall be deemed rescinded) or deliver to such Holder the number of shares of Common Stock that would have been issued if the Corporation had timely complied with its delivery requirements under Section 6(c)(i). For example, if a Holder purchases shares of Common Stock having a total purchase price of $11,000 to cover a Buy-In with respect to an attempted conversion of shares of Preferred Stock with respect to which the actual sale price of the Conversion Shares (including any brokerage commissions) giving rise to such purchase obligation was a total of $10,000 under clause (A) of the immediately preceding sentence, the Corporation shall be required to pay such Holder $1,000. The Holder shall provide the Corporation written notice indicating the amounts payable to such Holder in respect of the Buy-In and, upon request of the Corporation, evidence of the amount of such loss. Nothing herein shall limit a Holder's right to pursue any other remedies available to it hereunder, at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief with respect to the Corporation's failure to timely deliver the Conversion Shares upon conversion of the shares of Preferred Stock as required pursuant to the terms hereof.

v. Reservation of Shares Issuable Upon Conversion. The Corporation covenants that it will at all times reserve and keep available out of its authorized and unissued shares of Common Stock for the sole purpose of issuance upon conversion of the Preferred Stock, each as herein provided, free from preemptive rights or any other actual contingent purchase rights of Persons other than the Holder (and the other holders of the Preferred Stock), not less than such aggregate number of shares of the Common Stock as shall be issuable (taking into account the adjustments and restrictions of Section 7) upon the conversion of the then outstanding shares of Preferred Stock.

vi. Fractional Shares. No fractional shares or scrip representing fractional shares shall be issued upon the conversion of the Preferred Stock. As to any fraction of a share which the Holder would otherwise be entitled to purchase upon such conversion, the Corporation shall at its election, either pay a cash adjustment in respect of such final fraction in an amount equal to such fraction multiplied by the Conversion Price or round up to the next whole share. Notwithstanding anything to the contrary contained herein, but consistent with the provisions of this subsection with respect to fractional Conversion Shares, nothing shall prevent any Holder from converting fractional shares of Preferred Stock.

vii. Transfer Taxes and Expenses. The issuance of Conversion Shares on conversion of this Preferred Stock shall be made without charge to any Holder for any documentary stamp or similar taxes that may be payable in respect of the issue or delivery of such Conversion Shares, provided that the Corporation shall not be required to pay any tax that may be payable in respect of any transfer involved in the issuance and delivery of any such Conversion Shares upon conversion in a name other than that of the Holders of such shares of Preferred Stock and the Corporation shall not be required to issue or deliver such Conversion Shares unless or until the Person or Persons requesting the issuance thereof shall have paid to the Corporation the amount of such tax or shall have established to the satisfaction of the Corporation that such tax has been paid. The Corporation shall pay all Transfer Agent fees required for same-day processing of any Notice of Conversion and all fees to the Depository Trust Company (or another established clearing corporation performing similar functions) required for same-day electronic delivery of the Conversion Shares.

d) Beneficial Ownership Limitation. The Corporation shall not effect any conversion of the Preferred Stock, and a Holder shall not have the right to convert any portion of the Preferred Stock, to the extent that, after giving effect to the conversion set forth on the applicable Notice of Conversion, such Holder (together with such Holder's Affiliates, and any Persons acting as a group together with such Holder or any of such Holder's Affiliates (such Persons, "Attribution Parties")) would beneficially own in excess of the Beneficial Ownership Limitation (as defined below). For purposes of the foregoing sentence, the

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

number of shares of Common Stock beneficially owned by such Holder and its Affiliates and Attribution Parties shall include the number of shares of Common Stock issuable upon conversion of the Preferred Stock with respect to which such determination is being made, but shall exclude the number of shares of Common Stock which are issuable upon (i) conversion of the remaining, unconverted Stated Value of Preferred Stock beneficially owned by such Holder or any of its Affiliates or Attribution Parties and (ii) exercise or conversion of the unexercised or unconverted portion of any other securities of the Corporation subject to a limitation on conversion or exercise analogous to the limitation contained herein (including, without limitation, the Preferred Stock or the Warrants) beneficially owned by such Holder or any of its Affiliates or Attribution Parties. Except as set forth in the preceding sentence, for purposes of this Section 6(d), beneficial ownership shall be calculated in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder. To the extent that the limitation contained in this Section 6(d) applies, the determination of whether the Preferred Stock is convertible (in relation to other securities owned by such Holder together with any Affiliates and Attribution Parties) and of how many shares of Preferred Stock are convertible shall be in the sole discretion of such Holder, and the submission of a Notice of Conversion shall be deemed to be such Holder's determination of whether the shares of Preferred Stock may be converted (in relation to other securities owned by such Holder together with any Affiliates and Attribution Parties) and how many shares of the Preferred Stock are convertible, in each case subject to the Beneficial Ownership Limitation. To ensure compliance with this restriction, each Holder will be deemed to represent to the Corporation each time it delivers a Notice of Conversion that such Notice of Conversion has not violated the restrictions set forth in this paragraph and the Corporation shall have no obligation to verify or confirm the accuracy of such determination. In addition, a determination as to any group status as contemplated above shall be determined in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder. For purposes of this Section 6(d), in determining the number of outstanding shares of Common Stock, a Holder may rely on the number of outstanding shares of Common Stock as stated in the most recent of the following: (i) the Corporation's most recent periodic or annual report filed with the Commission, as the case may be, (ii) a more recent public announcement by the Corporation or (iii) a more recent written notice by the Corporation or the Transfer Agent setting forth the number of shares of Common Stock outstanding. Upon the written or oral request of a Holder (which may be via e-mail), the Corporation shall within one Trading Day confirm orally and in writing via e-mail to such Holder the number of shares of Common Stock then outstanding. In any case, the number of outstanding shares of Common Stock shall be determined after giving effect to the conversion or exercise of securities of the Corporation, including the Preferred Stock, by such Holder or its Affiliates or Attribution Parties since the date as of which such number of outstanding shares of Common Stock was reported. The "Beneficial Ownership Limitation" shall be 4.99% (or, upon election by a Holder prior to the issuance of any shares of Preferred Stock, 9.99%) of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock issuable upon conversion of Preferred Stock held by the applicable Holder. A Holder, upon notice to the Corporation, may increase or decrease the Beneficial Ownership Limitation provisions of this Section 6(d) applicable to its Preferred Stock provided that the Beneficial Ownership Limitation in no event exceeds 9.99% of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock upon conversion of this Preferred Stock held by the Holder and the provisions of this Section 6(d) shall continue to apply. Any such increase in the Beneficial Ownership Limitation will not be effective until the 61st day after such notice is delivered to the Corporation and shall only apply to such Holder and no other Holder. The provisions of this paragraph shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this Section 6(d) to correct this paragraph (or any portion hereof) which may be defective or inconsistent with the intended Beneficial Ownership Limitation contained herein or to make changes or supplements necessary or desirable to properly give effect to such limitation. The limitations contained in this paragraph shall apply to a successor holder of Preferred Stock.

Section 7. Certain Adjustments.

a) Stock Dividends and Stock Splits. If the Corporation, at any time while this Preferred Stock is outstanding: (i) pays a stock dividend or otherwise makes a distribution or distributions payable in shares of Common Stock on shares of Common Stock or any other Common Stock Equivalents (which, for avoidance

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

of doubt, shall not include any shares of Common Stock issued by the Corporation upon conversion of, or payment of a dividend on, this Preferred Stock), (ii) subdivides outstanding shares of Common Stock into a larger number of shares, (iii) combines (including by way of a reverse stock split) outstanding shares of Common Stock into a smaller number of shares, or (iv) issues, in the event of a reclassification of shares of the Common Stock, any shares of capital stock of the Corporation, then the Conversion Price shall be multiplied by a fraction of which the numerator shall be the number of shares of Common Stock (excluding any treasury shares of the Corporation) outstanding immediately before such event, and of which the denominator shall be the number of shares of Common Stock outstanding immediately after such event. Any adjustment made pursuant to this Section 7(a) shall become effective immediately after the record date for the determination of stockholders entitled to receive such dividend or distribution and shall become effective immediately after the effective date in the case of a subdivision, combination or re-classification.

b) Subsequent Rights Offerings. In addition to any adjustments pursuant to Section 7(a) above, if at any time the Corporation grants, issues or sells any Common Stock Equivalents or rights to purchase stock, warrants, securities or other property pro rata to the record holders of any class of shares of Common Stock (the "Purchase Rights"), then the Holder will be entitled to acquire, upon the terms applicable to such Purchase Rights, the aggregate Purchase Rights which the Holder could have acquired if the Holder had held the number of shares of Common Stock acquirable upon complete conversion of such Holder's Preferred Stock (without regard to any limitations on conversion hereof, including without limitation, the Beneficial Ownership Limitation) immediately before the date on which a record is taken for the grant, issuance or sale of such Purchase Rights, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the grant, issue or sale of such Purchase Rights (provided, however, that, to the extent that the Holder's right to participate in any such Purchase Right would result in the Holder exceeding the Beneficial Ownership Limitation, then the Holder shall not be entitled to participate in such Purchase Right to such extent (or beneficial ownership of such shares of Common Stock as a result of such Purchase Right to such extent) and such Purchase Right to such extent shall be held in abeyance for the Holder until such time, if ever, as its right thereto would not result in the Holder exceeding the Beneficial Ownership Limitation).

c) Pro Rata Distributions. During such time as this Preferred Stock is outstanding, if the Corporation declares or makes any dividend or other distribution of its assets (or rights to acquire its assets) to holders of shares of Common Stock, by way of return of capital or otherwise (including, without limitation, any distribution of cash, stock or other securities, property or options by way of a dividend, spin off, reclassification, corporate rearrangement, scheme of arrangement or other similar transaction) (a "Distribution"), at any time after the issuance of this Preferred Stock, then, in each such case, the Holder shall be entitled to participate in such Distribution to the same extent that the Holder would have participated therein if the Holder had held the number of shares of Common Stock acquirable upon complete conversion of this Preferred Stock (without regard to any limitations on conversion hereof, including without limitation, the Beneficial Ownership Limitation) immediately before the date of which a record is taken for such Distribution, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the participation in such Distribution (provided, however, to the extent that the Holder's right to participate in any such Distribution would result in the Holder exceeding the Beneficial Ownership Limitation, then the Holder shall not be entitled to participate in such Distribution to such extent (or in the beneficial ownership of any shares of Common Stock as a result of such Distribution to such extent) and the portion of such Distribution shall be held in abeyance for the benefit of the Holder until such time, if ever, as its right thereto would not result in the Holder exceeding the Beneficial Ownership Limitation).

d) Fundamental Transaction. If, at any time while this Preferred Stock is outstanding, (i) the Corporation, directly or indirectly, in one or more related transactions effects any merger or consolidation of the Corporation with or into another Person, (ii) the Corporation, directly or indirectly, effects any sale, lease, license, assignment, transfer, conveyance or other disposition of all or substantially all of its assets in one or a series of related transactions, (iii) any, direct or indirect, purchase offer, tender offer or exchange offer (whether by the Corporation or another Person) is completed pursuant to which holders of Common Stock are permitted to sell, tender or exchange their shares for other securities, cash or property and has

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

been accepted by the holders of 50% or more of the outstanding Common Stock, (iv) the Corporation, directly or indirectly, in one or more related transactions effects any reclassification, reorganization or recapitalization of the Common Stock or any compulsory share exchange pursuant to which the Common Stock is effectively converted into or exchanged for other securities, cash or property, or (v) the Corporation, directly or indirectly, in one or more related transactions consummates a stock or share purchase agreement or other business combination (including, without limitation, a reorganization, recapitalization, spin-off or scheme of arrangement) with another Person or group of Persons whereby such other Person or group of Persons acquires more than 50% of the outstanding shares of Common Stock (not including any shares of Common Stock held by the other Person or other Persons making or party to, or associated or affiliated with the other Persons making or party to, such stock or share purchase agreement or other business combination) (each a "Fundamental Transaction"), then, upon any subsequent conversion of this Preferred Stock, the Holder shall have the right to receive, for each Conversion Share that would have been issuable upon such conversion immediately prior to the occurrence of such Fundamental Transaction (without regard to any limitation in Section 6(d) on the conversion of this Preferred Stock), the number of shares of Common Stock of the successor or acquiring corporation or of the Corporation, if it is the surviving corporation, and any additional consideration (the "Alternate Consideration") receivable as a result of such Fundamental Transaction by a holder of the number of shares of Common Stock for which this Preferred Stock is convertible immediately prior to such Fundamental Transaction (without regard to any limitation in Section 6(d) on the conversion of this Preferred Stock). For purposes of any such conversion, the determination of the Conversion Price shall be appropriately adjusted to apply to such Alternate Consideration based on the amount of Alternate Consideration issuable in respect of one share of Common Stock in such Fundamental Transaction, and the Corporation shall apportion the Conversion Price among the Alternate Consideration in a reasonable manner reflecting the relative value of any different components of the Alternate Consideration. If holders of Common Stock are given any choice as to the securities, cash or property to be received in a Fundamental Transaction, then the Holder shall be given the same choice as to the Alternate Consideration it receives upon any conversion of this Preferred Stock following such Fundamental Transaction. To the extent necessary to effectuate the foregoing provisions, any successor to the Corporation or surviving entity in such Fundamental Transaction shall file a new Certificate of Designation with the same terms and conditions and issue to the Holders new preferred stock consistent with the foregoing provisions and evidencing the Holders' right to convert such preferred stock into Alternate Consideration. The Corporation shall cause any successor entity in a Fundamental Transaction in which the Corporation is not the survivor (the "Successor Entity") to assume in writing all of the obligations of the Corporation under this Certificate of Designation in accordance with the provisions of this Section 7(e) pursuant to written agreements in form and substance reasonably satisfactory to the Holder and approved by the Holder (without unreasonable delay) prior to such Fundamental Transaction and shall, at the option of the holder of this Preferred Stock, deliver to the Holder in exchange for this Preferred Stock a security of the Successor Entity evidenced by a written instrument substantially similar in form and substance to this Preferred Stock which is convertible for a corresponding number of shares of capital stock of such Successor Entity (or its parent entity) equivalent to the shares of Common Stock acquirable and receivable upon conversion of this Preferred Stock (without regard to any limitations on the conversion of this Preferred Stock) prior to such Fundamental Transaction, and with a conversion price which applies the conversion price hereunder to such shares of capital stock (but taking into account the relative value of the shares of Common Stock pursuant to such Fundamental Transaction and the value of such shares of capital stock, such number of shares of capital stock and such conversion price being for the purpose of protecting the economic value of this Preferred Stock immediately prior to the consummation of such Fundamental Transaction), and which is reasonably satisfactory in form and substance to the Holder. Upon the occurrence of any such Fundamental Transaction, the Successor Entity shall succeed to, and be substituted for (so that from and after the date of such Fundamental Transaction, the provisions of this Certificate of Designation referring to the "Corporation" shall refer instead to the Successor Entity), and may exercise every right and power of the Corporation and shall assume all of the obligations of the Corporation under this Certificate of Designation with the same effect as if such Successor Entity had been named as the Corporation herein.

e) Calculations. All calculations under this Section 7 shall be made to the nearest cent or the nearest $1/100^{th}$ of a share, as the case may be. For purposes of this Section 7, the number of shares of Common Stock

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

deemed to be issued and outstanding as of a given date shall be the sum of the number of shares of Common Stock (excluding any treasury shares of the Corporation) issued and outstanding.

f) Notice to the Holders.

i. Adjustment to Conversion Price. Whenever the Conversion Price is adjusted pursuant to any provision of this Section 7, the Corporation shall promptly deliver to each Holder by facsimile or email a notice setting forth the Conversion Price after such adjustment and setting forth a brief statement of the facts requiring such adjustment.

ii. Notice to Allow Conversion by Holder. If (A) the Corporation shall declare a dividend (or any other distribution in whatever form) on the Common Stock, (B) the Corporation shall declare a special nonrecurring cash dividend on or a redemption of the Common Stock, (C) the Corporation shall authorize the granting to all holders of the Common Stock of rights or warrants to subscribe for or purchase any shares of capital stock of any class or of any rights, (D) the approval of any stockholders of the Corporation shall be required in connection with any reclassification of the Common Stock, any consolidation or merger to which the Corporation is a party, any sale or transfer of all or substantially all of the assets of the Corporation, or any compulsory share exchange whereby the Common Stock is converted into other securities, cash or property or (E) the Corporation shall authorize the voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Corporation, then, in each case, the Corporation shall cause to be filed at each office or agency maintained for the purpose of conversion of this Preferred Stock, and shall cause to be delivered by facsimile or email to each Holder at its last facsimile number or email address as it shall appear upon the stock books of the Corporation, at least twenty (20) calendar days prior to the applicable record or effective date hereinafter specified, a notice stating (x) the date on which a record is to be taken for the purpose of such dividend, distribution, redemption, rights or warrants, or if a record is not to be taken, the date as of which the holders of the Common Stock of record to be entitled to such dividend, distributions, redemption, rights or warrants are to be determined or (y) the date on which such reclassification, consolidation, merger, sale, transfer or share exchange is expected to become effective or close, and the date as of which it is expected that holders of the Common Stock of record shall be entitled to exchange their shares of the Common Stock for securities, cash or other property deliverable upon such reclassification, consolidation, merger, sale, transfer or share exchange, provided that the failure to deliver such notice or any defect therein or in the delivery thereof shall not affect the validity of the corporate action required to be specified in such notice. To the extent that any notice provided hereunder constitutes, or contains, material, non-public information regarding the Corporation or any of the Subsidiaries, the Corporation shall simultaneously file such notice with the Commission pursuant to a Current Report on Form 8-K. The Holder shall remain entitled to convert the Conversion Amount of this Preferred Stock (or any part hereof) during the 20-day period commencing on the date of such notice through the effective date of the event triggering such notice except as may otherwise be expressly set forth herein.

Section 8. Miscellaneous.

a) Notices. Any and all notices or other communications or deliveries to be provided by the Holders hereunder including, without limitation, any Notice of Conversion, shall be in writing and delivered personally, by e-mail attachment, or sent by a nationally recognized overnight courier service, addressed to the Corporation, at 44 Seabro Avenue, Amityville, NY 11701, e-mail address info@iconicbrandsusa.com, or such other e-mail address or address as the Corporation may specify for such purposes by notice to the Holders delivered in accordance with this Section 8. Any and all notices or other communications or deliveries to be provided by the Corporation hereunder shall be in writing and delivered personally, by facsimile or e-mail attachment, or sent by a nationally recognized overnight courier service addressed to each Holder at the facsimile number, e-mail address or address of such Holder appearing on the books of the Corporation. Any notice or other communication or deliveries hereunder shall be deemed given and effective on the earliest of (i) the time of transmission, if such notice or communication is delivered via facsimile at

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

the facsimile number or e-mail attachment at the e-mail address set forth in this Section prior to 5:30 p.m. (New York City time) on any date, (ii) the next Trading Day after the time of transmission, if such notice or communication is delivered via facsimile at the facsimile number or e-mail attachment at the e-mail address set forth in this Section on a day that is not a Trading Day or later than 5:30 p.m. (New York City time) on any Trading Day, (iii) the second Trading Day following the date of mailing, if sent by U.S. nationally recognized overnight courier service, or (iv) upon actual receipt by the party to whom such notice is required to be given.

b) Absolute Obligation. Except as expressly provided herein, no provision of this Certificate of Designation shall alter or impair the obligation of the Corporation, which is absolute and unconditional, to pay liquidated damages, accrued dividends and accrued interest, as applicable, on the shares of Preferred Stock at the time, place, and rate, and in the coin or currency, herein prescribed.

c) Lost or Mutilated Preferred Stock Certificate. If a Holder's Preferred Stock certificate shall be mutilated, lost, stolen or destroyed, the Corporation shall execute and deliver, in exchange and substitution for and upon cancellation of a mutilated certificate, or in lieu of or in substitution for a lost, stolen or destroyed certificate, a new certificate for the shares of Preferred Stock so mutilated, lost, stolen or destroyed, but only upon receipt of evidence of such loss, theft or destruction of such certificate, and of the ownership hereof reasonably satisfactory to the Corporation (which shall not include the posting of any bond).

d) Governing Law. All questions concerning the construction, validity, enforcement and interpretation of this Certificate of Designation shall be governed by and construed and enforced in accordance with the internal laws of the State of Nevada, without regard to the principles of conflict of laws thereof. All legal proceedings concerning the interpretation, enforcement and defense of this Certificate of Designation (whether brought against a party hereto or its respective Affiliates, directors, officers, shareholders, employees or agents) shall be commenced in the state and federal courts sitting in the City of New York, Borough of Manhattan (the "New York Courts"). The Corporation and each Holder hereby irrevocably submits to the exclusive jurisdiction of the New York Courts for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein, and hereby irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of such New York Courts, or such New York Courts are improper or inconvenient venue for such proceeding. The Corporation and each Holder hereby irrevocably waives personal service of process and consents to process being served in any such suit, action or proceeding by mailing a copy thereof via registered or certified mail or overnight delivery (with evidence of delivery) to such party at the address in effect for notices to it under this Certificate of Designation and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any other manner permitted by applicable law. The Corporation and each Holder hereby irrevocably waives, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal proceeding arising out of or relating to this Certificate of Designation or the transactions contemplated hereby. If the Corporation or any Holder shall commence an action or proceeding to enforce any provisions of this Certificate of Designation, then the prevailing party in such action or proceeding shall be reimbursed by the other party for its attorneys' fees and other costs and expenses incurred in the investigation, preparation and prosecution of such action or proceeding.

e) Waiver. Any waiver by the Corporation or a Holder of a breach of any provision of this Certificate of Designation shall not operate as or be construed to be a waiver of any other breach of such provision or of any breach of any other provision of this Certificate of Designation or a waiver by any other Holders. The failure of the Corporation or a Holder to insist upon strict adherence to any term of this Certificate of Designation on one or more occasions shall not be considered a waiver or deprive that party (or any other Holder) of the right thereafter to insist upon strict adherence to that term or any other term of this Certificate of Designation on any other occasion. Any waiver by the Corporation or a Holder must be in writing.

f) Severability. If any provision of this Certificate of Designation is invalid, illegal or unenforceable, the balance of this Certificate of Designation shall remain in effect, and if any provision is inapplicable to any Person or circumstance, it shall nevertheless remain applicable to all other Persons and circumstances.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

If it shall be found that any interest or other amount deemed interest due hereunder violates the applicable law governing usury, the applicable rate of interest due hereunder shall automatically be lowered to equal the maximum rate of interest permitted under applicable law.

g) Next Business Day. Whenever any payment or other obligation hereunder shall be due on a day other than a Business Day, such payment shall be made on the next succeeding Business Day.

h) Headings. The headings contained herein are for convenience only, do not constitute a part of this Certificate of Designation and shall not be deemed to limit or affect any of the provisions hereof.

****

IN WITNESS WHEREOF, the undersigned have executed this Certificate as of the date first indicated above.

_____

Name: Richard DeCicco
Title: Chief Executive Officer

ANNEX A

NOTICE OF CONVERSION

(TO BE EXECUTED BY THE REGISTERED HOLDER IN ORDER TO CONVERT SHARES OF PREFERRED STOCK)

The undersigned hereby elects to convert the number of shares of Series A-2 Convertible Preferred Stock indicated below into shares of common stock, par value $0.001 per share (the "Common Stock"), of Iconic Brands, Inc., a Nevada corporation (the "Corporation"), according to the conditions hereof, as of the date written below. If shares of Common Stock are to be issued in the name of a Person other than the undersigned, the undersigned will pay all transfer taxes payable with respect thereto and is delivering herewith such certificates and opinions as may be required by the Corporation. No fee will be charged to the Holders for any conversion, except for any such transfer taxes.

Conversion calculations:

Date to Effect Conversion: _____

Number of shares of Preferred Stock owned prior to Conversion: _____

Number of shares of Preferred Stock to be Converted: _____

Stated Value of shares of Preferred Stock to be Converted: _____

Number of shares of Common Stock to be Issued: _____

Applicable Conversion Price:_____

Number of shares of Preferred Stock subsequent to Conversion: _____

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Address for Delivery: _____
or
DWAC Instructions:
Broker no: _____
Account no: _____

HOLDER

By:_____
Name:
Title:

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

EXHIBIT 10.1

EXECUTION VERSION

ACQUISITION AGREEMENT

BY AND AMONG

ICONIC BRANDS, INC.,

TOPPOP LLC

and

COMPANY MEMBERS

DATED AS OF JULY 26, 2021

TABLE OF CONTENTS

ARTICLE I ACQUISITION AND EXCHANGE; CLOSING 1

Section 1.01 **Acquisition and Exchange of the Company Interests** 1

Section 1.02 **Acquisition Consideration**. 2

Section 1.03 **Closing** 2

Section 1.04 **Closing Deliveries** 2

Section 1.05 **Transactions to be Effected at the Closing** 3

Section 1.06 **Closing Agreements** 4

ARTICLE II WORKING CAPITAL ADJUSTMENT 4

Section 2.01 **Working Capital Adjustment** 4

Section 2.02 **Withholding Taxes** 6

Section 2.03 **Intended Tax Treatment of the Transaction** 6

Section 2.04 **Debt-Free, Cash-Free** 7

ARTICLE III EARN OUT 7

Section 3.01 **Earn-out** 7

Section 3.02 **Tax Treatment of Earn-out Payments** 10

ARTICLE IV REPRESENTATIONS AND WARRANTIES REGARDING THE COMPANY 10

Section 4.01 **Organization and Qualification** 10

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Section 4.02 **Capitalization** 11
Section 4.03 **Due Authorization** 11
Section 4.04 **No Conflict; Governmental Consents and Filings; Certain Contracts** 12
Section 4.05 **Legal Compliance; Approvals** 12
Section 4.06 **Financial Statements** 13
Section 4.07 **No Undisclosed Liabilities** 14
Section 4.08 **Absence of Certain Changes or Events** 14
Section 4.09 **Litigation** 14
Section 4.10 **Company Benefit Plans** 14
Section 4.11 **Labor Relations** 17
Section 4.12 **Real Property; Tangible Property** 18
Section 4.13 **Taxes** 19
Section 4.14 **Environmental Matters** 21
Section 4.15 **Brokers; Third Party Expenses** 21
Section 4.16 **Intellectual Property** 22
Section 4.17 **Privacy** 24
Section 4.18 **Agreements, Contracts and Commitments** 25
Section 4.19 **Insurance** 27
Section 4.20 **Related Party Transactions** 28
Section 4.21 **Customers and Suppliers** 28
Section 4.22 **Anti-Corruption; Sanctions** 28
Section 4.23 **CARES Act** 29
Section 4.24 **Liquor Licenses** 29
Section 4.25 **Company Member Approval of this Agreement and the Transaction** 29
Section 4.26 **No Other Representations and Warranties; Disclaimer of Other Warranties** 30

ARTICLE V REPRESENTATIONS AND WARRANTIES OF ICONIC 30
Section 5.01 **Organization and Qualification** 31

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Section 5.02 **Capitalization** 31
Section 5.03 **Due Authorization** 32
Section 5.04 **No Conflict; Required Filings and Consents** 32
Section 5.05 **Board Approval** 33
Section 5.06 **Financial Statements/SEC Reports**. 33
Section 5.07 **No Undisclosed Liabilities** 34
Section 5.08 **Litigation** 34
Section 5.09 **Brokers** 34
Section 5.10 **No Other Representations and Warranties; Disclaimer of Other Warranties** 34
Section 5.11 .

ARTICLE VI REPRESENTATIONS AND WARRANTIES OF COMPANY MEMBERS 35
Section 6.01 **Organization and Qualification** 35
Section 6.02 **Due Authorizat** 36
Section 6.03 **No Conflict** 36
Section 6.04 **Company Interests** 37
Section 6.05 **Securities Matters**. 37
Section 6.06 **Litigation** 37
Section 6.07 **Brokers** 37
Section 6.08 **No Other Representations and Warranties; Disclaimer of Other Warranties** 37

ARTICLE VII ADDITIONAL AGREEMENTS 38
Section 7.01 **Company Member Approval** 38
Section 7.02 **Regulatory Notices** 38
Section 7.03 **Other Filings; Press Release** 39
Section 7.04 **Confidentiality; Access to Information** 39
Section 7.05 **No Iconic Securities Transactions** 40
Section 7.06 **Directors' and Officers' Liability Insurance** 40
Section 7.07 **Tax Matters** 41
Section 7.08 **Affiliate Agreements** 44
Section 7.09 **Audited Financial Statements; Additional Company Financial Statements** 44

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Section 7.10 **New Jersey Bulk Sale Notice and Escrow; Tax Clearance or Escrow Letter** 44
Section 7.11 **Public Information** 45
Section 7.12 **Rule 144, Legend Removal and Other Cooperation** 46

ARTICLE VIII INDEMNIFICATION 46
Section 8.01 **Survival of Representations and Warranties** 46
Section 8.02 **Indemnification by Company Members** 47
Section 8.03 **Indemnification by Iconic** 47
Section 8.04 **Indemnification Payments; Remedies** 48
Section 8.05 **Indemnification Procedures** 49
Section 8.06 **Tax Treatment** 52
Section 8.07 **Right of Setoff/Offset** 52
Section 8.08 **Exclusive Remedies** 52

ARTICLE IX GENERAL PROVISIONS 52
Section 9.01 **Notices** 52
Section 9.02 **Interpretation** 53
Section 9.03 **Counterparts; Electronic Delivery** 54
Section 9.04 **Entire Agreement; Third-Party Beneficiaries** 54
Section 9.05 **Severability** 54
Section 9.06 **Other Remedies; Specific Performance** 55
Section 9.07 **Governing Law** 55
Section 9.08 **Consent to Jurisdiction; Waiver of Jury Trial** 55
Section 9.09 **Rules of Construction** 56
Section 9.10 **Expenses** 56
Section 9.11 **Assignment** 56
Section 9.12 **Amendment** 56
Section 9.13 **Conflict** 57
Section 9.14 **Disclosure Letter and Exhibits** 57

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Section 9.15	**Legal Representation**	58
Section 9.16	**Attorney-Client Privilege**	58

SCHEDULE A	Defined Terms	
SCHEDULE B	Consideration Schedule	
SCHEDULE C	Illustrative Working Capital Calculation	
SCHEDULE D	First Year Earn-out Example	
EXHIBIT A	Form Assignment of Membership Interests	
EXHIBIT B	Form Promissory Notes	
EXHIBIT C	Form Pledge Agreement	
EXHIBIT D	Intercreditor Agreement	

ACQUISITION AGREEMENT

THIS ACQUISITION AGREEMENT is made and entered into as of July 26, 2021, by and among Iconic Brands, Inc., a Nevada corporation ("***Iconic***"), TopPop LLC, a New Jersey limited liability company (the "***Company***"), and Company Members identified herein. Each of the Company, Iconic, and Company Members shall individually be referred to herein as a "***Party***" and, collectively, the "***Parties***". The term "***Agreement***" as used herein refers to this Acquisition Agreement, as the same may be amended from time to time, and all schedules, exhibits and annexes hereto (including the Company Disclosure Letter, the Company Members Disclosure Letter and the Iconic Disclosure Letter, as defined herein). Defined terms used in this Agreement are listed alphabetically in Schedule A, together with the section and, if applicable, subsection in which the definition of each such term is located.

RECITALS

WHEREAS, Company Members own all of the issued and outstanding Company Interests of the Company;

WHEREAS, at the Closing contemplated by this Agreement, Iconic desires to acquire from Company Members, and Company Members desire to sell, transfer and assign to Iconic the Company Interests in exchange for the consideration set forth in this Agreement;

WHEREAS, the board of managers of the Company has unanimously determined that it is in the best interests of the Company and the members of the Company, and declared it advisable, to enter into this Agreement and has approved this Agreement and the Transactions;

WHEREAS, concurrently with the execution and delivery of this Agreement, as a condition and inducement to Iconic's willingness to enter into this Agreement, Company Members are delivering to Iconic a consent irrevocably approving this Agreement, the other Transaction Agreements, and the consummation of the Transactions; and

WHEREAS, the board of directors of Iconic has unanimously determined that it is in the best interests of Iconic and the stockholders of Iconic, and declared it advisable, to enter into this Agreement and has approved this Agreement and the Transactions.

NOW, THEREFORE, in consideration of the covenants, promises and representations set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE I

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

ACQUISITION AND EXCHANGE; CLOSING

Section 1.01 **Acquisition and Exchange of the Company Interests**. Upon the terms set forth in this Agreement, Company Members hereby sell, convey, transfer, and assign to Iconic, free and clear of all Liens (other than restrictions on the transfer of securities arising under applicable federal and state laws), and Iconic hereby acquires and accepts from Company Members, the Company Interests, all in exchange for the Total Consideration set forth herein.

Section 1.02 **Acquisition Consideration**.

(a) Upon the terms of this Agreement, the aggregate consideration to be paid to Company Members at the Closing shall be: (i) the Estimated Closing Cash Amount *less* (A) the Company Transaction Costs, if any, paid by Iconic at the Closing pursuant to Section 1.05(a) and (ii) the Closing Date Debt, if any, paid by Iconic at the Closing pursuant to Section 1.05(b) (the "***Cash Consideration***"), (B) 26,009,600 shares of Iconic Common Stock, which the Parties agree have an aggregate value of $8,128,000, or $0.3125 per share, for all purposes of this Agreement (the "***Stock Consideration***") and (iii) the Company Promissory Notes (the "***Note Consideration***" and together with the Cash Consideration, the Stock Consideration, the First Year Earn-out Amount, if any, and the Second Year Earn-out Amount, if any, collectively, the "***Total Consideration***").

(b) Each Company Member shall be entitled to receive such Company Member's Pro Rata Portion of the Cash Consideration, the Stock Consideration and the Note Consideration, as more fully set forth on Schedule B hereto, and in respect of the First Year Measurement Period and the Second Year Measurement Period, its Pro Rata Portion of any First Year Earn-out and any Second Year Earn-out, as applicable, as more fully set forth on Schedule B hereto.

Section 1.03 **Closing**. The consummation of the Transactions (the "***Closing***") shall take place by electronic exchange of documents and signatures, at 10:00 a.m. Eastern time, on the date of this Agreement (the date on which the Closing occurs, the "***Closing Date***").

Section 1.04 **Closing Deliveries**.

(a) At the Closing, Iconic shall deliver to Company Members:

(i) original copies of the Company Promissory Notes, each duly executed by Iconic;

(ii) copies of the Pledge Agreements, each duly executed by Iconic; and

(iii) a copy of the Intercreditor Agreement, duly executed by Iconic.

(b) At the Closing, the Company shall deliver or cause to be delivered by the respective Company Members, as applicable, to Iconic:

(i) a schedule setting forth each Company Member's Pro Rata Portion of: (1) the Cash Consideration; (2) the Stock Consideration; and (3) the Note Consideration (it being understood and agreed that the calculations set forth in such schedule shall be prepared in accordance with the Company's Organizational Documents and the requirements of the NJ Statute);

(ii) evidence of the unwinding and termination of the contracts (including termination of any Liens related thereto) listed on Schedule 1.04(b)(ii);

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(iii) an assignment of membership interests from each Company Member in the form attached hereto as Exhibit A, each duly executed by the applicable Company Member;

(iv) a certificate from the chief financial officer of the Company certifying the amount of cash in the Company's accounts as of the Closing (the "***Balance Sheet Cash***");

(v) a certificate from each Company Member pursuant to Treasury Regulations Section 1.1445-2(b)(2) that such Company Member is not a foreign person within the meaning of Section 1445 of the Code, or in the alternative, a valid and properly executed IRS Form W-9, Request for Taxpayer Identification Number and Certification;

(vi) a certificate from each Company Member pursuant to Treasury Regulations Section 1.1446(f)-2(b)(2) that such Company Member is not a foreign person within the meaning of Section 1446(f)(1) of the Code, or in the alternative, a valid and properly executed IRS Form W-9, Request for Taxpayer Identification Number and Certification;

(vii) copies of the Pledge Agreements, each duly executed by the applicable Company Member;

(viii) a copy of the Intercreditor Agreement, duly executed by each of the Company Members;

(ix) written resignation from Thomas Belton as an officer and manager of the Company;

(x) a copy of the Entity Classification Election Withdrawal Request, along with all attachments, filed with the IRS; and

(xi) a certified mail receipt, post-marked by the United States Postal Service, evidencing that the Entity Classification Election Withdrawal Request has been filed with the IRS.

Section 1.05 **Transactions to be Effected at the Closing**. At the Closing and on the Closing Date:

(a) Iconic shall pay, or cause to be paid, all Company Transaction Costs to the applicable payees, to the extent not paid by the Company prior to the Closing.

(b) Iconic shall pay, or cause to be paid, all Closing Date Debt to the applicable payees, to the extent not paid by the Company prior to the Closing.

(c) In accordance with the terms of this Agreement, Iconic shall deliver, or cause to be delivered, to each Company Member such Company Member's Pro Rata Portion of (i) the Cash Consideration, (ii) the Stock Consideration, and (iii) the Note Consideration (collectively, the "***Closing Consideration***"), with (A) any portion of the Cash Consideration being delivered via wire transfer of immediately available funds in accordance with written instructions provided by such Company Member three (3) Business Days prior to the Closing Date; (B) the portion of the Stock Consideration being delivered via book-entry issuance and evidenced by statements maintained by Iconic's transfer agent and (C) the portion of Note Consideration being delivered via a promissory note in the form attached hereto as Exhibit B, in each case, less any required Tax withholdings as provided in Section 2.02.

Section 1.06 **Closing Agreements**. If at or after the Closing, any further action is or other instruments or documents are necessary to carry out the purpose of this Agreement (including release of any Liens listed pursuant to Schedule 1.04(b)(ii)), the Parties shall cooperate to execute, acknowledge and deliver, or cause to be executed, acknowledged or delivered, such other instruments or documents as may be reasonably necessary to carry out the transactions contemplated by this Agreement and to comply with the terms hereof.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

ARTICLE II

WORKING CAPITAL ADJUSTMENT

Section 2.01 **Working Capital Adjustment**.

(a) Company's Adjustment Statement Preparation. At least three (3) Business Days prior to the Closing Date, the Company shall in good faith prepare and deliver a statement (together with reasonable supporting documentation, the "***Estimated Working Capital Statement***") to Iconic, which statement shall set forth the amount of the estimated Working Capital as of the close of business on the Closing Date (the "***Estimated Working Capital***"). The Estimated Working Capital Statement shall be prepared in a manner consistent with, and using the same accounting methods, practices, principles, policies and procedures, with consistent classifications, judgments and valuation and estimation methodologies that were used in the preparation of Schedule C.

(b) Estimated Adjustment. If the Estimated Working Capital is less than $1,532,078.35 (the "***Working Capital Target***"), the Base Cash Consideration shall be reduced by an amount equal to the difference between the Working Capital Target and the Estimated Working Capital. If the Estimated Working Capital is greater than the Working Capital Target, the Base Cash Consideration shall be increased by an amount equal to the difference between the Working Capital Target and the Estimated Working Capital. The Base Cash Consideration as reduced or increased, as the case may be, pursuant to this Section 2.01(b) shall be referred to herein as the "***Estimated Closing Cash Amount***".

(c) Iconic Final Adjustment Statement Preparation. Not later than one hundred twenty (120) days after the Closing Date, Iconic shall in good faith prepare and deliver a statement (together with reasonable supporting documentation, the "***Working Capital Statement***") to Company Members, which statement shall set forth the amount of the actual Working Capital as of the close of business on the Closing Date. The Working Capital Statement shall be prepared in a manner consistent with, and using the same accounting methods, practices, principles, policies and procedures, with consistent classifications, judgments and valuation and estimation methodologies that were used in the preparation of Schedule C.

(d) Adjustment Statement Review. Company Members shall notify Iconic in writing of any objection (a "***Working Capital Dispute Notice***"), to the Working Capital Statement no later than thirty (30) days after Company Members' receipt thereof (the "***Objection Period***"), setting forth in such notice, Company Members' objection or objections to the Working Capital Statement with reasonable particularity of the adjustments which Company Members claim are required to be made thereto. Iconic and the Company and their respective representatives shall reasonably cooperate with all representatives of Company Members in the review of the Working Capital Statement and Company Members, during normal business hours, shall have access to the books and records of the Company, the personnel of the Company that were involved in the calculation of the items included in the Working Capital Statement, and such other information of the Company that relates to the Working Capital Statement, in each case, as is reasonably necessary for the purpose of reviewing the calculations contained in the Working Capital Statement. If Company Members do not provide a Working Capital Dispute Notice within the Objection Period, the Working Capital Statement shall be deemed to be final and binding on the Parties.

(e) Adjustment Statement Dispute Resolution. If Company Members timely deliver to Iconic a Working Capital Dispute Notice, Company Members and Iconic shall use good faith efforts to resolve any such dispute. If Company Members and Iconic are able to resolve such dispute, the Working Capital Statement as revised by the Parties shall be deemed to be final and binding on the Parties as revised. If Company Members and Iconic are unable to resolve such dispute within thirty (30) days after Company Members' delivery of such Working Capital Dispute Notice, then the Parties shall mutually engage and submit such dispute to, and the same shall be finally resolved in accordance with the provisions of this Agreement by EisnerAmper LLP (the "***Independent Accountants***"). In resolving any disputed item, the Independent Accountants shall: (i) be bound by the provisions of this Agreement and the definitions pertaining hereto, (ii) assign a value to any item only within the range of the differences between

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Iconic's position in the Working Capital Statement and Company Members' position in the Working Capital Dispute Notice with respect to such disputed item, (iii) restrict their decision to such items which are then in dispute, and (iv) only review (A) this Agreement, (B) the Working Capital Statement and the Working Capital Dispute Notice, and (C) any information requested by the Independent Accountants in the next sentence in resolving any matter which is in dispute. The Parties will provide the Independent Accountants with all books and records and other information and documentation in their possession reasonably relevant to the determinations to be made by it as may be requested by the Independent Accountants. The Independent Accountants shall make a written determination as to the resolution of all disputed matters submitted to the Independent Accountants within thirty (30) days after such submission, and such determination shall be final, binding and conclusive as to the Parties and their respective Affiliates and will be neither appealable nor contestable. The Working Capital as finally determined pursuant to Section 2.01(d) or this Section 2.01(e) shall be the final Working Capital (the "***Final Working Capital***").

(f) Adjustment of Total Consideration. If the Final Working Capital, as finally determined in accordance with this Section 2.01, (i) is greater than the Estimated Working Capital, Iconic shall pay to Company Members, in accordance with their respective Pro Rata Portions, the amount, if any, by which the Final Working Capital exceeds the Estimated Working Capital or (ii) is less than the Estimated Working Capital, the Note Consideration shall be reduced to the extent of the deficiency, and to the extent the Note Consideration is thereby reduced to zero, Company Members shall, jointly and severally, pay Iconic the amount, if any, by which the Estimated Working Capital exceeds the Final Working Capital (either of clause (i) or clause (ii), the "***Working Capital Adjustment***"). The Working Capital Adjustment, if any, shall be due and payable pursuant to this Section 2.01 no later than five (5) Business Days after the final determination of the Final Working Capital and shall be paid (A) by means of a wire transfer of immediately available funds to the party entitled to payment hereunder in accordance with the wire instructions of Company Members or Iconic, or (B) by the reduction of the Note Consideration, as the case may be.

(g) Any rights accruing to a party under this Section 2.01 shall be in addition to and independent of the rights to indemnification under Article VIII.

(h) Any payments made pursuant to this Section 2.01 shall be treated as an adjustment to the Total Consideration by the Parties for Tax purposes, unless otherwise required by Legal Requirements.

(i) The pendency of a dispute shall not affect the payment obligation of either Iconic or Company Members to the extent of any undisputed portion of any payment to be made by the Parties under this Article II after the Closing.

Section 2.02 **Withholding Taxes**. Notwithstanding anything in this Agreement to the contrary, Iconic and its Affiliates shall be entitled to deduct and withhold from the consideration otherwise payable pursuant to this Agreement, any amount required to be deducted and withheld with respect to the making of such payment under applicable Legal Requirements; provided, that if Iconic, any of its Affiliates, or any party acting on their behalf determines that any payment to Company Members hereunder is subject to deduction and/or withholding, then Iconic shall provide written notice to the Company as soon as reasonably practicable after such determination, but in no event less than five (5) Business Days prior to the Closing Date, detailing the amounts required to be deducted or withheld and identifying the applicable Legal Requirements under which the deduction or withholding is required. The Parties shall use commercially reasonable efforts to reduce or eliminate such deduction and/or withholding, and no amounts shall be deducted or withheld unless such timely written notice has been provided. To the extent that amounts are so withheld and paid over to the appropriate Governmental Entity, such withheld amounts shall be treated for all purposes of this Agreement as having been paid to the Person in respect of which such deduction and withholding was made. Any amounts so withheld shall be timely remitted to the applicable Governmental Entity.

Section 2.03 **Intended Tax Treatment of the Transaction**s. For U.S. federal income Tax purposes (and for purposes of any applicable state or local Legal Requirements that follow the U.S. federal income tax treatment), each of the Parties understands and agrees that (a) concurrently with the consummation of the Transactions, certain existing and new shareholders (the "***Section 351 Exchange Participants***") of Iconic will transfer property, including the SEG Notes, to Iconic in exchange for shares of Iconic stock (the "***Section 351 Participant Exchange***"), (b) as of the close of

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

business on the Closing Date, Company Members and the Section 351 Exchange Participants will own, in aggregate, (i) voting stock of Iconic possessing eighty percent (80%) or more of the total combined voting power of all classes of Iconic stock entitled to vote and (ii) eighty percent (80%) or more of the total number of outstanding shares of each class of nonvoting stock of Iconic, (c) the Transactions and the Section 351 Participant Exchange will constitute transfers of property to Iconic in a transaction that qualifies for nonrecognition treatment under Section 351 of the Code, and (d) the acquisition of the Company Interests by Iconic will also be governed by the provisions of Revenue Ruling 99-6, 1999-1 C.B. 432 (collectively, the "***Intended Tax Treatment***"). Each of the Parties hereby agrees that such Party will prepare and file all Tax Returns consistently with such treatment of the Transactions and will not take any inconsistent position on any Tax Return, during the course of any audit, litigation or other proceeding with respect to Taxes or otherwise.

Section 2.04 **Debt-Free, Cash-Free**. The Parties acknowledge and agree that this Agreement contemplates a debt-free, cash-free transaction and that Company Members shall have the right to, and to cause the Company to, prior to the Closing Date, distribute all of the cash of the Company to each Company Member in accordance with the Company's Organizational Documents, provided, however, that (a) any Indebtedness set forth on Schedule 2.04 of the Company Disclosure Letter shall survive the Closing and shall reduce the amount of the Note Consideration dollar-for-dollar and (b) all of the Balance Sheet Cash shall be an asset of the Company as of and after the Closing and Company Members shall not have any right or claim with respect to the Balance Sheet Cash.

ARTICLE III

EARN OUT

Section 3.01 **Earn-out**.

(a) First Year Earn-out. The Company shall deliver to Iconic and Company Members (A) unaudited financial statements of the Company for each of the three quarterly periods starting on August 1, 2021, prepared in accordance with GAAP, together with a statement setting forth in reasonable detail each of the items comprising the Company's EBITDA for each such quarterly period, which quarterly financial statements shall be delivered within fifteen (15) days after the end of the applicable quarterly period, and (B) (i) unaudited financial statements of the Company for the twelve (12) month period starting on the first day of the calendar month immediately following the Closing Date (the "***First Measurement Period***"), prepared in accordance with GAAP and (ii) a statement setting forth in reasonable detail each of the items comprising the Company EBITDA for the First Measurement Period (the "***First Year EBITDA***") (collectively, the "***First Year Statements***"). Company Members shall be entitled to receive, with respect to the First Measurement Period, an amount (the "***First Year Earn-out Amount***"), examples of which are set forth on Schedule D hereto, equal to such Company Members' Pro Rata Portion of the excess, if any, of: (i) 1.96 *times* First Year EBITDA, over (ii) the aggregate amount of the Company Promissory Notes repaid in cash (such aggregate amount, the "***EBITDA Hurdle***"); provided, however, no First Year Earn-out Amount shall be payable if (i) does not exceed (ii).

(b) Second Year Earn-out. The Company shall deliver to Iconic and Company Members (A) unaudited financial statements of the Company for each of the three quarterly periods starting on the first day of the calendar month immediately following the First Measurement Period, prepared in accordance with GAAP, together with a statement setting forth in reasonable detail each of the items comprising the Company's EBITDA for each such quarterly period, which quarterly financial statements shall be delivered within fifteen (15) days after the end of the applicable quarterly period, and (B) (i) unaudited financial statements for the twelve (12) month period starting on the first day of the calendar month immediately following the First Measurement Period (the "***Second Measurement Period***"), prepared in accordance with GAAP and (ii) a statement setting forth in reasonable detail each of the items comprising the Company's EBITDA for the Second Measurement Period (the "***Second Year EBITDA***") (collectively, the "***Second Year Statements***"). Company Members shall be entitled to receive, with respect to the Second Measurement Period, an amount (the "***Second Year Earn-out Amount***"), examples of which are set forth on Schedule D hereto, equal to such Company Members' Pro Rata Portion of the excess, if any, of: (i) 1.96 *times* the Second Year EBITDA, over (ii) the EBITDA Hurdle; provided, however, no Second Year Earn-out Amount shall be payable if (i) does not exceed (ii).

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(c) The payment of any First Year Earn-out Amount or Second Year Earn-out Amount, as applicable, made pursuant to this Section 3.01 may be made, at each Company Member's election, (i) in cash in immediately available United States funds to an account designated in writing by Company Members, (ii) in Iconic Common Stock (valued at the then-prevailing market price), or (iii) by a combination of such cash and Iconic Common Stock, in each case, less the amount of any pending indemnification claims under Article VIII against Company Members (the "***Pending Claims***"), which amount of any Pending Claims shall be held in an escrow account, hosted by a bank chosen jointly by the Parties, until the final resolution of any such Pending Claims in accordance with Article VIII, provided, that such escrow amounts shall only be released upon the submission of joint written instructions to the escrow agent, such instructions to be executed by each of Company Members, the Company and Iconic; provided, further, that, notwithstanding anything to the contrary contained in this ARTICLE III, at least forty-five percent (45%) of the First Year Earn-out Amount and forty-five percent (45%) of the Second Year Earn-out Amount will be made in Iconic Common Stock.

(d) If any Company Members disagree with the determination of the First Year Earn-out Amount or the Second Year Earn-out Amount, as applicable, Company Members may, within thirty (30) days after delivery of the First Year Statements or the Second Year Statements, as applicable, deliver to Iconic and the Company written notice of such disagreement, which notice shall specify the items in the First Year Statements or the Second Year Statements, as applicable, disputed by Company Members and which shall describe in reasonable detail the basis for any such disagreements (the "***EBITDA Objection Notice***"). If Company Members do not deliver an EBITDA Objection Notice within such thirty (30) day period, the Company's determination of (i) the First Year EBITDA and the First Year Earn-out Amount or (ii) the Second Year EBITDA and the Second Year Earn-out Amount, as applicable, shall be deemed to be binding on the Parties. Iconic and the Company and their respective representatives shall reasonably cooperate with all representatives of Company Members in their review of the First Year Statements and the Second Year Statements, as applicable, and the calculation and determination of the First Year EBITDA and the First Year Earn-out Amount and the Second Year EBITDA and the Second Year Earn-out Amount, as applicable, and Company Members, during normal business hours, shall have access to the books and records of the Company, the personnel of the Company that were involved in the calculation of the items included in the First Year Statements and the Second Year Statements, and such other information of the Company that relates to the First Year Earn-out Amount or the Second Year Earn-out Amount, as applicable, in each case, as is reasonably necessary for the purpose of reviewing the calculation and determination of the First Year Earn-out Amount and the Second Year Earn-out Amount.

(e) If any Company Members deliver an EBITDA Objection Notice to Iconic and the Company, the Parties shall use good faith efforts to resolve the disputed items and agree upon the resulting amount of: (i) the First Year EBITDA and the First Year Earn-out Amount or (ii) the Second Year EBITDA and the Second Year Earn-out Amount, as the case may be. If the Parties are unable to resolve such dispute within thirty (30) days after receipt of the last EBITDA Objection Notice, then the Parties shall mutually engage and submit such dispute to, and the same shall be finally resolved by the Independent Accountants in accordance with the procedures set forth in Section 2.01(e) hereof.

(f) Notwithstanding anything in this Agreement to the contrary, but subject to the terms of this clause (f), this Agreement shall not impose any restrictions or obligations on the operation of the Company's business. Company Members acknowledge and agree that, subsequent to the Closing, Iconic shall have sole discretion with regard to all matters relating to the operations of the Company, provided, that following the Closing and until the end of the Second Measurement Period, Iconic and the Company shall use commercially reasonable efforts to:

(i) provide that the Company has access to working capital and letters of credit as is reasonably necessary to operate the Company reasonably consistent with the manner in which the Business of the Company has been conducted prior to the date of this Agreement;

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(ii) provide that the Company has access to personnel and compensation for employees, and support as is reasonably necessary to operate the Company reasonably consistent with the manner in which the Business of the Company has been conducted prior to the date of this Agreement; and

(iii) maintain separate books of account for the Company and take all actions necessary to cause the Company to prepare financial statements sufficient to permit the First Year Earn-out Amount and Second Year Earn-out Amount to be calculated and determined in accordance with the examples set forth on Schedule D;

(iv) not discontinue all or any significant and material portion of the business of the Company as conducted by the Company prior to the Closing; and

(v) not terminate the employment of Thomas Martin, Laurance Rassin, and Tracy Memoli without Cause (as defined in their respective Employment Agreements in effect as of Closing) without the prior written approval of (A) Thomas Martin in the case of Laurance Rassin or Tracy Memoli, or (B) Laurance Rassin and Tracy Memoli in the case of Thomas Martin.

provided that: (A) the foregoing clauses (i) through (vii) shall not limit or restrict Iconic or the Company from taking actions for an independent commercially reasonable business purpose so long as such actions are taken in good faith and not with the primary intent, or for the primary purpose, of causing any portion of the First Year Earn-out Amount or the Second Year Earn-out Amount to be reduced or forfeited; and (B) the foregoing clauses (i) through (v) shall not require Iconic or the Company to take actions for which there is not an independent commercially reasonable business purpose so long as the failure to take such action is in good faith and not with the primary intent, or for the primary purpose, of causing any portion of the First Year Earn-out Amount or the Second Year Earn-out Amount to be reduced or forfeited. Notwithstanding the foregoing, the Parties acknowledge and agree that there is no assurance that Company Members will receive the First Year Earn-out Amount or the Second Year Earn-out Amount and Iconic has not promised or projected any First Year Earn-out Amount or Second Year Earn-out Amount, and the Parties solely intend the express provisions of this Agreement to govern their contractual relationship.

(g) The Parties hereto understand and agree that (i) the contingent rights to receive the First Year Earn-out Amount and the Second Year Earn-out Amount shall not be represented by any form of certificate or other instrument, are not transferable, except by operation of applicable Legal Requirements relating to successor in interest rights, descent and distribution, divorce and community property, and do not constitute an equity or ownership interest in Iconic or the Company, (ii) Company Members shall not have any rights as a securityholder of Iconic or the Company as a result of their contingent right to receive the First Year Earn-out Amount and the Second Year Earn-out Amount hereunder and (iii) no interest is payable with respect to the First Year Earn-out Amount or the Second Year Earn-out Amount.

Section 3.02 **Tax Treatment of Earn-out Payments**. The Parties understand and agree that the payment of the First Year Earn-out Amount or the Second Year Earn-out Amount, if any and as applicable, shall be treated as an adjustment to the Total Consideration by the Parties for all Tax purposes, unless otherwise required by applicable Legal Requirements or pursuant to a "determination" (as defined in Section 1313(a) of the Code or any similar provision of U.S. state, local or non-U.S. Legal Requirements).

ARTICLE IV

REPRESENTATIONS AND WARRANTIES REGARDING THE COMPANY

Except as set forth in the disclosure letter dated as of the date of this Agreement delivered by the Company to Iconic prior to or in connection with the execution and delivery of this Agreement (the "***Company Disclosure Letter***"), the Company hereby represents and warrants to Iconic as of the date hereof as follows:

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Section 4.01 **Organization and Qualification**. The Company is a limited liability company duly incorporated, validly existing and in good standing under the Legal Requirements of the State of New Jersey and has all requisite limited liability company power and authority to own, lease and operate its assets and properties and to carry on its business as it is now being conducted. The Company is duly licensed or qualified to do business in each jurisdiction in which the ownership of its property or the character of its activities is such as to require it to be so licensed or qualified, except where the failure to be so licensed or qualified or in good standing would not, individually or in the aggregate, reasonably be expected to be material to the Business of the Company. True, complete and correct copies of the Organizational Documents of the Company as amended and currently in effect, have been made available to Iconic or its representatives. The Company is not in violation of any material provisions of its Organizational Documents.

Section 4.02 **Capitalization**.

(a) Schedule 4.02(a) of the Company Disclosure Letter sets forth the number of authorized and outstanding membership interests of the Company, including the Percentage Interest of each Company Member. All of the issued and outstanding membership interests of the Company have been duly authorized and validly issued and are fully paid and nonassessable and have not been issued in violation of any agreement, arrangement or commitment to which the Company or its Affiliates are a party. Each issued and outstanding membership interest of the Company has been issued in compliance in all material respects with: (i) applicable Legal Requirements and (ii) the Company's Organizational Documents.

(b) There are no stock appreciation, phantom stock, stock-based performance unit, profit participation, restricted stock, restricted stock unit or other equity-based compensation award or similar rights with respect to the Company. Except for the SEG Notes, the Company has not granted any outstanding options, warrants, rights or other securities convertible into or exchangeable or exercisable for shares of the Company Interests, or any other commitments or agreements providing for the issuance of additional equity interests or for the repurchase or redemption of Company Interests, and there are no voting trusts, limited liability company agreements, proxies or other agreements, understandings or obligations in effect with respect to the voting, transfer or sale (including any rights of first refusal, rights of first offer or drag-along rights), issuance (including any pre-emptive or anti-dilution rights), redemption or repurchase (including any put or call or buy-sell rights), or registration (including any related lock-up or market standoff agreements) of any membership interests, units, stock or other securities of the Company.

(c) Other than as set forth on Schedule 4.02(c) to the Company Disclosure Letter, as a result of the consummation of the Transactions no equity interests, warrants, options or other convertible securities of the Company are issuable and no rights in connection with any interests, warrants, options or other securities of the Company accelerate or otherwise become triggered (whether as to vesting, exercisability, convertibility or otherwise).

(d) The Company does not have any Subsidiaries and the Company does not own, of record or beneficially, any securities of, or Equity Interests in, any Person.

Section 4.03 **Due Authorization**. The Company has all requisite limited liability company power and authority to: (a) execute, deliver and perform this Agreement and the Transaction Agreements; and (b) carry out the Company's obligations hereunder to consummate the Transactions, in each case, subject to the consents, approvals, authorizations and other requirements described in Section 4.04. The execution and delivery by the Company of this Agreement and the Transaction Agreements and the consummation by the Company of the Transactions have been duly and validly authorized by all requisite action and no other proceeding on the part of the Company is necessary to authorize this Agreement and the Transaction Agreements. This Agreement and the Transaction Agreements have been duly and validly executed and delivered by the Company and (assuming this Agreement and the Transaction Agreements constitute legal, valid and binding obligations of each of the other parties thereto) constitute the legal, valid and binding obligations of the Company, enforceable against the Company in accordance with its terms, subject to applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and similar laws affecting creditors' rights generally and subject, as to enforceability, to general principles of equity (collectively, the "***Remedies Exception***").

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Section 4.04 **No Conflict; Governmental Consents and Filings; Certain Contracts**.

(a) Except as set forth on Schedule 4.04(a) of the Company Disclosure Letter, subject to the receipt of the consents, approvals, authorizations and other requirements set forth in Section 4.04(b), the execution, delivery and performance of this Agreement and the Transaction Agreements (including the consummation by the Company of the Transactions) by the Company do not and will not: (i) violate any provision of, or result in the breach of, any applicable Legal Requirement to which the Company is subject or by which any property or asset of the Company is bound; (ii) conflict with or violate the Organizational Documents of the Company; or (iii) violate any provision of or result in a breach, default or acceleration of, or require a consent or waiver under any Company Material Contract, or terminate or result in the termination of any Company Material Contract, or result in the creation of any Lien (other than Permitted Liens) under any Company Material Contract upon any of the properties or assets of the Company, or constitute an event which, after notice or lapse of time or both, would result in any such violation, breach, default, acceleration, termination or creation of a Lien (other than any Permitted Lien), except to the extent that the occurrence of any of the foregoing items set forth in clause (i) or (iii) would not, individually or in the aggregate, reasonably be expected to be material to the Business of the Company, taken as a whole.

(b) No consent, notice, approval or authorization of, or designation, declaration or filing with, any Governmental Entity is required on the part of the Company with respect to the Company's execution, delivery or performance of this Agreement and/or the Transaction Agreements or the consummation by the Company of the Transactions, including any consent, approval or notice to any Person or Governmental Entity with respect to the Liquor Licenses, except for: (i) the Company Member Approval; (ii) as otherwise disclosed on Schedule 4.04(b) of the Company Disclosure Letter; and (iii) compliance with any applicable requirements of the securities laws.

Section 4.05 **Legal Compliance; Approvals**.

(a) The Company has since Formation complied with, and is not currently in violation of, any applicable Legal Requirements with respect to the conduct of its Business, or the ownership or operation of its Business, except for failures to comply or violations which, individually or in the aggregate, have not been and are not reasonably likely to be material to the Business of the Company, taken as a whole. Since Formation, no Governmental Entity has issued to the Company any written notice or notification of non-compliance with any applicable Legal Requirements. To the Company's Knowledge, (i) all applications filed by the Company for Liquor Licenses and Approvals were made with full disclosure of all relevant facts, including the method of operation, and (ii) the method of operation of the Company matches that which was filed with each applicable Governmental Entity.

(b) The Company is in possession of Approvals necessary to own, lease and operate the properties it purports to own, operate or lease and to carry on its Business as it is now being conducted. Schedule 4.05(b) of the Company Disclosure Letter sets forth any material Approvals of the Company. The operations of the Company are, and have since Formation been, conducted in compliance with all Approvals, if any, except as would not, individually or in the aggregate, reasonably be expected to be have a Company Material Adverse Effect. Except as would not, individually or in the aggregate, reasonably be expected to be material to the Company, all Approvals, if any, are in full force and effect and the Company has not received any written notice from a Governmental Entity since Formation regarding: (i) any violation of or failure to comply with any term or requirement of any Approval or (ii) any revocation, withdrawal, suspension, cancellation, termination or material modification of any Approval, nor, to the Company's Knowledge, do any grounds for revocation, suspension or limitation of any Liquor Licenses or Approvals or other material Approvals exist and no Actions are pending or, to the Company's Knowledge, threatened that seek the revocation, cancellation, suspension, limitation or modification of any of the same.

(c) With regards to any alcoholic beverage products of the Company that are finished goods such products (i) have been processed in accordance with formulas approved by the TTB; (ii) comply in all material

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

respects with the applicable provisions of Title 27 of the Code of Federal Regulations, the Food and Drug Act and, to the Company's Knowledge, any other applicable Legal Requirements governing alcoholic beverages; (iii) contain labels that have been approved by each state agency or other Governmental Entity that requires label approval of the alcoholic beverage products of the Company; and (iv) contain labels that comply in all material respects with all requirements of the U.S. Food and Drug Administration.

(d) All advertising and sales material for the Company's products has been prepared in all material respects in compliance with the applicable provisions of Title 27 of the Code of Federal Regulations and the rules and regulations of the TTB.

Section 4.06 **Financial Statements**.

(a) Set forth on Schedule 4.06(a) of the Company Disclosure Letter are: (i) the unaudited balance sheet as of December 31, 2020 and unaudited statement of operations and comprehensive loss, changes in equity and cash flows of the Company for the twelve-month period ended December 31, 2020 (the "***2020 Financial Statements***"); and (ii) an unaudited consolidated balance sheet as of May 31, 2021 and statements of operations and comprehensive loss and cash flows of the Company as of and for the five-month period then ended (the "***Interim Financial Statements***" and, together with the 2020 Financial Statements, the "***Financial Statements***").

(b) The Financial Statements (i) present fairly, in all material respects, the financial position, results of operations and cash flows of the Company as of the dates and for the periods indicated in such Financial Statements in conformity with GAAP on a consistent basis throughout the periods indicated (except as may be indicated in the notes thereto and, in the case of the Interim Financial Statements, the absence of footnotes and for normal year-end adjustments, which are not expected to be material) and (ii) were prepared from the books and records of the Company.

(c) Since Formation, the Company has not identified or been made aware of (i) any significant deficiency or material weakness in the system of internal accounting controls utilized by the Company, (ii) any fraud, whether or not material, that involves the Company's management or other employees who have a role in the preparation of financial statements or the internal accounting controls utilized by the Company or (iii) any claim or allegation regarding any of the foregoing.

Section 4.07 **No Undisclosed Liabilities**. The Company does not have any liabilities (whether accrued, absolute, contingent, unknown or otherwise) that would be required to be set forth on a balance sheet prepared in accordance with GAAP, except for liabilities: (a) provided for in, or otherwise reflected or reserved for on the Financial Statements or disclosed in the notes thereto; (b) that have arisen since the date of the most recent balance sheet included in the Financial Statements in the ordinary course of the operation of the Business of the Company and which are not material in amount, except as set forth on Schedule 4.07 of the Company Disclosure Letter; (c) incurred in connection with the transactions contemplated by this Agreement or the Transaction Agreements; or (d) that would not be material to Business of the Company, taken as a whole.

Section 4.08 **Absence of Certain Changes or Events**. Except as contemplated by this Agreement and the Transaction Agreements, since the date of the Interim Financial Statements through the date of this Agreement, the Company has conducted its business in the ordinary course consistent with past practice in all material respects and there has not been and the Company is not subject to: (a) any Company Material Adverse Effect; or (b) any material change by the Company in its accounting methods, principles or practices, except as required by concurrent changes in GAAP or applicable Legal Requirements.

Section 4.09 **Litigation**. Except as set forth on Schedule 4.09 of the Company Disclosure Letter: (a) there are no pending or, to the Knowledge of the Company, threatened Legal Proceedings against the Company or any of its properties or assets, or any of the directors or officers of the Company with regard to their actions as such; (b) there are no pending or, to the Knowledge of the Company, threatened audits, examinations or investigations by any Governmental Entity against the Company; (c) there are no pending or threatened in writing Legal Proceedings by the Company against any third party; (d) there are no settlements or similar agreements that impose any material ongoing

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

obligations or restrictions on the Company; and (e) there are no Orders imposed or, to the Knowledge of the Company, threatened to be imposed upon the Company or any of its properties or assets, or any of the directors or officers of any of the Company with regard to their actions as such.

Section 4.10 **Company Benefit Plans**.

(a) Schedule 4.10(a) of the Company Disclosure Letter sets forth a complete list of each material Company Benefit Plan (separately identifying the Company Benefit Plans for each applicable jurisdiction), including, but not limited to, all employment contracts, offer letters or contractor agreements that provide for severance or notice of greater than thirty (30) days, unless any such arrangement is in a form substantially similar to a form of employment contract or offer letter identified on Schedule 4.10(a) of the Company Disclosure Letter. "***Company Benefit Plan***" means each "employee benefit plan" as defined in Section 3(3) of ERISA, any employment, consulting, retirement, severance, termination or change in control agreements, deferred compensation, vacation, sick, stock option, stock purchase, stock appreciation rights, stock-based or other equity-based, incentive, bonus, supplemental retirement, profit-sharing, insurance, medical, welfare, fringe or other benefits or remuneration of any kind, and any other agreement, arrangement, plan, contract, policy or program providing compensation or other benefits to any current or former director, officer, employee or other service provider, whether or not in writing, which is maintained, sponsored or contributed to by the Company or under which the Company has any obligation or liability (contingent or otherwise); provided that no "multiemployer plan," within the meaning of Section 3(37) or 4001(a)(3) of ERISA shall be a Company Benefit Plan hereunder.

(b) Except as would not, individually or in the aggregate, reasonably be expected to result in a Company Material Adverse Effect: (i) each Company Benefit Plan has been administered in accordance with its terms and all applicable Legal Requirements, including ERISA and the Code; (ii) all contributions required to be made with respect to any Company Benefit Plan on or before the date hereof have been made; and (iii) no non-exempt "prohibited transaction" (within the meaning of Section 406 of ERISA and Section 4975 of the Code) has occurred or is reasonably expected to occur with respect to any Company Benefit Plan. Each Company Benefit Plan which is intended to be qualified within the meaning of Section 401(a) of the Code: (A) has received a favorable determination or opinion letter as to its qualification; or (B) has been established under a standardized master and prototype or volume submitter plan for which a current favorable Internal Revenue Service advisory letter or opinion letter has been obtained by the plan sponsor and is valid as to the adopting employer, and nothing has occurred and no circumstances exist that would reasonably be expected to result in the loss of the qualification of such plan under Section 401(a) of the Code.

(c) Neither the Company nor any of its ERISA Affiliates has, within the past six years, sponsored, been obligated to contribute to, or has any reasonable expectation of current or contingent liability in respect of: (i) an "employee pension benefit plan" (as defined in Section 3(2) of ERISA) subject to Title IV of ERISA, Section 412 of the Code or Section 302 of ERISA (including any "multiemployer plan" within the meaning of Section (3)(37) of ERISA); (ii) a "multiple employer plan" as defined in Section 413(c) of the Code; or (iii) a "multiple employer welfare arrangement" within the meaning of Section 3(40) of ERISA. No Company Benefit Plan is a multiemployer plan and neither the Company, nor any ERISA Affiliate has ever contributed to (or had any obligation to contribute to) any multiemployer plan.

(d) Except as would not, individually or in the aggregate, reasonably be expected to result in a Company Material Adverse Effect, with respect to the Company Benefit Plans or their administrators or fiduciaries: (i) no actions, suits or claims (other than routine claims for benefits in the ordinary course) are pending or, to the Knowledge of the Company, threatened; (ii) no facts or circumstances exist that would reasonably be expected to give rise to any such actions, suits or claims; and (iii) no Company Benefit Plan has since Formation been the subject of an examination or audit by a Governmental Entity or the subject of an application or filing under or is a participant in, an amnesty, voluntary compliance, self-correction or similar program sponsored by any Governmental Entity.

(e) Except as would not result in material liability to the Company, none of the Company Benefit Plans provides for, and the Company has no liability in respect of, post-retiree or post-employment health, welfare or life insurance benefits or coverage for any participant or any beneficiary of a participant, except as may be required

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

under the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended, or similar state or other Legal Requirements and at the sole expense of such participant or the participant's beneficiary.

(f) Neither the execution and delivery of this Agreement or the Transaction Agreements nor the consummation of the Transactions will, either alone or in connection with any other event(s): (i) result in any payment or benefit becoming due to any current or former employee, contractor or director of the Company or under any Company Benefit Plan; (ii) increase any amount of compensation or benefits otherwise payable to any current or former employee, contractor or director of the Company or under any Company Benefit Plan; (iii) result in the acceleration of the time of payment, funding or vesting of any benefits to any current or former employee, contractor or director of the Company or under any Company Benefit Plan; or (iv) result in any limit on the right to merge, amend or terminate any Company Benefit Plan.

(g) Neither the execution and delivery of this Agreement or the Transaction Agreements nor the consummation of the Transactions shall, either alone or in connection with any other event(s), give rise to any "excess parachute payment" as defined in Section 280G(b)(1) of the Code or any excise tax owing under Section 4999 of the Code.

(h) Each Company Benefit Plan that is subject to Section 409A of the Code has been administered in compliance with its terms and the operational and documentary requirements of Section 409A of the Code and all applicable regulatory guidance (including notices, rulings and proposed and final regulations) thereunder. The Company does not maintain an obligation to gross-up or reimburse any individual for any tax or related interest or penalties incurred by such individual, including under Sections 409A or 4999 of the Code or otherwise.

(i) Each individual who is classified by the Company as an independent contractor has been properly classified for purposes of participation and benefit accrual under each Company Benefit Plan.

(j) Each Company Benefit Plan can be amended, terminated or otherwise discontinued after the Closing in accordance with its terms, without material liabilities to Iconic, the Company or any of their ERISA Affiliates other than ordinary administrative expenses typically incurred in a termination event. The Company has no commitment or obligation and has not made any representations to any employee, officer, director, independent contractor or consultant, whether or not legally binding, to adopt, amend, modify or terminate any Company Benefit Plan or any collective bargaining agreement, in connection with the consummation of the transactions contemplated by this Agreement, the Transaction Agreements or otherwise.

(k) With respect to each Company Benefit Plan, the Company has made available to Iconic accurate, current and complete copies of each of the following: (i) where the Company Benefit Plan has been reduced to writing, the plan document together with all amendments; (ii) where the Company Benefit Plan has not been reduced to writing, a written summary of all material plan terms; (iii) where applicable, copies of any trust agreements or other funding arrangements, custodial agreements, insurance policies and contracts, administration agreements and similar agreements, and investment management or investment advisory agreements, now in effect or required in the future as a result of the transactions contemplated by this Agreement, the Transaction Agreements or otherwise; (iv) copies of any summary plan descriptions, summaries of material modifications, summaries of benefits and coverage, COBRA communications, employee handbooks and any other written communications (or a description of any oral communications) relating to any Company Benefit Plan; (v) in the case of any Company Benefit Plan that is intended to be qualified under Section 401(a) of the Code, a copy of the most recent determination, opinion or advisory letter from the Internal Revenue Service and any legal opinions issued thereafter with respect to such Company Benefit Plan's continued qualification; (vi) in the case of any Company Benefit Plan for which a Form 5500 must be filed, a copy of the two most recently filed Forms 5500, with all corresponding schedules and financial statements attached; (vii) actuarial valuations and reports related to any Company Benefit Plans with respect to the two most recently completed plan years; (viii) the most recent nondiscrimination tests performed under the Code; and (ix) copies of material notices, letters or other correspondence from the Internal Revenue Service, Department of Labor, Department of Health and Human Services, Pension Benefit Guaranty Corporation or other Governmental Entity relating to the Company Benefit Plan.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Section 4.11 **Labor Relations**.

(a) Schedule 4.11(a) of the Company Disclosure Letter contains a list of all persons who are employees, independent contractors or consultants of the Company as of the date hereof, including any employee who is on a leave of absence of any nature, paid or unpaid, authorized or unauthorized, and sets forth for each such individual the following: (i) name; (ii) title or position (including whether full-time or part-time); (iii) hire and/or rehire date; (iv) current annual base compensation rate or contract fee; (v) commission, bonus or other incentive-based compensation; and (vi) a description of the fringe benefits provided to each such individual as of the date hereof. Except as set forth in Schedule 4.11(a) of the Company Disclosure Letter, as of the date hereof, all compensation, including wages, commissions, bonuses, fees and other compensation, payable to all employees, independent contractors or consultants of the Company for services performed on or prior to the date hereof has been paid in full and there are no outstanding agreements, understandings or commitments of the Company with respect to any compensation, commissions, bonuses or fees.

(b) The Company is not a party to, bound by, negotiating or required to negotiate any collective bargaining agreement or other agreement with a labor union or other labor organization. No employees of the Company are represented by any labor union or other labor organization and there has not been any labor union or other labor organization representing or purporting to represent any employee of the Company since Formation. To the Knowledge of the Company, there are no activities or proceedings of any labor union or other labor organization to organize any employees of the Company and no demand for recognition or certification as the exclusive bargaining representative of any employees has been made by or on behalf of any labor union or other labor organization. The Company has no duty to bargain with any labor union or other labor organization.

(c) There has never been, nor has there been any threat of, any strike, work stoppage, slowdown, lockout, concerted refusal to work overtime or other labor disruption or disputes (including unfair labor practice charges, grievances, or complaints) affecting or involving the Company or any of its employees since Formation.

(d) As of the date hereof, there are no complaints, charges or claims against the Company pending or, to Knowledge of the Company, threatened, and since Formation, there have been no complaints, charges or claims against the Company, before any Governmental Entity based on, arising out of, in connection with or otherwise relating to the employment, termination of employment or failure to employ by the Company, of any individual, except for those complaints, charges or claims which would not, individually or in the aggregate, reasonably be expected to be material to the Company, taken as a whole.

(e) To the Knowledge of the Company, none of the employees of the Company listed on Schedule 4.11(a) of the Company Disclosure Letter intends to resign or retire as a result of the transactions contemplated by this Agreement or the Transaction Agreements.

(f) The Company has complied with the federal Worker Adjustment and Retraining Notification Act and any similar state or local "mass layoff" or "plant closing" Legal Requirement (collectively, "***WARN***"), and it has no plans to undertake any action in the future that would trigger WARN. There has been no "mass layoff" or "plant closing" (as defined by WARN) with respect to the Company within one year prior to the date of this Agreement and no such events are reasonably expected to occur prior to Closing.

Section 4.12 **Real Property; Tangible Property**.

(a) The Company does not own any real property.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(b) Schedule 4.12(b) of the Company Disclosure Letter lists, as of the date of this Agreement, all real property leased by the Company (including any and all amendments, extensions or renewals thereto) (the "***Leased Real Property***") and such Leased Real Property comprises all of the real property used or intended to be used in, or otherwise related to, the Business of the Company. The Company has a valid, binding and enforceable leasehold estate in, and enjoys peaceful and undisturbed possession of, all Leased Real Property and each of the leases, lease guarantees, agreements and documents related to any Leased Real Property, including all amendments, terminations and modifications thereof (collectively, the "***Company Real Property Leases***"), is in full force and effect, subject to the Remedies Exception. There are no Liens on the estate created by such Company Real Property Lease, other than Permitted Liens. The Company has made available to Iconic true, correct and complete copies of all Company Real Property Leases as of the date hereof. The Company is not in breach of or default under any Company Real Property Lease, and, to the Knowledge of the Company, no event has occurred and no circumstance exists which, if not remedied, and whether with or without notice or the passage of time or both, would result in such a breach or default. The Company has not received written notice from, or given any written notice to, any lessor of such Leased Real Property of, nor is there any default, event or circumstance that, with notice or lapse of time, or both, would constitute a default by the party that is the lessee or lessor of such Leased Real Property. As of the date of this Agreement, to the Knowledge of the Company, no party to any Company Real Property Lease has exercised any termination rights with respect thereto. The Company has not assigned, pledged, mortgaged, hypothecated, or otherwise transferred any Company Real Property Lease or any interest therein nor has the Company subleased, licensed, or otherwise granted any Person a right to use or occupy such Lease Real Property or any portion thereof.

(c) The Company owns and has good and marketable title to, or a valid leasehold interest in or right to use, all of the material tangible assets (including but not limited to any machinery, equipment, furniture, fixtures, and other tangible personal property, other than the Inventory which is addressed in Section 4.12(d), below) reflected on the Financial Statements or personal property, free and clear of all Liens other than: (i) Permitted Liens; (ii) the rights of lessors under any leases; and (iii) any assets sold or otherwise disposed of by the Company after the date of the Interim Financial Statements in the ordinary course of business. The material tangible assets or personal property of the Company: (A) constitute all of the material assets, rights and properties (other than Intellectual Property) that are necessary for the operation of the Business of the Company as it is now conducted, and taken together, are adequate and sufficient for the operation of the Business of the Company as currently conducted; and (B) have been maintained in all material respects in accordance with generally applicable accepted industry practice and are in good working order and condition, normal wear and tear excepted.

(d) All of the Inventory consists of a quality and quantity usable and salable in the ordinary course of business consistent with past practice, subject to normal and customary allowances in the industry for spoilage and damage. All items included in the Inventory are the property of the Company, free and clear of any Lien other than Permitted Liens, have not been pledged as collateral and conform in all material respects to all standards applicable to such Inventory or its use or sale imposed by Governmental Entities.

Section 4.13 **Taxes**.

(a) All material Tax Returns required to be filed by (or with respect to) the Company have been timely filed (taking into account any applicable extensions), and all such Tax Returns are true, correct and complete in all material respects.

(b) All material Taxes due and payable by (or with respect to) the Company have been timely paid in full. All material Taxes incurred but not yet due and payable for periods covered by the Financial Statements have been accrued and adequately disclosed on the Financial Statements in accordance with GAAP.

(c) The Company has complied in all material respects with all applicable Legal Requirements relating to the withholding and remittance of all material amounts of Taxes and all material amounts of Taxes required by applicable Legal Requirements to be withheld by the Company has been withheld and paid over to the appropriate Governmental Entity.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(d) No deficiency with respect to any material amount of Taxes has been asserted or assessed by any Governmental Entity in writing against the Company, which deficiency has not been paid or resolved. No audit or other proceeding by any Governmental Entity is currently pending or threatened in writing against the Company with respect to any material Taxes of the Company (and, to the Knowledge of the Company, no such audit is pending or contemplated).

(e) There are no Liens for Taxes (other than Permitted Liens) upon any of the assets of the Company.

(f) The Company is not bound to any Tax indemnification agreement or Tax sharing agreement (other than such an agreement or arrangement entered into in the ordinary course of business that does not primarily relate to Taxes).

(g) Except as listed in Schedule 4.13(g), the Company has not constituted either a "distributing corporation" or a "controlled corporation" in a distribution of stock qualifying for tax-free treatment under Section 355 of the Code.

(h) The Company has not entered into a "listed transaction" within the meaning of Treasury Regulations Section 1.6011-4(b).

(i) The Company has no liability for the Taxes of another Person pursuant to Treasury Regulations Section 1.1502-6 (or any similar provision of state, local or foreign Legal Requirements) or as a transferee or a successor.

(j) The Company has never been a member of an affiliated, consolidated, combined or unitary group filing for U.S. federal, state or local income Tax purposes.

(k) The Company has not consented to waive or extend the time in which any Tax may be assessed or collected by any Governmental Entity (other than pursuant to extensions of time to file Tax Returns obtained in the ordinary course of business), which waiver or extension is still in effect, and no written request for any such waiver or extension is currently pending.

(l) The Company will not be required to include any material item of income in, or exclude any material item or deduction from, taxable income for any taxable period beginning after the Closing Date or, in the case of any taxable period beginning on or before and ending after the Closing Date, the portion of such period beginning after the Closing Date, as a result of: (i) any installment sale or open transaction that occurred prior to the Closing Date; (ii) any change in method of accounting prior to the Closing Date, including by reason of the application of Section 481 of the Code (or any analogous provision of state, local or foreign Legal Requirements); (iii) other than in the ordinary course of business, any prepaid amount received or deferred revenue recognized prior to the Closing Date; (iv) any closing agreement pursuant to Section 7121 of the Code (or any similar provision of state, local or foreign Legal Requirements) entered into prior to the Closing Date; (v) any election pursuant to Section 108(i) of the Code (or any similar provision of state, local or foreign Legal Requirements) made with respect to any taxable period ending on or prior to the Closing Date, or (vi) any inclusion under Section 965 of the Code.

(m) No claim has been made in writing (nor to the Knowledge of the Company is any such claim pending or contemplated) by any Governmental Entity in a jurisdiction in which the Company does not file Tax Returns that the Company is subject to taxation by, or required to file Tax Returns in, that jurisdiction.

(n) The Company is not a "United States real property holding corporation" within the meaning of Section 897(c)(2) of the Code.

(o) The Company is a "United States Person" as such term is defined in Section 7701(a)(30) of the Code.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(p) An entity classification election on Form 8832 has previously been filed with the Internal Revenue Service to cause the classification of the Company for U.S. federal income Tax purposes to be changed from that of partnership to that of an association taxable as a corporation, effective January 1, 2021 (the "***January 1, 2021 Entity Classification Election***"). However, on July 21, 2021 the Company filed with the IRS a request to withdraw the January 1, 2021 Entity Classification Election (the "***Entity Classification Election Withdrawal Request***"), a copy of which request has been made available to Iconic, such that, if such request is granted, the Company will continue to be classified for U.S. federal income Tax purposes as a partnership, as if the January 1, 2021 Entity Classification Election had never been filed.

(q) Except for paragraphs (f), (i) and (l) of this Section 4.13, no representation or warranty is made with respect to Taxes attributable to any Post-Closing Tax Period.

Section 4.14 **Environmental Matters**.

(a) The Company, and each Leased Real Property is, and since Formation has been, in compliance with all Environmental Laws, except for any such instance of non-compliance that would not, individually or in the aggregate, reasonably be expected to be material to the Business of the Company, taken as a whole.

(b) The Company has obtained, holds, is, and since Formation has been, in material compliance with all permits required under applicable Environmental Laws to permit the Company to operate its assets and to conduct its business, except for any such instance of non-compliance that would not, individually or in the aggregate, reasonably be expected to be material to the Business of the Company, taken as a whole.

(c) There are no written claims or notices of violation pending or, to the Knowledge of the Company, threatened against the Company or any property or facility leased or operated by the Company alleging violations of or liability under any Environmental Law, except for any violations or liabilities under any Environmental Law that would not, individually or in the aggregate, reasonably be expected to be material to the Business of the Company, taken as a whole.

(d) The Company has not and, to the Knowledge of the Company, no other Person has disposed of or released any Hazardous Material at, on or under any facility currently or formerly owned, leased or operated by the Company or any third party site (with respect to disposals or releases by the Company), in each case in a manner that would reasonably be expected to be material to the Business of the Company, taken as a whole.

(e) The Company has made available to Iconic copies of all material written environmental reports, audits, assessments, liability analyses, memoranda and studies, if any, in the possession of, or conducted by, the Company with respect to Environmental Law.

Section 4.15 **Brokers; Third Party Expenses**. No broker, finder, investment banker or other Person is entitled to, nor will be entitled to, either directly or indirectly, any brokerage fee, finders' fee or other similar commission, for which Iconic or the Company would be liable in connection with the transactions contemplated by this Agreement and the Transaction Agreements.

Section 4.16 **Intellectual Property**.

(a) Schedule 4.16(a) of the Company Disclosure Letter sets forth a true, correct and complete list of (i) each issued Patent and Patent application, registered Trademark and application for Trademark registration, registered Copyright, and internet domain name, in each case, in which the Company has an ownership interest (collectively, "***Registered IP***"); and (ii) material Software in which the Company has an ownership interest and are either used in the operations of the Company, used to provide services generally offered by the Company to customers

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

as of the date hereof or constitute products generally offered by the Company to customers as of the date hereof (in each case with respect to clause (i), setting forth the applicable jurisdiction, title, application and registration or serial number and date, and record owner and, if different, the legal owner and beneficial owner).

(b) Except as would not be material to the Company, (i) the Company is the sole and exclusive owner of all right, title and interest in and to all Owned Intellectual Property, free and clear of all Liens (other than Permitted Liens), and owns, or has the right to use pursuant to a valid license, sublicense or other written agreement all other Intellectual Property and IT Systems used in or necessary for the conduct and operation of the Business of the Company, as presently conducted (it being understood that the foregoing representation in this Section 4.16(b) is not a representation or warranty with respect to non-infringement of third-party Intellectual Property), and (ii) none of the foregoing will be materially adversely impacted by (nor will require the payment or grant of additional material amounts or material consideration as a result of) the execution, delivery, or performance of this Agreement or the Transaction Agreements or the consummation of the Transactions.

(c) Except as would not, individually or in the aggregate, be material to the Company and the conduct and operation of the Business of the Company as presently conducted (including the creation, licensing, marketing, importation, offering for sale, sale, or use of the products and services of the business of the Company) to the Knowledge of the Company, the Company has not since Formation infringed, misappropriated or otherwise violated, and is not infringing, misappropriating or otherwise violating any Intellectual Property rights of any Person.

(d) There are no Legal Proceedings pending (or, to the Knowledge of the Company, threatened) and the Company has not received from any Person since Formation any written (or to the Knowledge of the Company, oral) notice, charge, complaint, claim or other assertion (A) of any infringement, misappropriation or other violation of any Intellectual Property right of any Person or (B) contesting the use, ownership, validity, or enforceability of any of the Owned Intellectual Property or any Licensed Intellectual Property that is the subject of an exclusive license, whether exclusive to a territory or exclusive to a field of use (the "***Exclusively Licensed Intellectual Property***").

(e) To the Knowledge of the Company, except as would not, individually or in the aggregate, be material to the Company, no third Person is infringing, misappropriating or violating, any Owned Intellectual Property or Exclusively Licensed Intellectual Property, and no such claims have been made in writing against any Person by the Company since Formation. None of the material Owned Intellectual Property or Exclusively Licensed Intellectual Property is subject to any pending or outstanding Order, settlement, consent order or other disposition of dispute that restricts the use, transfer, or registration of, or adversely affects the validity or enforceability of, any such Owned Intellectual Property or Exclusively Licensed Intellectual Property.

(f) No past or present director, officer or employee of the Company owns (or has any claim, or any right (whether or not currently exercisable) to any ownership interest, in or to) any material Owned Intellectual Property. Each of the past or present employees, consultants, and independent contractors of the Company who were or are either (i) privy to any material Trade Secrets of the Company or (ii) engaged in creating or developing for or on behalf of the Company any material Owned Intellectual Property in the course of such Person's employment or engagement has executed and delivered a valid written agreement pursuant to which such Person has respectively, (x) agreed to hold all confidential information of the Company in confidence; and (y) presently assigned to the Company all of such Person's rights, title and interest in and to all such material Intellectual Property created or developed for the Company in the course of such Person's employment or retention thereby (or all such rights, title, and interest vested in the Company by operation of law). To the Knowledge of the Company, there is no breach by any such Person with respect to any material Intellectual Property under any such agreement.

(g) The Company has taken commercially reasonable steps to maintain the secrecy, confidentiality and value of all material Trade Secrets constituting Owned Intellectual Property and Exclusively Licensed Intellectual Property (including all source code for any material Software constituting Owned Intellectual Property or Exclusively Licensed Intellectual Property) and all material Trade Secrets of any other Person in the Company's possession and to whom the Company has a contractual confidentiality obligation with respect to such material Trade Secrets. No Trade Secret that constitutes Owned Intellectual Property or Exclusively Licensed Intellectual Property and is material to the Business of the Company has been authorized to be disclosed, or, to the Knowledge of the Company, has been

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

disclosed to any other Person, in each case, other than as subject to a written agreement restricting the disclosure and use of such Trade Secret.

(h) No open source Software is or has been included, incorporated or embedded in, linked to, combined, made available or distributed with, or used in the development, maintenance, operation, delivery or provision of any Software constituting Owned Intellectual Property, in each case, in a manner that requires or obligates the Company to: (i) disclose, contribute, distribute, license or otherwise make available to any Person (including the open source community) any source code of any Software constituting Owned Intellectual Property; (ii) license any Software constituting Owned Intellectual Property for making modifications or derivative works; (iii) disclose, contribute, distribute, license or otherwise make available to any Person any Software constituting Owned Intellectual Property for no or nominal charge; or (iv) grant a license to, or refrain from asserting or enforcing any of, its Patents or other Owned Intellectual Property (collectively, "***Copyleft Terms***"), in each case, except as would not, individually or in the aggregate, be material to the Company. Except as would not, individually or in the aggregate, be material to the Company, the Company is in compliance with the terms and conditions of all relevant licenses for open source Software used in the Business of the Company.

(i) To the Knowledge of the Company, (i) no government funding, nor any facilities of a university, college, other educational institution, or similar institution, or research center, was used by the Company in the development of any Owned Intellectual Property, and (ii) no Governmental Entity has any: (A) ownership interest or exclusive license in or to any material Owned Intellectual Property; (B) "unlimited rights" (as defined in 48 C.F.R. § 52.227-14 and in 48 C.F.R. § 252.227-7013(a)) in or to any of the Software constituting Owned Intellectual Property; or (C) "march in rights" (pursuant to 35 U.S.C. § 203) in or to any Patents constituting material Owned Intellectual Property.

(j) Except as would not be material to the Company, the Company owns or has a valid right to access and use all Company IT Systems. The Company IT Systems are adequate in all material respects for the operation and conduct of the Business of the Company as currently conducted. To the Knowledge of the Company, neither the Company IT Systems nor any Software that constitutes Owned Intellectual Property contains any viruses, worms, Trojan horses, bugs, faults or other devices, errors, contaminants or effects that (i) materially disrupt or materially adversely affect the functionality of the Company IT Systems, except as disclosed in their documentation or (ii) enable or assist any Person to access without authorization any Company IT Systems. To the Knowledge of the Company, since Formation, there has been no unauthorized access to or material breach or material violation of any Company IT Systems. Since Formation, there have been no failures, breakdowns, continued substandard performance, data loss, material outages, material unscheduled downtime or other adverse events affecting any such Company IT Systems that have caused or could reasonably be expected to result in the material disruption of or material interruption in or to the conduct and operation of the Business of the Company.

(k) Except as would not be material to the Company, neither the execution, delivery and performance of this Agreement, the Transaction Agreements nor the consummation of the Transactions will result in the: (i) loss or impairment of, or any Lien (other than any Permitted Lien) on, any Owned Intellectual Property or material Licensed Intellectual Property; (ii) release, disclosure or delivery of any source code constituting Owned Intellectual Property to any Person; (iii) grant, assignment or transfer to any other Person of any license or other right or interest under, to or in any Owned Intellectual Property; or (iv) payment of any additional consideration to, or the reduction of any payments from, any Person with respect to any Owned Intellectual Property or material Licensed Intellectual Property.

Section 4.17 **Privacy**.

(a) The Company and any Person acting for the Company or on its behalf has at all times since Formation (in the case of any such Person, during the time such Person was acting for or on behalf of the Company) materially complied, as applicable to the Company, with: (i) all applicable Privacy Laws; (ii) all of the Company's policies and notices regarding Personal Information; and (iii) all of the Company's obligations regarding Personal Information and information technology security under any Contracts. The Company has not received since Formation any written notice of any claims, investigations, inquiries or alleged violations of applicable Privacy Laws, or regulations or contracts regarding Personal Information (including from third parties acting on its behalf), or been

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

charged with the violation of any Privacy Laws. The Company has not been notified in writing, or been required by applicable Legal Requirement, or Contract to notify in writing, any Person of any personal data or information security-related incident.

(b) To the Knowledge of the Company, since Formation the Company has: (i) implemented and maintained in all material respects commercially reasonable security regarding the confidentiality, integrity and availability of Company IT Systems and the data thereon (including Personal Information and other confidential data in its possession or under its control) against loss, theft, misuse or unauthorized access, use, modification or disclosure; and (ii) required all third-party service providers, outsourcers, processors or other third parties who process, store or otherwise handle Personal Information, business proprietary or sensitive information for or on behalf of the Company to comply with applicable Privacy Laws in all material respects and to take reasonable steps to protect and secure its information technology systems, Personal Information, business proprietary or sensitive information from loss, theft, misuse or unauthorized access, use, modification or disclosure.

(c) To the Knowledge of the Company, since Formation, there have been no material breaches, security incidents, misuse of or unauthorized access to or disclosures impacting the confidentiality, integrity and availability of the material Company IT Systems and the data thereon, including any Personal Information and other confidential data in the possession or control of the Company or collected, used or processed by or on behalf of the Company. To the Knowledge of the Company, the Company has not experienced any material information security incident that has compromised the integrity or availability of the Company IT Systems in any material respect. The Company has implemented commercially reasonable disaster recovery and business continuity plans, to safeguard the Personal Information in its possession or control.

(d) The practices, policies and procedures for the Company with regard to payment instrument information are in full compliance with all rules, regulations, standards and guidelines adopted or required (i) by all payment card brands that are accepted as a form of payment by, or whose instrument information is otherwise handled by, the Company, and (ii) by the Payment Card Industry Security Standards Council, in either case relating to privacy, data security or the safeguarding, disclosure or handling of payment instrument information, including but not limited to (A) the Payment Card Industry Data Security Standards, (B) the Payment Card Industry's Payment Application Data Security Standard, (C) the Payment Card Industry's PIN Transaction Security requirements, (D) Visa's Cardholder Information Security Program and Payment Application Best Practices, (E) American Express's Data Security Operating Policy, (F) MasterCard's Site Data Protection Program and POS Terminal Security program, and (G) the analogous security programs implemented by other card brands, in each case as they may be amended from time to time.

Section 4.18 **Agreements, Contracts and Commitments**.

(a) Schedule 4.18 of the Company Disclosure Letter sets forth a true, correct and complete list of each Company Material Contract (as defined below) that is in effect as of the date of this Agreement. For purposes of this Agreement, "***Company Material Contract***" of the Company shall mean each Company Real Property Lease and each of the following Contracts to which the Company is a party:

(i) Each Contract (including purchase orders with suppliers or customers) that the Company reasonably anticipates will involve annual payments or consideration furnished by or to the Company of more than $25,000;

(ii) Each note, debenture, other evidence of indebtedness, guarantee, loan, credit or financing agreement or instrument or other contract for money borrowed by the Company from a third party;

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(iii) Each Contract related to any material equipment used in the manufacturing, packaging and/or distribution of the Company's products, including, without limitation, all Contracts concerning the Software and technology related thereto or the maintenance thereof;

(iv) Each Contract for the acquisition of any Person or any business division thereof or the disposition of any material assets of the Company, in each case, whether by merger, purchase or sale of stock or assets or otherwise occurring in the last three years, other than Contracts (A) in which the applicable acquisition or disposition has been consummated and there are no material obligations ongoing (other than customary non-disclosure and similar obligations incidental thereto) or (B) entered into in the ordinary course of business;

(v) Each collective bargaining (or similar) agreement or Contract with any labor union or other body representing employees of the Company;

(vi) Each lease, rental agreement, installment and conditional sale agreement, or other Contract that, in each case, (A) provides for the ownership of, leasing of, title to, use of, or any leasehold or other interest in any personal property; and (B) involves annual payments in excess of $25,000;

(vii) Each joint venture Contract, partnership agreement or limited liability company agreement with a third party;

(viii) Each agreement with any Affiliate of the Company;

(ix) Each Contract with any current or former employee or consultant of the Company;

(x) Each Contract, other than customary non-disclosure agreements, that contains covenants expressly limiting in any material respect the freedom of the Company to: (A) compete with any Person in a product line or line of business; (B) operate in any geographic area; or (C) solicit customers;

(xi) Each Contract providing for indemnification or any guaranty by the Company, in each case that is material to the Company, other than (A) any guaranty by the Company of any of the obligations of the Company or (B) any Contract providing for indemnification of customers or other Persons pursuant to Contracts entered into in the ordinary course of business;

(xii) Each Contract that grants any right of first refusal, right of first offer, or similar right with respect to any material assets, rights, or properties of the Company;

(xiii) any Contract that obligates the Company to conduct business on an exclusive or preferential basis or that contains a "most favored nation" or similar covenant with any third party or upon consummation of the Transactions will obligate Iconic or the Company to conduct business on an exclusive or preferential basis;

(xiv) Each Contract (including any license agreement, coexistence agreement and agreement with a covenant not to sue) pursuant to which the Company either (A) grants to a third Person a license, immunity, or other right in or to any material Owned Intellectual Property or (B) is granted by a third Person a license, immunity, or other right in or to any Intellectual Property or IT Systems material to the business of the Company, provided, however, that none of the following shall be required to be set forth on Schedule 4.18(a)(xiv) of the Company Disclosure Letter but shall constitute Company Material Contracts if they otherwise qualify: (x) non-exclusive licenses of Owned Intellectual Property granted by the Company to customers in the ordinary course of business consistent with past practice; (y) licenses of open source Software; and (z) click-wrap, shrink-wrap and off-the-shelf Software licenses of customized Software that are available on standard terms to the public generally with license, maintenance, support and other fees less than $5,000 per year; and

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(xv) Any outstanding written commitment to enter into any Contract of the type described in subsections (i) through (xiv) of this Section 4.18(a).

(b) Except as would not, individually or in the aggregate, reasonably be expected to be material to the Company, all Company Material Contracts are: (i) in full force and effect, subject to the Remedies Exception and (ii) represent the legal, valid and binding obligations of the Company and, to the Knowledge of the Company, represent the legal, valid and binding obligations of the other parties thereto. True, correct and complete copies of all Company Material Contracts in effect as of the date hereof have been made available to Iconic. Neither the Company nor, to the Knowledge of the Company, any other party thereto, is in material breach of or default under, and to the Knowledge of the Company, no event has occurred which with notice or lapse of time or both would become a material breach of or default under, any of the Company Material Contracts, and no party to any Company Material Contract has given any written or, to the Knowledge of the Company, oral, claim or notice of any such material breach, default or event.

Section 4.19 **Insurance**. Schedule 4.19 of the Company Disclosure Letter contains a list of all material policies of property, fire and casualty, product liability, workers' compensation, and other forms of insurance held by, or for the benefit of, the Company as of the date of this Agreement (collectively, the "***Insurance Policies***"), which policies are in full force and effect. True and complete copies of the Insurance Policies (or, to the extent such policies are not available, policy binders) have been made available to Iconic or its representatives. The Insurance Policies satisfy in all material respects all insurance-related requirements necessary for the operation of the business and for the Company to maintain in good standing all Approvals. The Company has not received any written notice from any insurer under any of the Insurance Policies, canceling, terminating or materially adversely amending any such policy or denying renewal of coverage thereunder and all premiums on such insurance policies due and payable as of the date hereof have been paid. There is no pending claim by the Company against any insurance carrier for which coverage has been denied or disputed by the applicable insurance carrier (other than a customary reservation of rights notice).

Section 4.20 **Related Party Transactions**. No member, officer, director or immediate family member of any member, officer or director of the Company is presently a party to any Contract with the Company other than (a) Company Benefit Plans, (b) Contracts relating to labor and employment matters, and (c) Contracts entered into on an arm's length basis and in the ordinary course of business and set forth on Schedule 4.20 of the Company Disclosure Letter (any such Contract, an "***Affiliate Agreement***").

Section 4.21 **Customers and Suppliers**. Schedule 4.21 of the Company Disclosure Letter sets forth the (i) ten (10) largest suppliers (in terms of dollars spent by the Company) of the Company during the calendar year 2020 and from January 1, 2021 to the date hereof, (ii) the ten (10) largest customers (in terms of dollars billed by the Company) of the Company during the calendar year 2020 and from January 1, 2021 to the date hereof and (iii) the dollar amount of goods purchased by the Company from each such supplier and the dollar amount billed by the Company to each such customer during each such period (the "***Major Business Partners***"). Except as otherwise set forth in Schedule 4.21 of the Company Disclosure Letter, the Company maintains good relations with its respective Major Business Partners, and no such party has canceled, terminated or materially modified or, to the Knowledge of the Company, made any threat to cancel, terminate or otherwise materially modify its relationship with or to decrease its services or supplies to or its direct or indirect purchase or usage of the products or services of the Company. No material rebates (volume or otherwise), discounts or benefits are due, accruing due or payable to any customer of the Company. Except as set forth on Schedule 4.21 of the Company Disclosure Letter, no supplier of the Company is a sole source supplier, nor during the last twelve (12) months, has the Company been dependent upon any one supplier for more than ten percent (10%) by value of its purchases. For the avoidance of doubt Contracts with Major Business Partners shall be considered Company Material Contracts for all purposes hereunder.

Section 4.22 **Anti-Corruption; Sanctions**.

(a) Since Formation the Company has complied in all material respects with all applicable anti-bribery and anti-corruption Legal Requirements, including (i) the U.S. Foreign Corrupt Practices Act of 1977, as amended, or any rules or regulations thereunder, (collectively, the "***Anti-Corruption Laws***"), and (ii) all applicable anti-money laundering Legal Requirements, including the Currency and Foreign Transactions Reporting Act of 1970, commonly called the Bank Secrecy Act, as amended, and the Money Laundering Control Act of 1986, as amended, or

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

any rules or regulations thereunder (collectively, the "***Anti-Money Laundering Laws***"), including the maintenance of appropriate anti-money laundering programs to ensure compliance with such Anti-Money Laundering Laws, and no material deficiencies in such programs have been identified.

(b) Neither the Company nor any director or officer of the Company, nor, to the Knowledge of the Company, any employee, agent or representative of the Company has, directly or indirectly, violated any, or been subject to actual or, to the Knowledge of the Company, pending or threatened Legal Proceedings, demand letters, settlements or enforcement actions relating to any Anti-Corruption Law or any Anti-Money Laundering Law.

(c) Neither the Company nor any director or officer of the Company, nor, to the Knowledge of the Company, any employee, agent or representative of the Company has, directly or indirectly, given, made, offered or received or agreed to give, make, offer or receive any payment, gift, contribution, commission, rebate, promotional allowance, expenditure or other economic advantage: (i) which would violate any applicable Anti-Corruption Law; or (ii) to or for a Public Official with the intention of (A) unlawfully influencing any official act or decision of such Public Official; (B) inducing such Public Official to do or omit to do any act in violation of their lawful duty; (C) securing any unlawful advantage; or (D) inducing such Public Official to influence or affect any act or decision of any Governmental Entity or commercial enterprise owned or controlled by any Governmental Entity, in each case, in order to assist the Company, or, to the Knowledge of the Company, any employee, agent or representative of the Company in obtaining or retaining business for or with, or in directing business to, the Company or any other Person.

(d) Neither the Company nor any director or officer of the Company, nor, to the Knowledge of the Company, any employee, agent or representative of the Company, is a Person that is the subject of economic sanctions administered by OFAC (including the designation as a "***Specially Designated National or Blocked Person***" thereunder), Her Majesty's Treasury, the European Union, the Bureau of Industry Security of the U.S. Department of Commerce, or any applicable sanctions measures under the U.S. International Emergency Economic Powers Act, the U.S. Trading with the Enemy Act, the U.S. Iran Sanctions Act, the U.S. Comprehensive Iran Sanctions, Accountability and Divestment Act of 2010, the U.S. Iran Threat Reduction and Syria Human Rights Act of 2012, the U.S. National Defense Authorization Act of 2012 or the U.S. National Defense Authorization Act of 2013, or any executive order, directive or regulation pursuant to the authority of any of the foregoing, including the regulations of the U.S. Department of the Treasury set forth under 31 CFR, Subtitle B, Chapter V, or any orders or licenses issued thereunder (collectively, "***Sanctions***"), nor, to the Knowledge of the Company, are any of the foregoing designated as a Specially Designated National or Blocked Person by OFAC. Since Formation the Company has not been in material violation of applicable Sanctions.

Section 4.23 **CARES Act**. Except as set forth on Schedule 4.23 of the Company Disclosure Letter, the Company has not incurred any loan (including any deferred Taxes), note, bond, debenture or other debt instrument, debt security or other similar instrument, directly or indirectly, pursuant to any program established by the CARES Act, as amended or supplemented from time to time.

Section 4.24 **Liquor Licenses**. Schedule 4.24 of the Company Disclosure Letter sets forth a true, correct, and complete list of all Liquor Licenses held by the Company. To the extent required by applicable Legal Requirements, the Company possesses a Liquor License and all Approvals necessary to manufacture, store, label, ship, sell and deliver each and every alcoholic beverage product in every jurisdiction in which it does business or into which it sells or ships products.

Section 4.25 **Company Member Approval of this Agreement and the Transactions**. The Company has received unanimous approval from Company Members to enter into this Agreement and to consummate the Transactions.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Section 4.26 **No Other Representations and Warranties; Disclaimer of Other Warranties**.

(a) Except for the representations and warranties contained in this Article IV (including the related portions of the Company Disclosure Letter), neither the Company, nor any other Person has made or makes any other express or implied representation or warranty, either written or oral, on behalf of the Company, including any representation or warranty as to the accuracy or completeness of any information regarding the Company furnished or made available to Iconic or its representatives (including the information set forth in Section 5.10(b).

(b) The Company hereby acknowledges that, except as expressly provided in Article V, neither Iconic nor any of its Affiliates or representatives has made, is making, or shall be deemed to make any representation or warranty whatsoever, express or implied, at law or in equity, to the Company, any of its Affiliates or representatives or any other person, with respect to Iconic or any of its respective businesses, assets or properties of the foregoing, or otherwise, including any representation or warranty as to merchantability, fitness for a particular purpose, future results, proposed businesses or future plans. Without limiting the foregoing and notwithstanding anything to the contrary: (a) neither Iconic nor any of its Affiliates or representatives shall be deemed to make to the Company, Company Members or their respective Affiliates or representatives any representation or warranty other than as expressly made by Iconic to the Company in Article V and the representations and warranties in the other transaction documents; and (b) neither Iconic nor any of its Affiliates or representatives, has made, is making, or shall be deemed to make to the Company, Company Members, or their respective Affiliates or representatives or any other Person any representation or warranty, express or implied, with respect to: (i) the information distributed or made available to them by or on behalf of Iconic in connection with this Agreement and the Transactions; (ii) any management presentation, confidential information memorandum or similar document; or (iii) any financial projection, forecast, estimate, budget or similar item relating to Iconic or any of its business, assets, liabilities, properties, financial condition, results of operations and projected operations of the foregoing. The Company hereby acknowledges that it has not relied on any promise, representation or warranty that is not expressly set forth in Article V of this Agreement. The Company acknowledges that it has conducted, to its satisfaction, an independent investigation and verification of Iconic and the business, assets, liabilities, properties, financial condition, results of operations and projected operations of the foregoing and, in making its determination to proceed with the Transactions the Company has relied on the results of its own independent investigation and verification, in addition to the representations and warranties of Iconic expressly and specifically set forth in Article V of this Agreement and the representations and warranties in the other Transaction Agreements. Notwithstanding anything to the contrary in this Section 4.26, claims against Iconic or any other Person shall not be limited in any respect in the event of Fraud in the making of the representations and warranties in Article V by such Person.

ARTICLE V

REPRESENTATIONS AND WARRANTIES OF ICONIC

Except as (a) set forth in the Disclosure Letter dated as of the date of this Agreement and delivered by Iconic to the Company on or prior to the date of this Agreement (the "***Iconic Disclosure Letter***") and (b) as disclosed on (i) Iconic's annual report Form 10-K for the fiscal year ended December 31, 2020 and/or (ii) Iconic's quarterly report on Form 10-Q filed for the fiscal quarter ended March 31, 2021, in each case as filed with the SEC and publicly available, Iconic represents and warrants to the Company and Company Members as of the date hereof as follows:

Section 5.01 **Organization and Qualification**.

(a) Iconic is a corporation duly incorporated, validly existing and in good standing under the laws of the State of Nevada. Iconic has the requisite corporate power and authority to own, lease and operate its assets and properties and to carry on its business as it is now being conducted, except as would not be material to Iconic.

(b) Iconic is not in violation of any of the provisions of its respective Organizational Documents.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(c) Iconic is duly qualified or licensed to do business as a foreign corporation and is in good standing, in each jurisdiction where the character of the properties owned, leased or operated by it or the nature of its activities makes such qualification or licensing necessary, except as would not be material to Iconic.

Section 5.02 **Capitalization**.

(a) On or about the Closing Date, Iconic has authorized One Hundred Million (100,000,000) shares of preferred stock, par value $0.001 per share ("***Preferred Stock***"), consisting Forty Five- Thousand (45,000) shares of Series A-2 Convertible Preferred Stock, of which a total of 26,623.49 shares are issued and outstanding.

(b) On or about the Closing Date, Five Hundred Million (500,000,000) shares of Iconic Common Stock are authorized and 89,182,764 shares are issued and outstanding and, as contemplated by this Agreement, Iconic has committed to issue to Company Members Iconic Common Stock as Stock Consideration. All outstanding shares of Iconic Common Stock have been duly authorized, validly issued, fully paid and are non-assessable.

(c) On or about the Closing Date, warrants to acquire 87,643,083 shares of Iconic Common Stock (each a "***Warrant***") are outstanding and exercisable at a price of $0.3125 per share. All of such Warrants were issued in compliance in all material respects with all applicable Legal Requirements.

(d) Each share of the Preferred Stock and the Iconic Common Stock and each Warrant: (i) has been issued in compliance in all material respects with: (A) applicable Legal Requirements; and (B) the Organizational Documents of Iconic; and (ii) was not issued in violation of any purchase option, call option, right of first refusal, preemptive right, subscription right or any similar right under any applicable Legal Requirements, the Organizational Documents of Iconic or any Contract to which any of Iconic is a party or otherwise bound.

(e) Each share of Iconic Common Stock issued upon exercise of any Warrant (i) will be issued in compliance in all material respects with: (A) applicable Legal Requirements; and (B) the Organizational Documents of Iconic; and (ii) was not issued in violation of any purchase option, call option, right of first refusal, preemptive right, subscription right or any similar right under any applicable Legal Requirements, the Organizational Documents of Iconic or any Contract to which Iconic is a party or otherwise bound.

(f) There are no voting trusts, stockholder agreements, proxies or other agreements in effect pursuant to which Iconic or any of its subsidiaries has a contractual or other obligation with respect to the voting or transfer of the Iconic Common Stock.

(g) The shares of Iconic Common Stock issued as Stock Consideration, when issued in accordance with this Agreement, (i) will be duly authorized, validly issued, fully paid and non-assessable and (ii) will be free and clear of any encumbrances. The issuance of Iconic Common Stock as Stock Consideration is not subject to any preemptive rights or rights of first refusal applicable to Iconic or any similar rights in respect thereof.

Section 5.03 **Due Authorization**. Iconic has the requisite power and authority to: (a) execute, deliver and perform this Agreement and the Transaction Agreements that it has executed or delivered or is to execute or deliver pursuant to this Agreement; and (b) carry out its obligations hereunder and thereunder and to consummate the Transactions. The execution and delivery by Iconic of this Agreement, the Transaction Agreements and the consummation by Iconic of the Transactions have been duly and validly authorized by all necessary corporate action on the part of Iconic, and no other proceedings on the part of Iconic are necessary to authorize this Agreement. This Agreement and the Transaction Agreements have been duly and validly executed and delivered by Iconic and, assuming the due authorization, execution and delivery thereof by the other Parties, constitute the legal and binding obligations of Iconic, enforceable against Iconic in accordance with their terms, subject to the Remedies Exception.

Section 5.04 **No Conflict; Required Filings and Consents**.

(a) Neither the execution, delivery nor performance by Iconic of this Agreement or the other Transaction Agreements to which it is a party, nor the consummation of the Transactions shall: (i) conflict with or

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

violate its Organizational Documents; (ii) assuming that the consents, approvals, orders, authorizations, registrations, filings or permits referred to in Section 5.04(b) are duly and timely obtained or made, conflict with or violate any applicable Legal Requirements; or (iii) result in any breach of or constitute a default (or an event that with notice or lapse of time or both would become a default) under, or materially impair its rights or alter the rights or obligations of any third party under, or give to any third party any rights of consent, termination, amendment, acceleration or cancellation of, or result in the creation of a Lien (other than any Permitted Lien) on any of the properties or assets of Iconic, except, with respect to clause (ii) or (iii), as would not, individually or in the aggregate, have an Iconic Material Adverse Effect.

(b) The execution and delivery by Iconic of this Agreement and the other Transaction Agreements to which it is a party, does not, and the performance of its obligations hereunder and thereunder will not, require any consent, approval, authorization or permit of, or filing with or notification to, any Governmental Entity, except: (i) for applicable requirements, if any, of the Securities Act, the Exchange Act, blue sky laws, and the rules and regulations thereunder, and appropriate documents with the relevant authorities of other jurisdictions in which Iconic is qualified to do business; and (ii) where the failure to obtain such consents, approvals, authorizations or permits, or to make such filings or notifications, would not, individually or in the aggregate, reasonably be expected to have an Iconic Material Adverse Effect, or prevent the consummation of the Transactions.

Section 5.05 **Board Approval**. The board of directors of Iconic has, as of the date of this Agreement, unanimously: (a) approved and declared the advisability of this Agreement, the Transaction Agreements and the consummation of the Transactions; and (b) determined that the consummation of the Transactions is in the best interest of the stockholders of Iconic.

Section 5.06 **Financial Statements/SEC Reports**.

(a) The (i) the audited balance sheet as of December 31, 2020 and audited statements of operations and comprehensive loss, changes in equity and cash flows of Iconic for the twelve-month period ended December 31, 2020 (the "***Iconic Audited Financial Statements***"); and (ii) an unaudited consolidated balance sheet as of March 31, 2021 and statements of operations and comprehensive loss and cash flows of Iconic as of and for the three-month period then ended (the "***Iconic Interim Financial Statements***" and, together with the Iconic Audited Financial Statements, the "***Iconic Financial Statements***") of Iconic have been provided to the Company and Company Members and/or filed with the Iconic SEC Reports.

(b) The Iconic Financial Statements (i) present fairly, in all material respects, the financial position, results of operations and cash flows of Iconic as of the dates and for the periods indicated in such Iconic Financial Statements in conformity with GAAP on a consistent basis throughout the periods indicated (except as may be indicated in the notes thereto and, in the case of the Iconic Interim Financial Statements, the absence of footnotes and for normal year-end adjustments, which are not expected to be material) and (ii) were prepared from the books and records of Iconic.

(c) Iconic has not identified or been made aware of (i) any significant deficiency or material weakness in the system of internal accounting controls utilized by Iconic, (ii) any fraud, whether or not material, that involves Iconic's management or other employees who have a role in the preparation of financial statements or the internal accounting controls utilized by Iconic or (iii) any claim or allegation regarding any of the foregoing.

(d) Since January 1, 2019, Iconic has filed with the SEC all forms, statements, registrations, reports and documents required to be filed by it under the Securities Act and the Exchange Act (collectively, the "***Iconic SEC Reports***"). The Iconic SEC Reports: (i) at the time filed, complied in all material respects with the applicable requirements of the Securities Act and Exchange Act, as applicable and (ii) did not, at the time they were filed (or if amended or superseded by a filing before the date of this Agreement, then on the date of such amending or superseding filing) contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(e) To Iconic's Knowledge, none of the Iconic SEC Reports is the subject of ongoing SEC review and there are no inquiries or investigations by the SEC or any internal investigations pending or threatened, of Iconic or any of its subsidiaries. Iconic has not received written comments from the SEC staff regarding any of the Iconic SEC Reports that remain unresolved.

Section 5.07 **No Undisclosed Liabilities**. Iconic does not have any liabilities (whether accrued, absolute, contingent, unknown or otherwise) that would be required to be set forth on a balance sheet prepared in accordance with GAAP, except for liabilities: (a) provided for in, or otherwise reflected or reserved for on the Iconic Financial Statements or disclosed in the notes thereto; (b) that have arisen since the date of the most recent balance sheet included in the Iconic Financial Statements in the ordinary course of the operation of business of Iconic and which are not material in amount; (c) incurred in connection with the transactions contemplated by this Agreement or the Transaction Agreements; or (d) that would not be material to the business of Iconic, taken as a whole.

Section 5.08 **Litigation**. (a) There are no pending or, to Iconic's knowledge, threatened Legal Proceedings against Iconic or any of its properties or assets, or any of its directors or officers with regard to their actions as such; (b) there are no pending or, to Iconic's knowledge, threatened audits, examinations or investigations by any Governmental Entity against Iconic; (c) there are no pending or threatened in writing Legal Proceedings by Iconic against any third party; (d) there are no settlements or similar agreements that impose any material ongoing obligations or restrictions on Iconic; (e) there are no Orders imposed or, to Iconic's knowledge, threatened to be imposed upon Iconic or any of its properties or assets, or any of its directors or officers with regard to their actions as such; and (f) there are no investigations or Legal Proceedings pending or, to Iconic's knowledge, threatened against or by Iconic or any of its Affiliates that challenge or seek to prevent, enjoin or otherwise delay the transactions contemplated by this Agreement.

Section 5.09 **Brokers**. Neither Iconic nor any of its Affiliates, has any liability or obligation to pay, or is entitled to receive, any fees or commissions to any broker, finder or agent with respect to the Transactions.

Section 5.10 **No Other Representations and Warranties; Disclaimer of Other Warranties.**

(a) Except for the representations and warranties contained in this Article V (including the related portions of the Iconic Disclosure Letter), neither Iconic nor any other Person has made or makes any other express or implied representation or warranty, either written or oral, on behalf of Iconic, including any representation or warranty as to the accuracy or completeness of any information regarding Iconic furnished or made available to the Company or Company Members, or their respective representatives (including the information set forth in Section 4.26(b) and Section 6.08(b)).

(b) Iconic hereby acknowledges that, except as expressly provided in Article IV, with respect to the Company, and Article VI, with respect to Company Members, none of the Company, Company Members or any of their respective Affiliates or representatives has made, are making, or shall be deemed to make any representation or warranty whatsoever, express or implied, at law or in equity, to Iconic, any of its Affiliates or representatives or any other Person, with respect to the Company, Company Members or any of their respective directors, officers, employees, businesses, assets or properties of the foregoing, or otherwise, including any representation or warranty as to merchantability, fitness for a particular purpose, future results, proposed businesses or future plans. Without limiting the foregoing and notwithstanding anything to the contrary contained herein: (a) none of the Company, Company Members or any of their respective Affiliates or representatives shall be deemed to make to Iconic or its Affiliates or representatives any representation or warranty other than as expressly made by the Company or Company Members to Iconic in Article IV, with respect to the Company, and Article VI, with respect to Company Members; and (b) none of the Company, Company Members or any of their respective Affiliates or representatives, has made, are making, or shall be deemed to make to Iconic or its Affiliates or representatives or any other Person any representation or warranty, express or implied, with respect to: (1) the information distributed or made available to Iconic or its

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

representatives by or on behalf of the Company or Company Members in connection with this Agreement and the Transactions; (2) any management presentation, confidential information memorandum or similar document; or (3) any financial projection, forecast, estimate, budget or similar item relating to the Company and/or the business, assets, liabilities, properties, financial condition, results of operations and projected operations of the Company. Iconic hereby acknowledges that it has not relied on any promise, representation or warranty that is not expressly set forth in Article IV or Article VI. Iconic acknowledges that it has conducted, to its satisfaction, an independent investigation and verification of the Company, Company Members and the business, assets, liabilities, properties, financial condition, results of operations and projected operations of the foregoing and, in making its determination to proceed with the Transactions, Iconic has relied on the results of its own independent investigation and verification, in addition to the representations and warranties of the Company and Company Members expressly and specifically set forth in Article IV, with respect to the Company, and Article VI, with respect to Company Members, and the representations and warranties in the Transaction Agreements. Notwithstanding anything to the contrary in this Section 5.10, claims against the Company, Company Members or any other Person shall not be limited in any respect in the event of Fraud in the making of the representations and warranties in Article IV and Article VI by such Person.

ARTICLE VI

REPRESENTATIONS AND WARRANTIES OF COMPANY MEMBERS

Except as set forth in the Disclosure Letter dated as of the date of this Agreement and delivered by Company Members to Iconic on or prior to the date of this Agreement (the "***Company Member Disclosure Letter***"), Company Members, on a several and not joint basis, represent and warrant to Iconic as of the date hereof as follows:

Section 6.01 **Organization and Qualification**.

(a) As applicable, each Company Member is duly organized, validly existing and in good standing under the applicable Legal Requirements of the state in which it exists. As applicable, each Company Member has the requisite power and authority to own, lease and operate its assets and properties and to carry on its business as it is now being conducted, except as would not be material to such Company Member's business as a whole.

Section 6.02 **Due Authorization**. Each Company Member has the requisite power and authority to: (a) execute, deliver and perform this Agreement and each Transaction Agreement that it has executed or delivered or is to execute or deliver pursuant to this Agreement; and (b) carry out its obligations hereunder and thereunder and, to consummate the Transactions. The execution and delivery by each Company Member of this Agreement, and the consummation by Company Members of the Transactions have been duly and validly authorized by all necessary corporate or limited liability company action on the part of each Company Member, as applicable, and no other proceedings on the part of Company Members are necessary to authorize this Agreement. This Agreement and the Transaction Agreements have been duly and validly executed and delivered by Company Members and, assuming the due authorization, execution and delivery thereof by the other Parties, constitute the legal and binding obligations of Company Members (as applicable), enforceable against Company Members in accordance with their terms, subject to the Remedies Exception.

Section 6.03 **No Conflict**.

(a) Neither the execution, delivery nor performance by Company Members of this Agreement or the other Transaction Agreements to which any of them is a party, nor the consummation of the Transactions shall: (i) conflict with or violate their respective Organizational Documents, as applicable; (ii) assuming that any consents, approvals, orders, authorizations, registrations, filings or permits required hereunder are duly and timely obtained or made, conflict with or violate any applicable Legal Requirements; or (iii) result in any breach of or constitute a default (or an event that with notice or lapse of time or both would become a default) under, or materially impair their respective rights or alter the rights or obligations of any third party under, or give to any third party any rights of consent, termination, amendment, acceleration or cancellation of, or result in the creation of a Lien (other than any

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Permitted Lien) on any of the Contracts, properties or assets of Company Members, except, with respect to clauses (ii) or (iii), as would not, individually or in the aggregate, prevent the consummation of the Transactions.

(b) The execution and delivery by each Company Member of this Agreement and the other Transaction Agreements to which it is a party, does not, and the performance of its obligations hereunder and thereunder will not, require any consent, approval, authorization or permit of, or filing with or notification to, any Governmental Entity, except where the failure to obtain such consents, approvals, authorizations or permits, or to make such filings or notifications, would not, individually or in the aggregate, prevent the consummation of the Transactions.

(c) To Company Members' Knowledge, (i) all applications filed by the Company for Liquor Licenses and Approvals were made with full disclosure of all relevant facts, including the method of operation, and (ii) the method of operation of the Company matches that which was filed with each applicable Governmental Entity. To Company Members' Knowledge there are no grounds for revocation, suspension or limitation of any Liquor Licenses or Approvals or other material Approvals exist and no Actions are pending or, to Company Members' Knowledge, threatened that seek the revocation, cancellation, suspension, limitation or modification of any of the same.

Section 6.04 **Company Interests**. Company Members have sole ownership of the Company Interests free and clear of all Liens (other than Permitted Liens and restrictions on transfer pursuant to applicable securities Legal Requirements). Company Members are not party to any option, warrant, purchase right or other Contract other than this Agreement that requires Company Members to sell, transfer or otherwise dispose of any Company Interests, or that gives any other Person any rights with respect to the Company Interests or otherwise pertains to the Company Interests. Company Members are not party to any voting trust, proxy or other Contract with respect to the voting of any Company Interests.

Section 6.05 **Securities Matters**.

(a) Company Members acknowledge that the shares of Iconic Common Stock comprising the Stock Consideration are not registered under the Securities Act or any state or foreign securities laws on the grounds that the issuance thereof to Company Members in connection with the transactions contemplated by this Agreement is exempt from otherwise applicable registration requirements.

(b) Each Company Member is acquiring its portion of the shares of Iconic Common Stock comprising the Stock Consideration solely for its own account and not with a view to, or for offer or sale in connection with, any distribution thereof and each such Company Member has no plans to enter into any contract, undertaking or agreement for such purpose, provided, however, each Company Member may distribute its portion of the Stock Consideration as a pro rata distribution or dividend to its equity holders for no consideration.

(c) Company Members understand that the shares of Iconic Common Stock comprising the Stock Consideration are restricted securities and may not be transferred or sold except pursuant to the registration provisions of the Securities Act or pursuant to an applicable exemption therefrom and subject to state and foreign securities laws and regulations, as applicable.

Section 6.06 **Litigation**. There are no pending or, to the knowledge of the Company Members, threatened Legal Proceedings against Company Members (a) that question the validity of this Agreement or any action taken or to be taken by such Company Members in connection with, or which seek to enjoin or obtain monetary damages in respect of, this Agreement; or (b) that, individually or in the aggregate, would reasonably be expected to adversely affect in any material respect the ability of Company Members to perform their respective obligations under, and consummate the transactions contemplated by, this Agreement.

Section 6.07 **Brokers**. No Company Members, nor any of their respective Affiliates, has any liability or obligation to pay, or is entitled to receive, any fees or commissions to any broker, finder or agent with respect to the Transactions.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Section 6.08 **No Other Representations and Warranties; Disclaimer of Other Warranties**.

(a) Except for the representations and warranties contained in this Article VI (including the related portions of the Company Member Disclosure Letter), neither Company Members nor any other Person has made or makes any other express or implied representation or warranty, either written or oral, on behalf of Company Members, including any representation or warranty as to the accuracy or completeness of any information regarding Company Members furnished or made available to Iconic or its representatives.

(b) Company Members hereby acknowledge that, except as expressly provided in Article V, neither Iconic nor any of its Affiliates or representatives has made, is making, or shall be deemed to make any representation or warranty whatsoever, express or implied, at law or in equity, to Company Members, any of their respective Affiliates or representatives or any other Person, with respect to Iconic or any of its directors, officers, employees, businesses, assets or properties of the foregoing, or otherwise, including any representation or warranty as to merchantability, fitness for a particular purpose, future results, proposed businesses or future plans. Without limiting the foregoing and notwithstanding anything to the contrary: (a) neither Iconic nor any of its Affiliates or representatives shall be deemed to make to Company Members or their respective Affiliates or representatives any representation or warranty other than as expressly made by Iconic to Company Members in Article V; and (b) neither Iconic nor any of its Affiliates or representatives, has made, is making, or shall be deemed to make to Company Members or their respective Affiliates or representatives or any other Person any representation or warranty, express or implied, with respect to: (1) the information distributed or made available to Company Members or their respective representatives by or on behalf of Iconic in connection with this Agreement and the Transactions; (2) any management presentation, confidential information memorandum or similar document; or (3) any financial projection, forecast, estimate, budget or similar item relating to Iconic and/or the business, assets, liabilities, properties, financial condition, results of operations and projected operations of Iconic.

ARTICLE VII

ADDITIONAL AGREEMENTS

Section 7.01 **Company Member Approval**. Upon the terms set forth in this Agreement, and in accordance with the Company's Organizational Documents, the Company shall solicit and obtain the requisite approval of Company Members (the "***Company Member Approval***") to this Agreement and to the Transactions contemplated hereby.

Section 7.02 **Regulatory Notices and Filings**.

(a) Iconic, the Company and Company Members shall timely file and/or deliver all notices and or applications in connection with any approval required by any Governmental Entity having jurisdiction over any Liquor License held or applied for by the Company in accordance with the law of the licensing jurisdiction as detailed on Schedule 7.02(a) hereof.

(b) Without limiting the generality of the foregoing, the Parties shall cooperate with one another, their agents and representatives, and use commercially reasonable efforts to give or obtain any consent, approval or notice to any Governmental Entity or person with respect to the Liquor Licenses that are required, necessary or advisable in order for the Company to operate in substantially the same manner as prior to Closing. Each of the Parties hereto will take such further action as any other Party hereto reasonably may request with respect to obtaining such consents or approvals from any Governmental Entity, which includes the execution and delivery of such further instruments, documents, applications, amended applications, renewal applications, notices, information, responses to inquiry by any Governmental Entity or other documents necessary or appropriate to obtain, amend or renew a Liquor License or Approval.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(c) All of the Parties recognize that the operation of the Company requires certain Liquor Licenses issued by Governmental Entities. As applicable, each Party represents that it and its respective officers, directors, members, shareholders managers, and owners ("***Person Required To Be Licensed***") qualify to hold the type of licenses and permits held by or required to be held by an entity which makes, bottles, labels, stores and sells wine. Each Person Required To Be Licensed is qualified to hold all licenses and permits necessary or convenient for the Company to operate as it has been operating prior to the execution of this Agreement. No Person Required To Be Licensed has or will have an impediment that will negatively affect the Company's ability to hold and maintain any such license or permit. The Parties agree that should any Person Required To Be Licensed be or become disqualified from holding such license or as a result of such person the Company would become disqualified from holding such license that person shall either be removed from such office or position or be required to transfer any interest held to a person, reasonably acceptable to the Parties, who does so qualify.

(d) Any obligation to increase or change the ownership of any person or Party that may be required under this Agreement shall be conditioned upon the receipt of any approvals necessary or convenient from any governmental entity having jurisdiction over the Company in connection with any license or permit held by the Company. Any delay in fulfilling the obligations under this Agreement resulting from the need to make applications to and receive approval for such license or permit change, shall not be considered a breach of this Agreement; nor shall any failure to make such ownership transfer as a result of the denial of said application be a breach hereof.

Section 7.03 **Other Filings; Press Release**.

(a) Iconic shall prepare a draft Current Report on Form 8-K announcing the Closing, together with, or incorporating by reference, the financial statements prepared by the Company and its accountant, and such other information that may be required to be disclosed with respect to the Transactions in any report or form to be filed with the SEC ("***Closing Form 8-K***"). Prior to Closing, Iconic and the Company shall prepare a joint press release announcing the consummation of the Transactions hereunder ("***Closing Press Release***"). Concurrently with the Closing, or as soon as practicable thereafter, Iconic shall issue the Closing Press Release and shall file the Closing Form 8-K with the SEC.

Section 7.04 **Confidentiality; Access to Information**.

(a) Iconic and the Company acknowledge that they are parties to the Confidentiality Agreement, the terms of which are incorporated herein by reference. At the Closing, the Confidentiality Agreement shall be superseded in its entirety by the provisions of this Agreement. Beginning on the date hereof and ending on the second anniversary of this Agreement, each Party agrees to maintain in confidence any non-public information received from the other Parties. Such confidentiality obligations will not apply to: (i) information which was known to one Party or its agents or representatives prior to receipt from the Company, on the one hand, or Iconic, on the other hand, as applicable; (ii) information which is or becomes generally known to the public without breach of this Agreement or an existing obligation of confidentiality; (iii) information acquired by a Party or their respective agents or representatives from a third party who was not bound to an obligation of confidentiality; (iv) information developed by such Party independently without any reliance on the non-public information received from any other Party; (v) disclosure required by applicable Legal Requirement or stock exchange rule; or (vi) prior to the Closing, disclosure consented to in writing by Iconic (in the case of the Company) or the Company (in the case of Iconic). Iconic and the Company shall be permitted to disclose such information as may be appropriate or requested by a Governmental Entity having jurisdiction in connection with any application or request for consent to the Transactions related to a Liquor License.

(b) None of the Parties will make any public announcement or issue any public communication regarding this Agreement or the Transactions or any matter related to the foregoing, without the prior written consent of Iconic.

Section 7.05 **No Iconic Securities Transactions**. Neither Company Members nor the Company, directly or indirectly, shall engage in any transactions involving the securities of Iconic prior to the time of the making of a public

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

announcement regarding all of the material terms of the business and operations of the Company and the Transactions. The Company shall direct each of its officers, directors and members of senior management to comply with the foregoing requirement.

Section 7.06 **Directors' and Officers' Liability Insurance**.

(a) Iconic agrees that all rights to exculpation, indemnification and advancement of expenses now existing in favor of the current or former directors or officers, as the case may be, of the Company (each, together with such person's heirs, executors or administrators, a "***D&O Indemnified Party***"), as provided in its Organizational Documents shall survive the Closing and shall continue in full force and effect for a period of six years from the Closing Date. For a period of six years from the Closing Date, Iconic shall cause the Company to maintain in effect the exculpation, indemnification and advancement of expenses provisions of the Company's Organizational Documents as in effect immediately prior to the Closing Date, and Iconic shall, and shall cause the Company to, not amend, repeal or otherwise modify any such provisions in any manner that would adversely affect the rights thereunder of any D&O Indemnified Party for a period of six years from the Closing Date; provided, however, that all rights to indemnification or advancement of expenses in respect of any Legal Proceedings pending or asserted or any claim made within such period shall continue until the disposition of such Legal Proceeding or resolution of such claim. From and after the Closing Date, Iconic shall cause the Company to honor, in accordance with their respective terms, each of the covenants contained in this Section 7.06.

(b) Prior to the Closing, the Company shall purchase a "tail" or "runoff" directors' and officers' liability insurance policy (the "***D&O Tail***") in respect of acts or omissions occurring prior to the Effective Time covering each such Person that is a director or officer of the Company. Iconic shall, and shall cause the Company to, maintain the D&O Tail in full force and effect for its full term and cause all obligations thereunder to be honored and no other party shall have any further obligation to purchase or pay for such insurance pursuant to this Section 7.06(b).

(c) The rights of each D&O Indemnified Party hereunder shall be in addition to, and not in limitation of, any other rights such person may have under the Organizational Documents of the Company, any other indemnification arrangement, any Legal Requirement or otherwise. The obligations of Iconic and the Company under this Section 7.06 shall not be terminated or modified in such a manner as to adversely affect any D&O Indemnified Party without the consent of such D&O Indemnified Party. The provisions of this Section 7.06 shall survive the Closing and expressly are intended to benefit, and are enforceable by, each of the D&O Indemnified Parties, each of whom is an intended third-party beneficiary of this Section 7.06.

(d) If Iconic or, after the Closing, the Company, or any of their respective successors or assigns: (i) consolidates with or merges into any other Person and shall not be the continuing or surviving entity of such consolidation or merger; or (ii) transfers or conveys all or substantially all of its properties and assets to any Person, then, in each such case, proper provision shall be made so that the successors and assigns of Iconic or the Company, as applicable, assume the obligations set forth in this Section 7.06.

Section 7.07 **Tax Matters**.

(a) The Parties intend that, with respect to any Pre-Closing Tax Period ending on and including the Closing Date, the Company will be classified for federal income Tax purposes as a partnership. The Company Members agree to promptly inform Iconic of the status of the Entity Classification Election Withdrawal Request and to make reasonable best efforts to ensure that the Company's classification for federal income Tax purposes with respect to any Pre-Closing Tax Period ending on and including the Closing Date is that of a partnership.

(b) Company Members shall be responsible for any Pre-Closing Taxes. For purposes of determining Company Members' share of any Taxes with respect to any Straddle Period, the amount of any Taxes (i) based upon, or related to, income, receipts, profits, wages, capital or net worth, (ii) imposed in connection with the sale, transfer or assignment of property, or (iii) required to be withheld, for the portion of such Straddle Period ending on the Closing Date shall be determined based on an interim closing of the books as of the close of business on the Closing Date. In the case of any other Taxes that are payable with respect to a Straddle Period, the portion of such Tax which relates

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

to the portion of such Straddle Period ending on the Closing Date shall be deemed to be the amount of such Tax for the entire Straddle Period multiplied by a fraction the numerator of which is the number of days in the Straddle Period ending on the Closing Date and the denominator of which is the number of days in the entire Straddle Period.

(c) Company Members shall prepare (or cause to be prepared) and timely file (or cause to be timely filed) all Tax Returns of the Company required to be filed with respect to any taxable periods ending on or before the Closing Date (the "***Pre-Closing Tax Returns***"), the cost of which shall be borne by the Company Members. With respect to any Pre-Closing Tax Returns of the Company that are required to be filed after the Closing Date, Company Members shall deliver any such Pre-Closing Tax Returns to Iconic for its review at least twenty (20) days (or, in the case of any such Pre-Closing Tax Return required to be filed more frequently than annually, ten (10) days) prior to the date such Pre-Closing Tax Return is required to be filed (including extensions) and Company Members shall consider in good faith such revisions to such Pre-Closing Tax Returns as are reasonably requested by Iconic. Iconic shall prepare (or cause to be prepared) and timely file (or cause to be timely filed) any Tax Returns of the Company required to be filed with respect to any Straddle Period ("***Straddle Period Tax Returns***"), the cost of which shall be borne by Iconic. Iconic shall prepare any Straddle Period Tax Returns in a manner consistent with past practice of the Company in all material respects. Iconic shall deliver any Straddle Period Tax Return to Company Members for review at least twenty (20) days (or, in the case of any Straddle Period Tax Return required to be filed more frequently than annually, ten (10) days) prior to the date such Straddle Period Tax Return is required to be filed (including extensions) and Iconic shall consider in good faith such revisions to such Straddle Period Tax Returns as are reasonably requested by Company Members.

(d) Iconic will promptly notify Company Members in writing upon receipt by Iconic, the Company or any of their respective Affiliates of written notice of any inquiries, demand, claims, assessments, audits or similar events with respect to Taxes for which Company Members may be liable under this Agreement (any such inquiry, demand, claim, assessment, audit or similar event, a "***Tax Contest***"). With respect to any Tax Contest by any Governmental Entity relating to any Tax period ending on or before the Closing Date (a "***Pre-Closing Tax Contest***"), Company Members shall control all proceedings and may take any action (or decline to take any action) with respect to any Pre-Closing Tax Contest, provided that any such action (or inaction) does not increase the Tax liability of or attributable to the Company or Iconic for any Straddle Period or any Post-Closing Tax Period. In the event that such action or inaction would increase the Tax liability of or attributable to the Company or Iconic for any Straddle Period or any Post-Closing Tax Period, then no such action or inaction may be implemented or effectuated without the prior written consent of Iconic (such consent not to be unreasonably withheld, conditioned or delayed). Iconic shall furnish Company Members with the usual form of power of attorney (IRS Form 2848 or similar state or local form) and provide to Company Members such records and information as may be necessary for Company Members to control all proceedings with respect to any Pre-Closing Tax Contest. With respect to any Tax Contest relating to a Straddle Period (a "***Straddle Period Tax Contest***"), Iconic shall control all proceedings; provided, however, that (i) Iconic shall keep Company Members fully apprised of all aspects of any such Straddle Period Tax Contest and shall make commercially reasonable efforts to incorporate suggestions proposed by Company Members, and (ii) in no event shall Iconic settle or dispose of any Straddle Period Tax Contest without the prior written consent of Company Members, which consent shall not be unreasonably withheld, conditioned or delayed.

(e) Iconic shall pay to Company Members all Tax refunds, credits or other reductions of Taxes of the Company that are attributable to any Pre-Closing Tax Period (other than refunds or credits of Taxes attributable to items arising in any portion of a Straddle Period beginning after the Closing Date). Iconic shall pay to Company Members the amount of any such refund, credit or reduction within ten (10) days after receipt or entitlement thereto. Iconic shall reasonably cooperate, and shall cause the Company to reasonably cooperate, with Company Members in claiming such Tax refunds, credits or reductions.

(f) None of Iconic, the Company or any of their respective Affiliates, shall amend, refile, revoke or otherwise modify any Tax Return or Tax election of the Company with respect to any Pre-Closing Tax Period without the prior written consent of Company Members, which consent shall not be unreasonably withheld, conditioned or delayed.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(g) All direct or indirect transfer, documentary, sales, use, stamp, registration, excise, recording, registration value added and other such similar Taxes and fees (including any penalties and interest) that become payable in connection with or by reason of the execution of this Agreement and the Transactions shall be borne equally by Company Members on the one hand and Iconic on the other hand. Iconic shall prepare (or cause to be prepared) and timely file (or cause to be timely filed) any Tax Return or other document with respect to such Taxes or fees (and Company Members and Iconic shall reasonably cooperate with respect thereto as necessary). The cost of preparing and filing such Tax Returns or other document shall be borne equally by Company Members on the one hand and Iconic on the other hand.

(h) All Tax sharing agreements or similar arrangements with respect to or involving the Company shall be terminated prior to the Closing Date and, after the Closing Date, the Company shall not be bound thereby or have any liability thereunder for amounts due in respect of periods ending on or before the Closing Date, and there shall be no continuing obligation after the Closing Date to make any payments under any such agreements or arrangements.

(i) Each of Iconic and the Company shall (and shall cause its respective Subsidiaries and Affiliates to) use its reasonable best efforts (i) to cause the Transactions to qualify for the Intended Tax Treatment and (ii) not to take or cause to be taken any action reasonably likely to cause, or fail to take or agree not to take any action if the failure to take such action would be reasonably likely to cause, the Transactions to fail to qualify for the Intended Tax Treatment.

(j) Company Members and Iconic agree to furnish or cause to be furnished to each other, upon request, as promptly as practicable, such information (including access to books and records) and assistance relating to the Company as is reasonably requested for the filing of any Tax Returns and the preparation, prosecution, defense or conduct of any Tax Contest. Company Members, Iconic and the Company shall reasonably cooperate with each other in the conduct of any Tax Contest or other proceeding involving or otherwise relating to the Company (or the income or assets of the Company) with respect to any Tax and each shall execute and deliver such powers of attorney and other documents as are necessary to carry out the intent of this Section 7.07(j). Any information obtained under this Section 7.07(j) shall be kept confidential, except as may be otherwise necessary in connection with the filing of Tax Returns or in the conduct of a Tax Contest or other Tax proceeding. To the extent of any conflict between the provisions of this Section 7.07(j) and the provisions of Section 7.07(d), the provisions of Section 7.07(d) shall control with respect to any Pre-Closing Tax Contest and any Straddle Period Tax Contest.

(k) The parties acknowledge and agree that for United States federal income Tax purposes, the acquisition by Iconic of the Company Interests shall be treated in a manner consistent with Revenue Ruling 99-6, 1999-1 C.B. 432.

(l) For Tax purposes, the Company Members and Iconic shall allocate the Total Consideration (and any other items that are treated as additional consideration in respect of the Company Interests for Tax purposes as of the Closing Date) to the assets of the Company in a manner consistent with Section 1060 of the Code and the Treasury Regulations promulgated thereunder (and any corresponding or similar provision of state or local Legal Requirements, as applicable) (the "***Allocation Schedule***"). No later than ninety (90) days after the Closing Date, the Company Members shall deliver to Iconic a proposed Allocation Schedule (the "***Proposed Allocation Schedule***"). If within thirty (30) days after the delivery of the Proposed Allocation Schedule to Iconic, Iconic shall not have objected in writing to the Proposed Allocation Schedule, then the Proposed Allocation Schedule shall become the Final Allocation Schedule. If Iconic objects in writing, setting forth in reasonable detail the reasons for such objection, to the Proposed Allocation Schedule within thirty (30) days after delivery thereof, the Company Members and Iconic shall use reasonable best efforts to attempt to resolve any such disagreement. If the Company Members and Iconic are unable to reach an agreement on any disputed issues within thirty (30) days after the delivery of Iconic's written objection, then the Company Members and Iconic shall promptly submit such disputed items to the Independent

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Accountants for resolution. Any allocation determined by the Independent Accountants shall incorporate, reflect and be consistent with the provisions of Section 7.07(k). The Proposed Allocation Schedule, if no timely objection is made by Iconic, or as adjusted to reflect any agreement between the Company Members and Iconic or any determination by the Independent Accountants shall become final (the "***Final Allocation Schedule***").

(m) The Company, Iconic, and Company Members agree to be bound by the Final Allocation Schedule and act, and cause their respective Affiliates to act, in accordance with the Final Allocation Schedule for all federal, state and local Tax purposes and not to take, or cause to be taken, any action or position that would be inconsistent with or prejudice the Final Allocation Schedule, except as otherwise required by applicable Legal Requirements. In the event the Total Consideration is adjusted in accordance with any provision of this Agreement, the Final Allocation Schedule shall be appropriately adjusted to take into account such adjustment, and the parties shall cooperate in the filing and preparation of any supplemental documents and instruments (and any comparable forms for state and local Tax purposes) as may be required by applicable Legal Requirements to report the Final Allocation Schedule (including any adjustments thereto pursuant to this Section 7.07(m)).

Section 7.08 **Affiliate Agreements**. Except for the Affiliate Agreements set forth on Section 7.08 of the Company Disclosure Letter, all Affiliate Agreements shall be terminated or settled at or prior to the Closing Date without further liability to Iconic and the Company.

Section 7.09 **Audited Financial Statements; Additional Company Financial Statements**. Within sixty (60) days after Closing, (a) Iconic, with the cooperation of Company Members, shall cause its auditors to provide an audit of the balance sheets of the Company as of December 31, 2019 and December 31, 2020, and of the statements of operations and comprehensive loss, changes in equity and cash flows of the Company for the twelve-month periods ended December 31, 2019 and December 31, 2020, and (b) Company Members shall deliver to Iconic unaudited balance sheets for (i) the three-month period ended March 31, 2021, (ii) the six-month period ended June 30, 2021 and (iii) the period beginning June 30, 2021 and ending on the Closing Date, together with statements of operations and comprehensive loss, changes in equity and cash flows of the Company as of and for such periods then ended. The cost of the audit, subject to a cap of $30,000, shall be accrued as a liability of the Company to Iconic as of Closing.

Section 7.10 **New Jersey Bulk Sale Notice and Escrow; Tax Clearance or Escrow Letter**

(a) As a condition to Closing and pursuant to N.J.S.A. 54:32B-22(c), Iconic shall notify the New Jersey Division of Taxation ("***Division of Taxation***") of the Transactions at least ten (10) business days prior to the Closing Date, by the filing with the Division of Taxation a New Jersey Form C-9600, Notification of Sale, Transfer, or Assignment in Bulk. Each applicable Company Member shall provide Iconic with the information needed to file such notice, and each Company Member shall file with the Division of Taxation a New Jersey Form TTD, Asset Transfer Tax Declaration.

(b) Iconic and Company Members acknowledge that it is within the authority of the Division of Taxation to direct that a portion of the Total Consideration be withheld from Company Members and placed into escrow at Closing. Iconic and Company Members agree that in the event that such an escrow is required by the Division of Taxation, the escrow agent shall act as escrow holder in connection with any such required escrow. The escrow monies will be held in escrow until the Division of Taxation makes a final determination as to the amount of any Taxes owed by Company Members, and the escrow monies will be released in accordance with, and only upon receipt of, a tax clearance letter from the Division of Taxation (the "***Tax Clearance Letter***"). The escrow agent shall be authorized to pay to the Division of Taxation such amounts as may be ultimately determined by the Division of Taxation to be due and owing.

(c) Notwithstanding Section 7.10(a) or Section 7.10(b), each Company Member shall indemnify Iconic for any Tax liability of such Company Member owing to the Division of Taxation or the State of New Jersey in connection with the Transactions ("***Company Member New Jersey Taxes***").

Section 7.11 **Public Information**. During the two-year period commencing on the Closing Date, Iconic covenants and agrees to timely file (or obtain extensions in respect thereof and file within the applicable grace period)

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

all reports required to be filed by Iconic after the date hereof pursuant to the Exchange Act. If Iconic is not required to file reports pursuant to the Exchange Act, Iconic covenants and agrees to prepare and furnish to any Company Member or any of their equityholders as of the date of this Agreement ("***Company Member Equityholder***s"), as long as any such Company Member or Company Member Equityholder beneficially or legally owns shares of Stock Consideration, but only until such time as the shares may be sold under Rule 144(b)(i) without regard to meeting the requirements of Rule 144(c), and make publicly available in accordance with Rule 144(c), such information as is required for such Company Member or Company Member Equityholder to sell such shares of Stock Consideration under Rule 144. Iconic will be deemed to have furnished such reports to Company Members and Company Member Equityholders if Iconic has filed such reports with the SEC using the SEC's Electronic Data Gathering, Analysis and Retrieval system and such reports are publicly available. Iconic further covenants and agrees that it will take such further action as any holder of shares of Stock Consideration may reasonably request, all to the extent required from time to time to enable the Company Members and Company Member Equityholders to sell such shares of Stock Consideration without registration under the Securities Act pursuant to Rule 144, including without limitation, customary transfer agent instructions and legal opinions to remove restrictions and effectuate the transfer of shares.

Section 7.12 **Rule 144, Legend Removal and Other Cooperation**. Provided that the holder of the shares of Stock Consideration qualifies and provides such documentation, representations and warranties as may be reasonably requested by Iconic, which request shall be solely in order for Iconic to comply with applicable Legal Requirements (e.g. representations regarding affiliate status and other customary Rule 144 representations), and (a) at least six months have elapsed since the Closing Date, and such holder of the shares of Stock Consideration is selling such shares or (b) at least one year has elapsed since the Closing Date without regard to intent to sell such shares, Iconic shall, promptly upon the written request of such holder, provided that such holder is not an Affiliate of Iconic, cause the removal of any securities law restrictive legend and any "stop order" or equivalent restriction with respect to any shares of Stock Consideration held in book entry form, and shall deliver such statements maintained by Iconic's transfer agent representing such shares. If so requested by the holder, any shares of Stock Consideration subject to legend removal hereunder shall be transmitted by Iconic's transfer agent to the holder's broker through the direct registration system. If so requested by any Company Member in connection with the distribution or dividend of shares of Stock Consideration to its Company Member Equityholders for no consideration, Iconic shall cooperate with such Company Member and Iconic's transfer agent to register the transfer of such shares on the records of Iconic and its transfer agent. For the avoidance of doubt, such shares would continue to bear any restrictive legend that would be applicable to the shares if they had continued to be owned by the distributing Company Member.

ARTICLE VIII

INDEMNIFICATION

Section 8.01 **Survival of Representations and Warranties**.

(a) Except as set forth in Section 8.01(b), the representations and warranties made by the Company in Article IV of this Agreement, together in each case with the corresponding indemnification rights of the Indemnified Parties set forth in this Article VIII, shall survive the Closing and shall remain in full force and effect until, and expire at, 11:59 p.m. Eastern Time on the date that is eighteen (18) months following the Closing Date.

(b) The representations and warranties made by the Company, Company Members or Iconic, as applicable, in Section 4.01 (Organization and Qualification), Section 4.02 (Capitalization), Section 4.03 (Due Authorization), Section 4.04 (No Conflict; Governmental Consents and Filings; Certain Actions), Section 5.01 (Organization and Qualification), Section 5.02 (Capitalization), Section 5.03 (Due Authorization), and Section 5.04 (No Conflicts; Required Filings and Consents), Section 6.01 (Organization and Qualification), Section 6.02 (Due Authorization), Section 6.03(a) (with respect to clauses (i) and (ii) only) (No conflict), Section 6.03(b) (No Conflict) and Section 6.04 (Company Interests) (collectively, the "***Special Representations***"), together in each case with the corresponding indemnification rights of the Indemnified Parties set forth in this Article VIII, shall survive the Closing and shall remain in full force and effect indefinitely. The representations and warranties contained in Section 4.13 (Taxes), Section 4.14 (Environmental Matters), Section 4.15 (Brokers; Third Party Expenses), and Section 5.09 (Brokers) (collectively, the "***Fundamental Representations***"), together in each case with the corresponding

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

indemnification rights of the Indemnified Parties set forth in this Article VIII, shall survive the Closing and shall remain in full force and effect until the expiration of the applicable statute of limitations applicable to the subject matter of the applicable representation, at which time such representations and warranties shall terminate.

(c) All of the covenants and obligations of the Company, Company Members and Iconic contained in this Agreement, together in each case with the corresponding indemnification rights of the Indemnified Parties set forth in this Article VIII, shall survive in accordance with their terms.

(d) Except as set forth in Section 8.01(b), all representations and warranties made by Iconic shall survive the Closing and shall remain in full force and effect until, and expire at, 11:59 p.m. Eastern Time on the date that is eighteen (18) months following the Closing Date.

Section 8.02 **Indemnification by Company Members**. Subject to the terms and conditions of this Article VIII, from and after the Closing, Company Members, jointly and severally, shall indemnify and defend each of Iconic, the Company and their Affiliates and their respective representatives (collectively, the "***Iconic Indemnitees***") against, and shall hold each of them harmless from and against, and shall pay and reimburse each of them for, any Losses that are suffered or incurred by such Iconic Indemnitee or to which such Iconic Indemnitee may otherwise become subject (regardless of whether or not such Losses relate to any third-party claim) and which arise from or as a result of, or are directly or indirectly connected with:

(a) any inaccuracy in or breach of any representation or warranty of the Company set forth in Article IV of this Agreement;

(b) any breach or violation of any covenant or agreement of the Company to be performed pursuant to this Agreement;

(c) any Indebtedness of the Company not fully paid at or as of the Closing; or

(d) any Company Transaction Expenses not fully paid at or as of the Closing in accordance with Section 9.10;

(e) Any Pre-Closing Taxes; or

(f) Any Company Member New Jersey Taxes.

Section 8.03 **Indemnification by Iconic**. Subject to the other terms and conditions of this Article VIII, from and after Closing, Iconic shall indemnify and defend Company Members and their Affiliates and their respective representatives (collectively, the "***Member Indemnitees***") against, and shall hold each of them harmless from and against, and shall pay and reimburse each of them for, any Losses that are suffered or incurred by such Member Indemnitee or to which such Member Indemnitee may otherwise become subject (regardless of whether or not such Losses relate to any third-party claim) and which arise from or as a result of, or are directly or indirectly connected with:

(a) any inaccuracy in or breach of any representation or warranty of Iconic set forth in Article V of this Agreement; or

(b) any breach or violation of any covenant or agreement of Iconic to be performed pursuant to this Agreement.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Section 8.04 **Indemnification Payments; Remedies**.

(a) The Iconic Indemnitees shall be entitled to indemnification for any Losses with respect to the matters contained in Section 8.02(a) (other than claims for Losses relating to a Special Representation, a Fundamental Representation, any Pre-Closing Taxes, or any Company Member New Jersey Taxes, all of which shall not be subject to the Basket Amount) only to the extent that the aggregate Losses with respect thereto exceed an amount equal to $100,000 (the "***Basket Amount***"), at which point the Iconic Indemnitees shall be permitted to recover only such Losses in excess of the Basket Amount.

(b) In no event shall the aggregate amount of any Losses recoverable by the Iconic Indemnitees pursuant to Section 8.02(a) exceed $2,000,000; provided, however, that the foregoing limitation shall not apply to any Pre-Closing Taxes, any Company Member New Jersey Taxes, or any Losses incurred as a result of an inaccuracy in or breach of any Special Representation or Fundamental Representation.

(c) In no event shall the aggregate amount of Losses recoverable by the Member Indemnitees pursuant to Section 8.03(a) exceed $2,000,000; provided, however, that the foregoing limitation shall not apply to Losses incurred as a result of an inaccuracy in or breach of any Special Representation or Fundamental Representation.

(d) The maximum aggregate amount of Losses recoverable by the Iconic Indemnitees pursuant to this Article VIII from each Company Member shall not exceed the amount of Total Consideration received by such Company Member.

(e) Iconic shall not have any liability pursuant to Section 8.03 in an aggregate amount greater than the sum of the Total Consideration actually paid to Company Members.

(f) No Person shall be entitled to recover the amount of any Losses suffered by such Person for which indemnification is provided under this Article VIII more than once.

(g) Notwithstanding the foregoing or anything to the contrary contained in this Agreement, nothing in this Agreement shall limit any remedy of an Iconic Indemnitee for Fraud on the part of Company Members, or a Member Indemnitee for Fraud on the part of Iconic, in connection with this Agreement or otherwise relating to the subject matter of this Agreement.

(h) The amount of any Losses for which indemnification is provided under this Article VIII shall be reduced by (i) any insurance proceeds actually received by an Indemnified Party (as defined below) with respect to such Losses (net of any deductible or co-payment and all out of pocket costs related to such recovery), (ii) any indemnification payments actually received from any third party, and (iii) any Tax savings realized or reasonably expected to be realized as a result of such Loss. If an Indemnified Party (or an Affiliate) receives any insurance payment in connection with any claim for Losses for which it has already received an indemnification payment pursuant to this Article VIII, it shall pay to the Indemnifying Party within ten (10) days of receiving such insurance payment, an amount equal to the amount of the insurance payments received (net of any deductible or co-payment and all out of pocket costs related to such recovery) up to the amount previously received by the Indemnified Party under this Article VIII.

(i) In no event shall any Indemnifying Party be liable to any Indemnified Party for any (i) punitive, exemplary, or special damages, (ii) except to the extent reasonably foreseeable, consequential damages or (iii) damages based upon any type of multiple of profits or revenue, except in the case of each of clauses (i) through (iii), to the extent any such Losses are found by a court of competent jurisdiction to be owed to a third party.

(j) No Losses may be claimed under this Article VIII by any Indemnified Party to the extent such Losses are included in the calculation of the any Working Capital Adjustment pursuant to Section 2.01.

(k) Notwithstanding anything to the contrary in this Agreement, the Iconic Indemnitees shall not have any right to indemnification under this Agreement with respect to, or based on, Taxes to the extent such Taxes (i) are

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

attributable to a Tax period (or portion thereof) beginning after the Closing Date (other than with respect to a breach of the representations and warranties in Section Section 4.13(f), Section 4.13(i) and Section 4.13(l)) or (ii) result from transactions or actions taken by Iconic, the Company or any of their respective Affiliates after the Closing.

(l) Notwithstanding anything to the contrary contained in this Agreement, for purposes of determining the amount of any Losses that are the subject matter of a claim for indemnification hereunder, each representation and warranty in this Agreement shall be read without regard and without giving effect to the terms "material", "Material Adverse Effect" or similar qualifications.

(m) Each Indemnified Party shall take, and cause its Affiliates to take, all reasonable steps to mitigate any Loss upon becoming aware of any event or circumstance that would be reasonably expected to, or does, give rise thereto, including incurring costs only to the minimum extent necessary to remedy the breach that gives rise to such Loss.

Section 8.05 **Indemnification Procedures**. The party making a claim under this Article VIII is referred to as the "***Indemnified Party***", and the party (or parties) against whom such claims are asserted under this Article VIII is referred to as the "***Indemnifying Party***".

(a) Defense of Third-Party Claims.

(i) In the event of the assertion or commencement by any Person of any claim or Legal Proceeding (whether against Company Members, Iconic or any other Person) with respect to which any of the Iconic Indemnitees or the Member Indemnitees may be entitled to indemnification, compensation, reimbursement or payment or any other remedy pursuant to this Article VIII, an Indemnified Party shall promptly give the Indemnifying Party written notice (each a "***Third Party Claim Notice***") of such claim or Legal Proceeding (each, a "***Third Party Claim***"); provided, however, that any failure on the part of an Indemnified Party to so notify the Indemnifying Party shall not limit any of the Indemnified Party's rights to indemnification, compensation, reimbursement or payment under this Article VIII except to the extent such failure materially prejudices the defense of such Third Party Claim.

(ii) With respect to any Third Party Claim, the Indemnifying Party shall have the right, by giving written notice to the Indemnified Party within thirty (30) days after delivery of the Third Party Claim Notice with respect to such Third Party Claim, to assume control of the defense of such Third Party Claim at the expense of the Indemnifying Party with counsel of its choosing, which counsel shall be reasonably satisfactory to the Indemnified Party, and the Indemnified Party shall cooperate in good faith in such defense; provided, however, that the Indemnifying Party shall not have the right to assume control of such defense unless the Indemnifying Party has first notified the Indemnified Party within thirty (30) days after delivery of the Third Party Claim Notice with respect to such Third Party Claim that the Indemnified Party will be indemnified in accordance with the terms hereof from and against the Losses the Indemnified Party may suffer resulting from, arising out of, relating to, in the nature of, or caused by the Third Party Claim; provided, further, that the Indemnifying Party shall not be entitled to assume the defense of a Third Party Claim: (i) that seeks non-monetary relief; (ii) that involves criminal or quasi-criminal allegations; (iii) that involves a Third Party Claim which the Indemnified Party has reasonably determined would be reasonably likely to present a conflict of interest between the Indemnifying Party and the Indemnified Party; (iv) to the extent that the Indemnifying Party reasonably determines that it has defenses, Third Party Claims or positions that might be not available to other Persons relating to such Third Party Claim (such as jurisdictional defenses); or (v) that is brought by a Government Entity or the Company or any of its Affiliates.

(iii) In the event that the Indemnifying Party does not agree in writing to control the defense of such Third Party Claim, fails to so respond within thirty (30) days after delivery of a Third Party Claim Notice with respect to such Third Party Claim or is otherwise ineligible to assume the defense of a Third Party Claim hereunder, the Indemnified Party may (i) control the defense of such Third Party Claim with counsel of its choosing, and (ii) defend against the Third Party Claim in any manner it may deem appropriate (and the Indemnified Party need not consult with the Indemnifying Party in connection therewith), provided that the

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Indemnified Party will not consent to the entry of any judgment or enter into any settlement with respect to such Third Party Claim without the prior written consent of the Indemnifying Party, not to be unreasonably withheld.

(iv) If the Indemnifying Party is controlling the defense of any Third Party Claim: (i) the Indemnified Party shall nonetheless have the right to participate in the defense of such Third Party Claim giving rise to the Indemnified Party's Third Party Claim for indemnification at the Indemnified Party's sole cost and expense; (ii) the Indemnifying Party will not consent to the entry of any judgment or enter into any settlement with respect to or cease to defend such Third Party Claim without the prior written consent of the Indemnified Party, not to be unreasonably withheld; provided, however, that no such consent shall be required for any settlement that (A) is for money damages only and (B) includes, as a condition thereof, an express, unconditional release of the Indemnified Party from any liability or obligation with respect to such Third Party Claim.

(v) The party that is not controlling such defense shall have the right, at its own cost and expense, to participate in the defense of any Third Party Claim with counsel selected by it. The Indemnified Party and the Indemnifying Party shall reasonably cooperate with each other in connection with the defense of any Third Party Claim, including by retaining and providing to the party controlling such defense records and information that are reasonably relevant to such Third Party Claim and making available employees on a mutually convenient basis for providing additional information and explanation of any materials provided hereunder. The party that is controlling such defense shall keep the other party reasonably advised of the status of such legal proceedings and the defense thereof.

(vi) If any Indemnified Party proceeds with the defense of any Third Party Claim, all fees and reasonable expenses, including attorneys' fees, relating to the defense of such Third Party Claim shall be deemed to be Losses for which such Indemnified Party is entitled to indemnification, compensation, reimbursement or payment hereunder. To the extent of any conflict between the provisions of this Section 8.05 and the provisions of Section 7.07, the provisions of Section 7.07 shall control with respect to any Tax matters.

(b) Direct Claims. Any Legal Proceeding by an Indemnified Party on account of Losses which does not result from a Third Party Claim (a "***Direct Claim***") shall be asserted by the Indemnified Party giving the Indemnifying Party reasonably prompt written notice thereof (but no later than thirty (30) days after it becomes aware of such Losses); provided, however, that failure to provide such notice shall not release the Indemnifying Party from any of its obligations under this Article VIII unless and only to the extent that the Indemnifying Party is materially prejudiced by such failure, but in all events such notice must be provided prior to the expiration of the applicable survival period set forth in Section 8.01. Such notice by the Indemnified Party shall describe the Direct Claim in reasonable detail and shall indicate the estimated amount, if reasonably practicable, of the Losses that has been or may be sustained by the Indemnified Party. The Indemnifying Party shall have twenty (20) days after its receipt of such notice (the "***Investigation Period***") to make such investigation of such Direct Claim as the Indemnifying Party deems necessary or desirable and to respond in writing to such Direct Claim. If the Indemnifying Party does not so respond prior to the end of the Investigation Period, the Direct Claim as set forth in such notice shall be binding and conclusive upon, and deemed accepted by, the Indemnifying Party. The Indemnified Party shall reasonably cooperate with the Indemnifying Party's investigation of the Direct Claim. If the Indemnified Party and the Indemnifying Party agree at or prior to the expiration of the Investigation Period (or any mutually agreed upon extension thereof) to the validity and amount of such Direct Claim or the Indemnifying Party is deemed to have accepted the Direct Claim, the Indemnifying Party shall promptly pay to the Indemnified Party the full amount of the Direct Claim, subject to the terms and in accordance with the procedures set forth herein. If the Indemnified Party and the Indemnifying Party do not agree within said period (or any mutually agreed upon extension thereof), the Indemnified Party may seek the appropriate legal or equitable remedy.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(c) Payment. Once a Loss is agreed to by the Indemnifying Party or a court of competent jurisdiction shall have entered a final and non-appealable order or judgment that such Loss (or portion thereof) is required to be paid or otherwise satisfied by the Indemnifying Party pursuant to this Article VIII (such agreement or final order or judgment, the "***Final Determination***"), the Indemnifying Party shall satisfy its obligations within five (5) Business Days of such Final Determination by wire transfer of immediately available funds to the Indemnified Party. If the Indemnifying Parties are Company Members, Iconic Indemnitees may in their sole discretion elect to do one or more of the following to satisfy any liability or other obligation for Losses owed to Iconic Indemnitees by Company Members pursuant to this Article VIII: (i) offset such excess against any Company Promissory Note, earned but unpaid First Year Earn-out Amount or earned but unpaid Second-Year Earn-out Amount; or (ii) require that such excess be paid or otherwise satisfied directly by Company Members, jointly and severally, within five (5) Business Days of the Final Determination of such Losses.

Section 8.06 **Tax Treatment**. The Parties agree to treat all payments under the provisions of this Article VIII as an adjustment to the amount of Total Consideration, unless otherwise required by Legal Requirements.

Section 8.07 **Right of Setoff/Offset**. In accordance with Section 3.01, if there are any Pending Claims (including unpaid claims) outstanding as of the date that any First Year Earn-out Amount or Second-Year Earn-out Amount shall otherwise have been payable to Company Members under Section 3.01, then, in lieu of paying such First Year Earn-out Amount or Second Year Earn-out Amount, as applicable, Iconic may deposit the amount of such Pending Claims, until the final resolution of any such Pending Claims, in an escrow account hosted by a bank chosen in accordance with Section 3.01, provided that such escrow shall only be released upon the submission of joint written instructions to the escrow agent, such instructions to be executed by each of Company Members, the Company and Iconic.

Section 8.08 **Exclusive Remedies**. Except with respect to Section 2.10 (Working Capital Adjustment), Section 7.07 (Tax Matters), Section 9.06 (Other Remedies; Specific Performance) and Section 9.08 (Consent to Jurisdiction; Waiver of Jury Trial), the Parties acknowledge and agree that, from and after Closing, their sole and exclusive remedy with respect to any and all claims (other than claims arising from Fraud on the part of a party hereto) for any breach of any representation, warranty, covenant, agreement or obligation set forth herein or otherwise relating to the subject matter of this Agreement, shall be pursuant to the indemnification provisions set forth in this Article VIII.

ARTICLE IX

GENERAL PROVISIONS

Section 9.01 **Notices**. All notices and other communications hereunder shall be in writing and shall be deemed given: (a) on the date established by the sender as having been delivered personally; (b) one (1) Business Day after being sent by a nationally recognized overnight courier guaranteeing overnight delivery; (c) on the date delivered, if delivered by email, with confirmation of transmission; or (d) on the fifth (5th) Business Day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications, to be valid, must be addressed as follows:

if to Iconic, to:

Iconic Brands, Inc.
44 Seabro Avenue
Amityville, NY 11701
Attention: Richard DeCicco
Email: richard.decicco@gmail.com

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

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Pryor Cashman LLP
7 Times Square
New York, NY 10036
Attention: Brad D. Rose
Robert C. Lamonica
Email: brose@pryorcashman.com
rlamonica@pryorcashman.com

if to the Company (prior to the Closing) or Company Members to:

TopPop LLC
4 East Stow Road, Unit 8
Marlton, NJ 08053
Attention: Tom Belton
Email: tabelton@gmail.com

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

Faegre Drinker Biddle & Reath LLP
One Logan Square, Suite 2000
Philadelphia, PA 19103
Attention: Justin J. Watkins
Email: justin.watkins@faegredrinker.com

or to such other address or to the attention of such Person or Persons as the recipient Party has specified by prior written notice to the sending Party (or in the case of counsel, to such other readily ascertainable business address as such counsel may hereafter maintain). If more than one method for sending notice as set forth above is used, the earliest notice date established as set forth above shall control.

Section 9.02 **Interpretation**. The words "hereof," "herein," "hereinafter," "hereunder," and "hereto" and words of similar import refer to this Agreement as a whole and not to any particular section or subsection of this Agreement and reference to a particular section of this Agreement will include all subsections thereof, unless, in each case, the context otherwise requires. The definitions of the terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context shall require, any pronoun shall include the corresponding masculine, feminine and neuter forms. When a reference is made in this Agreement to an Exhibit, such reference shall be to an Exhibit to this Agreement unless otherwise indicated. When a reference is made in this Agreement to Sections or subsections, such reference shall be to a Section or subsection of this Agreement. Unless otherwise indicated the words "include," "includes" and "including" when used herein shall be deemed in each case to be followed by the words "without limitation." The words "made available" mean that the subject documents or other materials were included in and available at the "TopPop Due Diligence" online data site hosted by Citrix/Sharefile at least one Business Day prior to the date of this Agreement. The table of contents and headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. When reference is made herein to "the business of" an entity, such reference shall be deemed to include the business of all direct and indirect subsidiaries of such entity. Reference to the subsidiaries of an entity shall be deemed to include all direct and indirect subsidiaries of such entity. The word "or" shall be disjunctive but not exclusive. When calculating the period of time before which, within which or following which any act is to be done or step taken pursuant to this Agreement, the date that is the reference date in calculating such period shall be excluded and if the last day of such period is a non-Business Day, the period in question shall end on the next succeeding Business Day. References to a particular statute or regulation including all rules and regulations thereunder and any predecessor or successor statute, rule, or regulation, in each case as amended or otherwise modified from time to time. All references to currency amounts in this Agreement shall mean United States dollars. References to "ordinary course of business" (or similar references) shall mean the ordinary course of business taking into account the circumstances, including restrictions imposed by Legal Requirements and health and safety considerations relating to COVID-19.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Section 9.03 **Counterparts; Electronic Delivery**. This Agreement, the Transaction Agreements and each other document executed in connection with the Transactions, and the consummation thereof, may be executed in two or more counterparts, all of which shall be considered one and the same document and shall become effective when two or more counterparts have been signed by each of the Parties and delivered to the other Parties, it being understood that all Parties need not sign the same counterpart. Delivery by electronic transmission, including by email or facsimile, to counsel for the other Parties of a counterpart executed by a Party shall be deemed to meet the requirements of the previous sentence.

Section 9.04 **Entire Agreement; Third-Party Beneficiaries**. This Agreement and any other documents and instruments and agreements among the Parties as contemplated by or referred to herein, including the Exhibits and Schedules hereto, constitute the entire agreement among the Parties with respect to the subject matter hereof and supersede all prior agreements and understandings, both written and oral, among the Parties with respect to the subject matter hereof. Except as provided in Section 7.06, this Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns, which, for the avoidance of doubt, shall include the Company Member Equityholders, and nothing herein, express or implied, is intended to or shall confer upon any other Person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

Section 9.05 **Severability**. In the event that any term, provision, covenant or restriction of this Agreement, or the application thereof, is held to be illegal, invalid or unenforceable under any present or future Legal Requirement: (a) such provision will be fully severable; (b) this Agreement will be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part hereof; (c) the remaining provisions of this Agreement will remain in full force and effect and will not be affected by the illegal, invalid or unenforceable provision or by its severance herefrom; and (d) in lieu of such illegal, invalid or unenforceable provision, there will be added automatically as a part of this Agreement a legal, valid and enforceable provision as similar in terms of such illegal, invalid or unenforceable provision as may be possible.

Section 9.06 **Other Remedies; Specific Performance**. Except as otherwise provided herein, prior to the Closing, any and all remedies herein expressly conferred upon a Party will be deemed cumulative with and not exclusive of any other remedy conferred hereby, or by law or equity upon such Party, and the exercise by a Party of any one remedy will not preclude the exercise of any other remedy. The Parties agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that each Party shall be entitled to enforce specifically the terms and provisions of this Agreement in any court of the United States or any state having jurisdiction and immediate injunctive relief to prevent breaches of this Agreement, without the necessity of proving the inadequacy of money damages as a remedy and without bond or other security being required, this being in addition to any other remedy to which they are entitled at law or in equity. Each of the Parties hereby acknowledges and agrees that it may be difficult to prove damages with reasonable certainty, that it may be difficult to procure suitable substitute performance, and that injunctive relief and/or specific performance will not cause an undue hardship to the Parties. Each of the Parties hereby further acknowledges that the existence of any other remedy contemplated by this Agreement does not diminish the availability of specific performance of the obligations hereunder or any other injunctive relief. Each Party hereby further agrees that in the event of any action by any other party for specific performance or injunctive relief, it will not assert that a remedy at law or other remedy would be adequate or that specific performance or injunctive relief in respect of such breach or violation should not be available on the grounds that money damages are adequate or any other grounds.

Section 9.07 **Governing Law**. This Agreement and the consummation of the Transactions, and any action, suit, dispute, controversy or claim arising out of this Agreement and the consummation of the Transactions, or the validity, interpretation, breach or termination of this Agreement and the consummation of the Transactions, shall be governed by and construed in accordance with the internal law of the State of Delaware regardless of the law that might otherwise govern under applicable principles of conflicts of law thereof.

Section 9.08 **Consent to Jurisdiction; Waiver of Jury Trial**.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(a) Each of the Parties irrevocably consents to the exclusive jurisdiction and venue of the state or federal courts located in Wilmington, Delaware in connection with any matter based upon or arising out of this Agreement and the consummation of the Transactions. Each Party and any Person asserting rights as a third-party beneficiary may do so only if he, she or it hereby waives, and shall not assert as a defense in any legal dispute, that: (i) such Person is not personally subject to the jurisdiction of the above named courts for any reason; (ii) such Legal Proceeding may not be brought or is not maintainable in such court; (iii) such Person's property is exempt or immune from execution; (iv) such Legal Proceeding is brought in an inconvenient forum; or (v) the venue of such Legal Proceeding is improper. Each Party and any Person asserting rights as a third-party beneficiary hereby agrees not to commence or prosecute any such action, claim, cause of action or suit other than before one of the above-named courts, nor to make any motion or take any other action seeking or intending to cause the transfer or removal of any such action, claim, cause of action or suit to any court other than one of the above-named courts, whether on the grounds of inconvenient forum or otherwise. Each Party hereby consents to service of process in any such proceeding in any manner permitted by Delaware law, and further consents to service of process by nationally recognized overnight courier service guaranteeing overnight delivery, or by registered or certified mail, return receipt requested, at its address specified pursuant to Section 9.01. Notwithstanding the foregoing in this Section 9.08, any Party may commence any action, claim, cause of action or suit in a court other than the above-named courts solely for the purpose of enforcing an order or judgment issued by one of the above-named courts.

(b) TO THE EXTENT NOT PROHIBITED BY APPLICABLE LEGAL REQUIREMENTS WHICH CANNOT BE WAIVED, EACH OF THE PARTIES AND ANY PERSON ASSERTING RIGHTS AS A THIRD-PARTY BENEFICIARY MAY DO SO ONLY IF HE, SHE OR IT IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT TO TRIAL BY JURY ON ANY CLAIMS OR COUNTERCLAIMS ASSERTED IN ANY LEGAL DISPUTE RELATING TO THIS AGREEMENT, EACH OTHER TRANSACTION AGREEMENT AND THE CONSUMMATION OF THE TRANSACTIONS, AND FOR ANY COUNTERCLAIM RELATING THERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING. IF THE SUBJECT MATTER OF ANY SUCH LEGAL DISPUTE IS ONE IN WHICH THE WAIVER OF JURY TRIAL IS PROHIBITED, NO PARTY NOR ANY PERSON ASSERTING RIGHTS AS A THIRD-PARTY BENEFICIARY SHALL ASSERT IN SUCH LEGAL DISPUTE A NONCOMPULSORY COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE OTHER TRANSACTION AGREEMENTS AND THE CONSUMMATION OF THE TRANSACTIONS. FURTHERMORE, NO PARTY NOR ANY PERSON ASSERTING RIGHTS AS A THIRD-PARTY BENEFICIARY SHALL SEEK TO CONSOLIDATE ANY SUCH LEGAL DISPUTE WITH A SEPARATE ACTION OR OTHER LEGAL PROCEEDING IN WHICH A JURY TRIAL CANNOT BE WAIVED.

Section 9.09 **Rules of Construction**. Each of the Parties agrees that it has been represented by independent counsel of its choice during the negotiation and execution of this Agreement and each Party hereto and its counsel cooperated in the drafting and preparation of this Agreement and the documents referred to herein and, therefore, waive the application of any law, regulation, holding or rule of construction providing that ambiguities in an agreement or other document will be construed against the Party drafting such agreement or document.

Section 9.10 **Expenses**. Except as otherwise expressly provided in this Agreement, whether or not the Transactions are consummated, each Party will pay its own costs and expenses incurred in anticipation of, relating to and in connection with the negotiation and execution of this Agreement and the Transaction Agreements and the consummation of the Transactions.

Section 9.11 **Assignment**. No Party may assign, directly or indirectly, including by operation of law, either this Agreement or any of its rights, interests, or obligations hereunder without the prior written approval of the other Parties. Subject to the first sentence of this Section 9.11, this Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective successors and permitted assigns.

Section 9.12 **Amendment**. This Agreement may be amended by the Parties at any time by execution of an instrument in writing signed on behalf of each of the Parties.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Section 9.13 **Conflict**. In the event any provision of any of the other Transaction Agreement in any way conflicts with the provisions of this Agreement (except where a provision therein expressly provides that it is intended to take precedence over this Agreement), this Agreement shall control.

Section 9.14 **Disclosure Letter and Exhibits**. The Company Disclosure Letter, the Company Members Disclosure Letter and the Iconic Disclosure Letter shall each be arranged in separate parts corresponding to the numbered and lettered sections and subsections in this Agreement, and the information disclosed in any numbered or lettered part shall be deemed to relate to and to qualify only the particular provision set forth in the corresponding numbered or lettered Section or subsection of this Agreement, except to the extent that: (a) such information is cross-referenced in another part of the Company Disclosure Letter, the Company Members Disclosure Letter or the Iconic Disclosure Letter, as applicable; or (b) it is reasonably apparent on the face of the disclosure (without reference to any document referred to therein or any independent knowledge on the part of the reader regarding the matter disclosed) that such information qualifies another provision in this Agreement. The specification of any dollar amount in the representations and warranties contained in this Agreement or the inclusion of any specific item in the Company Disclosure Letter, the Company Members Disclosure Letter and the Iconic Disclosure Letter is not intended to imply that such amounts (or higher or lower amounts) are or are not material, and no Party shall use the fact of the setting of such amounts or the fact of the inclusion of any such item in the Company Disclosure Letter, the Company Members Disclosure Letter or the Iconic Disclosure Letter in any dispute or controversy between the Parties as to whether any obligation, item, or matter not described herein or included in Company Disclosure Letter, the Company Members Disclosure Letter or the Iconic Disclosure Letter is or is not material for purposes of this Agreement. The inclusion of any item in the Company Disclosure Letter, the Company Members Disclosure Letter or the Iconic Disclosure Letter shall not be deemed to constitute an acknowledgment by the Company, Company Members or Iconic, as applicable, that the matter is required to be disclosed by the terms of this Agreement, nor shall such disclosure be deemed (a) an admission of any breach or violation of any Contract or Legal Requirement, (b) an admission of any liability or obligation to any third party, or (c) to establish a standard of materiality. The disclosure of any items or information that is not required by this Agreement to be so included is solely for informational purposes and the convenience of Iconic, the Company, or Company Members, as applicable. In addition, under no circumstances shall the disclosure of any matter in the Company Disclosure Letter, the Company Members Disclosure Letter or the Iconic Disclosure Letter, where a representation or warranty of the Company, Company Members or Iconic, as applicable, is limited or qualified by the materiality of the matters to which the representation or warranty is given or by Company Material Adverse Effect or Iconic Material Adverse Effect, imply that any other undisclosed matter having a greater value or other significance is material or would have a Company Material Adverse Effect or Iconic Material Adverse Effect. None of the Company, Company Members or Iconic shall be prejudiced in any manner whatsoever, and no presumptions shall be created, by virtue of the disclosure of any matter in the Company Disclosure Letter, the Company Members Disclosure Letter or the Iconic Disclosure Letter, as applicable, which otherwise is not required to be disclosed by this Agreement.

Section 9.15 **Legal Representation**. Iconic hereby expressly agrees, on behalf of itself and its Affiliates and its and their respective current shareholders, equityholders, members, managers and Representatives and each of the successors and assigns of the foregoing (all such Persons, "***Waiving Parties***"), that Faegre Drinker Biddle & Reath LLP (or any successor thereto) ("***Faegre Drinker***") may represent the Company Members in connection with any Legal Proceeding arising in whole or in part under or in connection with this Agreement or the Transactions, whether now existing or hereafter arising, and whether sounding in contract, tort or otherwise, notwithstanding its representation of the Company or the Company Members. Iconic, on its own behalf and on behalf of the Waiving Parties, hereby consents thereto and irrevocably waives (and shall not assert) any conflict of interest regarding such representation; provided, however, that the foregoing provision shall not apply if Faegre Drinker is providing ongoing legal services to Iconic or its Affiliates after the Closing Date.

Section 9.16 **Attorney-Client Privilege**. Notwithstanding anything to the contrary in this Agreement, as to all communications between Faegre Drinker and the Company or the Company Members relating to this Agreement or

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

the transactions contemplated herein, the attorney-client privilege and the expectation of client confidence belongs to the Company Members, shall be controlled by the Company Members and shall not pass to or be claimed by Iconic or its Affiliates. Iconic understands and agrees that any disclosure of information that may be confidential and/or subject to a claim of privilege shall not prejudice or otherwise constitute a waiver of any claim of privilege.

[*Signature Pages Follow*]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the date first written above.

THE COMPANY:

TOPPOP LLC,
a New Jersey limited liability company

By:_____
Name:
Title:

[Signature Page to Acquisition Agreement]

ICONIC:

ICONIC BRANDS, INC,
a Nevada corporation

By:_____
Name:
Title:

[Signature Page to Acquisition Agreement]

COMPANY MEMBERS:

FRUTAPOP LLC,
a New York limited liability company

By:_____
Name:
Title:

INNOACCEL INVESTMENTS LLC,
a Delaware limited liability company

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

By: _____
Name:
Title:

_____
Thomas Martin

[Signature Page to Acquisition Agreement]

SCHEDULE A

Defined Terms

Section 1 Additional Terms. For purposes of this Agreement, the following capitalized terms have the following meanings or the meanings otherwise assigned to them in this Agreement:

"***2020 Financial Statements***" shall have the meaning set forth in Section 4.06.

"***ABC***" shall mean the New Jersey Division of Alcoholic Beverage Control.

"***Affiliate***" shall mean, as applied to any Person, any other Person directly or indirectly controlling, controlled by or under direct or indirect common control with, such Person. For purposes of this definition, "control" (including with correlative meanings, the terms "controlling," "controlled by" and "under common control with"), as applied to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise.

"***Affiliate Agreements***" shall have the meaning set forth in Section 4.20.

"***Allocation Schedule***" shall have the meaning set forth in Section 7.07(l).

"***Anti-Corruption Laws***" shall have the meaning set forth in Section 4.22(a).

"***Anti-Money Laundering Laws***" shall have the meaning set forth in Section 4.22(a).

"***Approvals***" shall mean all franchises, grants, authorizations, licenses, permits, consents, certificates, approvals and orders from Governmental Entities including, for the avoidance of doubt, all General Recognized as Safe determinations, food and alcohol additive approvals, approvals from any Governmental Entity having jurisdiction over the Liquor Licenses, and TTB, TABC and ABC flavor approvals pertaining to (i) the blending, formulating, manufacturing, labeling, packaging and distribution of food, and certifications pertaining to organic, kosher, non-genetically modified, halal and other similar certified status of food products and (ii) the manufacturing of malt, wine, spirits, alcohol and other beverage products.

"***Balance Sheet Cash***" shall have the meaning set forth in Section 1.04(b)(iii).

"***Base Cash Consideration***" means $3,500,000.

"***Basket***" shall have the meaning set forth in Section 8.04(a).

"***Business***" shall mean the business of manufacturing, storing, bottling, transporting, delivering and selling retail ready-to-drink cocktails containing alcohol and wholesale and retail cocktail mixes, in each case as conducted by the Company on the date hereof.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

"***Business Day***" shall mean any day other than a Saturday, a Sunday or other day on which commercial banks in New York, New York are authorized or required by Legal Requirements to close.

"***CARES Act***" shall mean the federal Coronavirus Aid, Relief, and Economic Security Act.

"***Cash Consideration***" shall have the meaning set forth in Section 1.02.

"***Closing***" shall have the meaning set forth in Section 1.03.

"***Closing Consideration***" shall have the meaning set forth in Section 1.05(c).

"***Closing Date***" shall have the meaning set forth in Section 1.03.

"***Closing Date Debt***" means the aggregate Indebtedness of the Company outstanding as of immediately prior to Closing, including all Indebtedness set forth on Schedule A-1 of the Company Disclosure Letter; provided, however, that Closing Date Debt shall not include any SEG Notes.

"***Closing Form 8-K***" shall have the meaning set forth in Section 7.03(a).

"***Closing Press Release***" shall have the meaning set forth in Section 7.03(a).

"***Code***" shall mean the Internal Revenue Code of 1986, as amended.

"***Company Benefit Plan***" shall have the meaning set forth in Section 4.10(a).

"***Company Disclosure Letter***" shall have the meaning set forth in Article IV.

"***Company Interests***" shall mean, without duplication, as of the Closing Date, all of the issued and outstanding ownership interests of the Company.

"***Company IT Systems***" shall mean any and all IT Systems owned, leased, or licensed by the Company that are used (or held for use) in or in connection with the business of the Company.

"***Company Material Adverse Effect***" shall mean any change, event, circumstance, fact or occurrence, that, individually or when aggregated with other changes, events, or occurrences, has had or would be reasonably likely to have a material adverse effect on (a) the business, assets, financial condition or results of operations of the Company, taken as a whole; or (b) the ability of the Company to consummate the Transactions on or prior to the Outside Date; provided, however, that no change, event, circumstance, fact or occurrence or effect arising out of or related to any of the following, alone or in combination, shall be taken into account in determining whether a Company Material Adverse Effect pursuant to clause (a) has occurred or would be reasonably likely to occur: (i) acts of war, sabotage, civil unrest, cyberattacks or terrorism, or any escalation or worsening of any such acts of war, sabotage, civil unrest or terrorism, or changes in global, national, regional, state or local political or social conditions; (ii) earthquakes, hurricanes, tornados, pandemics (including COVID-19 or any COVID-19 Measures) or other natural or man-made disasters; (iii) changes attributable to the execution, announcement, performance or pendency or consummation of the Transactions (including the impact thereof on relationships with customers, suppliers, employees or Governmental Entities); (iv) changes or proposed changes in applicable Legal Requirements or interpretations thereof or decisions by courts or any Governmental Entity after the date of this Agreement; (v) changes or proposed changes in GAAP (or any interpretation thereof) after the date of this Agreement; (vi) general economic, political, regulatory or legal conditions, including changes in the credit, debt, securities, financial, capital or reinsurance markets (including changes in interest

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

or exchange rates, prices of any security or market index or commodity or any disruption of such markets), in each case, in the United States or anywhere else in the world; (vii) events or conditions generally affecting the industries and markets in which the Company operates; (viii) any failure in and of itself to meet any projections, forecasts, guidance, estimates, milestones, budgets or financial or operating predictions of revenue, earnings, cash flow or cash position, provided that this clause (viii) shall not prevent a determination that any change, event, or occurrence underlying such failure has resulted in a Company Material Adverse Effect; or (ix) any actions taken with the prior written consent of or at the prior written request of Iconic; provided, however, that if a change or effect related to clauses (i) through (vii) disproportionately adversely affects the Company, taken as a whole, compared to other Persons operating in the same industry as the Company, then such disproportionate impact may be taken into account in determining whether a Company Material Adverse Effect has occurred.

"***Company Material Contract***" shall have the meaning set forth in Section 4.18.

"***Company Member Approval***" shall have the meaning set forth in Section 7.01.

"***Company Member Equityholders***" shall have the meaning set forth in Section 7.11.

"***Company Member New Jersey Taxes***" shall have the meaning set forth in Section 7.10(c).

"***Company Members***" means each of Thomas Martin, FrutaPop LLC, a New York limited liability company, and InnoAccel Investments LLC, a Delaware limited liability company.

"***Company Members Disclosure Letter***" shall have the meaning set forth in Article VI.

"***Company Promissory Notes***" means those certain Promissory Notes in the aggregate principal amount of $4,900,000, dated as of the Closing Date, by Iconic in favor of Company Members, as secured by one hundred percent (100%) of the membership interests of the Company pursuant to that certain Pledge Agreement.

"***Company Real Property Leases***" shall have the meaning set forth in Section 4.12(b).

"***Company Transaction Costs***" shall mean all fees, costs and expenses of the Company, in each case, incurred prior to and through the Closing Date in connection with the negotiation, preparation and execution of this Agreement and the consummation of the Transactions, including: (a) all bonuses, change in control payments, retention, success fees or similar payments payable solely as a result of the consummation of the Transactions pursuant to arrangements (whether written or oral) entered into prior to the Closing Date whether payable before (to the extent unpaid), on or following the Closing Date, and the employer portion of payroll or similar Taxes payable as a result of the foregoing amounts; (b) all severance payments, retirement payments or similar payments or success fees payable pursuant to arrangements (whether written or oral) entered into prior to the Closing Date in connection with or anticipation of the consummation of the Transactions whether payable before (to the extent unpaid), on or following the Closing Date and the employer portion of payroll Taxes payable as a result of the foregoing amounts; and (c) all transaction, deal, brokerage, financial advisory or any similar fees payable in connection with or anticipation of the consummation of the Transactions; and (d) all costs, fees and expenses related to the D&O Tail, but excluding any transfer, documentary, sales, use, stamp, registration, excise, recording, registration value added and other similar Taxes and fees (including any penalties or interest) payable in connection with the Transactions.

"***Confidentiality Agreement***" shall mean that certain Mutual Non-Disclosure Agreement, dated July 3, 2020, by and between Iconic and the Company, as amended or supplemented from time to time.

"***Contract***" shall mean any contract, subcontract, agreement, indenture, note, bond, loan or credit agreement, instrument, installment obligation, lease, mortgage, deed of trust, license, sublicense, commitment, power of attorney, guaranty or other legally binding commitment, arrangement, understanding or obligation, whether written or oral, in each case, as amended and supplemented from time to time and including all schedules, annexes and exhibits thereto.

"***Copyleft Terms***" shall have the meaning set forth in Section 4.16(h).

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

"***COVID-19 Measures***" shall mean the regulations, measures, recommendations, directives, guidelines or orders promulgated or issued by any Governmental Entity, including the Centers for Disease Control and Prevention and the World Health Organization, to address COVID-19, including the CARES Act and other action, inaction, activity or conduct reasonably necessary (such determination to be made in the reasonable discretion of the Company) in connection with or response to any COVID-19 Measures.

"***COVID-19***" shall mean SARS-CoV-2 or COVID-19, and any evolutions or mutations thereof or related or associated epidemics, pandemics or disease outbreaks.

"***D&O Indemnified Party***" shall have the meaning set forth in Section 7.06(a).

"***D&O Tail***" shall have the meaning set forth in Section 7.06(b).

"***Derivative Rights***" means, with respect to any Equity Interests of any Person, any and all options, warrants, rights, convertible or exchangeable securities, "phantom" equity rights, equity appreciation rights, profits interests, equity-based performance units, commitments, Contracts, arrangements or undertakings of any kind to which such Person is a party or is bound obligating such Person to issue, deliver or sell, or cause to be issued, delivered or sold, additional shares of capital stock of or other equity (or phantom equity) interests in, or any security convertible or exercisable for or exchangeable into any capital stock or other equity interest in, such Person.

"***Direct Claim***" shall have the meaning set forth in Section 8.05(b).

"***Division of Taxation***" shall have the meaning set forth in Section 7.10(a).

"***EBITDA***" means earnings before interest, taxes, depreciation and amortization for the Company during the relevant 12-month measurement period calculated consistently with the past practices of the Company and shall be adjusted to exclude: (a) any extraordinary items of income or expense or any item not properly allocable to the operations of the Company's business or facilities; (b) any one-time or non-recurring expenses, including any transaction expenses incurred by the Company in connection with the consummation of the closing of the transactions contemplated by this Agreement or other non-recurring professional fees; (c) any costs and expenses related to the overhead of Iconic, including, but not limited to, the costs of compliance as a publicly traded company; provided, however, intercompany charges for reasonable accounting, sales and marketing costs of Iconic allocable to the Company's business shall be included up to a maximum allocation of $400,000 per year; and (d) income from sales of products of the Company to customers of Iconic in excess of the costs of manufacturing such products (including a reasonable allocation of overhead) plus a 25% mark-up. EBITDA shall include a charge for the amortized or depreciated portion of any capital expenditures of Iconic incurred for the benefit of the Company during the relevant measurement period which are approved by Company Member Thomas Martin (or the majority vote of the Company Members if Thomas Martin is not the then acting Chief Operating Officer). Notwithstanding the foregoing, EBITDA shall not be less than zero for purposes this Agreement.

"***EBITDA Hurdle***" shall have the meaning set forth in Section 3.01(a).

"***EBITDA Objection Notice***" shall have the meaning set forth in Section 3.01(d).

"***Entity Classification Election Withdrawal Request***" shall have the meaning set forth in Section 4.13(p).

"***Environmental Law***" shall mean any and all applicable Legal Requirements relating to pollution, Hazardous Materials, the environment, natural resources, endangered or threatened species, or human health and safety.

"***Equity Interests***" shall mean with respect to any Person, any and all shares, interests, participations, rights in, or other equivalents (however designated and whether voting or non-voting) of, such Person's capital stock or other equity interests (including partnership or limited liability company interests in a partnership or limited liability company or any other interest or participation right that confers on a Person the right to receive a share of the profits

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

and losses, or distributions of assets, of the issuing Person), and all Derivative Rights with respect to any of the foregoing.

"***ERISA***" shall mean the Employee Retirement Income Security Act of 1974, as amended.

"***ERISA Affiliate***" shall mean any trade or business (whether or not incorporated) that, together with the Company or any of its Subsidiaries is treated as a single employer under Section 414 of the Code.

"***Estimated Closing Cash Amount***" shall have the meaning set forth in Section 2.01(b).

"***Estimated Working Capital***" shall have the meaning set forth in Section 2.01(a).

"***Estimated Working Capital Statement***" shall have the meaning set forth in Section 2.01(a).

"***Exchange Act***" shall mean the United States Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

"***Exclusively Licensed Intellectual Property***" shall have the meaning set forth in Section 4.16(d).

"***Faegre Drinker***" shall have the meaning set forth in Section 9.15.

"***Final Allocation Schedule***" shall have the meaning set forth in Section 7.07(l).

"***Final Determination***" shall have the meaning set forth in Section 8.05(c).

"***Final Working Capital***" shall have the meaning set forth in Section 2.01(e).

"***Financial Statements***" shall have the meaning set forth in Section 4.06(a).

"***First Measurement Period***" shall have the meaning set forth in Section 3.01(a).

"***First Year Earn-out Amount***" shall have the meaning set forth in Section 3.01(a).

"***First Year EBITDA***" shall have the meaning set forth in Section 3.01(a).

"***First Year Statements***" shall have the meaning set forth in Section 3.01(a).

"***Formation***" shall mean September 5, 2019, the date on which the Company was duly formed under the NJ Statute by the filing of a certificate of formation with the state of New Jersey.

"***Fraud***" means with respect to any Knowledge Party, such Person's actual, knowing and intentional misrepresentation of fact with respect to making any of the representations or warranties contained in Article IV, Article V or Article VI of this Agreement, which such Person intended another Party to this Agreement to rely on, on which such other Party reasonably and justifiably relied on to its own detriment, and which caused such other Party to suffer harm; provided, however, a knowing and intentional misrepresentation of fact shall not include any fraud claim based on constructive knowledge or negligent misrepresentation or an employee's failure to disclose information after reasonable inquiry by any Knowledge Party.

"***Fundamental Representations***" shall have the meaning set forth in Section 8.01(b).

"***GAAP***" means United States generally accepted accounting principles, consistently applied.

"***Governmental Entity***" shall mean any federal, state, provincial, municipal, local or foreign government, governmental authority, regulatory or administrative agency, self-regulatory organization, governmental commission,

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

department, board, bureau, agency or instrumentality, court or tribunal including, for the avoidance of doubt, the TABC, the ABC, the U.S. Food and Drug Administration, the TTB, the U.S. Department of Agriculture and the U.S. Federal Trade Commission.

"***Hazardous Material***" means any substance, material or waste that is listed, classified, defined, characterized designated or otherwise regulated by a Governmental Entity as a "toxic substance," "hazardous substance," "hazardous material," "contaminant," "pollutant," "hazardous waste," "solid waste" or words of similar meaning or effect, or otherwise regulated under any Environmental Law, including any asbestos, asbestos-containing materials, lead or lead-based paint, polychlorinated biphenyls, chlorinated solvents, per- and polyfluoroalkyl substances, petroleum, petroleum byproducts, petroleum breakdown products, or radioactive materials.

"***Holder***" shall have the meaning set forth in Section 7.12(b).

"***Iconic Audited Financial Statements***" shall have the meaning set forth in Section 5.06(a).

"***Iconic Common Stock***" shall mean the common stock of Iconic, par value $0.001.

"***Iconic Disclosure Letter***" shall have the meaning set forth in Article V.

"***Iconic Financial Statements***" shall have the meaning set forth in Section 5.06(a).

"***Iconic Indemnitee***" shall have the meaning set forth in Section 8.02.

"***Iconic Interim Financial Statements***" shall have the meaning set forth in Section 5.06(a).

"***Iconic Material Adverse Effect***" shall mean any change, event, circumstance, fact or occurrence, that, individually or when aggregated with other changes, events, or occurrences, has had or would be reasonably likely to have a material adverse effect on (a) the business, assets, financial condition or results of operations of Iconic, taken as a whole; or (b) the ability of Iconic to consummate the Transactions on or prior to the Outside Date; provided, however, that no change, event, circumstance, fact or occurrence or effect related to any of the following, alone or in combination, shall be taken into account in determining whether an Iconic Material Adverse Effect pursuant to clause (a) has occurred or would be reasonably likely to occur: (i) acts of war, sabotage, civil unrest or terrorism, or changes in global, national, regional, state or local political or social conditions; (ii) earthquakes, hurricanes, tornados, pandemics (including COVID-19 or any COVID-19 Measures) or other natural or man-made disasters; (iii) changes attributable to the execution, announcement, performance or pendency or consummation of the Transactions (including the impact thereof on relationships with customers, suppliers, employees or Governmental Entities); (iv) changes or proposed changes in applicable Legal Requirements or interpretations thereof or decisions by courts or any Governmental Entity after the date of this Agreement; (v) changes or proposed changes in GAAP (or any interpretation thereof) after the date of this Agreement; (vi) general economic, political, regulatory or legal conditions, including changes in the credit, debt, securities, financial, capital or reinsurance markets (including changes in interest or exchange rates, prices of any security or market index or commodity or any disruption of such markets), in each case, in the United States or anywhere else in the world; (vii) events or conditions generally affecting the industries and markets in which Iconic operates; (viii) any failure in and of itself to meet any projections, forecasts, guidance, estimates, milestones, budgets or financial or operating predictions of revenue, earnings, cash flow or cash position, provided that this clause (viii) shall not prevent a determination that any change, event, or occurrence underlying such failure has resulted in an Iconic Material Adverse Effect; or (ix) any actions taken with the prior written consent of or at the prior written request of the Company or Company Members; provided, however, that if a change or effect related to clauses (i) through (vii) disproportionately adversely affects Iconic, taken as a whole, compared to other Persons operating in the same industry as Iconic, then such disproportionate impact may be taken into account in determining whether an Iconic Material Adverse Effect has occurred.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

"***Iconic SEC Reports***" shall have the meaning set forth in Section 5.06(d).

"***Indebtedness***" shall mean and include any of the following (a) indebtedness for borrowed money or indebtedness issued or incurred in substitution or exchange for indebtedness for borrowed money, (b) amounts owing as deferred purchase price for property or services, including all seller notes and "earn-out" payments, whether or not matured, (c) indebtedness evidenced by any note, bond, debenture, mortgage or other debt instrument, debt security or other similar instrument, (d) indebtedness secured by a Lien on assets or properties of the Company, (e) obligations or commitments to repay deposits or other amounts advanced by and owing to third parties, (f) any liability in respect of banker's acceptances or letters of credit (to the extent drawn), (g) obligations under any interest rate, currency or other hedging agreement, (h) all obligations as lessee under leases that have been or should be, in accordance with GAAP, recorded as capital leases, (i) all obligations to purchase, redeem, retire, defease or otherwise acquire for value any capital stock or any warrants, rights or options to acquire such capital stock, valued, in the case of redeemable preferred stock, at the greater of its voluntary or involuntary liquidation preference plus accrued and unpaid dividends, (j) direct or indirect guarantees or other contingent liabilities (including so called "make-whole", "take-or-pay" or "keep-well" agreements) with respect to any indebtedness, obligation, claim or liability of any other Person of a type described in clauses (a) through (i) above, or (k) with respect to any indebtedness, obligation, claim or liability of a type described in clauses (a) through (j) above, all accrued and unpaid interest, premiums, penalties, breakage costs, unwind costs, fees, termination costs, redemption costs, expenses and other charges with respect thereto.

"***Indemnified Party***" shall have the meaning set forth in Section 8.05.

"***Indemnifying Party***" shall have the meaning set forth in Section 8.05.

"***Independent Accountants***" shall have the meaning set forth in Section 2.01(e).

"***Insurance Policies***" shall have the meaning set forth in Section 4.19.

"***Intellectual Property***" shall mean any and all rights, title, or interests in or relating to intellectual property, whether protected, created or arising under the laws of the United States or any other jurisdiction, including: (a) all patents, patent applications and invention disclosures, including provisional patent applications and similar filings and any and all substitutions, divisions, continuations, continuations-in-part, divisions, reissues, renewals, extensions, reexaminations, patents of addition, supplementary protection certificates, utility models, inventors' certificates, or the like and any foreign equivalents of the foregoing (including certificates of invention and any applications therefor) (collectively, "***Patents***"); (b) all registered and unregistered trademarks, business marks, service marks, certification marks, brand names, trade dress rights, slogans, logos, corporate names, and trade names, and other source or business identifiers and general intangibles of a like nature, together with the goodwill associated with any of the foregoing, along with all applications, registrations, intent-to-use registrations or similar reservations of marks, renewals and extensions thereof (collectively, "***Trademarks***"); (c) all registered and unregistered copyrights, applications for registration of copyright, works of authorship, literary works, Software, pictorial and graphic works, mask work rights, reversions and moral rights (collectively, "***Copyrights***"); (d) all internet domain names and social media usernames and accounts; (e) trade secrets, know-how, technology, discoveries and improvements, know-how, proprietary rights, formulae, customer lists, business plans, confidential and proprietary information, technical information, techniques, inventions (including conceptions and/or reductions to practice), designs, drawings, procedures, processes, models, formulations, manuals and systems, whether or not patentable or copyrightable (collectively "***Trade Secrets***"); (f) data, databases and data collections; and (g) all other intellectual property, intellectual property rights, proprietary information and proprietary rights.

"***Intended Tax Treatment***" shall have the meaning set forth in Section 2.03.

"***Intercreditor Agreement***" means that certain Intercreditor Agreement, dated as of the Closing Date, by and among Company Members and accepted by Iconic, in the form attached hereto as Exhibit D.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

"***Interim Financial Statements***" shall have the meaning set forth in Section 4.06(a).

"***Inventory***" means all inventories of raw materials (including but not limited to corn, denaturants, enzymes, ingredients, botanicals, and chemicals), work-in-process (including but not limited to any and all alcohol or spirits held at any and all proofs, fermenter product, beer still product, corn mash, fusel oils, distillers grains, corn oil, stillage, and any and all products which are classified as off-specification product but are being held for future blending, re-distillation, or re-processing for eventual conversion into a finished product), finished goods sold in the ordinary course of business (including but not limited to finished goods alcohol or spirits held at proofs in excess of 190, distillers grains, corn oil and/or other co-products or by-products of the alcohol production process), in transit finished goods which are in transit within the United States of America or between the continental United States of America and United States territories and evidenced by a bill of lading or other shipping document, spare or replacement parts, packaging materials and other accessories related thereto which are held at, or are in transit from or to, the locations at which the Company's business is conducted and/or customer-delivery destinations, which are used or held for use by the Company or Company Members in the conduct of the business, including any of the foregoing purchased subject to any conditional sales or title retention agreement in favor of any other Person, together with all rights of Company or Company Members against suppliers of such inventories.

"***Investigation Period***" shall have the meaning set forth in Section 8.05(b).

"***IT Systems***" shall mean Software, computer or information technology systems, hardware, networks, servers, computers, workstations, routers, hubs, switches, data communications lines, interfaces, platforms, databases, websites, and all other information technology equipment, including any of the foregoing accessed pursuant to outsourced or cloud computing arrangements.

"***January 1, 2021 Entity Classification Election***" shall have the meaning set forth in Section 4.13(p).

"***Knowledge***" shall mean, with respect to the Company, Company Members and Iconic the actual knowledge as to a specified fact or event of the Knowledge Parties following reasonable inquiry.

"***Knowledge Parties***" shall mean the individuals listed on Schedule 1.2 with respect to the Company and Company Members and Schedule 1.3 with respect to Iconic.

"***Leased Real Property***" shall have the meaning set forth in Section 4.12(b).

"***Legal Proceeding***" shall mean any action, suit, hearing, claim, charge, audit, lawsuit, litigation, inquiry, arbitration or proceeding (in each case, whether civil, criminal or administrative or at law or in equity) by or before a Governmental Entity.

"***Legal Requirements***" shall mean any federal, state, local, municipal, foreign or other law, statute, constitution, treaty, principle of common law, resolution, ordinance, code, edict, decree, rule, regulation, ruling, injunction, judgment, Order, assessment, writ or other legal requirement, administrative policy or guidance, or requirement issued, enacted, adopted, promulgated, implemented or otherwise put into effect by or under the authority of any Governmental Entity.

"***Licensed Intellectual Property***" shall mean all Intellectual Property owned by a third Person and licensed to or otherwise used (or held for use) by the Company.

"***Lien***" shall mean any mortgage, pledge, security interest, encumbrance, lien, restriction or charge of any kind (including, any conditional sale or other title retention agreement or lease in the nature thereof, any agreement to give any security interest and any restriction relating to use, quiet enjoyment, voting, transfer, receipt of income or exercise of any other attribute of ownership).

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

"***Liquor Licenses***" means all licenses, permits and Approvals related to the manufacture, storage, bottling, transportation, labeling, rectification, blending, treatment, preparation, mixing, delivery and possession or sale of alcoholic beverages issued by any federal, state, country, local or foreign Governmental Entity held by the Company.

"***Losses***" shall mean any and all deficiencies, judgments, settlements, losses, damages, interest, fines, penalties, Taxes, costs and expenses (including reasonable legal, accounting and other costs and expenses of professionals incurred in connection with investigating, defending, settling or satisfying any and all demands, claims, actions, causes of action, suits, proceedings, assessments, judgments or appeals, and in seeking indemnification, compensation or reimbursement therefor).

"***Major Business Partners***" shall have the meaning set forth in Section 4.21.

"***Member Indemnitee***" shall have the meaning set forth in Section 8.03.

"***Note Consideration***" shall have the meaning set forth in Section 1.02(a).

"***Objection Period***" shall have the meaning set forth in Section 2.01(d).

"***OFAC***" means the U.S. Treasury Department Office of Foreign Assets Control.

"***Order***" shall mean any award, injunction, judgment, regulatory or supervisory mandate, order, writ, decree or ruling entered, issued, made, or rendered by any Governmental Entity that possesses competent jurisdiction.

"***Organizational Documents***" means the certificate of formation, operating agreement, certificate of incorporation and/or by-laws (or other comparable governing instruments with different names) of any Person, as each may be amended, modified or supplemented.

"***Owned Intellectual Property***" means any and all Intellectual Property owned (or purported in writing to be owned), in whole or in part, by the Company.

"***Pending Claims***" shall have the meaning set forth in Section 3.01(c).

"***Percentage Interest***" means the Company Interest of a Company Member as a percentage of the Company Interests of all Company Members.

"***Permitted Lien***" shall mean: (a) Liens for Taxes not yet delinquent or for Taxes that are being contested in good faith by appropriate proceedings and that are sufficiently reserved for on the Financial Statements in accordance with GAAP; (b) statutory and contractual Liens of landlords with respect to leased real property; (c) Liens of carriers, warehousemen, mechanics, materialmen and repairmen and the like incurred in the ordinary course and (i) not yet delinquent or (ii) that are being contested in good faith through appropriate proceedings; (d) in the case of leased real property, zoning, building, or other restrictions, variances, covenants, rights of way, encumbrances, easements and other irregularities in title, none of which, individually or in the aggregate, interfere in any material respect with the present use of or occupancy of the affected parcel by the Company; (e) in the case of Intellectual Property, non-exclusive licenses granted by the Company in the ordinary course of business; and (f) all exceptions, restrictions, easements, imperfections of title, charges, rights-of-way and other Liens of record that do not materially interfere with the present use of the real property of the Company, taken as a whole.

"***Person***" shall mean any individual, corporation (including any non-profit corporation), general partnership, limited partnership, limited liability partnership, joint venture, estate, trust, company (including any limited liability company or joint stock company), firm or other enterprise, association, organization, entity or Governmental Entity.

"***Person Required To Be Licensed***" shall have the meaning set forth in Section 7.02(c).

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

"***Personal Information***" shall mean, in addition to any definition for any similar term (e.g., "personally identifiable information" or "PII") provided by applicable Legal Requirements, or by the Company in any of their privacy policies, notices or Contracts, all information that identifies or could be used to identify an individual person, household or device, whether or not such information is associated with an identifiable individual. "Personal Information" may relate to any individual, household or device, including a current, prospective, or former customer, end user or employee of any Person, and includes applicable information in any form or media, whether paper, electronic, or otherwise.

"***Pledge Agreement***" means that certain Pledge Agreement, dated as of the Closing Date, by Iconic in favor of Company Members securing Iconic's obligations under the Company Promissory Notes, in the form attached hereto as Exhibit C.

"***Post-Closing Tax Period***" means any Tax period beginning after the Closing Date, and the portion of any Straddle Period beginning after the Closing Date.

"***Pre-Closing Tax Contest***" shall have the meaning set forth in Section 7.07(d).

"***Pre-Closing Tax Period***" means any Tax period ending on or before the Closing Date, and the portion of any Straddle Period through the close of business on the Closing Date.

"***Pre-Closing Tax Return***" shall have the meaning set forth in Section 7.07(c).

"***Pre-Closing Taxes***" means, without duplication, (i) any and all Taxes of or imposed on the Company for any and all Pre-Closing Tax Periods, (ii) any and all Taxes of an "affiliated group" (as defined in Section 1504 of the Code) (or affiliated, consolidated, unitary, combined or similar group under applicable Legal Requirements) of which the Company is or was a member on or prior to the Closing Date, including pursuant to Treasury Regulations Section 1.1502-6 (or any predecessor or successor thereof or any analogous or similar state, local or foreign Legal Requirement), (iii) any and all Taxes of or imposed on the Company as a result of transferee, successor or similar liability (including bulk transfer or similar laws), which Taxes relate to an event or transaction occurring on or before the Closing Date, and (iv) any and all amounts required to be paid by the Company pursuant to any tax sharing agreement that the Company was a party on or prior to the Closing Date; provided, however, that Pre-Closing Taxes shall not include (A) Taxes resulting from the filing of any election after the Closing having retroactive effect to any Pre-Closing Tax Period, (B) any and all Transfer Taxes required to be paid by Iconic pursuant to Section 7.07(g), or (C) any and all Taxes taken into account in computing the Estimated Working Capital, the Working Capital Target, the Final Working Capital, or the Working Capital Adjustment, as applicable.

"***Preferred Stock***" shall have the meaning set forth in Section 5.02(a).

"***Privacy Laws***" shall mean any and all applicable Legal Requirements (including of any applicable foreign jurisdiction) relating to the privacy, receipt, collection, compilation, use, storage, processing, sharing, safeguarding, security (both technical and physical), disposal, destruction, disclosure or transfer (including cross-border) of Personal Information, including the Federal Trade Commission Act, General Data Protection Regulation (GDPR), the California Consumer Privacy Act (CCPA) and any and all applicable Legal Requirements relating to breach notification in connection with Personal Information.

"***Pro Rata Portion***" shall mean for each Company Member, the dollar amounts or percentages set forth on Schedule B.

"***Proposed Allocation Schedule***" shall have the meaning set forth in Section 7.07(l).

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

"***Public Official***" means any Person employed by, representing or acting on behalf of a Governmental Entity or enterprise thereof (including a state-owned or state-controlled enterprise) or a public international organization, any representative or official of a political party or any candidate for any political office.

"***Registered IP***" shall have the meaning set forth in Section 4.16(a).

"***Remedies Exception***" shall have the meaning set forth in Section 4.03.

"***Rule 144***" means Rule 144 promulgated by the SEC pursuant to the Securities Act and any successor rules thereto.

"***Sanctions***" shall have the meaning set forth in Section 4.22(d).

"***SEC***" shall mean the United States Securities and Exchange Commission.

"***Second Measurement Period***" shall have the meaning set forth in Section 3.01(b).

"***Second Year Earn-out Amount***" shall have the meaning set forth in Section 3.01(b).

"***Second Year EBITDA***" shall have the meaning set forth in Section 3.01(b).

"***Second Year Statements***" shall have the meaning set forth in Section 3.01(b).

"***Section 351 Exchange Participants***" shall have the meaning set forth in Section 2.03.

"***Section 351 Participant Exchange***" shall have the meaning set forth in Section 2.03.

"***Securities Act***" shall mean the United States Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

"***Securities Purchase Agreement***" shall have the meaning set forth in the Recitals.

"***Securities Purchasers***" shall have the meaning set forth in the Recitals.

"***SEG Notes***" means the Original Issue Discount Promissory Note, dated December 28, 2020, by and between the Company and The Special Equities Opportunity Fund ("***SEG***"), in the principal amount of $220,000; the Original Issue Discount Promissory Note, dated January 21, 2021, by and between the Company and SEG, in the principal amount of $330,000; the Original Issue Discount Promissory Note, dated February 18, 2021, by and between the Company and 32 Entertainment, LLC, in the principal amount of $550,000; the Original Issue Discount Promissory Note, dated February 18, 2021, by and between the Company and Scott A Sampson Trust #2, in the principal amount of $550,000; the Original Issue Discount Promissory Note, dated February 18, 2021, by and between the Company and SEG, in the principal amount of $1,100,000; the Original Issue Discount Promissory Note, dated December 28, 2020, by and between the Company and Gregory Castaldo, in the principal amount of $110,000; the Original Issue Discount Promissory Note, dated January 21, 2021, by and between the Company and Gregory Castaldo, in the principal amount of $110,000; the Original Issue Discount Promissory Note, dated October 21, 2020, by and between the Company and Gregory Castaldo, in the principal amount of $121,000; the Original Issue Discount Promissory Note, dated February 18, 2021, by and between the Company and Gregory Castaldo, in the principal amount of $550,000; and the Original Issue Discount Promissory Note, dated October 21, 2020, by and between the Company and Joe Reda, in the principal amount of $121,000.

"***Software***" shall mean any and all (a) computer programs, including any and all algorithms, models and methodologies, whether in source code, object code, human readable form or other form, including compilers, middleware, tools, firmware, operating systems, specifications, platforms, algorithms, interfaces, APIs, architecture, modules, test specifications, scripts, executables, libraries, and other components thereof, (b) descriptions, flow charts

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

and other work products used to design, plan, organize and develop any of the foregoing, screens, user interfaces, report formats, firmware, development tools, templates, menus, buttons and icons, and (c) all versions, updates, releases, patches, corrections, enhancements and modifications thereto and all documentation including developer notes, instructions, comments, annotations, user manuals and other training documentation relating to any of the foregoing.

"***Special Representations***" shall have the meaning set forth in Section 8.01(b).

"***Stock Consideration***" shall have the meaning set forth in Section 1.02.

"***Straddle Period***" means any taxable period that begins before and ends after the Closing Date.

"***Straddle Period Tax Contest***" shall have the meaning set forth in Section 7.07(d).

"***Straddle Period Tax Return***" shall have the meaning set forth in Section 7.07(c).

"***Subsidiary***" shall mean, with respect to any Person, any partnership, limited liability company, corporation or other business entity of which: (a) if a corporation, a majority of the total voting power of shares of capital stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers, or trustees thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person or a combination thereof; (b) if a partnership, limited liability company or other business entity, a majority of the partnership or other similar ownership interests thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more Subsidiaries of that Person or a combination thereof; or (c) in any case, such Person controls the management thereof.

"***TABC***" shall mean the Texas Alcohol Beverage Commission.

"***Tax Return***" shall mean any federal, state, local or foreign return, declaration, report, form, claim for refund, or information return or statement relating to Taxes that is filed or required to be filed with a Governmental Entity, including any disclosure, schedule, estimate or attachment thereto and any amendment thereof.

"***Tax***" or "***Taxes***" shall mean any and all federal, state, local and foreign taxes, including, without limitation, gross receipts, income, profits, license, sales, use, estimated, alternative minimum, capital gains, windfall profits, premium, occupation, value added, ad valorem, transfer, franchise, capital stock, withholding, payroll, recapture, net worth, employment, unemployment, disability, severance, social security, excise and property taxes, assessments, stamp, environmental, registration, governmental charges, levies, fees and other similar charges, in each case, in the nature of a tax, imposed by a Governmental Entity, (whether disputed or not, whether payable directly or by withholding and whether or not requiring the filing of a Tax Return) together with all deficiency assessments, interest, penalties and additions imposed by a Governmental Entity with respect to any such amounts.

"***Tax Clearance Letter***" shall have the meaning set forth in Section 7.10(b).

"***Tax Contest***" shall have the meaning set forth in Section 7.07(d).

"***Third Party Claim***" shall have the meaning set forth in Section 8.05(a)(i).

"***Third Party Claim Notice***" shall have the meaning set forth in Section 8.05(a)(i).

"***Total Consideration***" shall have the meaning set forth in Section 1.02.

"***Transactions***" shall mean the transactions contemplated by or pursuant to this Agreement, including Iconic's acquisition of the Company Interests in exchange for the Total Consideration.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

"***Transaction Agreements***" means this Agreement, the Company Promissory Notes, the Pledge Agreement, the Intercreditor Agreement, the Company Member Approval and all of the agreements documents, instruments and certificates entered into in connection herewith or therewith and any and all exhibits and schedules hereto and thereto.

"***Treasury Regulations***" means the regulations promulgated by the U.S. Department of the Treasury pursuant to and in respect of provisions of the Code.

"***TTB***" means the United States Alcohol and Tobacco Tax and Trade Bureau.

"***Waiving Parties***" shall have the meaning set forth in Section 9.15.

"***WARN***" shall have the meaning set forth in Section 4.11(f).

"***Warrant***" shall have the meaning set forth in Section 5.02(c).

"***Working Capital***" means the current assets of the Company, less the current liabilities of the Company and excluding (i) all Company Transaction Costs, (ii) SEG Notes and (iii) all current liabilities constituting Indebtedness, in each case, as identified in the balance sheet line items included in the illustrative calculation set forth on Schedule C (which line items are based on the general ledger system of the Company) and subject to the exclusions and adjustments set forth thereon, calculated in accordance with, and in a format consistent with, the illustrative calculation set forth on Schedule C.

"***Working Capital Adjustment***" shall have the meaning set forth in Section 2.01(f).

"***Working Capital Dispute Notice***" shall have the meaning set forth in Section 2.01(d).

"***Working Capital Statement***" shall have the meaning set forth in Section 2.01(c).

"***Working Capital Target***" shall have the meaning set forth in Section 2.01(b).

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

EXHIBIT 10.2

THIS PROMISSORY NOTE HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR THE SECURITIES LAWS OF ANY STATE AND MAY NOT BE SOLD, TRANSFERRED, OR OTHERWISE DISPOSED OF EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER SUCH ACT AND APPLICABLE STATE SECURITIES LAWS OR PURSUANT TO AN APPLICABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF SUCH ACT AND SUCH LAWS. IN ADDITION, THIS PROMISSORY NOTE IS SUBJECT TO THAT CERTAIN INTERCREDITOR AGREEMENT, DATED AS OF THE DATE HEREOF, BY AND AMONG SELLER (AS DEFINED BELOW) AND [FRUTAPOP LLC AND INNOACCEL INVESTMENTS LLC AND THOMAS MARTIN] (THE "INTERCREDITOR AGREEMENT").

PROMISSORY NOTE

$[ ] July 26, 2021

FOR VALUE RECEIVED, ICONIC BRANDS, INC., a Nevada corporation ("Iconic"), promises to pay to [_____] (together with its successors and assigns, the "Seller"), in lawful money of the United States of America, the principal sum of [ ] Dollars ($[ ]) on the terms and conditions set forth herein.

This Promissory Note (as amended, restated, supplemented, extended or otherwise modified from time to time, the "Note") has been executed and delivered pursuant to and in accordance with the terms and conditions of the Acquisition Agreement dated as of the date hereof, by and among Iconic, TopPop LLC, and the Company Members identified therein, including Seller, (as amended, restated, supplemented, extended or otherwise modified from time to time, the "Acquisition Agreement"). Except as otherwise set forth in this Note, capitalized terms used but not defined in this Note shall have the respective meanings set forth in the Acquisition Agreement.

1. Payments.

1.1 Principal. The principal amount of this Note together with all accrued but unpaid interest thereon shall be due and payable on [ ], 2022[1] (the "Final Payment Date"), and in any event such final principal repayment installment shall be in an amount equal to the aggregate principal amount outstanding under this Note on such date. Any amount repaid under this Note may not be reborrowed.

1.2 Interest.

(a) The principal amount outstanding under this Note shall accrue interest at all times at a rate equal to 10% per annum. All such accrued interest will be due and payable on the Final Payment Date.

(b) Interest shall be calculated on the basis of a year of 365 or 366 days, as applicable, and charged for the actual number of days elapsed. Notwithstanding any provisions of this Note to the contrary, in no event shall the amount of interest paid or agreed to be paid by Iconic exceed an amount computed at the highest rate of interest permissible under applicable law.

[1] To be the first anniversary of the Closing Date.

1.3 Manner of Payment. All payments of principal and interest on this Note shall be made, in each instance at the sole discretion of Iconic, by either wire transfer or ACH transfer of immediately available funds to an account designated by Seller in writing.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

1.4 Prepayment. Iconic may prepay all or any portion of the outstanding principal balance due under this Note, without premium or penalty; provided that Iconic may not make a prepayment on this Note or the Promissory Notes issued to the other Company Members [(Frutapop LLC and Innoccel Investments LLC and Thomas Martin)] concurrently herewith, without prepaying a pro rata portion of all such Notes.

1.5 No Condition or Deduction. All payments to be made by Iconic under this Note shall be made free and clear of, and without condition or deduction for, any counterclaim, defense, recoupment or setoff; provided, however, that Iconic shall have a right of setoff to the extent set forth in the Acquisition Agreement.

2. Security. This Note is secured by a security interest in the collateral specified in, and pursuant to the terms of, that certain Pledge Agreement of even date herewith (the "Pledge Agreement") by Iconic in favor of Seller.

3. Defaults.

3.1 Events of Default. The occurrence of any one or more of the following events or conditions shall constitute an event of default (each an "Event of Default"):

(a) Iconic fails to pay (i) any principal amount of the Note when due, or (ii) interest or any other amount when due and such failure continues for a period of five (5) days;

(b) pursuant to or within the meaning of the United States Bankruptcy Code or any other federal or state law relating to insolvency or relief of debtors (a "Bankruptcy Law"), Iconic: (i) commences a voluntary case or proceeding; (ii) consents to the entry of an order for relief against it in an involuntary case; (iii) consents to the appointment of a trustee, receiver, assignee, liquidator or similar official; (iv) makes an assignment for the benefit of its creditors; or (v) admits in writing its inability to pay its debts as they become due;

(c) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that: (i) is for relief against Iconic in an involuntary case, (ii) appoints a trustee, receiver, assignee, liquidator or similar official for Iconic or any material portion of Iconic's assets or properties, or (iii) orders the liquidation of Iconic;

(d) any representation or warranty made in the Acquisition Agreement, this Note or the Pledge Agreement or any written statement delivered to Seller pursuant hereto or thereto shall be untrue or incorrect in any material respect as of the date when made or deemed made; or

(e) the breach or violation of, or the failure or refusal by Iconic to perform, any of the terms, obligations, covenants, or warranties set forth in this Note, the Pledge Agreement or the Acquisition Agreement, and such breach, violation, failure or refusal continues for fifteen (15) days (it being understood that if such breach, violation, failure or refusal is not capable of being cured then there shall be no cure period, and it being further understood that the foregoing cure period shall not apply to the failure to pay any amount due hereunder, as the cure period set forth in Section 3.1(a), if any, above shall control).

3.2 Notice By Iconic. Iconic shall immediately notify Seller in writing of the occurrence of any Event of Default.

3.3 Remedies. Upon the occurrence of an Event of Default hereunder, Seller may, at its option in its sole and absolute discretion: (a) declare the entire unpaid principal balance of this Note, together with all accrued interest thereon and all other amounts owed hereunder, immediately due and payable, and (b) exercise any and all rights and remedies available to it under this Note, the Pledge Agreement or applicable law, including, without limitation, the right to collect from Iconic all sums due under this Note; provided, however, that, upon the occurrence of an Event of Default described in Section 3.1(b) or (c), all principal, interest and other amounts under this Note shall automatically and immediately become due and payable without further action by Seller. The rights, powers, and remedies of Seller under this Note shall be in addition to all rights, powers, and remedies given to Seller by virtue of any statute or rule of law or any other agreement, all of which rights, powers and remedies shall be cumulative and may be exercised successively or concurrently without impairing Seller's rights, powers and remedies under this Note.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

4. Miscellaneous.

4.1 Amendments and Waivers. Neither this Note nor any terms hereof may be amended, changed, waived, discharged, or terminated unless such amendment, change, waiver, discharge or termination is in writing signed by Iconic and Seller. No waiver by Seller of any breach of, violation of, default under or inaccuracy in any representation, warranty or covenant hereunder, whether intentional or not, will be deemed to extend to any prior or subsequent breach, violation, default of, or inaccuracy in, any such representation, warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence. No delay or omission on the part of Seller in exercising any right, power or remedy under this Note or applicable law will operate as a waiver thereof. Iconic hereby waives presentment, demand, protest and notice of dishonor and protest.

4.2 Notices. Any notice required or permitted to be given hereunder shall be given in accordance with Section 12.01 of the Acquisition Agreement.

4.3 Severability. Any term or provision of this Note that is invalid or unenforceable in any situation in any jurisdiction will not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction. In the event that any provision hereof would, under applicable law, be invalid or unenforceable in any respect, Iconic intends that such provision will be construed by modifying or limiting it so as to be valid and enforceable to the maximum extent compatible with, and possible under, applicable law.

4.4 Governing Law. This Note shall be governed by and construed in accordance with the internal laws of the State of Delaware, without regard to the principles of conflicts of law thereof (to the extent that the application of the laws of another jurisdiction would be required thereby).

4.5 Jurisdiction; Venue; Service of Process. Except as otherwise provided in this Section, each of Iconic and Seller (by his, her or its acceptance hereof): (a) hereby irrevocably submits to the exclusive jurisdiction of the state courts of the State of Delaware or the United States District Court located in Wilmington, Delaware, for the purpose of any lawsuit, legal proceeding, litigation or arbitration (each an "Action") arising out of or relating to this Note or the negotiation or performance hereof ("Litigated Claims"), (b) hereby waives and agrees not to assert, by way of motion, as a defense or otherwise, in any such Action, any claim that he, she or it is not subject personally to the jurisdiction of the above-named courts, that his, her or its property is exempt or immune from attachment or execution, that any such Action brought in one of the above-named courts should be dismissed on grounds of forum non conveniens, should be transferred or removed to any court other than one of the above-named courts, or should be stayed by reason of the pendency of some other proceeding in any other court other than one of the above-named courts, or that this Note or the subject matter hereof may not be enforced in or by such court, and (c) hereby agrees not to commence any such Action other than before one of the above-named courts. Notwithstanding the previous sentence, either Iconic or Seller may commence any Action in a court other than the above-named courts solely for the purpose of enforcing an order or judgment issued by one of the above-named courts. Notwithstanding the foregoing, nothing in this Section or this Note shall limit the right of Seller to: (i) exercise self-help remedies, such as but not limited to, setoff; (ii) initiate judicial (in any court) or non-judicial foreclosure against any real or personal property collateral; (iii) exercise any judicial (in any court) or power of sale rights; or (iv) act in any court of law to obtain an interim, provisional or injunctive remedy, such as but not limited to, injunctive relief, writ of possession or appointment of a receiver, or additional or supplementary remedies. Each of Iconic and Seller (by its, his or her acceptance hereof) hereby (i) consents to service of process in any Litigated Claim in any manner permitted by Delaware law, (ii) agrees that (A) service of process with respect to Litigated Claims made in accordance with clause (i) or (B) notice with respect to Litigated Claims provided in accordance with the notice provisions contained in Section 4.2 will constitute good and valid service of process in any such Action, and (iii) waives and agrees not to assert (by way of motion, as a defense, or otherwise) in any such Action any claim that service of process made in accordance with clause (i) or (ii) does not constitute good and valid service of process.

4.6 Replacement Note. If this Note shall be mutilated, lost, stolen or destroyed, Iconic shall execute and deliver, in exchange and substitution for and upon cancellation of the mutilated Note, or in lieu of or in substitution

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

for a lost, stolen or destroyed Note, a new Note for the principal amount of this Note. Iconic may require a reasonable and customary indemnity agreement in connection with the issuance of a replacement Note to protect Iconic from any loss which it may suffer as a result of such issuance.

4.7 Succession and Assignment. This Note shall be binding upon any successors or assigns of Iconic, provided that Iconic shall not have the right to assign its rights or delegate its obligations hereunder or any part thereof without Seller's prior written consent. This Note shall benefit any successors or assigns of Seller, which may assign its rights and benefits under this Note without the consent of Iconic; provided that any assignee of Seller shall agree (and shall be deemed to have agreed) to the terms of, and to be bound by, the Intercreditor Agreement. As used in this Note, the term "Seller" includes, without limitation, any holder of this Note.

4.8 Attorneys' Fees. Iconic agrees to pay all expenses, costs, and disbursements incurred by Seller (including, without limitation, all attorneys' fees and other legal expenses incurred by Seller in connection therewith) in connection with the enforcement of its rights under this Note and the Pledge Agreement upon the occurrence and during the continuance of an Event of Default, including, without limitation, the participation or other involvement of Seller in (a) bankruptcy, insolvency, receivership, foreclosure, winding up, or liquidation proceedings, (b) judicial or regulatory proceedings, and (c) workout, restructuring, or other negotiations or proceedings (whether or not the workout, restructuring or transaction contemplated thereby is consummated).

4.9 Headings; Section References; Interpretation. The headings contained in this Note are for convenience purposes only and will not in any way affect the meaning or interpretation hereof. All references to "Section" or "Sections" refer to the corresponding Section or Sections of this Note unless otherwise specified. All words used in this Note will be construed to be of such gender or number as the circumstances require. Unless otherwise expressly provided, the words "hereof" and "hereunder" and similar references refer to this Note in its entirety and not to any specific section or subsection hereof.

4.10 Waiver of Notice. Iconic hereby waives demand for payment, presentment for payment, protest, notice of payment, notice of dishonor, notice of nonpayment, notice of acceleration of maturity, and diligence in taking any action to collect sums owing hereunder.

4.11 Construction. Iconic and Seller have participated jointly in the negotiation and drafting of this Note. In the event an ambiguity or question of intent or interpretation arises, this Note will be construed as if drafted jointly by Iconic and Seller and no presumption or burden of proof will arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Note.

4.12 Time is of the Essence. Time is of the essence in this Note.

4.13 Integration of Terms. This Note, the Pledge Agreement and the Acquisition Agreement constitute the entire agreement between the parties with respect to the subject matter hereof and supersede all oral statements and prior writings with respect thereto.

4.14 Electronic Execution. The words "execution," "signed," "signature," and words of similar import in this Note shall be deemed to include electronic or digital signatures or electronic records, each of which shall be of the same effect, validity, and enforceability as manually executed signatures or a paper-based record-keeping system, as the case may be, to the extent and as provided for under applicable law, including the Electronic Signatures in Global and National Commerce Act of 2000 (15 U.S.C. §§ 7001 to 7031), the Uniform Electronic Transactions Act (UETA), or any state law based on the UETA, including the New York Electronic Signatures and Records Act (N.Y. State Tech. §§ 301 to 309).

[Signature Page Follows]

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

IN WITNESS WHEREOF, Iconic has executed and delivered this Note as of the date first stated above.

ICONIC BRANDS, INC.,
a Nevada corporation

By: */s/ Richard DeCicco*
Name: Richard DeCicco
Title: Chief Executive Officer

[Signature Page to Promissory Note]

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

EXHIBIT 10.3

PLEDGE AGREEMENT

This Pledge AGREEMENT, dated as of July 26, 2021 (as amended, restated, supplemented or otherwise modified from time to time, this "Agreement"), is by ICONIC BRANDS, INC., a Nevada corporation ("Iconic") in favor of [_____] ("Seller").

WHEREAS, reference is made to that certain Promissory Note dated the date hereof (as amended, restated, supplemented, consolidated, replaced, re-issued or otherwise modified from time to time, the "Note") made by Iconic in favor of Seller in the original principal face amount of $[ ] and delivered by Iconic to Seller pursuant to that certain Acquisition Agreement dated as of the date hereof, by and among Iconic, TopPop LLC, a New Jersey limited liability company (the "Company") and the Company Members identified therein, including Seller, (as amended, restated, supplemented, extended or otherwise modified from time to time, the "Acquisition Agreement"); and

WHEREAS, in order to secure Iconic's full and timely payment and performance of all of its obligations under the Note, including, without limitation, the payment of principal, interest, fees and expenses due or that may become due thereunder (collectively, the "Obligations") and further induce Seller to enter into the Acquisition Agreement and accept the Note in connection therewith, and for purposes of satisfying the conditions set forth in the Acquisition Agreement to the obligations of Seller thereunder, Iconic is willing to pledge to Seller all of the Collateral (as defined herein), on the terms set forth herein.

NOW, THEREFORE, in consideration of the premises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. Pledge of Collateral and Grant of Security Interest. To secure Iconic's full and timely payment and performance of the Obligations, Iconic hereby pledges, assigns, and grants to Seller a security interest in all of Iconic's right, title and interest in and to all of the membership interests of the Company, whether now existing or hereafter issued, including, without limitation, the membership interests described on Schedule 1 hereto (collectively, the "Membership Interests"), together with all books and records related thereto, and any and all replacements, products and proceeds of, and dividends, distributions in property or securities, returns of capital or other distributions made on or with respect to, any of the foregoing, whether now existing or hereafter from time to time arising or acquired (collectively, the "Collateral"). All distributions, cash, instruments and other property from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of the Collateral shall be payable to Iconic and belong to Iconic absolutely unless and until an Event of Default has occurred and is continuing under the Note. Upon the occurrence and during the existence of any Event of Default, all such distributions, cash, instruments and property (unless and until such Event of Default has been waived in writing by Seller) shall be distributed directly to Seller, and, if not so distributed, then held in trust for Seller, all pursuant to and subject to the terms of this Agreement. All securities issuable to Iconic in connection with any split, recapitalization, reorganization or otherwise on account of or arising out of any of the Membership Interests shall be delivered to Seller in accordance with Section 2 hereof, constitute "Collateral," and in all respects be subject to the terms of this Agreement. Iconic hereby authorizes Seller to file, and if requested will deliver to Seller, all financing statements and other documents and take such other actions as may from time to time be reasonably requested by Seller in order to maintain a first perfected security interest in and control of the Collateral.

2. Delivery of Certificates. Within five (5) business days of the execution of this Agreement, and thereafter as any such certificates or securities are received by or for the account of Iconic, Iconic shall deliver to Seller any and all certificates issued by the Company (if any) evidencing the Membership Interests and any other instruments, certificates or securities evidencing any of the Collateral (all of the foregoing, collectively, the "Certificates"), and shall accompany the Certificates with duly executed instruments of transfer or assignment in blank, all in form and substance reasonably satisfactory to Seller.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

3. Waivers and Consents. Upon the occurrence and during the continuance of any Event of Default (as hereinafter defined), Seller may enforce this Agreement independently of any other remedy or security Seller at any time may have or hold, and it shall not be necessary for Seller to marshal assets in favor of Iconic or any other party or to proceed upon or against and/or exhaust any other security or remedy before proceeding to enforce this Agreement. Upon the occurrence and during the continuance of any Event of Default, Seller shall, in addition to such rights and remedies as are provided for hereunder, be entitled to exercise all of the rights and remedies of a secured party upon default under any and all applicable law.

4. Knowing Waivers and Consent. Iconic represents and warrants that each of the waivers and consents set forth herein is made with full knowledge of its significance and consequences. Iconic represents and warrants that it understands that events giving rise to any defense waived may diminish, destroy or otherwise adversely affect the rights which Iconic otherwise may have against Seller or others, or against the Collateral, and that, under the circumstances, the waivers and consents herein given are reasonable and not contrary to public policy or law. If any of the waivers or consents herein are determined to be contrary to any applicable law or public policy, such waivers and consents shall be effective to the maximum extent permitted by law.

5. Representations and Warranties; Covenants. Iconic represents, warrants and covenants as follows:

(a) The Membership Interests have been duly authorized and validly issued and are fully paid and non-assessable. All information set forth on Schedule 1 hereto relating to the Membership Interests is accurate and complete.

(b) Iconic is the sole beneficial owner of the Collateral free and clear of any setoff, claim, restriction, pledge, security interest, lien, encumbrance or any other charges (collectively, "Liens"), except for the security interest created by this Agreement and the Liens granted to [*Frutapop LLC Innoaccel Investments LLC and Thomas Martin*] (collectively, the "Other Company Sellers"), and Iconic has the right to pledge and grant a security interest in or otherwise transfer such Collateral free of any Liens or rights of third parties, other than the Liens granted to the Other Company Sellers.

(c) No authorization, approval, or other action by, and no notice to or filing with, any governmental authority or regulatory body is required either for the pledge of the Collateral hereunder by Iconic pursuant to this Agreement or for the execution, delivery, or performance of this Agreement by Iconic (including any disposition of any Collateral by Seller pursuant to this Agreement), except (i) the filing of a financing statement under the Uniform Commercial Code of the State of Nevada, and (ii) as may be required in connection with any such disposition by laws affecting the offering and sale of securities generally under the Securities Laws (as defined herein).

(d) Iconic's legal name is indicated in the first paragraph above. Iconic does not have any other name and has not had any other name in the previous five (5) years. All information provided to Seller pertaining to Iconic for purposes of perfection is true, correct and complete, and is not misleading in any material respect. Iconic shall provide at least thirty (30) days written notice to Seller prior to changing its legal name.

(e) This Agreement has been duly and validly executed and delivered by Iconic and constitutes the legal, valid and binding obligation of Iconic.

(f) This Agreement constitutes, creates and grants a valid first priority security interest in the Collateral in favor of Seller, subject to no prior Lien, other than the Liens granted to the Other Company Sellers. Upon the execution and delivery of this Agreement by Iconic, the delivery of the Certificates to Seller in accordance with Section 2 hereof, and the filing of a UCC financing statement with respect to the Collateral in the Office of the Secretary of State of the State of Nevada, Seller will have a perfected security interest in the Collateral.

(g) The execution and delivery of this Agreement by Iconic and compliance by Iconic with all of the provisions of this Agreement will not conflict with, or result in any breach in any of the provisions of, or constitute a default under, or result in the creation of any Lien (except Liens granted pursuant to this Agreement) upon any

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

property of Iconic under the provisions of, any agreement or other instrument to which Iconic is a party or by which Iconic or any of its property or assets may be bound.

(h) The pledge of the Collateral hereunder does not violate (i) the Organizational Documents, or any indenture, mortgage, or loan or credit agreement to which Iconic is a party or by which any of its properties or assets may be bound, (ii) any provision of any applicable law, rule or regulation or of any order, judgment, writ, award or decree of any court, arbitrator, or governmental instrumentality, domestic or foreign, applicable to Iconic, or (iii) any restriction on transfer or encumbrance of any of the Collateral.

(i) None of the Collateral is required to be registered under any state, federal or foreign securities laws, including, without limitation, the Securities Act of 1933, the Securities Exchange Act of 1934, and so-called "Blue Sky Laws" or any rule or regulations promulgated under any of the foregoing (as such laws may be modified from time to time, collectively, the "Securities Laws"). Iconic has not taken any action, will take no action, and will cause the Company to take no action, which would cause the exercise of remedies by Seller hereunder to violate, or to require that any filing, registration or other act be taken which respect to, any Securities Law. Iconic shall at all times comply with the Securities Laws as the same pertain to all or any portion of the Collateral or pledge and security interest made and granted hereunder.

(j) Iconic will not, without the prior written consent of Seller, (i) sell, convey or otherwise dispose of any or all of the Collateral or any interest therein, or (ii) create, incur or permit to exist any Lien whatsoever with respect to the Collateral other than that created hereby.

(k) Iconic will not authorize, create or issue or obligate itself to issue any membership interests in the Company without Seller's prior written consent.

(l) Iconic shall take reasonable actions to defend all of the right, title and interest of Seller in and to the Collateral against all claims and demands.

(m) Iconic shall not rescind the Organizational Documents, amend or modify the Organizational Documents or waive any rights thereunder in each case, in a manner that is material and adverse to the interest of Seller.

(n) Iconic shall not, without the prior written consent of Seller, take any action or consent to any action which would result in a sale, encumbrance or hypothecation of any or all of the assets of the Company, except (i) in the ordinary course of business of the Company, (ii) with respect to the Liens granted to the Other Company Sellers, or (iii) any transaction that would not materially and adversely affect Seller's Lien on the Collateral or its rights hereunder.

(o) Iconic shall cause the Company to make appropriate notations and entries in the Company's ledgers reflecting Iconic's pledge of the Membership Interests to Seller.

(p) Iconic shall give Seller such information as may be reasonably requested concerning the Collateral and, upon the occurrence and during the continuance of any Event of Default, permit Seller and its agents and representatives to enter upon any premises upon which Iconic's records concerning the Collateral or the Company are located for the purpose of inspecting and auditing the same, upon five (5) business days' prior written notice to Iconic.

6. Seller as Attorney-In-Fact. Iconic does hereby make, constitute and appoint Seller, and any agent of Seller, with full power of substitution, as Iconic's attorney-in-fact, with power, in its own name or in the name of Iconic, upon the occurrence and during the continuance of an Event of Default, generally to do at Seller's option, at any time or from time to time, all acts and things which Seller deems necessary to protect, preserve and realize upon the Collateral and Seller's security interest therein to effect the intent of this Agreement, all as fully and effectually as Iconic might or could do; and Iconic hereby ratifies all that said attorney shall lawfully do or cause to be done by virtue hereof. This

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

power of attorney is coupled with an interest and shall be irrevocable for the term of this Agreement and thereafter as long as any of the Obligations shall be outstanding.

7. Further Assurances. At any time, and from time to time, Iconic will promptly execute, deliver and file or record all further statements, instruments and documents, and will take all further actions, at the expense of Iconic, including, without limitation, (a) causing each issuer of the Collateral to so execute, deliver, file or take other actions, that may be reasonably necessary or desirable, (b) that Seller reasonably may request consistent herewith, in order to perfect and protect any pledge and security interest granted hereby, or (c) to enable Seller to exercise and enforce its rights and remedies hereunder with respect to any Collateral, and to preserve, protect and maintain the Collateral and the value thereof, including, without limitation, payment of all taxes, assessments and other charges imposed on or relating to the Collateral.

8. No Marshaling; Reinstatement. Iconic consents and agrees that Seller shall be under no obligation to marshal any assets in favor of Iconic or any other party or against or in payment of any or all of the Obligations. Iconic further agrees that, to the extent that the Company, Iconic or any guarantor of all or any part of the Obligations makes a payment or payments to Seller, or receives any proceeds of the Collateral, which payment or payments or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside and/or required to be repaid to the Company, Iconic, such guarantor or any other Person, or their respective estates, trustees, receivers or any other party under any bankruptcy law, state or federal law, common law or equitable cause, then, to the extent of such payment or repayment, the part of the Obligations which has been paid, reduced or satisfied by such amount shall be reinstated and continued in full force and effect as of the time immediately preceding such initial payment, reduction or satisfaction.

9. Events of Default.

(a) Each of the following shall constitute an event of default hereunder (each, an "Event of Default"): (i) the occurrence of any Event of Default under, and as defined in, the Note; and (ii) any security interest provided for herein ceasing to be a valid and perfected first priority security interest in the Membership Interests or any other material portion of the Collateral (except as otherwise explicitly permitted herein) or shall cease to be in full force and effect.

(b) Upon the occurrence and during the continuance of an Event of Default, Seller shall have in any jurisdiction where enforcement is sought, in addition to all other rights and remedies that Seller may have under this Agreement, the Note and under applicable law or in equity, all of its rights and remedies as a secured party, and in addition the following rights and remedies, all of which may be exercised with or without prior written notice to Iconic:

(i) to enforce payment and prosecute any action or proceeding with respect to any and all of the Collateral and take or bring, in its own name or in the name of Iconic, all steps, actions, suits or proceedings deemed by Seller necessary or desirable to effect collection of or to realize upon the Collateral;

(ii) in accordance with applicable law, to take possession of the Membership Interests with or without judicial process;

(iii) to endorse, in the name of Iconic, all checks, notes, drafts, money orders, instruments and other evidence of payment relating to the Collateral;

(iv) to transfer any or all of the Collateral into the name of Seller or its nominee or nominees; and

(v) in accordance with applicable law, to foreclose the Liens and security interests created under this Agreement or under any other agreement relating to the Collateral by any available judicial procedure or without judicial process, and to sell, assign or otherwise dispose of the Collateral or any part thereof, either at public or private sale or at any broker's board or securities exchange, in lots or in bulk, for

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

cash, on credit or on future delivery, or otherwise, with or without representations or warranties, and upon such terms as shall be acceptable to Seller.

(c) Following the occurrence of any Event of Default, Seller, without demand of performance or other demand, advertisement or notice of any kind (except the notice specified below of time and place of public or private sale, and the notice of repossession referred to below) to or upon Iconic or any other person (all and each of which demands, advertisements and/or notices are, to the extent permitted by law, hereby expressly waived), may take such action as it deems appropriate with respect to the realization of the Collateral, including, without limitation, to forthwith collect the Collateral not then in the possession of Seller and to sell, assign and deliver the whole or, or from time to time any part of, the Collateral at a public or private sale, for cash or credit or any other property, for immediate or future delivery, and for such price or prices as Seller shall determine, with the right of Seller or any purchaser upon any such sale, whether public or private, to purchase, to the extent permitted by law, the Collateral so sold, free of any right or equity of redemption in Iconic of such Collateral which right or equity is hereby expressly waived and released to the extent permitted by law and to carry out any agreement to sell any item or items of Collateral in accordance with the terms of such agreement, notwithstanding the fact that after Seller shall have entered into such an agreement, the Obligations may have been satisfied or paid in full, and subject to any applicable non-waivable provision of the UCC, Seller may be a purchaser in such sale and Seller (in its sole discretion) may apply all or any portion of the unpaid principal amount of any of the Obligations against the purchase thereof, provided, however, in the case of: (i) any public sale, (A) Seller shall give at least ten (10) days' notice to Iconic of the time and place of any public sale and (B) notice of any such public sale shall be sufficient for all purposes if a written notice of any such sale is given to Iconic by notifying Iconic as set forth in Section 21(e) hereof and if a similar notice is published in a newspaper of general circulation, all in accordance with, where applicable, Sections 9-610, 9-611, 9-615, 9-617, 9-618 and 9-624 of the Uniform Commercial Code (or any revision, amendment, or successor statute), as in effect from time to time, of the State of Delaware or other applicable jurisdiction (the "UCC"); and (ii) any private sale, such sale shall be conditioned upon Seller providing notice of such sale terms to Iconic and not consummating such sale until ten (10) days after provision of such notice. Such notice of public or private sale shall be deemed to be reasonable notification of such matters. Iconic agrees that any disposition of Collateral made pursuant to the provisions of this Section 9(c) shall be deemed to have been made in a commercially reasonable manner, but the foregoing provisions shall not be deemed to limit the right of Seller to dispose of any item of Collateral in any other manner provided in the UCC, including without limitation pursuant to Section 9(d) hereof. Seller and its counsel shall not incur any liability as a result of the collection and/or sale of the Collateral, or any part thereof, in accordance with the provisions of this Section 9(c) (or Section 9(d) hereof) and the UCC, or for the failure to collect and/or sell or offer for sale the Collateral or any part thereof, for any reason whatsoever.

(d) Iconic is aware that Section 9-610(c) of the UCC states that Seller is able to purchase Collateral only if it is sold at a public sale unless the Collateral meets certain requirements. Iconic is also aware that staff personnel of the United States Securities and Exchange Commission ("SEC") have, over a period of years, issued various no-action letters (the "No-Action Letters") that describe procedures which, in the view of the SEC staff, permit a foreclosure sale of securities to occur in a manner that is public for purposes of Article 9 of the UCC, yet not public for purposes of Section 4(2) of the Securities Act of 1933. Iconic is also aware that Seller may wish to purchase Collateral that is sold at a foreclosure sale, and Iconic believes that such purchases would be appropriate in circumstances in which Collateral is sold in conformity with the principles set forth in the No-Action Letters. Section 9-603 of the UCC permits Iconic to agree on the standards for determining whether Seller has complied with its obligations under Section 9-610(b) of the UCC. Pursuant to Section 9-603 of the UCC, Iconic specifically agrees that a foreclosure sale conducted in conformity with the principles set forth in the No-Action Letters (i) shall be considered a "public" sale for purposes of Section 9-610(b) of the UCC, and therefore for purposes of Section 9-610(c) of the UCC; (ii) will be considered commercially reasonable notwithstanding that Seller has not registered or sought to register such Collateral as is sold in any such foreclosure sale under the Securities Laws, even if Iconic agrees to pay all costs of the registration process; and (iii) shall be considered to be commercially reasonable notwithstanding that Seller purchased Collateral at such a sale.

(e) The proceeds of any sale as aforesaid shall be applied in the order of priority indicated as follows:

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(i) First, to the payment of all reasonable costs and expenses, fees, commissions and taxes at any time and from time to time incurred by Seller under or in connection with the administration or enforcement of this Agreement or the Note (including, without limitation, the reasonable fees and expenses of counsel employed by Seller in connection therewith) and the payment of all indemnities at any time and from time to time payable to Seller under or in connection with this Agreement or the Note;

(ii) Second, to the payment of the Obligations in such order as Seller may determine; and

(iii) Third, in accordance with applicable law.

(f) Seller shall be entitled to the appointment of a receiver or trustee to assume, upon receipt of all necessary judicial or other governmental authority, consents or approvals, control of or ownership of the Collateral. Such receiver or trustee shall have all rights and powers provided to it by law or by court order or provided to Seller under this Agreement.

10. Voting Rights; Distributions.

(a) So long as no Event of Default shall have occurred and be continuing:

(i) Iconic shall be entitled to exercise any and all voting rights and other consensual rights pertaining to the Collateral of Iconic or any part thereof for any purpose not inconsistent with the terms of this Agreement or the Note.

(ii) Iconic shall be entitled to receive and retain any and all dividends, indemnities, reimbursement, distributions, interest and all other amounts paid in respect of the Collateral, but only to the extent paid in compliance with the provisions of this Agreement.

(b) During the continuance of an Event of Default, Seller shall have the sole right to exercise all such voting rights and other consensual rights and shall have the sole right to receive and retain all such amounts set forth in clause (a)(ii) of this Section 10.

11. Seller's Duties. The powers conferred on Seller hereunder are solely to preserve, maintain and protect the interest of Seller in the Collateral and shall not impose any duty upon Seller to exercise any such powers. Seller shall not have any duties with respect to the Collateral other than the duty to use reasonable care if the Collateral is in its possession and to account for monies actually received by it hereunder. In accordance with Section 9-207 of the UCC, Seller shall be deemed to have used reasonable care if it observes substantially the same standard of care with respect to the custody or preservation of the Collateral as it observes with respect to similar assets owned by Seller. Without limiting the generality of the foregoing, Seller shall be under no obligation to take any steps to preserve rights in the Collateral against any other parties, to sell the same if it threatens to decline in value, or to ascertain or to exercise any rights represented thereby (including rights with respect to calls, conversions, exchanges, maturities, or tenders); provided, however, Seller may, at its option, do so, and any and all expenses incurred in connection therewith shall be for the account of Iconic.

12. No Election of Remedies. Seller shall have all of the rights to seek recourse against Iconic with respect to the Collateral to the fullest extent provided for herein, and no election by Seller to proceed in one form of action or proceeding, or against any party, or on any obligation, shall constitute a waiver of Seller's right to proceed in any other form of action or proceeding or against other parties unless Seller has expressly waived such right in writing. Specifically, but without limiting the generality of the foregoing, no action or proceeding by Seller under the Note shall serve to diminish the liability of Iconic under this Agreement except to the extent that Seller finally and unconditionally shall have realized indefeasible payment in cash by such action or proceeding.

13. Counterparts. This Agreement may be executed and delivered (including by facsimile or pdf transmission) in one or more counterparts, each of which when executed shall be deemed an original, but all of which when taken together shall constitute one and the same agreement.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

14. No Implied Waivers. No act, failure or delay by Seller shall constitute a waiver of any rights and remedies. No single or partial waiver by Seller of any provision of this Agreement or of breach or default hereunder, or of any right or remedy which Seller may have, shall operate as a waiver of any other provision, breach, default, right or remedy or of the same provision, breach, default, right or remedy of a future occasion. No waiver by Seller shall affect its rights to otherwise require performance of this Agreement.

15. Waiver of Notices. Unless otherwise expressly provided herein, Iconic waives presentment, protest, and notice of demand or dishonor and protest as to any instrument, as well as any and all other notices to which it might otherwise be entitled. No notice to or demand on Iconic which Seller may elect to give shall entitle Iconic to any or further notice or demand in the same, similar or other circumstances.

16. Headings. The headings contained in this Agreement are for convenience only, are without substantive meaning and should not be construed to modify, enlarge or restrict any provision.

17. Gender. Each of the masculine, feminine and neutral genders shall include each of the others, as the context may require.

18. Jurisdiction; Consent to Service of Process.

(a) Iconic hereby irrevocably and unconditionally submits, for itself and its property, to the nonexclusive jurisdiction of any Delaware State court or Federal court of the United States of America sitting in Wilmington, Delaware, and any appellate court from any thereof, in any action or proceeding arising out of or relating to this Agreement, or for recognition or enforcement of any judgment, and Iconic hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in any such Delaware court or, to the extent permitted by law, in any such Federal court. Iconic agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement shall affect any right that Seller may otherwise have to bring any action or proceeding relating to the Note or this Agreement against Iconic or its properties in the courts of any jurisdiction.

(b) Iconic hereby irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, (i) any objection which it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement in any Delaware State or Federal court, and (ii) the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(c) Iconic irrevocably consents to service of process in the manner provided for notices in the Acquisition Agreement. Nothing in this Agreement or the Note will affect the right of Seller to serve process in any other manner permitted by law.

19. Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with, the internal laws of the State of Delaware.

20. Waiver of Jury Trial. ICONIC HEREBY WAIVES ANY RIGHT TO JURY TRIAL IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT.

21. Miscellaneous.

(a) The provisions of this Agreement are intended to be severable. If for any reason any provisions of this Agreement shall be held invalid or unenforceable in whole or in part in any jurisdiction, such provision shall, as to such jurisdiction, be ineffective to the extent of such invalidity or unenforceability without in any manner affecting the validity or enforceability thereof in any other jurisdiction or the remaining provisions thereof in any jurisdiction.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(b) No amendment, modification, supplement or waiver of any provision of this Agreement nor consent to departure by Iconic therefrom shall be effective unless the same shall be in writing and signed by Seller and Iconic, and any such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

(c) No failure on the part of Seller to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof or preclude any other or further exercise thereof or the exercise of any other right. The rights and remedies provided to Seller herein and in the Note are cumulative and not exclusive of any remedies provided by law, and Seller shall have all other rights and remedies available to it under law or contract.

(d) Whenever this Agreement refers to any person, such reference shall be deemed to include the permitted successors and assigns of such person; and all covenants, promises and agreements by or on behalf of Iconic or Seller that are contained in this Agreement shall bind and inure to the benefit of their respective successors and assigns. Iconic shall not assign or delegate any of its rights or duties hereunder and any attempted assignment or delegation shall be null and void. This Agreement shall benefit any successors or assigns of Seller and Seller may assign its rights and benefits under this Agreement without the consent of Iconic. As used in this Agreement, the term "Seller" includes, without limitation, any holder of the Note.

(e) Notices and other communications provided for herein shall be in the form, and delivered in the manner, set forth in the Acquisition Agreement.

(f) This Agreement shall continue to be effective until all Obligations shall have been fully paid; provided, however, this Agreement shall continue to be effective or be reinstated, as the case may be, if at any time any payment of such amounts is rescinded or must otherwise be returned by Seller upon the insolvency, bankruptcy or reorganization of Iconic or the Company, or otherwise, all as though such payment had not been made. Upon the indefeasible payment in full of all Obligations, the security interest granted hereby shall automatically terminate and all rights to the Collateral shall revert to Iconic. Upon any such termination Seller will execute and deliver to Iconic such documents as Iconic shall reasonably request to evidence such termination, and Iconic shall be entitled to the return, upon Iconic's request, of such of the Collateral as shall not have been sold or otherwise applied pursuant to the terms hereof.

22. Subject to Intercreditor Agreement. Notwithstanding anything herein to the contrary, the lien and security interest granted to Seller pursuant to this Agreement and the exercise of any right or remedy by Seller hereunder are subject to the provisions of that certain Intercreditor Agreement, dated as of the date hereof, by and between Seller and the Other Company Sellers (the "Intercreditor Agreement").

[remainder of page intentionally blank; signature page follows]

IN WITNESS WHEREOF, the parties caused this Pledge Agreement to be fully executed as of the date first above written.

ICONIC BRANDS, INC,
a Nevada corporation

By:*/s/ Richard DeCicco*
Name: Richard DeCicco
Title: Chief Executive Officer

SELLER:

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

[_____],
a [_____]

By:_____
Name:
Title:

[SIGNATURE PAGE TO PLEDGE AGREEMENT]

SCHEDULE 1

Membership Interests

Issuer	**No. and Class of Membership Interests**	**% of Outstanding Equity Interests of Class**
TopPop LLC	[ ]	100%

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

EXHIBIT 10.4

SECURITIES PURCHASE AGREEMENT

This Securities Purchase Agreement (this "Agreement") is dated as of July 26, 2021, between Iconic Brands, Inc., a Nevada corporation (the "Company"), and each purchaser identified on the signature pages hereto (each, including its successors and assigns, a "Purchaser" and collectively, the "Purchasers").

WHEREAS, subject to the terms and conditions set forth in this Agreement and pursuant to Section 4(a)(2) of the Securities Act of 1933, as amended (the "Securities Act"), and Rule 506 promulgated thereunder, the Company desires to issue and sell to each Purchaser, and each Purchaser, severally and not jointly, desires to purchase from the Company, securities of the Company as more fully described in this Agreement.

NOW, THEREFORE, IN CONSIDERATION of the mutual covenants contained in this Agreement, and for other good and valuable consideration the receipt and adequacy of which are hereby acknowledged, the Company and each Purchaser agree as follows:

ARTICLE I.
DEFINITIONS

1.1 Definitions. In addition to the terms defined elsewhere in this Agreement: (a) capitalized terms that are not otherwise defined herein have the meanings given to such terms in the Certificate of Designation (as defined herein), and (b) the following terms have the meanings set forth in this Section 1.1:

"Acquiring Person" shall have the meaning ascribed to such term in Section 4.7.

"Action" shall have the meaning ascribed to such term in Section 3.1(j).

"Acquisition" shall mean the proposed acquisition pursuant to the certain Acquisition Agreement by and among the Company, Toppop LLC, FrutaPop LLC, Innoaccel Investments LLC and Thomas Martin, dated as of the date hereof.

"Affiliate" means any Person that, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with a Person, as such terms are used in and construed under Rule 405 under the Securities Act.

"Authorized Capital Adjustment Date" shall mean the date that the Company has effected the actions approved pursuant to Shareholder Approval such that all of the Warrant Shares may be issued pursuant to the exercise in full of the Warrants (ignoring for such purpose any exercise limitations thereunder).

"Board of Directors" means the board of directors of the Company.

"Bridge Notes" means collectively, those certain original issue discount promissory notes with Toppop LLC and the Company in advance of the transactions contemplated hereunder with principal amounts of, in the aggregate, up to $3,800,000 million and those original issue discount promissory notes issued by the Company to certain Purchasers on each of August 7, 2020, April 16, 2021, and June 7, 2021, with principal amounts and interest of, in the aggregate, up to $700,000.

"Business Day" means any day other than Saturday, Sunday or other day on which commercial banks in The City of New York are authorized or required by law to remain closed; provided, however, for clarification, commercial banks shall not be deemed to be authorized or required by law to remain closed due to "stay at home", "shelter-in-place", "non-essential employee" or any other similar orders or restrictions or the closure of any physical branch locations at the direction of any governmental authority so long as the

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

electronic funds transfer systems (including for wire transfers) of commercial banks in The City of New York are generally open for use by customers on such day.

"Cash Subscription Amount" shall have the meaning ascribed to such term in the definition of Subscription Amount.

"Certificate of Designation" means the Certificate of Designation to be filed prior to the First Closing by the Company with the Secretary of State of Nevada in the form attached hereto as Exhibit A.

"Closing Dates" means the First Closing Date and the Second Closing Date, as applicable.

"Closing Statement" means the Closing Statement in the form on Annex A attached hereto.

"Closings" means the First Closing and the Second Closing.

"Commission" means the United States Securities and Exchange Commission.

"Common Stock" means the common stock of the Company, par value $0.001 per share, and any other class of securities into which such securities may hereafter be reclassified or changed.

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

"Company Auditor" means Fei Qi, CPA, 4040 75th St, Queens, NY 11373, and any successor accounting firm of the Company.

"Company Counsel" means Pryor Cashman LLP, with offices located at 7 Times Square, 40th Floor, New York, New York 10036.

"Conversion Shares" means the shares of Common Stock issued or issuable upon conversion of the Preferred Stock in accordance with the Certificate of Designation.

"Disclosure Schedules" shall have the meaning ascribed to such term in Section 3.1.

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

"Effective Date" means the earliest of the date that (a) the initial Registration Statement has been declared effective by the Commission such that all Warrant Shares are registered for resale, (b) all of the Underlying Shares have been sold pursuant to Rule 144 or may be sold pursuant to Rule 144 without the requirement for the Company to be in compliance with the current public information required under Rule 144 and without volume or manner-of-sale restrictions (and assuming cashless exercise of the Warrants), (c) following the one year anniversary of the applicable Closing Date provided that a holder of Underlying Shares is not an Affiliate of the Company (assuming cashless exercise of the Warrants), or (d) all of the Underlying Shares may be sold (assuming cashless exercise of the Warrants) pursuant to an exemption from registration under Section 4(a)(1) of the Securities Act without volume or manner-of-sale restrictions and Company Counsel has delivered to such holders a standing written unqualified opinion that resales may then

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

be made by such holders of the Underlying Shares pursuant to such exemption which opinion shall be in form and substance reasonably acceptable to such holders.

"EGS" means Ellenoff Grossman & Schole LLP, with offices located at 1345 Avenue of the Americas, New York, New York 10105-0302.

"Escrow Agent" means Delaware Trust Company.

"Escrow Agreement" means the escrow agreement entered into prior to the date hereof, by and among the Company, the Escrow Agent and the Placement Agent pursuant to which the Purchasers shall deposit Subscription Amounts with the Escrow Agent to be applied to the transactions contemplated hereunder.

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

"Exchange Agreement" means that certain Exchange Agreement, entered into by and among the Company and the signatories thereto on or about the date hereof.

"Exchange Warrants" means the Common Stock purchase warrants issued pursuant to the Exchange Agreement.

"Exempt Issuance" means the issuance of (a) (i) shares of Common Stock or Common Stock Equivalents to employees, officers, directors, advisors and consultants of the Company pursuant to any equity incentive plan duly adopted for such purpose, by a majority of the non-employee members of the Board of Directors or a majority of the members of a committee of non-employee directors established for such purpose for services rendered to the Company and (ii) up to 20 million shares of Common Stock or Common Stock Equivalents to officers, directors, employees, consultants and advisors pursuant to an equity incentive plan that will be adopted by the Board of Directors, issuances to consultants and/or advisors shall not exceed, in the aggregate during any 12 month period, 3.5 million shares of Common Stock or Common Stock Equivalents, subject to adjustment for reverse and forward stock splits, stock dividends, stock combinations and other similar transactions of the Common Stock that occur after the date of this Agreement, (b) securities upon the exercise or exchange of or conversion of any Securities issued hereunder and/or other securities exercisable or exchangeable for or convertible into shares of Common Stock issued and outstanding on the date of this Agreement or pursuant to the transactions contemplated hereunder, provided that such securities have not been amended since the date of this Agreement to increase the number of such securities or to decrease the exercise price, exchange price or conversion price of such securities (other than in connection with stock splits or combinations) or to extend the term of such securities, (c) securities issued pursuant to acquisitions or strategic transactions approved by a majority of the disinterested directors of the Company, and provided that any such issuance shall only be to a Person (or to the equityholders of a Person) which is, itself or through its subsidiaries, an operating company or an owner of an asset in a business synergistic with the business of the Company and shall provide to the Company additional benefits in addition to the investment of funds, but shall not include a transaction in which the Company is issuing securities primarily for the purpose of raising capital or to an entity whose primary business is investing in securities, (d) issuances of up to 25,600,000 shares of Common Stock and/or Common Stock Equivalents (which may be in the form of Series A-2 Preferred Stock on or prior to the Second Closing Date) to existing members of management in consideration for either the exchange of shares of Series A Preferred Stock or the contribution of certain assets of United Brands, Inc., (e) the issuance of up to 10,000,000 shares of Common Stock to a consultant, (f) issuance of shares of Common Stock in exchange for Series E, F and G Common Stock Purchase Warrants on a ratio of 1:0.75 (shares to warrant shares, provided that immediately prior to the exchange the Series G warrants will be reset to $0.625) ("Preferred Exchanges"), (g) shares of Common Stock issued or issuable pursuant to the Acquisition and (h) securities issued pursuant to the Second Closing. Notwithstanding anything herein to the contrary, in order for any of the foregoing to be considered an Exempt Issuance, such issuances must either be (i) issued as "restricted securities" (as defined in Rule 144) and carry no registration rights that require or

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

permit the filing of any registration statement in connection therewith during the prohibition period in Section 4.13(a) herein or (ii) subject to a lock-up agreement in the form and substance reasonably satisfactory to the Company and a majority in interest of the Purchasers for not less than the later of (i) three (3) months following the date of the Uplisting and (ii) one (1) year from the later of the First Closing Date and the Second Closing Date.

"FCPA" means the Foreign Corrupt Practices Act of 1977, as amended.

"First Closing" shall have the meaning ascribed to such term in Section 2.1(a).

"First Closing Date" means the Trading Day on which all of the Transaction Documents have been executed and delivered by the applicable parties thereto, and all conditions precedent to (i) the Purchasers' obligations to pay the First Closing Subscription Amount and (ii) the Company's obligations to deliver the Securities purchased at such First Closing, in each case, have been satisfied or waived, but in no event later than the second Trading Day following the date hereof.

"GAAP" shall have the meaning ascribed to such term in Section 3.1(h).

"Governmental Authority" means any federal, state, provincial, municipal, local or foreign government, governmental authority, regulatory or administrative agency, governmental commission, department, board, bureau, agency or instrumentality, arbitrator, court or tribunal.

"Governmental Order" means any order, judgment, injunction, decree, writ, stipulation, determination or award, in each case, entered by or with any Governmental Authority.

"Indebtedness" shall have the meaning ascribed to such term in Section 3.1(bb).

"Intellectual Property Rights" shall have the meaning ascribed to such term in Section 3.1(p).

"Legend Removal Date" shall have the meaning ascribed to such term in Section 4.1(c).

"Liens" means a lien, charge, pledge, security interest, encumbrance, right of first refusal, preemptive right or other restriction.

"Material Adverse Effect" shall have the meaning assigned to such term in Section 3.1(b).

"Material Permits" shall have the meaning ascribed to such term in Section 3.1(n).

"Note Subscription Amount" shall have the meaning ascribed to such term in the definition of Subscription Amount.

"Participation Maximum" shall have the meaning ascribed to such term in Section 4.12(a).

"Participation Right Purchaser" shall have the meaning ascribed to such term in Section 4.12(a).

"Per Share Purchase Price" equals $0.3125, subject to adjustment for reverse and forward stock splits, stock dividends, stock combinations and other similar transactions of the Common Stock that occur after the date of this Agreement.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

"Person" means an individual or corporation, partnership, trust, incorporated or unincorporated association, joint venture, limited liability company, joint stock company, government (or an agency or subdivision thereof) or other entity of any kind.

"Placement Agent" means The Special Equities Group, LLC a division of Dawson James Securities, Inc.

"Preferred Stock" means up to 42,000 shares of the Company's Series A-2 Convertible Preferred Stock issued hereunder having the rights, preferences and privileges set forth in the Certificate of Designation.

"Pre-Notice" shall have the meaning ascribed to such term in Section 4.12(b).

"Pro Rata Portion" shall have the meaning ascribed to such term in Section 4.12(e).

"Proceeding" means an action, claim, suit, investigation or proceeding (including, without limitation, an informal investigation or partial proceeding, such as a deposition), whether commenced or threatened.

"Public Information Failure" shall have the meaning ascribed to such term in Section 4.3(b).

"Public Information Failure Payments" shall have the meaning ascribed to such term in Section 4.3(b).

"Purchaser Party" shall have the meaning ascribed to such term in Section 4.10.

"Registration Rights Agreement" means the Registration Rights Agreement, dated on or about the date hereof, among the Company and the Purchasers, in the form of Exhibit B attached hereto.

"Registration Statement" means a registration statement meeting the requirements set forth in the Registration Rights Agreement and covering the resale of the Warrant Shares by each Purchaser as provided for in the Registration Rights Agreement.

"Required Approvals" shall have the meaning ascribed to such term in Section 3.1(e).

"Required Minimum" means, as of any date, the maximum aggregate number of shares of Common Stock then issued or potentially issuable in the future pursuant to the Transaction Documents, including any Underlying Shares issuable upon exercise in full of all Warrants or conversion in full of all shares of Preferred Stock, ignoring any conversion or exercise limits set forth therein.

"Rule 144" means Rule 144 promulgated by the Commission pursuant to the Securities Act, as such Rule may be amended or interpreted from time to time, or any similar rule or regulation hereafter adopted by the Commission having substantially the same purpose and effect as such Rule.

"Rule 424" means Rule 424 promulgated by the Commission pursuant to the Securities Act, as such Rule may be amended or interpreted from time to time, or any similar rule or regulation hereafter adopted by the Commission having substantially the same purpose and effect as such Rule.

"SEC Reports" means all reports, schedules, forms, statements and other documents required to be filed by the Company under the Securities Act and the Exchange Act, including pursuant to Section 13(a) or 15(d) thereof, including the exhibits thereto and documents incorporated by reference therein.

"Second Closing" shall have the meaning ascribed to such term in Section 2.1(b).

"Second Closing Date" means the date of the Second Closing.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

"Securities" means the Preferred Stock, the Warrants and the Underlying Shares.

"Securities Act" means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

"Shareholder Approval" means such approval as may be required from the shareholders of the Company to increase to authorized Common Stock of the Company to 500 million shares and to effect a reverse stock split of up to 20 for 1, on or prior to December 31, 2021.

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

"Short Sales" means all "short sales" as defined in Rule 200 of Regulation SHO under the Exchange Act (but shall not be deemed to include locating and/or borrowing shares of Common Stock).

"Stated Value" means $1,000 per share of Preferred Stock.

"Subscription Amount" means, as to each Purchaser and as to each Closing, the aggregate amount to be paid for the Shares, the Preferred Stock and Warrants purchased at such Closing as specified below such Purchaser's name on the signature page of this Agreement and under the heading "Subscription Amount", which Subscription Amount shall consist of either (a) United States dollars and in immediately available funds ("Cash Subscription Amount") and/or (b) the surrender of Bridge Notes on a $1 for $1 basis ("Note Subscription Amount").

"Subsequent Financing" shall have the meaning ascribed to such term in Section 4.12(a).

"Subsequent Financing Notice" shall have the meaning ascribed to such term in Section 4.12(b).

"Subsidiary" means any subsidiary of the Company as set forth on Schedule 3.1(a) and shall, where applicable, also include any direct or indirect subsidiary of the Company formed or acquired after the date hereof.

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

"Trading Market" means any of the following markets or exchanges on which the Common Stock is listed or quoted for trading on the date in question: the NYSE American, the Nasdaq Capital Market, the Nasdaq Global Market, the Nasdaq Global Select Market, the New York Stock Exchange, OTCQB or OTCQX (or any successors to any of the foregoing).

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

"Transfer Agent" means Securities Transfer Corporation, the current transfer agent of the Company, and any successor transfer agent of the Company.

"Uplisting" shall have the meaning ascribed to such term in Section 4.13(b).

"Underlying Shares" means the Shares, the Conversion Shares, the Warrant Shares and any shares of Common Stock issued and issuable in lieu of the cash payment of dividends on the Preferred Stock in accordance with the terms of the Certificate of Designation.

"Variable Rate Transaction" shall have the meaning ascribed to such term in Section 4.13(b).

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

"VWAP" means, for any date, the price determined by the first of the following clauses that applies: (a) if the Common Stock is then listed or quoted on a Trading Market, the daily volume weighted average price of the Common Stock for such date (or the nearest preceding date) on the Trading Market on which the Common Stock is then listed or quoted as reported by Bloomberg L.P. (based on a Trading Day from 9:30 a.m. (New York City time) to 4:02 p.m. (New York City time)), (b) if the Common Stock is quoted for trading on the OTCQB or OTCQX, as applicable, and if the OTCQB or OTCQX is not a Trading Market, the volume weighted average price of the Common Stock for such date (or the nearest preceding date) on OTCQB or OTCQX as applicable, (c) if the Common Stock is not then listed or quoted for trading on OTCQB or OTCQX and if prices for the Common Stock are then reported on The Pink Open Market (or a similar organization or agency succeeding to its functions of reporting prices), the most recent bid price per share of the Common Stock so reported, or (d) in all other cases, the fair market value of a share of Common Stock as determined by an independent appraiser selected in good faith by the Purchasers of a majority in interest of the Securities then outstanding and reasonably acceptable to the Company, the fees and expenses of which shall be paid by the Company.

"Warrants" means, collectively, the Common Stock purchase warrants delivered to the Purchasers at the applicable Closing in accordance with Section 2.2(a) hereof, which Warrants shall be exercisable immediately and have a term of exercise equal to five (5) years, in the form of Exhibit C attached hereto.

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

ARTICLE II.
PURCHASE AND SALE

2.1 Closings.

(a) First Closing. On the First Closing Date, upon the terms and subject to the conditions set forth herein, substantially concurrent with the execution and delivery of this Agreement by the parties hereto, the Company agrees to sell, and the Purchasers, severally and not jointly, agree to purchase, up to an aggregate of $28 million of Shares and/or shares of Preferred Stock with an aggregate Stated Value of Preferred Stock for each Purchaser receiving Preferred Stock equal to such Purchaser's Subscription Amount relating to Preferred Stock as to the First Closing as set forth on the signature page hereto executed by such Purchaser, and Warrants as determined by pursuant to Section 2.2(a). Each Purchaser shall deliver to the Escrow Agent, via wire transfer or a certified check, immediately available funds equal to such Purchaser's Cash Subscription Amount and/or tender for cancellation a principal amount of Bridge Notes equal to such Purchaser's Note Subscription Amount and the Company shall deliver to each Purchaser its respective Shares, shares of Preferred Stock and Warrants as determined pursuant to Section 2.2(a), and the Company and each Purchaser shall deliver the other items set forth in Section 2.2 deliverable at the First Closing. Notwithstanding anything herein to the contrary, in the event that a Purchaser holds any shares of preferred stock of the Company that are being redeemed at the Closing, such Purchaser may net out from its Subscription Amount the amount they would otherwise receive in such redemption from the Company at the Closing, if applicable. Upon satisfaction of the covenants and conditions set forth in Sections 2.2, the First Closing shall occur at the offices of EGS or such other location as the parties shall mutually agree. Any Purchaser with a Subscription Amount, together with all of its Affiliates, of $500,000 or less in the aggregate, shall received only Shares, not Preferred Stock.

(b) Second Closing. On the Second Closing Date, upon the terms and conditions set forth herein, the Company agrees to sell, and the Purchasers, severally and not jointly, agree to purchase, an aggregate of $14 million of Shares, shares of Preferred Stock and Warrants, which closing shall occur on, or as soon as reasonably practicable following, and in any event within 5 Trading Days of, the earlier of (i) the date on which the Registration Statement registering all of the Registrable Securities is declared effective by the Commission and (ii) the six month anniversary of the First Closing Date (the "Second Closing"). Each Purchaser shall deliver to the Escrow Agent, via wire transfer or a certified check, immediately available funds equal to such Purchaser's Cash Subscription Amount as to the Second Closing as set forth on the

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

signature page hereto executed by such Purchaser, and the Company shall deliver to each Purchaser its respective Shares, shares of Preferred Stock and a Warrant, as determined pursuant to Section 2.2(a), and the Company and each Purchaser shall deliver the other items set forth in Section 2.2 deliverable at the Second Closing. Upon satisfaction of the covenants and conditions set forth in Sections 2.2 and 2.3, the Second Closing shall occur at the offices of EGS or such other location as the parties shall mutually agree. Any Purchaser with a Subscription Amount, together with all of its Affiliates, of $500,000 or less in the aggregate, shall received only Shares, not Preferred Stock.

2.2 Deliveries.

(a) On or prior to each Closing Date (unless limited to only the First Closing or the Second Closing, as indicated below), the Company shall deliver or cause to be delivered to each Purchaser the following:

(i) as to the First Closing only, this Agreement duly executed by the Company;

(ii) a legal opinion of Company Counsel reasonably acceptable to the Purchasers;

(iii) if the Purchaser is receiving Shares, written evidence of the issuance of such Purchaser's Shares hereunder as held in DRS book-entry form by the Transfer Agent and registered in the name of such Purchaser, which evidence shall be reasonably satisfactory to such Purchaser a number of Shares equal to the sum of (A) 102.0408% of such Purchaser's Cash Subscription Amount and (B) 100% of such Purchasers Note Subscription Amount, if any, at the applicable Closing divided by the Per Share Purchase Price;

(iv) if a Purchaser is receiving Preferred Stock, written evidence of shares of Preferred Stock held in book-entry form equal to the sum of (A) 102.0408% of such Purchaser's Cash Subscription Amount and (B) 100% of such Purchasers Note Subscription Amount, if any, at the applicable Closing divided by the Stated Value, registered in the name of such Purchaser and evidence of the filing and acceptance of the Certificate of Designation from the Secretary of State of Nevada;

(v) a Warrant registered in the name of such Purchaser to purchase up to a number of shares of Common Stock equal to 100% of such Purchaser's Conversion Shares issuable upon conversion in full of the Preferred Stock issued at the applicable Closing (ignoring any conversion limitations therein), with an exercise price equal to $0.3125, subject to adjustment as set forth therein;

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

(vii) as to the First Closing, the Registration Rights Agreement duly executed by the Company.

(b) On or prior to each Closing Date (unless limited to only the First Closing or the Second Closing, as indicated below), each Purchaser shall deliver or cause to be delivered to the Company or the Escrow Agent, as applicable, the following:

(i) As to the First Closing only, this Agreement duly executed by such Purchaser;

(ii) such Purchaser's Cash Subscription Amount as to the applicable Closing by wire transfer to the account specified in writing by the Escrow Agent (net of any redemptions owed to such Purchaser);

(iii) as to the First Closing only, such Purchaser's surrendered Bridge Note, if any, with a principal amount equal to such Purchaser's Note Subscription Amount; and

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(iv) as to the First Closing only, the Registration Rights Agreement duly executed by such Purchaser.

2.3 Closing Conditions.

(a) The obligations of the Company hereunder in connection with each Closing (unless limited to only the First Closing or the Second Closing, as indicated below) are subject to the following conditions being met:

(i) the accuracy in all material respects (or, to the extent representations or warranties are qualified by materiality or Material Adverse Effect, in all respects) on the Closing Date of the representations and warranties of the Purchasers contained herein (unless as of a specific date therein in which case they shall be accurate as of such date);

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

(iii) as to the First Closing, the Preferred Exchanges (as defined in the definition of Exempt Issuance) shall have been consummated; and

(iv) the delivery by each Purchaser of the items set forth in Section 2.2(b) of this Agreement.

(b) The respective obligations of the Purchasers hereunder in connection with each Closing (unless limited to only the First Closing or the Second Closing, as indicated below) are subject to the following conditions being met:

(i) the accuracy in all material respects (or, to the extent representations or warranties are qualified by materiality or Material Adverse Effect, in all respects) when made and on the applicable Closing Date of the representations and warranties of the Company contained herein (unless as of a specific date therein in which case they shall be accurate as of such date);

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

(iii) the delivery by the Company of the items set forth in Section 2.2(a) of this Agreement;

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

(v) the Company shall have entered into definitive documents for the $1 million all cash acquisition of United Brands, Inc. by the Company, in such form as reasonably acceptable to the Purchasers (the "United Acquisition");

(vi) entry into agreements by the Company for the exchange and/or redemption of all outstanding shares of preferred stock, in such form as reasonably acceptable to the Purchasers;

(vii) as to the First Closing only, the Acquisition shall have been consummated without amendment, modification or waiver by any party thereto since the date of execution thereof;

(viii) as to the Second Closing only, the United Acquisition shall have been consummated without amendment, modification or waiver by any party thereto since the date of execution thereof;

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(ix) as to the First Closing, the Preferred Exchanges (as defined in the definition of Exempt Issuance) shall have been consummated; and

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

ARTICLE III.
REPRESENTATIONS AND WARRANTIES

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

(a) Subsidiaries. All of the direct and indirect subsidiaries of the Company are set forth on Schedule 3.1(a). Except as set forth in Schedule 3.1(a), the Company owns, directly or indirectly, all of the capital stock or other equity interests of each Subsidiary free and clear of any Liens, and all of the issued and outstanding shares of capital stock of each Subsidiary are validly issued and are fully paid, non-assessable and free of preemptive and similar rights to subscribe for or purchase securities. If the Company has no subsidiaries, all other references to the Subsidiaries or any of them in the Transaction Documents shall be disregarded.

(b) Organization and Qualification. The Company and each of the Subsidiaries is an entity duly incorporated or otherwise organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation or organization, with the requisite power and authority to own and use its properties and assets and to carry on its business as currently conducted. Neither the Company nor any Subsidiary is in violation nor default of any of the provisions of its respective certificate or articles of incorporation, bylaws or other organizational or charter documents. Each of the Company and the Subsidiaries is duly qualified to conduct business and is in good standing as a foreign corporation or other entity in each jurisdiction in which the nature of the business conducted or property owned by it makes such qualification necessary, except where the failure to be so qualified or in good standing, as the case may be, could not have or reasonably be expected to result in: (i) a material adverse effect on the legality, validity or enforceability of any Transaction Document, (ii) a material adverse effect on the results of operations, assets, business or condition (financial or otherwise) of the Company and the 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 any Transaction Document (any of (i), (ii) or (iii), a "Material Adverse Effect") and no Proceeding has been instituted in any such jurisdiction revoking, limiting or curtailing or seeking to revoke, limit or curtail such power and authority or qualification.

(c) Authorization; Enforcement. The Company has the requisite corporate power and authority to enter into and to consummate the transactions contemplated by this Agreement and each of the other

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Transaction Documents and otherwise to carry out its obligations hereunder and thereunder. The execution and delivery of this Agreement and each of the other Transaction Documents by the Company and the consummation by it of the transactions contemplated hereby and thereby have been duly authorized by all necessary action on the part of the Company and no further action is required by the Company, the Board of Directors or the Company's stockholders in connection herewith or therewith other than in connection with the Required Approvals. This Agreement and each other Transaction Document to which it is a party has been (or upon delivery will have been) duly executed by the Company and, when delivered in accordance with the terms hereof and thereof, will constitute the valid and binding obligation of the Company enforceable against the Company in accordance with its terms, except (i) as limited by general equitable principles and applicable bankruptcy, insolvency, reorganization, moratorium and other laws of general application affecting enforcement of creditors' rights generally, (ii) as limited by laws relating to the availability of specific performance, injunctive relief or other equitable remedies and (iii) insofar as indemnification and contribution provisions may be limited by applicable law.

(d) No Conflicts. The execution, delivery and performance by the Company of this Agreement and the other Transaction Documents to which it is a party, the issuance and sale of the Securities and the consummation by it of the transactions contemplated hereby and thereby do not and will not: (i) conflict with or violate any provision of the Company's or any Subsidiary'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 any Subsidiary, or give to others any rights of termination, amendment, anti-dilution or similar adjustments, acceleration or cancellation (with or without notice, lapse of time or both) of, any agreement, credit facility, debt or other instrument (evidencing a Company or Subsidiary debt or otherwise) or other understanding to which the Company or any Subsidiary is a party or by which any property or asset of the Company or any Subsidiary is bound or affected, or (iii) subject to the Required Approvals, conflict with or result in a violation of any law, rule, regulation, order, judgment, injunction, decree or other restriction of any court or governmental authority to which the Company or a Subsidiary is subject (including federal and state securities laws and regulations), or by which any property or asset of the Company or a Subsidiary is bound or affected; except in the case of each of clauses (ii) and (iii), such as could not have or reasonably be expected to result in a Material Adverse Effect.

(e) Filings, Consents and Approvals. The Company is not required to obtain any consent, waiver, authorization or order of, give any notice to, or make any filing or registration with, any court or other federal, state, local or other governmental authority or other Person in connection with the execution, delivery and performance by the Company of the Transaction Documents, other than: (i) the filings required pursuant to Section 4.6 of this Agreement, (ii) the filing with the Commission pursuant to the Registration Rights Agreement, (iii) the notice and/or application(s) to each applicable Trading Market for the issuance and sale of the Securities and the listing of the Underlying Shares for trading thereon in the time and manner required thereby, (iv) the filing of Form D with the Commission and such filings as are required to be made under applicable state securities laws and (v) Shareholder Approval (collectively, the "Required Approvals").

(f) Issuance of the Securities. The Securities are duly authorized and, when issued and paid for in accordance with the applicable Transaction Documents, will be duly and validly issued, fully paid and nonassessable, free and clear of all Liens imposed by the Company other than restrictions on transfer provided for in the Transaction Documents. The Conversion Shares, when issued in accordance with the terms of the Transaction Documents, will be validly issued, fully paid and nonassessable, free and clear of all Liens imposed by the Company other than restrictions on transfer provided for in the Transaction Documents. The Warrant Shares, when issued in accordance with the terms of the Transaction Documents, will be validly issued, fully paid and nonassessable, free and clear of all Liens imposed by the Company other than restrictions on transfer provided for in the Transaction Documents subject to receipt of Shareholder Approval. The Company has reserved from its duly authorized capital stock a number of shares of Common Stock for issuance of the Conversion Shares at least equal to the Required Minimum.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(g) Capitalization. The capitalization of the Company as of the date hereof is as set forth on Schedule 3.1(g), which Schedule 3.1(g) shall also include the number of shares of Common Stock owned beneficially, and of record, by Affiliates of the Company as of the date hereof. The capitalization of the Company immediately following the First Closing of the offering contemplated by this Agreement and the transactions contemplated as conditions to the offering contemplated by this Agreement, on a pro forma basis, is as set forth on Schedule 3.1(g). Except as set forth on Schedule 3.1(g), since the date of its most recently filed periodic report under the Exchange Act, the Company has not issued any capital stock, other than pursuant to the exercise of employee stock options under the Company's stock option plans, the issuance of shares of Common Stock to employees pursuant to the Company's employee stock purchase plans and pursuant to the conversion and/or exercise of Common Stock Equivalents outstanding as of the date of the most recently filed periodic report under the Exchange Act. No Person has any right of first refusal, preemptive right, right of participation, or any similar right to participate in the transactions contemplated by the Transaction Documents. Except as a result of the purchase and sale of the Securities or as set forth on Schedule 3.1(g), there are no outstanding options, warrants, scrip rights to subscribe to, calls or commitments of any character whatsoever relating to, or securities, rights or obligations convertible into or exercisable or exchangeable for, or giving any Person any right to subscribe for or acquire any shares of Common Stock or the capital stock of any Subsidiary, or contracts, commitments, understandings or arrangements by which the Company or any Subsidiary is or may become bound to issue additional shares of Common Stock or Common Stock Equivalents or capital stock of any Subsidiary. The issuance and sale of the Securities will not obligate the Company or any Subsidiary to issue shares of Common Stock or other securities to any Person (other than the Purchasers). Except as set forth on Schedule 3.1(g), there are no outstanding securities or instruments of the Company or any Subsidiary with any provision that adjusts the exercise, conversion, exchange or reset price under any of securities or instruments of the Company. There are no outstanding securities or instruments of the Company or any Subsidiary that contain any redemption or similar provisions, and there are no contracts, commitments, understandings or arrangements by which the Company or any Subsidiary is or may become bound to redeem a security of the Company or such Subsidiary. The Company does not have any stock appreciation rights or "phantom stock" plans or agreements or any similar plan or agreement. All of the outstanding shares of capital stock of the Company are duly authorized, validly issued, fully paid and nonassessable, have been issued in compliance with all federal and state securities laws, and none of such outstanding shares was issued in violation of any preemptive rights or similar rights to subscribe for or purchase securities. No further approval or authorization of any stockholder, the Board of Directors or others is required for the issuance and sale of the Securities. There are no stockholders agreements, voting agreements or other similar agreements with respect to the Company's capital stock to which the Company is a party or, to the knowledge of the Company, between or among any of the Company's stockholders.

(h) SEC Reports; Financial Statements. Except as set forth on Schedule 3.1(h) attached hereto, the Company has filed all reports, schedules, forms, statements and other documents required to be filed by the Company under the Securities Act and the Exchange Act, including pursuant to Section 13(a) or 15(d) thereof, for the twelve (12) months preceding the date hereof (or such shorter period as the Company was required by law or regulation to file such material) (the foregoing materials, including the exhibits thereto and documents incorporated by reference therein, being collectively referred to herein as the "SEC Reports") on a timely basis or has received a valid extension of such time of filing and has filed any such SEC Reports prior to the expiration of any such extension. As of their respective dates, the SEC Reports complied in all material respects with the requirements of the Securities Act and the Exchange Act, as applicable, and none of the SEC Reports, when filed, contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. The financial statements of the Company included in the SEC Reports comply in all material respects with applicable accounting requirements and the rules and regulations of the Commission with respect thereto as in effect at the time of filing. Such financial statements have been prepared in accordance with United States generally accepted accounting principles applied on a consistent basis during the periods involved ("GAAP"), except as may be otherwise specified in such financial statements or the notes thereto and except that unaudited financial statements may not contain all footnotes required by GAAP, and fairly present in all material respects the financial position of the Company and its consolidated Subsidiaries as of and for the dates thereof and the results of operations

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

and cash flows for the periods then ended, subject, in the case of unaudited statements, to normal, immaterial, year-end audit adjustments. The Company filed current "Form 10 information" (as defined in Rule 144 (i)(3)) with the SEC reflecting its status as an entity that was no longer an issuer described in Rule 144(i)(1)(i) more than one (1) year ago from the date hereof.

(i) Material Changes; Undisclosed Events, Liabilities or Developments. Except as set forth on Schedule 3.1(i), since the date of the latest annual financial statements included within the SEC Reports: (i) there has been no event, occurrence or development that has had or that could reasonably be expected to result in a Material Adverse Effect, (ii) the Company has not incurred any liabilities (contingent or otherwise) other than (A) trade payables and accrued expenses incurred in the ordinary course of business consistent with past practice and (B) liabilities reflected in the Company's financial statement issued subsequent to the latest annual financial statement, or that are not required to be reflected in the Company's financial statements pursuant to GAAP, (iii) the Company has not altered its method of accounting, (iv) the Company has not declared or made any dividend or distribution of cash or other property to its stockholders or purchased, redeemed or made any agreements to purchase or redeem any shares of its capital stock and (v) the Company has not issued any equity securities to any officer, director or Affiliate, except pursuant to existing Company stock option plans. Except for the issuance of the Securities contemplated by this Agreement, no event, liability, fact, circumstance, occurrence or development has occurred or exists, or is reasonably expected to occur or exist, with respect to the Company or its Subsidiaries or their respective businesses, prospects, properties, operations, assets or financial condition, that would be required to be disclosed by the Company under applicable securities laws at the time this representation is made or deemed made that has not been publicly disclosed at least one (1) Trading Day prior to the date that this representation is made.

(j) Litigation. There is no action, suit, inquiry, notice of violation, proceeding or investigation pending or, to the knowledge of the Company, threatened against or affecting the Company, any Subsidiary or any of their respective properties before or by any court, arbitrator, governmental or administrative agency or regulatory authority (federal, state, county, local or foreign) (collectively, an "Action") except as set forth on Schedule 3.1(j). None of the Actions set forth on Schedule 3.1(j) (i) adversely effects or challenges the legality, validity or enforceability of any of the Transaction Documents or the Securities or (ii) could, if there were an unfavorable decision, have or reasonably be expected to result in a Material Adverse Effect. Neither the Company nor any Subsidiary, nor any director or officer thereof, is or has been the subject of any Action involving a claim of violation of or liability under federal or state securities laws or a claim of breach of fiduciary duty. There has not been, and to the knowledge of the Company, there is not pending or contemplated, any investigation by the Commission involving the Company or any current or former director or officer of the Company. The Commission has not issued any stop order or other order suspending the effectiveness of any registration statement filed by the Company or any Subsidiary under the Exchange Act or the Securities Act.

(k) Labor Relations. No labor dispute exists or, to the knowledge of the Company, is imminent with respect to any of the employees of the Company, which could reasonably be expected to result in a Material Adverse Effect. None of the Company's or its Subsidiaries' employees is a member of a union that relates to such employee's relationship with the Company or such Subsidiary, and neither the Company nor any of its Subsidiaries is a party to a collective bargaining agreement, and the Company and its Subsidiaries believe that their relationships with their employees are good. To the knowledge of the Company, no executive officer of the Company or any Subsidiary, is, or is now expected to be, in violation of any material term of any employment contract, confidentiality, disclosure or proprietary information agreement or non-competition agreement, or any other contract or agreement or any restrictive covenant in favor of any third party, and the continued employment of each such executive officer does not subject the Company or any of its Subsidiaries to any liability with respect to any of the foregoing matters. The Company and its Subsidiaries are in compliance with all U.S. federal, state, local and foreign laws and regulations relating to employment and employment practices, terms and conditions of employment and wages and hours, except where the failure to be in compliance could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(l) Compliance. Neither the Company nor any Subsidiary: (i) is in default under or in violation of (and no event has occurred that has not been waived that, with notice or lapse of time or both, would result in a default by the Company or any Subsidiary under), nor has the Company or any Subsidiary received notice of a claim that it is in default under or that it is in violation of, any indenture, loan or credit agreement or any other agreement or instrument to which it is a party or by which it or any of its properties is bound (whether or not such default or violation has been waived), (ii) is in violation of any judgment, decree or order of any court, arbitrator or other governmental authority or (iii) is or has been in violation of any statute, rule, ordinance or regulation of any governmental authority, including without limitation all foreign, federal, state and local laws relating to taxes, environmental protection, occupational health and safety, product quality and safety and employment and labor matters, except in each case as could not have or reasonably be expected to result in a Material Adverse Effect.

(m) Environmental Laws. The Company and its Subsidiaries (i) are in compliance with all federal, state, local and foreign laws relating to pollution or protection of human health or the environment (including ambient air, surface water, groundwater, land surface or subsurface strata), including laws relating to emissions, discharges, releases or threatened releases of chemicals, pollutants, contaminants, or toxic or hazardous substances or wastes (collectively, "Hazardous Materials") into the environment, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials, as well as all authorizations, codes, decrees, demands, or demand letters, injunctions, judgments, licenses, notices or notice letters, orders, permits, plans or regulations, issued, entered, promulgated or approved thereunder ("Environmental Laws"); (ii) have received all permits licenses or other approvals required of them under applicable Environmental Laws to conduct their respective businesses; and (iii) are in compliance with all terms and conditions of any such permit, license or approval where in each clause (i), (ii) and (iii), the failure to so comply could be reasonably expected to have, individually or in the aggregate, a Material Adverse Effect.

(n) Regulatory Permits. The Company and the Subsidiaries possess all certificates, authorizations and permits issued by the appropriate federal, state, local or foreign regulatory authorities necessary to conduct their respective businesses as described in the SEC Reports, except where the failure to possess such permits could not reasonably be expected to result in a Material Adverse Effect ("Material Permits"), and neither the Company nor any Subsidiary has received any notice of proceedings relating to the revocation or modification of any Material Permit.

(o) Title to Assets. The Company and the Subsidiaries have good and marketable title in fee simple to all real property owned by them and good and marketable title in all personal property owned by them that is material to the business of the Company and the Subsidiaries, in each case free and clear of all Liens, except for (i) Liens as do not materially affect the value of such property and do not materially interfere with the use made and proposed to be made of such property by the Company and the Subsidiaries and (ii) Liens for the payment of federal, state or other taxes, for which appropriate reserves have been made therefor in accordance with GAAP and, the payment of which is neither delinquent nor subject to penalties. Any real property and facilities held under lease by the Company and the Subsidiaries are held by them under valid, subsisting and enforceable leases with which the Company and the Subsidiaries are in compliance.

(p) Intellectual Property. The Company and the Subsidiaries have, or have rights to use, all patents, patent applications, trademarks, trademark applications, service marks, trade names, trade secrets, inventions, copyrights, licenses and other intellectual property rights and similar rights as necessary or required for use in connection with their respective businesses as described in the SEC Reports and which the failure to so have could have a Material Adverse Effect (collectively, the "Intellectual Property Rights"). None of, and neither the Company nor any Subsidiary has received a notice (written or otherwise) that any of, the Intellectual Property Rights has expired, terminated or been abandoned, or is expected to expire or terminate or be abandoned, within two (2) years from the date of this Agreement. Neither the Company nor any Subsidiary has received, since the date of the latest audited financial statements included within the SEC Reports, a written notice of a claim or otherwise has any knowledge that the Intellectual Property Rights violate or infringe upon the rights of any Person, except as could not have or reasonably be expected to

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

not have a Material Adverse Effect. To the knowledge of the Company, all such Intellectual Property Rights are enforceable and there is no existing infringement by another Person of any of the Intellectual Property Rights. The Company and its Subsidiaries have taken reasonable security measures to protect the secrecy, confidentiality and value of all of their intellectual properties, except where failure to do so could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(q) Insurance. The Company and the Subsidiaries are insured by insurers of recognized financial responsibility against such losses and risks and in such amounts as are prudent and customary in the businesses in which the Company and the Subsidiaries are engaged. Neither the Company nor any Subsidiary has any reason to believe that it will not be able to renew its existing insurance coverage as and when such coverage expires or to obtain similar coverage from similar insurers as may be necessary to continue its business without a significant increase in cost.

(r) Transactions with Affiliates and Employees. Except as set forth on Schedule 3.1(r), none of the officers or directors of the Company or any Subsidiary and, to the knowledge of the Company, none of the employees of the Company or any Subsidiary is presently a party to any transaction with the Company or any Subsidiary (other than for services as employees, officers and directors), including any contract, agreement or other arrangement providing for the furnishing of services to or by, providing for rental of real or personal property to or from, providing for the borrowing of money from or lending of money to or otherwise requiring payments to or from any officer, director or such employee or, to the knowledge of the Company, any entity in which any officer, director, or any such employee has a substantial interest or is an officer, director, trustee, stockholder, member or partner, in each case in excess of $120,000 other than for (i) payment of salary or consulting fees for services rendered, (ii) reimbursement for expenses incurred on behalf of the Company and (iii) other employee benefits, including stock option agreements under any stock option plan of the Company.

(s) Sarbanes-Oxley; Internal Accounting Controls. Except as set forth on Schedule 3.1(s), the Company and the Subsidiaries are in compliance with any and all applicable requirements of the Sarbanes-Oxley Act of 2002 that are effective as of the date hereof, and any and all applicable rules and regulations promulgated by the Commission thereunder that are effective as of the date hereof and as of the applicable Closing Date. Except as set forth on Schedule 3.1(s), the Company and the Subsidiaries maintain a system of internal accounting controls sufficient to provide reasonable assurance that: (i) transactions are executed in accordance with management's general or specific authorizations, (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP and to maintain asset accountability, (iii) access to assets is permitted only in accordance with management's general or specific authorization, and (iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences. Except as set forth in the SEC Reports, the Company and the Subsidiaries have established disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) for the Company and the Subsidiaries and designed such disclosure controls and procedures to ensure that information required to be disclosed by the Company in the reports it files or submits under the Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the Commission's rules and forms. The Company's certifying officers have evaluated the effectiveness of the disclosure controls and procedures of the Company and the Subsidiaries as of the end of the period covered by the most recently filed periodic report under the Exchange Act (such date, the "Evaluation Date"). The Company presented in its most recently filed periodic report under the Exchange Act the conclusions of the certifying officers about the effectiveness of the disclosure controls and procedures based on their evaluations as of the Evaluation Date. Since the Evaluation Date, there have been no changes in the internal control over financial reporting (as such term is defined in the Exchange Act) of the Company and its Subsidiaries that have materially affected, or is reasonably likely to materially affect, the internal control over financial reporting of the Company and its Subsidiaries.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(t) Certain Fees. Except for the fees and expenses of the Placement Agent, no brokerage or finder's fees or commissions are or will be payable by the Company or any Subsidiary to any broker, financial advisor or consultant, finder, placement agent, investment banker, bank or other Person with respect to the transactions contemplated by the Transaction Documents. The Purchasers shall have no obligation with respect to any fees or with respect to any claims made by or on behalf of other Persons for fees of a type contemplated in this Section that may be due in connection with the transactions contemplated by the Transaction Documents.

(u) Private Placement. Assuming the accuracy of the Purchasers' representations and warranties set forth in Section 3.2, no registration under the Securities Act is required for the offer and sale of the Securities by the Company to the Purchasers as contemplated hereby. The issuance and sale of the Securities hereunder does not contravene the rules and regulations of the Trading Market.

(v) Investment Company. The Company is not, and is not an Affiliate of, and immediately after receipt of payment for the Securities, will not be or be an Affiliate of, an "investment company" within the meaning of the Investment Company Act of 1940, as amended. The Company shall conduct its business in a manner so that it will not become an "investment company" subject to registration under the Investment Company Act of 1940, as amended.

(w) Registration Rights. Other than as set forth on Schedule 3.1(w) and the rights of the holders of the Exchange Warrants, each of the Purchasers, no Person has any right to cause the Company or any Subsidiary to effect the registration under the Securities Act of any securities of the Company or any Subsidiary.

(x) Listing and Maintenance Requirements. The Common Stock is registered pursuant to Section 12(g) of the Exchange Act, and the Company has taken no action designed to, or which to its knowledge is likely to have the effect of, terminating the registration of the Common Stock under the Exchange Act nor has the Company received any notification that the Commission is contemplating terminating such registration. The Company has not, in the 12 months preceding the date hereof, received notice from any Trading Market on which the Common Stock is or has been listed or quoted to the effect that the Company is not in compliance with the listing or maintenance requirements of such Trading Market. The Company is, and has no reason to believe that it will not in the foreseeable future continue to be, in compliance with all such listing and maintenance requirements. The Common Stock is currently eligible for electronic transfer through the Depository Trust Company or another established clearing corporation and the Company is current in payment of the fees to the Depository Trust Company (or such other established clearing corporation) in connection with such electronic transfer.

(y) Application of Takeover Protections. Except as set forth on Schedule 3.1(y), there are no control share acquisition, business combination, poison pill (including any distribution under a rights agreement) or other similar anti-takeover provision under the Company's certificate of incorporation (or similar charter documents) or the laws of its state of incorporation that is or could become applicable to the Purchasers as a result of the Purchasers and the Company fulfilling their obligations or exercising their rights under the Transaction Documents, including without limitation as a result of the Company's issuance of the Securities and the Purchasers' ownership of the Securities.

(z) Disclosure. Except with respect to the material terms and conditions of the transactions contemplated by the Transaction Documents, the Company confirms that neither it nor any other Person acting on its behalf has provided any of the Purchasers or their agents or counsel with any information that it believes constitutes or might constitute material, non-public information. The Company understands and confirms that the Purchasers will rely on the foregoing representation in effecting transactions in securities of the Company. All of the disclosure furnished by or on behalf of the Company to the Purchasers regarding the Company and its Subsidiaries, their respective businesses and the transactions contemplated hereby, including the Disclosure Schedules to this Agreement, is true and correct and does not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made therein, in

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

the light of the circumstances under which they were made, not misleading. The press releases disseminated by the Company during the twelve months preceding the date of this Agreement taken as a whole do not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances under which they were made and when made, not misleading. The Company acknowledges and agrees that no Purchaser makes or has made any representations or warranties with respect to the transactions contemplated hereby other than those specifically set forth in Section 3.2 hereof.

(aa) No Integrated Offering. Assuming the accuracy of the Purchasers' representations and warranties set forth in Section 3.2, neither the Company, nor any of its Affiliates, nor any Person acting on its or their behalf has, directly or indirectly, made any offers or sales of any security or solicited any offers to buy any security, under circumstances that would cause this offering of the Securities to be integrated with prior offerings by the Company for purposes of (i) the Securities Act which would require the registration of any such securities under the Securities Act, or (ii) any applicable shareholder approval provisions of any Trading Market on which any of the securities of the Company are listed or designated.

(bb) Solvency. Based on the consolidated financial condition of the Company as of the First Closing Date, after giving effect to the receipt by the Company of the proceeds from the sale of the Securities hereunder, (i) the fair saleable value of the Company's assets exceeds the amount that will be required to be paid on or in respect of the Company's existing debts and other liabilities (including known contingent liabilities) as they mature and (ii) the Company's assets do not constitute unreasonably small capital to carry on its business as now conducted and as proposed to be conducted including its capital needs taking into account the particular capital requirements of the business conducted by the Company, consolidated and projected capital requirements and capital availability thereof. The Company does not intend to incur debts beyond its ability to pay such debts as they mature (taking into account the timing and amounts of cash to be payable on or in respect of its debt). The Company has no knowledge of any facts or circumstances which lead it to believe that it will file for reorganization or liquidation under the bankruptcy or reorganization laws of any jurisdiction within one year from each Closing Date. Schedule 3.1(bb) sets forth as of the date hereof all outstanding secured and unsecured Indebtedness of the Company or any Subsidiary, or for which the Company or any Subsidiary has commitments. For the purposes of this Agreement, "Indebtedness" means (x) any liabilities for borrowed money or amounts owed in excess of $5,000 (other than trade accounts payable incurred in the ordinary course of business), (y) all guaranties, endorsements and other contingent obligations in respect of indebtedness of others, whether or not the same are or should be reflected in the Company's consolidated balance sheet (or the notes thereto), except guaranties by endorsement of negotiable instruments for deposit or collection or similar transactions in the ordinary course of business; and (z) the present value of any lease payments in excess of $5,000 due under leases required to be capitalized in accordance with GAAP. Neither the Company nor any Subsidiary is in default with respect to any Indebtedness.

(cc) Tax Status. Except for matters that would not, individually or in the aggregate, have or reasonably be expected to result in a Material Adverse Effect, the Company and its Subsidiaries each (i) has made or filed all United States federal, state and local income and all foreign income and franchise tax returns, reports and declarations required by any jurisdiction to which it is subject, (ii) has paid all taxes and other governmental assessments and charges that are material in amount, shown or determined to be due on such returns, reports and declarations and (iii) has set aside on its books provision reasonably adequate for the payment of all material taxes for periods subsequent to the periods to which such returns, reports or declarations apply. There are no unpaid taxes in any material amount claimed to be due by the taxing authority of any jurisdiction, and the officers of the Company or of any Subsidiary know of no basis for any such claim.

(dd) No General Solicitation. Neither the Company nor any Person acting on behalf of the Company has offered or sold any of the Securities by any form of general solicitation or general advertising. The Company has offered the Securities for sale only to the Purchasers and certain other "accredited investors" within the meaning of Rule 501 under the Securities Act.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(ee) Foreign Corrupt Practices. Neither the Company nor any Subsidiary, nor to the knowledge of the Company or any Subsidiary, any agent or other person acting on behalf of the Company or any Subsidiary, has (i) directly or indirectly, used any funds for unlawful contributions, gifts, entertainment or other unlawful expenses related to foreign or domestic political activity, (ii) made any unlawful payment to foreign or domestic government officials or employees or to any foreign or domestic political parties or campaigns from corporate funds, (iii) failed to disclose fully any contribution made by the Company or any Subsidiary (or made by any person acting on its behalf of which the Company is aware) which is in violation of law or (iv) violated in any material respect any provision of FCPA.

(ff) Accountants. To the knowledge and belief of the Company, the Company Auditor: (i) is a registered public accounting firm as required by the Exchange Act and (ii) shall express its opinion with respect to the financial statements to be included in the Company's Annual Report for the fiscal year ending December 31, 2021.

(gg) Seniority. As of each Closing Date, except as set forth on Schedule 3.1(gg), no Indebtedness or other claim against the Company is senior to the Preferred Stock in right of payment, whether with respect to interest or upon liquidation or dissolution, or otherwise, other than indebtedness secured by purchase money security interests (which is senior only as to underlying assets covered thereby) and capital lease obligations (which is senior only as to the property covered thereby).

(hh) No Disagreements with Accountants and Lawyers. There are no disagreements of any kind presently existing, or reasonably anticipated by the Company to arise, between the Company and the accountants and lawyers formerly or presently employed by the Company and the Company is current with respect to any fees owed to its accountants and lawyers which could affect the Company's ability to perform any of its obligations under any of the Transaction Documents.

(ii) Acknowledgment Regarding Purchasers' Purchase of Securities. The Company acknowledges and agrees that each of the Purchasers is acting solely in the capacity of an arm's length purchaser with respect to the Transaction Documents and the transactions contemplated thereby. The Company further acknowledges that no Purchaser is acting as a financial advisor or fiduciary of the Company (or in any similar capacity) with respect to the Transaction Documents and the transactions contemplated thereby and any advice given by any Purchaser or any of their respective representatives or agents in connection with the Transaction Documents and the transactions contemplated thereby is merely incidental to the Purchasers' purchase of the Securities. The Company further represents to each Purchaser that the Company's decision to enter into this Agreement and the other Transaction Documents has been based solely on the independent evaluation of the transactions contemplated hereby by the Company and its representatives.

(jj) Acknowledgment Regarding Purchaser's Trading Activity. Anything in this Agreement or elsewhere herein to the contrary notwithstanding (except for Sections 3.2(g) and 4.15 hereof), it is understood and acknowledged by the Company that: (i) none of the Purchasers has been asked by the Company to agree, nor has any Purchaser agreed, to desist from purchasing or selling, long and/or short, securities of the Company, or "derivative" securities based on securities issued by the Company or to hold the Securities for any specified term, (ii) past or future open market or other transactions by any Purchaser, specifically including, without limitation, Short Sales or "derivative" transactions, before or after the closing of this or future private placement transactions, may negatively impact the market price of the Company's publicly-traded securities, (iii) any Purchaser, and counter-parties in "derivative" transactions to which any such Purchaser is a party, directly or indirectly, may presently have a "short" position in the Common Stock and (iv) each Purchaser shall not be deemed to have any affiliation with or control over any arm's length counter-party in any "derivative" transaction. The Company further understands and acknowledges that (y) one or more Purchasers may engage in hedging activities at various times during the period that the Securities

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

are outstanding, including, without limitation, during the periods that the value of the Underlying Shares deliverable with respect to Securities are being determined, and (z) such hedging activities (if any) could reduce the value of the existing stockholders' equity interests in the Company at and after the time that the hedging activities are being conducted. The Company acknowledges that such aforementioned hedging activities do not constitute a breach of any of the Transaction Documents.

(kk) Regulation M Compliance. The Company has not, and to its knowledge no one acting on its behalf has, (i) taken, directly or indirectly, any action designed to cause or to result in the stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of any of the Securities, (ii) sold, bid for, purchased, or paid any compensation for soliciting purchases of, any of the Securities, or (iii) paid or agreed to pay to any Person any compensation for soliciting another to purchase any other securities of the Company.

(ll) [RESERVED]

(mm) Stock Option Plans. Each stock option granted by the Company under the Company's stock option plan was granted (i) in accordance with the terms of the Company's stock option plan and (ii) with an exercise price at least equal to the fair market value of the Common Stock on the date such stock option would be considered granted under GAAP and applicable law. No stock option granted under the Company's stock option plan has been backdated. The Company has not knowingly granted, and there is no and has been no Company policy or practice to knowingly grant, stock options prior to, or otherwise knowingly coordinate the grant of stock options with, the release or other public announcement of material information regarding the Company or its Subsidiaries or their financial results or prospects.

(nn) Office of Foreign Assets Control. Neither the Company nor any Subsidiary nor, to the Company's knowledge, any director, officer, agent, employee or affiliate of the Company or any Subsidiary is currently subject to any U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Treasury Department ("OFAC").

(oo) U.S. Real Property Holding Corporation. The Company is not and has never been a U.S. real property holding corporation within the meaning of Section 897 of the Internal Revenue Code of 1986, as amended, and the Company shall so certify upon Purchaser's request.

(pp) Bank Holding Company Act. Neither the Company nor any of its Subsidiaries or Affiliates is subject to the Bank Holding Company Act of 1956, as amended (the "BHCA") and to regulation by the Board of Governors of the Federal Reserve System (the "Federal Reserve"). Neither the Company nor any of its Subsidiaries or Affiliates owns or controls, directly or indirectly, five percent (5%) or more of the outstanding shares of any class of voting securities or twenty-five percent or more of the total equity of a bank or any entity that is subject to the BHCA and to regulation by the Federal Reserve. Neither the Company nor any of its Subsidiaries or Affiliates exercises a controlling influence over the management or policies of a bank or any entity that is subject to the BHCA and to regulation by the Federal Reserve.

(qq) Money Laundering. The operations of the Company and its Subsidiaries are and have been conducted at all times in compliance with applicable financial record-keeping and reporting requirements of the Currency and Foreign Transactions Reporting Act of 1970, as amended, applicable money laundering statutes and applicable rules and regulations thereunder (collectively, the "Money Laundering Laws"), and no Action or Proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any Subsidiary with respect to the Money Laundering Laws is pending or, to the knowledge of the Company or any Subsidiary, threatened.

(rr) No Disqualification Events. With respect to the Securities to be offered and sold hereunder in reliance on Rule 506 under the Securities Act, none of the Company, any of its predecessors, any affiliated issuer, any director, executive officer, other officer of the Company participating in the offering hereunder, any beneficial owner of 20% or more of the Company's outstanding voting equity securities, calculated on

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

the basis of voting power, nor any promoter (as that term is defined in Rule 405 under the Securities Act) connected with the Company in any capacity at the time of sale (each, an "Issuer Covered Person" and, together, "Issuer Covered Persons") is subject to any of the "Bad Actor" disqualifications described in Rule 506(d)(1)(i) to (viii) under the Securities Act (a "Disqualification Event"), except for a Disqualification Event covered by Rule 506(d)(2) or (d)(3). The Company has exercised reasonable care to determine whether any Issuer Covered Person is subject to a Disqualification Event. The Company has complied, to the extent applicable, with its disclosure obligations under Rule 506(e), and has furnished to the Purchasers a copy of any disclosures provided thereunder.

(ss) Other Covered Persons. Other than the Placement Agent, the Company is not aware of any person (other than any Issuer Covered Person) that has been or will be paid (directly or indirectly) remuneration for solicitation of purchasers in connection with the sale of any Securities.

(tt) Notice of Disqualification Events. The Company will notify the Purchasers and the Placement Agent in writing, prior to each Closing Date of (i) any Disqualification Event relating to any Issuer Covered Person and (ii) any event that would, with the passage of time, become a Disqualification Event relating to any Issuer Covered Person.

(uu) DTC Eligible. The Common Stock is DTC eligible and DTC has not placed a "freeze" or a "chill" on the Common Stock and the Company has no reason to believe that DTC has any intention to make the Common Stock not DTC eligible, or place a "freeze" or "chill" on the Common Stock.

(vv) Anti-Money Laundering, Anti-Bribery and Anti-Corruption; Sanctions.

i. Neither the Company nor, any of its Subsidiaries or Affiliates or any director or officer of any of them is an individual or entity currently, or has not in the past 5 years been, subject to any Sanctions or is on any Sanctions List.

ii. Each of the Company, any of its Subsidiaries and Affiliates and their respective directors, officers, employees and, to the knowledge of the Company, agents and any other person or entity acting on behalf of the Company, has complied with the Money Laundering, Anti-Corruption and Anti-Bribery Laws, in each case as applicable to them, and no action, suit or proceeding by or before any court or any arbitrator or any governmental agency, authority or body involving the Company and any of its Subsidiaries or their respective directors or officers and, to the knowledge of the Company, the employees, agents, or representatives of each of them, is pending or threatened with respect to Money Laundering, Anti-Corruption and Anti-Bribery Laws.

iii. Neither the Company nor any of its Subsidiaries nor their respective directors or officers, nor, to the knowledge of the Company, the employees or agents of any of them has:

1. used any corporate funds (nor will it use any proceeds from the Notes) for any unlawful contribution, gift, entertainment or unlawful expense relating to political activity;

2. taken any action in furtherance of an unlawful offer, payment, promise to pay, or authorization or approval of the payment or giving of money, property, gifts or (anything else of value, directly or indirectly, to any "government official" (including any officer or employee of a government or government owned or controlled entity or of a public international organization, or any person acting in an official capacity for or on behalf of any of the foregoing, or any political party or party official or candidate for public office) or made any other bribe, rebate, payoff, influence payment or kickback intended to improperly influence official action or secure an improper advantage;

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

3. nor will it use any proceeds from the Notes in furtherance of any such unlawful payment or violation of Sanctions or Money Laundering, Anti-Corruption and Anti-Bribery Laws.

iv. The Company and each Subsidiary will promote and ensure compliance with Money Laundering, Anti-Corruption and Anti-Bribery Laws in all jurisdictions where they operate and with the representations and warranties contained herein.

As used in this Section: (a) "Money Laundering, Anti-Corruption and Anti-Bribery Laws" means money laundering and anti- corruption statutes of all jurisdictions (including, the Foreign Corrupt Practices Act of 1977, the OECD Convention on Bribery of Foreign Public Officials in International Business Transactions, and any similar national or local law or regulation in the United Kingdom or elsewhere where the Company and each other Subsidiary conducts business), the rules and regulations thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any governmental agency or any such jurisdiction; (b) "Sanctions" means any laws or regulations or restrictive measures relating to economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by a Sanctions Authority.(c) "Sanctions Authority" means (i) the United Nations Security Council; (ii) the United States government; (iii) the European Union; (iv) the United Kingdom government; (v) the respective governmental institutions and agencies of any of the foregoing, including without limitation, OFAC, the United States Department of State and Department of Commerce, and Her Majesty's Treasury; and (vi) any other governmental institution or agency with responsibility for imposing, administering or enforcing Sanctions with jurisdiction over the Company or any of its subsidiaries (together, "Sanctions Authorities") and (d) "Sanctions List" means the Specially Designated Nationals and Blocked Persons List maintained by OFAC, the Denied Persons List maintained by the U.S. Department of Commerce, the Consolidated List of Financial Sanctions Targets maintained by Her Majesty's Treasury, or any other list issued or maintained by any Sanctions Authority of persons subject to Sanctions (including investment or related restrictions), each as amended, supplemented or substituted from time to time.

3.2 Representations and Warranties of the Purchasers. Each Purchaser, for itself and for no other Purchaser, hereby represents and warrants as of the date hereof and as of each Closing Date to the Company as follows (unless as of a specific date therein, in which case they shall be accurate as of such date):

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

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(b) Own Account. Such Purchaser understands that the Securities are "restricted securities" and have not been registered under the Securities Act or any applicable state securities law and is acquiring the Securities as principal for its own account and not with a view to or for distributing or reselling such Securities or any part thereof in violation of the Securities Act or any applicable state securities law, has no present intention of distributing any of such Securities in violation of the Securities Act or any applicable state securities law and has no direct or indirect arrangement or understandings with any other persons to distribute or regarding the distribution of such Securities in violation of the Securities Act or any applicable state securities law (this representation and warranty not limiting such Purchaser's right to sell the Securities pursuant to the Registration Statement or otherwise in compliance with applicable federal and state securities laws). Such Purchaser is acquiring the Securities hereunder in the ordinary course of its business.

(c) Purchaser Status. At the time such Purchaser was offered the Securities, it was, and as of the date hereof it is, and on each date on which it exercises any Warrants or converts any shares of Preferred Stock, it will be an "accredited investor" as defined in Rule 501(a) under the Securities Act.

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

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

(f) Access to Information. Such Purchaser acknowledges that it has had the opportunity to review the Transaction Documents (including all exhibits and schedules thereto) and the SEC Reports and has been afforded (i) the opportunity to ask such questions as it has deemed necessary of, and to receive answers from, representatives of the Company concerning the terms and conditions of the offering of the Securities and the merits and risks of investing in the Securities; (ii) access to information about the Company and its financial condition, results of operations, business, properties, management and prospects sufficient to enable it to evaluate its investment; and (iii) the opportunity to obtain such additional information that the Company possesses or can acquire without unreasonable effort or expense that is necessary to make an informed investment decision with respect to the investment. Such Purchaser acknowledges and agrees that neither the Placement Agent nor any Affiliate of the Placement Agent has provided such Purchaser with any information or advice with respect to the Securities nor is such information or advice necessary or desired. Neither the Placement Agent nor any Affiliate has made or makes any representation as to the Company or the quality of the Securities and the Placement Agent and any Affiliate may have acquired non-public information with respect to the Company which such Purchaser agrees need not be provided to it. In connection with the issuance of the Securities to such Purchaser, neither the Placement Agent nor any of its Affiliates has acted as a financial advisor or fiduciary to such Purchaser.

(g) Certain Transactions and Confidentiality. Other than consummating the transactions contemplated hereunder, such Purchaser has not, nor has any Person acting on behalf of or pursuant to any understanding with such Purchaser, directly or indirectly executed any purchases or sales, including Short Sales, of the securities of the Company during the period commencing as of the time that such Purchaser first received a term sheet (written or oral) from the Company or any other Person representing the Company setting forth the material terms of the transactions contemplated hereunder and ending immediately prior to the execution hereof. Notwithstanding the foregoing, in the case of a Purchaser that is a multi-managed investment vehicle whereby separate portfolio managers manage separate portions of such Purchaser's assets and the portfolio managers have no direct knowledge of the investment decisions made by the portfolio managers managing other portions of such Purchaser's assets, the representation set forth above shall only apply with

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

respect to the portion of assets managed by the portfolio manager that made the investment decision to purchase the Securities covered by this Agreement. Other than to other Persons party to this Agreement or to such Purchaser's representatives, including, without limitation, its officers, directors, partners, legal and other advisors, employees, agents and Affiliates, such Purchaser has maintained the confidentiality of all disclosures made to it in connection with this transaction (including the existence and terms of this transaction). Notwithstanding the foregoing, for the avoidance of doubt, nothing contained herein shall constitute a representation or warranty, or preclude any actions, with respect to locating or borrowing shares in order to effect Short Sales or similar transactions in the future.

The Company acknowledges and agrees that the representations contained in this Section 3.2 shall not modify, amend or affect such Purchaser's right to rely on the Company's representations and warranties contained in this Agreement or any representations and warranties contained in any other Transaction Document or any other document or instrument executed and/or delivered in connection with this Agreement or the consummation of the transactions contemplated hereby.

ARTICLE IV.
OTHER AGREEMENTS OF THE PARTIES

4.1 Transfer Restrictions.

(a) The Securities may only be disposed of in compliance with state and federal securities laws. In connection with any transfer of Securities other than pursuant to an effective registration statement or Rule 144, to the Company or to an Affiliate of a Purchaser or in connection with a pledge as contemplated in Section 4.1(b), the Company may require the transferor thereof to provide to the Company an opinion of counsel selected by the transferor and reasonably acceptable to the Company, the form and substance of which opinion shall be reasonably satisfactory to the Company, to the effect that such transfer does not require registration of such transferred Securities under the Securities Act. As a condition of transfer, any such transferee shall agree in writing to be bound by the terms of this Agreement and the Registration Rights Agreement and shall have the rights and obligations of a Purchaser under this Agreement and the Registration Rights Agreement.

(b) The Purchasers agree to the imprinting, so long as is required by this Section 4.1, of a legend on any of the Securities in the following form:

[NEITHER] THIS SECURITY [NOR THE SECURITIES INTO WHICH THIS SECURITY IS [EXERCISABLE] [CONVERTIBLE]] HAS [NOT] BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION OR THE SECURITIES COMMISSION OF ANY STATE IN RELIANCE UPON AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND, ACCORDINGLY, MAY NOT BE OFFERED OR SOLD EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR PURSUANT TO AN AVAILABLE EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS. THIS SECURITY [AND THE SECURITIES ISSUABLE UPON [EXERCISE] [CONVERSION] OF THIS SECURITY] MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT WITH A REGISTERED BROKER-DEALER OR OTHER LOAN WITH A FINANCIAL INSTITUTION THAT IS AN "ACCREDITED INVESTOR" AS DEFINED IN RULE 501(a) UNDER THE SECURITIES ACT OR OTHER LOAN SECURED BY SUCH SECURITIES.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

The Company acknowledges and agrees that a Purchaser may from time to time pledge pursuant to a bona fide margin agreement with a registered broker-dealer or grant a security interest in some or all of the Securities to a financial institution that is an "accredited investor" as defined in Rule 501(a) under the Securities Act and, if required under the terms of such arrangement, such Purchaser may transfer pledged or secured Securities to the pledgees or secured parties. Such a pledge or transfer would not be subject to approval of the Company and no legal opinion of legal counsel of the pledgee, secured party or pledgor shall be required in connection therewith. Further, no notice shall be required of such pledge. At the appropriate Purchaser's expense, the Company will execute and deliver such reasonable documentation as a pledgee or secured party of Securities may reasonably request in connection with a pledge or transfer of the Securities, including, if the Securities are subject to registration pursuant to the Registration Rights Agreement, the preparation and filing of any required prospectus supplement under Rule 424(b)(3) under the Securities Act or other applicable provision of the Securities Act to appropriately amend the list of Selling Stockholders (as defined in the Registration Rights Agreement) thereunder.

(c) Certificates evidencing the Underlying Shares shall not contain any legend (including the legend set forth in Section 4.1(b) hereof): (i) while a registration statement (including the Registration Statement) covering the resale of such security is effective under the Securities Act, (ii) following any sale of such Underlying Shares pursuant to Rule 144 (assuming cashless exercise of the Warrants), (iii) if such Underlying Shares are eligible for sale under Rule 144 (assuming cashless exercise of the Warrants) or (iv) if such legend is not required under applicable requirements of the Securities Act (including judicial interpretations and pronouncements issued by the staff of the Commission and assuming cashless exercise of the Warrants). The Company shall cause its counsel to issue a legal opinion to the Transfer Agent promptly after the Effective Date or at such time as such legend is no longer required under this Section 4.1(c) if required by the Transfer Agent in connection with the removal of the legend hereunder, or if requested by a Purchaser. If all or any shares of Preferred Stock are converted or any portion of a Warrant is exercised at a time when there is an effective registration statement to cover the resale of the Underlying Shares, or if such Underlying Shares may be sold under Rule 144 (assuming cashless exercise of the Warrants) and the Company is then in compliance with the current public information required under Rule 144, or if the Underlying Shares may be sold under Rule 144 without the requirement for the Company to be in compliance with the current public information required under Rule 144 as to such Underlying Shares and without volume or manner-of-sale restrictions or if such legend is not otherwise required under applicable requirements of the Securities Act (including judicial interpretations and pronouncements issued by the staff of the Commission) then such Underlying Shares shall be issued free of all legends. The Company agrees that following the Effective Date or at such time as such legend is no longer required under this Section 4.1(c), it will, no later than the earlier of (i) two (2) Trading Days and (ii) the number of Trading Days comprising the Standard Settlement Period (as defined below) following the delivery by a Purchaser to the Company or the Transfer Agent of a certificate representing Underlying Shares, as applicable, issued with a restrictive legend (such date, the "Legend Removal Date"), deliver or cause to be delivered to such Purchaser a certificate representing such shares that is free from all restrictive and other legends. The Company may not make any notation on its records or give instructions to the Transfer Agent that enlarge the restrictions on transfer set forth in this Section 4. Certificates for Underlying Shares subject to legend removal hereunder shall be transmitted by the Transfer Agent to the Purchaser by crediting the account of the Purchaser's prime broker with the Depository Trust Company System as directed by such Purchaser. As used herein, "Standard Settlement Period" means the standard settlement period, expressed in a number of Trading Days, on the Company's primary Trading Market with respect to the Common Stock as in effect on the date of delivery of a certificate representing Underlying Shares, as applicable, issued with a restrictive legend.

(d) In addition to such Purchaser's other available remedies, the Company shall pay to a Purchaser, in cash, (i) as partial liquidated damages and not as a penalty, for each $1,000 of Underlying Shares (based on the VWAP of the Common Stock on the date such Securities are submitted to the Transfer Agent) delivered for removal of the restrictive legend and subject to Section 4.1(c), $10 per Trading Day for each Trading Day after the Legend Removal Date until such certificate is delivered without a legend and (ii) if the Company fails to (a) issue and deliver (or cause to be delivered) to a Purchaser by the Legend Removal Date a certificate representing the Securities so delivered to the Company by such Purchaser that is free from all restrictive

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

and other legends and (b) if after the Legend Removal Date such Purchaser purchases (in an open market transaction or otherwise) shares of Common Stock to deliver in satisfaction of a sale by such Purchaser of all or any portion of the number of shares of Common Stock, or a sale of a number of shares of Common Stock equal to all or any portion of the number of shares of Common Stock that such Purchaser anticipated receiving from the Company without any restrictive legend, then, an amount equal to the excess of such Purchaser's total purchase price (including brokerage commissions and other out-of-pocket expenses, if any) for the shares of Common Stock so purchased (including brokerage commissions and other out-of-pocket expenses, if any) (the "Buy-In Price") over the product of (x) such number of Underlying Shares that the Company was required to deliver to such Purchaser by the Legend Removal Date multiplied by (y) the lowest closing sale price of the Common Stock on any Trading Day during the period commencing on the date of the delivery by such Purchaser to the Company of the applicable Underlying Shares (as the case may be) and ending on the date of such delivery and payment under this clause (ii). Nothing herein shall limit such Purchaser's right to pursue actual damages for the Company's failure to deliver certificates representing the Securities as required by the Transaction Documents and such Purchaser shall have the right to pursue all remedies available to it at low or in equity, including, without limitation, a decree of specific performance and/or injunctive relief.

(e) Each Purchaser, severally and not jointly with the other Purchasers, agrees with the Company that such Purchaser will sell any Securities pursuant to either the registration requirements of the Securities Act, including any applicable prospectus delivery requirements, or an exemption therefrom, and that if Securities are sold pursuant to a Registration Statement, they will be sold in compliance with the plan of distribution set forth therein, and acknowledges that the removal of the restrictive legend from certificates representing Securities as set forth in this Section 4.1 is predicated upon the Company's reliance upon this understanding.

4.2 Acknowledgment of Dilution. The Company acknowledges that the issuance of the Securities may result in dilution of the outstanding shares of Common Stock, which dilution may be substantial under certain market conditions. The Company further acknowledges that its obligations under the Transaction Documents, including, without limitation, its obligation to issue the Underlying Shares pursuant to the Transaction Documents, are unconditional and absolute and not subject to any right of set off, counterclaim, delay or reduction, regardless of the effect of any such dilution or any claim the Company may have against any Purchaser and regardless of the dilutive effect that such issuance may have on the ownership of the other stockholders of the Company.

4.3 Furnishing of Information; Public Information.

(a) Until the earliest of the time that (i) no Purchaser owns Securities or (ii) the Warrants have expired, the Company covenants to maintain the registration of the Common Stock under Section 12(b) or 12(g) of the Exchange Act and to timely file (or obtain extensions in respect thereof and file within the applicable grace period) all reports required to be filed by the Company after the date hereof pursuant to the Exchange Act even if the Company is not then subject to the reporting requirements of the Exchange Act, provided that, if after becoming subject to the Exchange Act, the Company is thereafter no longer required to file reports pursuant to the Exchange Act, the Company will, for as long as any Purchaser owns Securities, prepare and furnish to the Purchasers and make publicly available in accordance with Rule 144(c) such information as is required for the Purchasers to sell the Securities, including without limitation, under Rule 144. The Company further covenants that it will take such further action as any holder of Securities may reasonably request, to the extent required from time to time to enable such Person to sell such Securities without registration under the Securities Act, including, without limitation, within the requirements of the exemption provided by Rule 144.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(b) At any time during the period commencing from the six (6) month anniversary of the date hereof and ending at such time that all of the Securities may be sold without the requirement for the Company to be in compliance with Rule 144(c)(1) and otherwise without restriction or limitation pursuant to Rule 144, if the Company (i) shall fail for any reason to satisfy the current public information requirement under Rule 144(c) or (ii) has ever been an issuer described in Rule 144(i)(1)(i) or becomes an issuer in the future, and the Company shall fail to satisfy any condition set forth in Rule 144(i)(2) (a "Public Information Failure") then, in addition to such Purchaser's other available remedies, the Company shall pay to a Purchaser, in cash, as partial liquidated damages and not as a penalty, by reason of any such delay in or reduction of its ability to sell the Securities, an amount in cash equal to one percent (1.0%) of the aggregate Subscription Amount of such Purchaser's Securities on every thirtieth (30^{th}) day (pro-rated for periods totaling less than thirty days) thereafter until the earlier of (a) the date such Public Information Failure is cured and (b) such time that such public information is no longer required for the Purchasers to transfer the Underlying Shares pursuant to Rule 144; provided, however, the aggregate amount payable to a Holder shall not exceed 10% of such Holder's Subscription Amount The payments to which a Purchaser shall be entitled pursuant to this Section 4.3(b) are referred to herein as "Public Information Failure Payments." Public Information Failure Payments shall be paid on the earlier of (i) the last day of the calendar month during which such Public Information Failure Payments are incurred and (ii) the third (3^{rd}) Business Day after the event or failure giving rise to the Public Information Failure Payments is cured. If an Event (as defined in the Registration Rights Agreement) is occurring at the time of a Public Information Failure, and the Company is (x) then obligated to pay, and (y) timely pays the Purchasers partial liquidated damages under Section 2(b) of the Registration Rights Agreement for the period occurring simultaneous with the applicable Public Information Failure (such payments, the "Simultaneous Registration Rights Partial Liquidated Damages") and (z) has timely paid the Purchasers all previously accrued partial liquidated damages under Section 2(b) of the Registration Rights Agreement, the Company may deduct the amounts paid in connection with such Simultaneous Registration Rights Partial Liquidated Damages from such Public Information Failure Payments due for such simultaneous Public Information Failure. In the event the Company fails to make Public Information Failure Payments in a timely manner, such Public Information Failure Payments shall bear interest at the rate of 1.5% per month (prorated for partial months) until paid in full. Nothing herein shall limit such Purchaser's right to pursue actual damages for the Public Information Failure, and such Purchaser shall have the right to pursue all remedies available to it at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief.

4.4 Integration. The Company shall not sell, offer for sale or solicit offers to buy or otherwise negotiate in respect of any security (as defined in Section 2 of the Securities Act) that would be integrated with the offer or sale of the Securities in a manner that would require the registration under the Securities Act of the sale of the Securities or that would be integrated with the offer or sale of the Securities for purposes of the rules and regulations of any Trading Market such that it would require shareholder approval prior to the closing of such other transaction unless shareholder approval is obtained before the closing of such subsequent transaction.

4.5 Conversion and Exercise Procedures. Each of the form of Notice of Exercise included in the Warrants and the form of Notice of Conversion included in the Certificate of Designation set forth the totality of the procedures required of the Purchasers in order to exercise the Warrants or convert the Preferred Stock. Without limiting the preceding sentences, no ink-original Notice of Exercise or Notice of Conversion shall be required, nor shall any medallion guarantee (or other type of guarantee or notarization) of any Notice of Exercise or Notice of Conversion form be required in order to exercise the Warrants or convert the Preferred Stock. No additional legal opinion, other information or instructions shall be required of the Purchasers to exercise their Warrants or convert their Preferred Stock. The Company shall honor exercises of the Warrants and conversions of the Preferred Stock and shall deliver Underlying Shares in accordance with the terms, conditions and time periods set forth in the Transaction Documents.

4.6 Securities Laws Disclosure; Publicity. The Company shall (a) by the Disclosure Time, issue a press release disclosing the material terms of the transactions contemplated hereby and (b) file a Current Report on Form 8-K, including the Transaction Documents as exhibits thereto, with the Commission within the time required by the Exchange Act ("Form 8-K"). From and after the filing of the Form 8-K, the Company represents to the Purchasers

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

that the Company shall have publicly disclosed all material, non-public information delivered to any of the Purchasers by the Company or any of its Subsidiaries, or any of their respective officers, directors, employees or agents in connection with the transactions contemplated by the Transaction Documents. In addition, effective upon the filing of the Form 8-K, the Company acknowledges and agrees that any and all confidentiality or similar obligations under any agreement, whether written or oral, between the Company, any of its Subsidiaries or any of their respective officers, directors, agents, employees or Affiliates on the one hand, and any of the Purchasers or any of their Affiliates on the other hand, shall terminate. The Company shall not publicly disclose the name of any Purchaser in any press release, or include the name of any Purchaser in any filing with the Commission or any regulatory agency or Trading Market, without the prior written consent of such Purchaser, except: (a) as required by federal securities law in connection with any registration statement contemplated by the Registration Rights Agreement or the Company's reporting requirements under the Exchange Act and (b) to the extent such disclosure is required by law or Trading Market regulations, in which case the Company shall provide the Purchasers with prior notice of such disclosure permitted under this clause (b).

4.7 Shareholder Rights Plan. No claim will be made or enforced by the Company or, with the consent of the Company, any other Person, that any Purchaser is an "Acquiring Person" under any control share acquisition, business combination, poison pill (including any distribution under a rights agreement) or similar anti-takeover plan or arrangement in effect or hereafter adopted by the Company, or that any Purchaser could be deemed to trigger the provisions of any such plan or arrangement, by virtue of receiving Securities under the Transaction Documents or under any other agreement between the Company and the Purchasers.

4.8 Non-Public Information. Except with respect to the material terms and conditions of the transactions contemplated by the Transaction Documents, which shall be disclosed pursuant to Section 4.6, the Company covenants and agrees that neither the Company nor any other Person acting on its behalf will provide any Purchaser or its agents or counsel with any information that constitutes, or the Company reasonably believes constitutes, material non-public information, unless prior thereto such Purchaser shall have consented to the receipt of such information and agreed with the Company to keep such information confidential. The Company understands and confirms that each Purchaser shall be relying on the foregoing covenant in effecting transactions in securities of the Company. To the extent that the Company, any Subsidiary, or any of their respective officers, director, agents, employees or Affiliates delivers any material, non-public information to a Purchaser without such Purchaser's consent, the Company hereby covenants and agrees that such Purchaser shall not have any duty of confidentiality to the Company, any of its Subsidiaries, or any of their respective officers, directors, agents, employees or Affiliates, or a duty to the Company, any of its Subsidiaries or any of their respective officers, directors, agents, employees or Affiliates not to trade on the basis of, such material, non-public information, provided that the Purchaser shall remain subject to applicable law. To the extent that any notice provided pursuant to any Transaction Document constitutes, or contains, material, non-public information regarding the Company or any Subsidiaries, the Company shall simultaneously file such notice with the Commission pursuant to a Current Report on Form 8-K. The Company understands and confirms that each Purchaser shall be relying on the foregoing covenant in effecting transactions in securities of the Company.

4.9 Use of Proceeds. Except as set forth in Schedule 4.9, the Company shall use the net proceeds from the sale of the Securities hereunder for working capital purposes (including, without limitation, marketing, advertising and brand awareness) and shall not use such proceeds: (a) for the satisfaction of any portion of the Company's debt (other than payment of trade payables in the ordinary course of the Company's business and prior practices), (b) for the redemption of any Common Stock or Common Stock Equivalents, (c) for the settlement of any outstanding litigation or (d) in violation of FCPA or OFAC regulations.

4.10 Indemnification of Purchasers. Subject to the provisions of this Section 4.10, the Company will indemnify and hold each Purchaser and its directors, officers, shareholders, members, partners, employees and agents (and any other Persons with a functionally equivalent role of a Person holding such titles notwithstanding a lack of such title or any other title), each Person who controls such Purchaser (within the meaning of Section 15 of the Securities Act and Section 20 of the Exchange Act), and the directors, officers, shareholders, agents, members, partners or employees (and any other Persons with a functionally equivalent role of a Person holding such titles notwithstanding a lack of such title or any other title) of such controlling persons (each, a "Purchaser Party") harmless from any and all losses, liabilities, obligations, claims, contingencies, damages, costs and expenses, including all

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

judgments, amounts paid in settlements, court costs and reasonable attorneys' fees and costs of investigation that any such Purchaser Party may suffer or incur as a result of or relating to (a) any breach of any of the representations, warranties, covenants or agreements made by the Company in this Agreement or in the other Transaction Documents or (b) any action instituted against the Purchaser Parties in any capacity, or any of them or their respective Affiliates, by any stockholder of the Company who is not an Affiliate of such Purchaser Party, with respect to any of the transactions contemplated by the Transaction Documents (unless such action is solely based upon a material breach of such Purchaser Party's representations, warranties or covenants under the Transaction Documents or any agreements or understandings such Purchaser Party may have with any such stockholder or any violations by such Purchaser Party of state or federal securities laws or any conduct by such Purchaser Party which is finally judicially determined to constitute fraud, gross negligence or willful misconduct). If any action shall be brought against any Purchaser Party in respect of which indemnity may be sought pursuant to this Agreement, such Purchaser Party shall promptly notify the Company in writing, and the Company shall have the right to assume the defense thereof with counsel of its own choosing reasonably acceptable to the Purchaser Party. Any Purchaser Party shall have the right to employ separate counsel in any such action and participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of such Purchaser Party except to the extent that (i) the employment thereof has been specifically authorized by the Company in writing, (ii) the Company has failed after a reasonable period of time to assume such defense and to employ counsel or (iii) in such action there is, in the reasonable opinion of counsel, a material conflict on any material issue between the position of the Company and the position of such Purchaser Party, in which case the Company shall be responsible for the reasonable fees and expenses of no more than one such separate counsel. The Company will not be liable to any Purchaser Party under this Agreement (y) for any settlement by a Purchaser Party effected without the Company's prior written consent, which shall not be unreasonably withheld or delayed; or (z) to the extent, but only to the extent that a loss, claim, damage or liability is attributable to any Purchaser Party's breach of any of the representations, warranties, covenants or agreements made by such Purchaser Party in this Agreement or in the other Transaction Documents. The indemnification required by this Section 4.10 shall be made by periodic payments of the amount thereof during the course of the investigation or defense, as and when bills are received or are incurred. The indemnity agreements contained herein shall be in addition to any cause of action or similar right of any Purchaser Party against the Company or others and any liabilities the Company may be subject to pursuant to law.

4.11 Reservation and Listing of Securities.

(a) Following the date hereof, the Company shall maintain a reserve from its duly authorized shares of Common Stock for the issuance of the Shares and conversion in full of the Preferred Stock issued and issuable pursuant to the Transaction Documents (ignoring for such purposes any limitations under the Certificate of Designation). Following the Authorized Capital Adjustment Date, the Company shall maintain a reserve of the Required Minimum from its duly authorized shares of Common Stock for issuance pursuant to the Transaction Documents in such amount as may then be required to fulfill its obligations in full under the Transaction Documents.

(b) If, on any date after the Authorized Capital Adjustment Date, the number of authorized but unissued (and otherwise unreserved) shares of Common Stock is less than 100% of the Required Minimum on such date, minus the number of shares of Common Stock previously issued pursuant to the Transaction Documents, then the Board of Directors shall use commercially reasonable best efforts to amend the Company's articles of incorporation to increase the number of authorized but unissued shares of Common Stock to at least the Required Minimum at such time (minus the number of shares of Common Stock previously issued pursuant to the Transaction Documents), as soon as possible and in any event not later than the 75th day after such date, provided that the Company will not be required at any time to authorize a number of shares of Common Stock greater than the maximum remaining number of shares of Common Stock that could possibly be issued after such time pursuant to the Transaction Documents.

(c) The Company hereby agrees to use best efforts to maintain the listing or quotation of the Common Stock on the Trading Market on which it is currently listed, and concurrently with the First Closing, the Company shall apply to list or quote all of the Conversion Shares and Warrant Shares on such Trading Market and promptly secure the listing of all of the Conversion Shares and Warrant Shares on such Trading Market. The Company further agrees, if the Company applies to have the Common Stock traded on any other Trading

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Market, it will then include in such application all of the Conversion Shares and Warrant Shares, and will take such other action as is necessary to cause all of the Conversion Shares and Warrant Shares to be listed or quoted on such other Trading Market as promptly as possible. The Company will then take all action reasonably necessary to continue the listing or quotation and trading of its Common Stock on a Trading Market and will comply in all respects with the Company's reporting, filing and other obligations under the bylaws or rules of the Trading Market. The Company shall establish and maintain the eligibility of the Common Stock for electronic transfer through the Depository Trust Company or another established clearing corporation, including, without limitation, by timely payment of fees to the Depository Trust Company or such other established clearing corporation in connection with such electronic transfer.

4.12 Participation in Future Financing.

(a) From the date hereof until the date that is the six (6) month anniversary of the Effective Date, upon any issuance by the Company or any of its Subsidiaries of Indebtedness, Common Stock or Common Stock Equivalents for cash consideration or a combination thereof (a "Subsequent Financing"), each Purchaser (when aggregated with its Affiliates) with a Subscription Amount of at least $1,000,000 (a "Participation Right Purchaser") shall have the right to participate in up to an amount of the Subsequent Financing equal to 50% of the Subsequent Financing (the "Participation Maximum") on the same terms, conditions and price provided for in the Subsequent Financing; provided, however, in respect of an underwritten firm commitment "public offering" of the Company's Common Stock or Common Stock Equivalents, the Participation Maximum shall be 25% of the Subsequent Financing.

(b) At least five (5) Trading Days prior to the closing of the Subsequent Financing, the Company shall deliver to each Participation Right Purchaser a written notice of its intention to effect a Subsequent Financing ("Pre-Notice"), which Pre-Notice shall ask such Participation Right Purchaser if it wants to review the details of such financing (such additional notice, a "Subsequent Financing Notice"). Upon the request of a Participation Right Purchaser, and only upon a request by such Participation Right Purchaser, for a Subsequent Financing Notice, the Company shall promptly, but no later than one (1) Trading Day after such request, deliver a Subsequent Financing Notice to such Participation Right Purchaser. Notwithstanding anything herein to the contrary, in the event that the Subsequent Financing is an "overnight" registered direct offering ("RDO"), there shall be no Pre-Notice require to be delivered to the Participating Purchaser provided that the Subsequent Financing is delivered between the time period of 4:00 pm (New York City time) and 6:00 pm (New York City time) on the Trading Day immediately prior to the Trading Day of the expected announcement of the Subsequent Financing (or, if the Trading Day of the expected announcement of the Subsequent Financing is the first Trading Day following a holiday or a weekend (including a holiday weekend), between the time period of 4:00 pm (New York City time) on the Trading Day immediately prior to such holiday or weekend and 2:00 pm (New York City time) on the day immediately prior to the Trading Day of the expected announcement of the Subsequent Financing). The Subsequent Financing Notice shall describe in reasonable detail the proposed terms of such Subsequent Financing, the amount of proceeds intended to be raised thereunder and the Person or Persons through or with whom such Subsequent Financing is proposed to be effected and shall include a term sheet or similar document relating thereto as an attachment.

(c) Any Participation Right Purchaser desiring to participate in such Subsequent Financing must provide written notice to the Company by not later than 5:30 p.m. (New York City time) on the fifth (5^{th}) Trading Day after all of the Participation Right Purchasers have received the Pre-Notice that such Participation Right Purchaser is willing to participate in the Subsequent Financing, the amount of such Participation Right Purchaser's participation, and representing and warranting that such Participation Right Purchaser has such funds ready, willing, and available for investment on the terms set forth in the Subsequent Financing Notice. If the Company receives no such notice from a Participation Right Purchaser as of such

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

fifth (5^{th}) Trading Day, such Participation Right Purchaser shall be deemed to have notified the Company that it does not elect to participate. Notwithstanding anything herein to the contrary, in the event of an RDO, any Participating Purchaser desiring to participate in such Subsequent Financing must provide written notice to the Company by 6:30 am (New York City time) on the Trading Day following the date on which the Subsequent Financing Notice is delivered to such Participating Purchaser (the "Notice Termination Time") that such Participating Purchaser is willing to participate in the Subsequent Financing, the amount of such Participating Purchaser's participation, and representing and warranting that such Participating Purchaser has such funds ready, willing, and available for investment on the terms set forth in the Subsequent Financing Notice. If the Company receives no such notice from a Participating Purchaser as of such Notice Termination Time, such Participating Purchaser shall be deemed to have notified the Company that it does not elect to participate in such Subsequent Financing

(d) If by 5:30 p.m. (New York City time) on the fifth (5^{th}) Trading Day after all of the Participation Right Purchasers have received the Pre-Notice, notifications by the Participation Right Purchasers of their willingness to participate in the Subsequent Financing (or to cause their designees to participate) is, in the aggregate, less than the total amount of the Subsequent Financing, then the Company may effect the remaining portion of such Subsequent Financing on the terms and with the Persons set forth in the Subsequent Financing Notice. Notwithstanding anything hereinto to the contrary, in the event of an RDO, if, by the Notice Termination Time, notifications by the Participating Purchasers of their willingness to participate in the Subsequent Financing (or to cause their designees to participate) is, in the aggregate, less than the total amount of the Subsequent Financing, then the Company may effect the remaining portion of such Subsequent Financing on the terms and with the Persons set forth in the Subsequent Financing Notice.

(e) If by 5:30 p.m. (New York City time) on the fifth (5^{th}) Trading Day after all of the Participation Right Purchasers have received the Pre-Notice, the Company receives responses to a Subsequent Financing Notice from Participation Right Purchasers seeking to purchase more than the aggregate amount of the Participation Maximum, each such Participation Right Purchaser shall have the right to purchase its Pro Rata Portion (as defined below) of the Participation Maximum. Notwithstanding anything herein to the contrary, in the event of an RDO, if, by the Notice Termination Time, the Company receives responses to a Subsequent Financing Notice from Participating Purchasers seeking to purchase more than the aggregate amount of the Participation Maximum, each such Participating Purchaser shall have the right to purchase its Pro Rata Portion (as defined below) of the Participation Maximum "Pro Rata Portion" means the ratio of (x) the Subscription Amount of Securities purchased on the Closing Dates by a Participation Right Purchaser participating under this Section 4.12 and (y) the sum of the aggregate Subscription Amounts of Securities purchased on the Closing Dates by all Participation Right Purchasers participating under this Section 4.12.

(f) The Company must provide the Participation Right Purchasers with a second Subsequent Financing Notice, and the Participation Right Purchasers will again have the right of participation set forth above in this Section 4.12, if the Subsequent Financing subject to the initial Subsequent Financing Notice is not consummated for any reason on the terms set forth in such Subsequent Financing Notice within thirty (30) Trading Days after the date of the initial Subsequent Financing Notice; provided in the event of an RDO such period shall be two (2) Trading Days.

(g) The Company and each Participation Right Purchaser agree that if any Participation Right Purchaser elects to participate in the Subsequent Financing, the transaction documents related to the Subsequent Financing shall not include any term or provision that, directly or indirectly, will, or is intended to, exclude one or more of the Participation Right Purchasers from participating in a Subsequent Financing, including, but not limited to, provisions whereby such Participation Right Purchaser shall be required to agree to any restrictions on trading as to any of the Securities purchased hereunder or be required to consent to any amendment to or termination of, or grant any waiver, release or the like under or in connection with, this Agreement, without the prior written consent of such Participation Right Purchaser.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(h) Notwithstanding anything to the contrary in this Section 4.12 and unless otherwise agreed to by such Participation Right Purchaser, the Company shall either confirm in writing to such Participation Right Purchaser that the transaction with respect to the Subsequent Financing has been abandoned or shall publicly disclose its intention to issue the securities in the Subsequent Financing, in either case in such a manner such that such Participation Right Purchaser will not be in possession of any material, non-public information, by the tenth (10th) Business Day following delivery of the Subsequent Financing Notice. If by such tenth (10th) Business Day, no public disclosure regarding a transaction with respect to the Subsequent Financing has been made, and no notice regarding the abandonment of such transaction has been received by such Participation Right Purchaser, such transaction shall be deemed to have been abandoned and such Participation Right Purchaser shall not be deemed to be in possession of any material, non-public information with respect to the Company or any of its Subsidiaries; provided, however, in the case of an RDO the Company shall be required to comply with the aforementioned obligations on or before 9:30 am (New York City time) on the second (2nd) Trading Day following date of delivery of the Subsequent Financing Notice. If by 9:30 am (New York City time) on such second (2nd) Trading Day, no public disclosure regarding a transaction with respect to the Subsequent Financing has been made, and no notice regarding the abandonment of such transaction has been received by such Participating Purchaser, such transaction shall be deemed to have been abandoned and such Participating Purchaser shall not be deemed to be in possession of any material, non-public information with respect to the Company or any of its Subsidiaries.

(i) Notwithstanding the foregoing, this Section 4.12 shall not apply in respect of an Exempt Issuance.

4.13 Subsequent Equity Sales.

(a) From the date hereof until the earlier of (i) six-months following the Effective Date and (ii) the later of (A) ninety (90) days following the Effective Date and (B) the date that the VWAP for 10 consecutive Trading Days measured following the 90th day following the Effective Date is greater than $0.625, subject to adjustment for reverse and forward stock splits, stock dividends, stock combinations and other similar transactions of the Common Stock that occur after the date of this Agreement, neither the Company nor any Subsidiary shall (y) issue, enter into any agreement to issue or announce the issuance or proposed issuance of any shares of Common Stock or Common Stock Equivalents or (z) file any registration statement or any amendment or supplement thereto, in each case other than as contemplated pursuant to the Registration Rights Agreement.

(b) From the date hereof until the earlier of (i) such time as no Purchaser holds any of the Warrants and (ii) the date that is 2 year anniversary of the date that the Company's Common Stock is listed for trading on NYSE American, the Nasdaq Capital Market, the Nasdaq Global Market, the Nasdaq Global Select Market or the New York Stock Exchange ("Uplisting"), the Company shall be prohibited from incurring any Indebtedness or effecting or entering into an agreement to effect any issuance by the Company or any of its Subsidiaries of Common Stock or Common Stock Equivalents (or a combination of units thereof) involving a Variable Rate Transaction. "Variable Rate Transaction" means a transaction in which the Company (i) issues or sells any debt or equity securities that are convertible into, exchangeable or exercisable for, or include the right to receive, additional shares of Common Stock either (A) at a conversion price, exercise price or exchange rate or other price that is based upon, and/or varies with, the trading prices of or quotations for the shares of Common Stock at any time after the initial issuance of such debt or equity securities or (B) with a conversion, exercise or exchange price that is subject to being reset at some future date after the initial issuance of such debt or equity security or upon the occurrence of specified or contingent events directly or indirectly related to the business of the Company or the market for the Common Stock or (ii) enters into, or effects a transaction under, any agreement, including, but not limited to, an equity line of credit or at-the-market offering, whereby the Company may issue securities at a future determined price. Any Purchaser shall be entitled to obtain injunctive relief against the Company to preclude any such issuance, which remedy shall be in addition to any right to collect damages.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(c) Until the later of (i) the Effective Date and (ii) earlier of (A) the second anniversary of the First Closing Date and (B) the date that less than 20% of the shares of Preferred Stock issued hereunder remain outstanding, the Company shall not issue any securities with an effective price per share that is lower than $0.3125 (adjusted for reverse and forward stock splits, combinations and recapitalizations following the date hereof), with anti-dilution protection of any kind (other than adjustments for reverse and forward stock splits, combinations and recapitalizations), in either case without the consent of the Purchasers holding a majority of the outstanding shares of Preferred Stock.

(d) Notwithstanding the foregoing, this Section 4.13 shall not apply in respect of an Exempt Issuance, except that no Variable Rate Transaction shall be an Exempt Issuance.

4.14 Equal Treatment of Purchasers. No consideration (including any modification of any Transaction Document) shall be offered or paid to any Person to amend or consent to a waiver or modification of any provision of the Transaction Documents unless the same consideration is also offered to all of the parties to the Transaction Documents. For clarification purposes, this provision constitutes a separate right granted to each Purchaser by the Company and negotiated separately by each Purchaser, and is intended for the Company to treat the Purchasers as a class and shall not in any way be construed as the Purchasers acting in concert or as a group with respect to the purchase, disposition or voting of Securities or otherwise.

4.15 Certain Transactions and Confidentiality. Each Purchaser, severally and not jointly with the other Purchasers, covenants that neither it, nor any Affiliate acting on its behalf or pursuant to any understanding with it will execute any purchases or sales, including Short Sales, of any of the Company's securities during the period commencing with the execution of this Agreement and ending at such time that the transactions contemplated by this Agreement are first publicly announced pursuant to the initial press release as described in Section 4.6. Each Purchaser, severally and not jointly with the other Purchasers, covenants that until such time as the transactions contemplated by this Agreement are publicly disclosed by the Company pursuant to the initial press release as described in Section 4.6, such Purchaser will maintain the confidentiality of the existence and terms of this transaction and the information included in the Disclosure Schedules. Notwithstanding the foregoing, and notwithstanding anything contained in this Agreement to the contrary, the Company expressly acknowledges and agrees that (i) no Purchaser makes any representation, warranty or covenant hereby that it will not engage in effecting transactions in any securities of the Company after the time that the transactions contemplated by this Agreement are first publicly announced pursuant to the initial press release as described in Section 4.6, (ii) no Purchaser shall be restricted or prohibited from effecting any transactions in any securities of the Company in accordance with applicable securities laws from and after the time that the transactions contemplated by this Agreement are first publicly announced pursuant to the initial press release as described in Section 4.6 and (iii) no Purchaser shall have any duty of confidentiality or duty not to trade in the securities of the Company to the Company or its Subsidiaries after the issuance of the initial press release as described in Section 4.6. Notwithstanding the foregoing, in the case of a Purchaser that is a multi-managed investment vehicle whereby separate portfolio managers manage separate portions of such Purchaser's assets and the portfolio managers have no direct knowledge of the investment decisions made by the portfolio managers managing other portions of such Purchaser's assets, the covenant set forth above shall only apply with respect to the portion of assets managed by the portfolio manager that made the investment decision to purchase the Securities covered by this Agreement.

4.16 Form D; Blue Sky Filings. The Company agrees to timely file a Form D with respect to the Securities as required under Regulation D and to provide a copy thereof, promptly upon request of any Purchaser. The Company shall take such action as the Company shall reasonably determine is necessary in order to obtain an exemption for, or to qualify the Securities for, sale to the Purchasers at each Closing under applicable securities or "Blue Sky" laws of the states of the United States, and shall provide evidence of such actions promptly upon request of any Purchaser.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

4.17 Most Favored Nation Provision. From the date hereof until the date on which the Company's Common Stock is listed for trading on the NYSE American, the Nasdaq Capital Market, the Nasdaq Global Market, the Nasdaq Global Select Market or the New York Stock Exchange, such Purchaser may elect, in its sole discretion, to exchange all or some of the shares of the Preferred Stock (but not the Warrants) then held by such Purchaser for additional securities (including any additional securities issued as part of a unit with such security) of the same type issued in such Subsequent Financing (such exchange to be made at the same time as the closing of such Subsequent Financing), on the same terms and conditions as the Subsequent Financing, based on the Stated Value multiplied by the number of shares of Preferred Stock being exchanged. By way of example, if the Company undertakes a Subsequent Financing of convertible debentures and warrants, each Purchaser shall have the right to participate in such Subsequent Financing and use the exchange of its shares of Preferred Stock as consideration, on a $1 for $1 basis, in lieu of cash consideration. The Company shall provide prior written notice of any such Subsequent Financing in the manner set forth in Section 4.12. This Section 4.17 shall not apply in connection with a firm commitment underwritten offering of Common Stock or Common Stock Equivalents.

4.18 Termination of any Existing Rights of Participation, Refusal or Preemptive Rights. Except as provided for pursuant to this Agreement, each Purchaser, severally and not jointly with the other Purchasers, hereby covenants and agrees that any and all outstanding rights such Purchaser may have to participate in, or right of first refusal as to, any issuance of debt or securities of the Company (or other preemptive rights) are hereby terminated and void without any further action by the Company or such Purchaser, and that such Purchaser shall only have rights to participate in, or rights of first refusal as to, any issuance of debt or securities of the Company as are provided for in this Agreement.

4.19 Shareholder Approval. The Company shall (a) obtain Shareholder Approval or (b) hold a special meeting of shareholders (which may also be at the annual meeting of shareholders) at the earliest practical date after the date hereof and any event on or prior to December 31, 2021, for the purpose of obtaining Shareholder Approval, with the recommendation of the Company's Board of Directors that such proposal be approved, and the Company shall solicit proxies from its shareholders in connection therewith in the same manner as all other management proposals in such proxy statement and all management-appointed proxyholders shall vote their proxies in favor of such proposal. The Company shall use its reasonable best efforts to obtain such Shareholder Approval. If the Company does not obtain Shareholder Approval at the first meeting, the Company shall call a meeting every four months thereafter to seek Shareholder Approval until the earlier of the date Shareholder Approval is obtained or the Warrants are no longer outstanding.

ARTICLE V.
MISCELLANEOUS

5.1 Termination. This Agreement may be terminated by any Purchaser, as to such Purchaser's obligations hereunder only and without any effect whatsoever on the obligations between the Company and the other Purchasers, by written notice to the other parties, if the First Closing has not been consummated on or before the fifth (5^{th}) Trading Day following the date hereof; provided, however, that no such termination will affect the right of any party to sue for any breach by any other party (or parties).

5.2 Fees and Expenses. At the First Closing, the Company has agreed to reimburse the lead Purchaser ("Lead Purchaser") the non-accountable sum of $100,000 for its legal fees and expenses. Accordingly, in lieu of the foregoing payment, the aggregate amount that the Lead Purchaser is to pay for the Cash Subscription Amount shall be reduced by $100,000. The Company shall deliver to each Purchaser, prior to each Closing, a completed and executed copy of the Closing Statement, attached hereto as Annex A. Except as expressly set forth in the Transaction Documents to the contrary, each party shall pay the fees and expenses of its advisers, counsel, accountants and other experts, if any, and all other expenses incurred by such party incident to the negotiation, preparation, execution, delivery and performance of this Agreement. The Company shall pay all Transfer Agent fees (including, without limitation, any fees required for same-day processing of any instruction letter delivered by the Company and any conversion or exercise notice delivered by a Purchaser), stamp taxes and other taxes and duties levied in connection with the delivery of any Securities to the Purchasers.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

5.3 Entire Agreement. The Transaction Documents, together with the exhibits and schedules thereto, contain the entire understanding of the parties with respect to the subject matter hereof and thereof and supersede all prior agreements and understandings, oral or written, with respect to such matters, which the parties acknowledge have been merged into such documents, exhibits and schedules.

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

5.5 Amendments; Waivers. No provision of this Agreement may be waived, modified, supplemented or amended except in a written instrument signed, in the case of an amendment, by the Company and Purchasers which purchased at least 50.1% in interest of the Preferred Stock based on the initial Subscription Amounts hereunder (or, prior to the First Closing, the Company and each Purchaser), provided that if any amendment, modification or waiver disproportionately and adversely impacts a Purchaser (or group of Purchasers), the consent of such disproportionately impacted Purchaser (or group of Purchasers) shall also be required. No waiver of any default with respect to any provision, condition or requirement of this Agreement shall be deemed to be a continuing waiver in the future or a waiver of any subsequent default or a waiver of any other provision, condition or requirement hereof, nor shall any delay or omission of any party to exercise any right hereunder in any manner impair the exercise of any such right. Any proposed amendment or waiver that disproportionately, materially and adversely affects the rights and obligations of any Purchaser relative to the comparable rights and obligations of the other Purchasers shall require the prior written consent of such adversely affected Purchaser. Any amendment effected in accordance with this Section 5.5 shall be binding upon each Purchaser and holder of Securities and the Company.

5.6 Headings. The headings herein are for convenience only, do not constitute a part of this Agreement and shall not be deemed to limit or affect any of the provisions hereof.

5.7 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties and their successors and permitted assigns. The Company may not assign this Agreement or any rights or obligations hereunder without the prior written consent of each Purchaser (other than by merger). Any Purchaser may assign any or all of its rights under this Agreement to any Person to whom such Purchaser assigns or transfers any Securities, provided that such transferee agrees in writing to be bound, with respect to the transferred Securities, by the provisions of the Transaction Documents that apply to the "Purchasers."

5.8 No Third-Party Beneficiaries. The Placement Agent shall be the third party beneficiary of the representations and warranties of the Company in Section 3.1 hereof and with respect to the representations and warranties of the Purchasers in Section 3.2 hereof. This Agreement is intended for the benefit of the parties hereto and their respective successors and permitted assigns and is not for the benefit of, nor may any provision hereof be enforced by, any other Person, except as otherwise set forth in Section 4.10.

5.9 Governing Law. All questions concerning the construction, validity, enforcement and interpretation of the Transaction Documents shall be governed by and construed and enforced in accordance with the internal laws of the State of New York, without regard to the principles of conflicts of law thereof. Each party agrees that all legal Proceedings concerning the interpretations, enforcement and defense of the transactions contemplated by this Agreement and any other Transaction Documents (whether brought against a party hereto or its respective affiliates, directors, officers, shareholders, partners, members, employees or agents) shall be commenced exclusively in the state and federal courts sitting in the City of New York. Each party hereby irrevocably submits to the exclusive jurisdiction of the state and federal courts sitting in the City of New York, Borough of Manhattan for the adjudication

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein (including with respect to the enforcement of any of the Transaction Documents), and hereby irrevocably waives, and agrees not to assert in any Action or Proceeding, any claim that it is not personally subject to the jurisdiction of any such court, that such Action or Proceeding is improper or is an inconvenient venue for such Proceeding. Each party hereby irrevocably waives personal service of process and consents to process being served in any such Action or Proceeding by mailing a copy thereof via registered or certified mail or overnight delivery (with evidence of delivery) to such party at the address in effect for notices to it under this Agreement and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any other manner permitted by law. If any party shall commence an Action or Proceeding to enforce any provisions of the Transaction Documents, then, in addition to the obligations of the Company under Section 4.10, the prevailing party in such Action or Proceeding shall be reimbursed by the non-prevailing party for its reasonable attorneys' fees and other costs and expenses incurred with the investigation, preparation and prosecution of such Action or Proceeding.

5.10 Survival. The representations and warranties contained herein shall survive each Closing and the delivery of the Securities.

5.11 Execution. This Agreement may be executed in two or more counterparts, all of which when taken together shall be considered one and the same agreement and shall become effective when counterparts have been signed by each party and delivered to each other party, it being understood that the parties need not sign the same counterpart. In the event that any signature is delivered by facsimile transmission or by e-mail delivery of a ".pdf" format data file, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or ".pdf" signature page were an original thereof.

5.12 Severability. If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction to be invalid, illegal, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions set forth herein shall remain in full force and effect and shall in no way be affected, impaired or invalidated, and the parties hereto shall use their commercially reasonable efforts to find and employ an alternative means to achieve the same or substantially the same result as that contemplated by such term, provision, covenant or restriction. It is hereby stipulated and declared to be the intention of the parties that they would have executed the remaining terms, provisions, covenants and restrictions without including any of such that may be hereafter declared invalid, illegal, void or unenforceable.

5.13 Rescission and Withdrawal Right. Notwithstanding anything to the contrary contained in (and without limiting any similar provisions of) any of the other Transaction Documents, whenever any Purchaser exercises a right, election, demand or option under a Transaction Document and the Company does not timely perform its related obligations within the periods therein provided, then such Purchaser may rescind or withdraw, in its sole discretion from time to time upon written notice to the Company, any relevant notice, demand or election in whole or in part without prejudice to its future actions and rights; provided, however, that, in the case of a rescission of a conversion of the Preferred Stock or exercise of a Warrant, the applicable Purchaser shall be required to return any shares of Common Stock subject to any such rescinded conversion or exercise notice concurrently with the return to such Purchaser of the aggregate exercise price paid to the Company for such shares and the restoration of such Purchaser's right to acquire such shares pursuant to such Purchaser's Warrant (including, issuance of a replacement warrant certificate evidencing such restored right).

5.14 Replacement of Securities. If any certificate or instrument evidencing any Securities is mutilated, lost, stolen or destroyed, the Company shall issue or cause to be issued in exchange and substitution for and upon cancellation thereof (in the case of mutilation), or in lieu of and substitution therefor, a new certificate or instrument,

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

but only upon receipt of evidence reasonably satisfactory to the Company of such loss, theft or destruction. The applicant for a new certificate or instrument under such circumstances shall also pay any reasonable third-party costs (including customary indemnity) associated with the issuance of such replacement Securities.

5.15 Remedies. In addition to being entitled to exercise all rights provided herein or granted by law, including recovery of damages, each of the Purchasers and the Company will be entitled to specific performance under the Transaction Documents. The parties agree that monetary damages may not be adequate compensation for any loss incurred by reason of any breach of obligations contained in the Transaction Documents and hereby agree to waive and not to assert in any Action for specific performance of any such obligation the defense that a remedy at law would be adequate.

5.16 Payment Set Aside. To the extent that the Company makes a payment or payments to any Purchaser pursuant to any Transaction Document or a Purchaser enforces or exercises its rights thereunder, and such payment or payments or the proceeds of such enforcement or exercise or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside, recovered from, disgorged by or are required to be refunded, repaid or otherwise restored to the Company, a trustee, receiver or any other Person under any law (including, without limitation, any bankruptcy law, state or federal law, common law or equitable cause of action), then to the extent of any such restoration the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such enforcement or setoff had not occurred.

5.17 Independent Nature of Purchasers' Obligations and Rights. The obligations of each Purchaser under any Transaction Document are several and not joint with the obligations of any other Purchaser, and no Purchaser shall be responsible in any way for the performance or non-performance of the obligations of any other Purchaser under any Transaction Document. Nothing contained herein or in any other Transaction Document, and no action taken by any Purchaser pursuant hereto or thereto, shall be deemed to constitute the Purchasers as a partnership, an association, a joint venture or any other kind of entity, or create a presumption that the Purchasers are in any way acting in concert or as a group with respect to such obligations or the transactions contemplated by the Transaction Documents. Each Purchaser shall be entitled to independently protect and enforce its rights, including, without limitation, the rights arising out of this Agreement or out of the other Transaction Documents, and it shall not be necessary for any other Purchaser to be joined as an additional party in any Proceeding for such purpose. Each Purchaser has been represented by its own separate legal counsel in its review and negotiation of the Transaction Documents. For reasons of administrative convenience only, each Purchaser and its respective counsel have chosen to communicate with the Company through EGS. EGS does not represent all of the Purchasers and only represents the Lead Purchaser. The Company has elected to provide all Purchasers with the same terms and Transaction Documents for the convenience of the Company and not because it was required or requested to do so by any of the Purchasers. It is expressly understood and agreed that each provision contained in this Agreement and in each other Transaction Document is between the Company and a Purchaser, solely, and not between the Company and the Purchasers collectively and not between and among the Purchasers.

5.18 Liquidated Damages. The Company's obligations to pay any partial liquidated damages or other amounts owing under the Transaction Documents is a continuing obligation of the Company and shall not terminate until all unpaid partial liquidated damages and other amounts have been paid notwithstanding the fact that the instrument or security pursuant to which such partial liquidated damages or other amounts are due and payable shall have been canceled.

5.19 Saturdays, Sundays, Holidays, etc. If the last or appointed day for the taking of any action or the expiration of any right required or granted herein shall not be a Business Day, then such action may be taken or such right may be exercised on the next succeeding Business Day.

5.20 Construction. The parties agree that each of them and/or their respective counsel have reviewed and had an opportunity to revise the Transaction Documents and, therefore, the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of the Transaction Documents or any amendments thereto. In addition, each and every reference to share prices and shares of Common Stock in any Transaction Document shall be subject to adjustment for reverse and forward stock splits,

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

stock dividends, stock combinations and other similar transactions of the Common Stock that occur after the date of this Agreement.

5.21 **WAIVER OF JURY TRIAL. IN ANY ACTION, SUIT, OR PROCEEDING IN ANY JURISDICTION BROUGHT BY ANY PARTY AGAINST ANY OTHER PARTY, THE PARTIES EACH KNOWINGLY AND INTENTIONALLY, TO THE GREATEST EXTENT PERMITTED BY APPLICABLE LAW, HEREBY ABSOLUTELY, UNCONDITIONALLY, IRREVOCABLY AND EXPRESSLY WAIVES FOREVER TRIAL BY JURY.**

(Signature Pages Follow)

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

ICONIC BRANDS, INC.

By: */s/ Richard DeCicco*
Name: Richard DeCicco
Title: Chief Executive Officer

Address for Notice:
Iconic Brands, Inc.
44 Seabro Avenue
Amityville, New York 11701
Attn: Mr. Richard DeCicco

Email:
Richard.decicco@gmail.com

With a copy to (which shall not constitute notice):
7 Times Square
New York, New York 10036
Attendion: Eric M. Hellige and Nicholas J. Williams
Email: ehellige@pryorcashman.com
nwilliams@pryorcashman.com

[*Iconic Brands, Inc. Signature Page to Securities Purchase Agreement*]

[PURCHASER SIGNATURE PAGES TO ICNB SECURITIES PURCHASE AGREEMENT]

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

Name of Purchaser: _____

Signature of Authorized Signatory of Purchaser: _____

Name of Authorized Signatory: _____

Title of Authorized Signatory: _____

Email Address of Authorized Signatory: _____

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Address for Notice to Purchaser:

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

Subscription Amount: $_____

Cash Subscription Amount: $_____

Less redemption amount, if any: $_____

Note Subscription Amount: $_____

Shares: _____

Shares of Preferred Stock: _____

Warrant Shares: _____

EIN Number: _____

[SIGNATURE PAGES CONTINUE]

Annex A

CLOSING STATEMENT

Pursuant to the attached Securities Purchase Agreement, dated as of the date hereto, the purchasers shall purchase up to $_____ of Preferred Stock and Warrants from Iconic Brands, Inc., a Nevada corporation (the "Company"). All funds will be wired into an account maintained by the Company. All funds will be disbursed in accordance with this Closing Statement.

Disbursement Date: _____ ___, 2021

I. PURCHASE PRICE

Gross Proceeds to be Received	$

II. DISBURSEMENTS

	$
	$
	$
	$
Total Amount Disbursed:	**$**

WIRE INSTRUCTIONS:
Please see attached.

Acknowledged and agreed to
this ___ day of _____, 2021

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

ICONIC BRANDS, INC.

By: _____
Name:
Title:

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

EXHIBIT 10.5

NEITHER THIS SECURITY NOR THE SECURITIES FOR WHICH THIS SECURITY IS EXERCISABLE HAVE BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION OR THE SECURITIES COMMISSION OF ANY STATE IN RELIANCE UPON AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND, ACCORDINGLY, MAY NOT BE OFFERED OR SOLD EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR PURSUANT TO AN AVAILABLE EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS. THIS SECURITY AND THE SECURITIES ISSUABLE UPON EXERCISE OF THIS SECURITY MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN SECURED BY SUCH SECURITIES

COMMON STOCK PURCHASE WARRANT

ICONIC BRANDS, INC.

Warrant Shares: _____ Issue Date: July 26, 2021

THIS COMMON STOCK PURCHASE WARRANT (the "Warrant") certifies that, for value received, _____ or its assigns (the "Holder") is entitled, upon the terms and subject to the limitations on exercise and the conditions hereinafter set forth, at any time on or after the Authorized Capital Adjustment Date (the "Initial Exercise Date") and on or prior to 5:00 p.m. (New York City time) on the five (5) year anniversary of the Initial Exercise Date (the "Termination Date") but not thereafter, to subscribe for and purchase from Iconic Brands, Inc., a Nevada corporation (the "Company"), up to _____ shares (as subject to adjustment hereunder, the "Warrant Shares") of Common Stock. The purchase price of one share of Common Stock under this Warrant shall be equal to the Exercise Price, as defined in Section 2(b).

Section 1. Definitions. Capitalized terms used and not otherwise defined herein shall have the meanings set forth in that certain Securities Purchase Agreement (the "Purchase Agreement"), dated July__, 2021, among the Company and the purchasers signatory thereto and/or the Exchange Agreement, dated as of such date, among the Company and the signatories thereto ("Exchange Agreement").

Section 2. Exercise.

a) Exercise of Warrant. Exercise of the purchase rights represented by this Warrant may be made, in whole or in part, at any time or times on or after the Authorized Capital Adjustment Date and on or before the Termination Date by delivery to the Company of a duly executed facsimile copy or PDF copy submitted by e-mail (or e-mail attachment) of the Notice of Exercise in the form annexed hereto ("Notice of Exercise"). Within the earlier of (i) two (2) Trading Days and (ii) the number of Trading Days comprising the Standard Settlement Period (as defined in Section 2(d)(i) herein) following the date of exercise as aforesaid, the Holder shall deliver the aggregate Exercise Price for the shares specified in the applicable Notice of Exercise by wire transfer or cashier's check drawn on a United States bank unless the cashless exercise procedure specified in Section 2(c) below is specified in the applicable Notice of Exercise. No ink-original Notice of Exercise shall be required, nor shall any medallion guarantee (or other type of guarantee or notarization) of any Notice of Exercise be required. Notwithstanding anything herein to the contrary, the Holder shall not be required to physically surrender this Warrant to the Company until the Holder has purchased all of the Warrant Shares available hereunder and the Warrant has been exercised in full, in which case, the Holder shall surrender this Warrant to the Company for cancellation within five (5) Trading Days of the date on which the final Notice of Exercise is delivered to the Company. Partial exercises of this Warrant resulting in purchases of a portion of the total number of Warrant Shares available hereunder shall have the effect of lowering the outstanding number of Warrant Shares purchasable hereunder in an amount equal to the applicable number of Warrant Shares purchased. The Holder and the Company shall maintain records showing the number of

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Warrant Shares purchased and the date of such purchases. The Company shall deliver any objection to any Notice of Exercise within one (1) Business Day of receipt of such notice. **The Holder and any assignee, by acceptance of this Warrant, acknowledge and agree that, by reason of the provisions of this paragraph, following the purchase of a portion of the Warrant Shares hereunder, the number of Warrant Shares available for purchase hereunder at any given time may be less than the amount stated on the face hereof.**

b) Exercise Price. The exercise price per share of the Common Stock under this Warrant shall be $0.3125, subject to adjustment hereunder (the "Exercise Price").

c) Cashless Exercise. If at any time after the six-month anniversary of the Issue Date, there is no effective registration statement registering, or no current prospectus available for, the resale of the Warrant Shares by the Holder at a time when the Holder exercises all or any portion of this Warrant, then this Warrant may also be exercised, in whole or in part, at such time by means of a "cashless exercise" in which the Holder shall be entitled to receive a number of Warrant Shares equal to the quotient obtained by dividing [(A-B) (X)] by (A), where:

(A) = as applicable: (i) the VWAP on the Trading Day immediately preceding the date of the applicable Notice of Exercise if such Notice of Exercise is (1) both executed and delivered pursuant to Section 2(a) hereof on a day that is not a Trading Day or (2) both executed and delivered pursuant to Section 2(a) hereof on a Trading Day prior to the opening of "regular trading hours" (as defined in Rule 600(b)(68) of Regulation NMS promulgated under the federal securities laws) on such Trading Day, (ii) at the option of the Holder, either (y) the VWAP on the Trading Day immediately preceding the date of the applicable Notice of Exercise or (z) the Bid Price of the Common Stock on the principal Trading Market as reported by Bloomberg L.P. ("Bloomberg") as of the time of the Holder's execution of the applicable Notice of Exercise if such Notice of Exercise is executed during "regular trading hours" on a Trading Day and is delivered within two (2) hours thereafter (including until two (2) hours after the close of "regular trading hours" on a Trading Day) pursuant to Section 2(a) hereof or (iii) the VWAP on the date of the applicable Notice of Exercise if the date of such Notice of Exercise is a Trading Day and such Notice of Exercise is both executed and delivered pursuant to Section 2(a) hereof after the close of "regular trading hours" on such Trading Day;

(B) = the Exercise Price of this Warrant, as adjusted hereunder; and

(X) = the number of Warrant Shares that would be issuable upon exercise of this Warrant in accordance with the terms of this Warrant if such exercise were by means of a cash exercise rather than a cashless exercise.

If Warrant Shares are issued in such a cashless exercise, the parties acknowledge and agree that in accordance with Section 3(a)(9) of the Securities Act, the Warrant Shares shall take on the characteristics of the Warrants being exercised, and the holding period of the Warrant Shares being issued may be tacked on to the holding period of this Warrant. The Company agrees not to take any position contrary to this Section 2(c).

"Bid Price" means, for any date, the price determined by the first of the following clauses that applies: (a) if the Common Stock is then listed or quoted on a Trading Market, the bid price of the Common Stock for the time in question (or the nearest preceding date) on the Trading Market on which the Common Stock is then listed or quoted as reported by Bloomberg (based on a Trading Day from 9:30 a.m. (New York City time) to 4:02 p.m. (New York City time)), (b) if OTCQB or OTCQX is not a Trading Market, the volume weighted average price of the Common Stock for such date (or the nearest preceding date) on OTCQB or OTCQX as applicable, (c) if the Common Stock is not then listed or quoted for trading on OTCQB or OTCQX and if prices for the Common Stock are then reported on The Pink Open Market (or a similar organization or agency succeeding to its functions of reporting prices), the most recent bid price per share of the Common Stock so reported, or (d) in all other cases, the fair market value of a share of Common Stock as determined by an independent appraiser selected in good faith by the Purchasers of a majority in

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

interest of the Securities then outstanding and reasonably acceptable to the Company, the fees and expenses of which shall be paid by the Company.

"VWAP" means, for any date, the price determined by the first of the following clauses that applies: (a) if the Common Stock is then listed or quoted on a Trading Market, the daily volume weighted average price of the Common Stock for such date (or the nearest preceding date) on the Trading Market on which the Common Stock is then listed or quoted as reported by Bloomberg (based on a Trading Day from 9:30 a.m. (New York City time) to 4:02 p.m. (New York City time)), (b) if the Common Stock is quoted for trading on the OTCQB or OTCQX, as applicable, and if the OTCQB or OTCQX is not a Trading Market, the volume weighted average price of the Common Stock for such date (or the nearest preceding date) on OTCQB or OTCQX as applicable, (c) if the Common Stock is not then listed or quoted for trading on OTCQB or OTCQX and if prices for the Common Stock are then reported in The Pink Open Market (or a similar organization or agency succeeding to its functions of reporting prices), the most recent bid price per share of the Common Stock so reported, or (d) in all other cases, the fair market value of a share of Common Stock as determined by an independent appraiser selected in good faith by the Purchasers of a majority in interest of the Securities then outstanding and reasonably acceptable to the Company, the fees and expenses of which shall be paid by the Company.

d) Mechanics of Exercise.

i. Delivery of Warrant Shares Upon Exercise. The Company shall cause the Warrant Shares purchased hereunder to be transmitted by the Transfer Agent to the Holder by crediting the account of the Holder's or its designee's balance account with The Depository Trust Company through its Deposit or Withdrawal at Custodian system ("DWAC") if the Company is then a participant in such system and either (A) there is an effective registration statement permitting the resale of the Warrant Shares by the Holder or (B) the Warrant Shares are eligible for resale by the Holder without volume or manner-of-sale limitations pursuant to Rule 144 (assuming cashless exercise of the Warrants), and otherwise by physical delivery of a certificate, registered in the Company's share register in the name of the Holder or its designee, for the number of Warrant Shares to which the Holder is entitled pursuant to such exercise to the address specified by the Holder in the Notice of Exercise by the date that is the earliest of (i) two (2) Trading Days after the delivery to the Company of the Notice of Exercise, (ii) one (1) Trading Day after delivery of the aggregate Exercise Price to the Company and (iii) the number of Trading Days comprising the Standard Settlement Period after the delivery to the Company of the Notice of Exercise (such date, the "Warrant Share Delivery Date"). Upon delivery of the Notice of Exercise, the Holder shall be deemed for all corporate purposes to have become the holder of record of the Warrant Shares with respect to which this Warrant has been exercised, irrespective of the date of delivery of the Warrant Shares, provided that payment of the aggregate Exercise Price (other than in the case of a cashless exercise) is received within the earlier of (i) two (2) Trading Days and (ii) the number of Trading Days comprising the Standard Settlement Period following delivery of the Notice of Exercise. If the Company fails for any reason to deliver to the Holder the Warrant Shares subject to a Notice of Exercise by the Warrant Share Delivery Date, the Company shall pay to the Holder, in cash, as liquidated damages and not as a penalty, for each $1,000 of Warrant Shares subject to such exercise (based on the VWAP of the Common Stock on the date of the applicable Notice of Exercise), $10 per Trading Day (increasing to $20 per Trading Day on the fifth Trading Day after such liquidated damages begin to accrue) for each Trading Day after such Warrant Share Delivery Date until such Warrant Shares are delivered or Holder rescinds such exercise. The Company agrees to maintain a transfer agent that is a participant in the FAST program so long as this Warrant remains outstanding and exercisable. As used herein, "Standard Settlement Period" means the standard settlement period, expressed in a number of Trading Days, on the Company's primary Trading Market with respect to the Common Stock as in effect on the date of delivery of the Notice of Exercise.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

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

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

iv. Compensation for Buy-In on Failure to Timely Deliver Warrant Shares Upon Exercise. In addition to any other rights available to the Holder, if the Company fails to cause the Transfer Agent to transmit to the Holder the Warrant Shares in accordance with the provisions of Section 2(d)(i) above pursuant to an exercise on or before the Warrant Share Delivery Date, and if after such date the Holder is required by its broker to purchase (in an open market transaction or otherwise) or the Holder's brokerage firm otherwise purchases, shares of Common Stock to deliver in satisfaction of a sale by the Holder of the Warrant Shares which the Holder anticipated receiving upon such exercise (a "Buy-In"), then the Company shall (A) pay in cash to the Holder the amount, if any, by which (x) the Holder's total purchase price (including brokerage commissions, if any) for the shares of Common Stock so purchased exceeds (y) the amount obtained by multiplying (1) the number of Warrant Shares that the Company was required to deliver to the Holder in connection with the exercise at issue times (2) the price at which the sell order giving rise to such purchase obligation was executed, and (B) at the option of the Holder, either reinstate the portion of the Warrant and equivalent number of Warrant Shares for which such exercise was not honored (in which case such exercise shall be deemed rescinded) or deliver to the Holder the number of shares of Common Stock that would have been issued had the Company timely complied with its exercise and delivery obligations hereunder. For example, if the Holder purchases Common Stock having a total purchase price of $11,000 to cover a Buy-In with respect to an attempted exercise of shares of Common Stock with an aggregate sale price giving rise to such purchase obligation of $10,000, under clause (A) of the immediately preceding sentence the Company shall be required to pay the Holder $1,000. The Holder shall provide the Company written notice indicating the amounts payable to the Holder in respect of the Buy-In and, upon request of the Company, evidence of the amount of such loss. Nothing herein shall limit a Holder's right to pursue any other remedies available to it hereunder, at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief with respect to the Company's failure to timely deliver shares of Common Stock upon exercise of the Warrant as required pursuant to the terms hereof.

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

vi. Charges, Taxes and Expenses. Issuance of Warrant Shares shall be made without charge to the Holder for any issue or transfer tax or other incidental expense in respect of the issuance of such Warrant Shares, all of which taxes and expenses shall be paid by the Company, and such Warrant Shares shall be issued in the name of the Holder or in such name or names as may be directed by the Holder; provided, however, that in the event that Warrant Shares are to be issued in a name other than the name of the Holder, this Warrant when surrendered for exercise shall be accompanied by the Assignment Form attached hereto duly executed by the Holder and the Company may require, as a condition thereto, the payment of a sum sufficient to reimburse it for any transfer tax incidental thereto. The Company shall pay all Transfer Agent fees required for same-day processing of any Notice of Exercise and all fees to the Depository Trust Company (or another established clearing corporation performing similar functions) required for same-day electronic delivery of the Warrant Shares.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

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

e) Holder's Exercise Limitations. The Company shall not effect any exercise of this Warrant, and a Holder shall not have the right to exercise any portion of this Warrant, pursuant to Section 2 or otherwise, to the extent that after giving effect to such issuance after exercise as set forth on the applicable Notice of Exercise, the Holder (together with the Holder's Affiliates, and any other Persons acting as a group together with the Holder or any of the Holder's Affiliates (such Persons, "Attribution Parties")), would beneficially own in excess of the Beneficial Ownership Limitation (as defined below). For purposes of the foregoing sentence, the number of shares of Common Stock beneficially owned by the Holder and its Affiliates and Attribution Parties shall include the number of shares of Common Stock issuable upon exercise of this Warrant with respect to which such determination is being made, but shall exclude the number of shares of Common Stock which would be issuable upon (i) exercise of the remaining, nonexercised portion of this Warrant beneficially owned by the Holder or any of its Affiliates or Attribution Parties and (ii) exercise or conversion of the unexercised or nonconverted portion of any other securities of the Company (including, without limitation, any other Common Stock Equivalents) subject to a limitation on conversion or exercise analogous to the limitation contained herein beneficially owned by the Holder or any of its Affiliates or Attribution Parties. Except as set forth in the preceding sentence, for purposes of this Section 2(e), beneficial ownership shall be calculated in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder, it being acknowledged by the Holder that the Company is not representing to the Holder that such calculation is in compliance with Section 13(d) of the Exchange Act and the Holder is solely responsible for any schedules required to be filed in accordance therewith. To the extent that the limitation contained in this Section 2(e) applies, the determination of whether this Warrant is exercisable (in relation to other securities owned by the Holder together with any Affiliates and Attribution Parties) and of which portion of this Warrant is exercisable shall be in the sole discretion of the Holder, and the submission of a Notice of Exercise shall be deemed to be the Holder's determination of whether this Warrant is exercisable (in relation to other securities owned by the Holder together with any Affiliates and Attribution Parties) and of which portion of this Warrant is exercisable, in each case subject to the Beneficial Ownership Limitation, and the Company shall have no obligation to verify or confirm the accuracy of such determination. In addition, a determination as to any group status as contemplated above shall be determined in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder. For purposes of this Section 2(e), in determining the number of outstanding shares of Common Stock, a Holder may rely on the number of outstanding shares of Common Stock as reflected in (A) the Company's most recent periodic or annual report filed with the Commission, as the case may be, (B) a more recent public announcement by the Company or (C) a more recent written notice by the Company or the Transfer Agent setting forth the number of shares of Common Stock outstanding. Upon the written or oral request of a Holder, the Company shall within one (1) Trading Day confirm orally and in writing to the Holder the number of shares of Common Stock then outstanding. In any case, the number of outstanding shares of Common Stock shall be determined after giving effect to the conversion or exercise of securities of the Company, including this Warrant, by the Holder or its Affiliates or Attribution Parties since the date as of which such number of outstanding shares of Common Stock was reported. The "Beneficial Ownership Limitation" shall be [4.99%] [9.99%] of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock issuable upon exercise of this Warrant. The Holder, upon notice to the Company, may increase or decrease the Beneficial Ownership Limitation provisions of this Section 2(e), provided that the Beneficial Ownership Limitation in no event exceeds 9.99% of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock upon exercise of this Warrant held by the Holder and the provisions of this Section 2(e) shall continue to apply. Any increase in the Beneficial Ownership Limitation will not be effective until the 61st day after such notice is delivered to the Company. The provisions of this paragraph shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this Section 2(e) to correct this paragraph (or any portion hereof) which may be defective or inconsistent with the intended Beneficial Ownership Limitation herein contained or to make changes or supplements necessary or desirable to properly give effect to such limitation. The limitations contained in this paragraph shall apply to a successor holder of this Warrant.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Section 3. Certain Adjustments.

a) Stock Dividends and Splits. If the Company, at any time while this Warrant is outstanding: (i) pays a stock dividend or otherwise makes a distribution or distributions on shares of its Common Stock or any other equity or equity equivalent securities payable in shares of Common Stock (which, for avoidance of doubt, shall not include any shares of Common Stock issued by the Company upon exercise of this Warrant), (ii) subdivides outstanding shares of Common Stock into a larger number of shares, (iii) combines (including by way of reverse stock split) outstanding shares of Common Stock into a smaller number of shares or (iv) issues by reclassification of shares of the Common Stock any shares of capital stock of the Company, then in each case the Exercise Price shall be multiplied by a fraction of which the numerator shall be the number of shares of Common Stock (excluding treasury shares, if any) outstanding immediately before such event and of which the denominator shall be the number of shares of Common Stock outstanding immediately after such event, and the number of shares issuable upon exercise of this Warrant shall be proportionately adjusted such that the aggregate Exercise Price of this Warrant shall remain unchanged. Any adjustment made pursuant to this Section 3(a) shall become effective immediately after the record date for the determination of stockholders entitled to receive such dividend or distribution and shall become effective immediately after the effective date in the case of a subdivision, combination or re-classification.

b) [Reserved]

c) Subsequent Rights Offerings. In addition to any adjustments pursuant to Section 3(a) above, if at any time the Company grants, issues or sells any Common Stock Equivalents or rights to purchase stock, warrants, securities or other property pro rata to the record holders of any class of shares of Common Stock (the "Purchase Rights"), then the Holder will be entitled to acquire, upon the terms applicable to such Purchase Rights, the aggregate Purchase Rights which the Holder could have acquired if the Holder had held the number of shares of Common Stock acquirable upon complete exercise of this Warrant (without regard to any limitations on exercise hereof, including without limitation, the Beneficial Ownership Limitation) immediately before the date on which a record is taken for the grant, issuance or sale of such Purchase Rights, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the grant, issue or sale of such Purchase Rights (provided, however, that, to the extent that the Holder's right to participate in any such Purchase Right would result in the Holder exceeding the Beneficial Ownership Limitation, then the Holder shall not be entitled to participate in such Purchase Right to such extent (or beneficial ownership of such shares of Common Stock as a result of such Purchase Right to such extent) and such Purchase Right to such extent shall be held in abeyance for the Holder until such time, if ever, as its right thereto would not result in the Holder exceeding the Beneficial Ownership Limitation).

d) Pro Rata Distributions. During such time as this Warrant is outstanding, if the Company shall declare or make any dividend or other distribution of its assets (or rights to acquire its assets) to holders of shares of Common Stock, by way of return of capital or otherwise (including, without limitation, any distribution of cash, stock or other securities, property or options by way of a dividend, spin off, reclassification, corporate rearrangement, scheme of arrangement or other similar transaction) (a "Distribution"), at any time after the issuance of this Warrant, then, in each such case, the Holder shall be entitled to participate in such Distribution to the same extent that the Holder would have participated therein if the Holder had held the number of shares of Common Stock acquirable upon complete exercise of this Warrant (without regard to any limitations on exercise hereof, including without limitation, the Beneficial Ownership Limitation) immediately before the date of which a record is taken for such Distribution, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the participation in such Distribution (provided, however, that, to the extent that the Holder's right to participate in any such Distribution would result in the Holder exceeding the Beneficial Ownership

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Limitation, then the Holder shall not be entitled to participate in such Distribution to such extent (or in the beneficial ownership of any shares of Common Stock as a result of such Distribution to such extent) and the portion of such Distribution shall be held in abeyance for the benefit of the Holder until such time, if ever, as its right thereto would not result in the Holder exceeding the Beneficial Ownership Limitation).

e) Fundamental Transaction. If, at any time while this Warrant is outstanding, (i) the Company, directly or indirectly, in one or more related transactions effects any merger or consolidation of the Company with or into another Person, (ii) the Company, directly or indirectly, effects any sale, lease, license, assignment, transfer, conveyance or other disposition of all or substantially all of its assets in one or a series of related transactions, (iii) any, direct or indirect, purchase offer, tender offer or exchange offer (whether by the Company or another Person) is completed pursuant to which holders of Common Stock are permitted to sell, tender or exchange their shares for other securities, cash or property and has been accepted by the holders of 50% or more of the outstanding Common Stock, (iv) the Company, directly or indirectly, in one or more related transactions effects any reclassification, reorganization or recapitalization of the Common Stock or any compulsory share exchange pursuant to which the Common Stock is effectively converted into or exchanged for other securities, cash or property, or (v) the Company, directly or indirectly, in one or more related transactions consummates a merger, stock or share purchase agreement or other business combination (including, without limitation, a reorganization, recapitalization, spin-off or scheme of arrangement) with another Person or group of Persons whereby such other Person or group acquires more than 50% of the outstanding shares of Common Stock (not including any shares of Common Stock held by the other Person or other Persons making or party to, or associated or affiliated with the other Persons making or party to, such merger, stock or share purchase agreement or other business combination) (each a "Fundamental Transaction"), then, upon any subsequent exercise of this Warrant, the Holder shall have the right to receive, for each Warrant Share that would have been issuable upon such exercise immediately prior to the occurrence of such Fundamental Transaction, at the option of the Holder (without regard to any limitation in Section 2(e) on the exercise of this Warrant), the number of shares of Common Stock of the successor or acquiring corporation or of the Company, if it is the surviving corporation, and any additional consideration (the "Alternate Consideration") receivable as a result of such Fundamental Transaction by a holder of the number of shares of Common Stock for which this Warrant is exercisable immediately prior to such Fundamental Transaction (without regard to any limitation in Section 2(e) on the exercise of this Warrant). For purposes of any such exercise, the determination of the Exercise Price shall be appropriately adjusted to apply to such Alternate Consideration based on the amount of Alternate Consideration issuable in respect of one share of Common Stock in such Fundamental Transaction, and the Company shall apportion the Exercise Price among the Alternate Consideration in a reasonable manner reflecting the relative value of any different components of the Alternate Consideration. If holders of Common Stock are given any choice as to the securities, cash or property to be received in a Fundamental Transaction, then the Holder shall be given the same choice as to the Alternate Consideration it receives upon any exercise of this Warrant following such Fundamental Transaction. Notwithstanding anything to the contrary, in the event of a Fundamental Transaction, the Company or any Successor Entity (as defined below) shall, at the Holder's option, exercisable at any time concurrently with, or within 30 days after, the consummation of the Fundamental Transaction (or, if later, the date of the public announcement of the consummation of the applicable Fundamental Transaction), purchase this Warrant from the Holder by paying to the Holder an amount of cash equal to the Black Scholes Value of the remaining unexercised portion of this Warrant on the date of the consummation of such Fundamental Transaction; provided, however, that, if the Fundamental Transaction is not within the Company's control, including not approved by the Company's Board of Directors, Holder shall only be entitled to receive from the Company or any Successor Entity the same type or form of consideration (and in the same proportion), at the Black Scholes Value of the unexercised portion of this Warrant, that is being offered and paid to the holders of Common Stock of the Company in connection with the Fundamental Transaction, whether that consideration be in the form of cash, stock or any combination thereof, or whether the holders of Common Stock are given the choice to receive from among alternative forms of consideration in connection with the Fundamental Transaction; provided, further, that if holders of Common Stock of the Company are not offered or paid any consideration in such Fundamental Transaction, such holders of Common Stock will be deemed to have received common stock of the Successor Entity (which Entity may be the Company following such Fundamental Transaction) in such Fundamental Transaction. Notwithstanding the foregoing,

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

the Acquisition shall not be deemed a Fundamental Transaction. "Black Scholes Value" means the value of this Warrant based on the Black Scholes Option Pricing Model obtained from the "OV" function on Bloomberg, L.P. ("Bloomberg") determined as of the day of consummation of the applicable Fundamental Transaction for pricing purposes and reflecting (A) a risk-free interest rate corresponding to the U.S. Treasury rate for a period equal to the time between the date of the public announcement of the contemplation of the applicable Fundamental Transaction and the Termination Date, (B) an expected volatility equal to the greater of 100% and the 100 day volatility obtained from the HVT function on Bloomberg (determined utilizing a 365-day annualization factor) as of the Trading Day immediately following the public announcement of the contemplation of the applicable Fundamental Transaction, (C) the underlying price per share used in such calculation shall be the greater of (i) the sum of the price per share being offered in cash, if any, plus the value of any non-cash consideration, if any, being offered in such Fundamental Transaction and (ii) the greater of (x) the last VWAP immediately prior to the public announcement of the contemplation of such Fundamental Transaction and (y) the last VWAP immediately prior to the consummation of such Fundamental Transaction, (D) a remaining option time equal to the time between the date of the public announcement of the contemplation of the applicable Fundamental Transaction and the Termination Date and (E) a zero cost of borrow. The payment of the Black Scholes Value will be made by wire transfer of immediately available funds (or such other consideration) within the later of (i) five Business Days of the Holder's election and (ii) the date of the consummation Fundamental Transaction). The Company shall cause any successor entity in a Fundamental Transaction in which the Company is not the survivor (the "Successor Entity") to assume in writing all of the obligations of the Company under this Warrant and the other Transaction Documents in accordance with the provisions of this Section 3(e) pursuant to written agreements in form and substance reasonably satisfactory to the Holder and approved by the Holder (without unreasonable delay) prior to such Fundamental Transaction and shall, at the option of the Holder, deliver to the Holder in exchange for this Warrant a security of the Successor Entity evidenced by a written instrument substantially similar in form and substance to this Warrant which is exercisable for a corresponding number of shares of capital stock of such Successor Entity (or its parent entity) equivalent to the shares of Common Stock acquirable and receivable upon exercise of this Warrant (without regard to any limitations on the exercise of this Warrant) prior to such Fundamental Transaction, and with an exercise price which applies the exercise price hereunder to such shares of capital stock (but taking into account the relative value of the shares of Common Stock pursuant to such Fundamental Transaction and the value of such shares of capital stock, such number of shares of capital stock and such exercise price being for the purpose of protecting the economic value of this Warrant immediately prior to the consummation of such Fundamental Transaction), and which is reasonably satisfactory in form and substance to the Holder. Upon the occurrence of any such Fundamental Transaction, the Successor Entity shall succeed to, and be substituted for (so that from and after the date of such Fundamental Transaction, the provisions of this Warrant and the other Transaction Documents referring to the "Company" shall refer instead to the Successor Entity), and may exercise every right and power of the Company and shall assume all of the obligations of the Company under this Warrant and the other Transaction Documents with the same effect as if such Successor Entity had been named as the Company herein.

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

g) Notice to Holder.

i. Adjustment to Exercise Price. Whenever the Exercise Price is adjusted pursuant to any provision of this Section 3, the Company shall promptly deliver to the Holder by facsimile or email a notice setting forth the Exercise Price after such adjustment and any resulting adjustment to the number of Warrant Shares and setting forth a brief statement of the facts requiring such adjustment.

ii. Notice to Allow Exercise by Holder. If (A) the Company shall declare a dividend (or any other distribution in whatever form) on the Common Stock, (B) the Company shall declare a special nonrecurring cash dividend on or a redemption of the Common Stock, (C) the Company shall

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

authorize the granting to all holders of the Common Stock rights or warrants to subscribe for or purchase any shares of capital stock of any class or of any rights, (D) the approval of any stockholders of the Company shall be required in connection with any reclassification of the Common Stock, any consolidation or merger to which the Company is a party, any sale or transfer of all or substantially all of the assets of the Company, or any compulsory share exchange whereby the Common Stock is converted into other securities, cash or property, or (E) the Company shall authorize the voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Company, then, in each case, the Company shall cause to be delivered by facsimile or email to the Holder at its last facsimile number or email address as it shall appear upon the Warrant Register of the Company, at least 20 calendar days prior to the applicable record or effective date hereinafter specified, a notice stating (x) the date on which a record is to be taken for the purpose of such dividend, distribution, redemption, rights or warrants, or if a record is not to be taken, the date as of which the holders of the Common Stock of record to be entitled to such dividend, distributions, redemption, rights or warrants are to be determined or (y) the date on which such reclassification, consolidation, merger, sale, transfer or share exchange is expected to become effective or close, and the date as of which it is expected that holders of the Common Stock of record shall be entitled to exchange their shares of the Common Stock for securities, cash or other property deliverable upon such reclassification, consolidation, merger, sale, transfer or share exchange; provided that the failure to deliver such notice or any defect therein or in the delivery thereof shall not affect the validity of the corporate action required to be specified in such notice. To the extent that any notice provided in this Warrant constitutes, or contains, material, non-public information regarding the Company or any of the Subsidiaries, the Company shall simultaneously file such notice with the Commission pursuant to a Current Report on Form 8-K. The Holder shall remain entitled to exercise this Warrant during the period commencing on the date of such notice to the effective date of the event triggering such notice except as may otherwise be expressly set forth herein.

h) Voluntary Adjustment By Company. Subject to the rules and regulations of the Trading Market, the Company may at any time during the term of this Warrant, subject to the prior written consent of the Holder, reduce the then current Exercise Price to any amount and for any period of time deemed appropriate by the board of directors of the Company.

Section 4. Transfer of Warrant.

a) Transferability. Subject to compliance with any applicable securities laws and the conditions set forth in Section 4(d) hereof and to the provisions of the Purchase Agreement and Exchange Agreement, this Warrant and all rights hereunder (including, without limitation, any registration rights) are transferable, in whole or in part, upon surrender of this Warrant at the principal office of the Company or its designated agent, together with a written assignment of this Warrant substantially in the form attached hereto duly executed by the Holder or its agent or attorney and funds sufficient to pay any transfer taxes payable upon the making of such transfer. Upon such surrender and, if required, such payment, the Company shall execute and deliver a new Warrant or Warrants in the name of the assignee or assignees, as applicable, and in the denomination or denominations specified in such instrument of assignment, and shall issue to the assignor a new Warrant evidencing the portion of this Warrant not so assigned, and this Warrant shall promptly be cancelled. Notwithstanding anything herein to the contrary, the Holder shall not be required to physically surrender this Warrant to the Company unless the Holder has assigned this Warrant in full, in which case, the Holder shall surrender this Warrant to the Company within five (5) Trading Days of the date on which the Holder delivers an assignment form to the Company assigning this Warrant in full. The Warrant, if properly assigned in accordance herewith, may be exercised by a new holder for the purchase of Warrant Shares without having a new Warrant issued.

b) New Warrants. This Warrant may be divided or combined with other Warrants upon presentation hereof at the aforesaid office of the Company, together with a written notice specifying the names and denominations in which new Warrants are to be issued, signed by the Holder or its agent or attorney. Subject to compliance with Section 4(a), as to any transfer which may be involved in such division or combination,

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

the Company shall execute and deliver a new Warrant or Warrants in exchange for the Warrant or Warrants to be divided or combined in accordance with such notice. All Warrants issued on transfers or exchanges shall be dated the Initial Exercise Date and shall be identical with this Warrant except as to the number of Warrant Shares issuable pursuant thereto.

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

d) Transfer Restrictions. If, at the time of the surrender of this Warrant in connection with any transfer of this Warrant, the transfer of this Warrant shall not be either (i) registered pursuant to an effective registration statement under the Securities Act and under applicable state securities or blue sky laws or (ii) eligible for resale without volume or manner-of-sale restrictions or current public information requirements pursuant to Rule 144, the Company may require, as a condition of allowing such transfer, that the Holder or transferee of this Warrant, as the case may be, comply with the provisions of the Purchase Agreement and Exchange Agreement.

e) Representation by the Holder. The Holder, by the acceptance hereof, represents and warrants that it is acquiring this Warrant and, upon any exercise hereof, will acquire the Warrant Shares issuable upon such exercise, for its own account and not with a view to or for distributing or reselling such Warrant Shares or any part thereof in violation of the Securities Act or any applicable state securities law, except pursuant to sales registered or exempted under the Securities Act.

Section 5. Miscellaneous.

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

b) Loss, Theft, Destruction or Mutilation of Warrant. The Company covenants that upon receipt by the Company of evidence reasonably satisfactory to it of the loss, theft, destruction or mutilation of this Warrant or any stock certificate relating to the Warrant Shares, and in case of loss, theft or destruction, of indemnity or security reasonably satisfactory to it (which, in the case of the Warrant, shall not include the posting of any bond), and upon surrender and cancellation of such Warrant or stock certificate, if mutilated, the Company will make and deliver a new Warrant or stock certificate of like tenor and dated as of such cancellation, in lieu of such Warrant or stock certificate.

c) Saturdays, Sundays, Holidays, etc. If the last or appointed day for the taking of any action or the expiration of any right required or granted herein shall not be a Business Day, then, such action may be taken or such right may be exercised on the next succeeding Business Day.

d) Authorized Shares.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

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

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

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

e) Jurisdiction. All questions concerning the construction, validity, enforcement and interpretation of this Warrant shall be determined in accordance with the provisions of the Purchase Agreement (if the Holder is not a party to the Purchase Agreement, then to the Exchange Agreement).

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

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

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

h) Notices. Any notice, request or other document required or permitted to be given or delivered to the Holder by the Company shall be delivered in accordance with the notice provisions of the Purchase Agreement (if the Holder is not a party to the Purchase Agreement, then to the Exchange Agreement).

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

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

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

l) Amendment. This Warrant may be modified or amended or the provisions hereof waived with the written consent of the Company and the Holder.

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

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

****

(Signature Page Follows)

IN WITNESS WHEREOF, the Company has caused this Warrant to be executed by its officer thereunto duly authorized as of the date first above indicated.

ICONIC BRANDS, INC.

By: */s/ Richard DeCicco*
Name: Richard DeCicco
Title: Chief Executive Officer

[*Iconic Brands, Inc. Signature Page to Common Stock Purchase Warrant*]

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

NOTICE OF EXERCISE

To: iconic brands, inc.

(1) The undersigned hereby elects to purchase _____ Warrant Shares of the Company pursuant to the terms of the attached Warrant (only if exercised in full), and tenders herewith payment of the exercise price in full, together with all applicable transfer taxes, if any.

(2) Payment shall take the form of (check applicable box):

☐ in lawful money of the United States; or

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

(3) Please issue said Warrant Shares in the name of the undersigned or in such other name as is specified below:

_____

The Warrant Shares shall be delivered to the following DWAC Account Number:

_____

_____

_____

(4) Accredited Investor. The undersigned is an "accredited investor" as defined in Regulation D promulgated under the Securities Act of 1933, as amended.

[SIGNATURE OF HOLDER]

Name of Investing Entity: _____
Signature of Authorized Signatory of Investing Entity: _____
Name of Authorized Signatory: _____
Title of Authorized Signatory: _____
Date: _____

EXHIBIT B

ASSIGNMENT FORM

(To assign the foregoing Warrant, execute this form and supply required information. Do not use this form to purchase shares.)

FOR VALUE RECEIVED, the foregoing Warrant and all rights evidenced thereby are hereby assigned to

Name: _____
(Please Print)

Address: _____
(Please Print)

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Phone Number: _____

Email Address: _____

Dated: _____ __, _____

Holder's Signature:
_____

Holder's Address:
_____

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

EXHIBIT 10.6

REGISTRATION RIGHTS AGREEMENT

This Registration Rights Agreement (this "Agreement") is made and entered into as of July 26, 2021, between Iconic Brands, Inc., a Nevada corporation (the "Company"), and each of the several purchasers signatory hereto (each such purchaser, a "Purchaser" and, collectively, the "Purchasers").

This Agreement is made pursuant to the Securities Purchase Agreement, dated as of the date hereof, between the Company and each Purchaser (the "Purchase Agreement") and the Exchange Agreement, between the Company and each Signatory thereto (the "Exchange Agreement").

The Company and each Purchaser hereby agrees as follows:

1. Definitions.

Capitalized terms used and not otherwise defined herein that are defined in the Purchase Agreement shall have the meanings given such terms in the Purchase Agreement. As used in this Agreement, the following terms shall have the following meanings:

"Advice" shall have the meaning set forth in Section 6(c).

"Effectiveness Date" means, with respect to the Initial Registration Statement required to be filed hereunder, the date that is 30 calendar days following the Filing Date (and, in the event of a "full review" by the Commission, the date that is 60 calendar days following the Filing Date) and with respect to any additional Registration Statements which may be required pursuant to Section 2(c) or Section 3(c), the 30th calendar day following the date on which an additional Registration Statement is required to be filed hereunder (and, in the event of a "full review" by the Commission, the 60th calendar day following the date on which an additional Registration Statement is required to be filed hereunder); provided, however, that, in the event the Company is notified by the Commission that one or more of the above Registration Statements will not be reviewed or is no longer subject to further review and comments, the Effectiveness Date as to such Registration Statement shall be the fifth Trading Day following the date on which the Company is so notified if such date precedes the dates otherwise required above, provided, further, if such Effectiveness Date falls on a day that is not a Trading Day, then the Effectiveness Date shall be the next succeeding Trading Day.

"Effectiveness Period" shall have the meaning set forth in Section 2(a).

"Event" shall have the meaning set forth in Section 2(d).

"Event Date" shall have the meaning set forth in Section 2(d).

"Exchange Agreement" means that certain Exchange Agreement, entered into by and among the Company and the signatories thereto on or about the date hereof.

"Exchange Warrants" means the Common Stock purchase warrants issued pursuant to the Exchange Agreement.

"Filing Date" means, with respect to the Initial Registration Statement required hereunder, the 120th day after the First Closing Date.

"Holder" or "Holders" means the holder or holders, as the case may be, from time to time of Registrable Securities.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

"Indemnified Party" shall have the meaning set forth in Section 5(c).

"Indemnifying Party" shall have the meaning set forth in Section 5(c).

"Initial Registration Statement" means the initial Registration Statement filed pursuant to this Agreement.

"Losses" shall have the meaning set forth in Section 5(a).

"Plan of Distribution" shall have the meaning set forth in Section 2(a).

"Prospectus" means the prospectus included in a Registration Statement (including, without limitation, a prospectus that includes any information previously omitted from a prospectus filed as part of an effective registration statement in reliance upon Rule 430A promulgated by the Commission pursuant to the Securities Act), as amended or supplemented by any prospectus supplement, with respect to the terms of the offering of any portion of the Registrable Securities covered by a Registration Statement, and all other amendments and supplements to the Prospectus, including post-effective amendments, and all material incorporated by reference or deemed to be incorporated by reference in such Prospectus.

"Registrable Securities" means, as of any date of determination, (a) all Warrant Shares then issued and issuable upon exercise of the Warrants (assuming on such date the Warrants are exercised in full without regard to any exercise limitations therein), (b) all shares of Common Stock then issued and issuable upon exercise of the Exchange Warrants (assuming on such date the Exchange Warrants are exercised in full without regard to any exercise limitations therein)("Exchange Warrant Shares") and (c) any securities issued or then issuable upon any stock split, dividend or other distribution, recapitalization or similar event with respect to the foregoing; provided, however, that any such Registrable Securities shall cease to be Registrable Securities (and the Company shall not be required to maintain the effectiveness of any, or file another, Registration Statement hereunder with respect thereto) for so long as (a) a Registration Statement with respect to the sale of such Registrable Securities is declared effective by the Commission under the Securities Act and such Registrable Securities have been disposed of by the Holder in accordance with such effective Registration Statement, (b) such Registrable Securities have been previously sold in accordance with Rule 144, or (c) such securities become eligible for resale without volume or manner-of-sale restrictions and without current public information pursuant to Rule 144 as set forth in a written opinion letter to such effect, addressed, delivered and acceptable to the Transfer Agent and the affected Holders (assuming that such securities and any securities issuable upon exercise, conversion or exchange of which, or as a dividend upon which, such securities were issued or are issuable, were at no time held by any Affiliate of the Company and were exercised or will be exercised via "cashless" exercise), as reasonably determined by the Company, upon the advice of counsel to the Company.

"Registration Statement" means any registration statement required to be filed hereunder pursuant to Section 2(a) and any additional registration statements contemplated by Section 2(c) or Section 3(c), including (in each case) the Prospectus, amendments and supplements to any such registration statement or Prospectus, including pre- and post-effective amendments, all exhibits thereto, and all material incorporated by reference or deemed to be incorporated by reference in any such registration statement.

"Rule 415" means Rule 415 promulgated by the Commission pursuant to the Securities Act, as such Rule may be amended or interpreted from time to time, or any similar rule or regulation hereafter adopted by the Commission having substantially the same purpose and effect as such Rule.

"Rule 424" means Rule 424 promulgated by the Commission pursuant to the Securities Act, as such Rule may be amended or interpreted from time to time, or any similar rule or regulation hereafter adopted by the Commission having substantially the same purpose and effect as such Rule.

"Selling Stockholder Questionnaire" shall have the meaning set forth in Section 3(a).

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

"SEC Guidance" means (i) any publicly-available written or oral guidance of the Commission staff, or any comments, requirements or requests of the Commission staff and (ii) the Securities Act.

2. Registration.

(a) On or prior to each Filing Date, the Company shall prepare and file with the Commission a Registration Statement covering the resale of all of the Registrable Securities that are not then registered on an effective Registration Statement for an offering to be made on a continuous basis pursuant to Rule 415. Each Registration Statement filed hereunder shall be on Form S-1 and shall contain (unless otherwise directed by at least 85% in interest of the Holders) substantially the "Plan of Distribution" attached hereto as Annex A and substantially the "Selling Stockholder" section attached hereto as Annex B; provided, however, that no Holder shall be required to be named as an "underwriter" without such Holder's express prior written consent. Subject to the terms of this Agreement, the Company shall use its best efforts to cause a Registration Statement filed under this Agreement (including, without limitation, under Section 3(c)) to be declared effective under the Securities Act as promptly as possible after the filing thereof, but in any event no later than the applicable Effectiveness Date, and shall use its best efforts to keep such Registration Statement continuously effective under the Securities Act until the date that all Registrable Securities covered by such Registration Statement (i) have been sold, thereunder or pursuant to Rule 144, or (ii) may be sold without volume or manner-of-sale restrictions pursuant to Rule 144 and without the requirement for the Company to be in compliance with the current public information requirement under Rule 144, as determined by the counsel to the Company pursuant to a written opinion letter to such effect, addressed and acceptable to the Transfer Agent and the affected Holders, and assuming "cashless" exercise of the Warrants and Exchange Warrants (the "Effectiveness Period"). The Company shall telephonically request effectiveness of a Registration Statement as of 5:00 p.m. (New York City time) on a Trading Day. The Company shall immediately notify the Holders via facsimile or by e-mail of the effectiveness of a Registration Statement on the same Trading Day that the Company telephonically confirms effectiveness with the Commission. The Company shall, by 9:30 a.m. (New York City time) on the second Trading Day after the effective date of such Registration Statement, file a final Prospectus with the Commission as required by Rule 424, the failure of which to do so shall be deemed an Event under Section 2(d) below.

(b) Notwithstanding the registration obligations set forth in Section 2(a), if the Commission informs the Company that all of the Registrable Securities cannot, as a result of the application of Rule 415, be registered for resale as a secondary offering on a single registration statement, the Company agrees to promptly inform each of the Holders thereof and use its commercially reasonable efforts to file amendments to the Initial Registration Statement as required by the Commission, covering the maximum number of Registrable Securities permitted to be registered by the Commission, on Form S-1 or such other form available to register for resale the Registrable Securities as a secondary offering, subject to the provisions of Section 2(e); with respect to filing on Form S-1 or other appropriate form, and subject to the provisions of Section 2(d) with respect to the payment of liquidated damages; provided, however, that, prior to filing such amendment, the Company shall be obligated to use diligent efforts to advocate with the Commission for the registration of all of the Registrable Securities in accordance with the SEC Guidance, including without limitation, Compliance and Disclosure Interpretation 612.09.

(c) Notwithstanding any other provision of this Agreement and subject to the payment of liquidated damages pursuant to Section 2(d), if the Commission or any SEC Guidance sets forth a limitation on the number of Registrable Securities permitted to be registered on a particular Registration Statement as a secondary offering (and notwithstanding that the Company used diligent efforts to advocate with the Commission for the registration of all or a greater portion of Registrable Securities), unless otherwise directed

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

in writing by a Holder as to its Registrable Securities, the number of Registrable Securities to be registered on such Registration Statement will be reduced as follows:

a. First, the Company shall reduce or eliminate any securities to be included other than Registrable Securities; and

b. Second, the Company shall reduce Registrable Securities represented by the Warrant Shares and Exchange Warrant Shares (applied, in the case that some Warrant Shares and Exchange Warrant Shares may be registered, to the Holders on a pro rata basis based on the total number of unregistered Warrant Shares and Exchange Warrant Shares held by such Holders).

In the event of a cutback hereunder, the Company shall give the Holder at least two (2) Trading Days prior written notice along with the calculations as to such Holder's allotment. In the event the Company amends the Initial Registration Statement in accordance with the foregoing, the Company will use its best efforts to file with the Commission, as promptly as allowed by Commission or SEC Guidance provided to the Company or to registrants of securities in general, one or more registration statements on Form S-1 or such other form available to register for resale those Registrable Securities that were not registered for resale on the Initial Registration Statement, as amended.

(d) If: (i) the Initial Registration Statement is not filed on or prior to its Filing Date (if the Company files the Initial Registration Statement without affording the Holders the opportunity to review and comment on the same as required by Section 3(a) herein, the Company shall be deemed to have not satisfied this clause (i)), or (ii) the Company fails to file with the Commission a request for acceleration of a Registration Statement in accordance with Rule 461 promulgated by the Commission pursuant to the Securities Act, within five Trading Days of the date that the Company is notified (orally or in writing, whichever is earlier) by the Commission that such Registration Statement will not be "reviewed" or will not be subject to further review, or (iii) prior to the effective date of a Registration Statement, the Company fails to file a pre-effective amendment and otherwise respond in writing to comments made by the Commission in respect of such Registration Statement within twenty (20) calendar days after the receipt of comments by or notice from the Commission that such amendment is required in order for such Registration Statement to be declared effective, or (iv) a Registration Statement registering for resale all of the Registrable Securities is not declared effective by the Commission by the Effectiveness Date of the Initial Registration Statement, or (v) after the effective date of a Registration Statement, such Registration Statement ceases for any reason to remain continuously effective as to all Registrable Securities included in such Registration Statement, or the Holders are otherwise not permitted to utilize the Prospectus therein to resell such Registrable Securities, for more than three (3) consecutive Trading Days or more than an aggregate of ten (10) calendar days (which need not be consecutive calendar days) during any 12-month period (any such failure or breach being referred to as an "Event", and for purposes of clauses (i) and (iv), the date on which such Event occurs, and for purpose of clause (ii) the date on which such five (5) Trading Day period is exceeded, and for purpose of clause (iii) the date which such twenty (20) calendar day period is exceeded, and for purpose of clause (v) the date on which such three (3) Trading Day or ten (10) calendar day period, as applicable, is exceeded being referred to as "Event Date"), then, in addition to any other rights the Holders may have hereunder or under applicable law, on each monthly anniversary of each such Event Date (if the applicable Event shall not have been cured by such date) until the applicable Event is cured, the Company shall pay to each Holder an amount in cash, as partial liquidated damages and not as a penalty, equal to the product of 1.0% multiplied by such Holder's aggregate Subscription Amount for both Closings; provided, however, the aggregate amount payable to a Holder shall not exceed 10% of such Holder's Subscription Amount. If the Company fails to pay any partial liquidated damages pursuant to this Section in full within seven days after the date payable, the Company will pay interest thereon at a rate of 18% per annum (or such lesser maximum amount that is permitted to be paid by applicable law) to the Holder, accruing daily from the date such partial liquidated damages are due until such amounts, plus all such interest thereon, are paid in full. The partial liquidated damages pursuant to the terms hereof shall apply on a daily pro rata basis for any portion of a month prior to the cure of an Event.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(e) If Form S-3 is not available for the registration of the resale of Registrable Securities hereunder, the Company shall (i) register the resale of the Registrable Securities on another appropriate form and (ii) undertake to register the Registrable Securities on Form S-3 as soon as such form is available (unless the Company, in its reasonable judgment, does not believe there is any advantage to filing on Form S-3), provided that the Company shall maintain the effectiveness of the Registration Statement then in effect until such time as a Registration Statement on Form S-3 covering the Registrable Securities has been declared effective by the Commission.

(f) Notwithstanding anything to the contrary contained herein, in no event shall the Company be permitted to name any Holder or affiliate of a Holder as any Underwriter without the prior written consent of such Holder; provided that if such disclosure is required by law and the Holder wishes not to be named the Company may remove such Holder from the Registration Statement.

3. Registration Procedures.

In connection with the Company's registration obligations hereunder, the Company shall:

(a) Not less than two (2) Trading Days prior to the filing of each Registration Statement and not less than one (1) Trading Day prior to the filing of any related Prospectus or any amendment or supplement thereto (including any document that would be incorporated or deemed to be incorporated therein by reference), the Company shall (i) furnish to each Holder copies of all such documents proposed to be filed, which documents (other than those incorporated or deemed to be incorporated by reference) will be subject to the review of such Holders, and (ii) cause its officers and directors, counsel and independent registered public accountants to respond to such inquiries as shall be necessary, in the reasonable opinion of respective counsel to each Holder, to conduct a reasonable investigation within the meaning of the Securities Act. The Company shall not file a Registration Statement or any such Prospectus or any amendments or supplements thereto to which the Holders of a majority of the Registrable Securities shall reasonably object in good faith, provided that the Company is notified of such objection in writing no later than four (4) Trading Days after the Holders have been so furnished copies of a Registration Statement or one (1) Trading Day after the Holders have been so furnished copies of any related Prospectus or amendments or supplements thereto. Each Holder agrees to furnish to the Company a completed questionnaire in the form attached to this Agreement as Annex C (a "Selling Stockholder Questionnaire") on a date that is not less than two (2) Trading Days prior to the Filing Date or by the end of the fourth (4^{th}) Trading Day following the date on which such Holder receives draft materials in accordance with this Section.

(b) (i) Prepare and file with the Commission such amendments, including post-effective amendments, to a Registration Statement and the Prospectus used in connection therewith as may be necessary to keep a Registration Statement continuously effective as to the applicable Registrable Securities for the Effectiveness Period and prepare and file with the Commission such additional Registration Statements in order to register for resale under the Securities Act all of the Registrable Securities, (ii) cause the related Prospectus to be amended or supplemented by any required Prospectus supplement (subject to the terms of this Agreement), and, as so supplemented or amended, to be filed pursuant to Rule 424, (iii) respond as promptly as reasonably possible to any comments received from the Commission with respect to a Registration Statement or any amendment thereto and provide as promptly as reasonably possible to the Holders true and complete copies of all correspondence from and to the Commission relating to a Registration Statement (provided that, the Company shall excise any information contained therein which would constitute material non-public information regarding the Company or any of its Subsidiaries), and (iv) comply in all material respects with the applicable provisions of the Securities Act and the Exchange Act with respect to the disposition of all Registrable Securities covered by a Registration Statement during the applicable period in accordance (subject to the terms of this Agreement) with the intended methods of disposition by the Holders thereof set forth in such Registration Statement as so amended or in such Prospectus as so supplemented.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(c) If during the Effectiveness Period, the number of Registrable Securities at any time exceeds 100% of the number of shares of Common Stock then registered in a Registration Statement, then the Company shall file as soon as reasonably practicable, but in any case prior to the applicable Filing Date, an additional Registration Statement covering the resale by the Holders of not less than the number of such Registrable Securities.

(d) Notify the Holders of Registrable Securities to be sold (which notice shall, pursuant to clauses (iii) through (vi) hereof, be accompanied by an instruction to suspend the use of the Prospectus until the requisite changes have been made) as promptly as reasonably possible (and, in the case of (i)(A) below, not less than one (1) Trading Day prior to such filing) and (if requested by any such Person) confirm such notice in writing no later than one (1) Trading Day following the day (i)(A) when a Prospectus or any Prospectus supplement or post-effective amendment to a Registration Statement is proposed to be filed, (B) when the Commission notifies the Company whether there will be a "review" of such Registration Statement and whenever the Commission comments in writing on such Registration Statement, and (C) with respect to a Registration Statement or any post-effective amendment, when the same has become effective, (ii) of any request by the Commission or any other federal or state governmental authority for amendments or supplements to a Registration Statement or Prospectus or for additional information, (iii) of the issuance by the Commission or any other federal or state governmental authority of any stop order suspending the effectiveness of a Registration Statement covering any or all of the Registrable Securities or the initiation of any Proceedings for that purpose, (iv) of the receipt by the Company of any notification with respect to the suspension of the qualification or exemption from qualification of any of the Registrable Securities for sale in any jurisdiction, or the initiation or threatening of any Proceeding for such purpose, (v) of the occurrence of any event or passage of time that makes the financial statements included in a Registration Statement ineligible for inclusion therein or any statement made in a Registration Statement or Prospectus or any document incorporated or deemed to be incorporated therein by reference untrue in any material respect or that requires any revisions to a Registration Statement, Prospectus or other documents so that, in the case of a Registration Statement or the Prospectus, as the case may be, it will not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, and (vi) of the occurrence or existence of any pending corporate development with respect to the Company that the Company believes may be material and that, in the determination of the Company, makes it not in the best interest of the Company to allow continued availability of a Registration Statement or Prospectus; provided, however, that in no event shall any such notice contain any information which would constitute material, non-public information regarding the Company or any of its Subsidiaries.

(e) Use its best efforts to avoid the issuance of, or, if issued, obtain the withdrawal of (i) any order stopping or suspending the effectiveness of a Registration Statement, or (ii) any suspension of the qualification (or exemption from qualification) of any of the Registrable Securities for sale in any jurisdiction, at the earliest practicable moment.

(f) Furnish to each Holder, without charge, at least one conformed copy of each such Registration Statement and each amendment thereto, including financial statements and schedules, all documents incorporated or deemed to be incorporated therein by reference to the extent requested by such Person, and all exhibits to the extent requested by such Person (including those previously furnished or incorporated by reference) promptly after the filing of such documents with the Commission; provided, that any such item which is available on the EDGAR system (or successor thereto) need not be furnished in physical form.

(g) Subject to the terms of this Agreement, the Company hereby consents to the use of such Prospectus and each amendment or supplement thereto by each of the selling Holders in connection with the offering and sale of the Registrable Securities covered by such Prospectus and any amendment or supplement thereto, except after the giving of any notice pursuant to Section 3(d).

(h) Prior to any resale of Registrable Securities by a Holder, use its commercially reasonable efforts to register or qualify or cooperate with the selling Holders in connection with the registration or qualification

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(or exemption from the Registration or qualification) of such Registrable Securities for the resale by the Holder under the securities or Blue Sky laws of such jurisdictions within the United States as any Holder reasonably requests in writing, to keep each registration or qualification (or exemption therefrom) effective during the Effectiveness Period and to do any and all other acts or things reasonably necessary to enable the disposition in such jurisdictions of the Registrable Securities covered by each Registration Statement; provided, that, the Company shall not be required to qualify generally to do business in any jurisdiction where it is not then so qualified, subject the Company to any material tax in any such jurisdiction where it is not then so subject or file a general consent to service of process in any such jurisdiction.

(i) If requested by a Holder, cooperate with such Holder to facilitate the timely preparation and delivery of certificates representing Registrable Securities to be delivered to a transferee pursuant to a Registration Statement, which certificates shall be free, to the extent permitted by the Purchase Agreement and the Exchange Agreement, of all restrictive legends, and to enable such Registrable Securities to be in such denominations and registered in such names as any such Holder may request.

(j) Upon the occurrence of any event contemplated by Section 3(d), as promptly as reasonably possible under the circumstances taking into account the Company's good faith assessment of any adverse consequences to the Company and its stockholders of the premature disclosure of such event, prepare a supplement or amendment, including a post-effective amendment, to a Registration Statement or a supplement to the related Prospectus or any document incorporated or deemed to be incorporated therein by reference, and file any other required document so that, as thereafter delivered, neither a Registration Statement nor such Prospectus will contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. If the Company notifies the Holders in accordance with clauses (iii) through (vi) of Section 3(d) above to suspend the use of any Prospectus until the requisite changes to such Prospectus have been made, then the Holders shall suspend use of such Prospectus. The Company will use its best efforts to ensure that the use of the Prospectus may be resumed as promptly as is practicable. The Company shall be entitled to exercise its right under this Section 3(j) to suspend the availability of a Registration Statement and Prospectus, subject to the payment of partial liquidated damages otherwise required pursuant to Section 2(d), for a period not to exceed 60 calendar days (which need not be consecutive days) in any 12-month period.

(k) Otherwise use commercially reasonable efforts to comply with all applicable rules and regulations of the Commission under the Securities Act and the Exchange Act, including, without limitation, Rule 172 under the Securities Act, file any final Prospectus, including any supplement or amendment thereof, with the Commission pursuant to Rule 424 under the Securities Act, promptly inform the Holders in writing if, at any time during the Effectiveness Period, the Company does not satisfy the conditions specified in Rule 172 and, as a result thereof, the Holders are required to deliver a Prospectus in connection with any disposition of Registrable Securities and take such other actions as may be reasonably necessary to facilitate the registration of the Registrable Securities hereunder.

(l) [RESERVED]

(m) The Company may require each selling Holder to furnish to the Company a certified statement as to the number of shares of Common Stock beneficially owned by such Holder and, if required by the Commission, the natural persons thereof that have voting and dispositive control over the shares. During any periods that the Company is unable to meet its obligations hereunder with respect to the registration of the Registrable Securities solely because any Holder fails to furnish such information within three Trading Days of the Company's request, any liquidated damages that are accruing at such time as to such Holder only shall be tolled and any Event that may otherwise occur solely because of such delay shall be suspended as to such Holder only, until such information is delivered to the Company and an amendment to the Registration Statement is filed to incorporate Holder's information, provided that such filing is made within two (2) days of receipt of such information from Holder.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

4. Registration Expenses. All fees and expenses incident to the performance of or compliance with, this Agreement by the Company shall be borne by the Company whether or not any Registrable Securities are sold pursuant to a Registration Statement. The fees and expenses referred to in the foregoing sentence shall include, without limitation, (i) all registration and filing fees (including, without limitation, fees and expenses of the Company's counsel and independent registered public accountants) (A) with respect to filings made with the Commission, (B) with respect to filings required to be made with any Trading Market on which the Common Stock is then listed for trading, and (C) in compliance with applicable state securities or Blue Sky laws reasonably agreed to by the Company in writing (including, without limitation, fees and disbursements of counsel for the Company in connection with Blue Sky qualifications or exemptions of the Registrable Securities), (ii) printing expenses (including, without limitation, expenses of printing certificates for Registrable Securities), (iii) messenger, telephone and delivery expenses, (iv) fees and disbursements of counsel for the Company, (v) Securities Act liability insurance, if the Company so desires such insurance, and (vi) fees and expenses of all other Persons retained by the Company in connection with the consummation of the transactions contemplated by this Agreement. In addition, the Company shall be responsible for all of its internal expenses incurred in connection with the consummation of the transactions contemplated by this Agreement (including, without limitation, all salaries and expenses of its officers and employees performing legal or accounting duties), the expense of any annual audit and the fees and expenses incurred in connection with the listing of the Registrable Securities on any securities exchange as required hereunder. In no event shall the Company be responsible for any broker or similar commissions of any Holder or, except to the extent provided for in the Transaction Documents, any legal fees or other costs of the Holders.

5. Indemnification.

(a) Indemnification by the Company. The Company shall, notwithstanding any termination of this Agreement, indemnify and hold harmless each Holder, the officers, directors, members, partners, agents, brokers (including brokers who offer and sell Registrable Securities as principal as a result of a pledge or any failure to perform under a margin call of Common Stock), investment advisors and employees (and any other Persons with a functionally equivalent role of a Person holding such titles, notwithstanding a lack of such title or any other title) of each of them, each Person who controls any such Holder (within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act) and the officers, directors, members, stockholders, partners, agents and employees (and any other Persons with a functionally equivalent role of a Person holding such titles, notwithstanding a lack of such title or any other title) of each such controlling Person, to the fullest extent permitted by applicable law, from and against any and all losses, claims, damages, liabilities, costs (including, without limitation, reasonable attorneys' fees) and expenses (collectively, "Losses"), as incurred, arising out of or relating to (1) any untrue or alleged untrue statement of a material fact contained in a Registration Statement, any Prospectus or any form of prospectus or in any amendment or supplement thereto or in any preliminary prospectus, or arising out of or relating to any omission or alleged omission of a material fact required to be stated therein or necessary to make the statements therein (in the case of any Prospectus or supplement thereto, in light of the circumstances under which they were made) not misleading or (2) any violation or alleged violation by the Company of the Securities Act, the Exchange Act or any state securities law, or any rule or regulation thereunder, in connection with the performance of its obligations under this Agreement, except to the extent, but only to the extent, that (i) such untrue statements or omissions are based solely upon information regarding such Holder furnished in writing to the Company by such Holder expressly for use therein, or to the extent that such information relates to such Holder or such Holder's proposed method of distribution of Registrable Securities and was reviewed and expressly approved in writing by such Holder expressly for use in a Registration Statement, such Prospectus or in any amendment or supplement thereto (it being understood that the Holder has approved Annex A hereto for this purpose) or (ii) in the case of an occurrence of an event of the type specified in Section 3(d)(iii)-(vi), the use by such Holder of an outdated, defective or otherwise unavailable Prospectus after the Company has notified such Holder in writing that the Prospectus is outdated, defective or otherwise unavailable for use by such Holder and prior to the receipt by such Holder of the Advice contemplated in Section 6(d). The Company shall notify the Holders promptly of the institution, threat or assertion of any Proceeding arising from or in connection with the transactions contemplated by this Agreement of which the Company is aware. Such indemnity shall remain in full force and effect regardless

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

of any investigation made by or on behalf of such indemnified person and shall survive the transfer of any Registrable Securities by any of the Holders in accordance with Section 6(h).

(b) Indemnification by Holders. Each Holder shall, severally and not jointly, indemnify and hold harmless the Company, its directors, officers, agents and employees, each Person who controls the Company (within the meaning of Section 15 of the Securities Act and Section 20 of the Exchange Act), and the directors, officers, agents or employees of such controlling Persons, to the fullest extent permitted by applicable law, from and against all Losses, as incurred, to the extent arising out of or based solely upon: any untrue or alleged untrue statement of a material fact contained in any Registration Statement, any Prospectus, or in any amendment or supplement thereto or in any preliminary prospectus, or arising out of or relating to any omission or alleged omission of a material fact required to be stated therein or necessary to make the statements therein (in the case of any Prospectus or supplement thereto, in light of the circumstances under which they were made) not misleading (i) to the extent, but only to the extent, that such untrue statement or omission is contained in any information so furnished in writing by such Holder to the Company expressly for inclusion in such Registration Statement or such Prospectus or (ii) to the extent, but only to the extent, that such information relates to such Holder's information provided in the Selling Stockholder Questionnaire or the proposed method of distribution of Registrable Securities and was reviewed and expressly approved in writing by such Holder expressly for use in a Registration Statement (it being understood that the Holder has approved Annex A hereto for this purpose), such Prospectus or in any amendment or supplement thereto. In no event shall the liability of a selling Holder be greater in amount than the dollar amount of the proceeds (net of all expenses paid by such Holder in connection with any claim relating to this Section 5 and the amount of any damages such Holder has otherwise been required to pay by reason of such untrue statement or omission) received by such Holder upon the sale of the Registrable Securities included in the Registration Statement giving rise to such indemnification obligation.

(c) Conduct of Indemnification Proceedings. If any Proceeding shall be brought or asserted against any Person entitled to indemnity hereunder (an "Indemnified Party"), such Indemnified Party shall promptly notify the Person from whom indemnity is sought (the "Indemnifying Party") in writing, and the Indemnifying Party shall have the right to assume the defense thereof, including the employment of counsel reasonably satisfactory to the Indemnified Party and the payment of all fees and expenses incurred in connection with defense thereof; provided, that, the failure of any Indemnified Party to give such notice shall not relieve the Indemnifying Party of its obligations or liabilities pursuant to this Agreement, except (and only) to the extent that it shall be finally determined by a court of competent jurisdiction (which determination is not subject to appeal or further review) that such failure shall have materially and adversely prejudiced the Indemnifying Party.

An Indemnified Party shall have the right to employ separate counsel in any such Proceeding and to participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of such Indemnified Party or Parties unless: (1) the Indemnifying Party has agreed in writing to pay such fees and expenses, (2) the Indemnifying Party shall have failed promptly to assume the defense of such Proceeding and to employ counsel reasonably satisfactory to such Indemnified Party in any such Proceeding, or (3) the named parties to any such Proceeding (including any impleaded parties) include both such Indemnified Party and the Indemnifying Party, and counsel to the Indemnified Party shall reasonably believe that a material conflict of interest is likely to exist if the same counsel were to represent such Indemnified Party and the Indemnifying Party (in which case, if such Indemnified Party notifies the Indemnifying Party in writing that it elects to employ separate counsel at the expense of the Indemnifying Party, the Indemnifying Party shall not have the right to assume the defense thereof and the reasonable fees and expenses of no more than one separate counsel shall be at the expense of the Indemnifying Party). The Indemnifying Party shall not be liable for any settlement of any such Proceeding effected without its written consent, which consent shall not be unreasonably withheld or delayed. No Indemnifying Party shall, without the prior written consent of the Indemnified Party, effect any settlement of any pending Proceeding in respect of which any Indemnified Party is a party, unless such settlement includes an unconditional release of such Indemnified Party from all liability on claims that are the subject matter of such Proceeding.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Subject to the terms of this Agreement, all reasonable fees and expenses of the Indemnified Party (including reasonable fees and expenses to the extent incurred in connection with investigating or preparing to defend such Proceeding in a manner not inconsistent with this Section) shall be paid to the Indemnified Party, as incurred, within ten Trading Days of written notice thereof to the Indemnifying Party; provided, that, the Indemnified Party shall promptly reimburse the Indemnifying Party for that portion of such fees and expenses applicable to such actions for which such Indemnified Party is finally determined by a court of competent jurisdiction (which determination is not subject to appeal or further review) not to be entitled to indemnification hereunder.

(d) Contribution. If the indemnification under Section 5(a) or 5(b) is unavailable to an Indemnified Party or insufficient to hold an Indemnified Party harmless for any Losses, then each Indemnifying Party shall contribute to the amount paid or payable by such Indemnified Party, in such proportion as is appropriate to reflect the relative fault of the Indemnifying Party and Indemnified Party in connection with the actions, statements or omissions that resulted in such Losses as well as any other relevant equitable considerations. The relative fault of such Indemnifying Party and Indemnified Party shall be determined by reference to, among other things, whether any action in question, including any untrue or alleged untrue statement of a material fact or omission or alleged omission of a material fact, has been taken or made by, or relates to information supplied by, such Indemnifying Party or Indemnified Party, and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such action, statement or omission. The amount paid or payable by a party as a result of any Losses shall be deemed to include, subject to the limitations set forth in this Agreement, any reasonable attorneys' or other fees or expenses incurred by such party in connection with any Proceeding to the extent such party would have been indemnified for such fees or expenses if the indemnification provided for in this Section was available to such party in accordance with its terms.

The parties hereto agree that it would not be just and equitable if contribution pursuant to this Section 5(d) were determined by pro rata allocation or by any other method of allocation that does not take into account the equitable considerations referred to in the immediately preceding paragraph. In no event shall the contribution obligation of a Holder of Registrable Securities be greater in amount than the dollar amount of the proceeds (net of all expenses paid by such Holder in connection with any claim relating to this Section 5 and the amount of any damages such Holder has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission) received by it upon the sale of the Registrable Securities giving rise to such contribution obligation.

The indemnity and contribution agreements contained in this Section are in addition to any liability that the Indemnifying Parties may have to the Indemnified Parties.

6. Miscellaneous.

(a) Remedies. In the event of a breach by the Company or by a Holder of any of their respective obligations under this Agreement, each Holder or the Company, as the case may be, in addition to being entitled to exercise all rights granted by law and under this Agreement, including recovery of damages, shall be entitled to specific performance of its rights under this Agreement. Each of the Company and each Holder agrees that monetary damages would not provide adequate compensation for any losses incurred by reason of a breach by it of any of the provisions of this Agreement and hereby further agrees that, in the event of any action for specific performance in respect of such breach, it shall not assert or shall waive the defense that a remedy at law would be adequate.

(b) No Piggyback on Registrations; Prohibition on Filing Other Registration Statements. Neither the Company nor any of its security holders (other than the Holders in such capacity pursuant hereto) may include

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

securities of the Company in any Registration Statements other than the Registrable Securities. The Company shall not file any other registration statements until all Registrable Securities are registered pursuant to a Registration Statement that is declared effective by the Commission, provided that this Section 6(b) shall not prohibit the Company from filing amendments to registration statements filed prior to the date of this Agreement or filing a registration statement on Form S-8.

(c) Discontinued Disposition. By its acquisition of Registrable Securities, each Holder agrees that, upon receipt of a notice from the Company of the occurrence of any event of the kind described in Section 3(d)(iii) through (vi), such Holder will forthwith discontinue disposition of such Registrable Securities under a Registration Statement until it is advised in writing (the "Advice") by the Company that the use of the applicable Prospectus (as it may have been supplemented or amended) may be resumed. The Company will use its best efforts to ensure that the use of the Prospectus may be resumed as promptly as is practicable. The Company agrees and acknowledges that any periods during which the Holder is required to discontinue the disposition of the Registrable Securities hereunder shall be subject to the provisions of Section 2(d).

(d) Amendments and Waivers. The provisions of this Agreement, including the provisions of this sentence, may not be amended, modified or supplemented, and waivers or consents to departures from the provisions hereof may not be given, unless the same shall be in writing and signed by the Company and the Holders of 50.1% or more of the then outstanding Registrable Securities (for purposes of clarification, this includes any Registrable Securities issuable upon exercise or conversion of any Security), provided that, if any amendment, modification or waiver disproportionately and adversely impacts a Holder (or group of Holders), the consent of such disproportionately impacted Holder (or group of Holders) shall be required. If a Registration Statement does not register all of the Registrable Securities pursuant to a waiver or amendment done in compliance with the previous sentence, then the number of Registrable Securities to be registered for each Holder shall be reduced pro rata among all Holders and each Holder shall have the right to designate which of its Registrable Securities shall be omitted from such Registration Statement. Notwithstanding the foregoing, a waiver or consent to depart from the provisions hereof with respect to a matter that relates exclusively to the rights of a Holder or some Holders and that does not directly or indirectly affect the rights of other Holders may be given only by such Holder or Holders of all of the Registrable Securities to which such waiver or consent relates; provided, however, that the provisions of this sentence may not be amended, modified, or supplemented except in accordance with the provisions of the first sentence of this Section 6(f). No consideration shall be offered or paid to any Person to amend or consent to a waiver or modification of any provision of this Agreement unless the same consideration also is offered to all of the parties to this Agreement.

(e) Notices. Any and all notices or other communications or deliveries required or permitted to be provided hereunder shall be delivered as set forth in the Purchase Agreement or the Exchange Agreement, as applicable.

(f) Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the successors and permitted assigns of each of the parties and shall inure to the benefit of each Holder. The Company may not assign (except by merger) its rights or obligations hereunder without the prior written consent of all of the Holders of the then outstanding Registrable Securities. Each Holder may assign their respective rights hereunder in the manner and to the Persons as permitted under the Purchase Agreement and the Exchange Agreement.

(g) No Inconsistent Agreements. Neither the Company nor any of its Subsidiaries has entered, as of the date hereof, nor shall the Company or any of its Subsidiaries, on or after the date of this Agreement, enter into any agreement with respect to its securities, that would have the effect of impairing the rights granted to the Holders in this Agreement or otherwise conflicts with the provisions hereof. Except as set forth on Schedule 6(h), neither the Company nor any of its Subsidiaries has previously entered into any agreement granting any registration rights with respect to any of its securities to any Person that have not been satisfied in full.

(h) Execution and Counterparts. This Agreement may be executed in two or more counterparts, all of which when taken together shall be considered one and the same agreement and shall become effective when counterparts have been signed by each party and delivered to the other party, it being understood that both parties need not sign the same counterpart. In the event that any signature is delivered by facsimile transmission or by e-mail

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

delivery of a ".pdf" format data file, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or ".pdf" signature page were an original thereof.

(i) Governing Law. All questions concerning the construction, validity, enforcement and interpretation of this Agreement shall be determined in accordance with the provisions of the Purchase Agreement (if the Holder is not a signatory to the Purchase Agreement, the Exchange Agreement).

(j) Cumulative Remedies. The remedies provided herein are cumulative and not exclusive of any other remedies provided by law.

(k) Severability. If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction to be invalid, illegal, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions set forth herein shall remain in full force and effect and shall in no way be affected, impaired or invalidated, and the parties hereto shall use their commercially reasonable efforts to find and employ an alternative means to achieve the same or substantially the same result as that contemplated by such term, provision, covenant or restriction. It is hereby stipulated and declared to be the intention of the parties that they would have executed the remaining terms, provisions, covenants and restrictions without including any of such that may be hereafter declared invalid, illegal, void or unenforceable.

(l) Headings. The headings in this Agreement are for convenience only, do not constitute a part of the Agreement and shall not be deemed to limit or affect any of the provisions hereof.

(m) Independent Nature of Holders' Obligations and Rights. The obligations of each Holder hereunder are several and not joint with the obligations of any other Holder hereunder, and no Holder shall be responsible in any way for the performance of the obligations of any other Holder hereunder. Nothing contained herein or in any other agreement or document delivered at any closing, and no action taken by any Holder pursuant hereto or thereto, shall be deemed to constitute the Holders as a partnership, an association, a joint venture or any other kind of group or entity, or create a presumption that the Holders are in any way acting in concert or as a group or entity with respect to such obligations or the transactions contemplated by this Agreement or any other matters, and the Company acknowledges that the Holders are not acting in concert or as a group, and the Company shall not assert any such claim, with respect to such obligations or transactions. Each Holder shall be entitled to protect and enforce its rights, including without limitation the rights arising out of this Agreement, and it shall not be necessary for any other Holder to be joined as an additional party in any proceeding for such purpose. The use of a single agreement with respect to the obligations of the Company contained was solely in the control of the Company, not the action or decision of any Holder, and was done solely for the convenience of the Company and not because it was required or requested to do so by any Holder. It is expressly understood and agreed that each provision contained in this Agreement is between the Company and a Holder, solely, and not between the Company and the Holders collectively and not between and among Holders.

****

(Signature Pages Follow)

IN WITNESS WHEREOF, the parties have executed this Registration Rights Agreement as of the date first written above.

ICONIC BRANDS, INC.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

By: */s/ Richard DeCicco*
Name: Richard DeCicco
Title: Chief Executive Officer

[*Iconic Brands, Inc. Signature Page to Registration Rights Agreement*]

SIGNATURE PAGE OF HOLDERS TO ICNB RRA

Name of Holder: _____

Signature of Authorized Signatory of Holder: _____

Name of Authorized Signatory: _____

Title of Authorized Signatory: _____

[SIGNATURE PAGES CONTINUE]

[*Iconic Brands, Inc. Signature Page to Registration Rights Agreement*]

Schedule 6(b)

None.

Schedule 6(h)

See Schedule 3.1(w) of the Purchase Agreement.

[*Iconic Brands, Inc. Signature Page to Registration Rights Agreement*]

Annex A

Plan of Distribution

Each Selling Stockholder (the "Selling Stockholders") of the securities and any of their pledgees, assignees and successors-in-interest may, from time to time, sell any or all of their securities covered hereby on OTCQB or any other stock exchange, market or trading facility on which the securities are traded or in private transactions. These sales may be at fixed or negotiated prices. A Selling Stockholder may use any one or more of the following methods when selling securities:

- ordinary brokerage transactions and transactions in which the broker-dealer solicits purchasers;
- block trades in which the broker-dealer will attempt to sell the securities as agent but may position and resell a portion of the block as principal to facilitate the transaction;

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

- purchases by a broker-dealer as principal and resale by the broker-dealer for its account;
- an exchange distribution in accordance with the rules of the applicable exchange;
- privately negotiated transactions;
- settlement of short sales;
- in transactions through broker-dealers that agree with the Selling Stockholders to sell a specified number of such securities at a stipulated price per security;
- through the writing or settlement of options or other hedging transactions, whether through an options exchange or otherwise;
- a combination of any such methods of sale; or
- any other method permitted pursuant to applicable law.

The Selling Stockholders may also sell securities under Rule 144 or any other exemption from registration under the Securities Act of 1933, as amended (the "Securities Act"), if available, rather than under this prospectus.

Broker-dealers engaged by the Selling Stockholders may arrange for other brokers-dealers to participate in sales. Broker-dealers may receive commissions or discounts from the Selling Stockholders (or, if any broker-dealer acts as agent for the purchaser of securities, from the purchaser) in amounts to be negotiated, but, except as set forth in a supplement to this Prospectus, in the case of an agency transaction not in excess of a customary brokerage commission in compliance with FINRA Rule 2440; and in the case of a principal transaction a markup or markdown in compliance with FINRA IM-2440.

In connection with the sale of the securities or interests therein, the Selling Stockholders may enter into hedging transactions with broker-dealers or other financial institutions, which may in turn engage in short sales of the securities in the course of hedging the positions they assume. The Selling Stockholders may also sell securities short and deliver these securities to close out their short positions, or loan or pledge the securities to broker-dealers that in turn may sell these securities. The Selling Stockholders may also enter into option or other transactions with broker-dealers or other financial institutions or create one or more derivative securities which require the delivery to such broker-dealer or other financial institution of securities offered by this prospectus, which securities such broker-dealer or other financial institution may resell pursuant to this prospectus (as supplemented or amended to reflect such transaction).

The Selling Stockholders and any broker-dealers or agents that are involved in selling the securities may be deemed to be "underwriters" within the meaning of the Securities Act in connection with such sales. In such event, any commissions received by such broker-dealers or agents and any profit on the resale of the securities purchased by them may be deemed to be underwriting commissions or discounts under the Securities Act. Each Selling Stockholder has informed the Company that it does not have any written or oral agreement or understanding, directly or indirectly, with any person to distribute the securities.

The Company is required to pay certain fees and expenses incurred by the Company incident to the registration of the securities. The Company has agreed to indemnify the Selling Stockholders against certain losses, claims, damages and liabilities, including liabilities under the Securities Act.

We agreed to keep this prospectus effective until the earlier of (i) the date on which the securities may be resold by the Selling Stockholders without registration and without regard to any volume or manner-of-sale limitations by reason of Rule 144, without the requirement for the Company to be in compliance with the current public information under Rule 144 under the Securities Act or any other rule of similar effect or (ii) all of the securities

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

have been sold pursuant to this prospectus or Rule 144 under the Securities Act or any other rule of similar effect. The resale securities will be sold only through registered or licensed brokers or dealers if required under applicable state securities laws. In addition, in certain states, the resale securities covered hereby may not be sold unless they have been registered or qualified for sale in the applicable state or an exemption from the registration or qualification requirement is available and is complied with.

Under applicable rules and regulations under the Exchange Act, any person engaged in the distribution of the resale securities may not simultaneously engage in market making activities with respect to the common stock for the applicable restricted period, as defined in Regulation M, prior to the commencement of the distribution. In addition, the Selling Stockholders will be subject to applicable provisions of the Exchange Act and the rules and regulations thereunder, including Regulation M, which may limit the timing of purchases and sales of the common stock by the Selling Stockholders or any other person. We will make copies of this prospectus available to the Selling Stockholders and have informed them of the need to deliver a copy of this prospectus to each purchaser at or prior to the time of the sale (including by compliance with Rule 172 under the Securities Act).

Annex B

SELLING SHAREHOLDERS

The common stock being offered by the selling shareholders are those issuable to the selling shareholders upon exercise of the warrants. For additional information regarding the issuances of those warrants, see "Private Placement of Preferred Stock and Warrants" above. We are registering the shares of common stock in order to permit the selling shareholders to offer the shares for resale from time to time. Except as otherwise set forth herein and the ownership of the shares of preferred stock and the warrants, the selling shareholders have not had any material relationship with us within the past three years.

The table below lists the selling shareholders and other information regarding the beneficial ownership of the shares of common stock by each of the selling shareholders. The second column lists the number of shares of common stock beneficially owned by each selling shareholder, based on its ownership of securities of the Company, as of _____, 2021.

The third column lists the shares of common stock being offered by this prospectus by the selling shareholders.

In accordance with the terms of a registration rights agreement with the selling shareholders, this prospectus generally covers the resale of the sum of the maximum number of shares of common stock issuable upon exercise of the related warrants, determined as if the outstanding warrants were exercised in full as of the trading day immediately preceding the date this registration statement was initially filed with the SEC, each as of the trading day immediately preceding the applicable date of determination and all subject to adjustment as provided in the registration right agreement, without regard to any limitations on the exercise of the warrants. The fourth column assumes the sale of all of the shares offered by the selling shareholders pursuant to this prospectus.

Under the terms of the warrants, a selling shareholder may not exercise the warrants to the extent such exercise would cause such selling shareholder, together with its affiliates and attribution parties, to beneficially own a number of shares of common stock which would exceed [4.99%/9.99%] of our then outstanding common stock following such exercise, excluding for purposes of such determination shares of common stock issuable upon exercise of the warrants which have not been exercised. The number of shares in the second column does not reflect this limitation. The selling shareholders may sell all, some or none of their shares in this offering. See "Plan of Distribution."

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Name of Selling Shareholder	Number of shares of Common Stock Owned Prior to Offering	Maximum Number of shares of Common Stock to be Sold Pursuant to this Prospectus	Number of shares of Common Stock Owned After Offering

Annex C

ICONIC BRANDS, INC.

Selling Stockholder Notice and Questionnaire

The undersigned beneficial owner of common stock (the "Registrable Securities") of Iconic Brands, Inc., a Nevada corporation (the "Company"), understands that the Company has filed or intends to file with the Securities and Exchange Commission (the "Commission") a registration statement (the "Registration Statement") for the registration and resale under Rule 415 of the Securities Act of 1933, as amended (the "Securities Act"), of the Registrable Securities, in accordance with the terms of the Registration Rights Agreement (the "Registration Rights Agreement") to which this document is annexed. A copy of the Registration Rights Agreement is available from the Company upon request at the address set forth below. All capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the Registration Rights Agreement.

Certain legal consequences arise from being named as a selling stockholder in the Registration Statement and the related prospectus. Accordingly, holders and beneficial owners of Registrable Securities are advised to consult their own securities law counsel regarding the consequences of being named or not being named as a selling stockholder in the Registration Statement and the related prospectus.

NOTICE

The undersigned beneficial owner (the "Selling Stockholder") of Registrable Securities hereby elects to include the Registrable Securities owned by it in the Registration Statement.

[*Iconic Brands, Inc. Signature Page to Registration Rights Agreement*]

The undersigned hereby provides the following information to the Company and represents and warrants that such information is accurate:

1. Name.

(a) Type or Print the Full Legal Name of Selling Stockholder:

_____

2. Address for Notices to Selling Stockholder:

Address:

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Telephone:
Email:
Fax:
Contact Person:

3. Organizational Structure. Please indicate or (if applicable) describe how the Selling Stockholder is organized.

(a) Is the Selling Stockholder a natural person (If "yes," skip to question 4)?

Yes ☐ No ☐

(b) Is the Selling Stockholder a reporting company under the Securities Exchange Act of 1934, as amended?

Yes ☐ No ☐

(c) Is the Selling Stockholder a majority-owned subsidiary of a reporting company under the Exchange Act?

Yes ☐ No ☐

(d) Is the Selling Stockholder a registered investment company under the Investment Company Act of 1940?

Yes ☐ No ☐

(e) *Legal Description of Selling Stockholder:*

Please describe the type of legal entity that the Selling Stockholder is (e.g., corporation, partnership, limited liability company, trust, etc.);

(f) *Please indicate whether the Selling Stockholder is controlled by another entity (such as a parent company) or is controlled by a natural person.*

Controlled by: Natural Person(s) ☐ Entity ☐

If you checked "Natural Person(s)":

Please indicate the name of the natural person(s) *who has voting or investment control over the shares held by the Selling Stockholder and the position of control that person(s) holds in or over the Selling Stockholder.*

Name of natural person(s):_____

Controlling position in Selling Shareholder (e.g., managing member, manager, trustee, CEO, President, etc.): _____

If you checked "Entity":

Please indicate the name and type of entity that controls the Selling Shareholder.

Name of controlling entity: _____

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Type of legal entity (e.g., corporation, partnership, limited liability company, etc.): _____

Is this entity controlled by another entity (such as a parent company) or is it controlled by a natural person?

Controlled by: Natural Person(s) ☐ Entity* ☐

If you checked "Natural Person(s)":

Name of natural person(s) who controls this entity and *has voting or investment control over the shares held by the Selling Stockholder*: _____

Natural person's position in this entity (e.g., managing member, manager, trustee, CEO, President, etc.)

_____

**If you answered "Entity" here, please repeat step (f) for each controlling entity moving up the corporate chain of control until you reach the level at which there is only a natural person or persons in control (e.g., Acme LLC is controlled by ABC Corp., its member, which is controlled by X shareholder, its controlling shareholder). List the name of the entities along that chain of control, the types of entity each is, the natural person(s) in control of the ultimately controlling entity, and his or her control position over that entity in the lines below:*

_____
_____
_____
_____

4. Broker-Dealer Status:

(a) Are you a broker-dealer?

Yes ☐ No ☐

(b) If "yes" to Section 4(a), did you receive the Registrable Securities as compensation for investment banking services to the Company?

Yes ☐ No ☐

Note: If "no" to Section 4(b), the Commission's staff has indicated that you should be identified as an underwriter in the Registration Statement.

(c) Are you an affiliate of a broker-dealer?

Yes ☐ No ☐

(d) If you are an affiliate of a broker-dealer, do you certify that you purchased the Registrable Securities in the ordinary course of business, and at the time of the purchase of the Registrable Securities to be resold, you

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

had no agreements or understandings, directly or indirectly, with any person to distribute the Registrable Securities?

Yes ☐ No ☐

Note: If "no" to Section 4(d), the Commission's staff has indicated that you should be identified as an underwriter in the Registration Statement.

5. Beneficial Ownership of Securities of Company Owned by the Selling Stockholder.

Except as set forth below in this Item 5, the undersigned is not the beneficial or registered owner of any securities of the Company.

(a) Type and Amount of securities beneficially owned by the Selling Registrable Securities. This should include all securities held by the Selling Shareholder (no matter when such securities were acquired) including, but not limited to, common stock, preferred stock, convertible debt, warrants and options, as applicable, together with vesting schedules, conversion prices and exercise prices, if any.

_____

_____

_____

6. Legal Proceedings with the Company. Is the Company a party to any pending legal proceeding in which the Selling Stockholder is named as an adverse party?

Yes ☐ No ☐

State any exceptions here:

_____

7. Relationships with Company:

Except as set forth below, neither the undersigned nor any of its associates, affiliates, officers, directors or principal equity holders (owners of 5% of more of the equity securities of the undersigned) has held any position or office or has had any other material relationship with the Company (or its predecessors or affiliates) during the past three years.

State any exceptions here:

_____

_____

_____

8. Agreements with Underwriters or Broker-Dealers:

Except as set forth below, the undersigned has not entered into any written or oral agreements, understandings or arrangements with any underwriter or broker-dealer regarding the sale of the Registrable Securities.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

State any exceptions here:

The undersigned agrees to promptly notify the Company of any material inaccuracies or changes in the information provided herein that may occur subsequent to the date hereof at any time while the Registration Statement remains effective; provided, that the undersigned shall not be required to notify the Company of any changes to the number of securities held or owned by the undersigned or its affiliates.

By signing below, the undersigned consents to the disclosure of the information contained herein in its answers to Items 1 through 8 and the inclusion of such information in the Registration Statement and the related prospectus and any amendments or supplements thereto. The undersigned understands that such information will be relied upon by the Company in connection with the preparation or amendment of the Registration Statement and the related prospectus and any amendments or supplements thereto.

IN WITNESS WHEREOF the undersigned, by authority duly given, has caused this Notice and Questionnaire to be executed and delivered either in person or by its duly authorized agent.

Date: _____

Beneficial Owner:

_____

By:

_____

Name:
Title:

PLEASE FAX A COPY (OR EMAIL A .PDF COPY) OF THE COMPLETED AND EXECUTED NOTICE AND QUESTIONNAIRE TO:

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

EXHIBIT 10.7

EXCHANGE AGREEMENT

This Exchange Agreement (this "**Agreement**"), dated as of July 26, 2021, is entered into by and between Iconic Brands, Inc., a Nevada corporation (the "**Company**"), and each holder identified on the signature pages hereto (each a "**Holder**" and collectively the "**Holders**").

A. Each Holder currently holds (i) Series E Convertible Preferred Stock, Series F Convertible Preferred Stock and/or Series G Convertible Preferred Stock, the types and amounts of which are set forth in the exchange calculation table provided in such Holder's signature page hereto (the "**Existing Preferred Stock**"), and/or (ii) Series E Common Stock Purchase Warrants, Series F Common Stock Purchase Warrants and/or Series G Common Stock Purchase Warrants, the types and amounts of which are set forth in the exchange calculation table provided in such Holder's signature page hereto (the "**Existing Warrants**" and together with the Existing Preferred Stock, collectively, the "**Existing Securities**");

B. The Existing Securities are convertible or exercisable into shares of the Company's common stock, par value $0.001 per share ("**Common Stock**"); and

C. Each Holder desires to exchange its Existing Preferred Stock for (i) shares of newly-created Series A-2 Convertible Preferred Stock, par value $0.001 per share, of the Company, which shall have the rights, preferences, privileges and restrictions set forth in the certificate of designation to be filed by the Company with the Secretary of State of Nevada in the form attached hereto as Exhibit A (the "**Series A-2 Preferred Stock**") and (ii) warrants to purchase Common Stock, which shall have the rights, preferences, privileges and restrictions set forth in the common stock purchase warrant in the form attached hereto as Exhibit B (the "**Series A-2 Common Stock Purchase Warrants**"), in each case pursuant to the terms of this Agreement; and

D. Each Holder desires to exchange its Existing Warrants into shares of Common Stock pursuant to the terms of this Agreement.

Accordingly, in consideration of the premises and the agreements set forth below, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

SECTION 1. Exchange

1.1 Exchange of Existing Securities for Exchange Securities. Upon the terms and subject to the conditions of this Agreement, each Holder, severally and not jointly with the other Holders, shall exchange (the "**Exchange**"): (a) all of its Existing Preferred Stock for (i) a number of shares of Series A-2 Preferred Stock and (ii) a number of Series A-2 Common Stock Purchase Warrants; and/or (b) all of its Existing Warrants for a number of shares of Common Stock (such Common Stock together with the Series A-2 Preferred Stock and Series A-2 Common Stock Purchase Warrants, collectively, the "**Exchange Securities**"), in each case, equal to the product of (x) the number of shares of each class of Existing Preferred Stock and/or Existing Warrants held by the Holder (as applicable) immediately prior to the Exchange and (y) the applicable exchange ratio, as set forth in the exchange calculation table provided in the Holder's signature page hereto.

1.2 Cancellation of the Existing Securities. Each Holder hereby acknowledges and agrees that (a) the Existing Securities exchanged hereunder shall be cancelled and (b) the applicable certificate of designation relating to each class of Existing Preferred Stock exchanged hereunder shall be null and void and of no effect whatsoever, upon the completion of the Exchange on the Closing Date.

1.3 Termination of the Existing Agreements. Each Holder hereby acknowledges and agrees that each agreement relating to the Existing Securities set forth on **Schedule A** attached hereto (the "**Existing Agreements**") shall be terminated upon the completion of the Exchange on the Closing Date. For the avoidance of doubt, upon the completion of the Exchange on the Closing Date, each such Existing Agreement shall be null and void and of no effect whatsoever, and the parties to each Existing Agreement shall have no obligations thereunder.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

1.4 Exchange Exemption. The issuance of the Exchange Securities, including the issuance of the conversion shares upon conversion of the Series A-2 Preferred Stock (collectively, the "**Securities**"), to the Holders in the Exchange will be made without registration of any of the Securities under the Securities Act of 1933, as amended (together with the rules and regulations thereunder, the "**Securities Act**"), in reliance upon the exemption therefrom provided by Sections 3(a)(9) or 4(a)(2) of the Securities Act.

1.5 Closing. The Closing shall take place on such date that all of the conditions set forth in **Section 4** have been satisfied or waived, or at such time and place as the parties hereto shall agree (the "**Closing Date**"). On the Closing Date, (a) the Company will deliver to each Holder the number of Exchange Securities issuable to Holder, in accordance with the exchange calculation table provided in the applicable Holder's signature page hereto and (b) each Holder, severally and not jointly with the other Holders, shall deliver (i) all certificate(s) representing the Existing Securities along with all documentation related to the transfer to the Company of all right, title and interest in and to (free and clear of any mortgage, lien, pledge, charge, security interest, encumbrance, title retention agreement, option, equity or other adverse claim thereto) the Existing Securities and (ii) a Lock-up Agreement (as defined below) in the form attached hereto as Exhibit C, executed by such Holder. The Company hereby represents and warrants as of the date hereof and covenants and agrees from and after the date hereof that it will enforce the provisions of each Lock-up Agreement in accordance with its terms. If any party to any Lock-up Agreement breaches any provision of a Lock-up Agreement, the Company shall promptly use its best efforts to seek specific performance of the terms of such Lock-up Agreement.

1.6 Independent Nature of Holders' Obligations and Rights. The obligations of each Holder under this Agreement are several and not joint with the obligations of any other Holder or any holder of any Existing Securities that is not signatory to this Agreement (each, an "**Other Holder**"), and such Holder shall not be responsible in any way for the performance of the obligations of any other Holder or Other Holder under any such other agreement. Nothing contained herein or in this Agreement, and no action taken by the Holder pursuant hereto, shall be deemed to constitute such Holder, the Holders or Other Holders as a partnership, an association, a joint venture or any other kind of entity, or create a presumption that such Holder, the Holders and the Other Holders are in any way acting in concert or as a group with respect to such obligations or the transactions contemplated by this Agreement and the Company acknowledges that such Holder, the Holders and the Other Holders are not acting in concert or as a group with respect to such obligations or the transactions contemplated by this Agreement or any other agreement. The Company and each Holder confirm that such Holder has independently participated in the negotiation of the transactions contemplated hereby with the advice of its own counsel and advisors. Each Holder shall be entitled to independently protect and enforce its rights, including, without limitation, the rights arising out of this Agreement, and it shall not be necessary for any other Holder or Other Holder to be joined as an additional party in any proceeding for such purpose.

1.7 Equal Treatment Clause. Except as expressly set forth in this Agreement, the Company hereby represents and warrants as of the date hereof and covenants and agrees from and after the date hereof that none of the terms offered to any Holder or Other Holder with respect to any terms of this Agreement or restrictions on the sale of securities substantially in the form of the Lock-up Agreement (or any amendment, modification, waiver or release thereof) (each a "**Settlement Document**"), is or will be more favorable to any Holder or Other Holder than those of this Agreement and the Lock-up Agreement entered into by all of the Holders. If, and whenever on or after the date hereof, the Company enters into a separate Settlement Document, then (i) the Company shall provide notice thereof to the Holders promptly following the occurrence thereof and (ii) the terms and conditions of this Agreement and the Lock-up Agreement, as the case may be, shall be, without any further action by the Holders or the Company, automatically amended and modified in an economically and legally equivalent manner such that the Holders shall receive the benefit of the more favorable terms and/or conditions (as the case may be) set forth in such Settlement Document, provided that upon written notice to the Company at any time a Holder may elect not to accept the benefit of any such amended or modified term or condition, in which event the term or condition contained in this Agreement or the Lock-up Agreement, as the case may be, shall apply to the Holder as it was in effect immediately prior to such amendment or modification as if such amendment or modification never occurred with respect to such Holder. The provisions of this paragraph shall apply similarly and equally to each Settlement Document.

SECTION 2. Representations, Warranties and Covenants of each Holder

Each Holder, severally and not jointly with the other Holders, hereby makes the following representations and warranties, each of which is true and correct on and as of the date hereof and the Closing Date and shall survive the Closing Date and the transactions contemplated hereby to the extent set forth herein:

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

2.1 Existence and Power.

(a) The Holder is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization and has the power, authority and capacity to execute and deliver this Agreement, to perform its obligations hereunder, and to consummate the transactions contemplated hereby.

(b) The execution of this Agreement by the Holder and the consummation by the Holder of the transactions contemplated hereby do not and will not constitute or result in a breach, violation, conflict or default under any note, bond, mortgage, deed, indenture, lien, instrument, contract, agreement, lease or license to which the Holder is a party, whether written or oral, express or implied, or any statute, law, ordinance, decree, order, injunction, rule, directive, judgment or regulation of any court, administrative or regulatory body, governmental authority, arbitrator, mediator or similar body on the part of the Holder or on the part of any other party thereto or cause the acceleration or termination of any obligation or right of the Holder, except for such breaches, conflicts, defaults, rights or violations which would not, individually or in the aggregate, reasonably be expected to have a material adverse effect on the ability of the Holder to perform its obligations hereunder.

2.2 Valid and Enforceable Agreement; Authorization. This Agreement, and the Lock-up Agreement entered into in connection herewith, has been duly executed and delivered by the Holder and constitutes a legal, valid and binding obligation of the Holder, enforceable against the Holder in accordance with its terms, except that such enforcement may be subject to (a) bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting or relating to enforcement of creditors' rights generally, and (b) general principles of equity.

2.3 Title to Existing Securities. The Holder has good and valid title to the Existing Securities free and clear of any mortgage, lien, pledge, charge, security interest, encumbrance, title retention agreement, option, equity or other adverse claim thereto. The Holder has not, in whole or in part, (i) assigned, transferred, hypothecated, pledged or otherwise disposed of the Existing Securities or its rights in such Existing Securities, or (ii) given any person or entity any transfer order, power of attorney or other authority of any nature whatsoever with respect to such Existing Securities which would limit the Holder's power to transfer the Existing Securities hereunder.

2.4 Investment Decision. The Holder is an "accredited investor" within the meaning of Rule 501(a)(3) under the Securities Act and was not organized for the purpose of acquiring the Securities. The Holder is knowledgeable, sophisticated and experienced in business and financial matters and has previously invested in securities similar to the Securities. The Holder is able to bear the economic risk of its investment in the Securities and is presently able to afford the complete loss of such investment.

The Holder acknowledges that the Company is relying on the truth and accuracy of the foregoing representations and warranties in the Exchange of the Securities to the Holder without having first registered the Securities under the Securities Act.

2.5 Affiliate Status. The Holder is not, and has not been during the preceding three months, an "affiliate" of the Company as such term is defined in Rule 144 under the Securities Act.

2.6 Professional Advice. With respect to the tax, accounting and other economic considerations involved in the Exchange, the Holder is not relying on the Company or any of its affiliates, and the Holder has carefully considered and has, to the extent the Holder believes such discussion is necessary, discussed with the Holder's professional legal, tax, accounting and financial advisors the implications of the Exchange for the Holder's particular tax, accounting and financial situation.

2.7 No Solicitation. The Holder was not solicited by anyone on behalf of the Company to enter into this transaction.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

2.8 Lock-Up. The Holder shall enter into a lock-up agreement ("***Lock-Up Agreement***") in the form of Exhibit C attached hereto.

SECTION 3. Representations, Warranties and Covenants of the Company

The Company hereby makes the following representations, warranties, and covenants each of which is true and correct on and as of the date hereof and the Closing Date and shall survive the Closing Date and the transactions contemplated hereby to the extent set forth herein.

3.1 Existence and Power.

(a) The Company is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization and has the power, authority and capacity to execute and deliver this Agreement, to perform its obligations hereunder, and to consummate the transactions contemplated hereby.

(b) The execution by the Company of this Agreement and the consummation by the Company of the transactions contemplated hereby and thereby do not and will not constitute or result in a breach, violation, conflict or default under any note, bond, mortgage, deed, indenture, lien, instrument, contract, agreement, lease or license to which the Holders are party, whether written or oral, express or implied, or any statute, law, ordinance, decree, order, injunction, rule, directive, judgment or regulation of any court, administrative or regulatory body, governmental authority, arbitrator, mediator or similar body on the part of each Holder or on the part of any other party thereto or cause the acceleration or termination of any obligation or right of each Holder, except for such breaches, conflicts, defaults, rights or violations which would not, individually or in the aggregate, reasonably be expected to have a material adverse effect on the ability of each Holder to perform its obligations hereunder.

3.2 Valid and Enforceable Agreement; Authorization. This Agreement has been duly executed and delivered by the Company and constitutes a legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms, except that such enforcement may be subject to (a) bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting or relating to enforcement of creditors' rights generally, and (b) general principles of equity.

3.3 Valid Issuance of Securities. The issuance of the Exchange Securities is duly authorized and, upon issuance in accordance with the terms of this Agreement, will be validly issued, fully paid and non-assessable and free from all preemptive or similar rights, taxes, liens, charges and other encumbrances with respect to the issue thereof. The conversion shares issuable upon conversion of the Series A-2 Preferred Stock, when issued, will be validly issued, fully paid and non-assessable and free from all preemptive or similar rights, taxes, liens, charges and other encumbrances with respect to the issue thereof, with the holders being entitled to all rights accorded to a holder of Common Stock.

SECTION 4. Conditions to Closing

4.1 Conditions to the Obligations of the Company. The obligations of the Company to consummate the transactions contemplated by this Agreement are subject to the satisfaction or waiver, at or before the Closing, of each of the following conditions:

(a) Representations and Warranties. The representations and warranties of the Holder set forth in this Agreement that are qualified as to materiality shall be true and correct in all respects, and those that are not so qualified shall be true and correct in all material respects, on and as of the date hereof and on and as of the Closing as though made on and as of the Closing, other than for such failures to be true and correct, that individually and in the aggregate, would not reasonably be expected to have a material adverse effect on the Holder's ability to perform its obligations under this Agreement.

(b) Performance of Agreements. The Holder shall have performed and complied in all material respects with each agreement and obligation required by this Agreement to be performed or complied with by the Holder on or prior to the Closing.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

4.2 Conditions to the Obligations of the Holder. The obligations of the Holder to consummate the transactions contemplated by this Agreement are subject to the satisfaction or waiver, at or before the Closing, of each of the following conditions:

(a) Representations and Warranties. The representations and warranties of the Company set forth in this Agreement that are qualified as to materiality shall be true and correct in all respects, and those that are not so qualified shall be true and correct in all material respects, on and as of the date hereof and on and as of the Closing as though made on and as of the Closing, other than for such failures to be true and correct, that individually and in the aggregate, would not reasonably be expected to have a material adverse effect on the Company's ability to perform its obligations under this Agreement.

(b) Performance of Agreements. The Company shall have performed and complied in all material respects with each agreement and obligation required by this Agreement to be performed or complied with by the Company on or prior to the Closing.

SECTION 5. Miscellaneous Provisions

5.1 Survival of Representations and Warranties. The agreements of the Company, as set forth herein, and the respective representations and warranties of Holder and the Company as set forth herein in **Sections 2** and **3**, respectively, shall survive the Closing Date.

5.2 Notice. Any notice provided for in this Agreement shall be in writing and shall be either personally delivered, or mailed first class mail (postage prepaid) with return receipt requested or sent by reputable overnight courier service (charges prepaid):

(a) if to the Holder, at its address appearing on signature pages attached hereto.

(b) if to the Company, at its address, as follows:

Attention:
Iconic Brands, Inc.
44 Seabro Avenue
Amityville, New York 11701
Attn: Mr. Richard DeCicco
Email: Richard.decicco@gmail.com

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

Pryor Cashman, LLP
7 Times Square
New York, New York 10036
Attention: Eric M. Hellige and Nicholas J. Williams
Email: ehellige@pryorcashman.com
nwilliams@pryorcashman.com

Each party hereto by notice to the other party may designate additional or different addresses for subsequent notices or communications. All notices and communications will be deemed to have been duly given: at the time delivered by hand, if personally delivered; five business days after being deposited in the mail, postage prepaid, if mailed; when receipt acknowledged, if transmitted by electronic mail; and the next business day after timely delivery to the courier, if sent by overnight air courier guaranteeing next day delivery.

5.3 Entire Agreement. This Agreement and the other documents and agreements executed in connection with the Exchange embody the entire agreement and understanding of the parties hereto with respect to the subject matter hereof and supersede all prior and contemporaneous oral or written agreements, representations, warranties, contracts, correspondence, conversations, memoranda and understandings between or among the parties or any of their agents, representatives or affiliates relative to such subject matter, including, without limitation, any term sheets, emails or draft documents.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

5.4 Assignment; Binding Agreement. This Agreement and the various rights and obligations arising hereunder shall inure to the benefit of and be binding upon the parties hereto and their successors and assigns.

5.5 Counterparts. This Agreement may be executed in multiple counterparts, and on separate counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument. Any counterpart or other signature hereupon delivered by facsimile shall be deemed for all purposes as constituting good and valid execution and delivery of this Agreement by such party.

5.6 Remedies Cumulative. Except as otherwise provided herein, all rights and remedies of the parties under this Agreement are cumulative and without prejudice to any other rights or remedies available at law.

5.7 Governing Law. All questions concerning the construction, validity, enforcement and interpretation of this Agreement shall be governed by the internal laws of the State of New York, without giving effect to any choice of law or conflict of law provision or rule that would cause the application of the laws of any jurisdictions other than the State of New York. EACH PARTY HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE TO, AND AGREES NOT TO REQUEST, A JURY TRIAL FOR THE ADJUDICATION OF ANY DISPUTE HEREUNDER OR IN CONNECTION WITH OR ARISING OUT OF THIS AGREEMENT OR ANY TRANSACTION CONTEMPLATED HEREBY.

5.8 No Third Party Beneficiaries or Other Rights. This Agreement is intended for the benefit of the parties hereto and their respective permitted successors and assigns, and is not for the benefit of, nor may any provision hereof be enforced by, any other person.

5.9 Waiver; Consent. This Agreement may not be changed, amended, terminated, augmented, rescinded or discharged (other than in accordance with its terms), in whole or in part, except by a writing executed by the Company and a majority in interest of the Holders. No waiver of any of the provisions or conditions of this Agreement or any of the rights of a party hereto shall be effective or binding unless such waiver shall be in writing and signed by the party claimed to have given or consented thereto. Except to the extent otherwise agreed in writing, no waiver of any term, condition or other provision of this Agreement, or any breach thereof shall be deemed to be a waiver of any other term, condition or provision or any breach thereof, or any subsequent breach of the same term, condition or provision, nor shall any forbearance to seek a remedy for any noncompliance or breach be deemed to be a waiver of a party's rights and remedies with respect to such noncompliance or breach.

5.10 Word Meanings. The words such as "herein," "hereinafter," "hereof" and "hereunder" refer to this Agreement as a whole and not merely to a subdivision in which such words appear unless the context otherwise requires. The singular shall include the plural, and vice versa, unless the context otherwise requires. The masculine shall include the feminine and neuter, and vice versa, unless the context otherwise requires.

5.11 No Broker. Neither party has engaged any third party as broker or finder or incurred or become obligated to pay any broker's commission or finder's fee in connection with the transactions contemplated by this Agreement.

5.12 Further Assurances. The Holder and the Company each hereby agree to execute and deliver, or cause to be executed and delivered, such other documents, instruments and agreements, and take such other actions, as either party may reasonably request in connection with the transactions contemplated by this Agreement.

5.13 Headings. The headings in this Agreement are for convenience of reference only and shall not limit or otherwise affect the meaning hereof.

5.14 Severability. If any one or more of the provisions contained herein, or the application thereof in any circumstance, is held invalid, illegal or unenforceable, the validity, legality and enforceability of any such provision in every other respect and of the remaining provisions contained herein shall not be affected or impaired thereby.

[*Signature pages follow***]**

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

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

Name of Holder:

_____

Signature of Authorized Signatory of Holder:

_____

Name and Title of Authorized Signatory:

_____

Email Address of Authorized Signatory:

_____

Address for Notice to Holder:

_____

EXCHANGE CALCULATION

Classes of Existing Securities	**Number of Each Class of Existing Security Held by Holder Immediately Prior to the Exchange**	**Exchange Ratio of Series A-2 Preferred Stock or Common Stock Per Existing Security Held**	**Number of Shares of Series A-2 Preferred Stock or Common Stock Holder is Entitled to Receive Upon the Completion of the Exchange**	**Exchange Ratio of Series A-2 Common Stock Purchase Warrants Per Existing Security Held**	**Number of Series A-2 Common Stock Purchase Warrants Holder is Entitled to Receive Upon the Completion of the Exchange**
Series E Convertible Preferred Stock	_____ shares of Series E Convertible Preferred Stock	0.00025[1]	_____ shares of Series A-2 Preferred Stock	0.80[1]	_____ Series A-2 Common Stock Purchase Warrants
Series F Convertible Preferred Stock	_____ shares of Series F Convertible Preferred Stock	1.0	_____ shares of Series A-2 Preferred Stock	3,200	_____ Series A-2 Common Stock Purchase Warrants
Series G Convertible Preferred Stock	_____ shares of Series G Convertible Preferred Stock	1.0	_____ shares of Series A-2 Preferred Stock	3,200	_____ Series A-2 Common Stock Purchase Warrants
Series E Common Stock Purchase Warrants	_____ Series E Common Stock Purchase Warrants	0.75	_____ shares of Common Stock	Not applicable.	Not applicable.
Series F Common Stock	_____ Series F Common Stock Purchase Warrants	0.75	_____ shares of Common Stock	Not applicable.	Not applicable.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Purchase Warrants					
Series G Common Stock Purchase Warrants	_____ Series G Common Stock Purchase Warrants	1.5	_____ shares of Common Stock	Not applicable.	Not applicable.

_____

[1] Adjusted for reverse stock split, effective January 18, 2019.

[*Holder Signature Page to Exchange Agreement***]**

IN WITNESS WHEREOF, the undersigned has caused this Exchange Agreement to be executed as of the date first indicated above.

ICONIC BRANDS, INC.

By: */s/ Richard DeCicco*
Name: Richard DeCicco
Title: Chief Executive Officer

[*Iconic Brands, Inc. Signature Page to Exchange Agreement***]**

SCHEDULE A

Existing Agreements

1. Share Exchange Agreement, by and among Iconic Brands, Inc., the Special Equities Group, LLC, Iroquois Master Fund Ltd., Iroquois Capital Investment Group LLC and Gregory M. Castaldo, dated as of May 21, 2019.

2. Securities Purchase Agreement, by and among Iconic Brands, Inc. and each purchaser signatory thereto, dated as of September 27, 2018.

3. Common Stock Purchase Warrant, by and among Iconic Brands, Inc. and each Holder (as defined therein), dated as of September 27, 2018.

4. Registration Rights Agreement, by and among Iconic Brands, Inc. and each purchaser signatory thereto, dated as of September 27, 2018.

5. Lock-Up Agreement, by and among Iconic Brands, Inc. and each purchaser signatory thereto, dated as of September 27, 2018.

6. Securities Purchase Agreement, by and among Iconic Brands, Inc. and each purchaser signatory thereto, dated as of July 18, 2019.

7. Common Stock Purchase Warrant, by and among Iconic Brands, Inc. and each Holder (as defined therein), dated as of July 18, 2019.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

8. Registration Rights Agreement, by and among Iconic Brands, Inc. and each purchaser signatory thereto, dated as of July 18, 2019.

9. Lock-Up Agreement, by and among Iconic Brands, Inc. and each purchaser signatory thereto, dated as of July 18, 2019.

10. Exchange Agreement, by and among Iconic Brands, Inc. and each investor signatory thereto, dated as of July 18, 2019.

11. Securities Purchase Agreement, by and between Iconic Brands, Inc. and each purchaser signatory thereto, dated as of January 12, 2020.

12. Common Stock Purchase Warrant, by and among Iconic Brands, Inc. and each Holder (as defined therein), dated as of January 12, 2020.

13. Registration Rights Agreement, by and among Iconic Brands, Inc. and each purchaser signatory thereto, dated as of January 12, 2020.

14. Lock-Up Agreement, by and among Iconic Brands, Inc. and each purchaser signatory thereto, dated as of January 12, 2020.

EXHIBIT A

Certificate of Designation

[*See attached.***]**

EXHIBIT B

Common Stock Purchase Warrant

[*See attached.***]**

EXHIBIT C

Lock-Up Agreement

[*See attached.***]**

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

EXHIBIT 10.8

LOCK-UP AGREEMENT

July 26, 2021

This lock-up agreement (the "**Lock-Up Agreement**") is being delivered to you in connection with an understanding by and among Iconic Brands, Inc., a Nevada corporation (the "**Company**"), and the person on the signature page hereto (the "**Holder**").

Reference is hereby made to (a) the Exchange Agreement, dated July 26, 2021, by and among the Company and the parties signatory thereto (the "**Exchange Agreement**"), pursuant to which the Holder acquired (i) shares of Series A-2 Convertible Preferred Stock, par value $0.001 per share, of the Company (the "**Preferred Stock**"), (ii) Series A-2 Common Stock Purchase Warrants (the "**Warrants**"), and/or (iii) shares of common stock, par value $0.001 per share, of the Company (the "**Common Stock**" and together with the Preferred Stock and the Warrants, collectively, the "**Securities**"). Capitalized terms not defined herein shall have the meaning as set forth in the Exchange Agreement.

The Holder hereby agrees solely with the Company that from the date hereof (such date, the "**Effective Date**") and ending at 4:00 pm (New York City time) on January 26, 2022 (such period, the "**Restricted Period**"), neither the Holder, nor any Affiliate of the Holder which (x) had or has knowledge of the transactions contemplated by the Exchange Agreement, (y) has or shares discretion relating to the Holder's investments or trading or information concerning the Holder's investments, including in respect of the Securities, or (z) is subject to the Holder's review or input concerning such Affiliate's investments or trading (together, the "**Holder's Trading Affiliates**"), collectively, shall sell dispose or otherwise transfer, directly or indirectly, (including, without limitation, any sales, short sales, swaps or any derivative transactions that would be equivalent to any sales or short positions) on any Trading Day during the Restricted Period (any such date, a "**Date of Determination**"), the Securities, including the shares of Common Stock underlying the Preferred Stock and/or Warrants (collectively, the "**Restricted Securities**"), at an effective price per share that is lower than $0.3125 (subject to adjustment for reverse and forward stock splits, combinations and recapitalizations following the date hereof).

Notwithstanding anything herein to the contrary, during the Restricted Period, the Holder may, directly or indirectly, sell or transfer all, or any part, of the Restricted Securities to any person (an "**Assignee**") in a transaction which does not need to be reported on the Nasdaq consolidated tape, without complying with (or otherwise limited by) the restrictions set forth in this Lock-Up Agreement; provided, that as a condition to any such sale or transfer an authorized officer of the Company and such Assignee duly execute and deliver a lock-up agreement in the form of this Lock-Up Agreement.

Any notices, consents, waivers or other communications required or permitted to be given under the terms of this Lock-Up Agreement must be in writing and shall be given in accordance with the terms of the Exchange Agreement.

This Lock-Up Agreement constitutes the entire agreement among the parties hereto with respect to the subject matter hereof and supersedes all prior negotiations, letters and understandings relating to the subject matter hereof and are fully binding on the parties hereto.

This Lock-Up Agreement may be executed simultaneously in any number of counterparts. Each counterpart shall be deemed to be an original, and all such counterparts shall constitute one and the same instrument. This Lock-Up Agreement may be executed and accepted by facsimile or PDF signature and any such signature shall be of the same force and effect as an original signature.

The terms of this Lock-Up Agreement shall be binding upon and shall inure to the benefit of each of the parties hereto and their respective successors and assigns.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

This Lock-Up Agreement may not be amended or modified except in writing signed by each of the parties hereto.

All questions concerning the construction, validity, enforcement and interpretation of this Lock-Up Agreement shall be governed by Section 5.7 of the Exchange Agreement.

Each party hereto acknowledges that, in view of the uniqueness of the transactions contemplated by this Lock-Up Agreement, the other party or parties hereto will not have an adequate remedy at law for money damages in the event that this Lock-Up Agreement has not been performed in accordance with its terms, and therefore agrees that such other party or parties shall be entitled to seek specific performance of the terms hereof in addition to any other remedy it may seek, at law or in equity.

The obligations of the Holder under this Lock-Up Agreement are several and not joint with the obligations of any other holder of Securities issued under the Exchange Agreement (each, an "**Other Holder**" or collectively, the "**Other Holders**") or pursuant to any other lock-up agreement between the Company and any Other Holder ("**Other Lock-Up Agreements**"), and the Holder shall not be responsible in any way for the performance of the obligations of any Other Holder under any Other Lock-Up Agreement. Nothing contained in this Lock-Up Agreement and no action taken by the Holder pursuant hereto, shall be deemed to constitute the Holder and Other Holders as a partnership, an association, a joint venture or any other kind of entity, or create a presumption that the Holder and the Other Holders are in any way acting in concert or as a group with respect to such obligations or the transactions contemplated by this Lock-Up Agreement and the Company acknowledges that the Holder and the Other Holders are not acting in concert or as a group with respect to such obligations or the transactions contemplated by this Lock-Up Agreement or any other agreement. The Company and the Holder confirm that the Holder has independently participated in the negotiation of the transactions contemplated hereby with the advice of its own counsel and advisors. The Holder shall be entitled to independently protect and enforce its rights, including, without limitation, the rights arising out of this Lock-Up Agreement, and it shall not be necessary for any Other Holder to be joined as an additional party in any proceeding for such purpose.

The Company hereby represents and warrants as of the date hereof and covenants and agrees from and after the date hereof that it will enforce the provisions of each Other Lock-Up Agreement in accordance with its terms. If any party to any Other Lock-Up Agreement breaches any provision of such Other Lock-Up Agreement, the Company shall promptly use its best efforts to seek specific performance of the terms of such Other Lock-Up Agreement.

The Company hereby represents and warrants, as of the date hereof, and covenants and agrees from and after the date hereof that none of the terms offered to any Other Holder with respect to any restrictions on the sale of Securities substantially in the form of this Lock-Up Agreement (or any amendment, modification, waiver or release thereof) (each a "**Settlement Document**"), is or will be more favorable to such Other Holder than those of the Holder and this Lock-Up Agreement. If, and whenever on or after the date hereof, the Company enters into a Settlement Document, then (i) the Company shall provide notice thereof to the Holder promptly following the occurrence thereof and (ii) the terms and conditions of this Lock-Up Agreement shall be, without any further action by the Holder or the Company, automatically amended and modified in an economically and legally equivalent manner such that the Holder shall receive the benefit of the more favorable terms and/or conditions (as the case may be) set forth in such Settlement Document, provided that upon written notice to the Company at any time the Holder may elect not to accept the benefit of any such amended or modified term or condition, in which event the term or condition contained in this Lock-Up Agreement shall apply to the Holder as it was in effect immediately prior to such amendment or modification as if such amendment or modification never occurred with respect to the Holder. The provisions of this paragraph shall apply similarly and equally to each Settlement Document.

[*Signature Pages to Follow***]**

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Sincerely,

ICONIC BRANDS, INC.

By: */s/ Richard DeCicco*
Name: Richard DeCicco
Title: Chief Executive Officer

[*Iconic Brands, Inc. Signature Page to Lock-Up Agreement*]

Agreed to and Acknowledged:

"HOLDER"

_____

By: _____
Name:
Title:

[*Holder Signature Page to Lock-Up Agreement*]

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

EXHIBIT 10.9

EXCHANGE AGREEMENT

EXCHANGE AGREEMENT (the "***Agreement***") is made as of the 26 day of July, 2021, by and between Iconic Brands, Inc., a Nevada corporation (the "***Company***"), and Richard DeCicco, the Company's Chief Executive Officer, Chief Financial Officer, and a member of the Company's Board of Directors (the "***Stockholder***").

WHEREAS, as of the date hereof, the Stockholder is the owner of one (1) issued and outstanding share of the Company's Series A Preferred Stock, par value $0.001 per share (the "**Series A Preferred Stock**");

WHEREAS, subject to the terms and conditions set forth in this Agreement and in reliance on Section 3(a)(9) of the Securities Act of 1933, as amended (the "***Securities Act***") and/or Section 4(a)(2) of the Securities Act, the Company desires to exchange with the Stockholder, and the Stockholder desires to exchange with the Company, the Series A Preferred Stock for twenty-five million six hundred thousand (25,600,000) shares of common stock, par value $0.001, of the Company (the "***Exchange Shares***"); and

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in consideration of the premises and the mutual agreements, representations and warranties, provisions and covenants contained herein, the parties hereto, intending to be legally bound hereby, agree as follows:

1. Exchange; Waiver. On Closing Date (as defined below), subject to the terms and conditions of this Agreement, the Stockholder shall, and the Company shall, pursuant to Section 3(a)(9) of the Securities Act and/or 4(a)(2) of the Securities Act, exchange the Series A Preferred Stock for the Exchange Shares. Subject to the conditions set forth herein, the exchange of the Series A Preferred Stock for the Exchange Shares shall take place remotely, within two (2) Trading Days of the date hereof, or at such other time and place as the Company and the Stockholder mutually agree (the "***Closing***" and such date, the "***Closing Date***"). At the Closing, the following transactions shall occur (such transaction an "***Exchange***"):

1.1 On the Closing Date, in exchange for the Series A Preferred Stock, the Company shall deliver the Exchange Shares to the Stockholder or its designee at 44 Seabro Avenue, Amityville, NY 11701. Upon receipt of the Exchange Shares in accordance with this Section 1.1, all of the Stockholder's rights under the share of Series A Preferred Stock shall be extinguished.

1.2 On the Closing Date, the Stockholder shall be deemed for all corporate purposes to have become the holder of record of the Exchange Shares, and the Series A Preferred Stock shall be deemed for all corporate purposes to have been cancelled, irrespective of the date the Exchange Shares are delivered to the Stockholder in accordance herewith.

As used herein, "***Common Stock***" means the common stock of the Company, par value $0.001 per share, and any other class of securities into which such securities may hereafter be reclassified or changed.

As used herein, "***Person***" means an individual or corporation, partnership, trust, incorporated or unincorporated association, joint venture, limited liability company, joint stock company, government (or an agency or subdivision thereof) or other entity of any kind.

As used herein, "***Trading Day***" means any day on which the Common Stock is traded on the principal securities exchange or securities market on which the Common Stock is then traded.

1.3 The Company and the Stockholder shall execute and/or deliver such other documents and agreements as are customary and reasonably necessary to effectuate the Exchanges, including, at the request of the Company or its transfer agent, executed stock powers in customary form.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

2. Closing Conditions.

2.1 Conditions to Stockholder's Obligations. The obligation of the Stockholder to consummate the Exchange is subject to the fulfillment, to the Stockholder's reasonable satisfaction, prior to or at the Closing, of each of the following conditions:

(a) Representations and Warranties. The representations and warranties of the Company contained in this Agreement shall be true and correct in all material respects on the date hereof and on and as of the Closing Date as if made on and as of such date.

(b) No Actions. No action, proceeding, investigation, regulation or legislation shall have been instituted, threatened or proposed before any court, governmental agency or authority or legislative body to enjoin, restrain, prohibit or obtain substantial damages in respect of, this Agreement or the consummation of the transactions contemplated by this Agreement.

(c) Proceedings and Documents. All proceedings in connection with the transactions contemplated hereby and all documents and instruments incident to such transactions shall be satisfactory in substance and form to the Stockholder, and the Stockholder shall have received all such counterpart originals or certified or other copies of such documents as they may reasonably request.

2.2 Conditions to the Company's Obligations. The obligation of the Company to consummate the Exchange is subject to the fulfillment, to the Company's reasonable satisfaction, prior to or at the Closing, of each of the following conditions:

(a) Representations and Warranties. The representations and warranties of the Stockholder contained in this Agreement shall be true and correct in all material respects on the date hereof and on and as of the Closing Date as if made on and as of such date.

(b) No Actions. No action, proceeding, investigation, regulation or legislation shall have been instituted, threatened or proposed before any court, governmental agency or authority or legislative body to enjoin, restrain, prohibit, or obtain substantial damages in respect of, this Agreement or the consummation of the transactions contemplated by this Agreement.

(c) Proceedings and Documents. All proceedings in connection with the transactions contemplated hereby and all documents and instruments incident to such transactions shall be satisfactory in substance and form to the Company and the Company shall have received all such counterpart originals or certified or other copies of such documents as the Company may reasonably request.

3. Representations and Warranties of the Company. The Company hereby represents and warrants to the Stockholder that:

3.1 Organization, Good Standing and Qualification. The Company is a corporation duly organized, validly existing and in good standing under the laws of the State of Nevada. The Company is duly qualified to transact business and is in good standing in each jurisdiction in which the failure to so qualify would have a material adverse effect on its business or properties.

3.2 Authorization. All corporate action on the part of the Company, its officers, directors and stockholders necessary for the authorization, execution and delivery of this Agreement and the performance of all obligations of the Company hereunder, and the authorization (or reservation for issuance of), the Exchange, and the issuance of the Exchange Shares, have been taken on or prior to the date hereof.

3.3 Valid Issuance of the Shares. The Exchange Shares, when issued and delivered in accordance with the terms of this Agreement, for the consideration expressed herein, will be duly and validly issued, fully paid and non-assessable.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

3.4 Compliance With Laws. The Company has not violated any law or any governmental regulation or requirement which violation has had or would reasonably be expected to have a material adverse effect on its business and the Company has not received written notice of any such violation.

3.5 Consents; Waivers. No consent, waiver, approval or authority of any nature, or other formal action, by any Person, not already obtained, is required in connection with the execution and delivery of this Agreement by the Company or the consummation by the Company of the transactions provided for herein and therein.

3.6 Absence of Litigation. There is no action, suit, proceeding, inquiry or investigation before or by any court, public board, government agency, self-regulatory organization or body pending or, to the knowledge of the Company, threatened against or affecting the Company, the securities or any of the Company's officers or directors in their capacities as such.

3.7 Validity; Enforcement; No Conflicts. This Agreement has been duly and validly authorized, executed and delivered on behalf of the Company and shall constitute the legal, valid and binding obligations of the Company enforceable against the Company in accordance with their respective terms, except as such enforceability may be limited by general principles of equity or to applicable bankruptcy, insolvency, reorganization, moratorium, liquidation and other similar laws relating to, or affecting generally, the enforcement of applicable creditors' rights and remedies. The execution, delivery and performance by the Company of this Agreement and the consummation by the Company of the transactions contemplated hereby will not (i) result in a violation of the organizational documents of the Company or (ii) conflict with, or constitute a default (or an event which with notice or lapse of time or both would become a default) under, or give to others any rights of termination, amendment, acceleration or cancellation of, any agreement, indenture or instrument to which the Company is a party or by which it is bound, or (iii) result in a violation of any law, rule, regulation, order, judgment or decree (including federal and state securities or "blue sky" laws) applicable to the Company, except in the case of clause (ii) above, for such conflicts, defaults or rights which would not, individually or in the aggregate, reasonably be expected to have a material adverse effect on the ability of the Company to perform its obligations hereunder.

3.8 Bring-Down of Representations and Warranties. All legal and factual representations and warranties made by the Company to the Stockholder in any prior agreements pursuant to which the Series A Preferred Stock was originally issued are accurate and complete in all material respects as of the date hereof, unless as of a specific date therein in which case they shall be accurate as of such date (or, to the extent representations or warranties are qualified by materiality or Material Adverse Effect (as defined in such agreements), in all respects).

3.9 No Brokers or Finders. No Person has or will have, as a result of any act or omission of the Stockholder, any right, interest or valid claim against or upon the Company for any commission, fee or other compensation as a finder or broker, or in any similar capacity, in connection with the transactions contemplated by this Agreement.

4. Representations and Warranties of the Stockholder. The Stockholder hereby represents, warrants and covenants that:

4.1 Authorization. The Stockholder has full power and authority to enter into this Agreement, to perform its obligations hereunder and to consummate the transactions contemplated hereby and has taken all action necessary to authorize the execution and delivery of this Agreement, the performance of its obligations hereunder and the consummation of the transactions contemplated hereby.

4.2 Investment Experience. The Stockholder can bear the economic risk of its investment in the Exchange Shares, and has such knowledge and experience in financial and business matters that it is capable of evaluating the merits and risks of an investment in the Exchange Shares.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

4.3 Information. The Stockholder and its advisors, if any, have been furnished with all materials relating to the business, finances and operations of the Company and materials relating to the offer and issuance of the Exchange Shares which have been requested by the Stockholder. The Stockholder has had the opportunity to review the Company's filings with the Securities and Exchange Commission. The Stockholder and its advisors, if any, have been afforded the opportunity to ask questions of the Company. Neither such inquiries nor any other due diligence investigations conducted by the Stockholder or its advisors, if any, or its representatives shall modify, amend or affect the Stockholder's right to rely on the Company's representations and warranties contained herein. The Stockholder understands that its investment in the Exchange Shares involves a high degree of risk. The Stockholder has sought such accounting, legal and tax advice as it has considered necessary to make an informed investment decision with respect to its acquisition of the Exchange Shares. The Stockholder is relying solely on its own accounting, legal and tax advisors, and not on any statements of the Company or any of its agents or representatives, for such accounting, legal and tax advice with respect to its acquisition of the Exchange Shares and the transactions contemplated by this Agreement.

4.4 No Governmental Review. The Stockholder understands that no United States federal or state agency or any other government or governmental agency has passed on or made any recommendation or endorsement of the Exchange Shares or the fairness or suitability of the investment in the Exchange Shares nor have such authorities passed upon or endorsed the merits of the offering of the Exchange Shares.

4.5 Validity; Enforcement; No Conflicts. This Agreement has been duly and validly authorized, executed and delivered on behalf of the Stockholder and shall constitute the legal, valid and binding obligations of the Stockholder enforceable against the Stockholder in accordance with their respective terms, except as such enforceability may be limited by general principles of equity or to applicable bankruptcy, insolvency, reorganization, moratorium, liquidation and other similar laws relating to, or affecting generally, the enforcement of applicable creditors' rights and remedies. The execution, delivery and performance by the Stockholder of this Agreement and the consummation by the Stockholder of the transactions contemplated hereby will not (i) result in a violation of the organizational documents of the Stockholder or (ii) conflict with, or constitute a default (or an event which with notice or lapse of time or both would become a default) under, or give to others any rights of termination, amendment, acceleration or cancellation of, any agreement, indenture or instrument to which the Stockholder is a party, or (iii) result in a violation of any law, rule, regulation, order, judgment or decree (including federal and state securities or "blue sky" laws) applicable to the Stockholder, except in the case of clause (ii) above, for such conflicts, defaults or rights which would not, individually or in the aggregate, reasonably be expected to have a material adverse effect on the ability of the Stockholder to perform its obligations hereunder.

4.6 Bring-Down of Representations and Warranties. All legal and factual representations and warranties made by the Stockholder to the Company in any prior agreements pursuant to which the Series A Preferred Stock was originally issued are accurate and complete in all material respects as of the date hereof, unless as of a specific date therein in which case they shall be accurate as of such date (or, to the extent representations or warranties are qualified by materiality or Material Adverse Effect (as defined in such agreements), in all respects).

5. Additional Covenants.

5.1 Disclosure. The Company shall, on or before 9:30 a.m., New York City time, on the first business day after the date of this Agreement, issue a Current Report on Form 8-K (the "***8-K Filing***") disclosing all material terms of the transactions contemplated hereby.

6. Miscellaneous.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

6.1 Successors and Assigns. Except as otherwise provided herein, the terms and conditions of this Agreement shall inure to the benefit of and be binding upon the parties hereto and the respective successors and assigns of the parties. Nothing in this Agreement, express or implied, is intended to confer upon any party, other than the parties hereto or their respective successors and assigns, any rights, remedies, obligations or liabilities under or by reason of this Agreement, except as expressly provided in this Agreement.

6.2 Governing Law; Jurisdiction; Jury Trial. All questions concerning the construction, validity, enforcement and interpretation of this Agreement shall be governed by the internal laws of the State of New York, without giving effect to any choice of law or conflict of law provision or rule (whether of the State of New York or any other jurisdictions) that would cause the application of the laws of any jurisdictions other than the State of New York. Each party hereby irrevocably submits to the exclusive jurisdiction of the state or federal courts sitting in The City of New York, Borough of Manhattan, for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein, and hereby irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of any such court, that such suit, action or proceeding is brought in an inconvenient forum or that the venue of such suit, action or proceeding is improper. Each party hereby irrevocably waives personal service of process and consents to process being served in any such suit, action or proceeding by mailing a copy thereof to such party at the address for such notices to it under this Agreement and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any manner permitted by law. **EACH PARTY HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE, AND AGREES NOT TO REQUEST, A JURY TRIAL FOR THE ADJUDICATION OF ANY DISPUTE HEREUNDER OR IN CONNECTION WITH OR ARISING OUT OF THIS AGREEMENT OR ANY TRANSACTION CONTEMPLATED HEREBY**.

6.3 Titles and Subtitles. The titles and subtitles used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement.

6.4 Notices. All notices and other communications given or made pursuant to this Agreement shall be in writing and shall be deemed effectively given: (i) upon personal delivery to the Party to be notified; (ii) when sent by confirmed electronic mail or facsimile if sent during normal business hours of the recipient, and if not so confirmed, then on the next business day; (iii) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid; or (iv) one (1) day after deposit with a nationally recognized overnight courier, specifying next day delivery, with written verification of receipt.

6.5 Amendments and Waivers. Any term of this Agreement may be amended and the observance of any term of this Agreement may be waived (either generally or in a particular instance and either retroactively or prospectively), only with the written consent of the Company and the Stockholder. Any amendment or waiver effected in accordance with this paragraph shall be binding upon the Stockholder and the Company, provided that no such amendment shall be binding on a holder that does not consent thereto to the extent such amendment treats such party differently than any party that does consent thereto.

6.6 Severability. If one or more provisions of this Agreement are held to be unenforceable under applicable law, such provision shall be excluded from this Agreement and the balance of the Agreement shall be interpreted as if such provision were so excluded and shall be enforceable in accordance with its terms.

6.7 Entire Agreement. This Agreement represents the entire agreement and understanding between the parties concerning the Exchange and the other matters described herein and therein and supersede and replaces any and all prior agreements and understandings solely with respect to the subject matter hereof and thereof.

6.8 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

6.9 Interpretation. Unless the context of this Agreement clearly requires otherwise, (a) references to the plural include the singular, the singular the plural, the part the whole, (b) references to any gender include all

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

genders, (c) "including" has the inclusive meaning frequently identified with the phrase "but not limited to" and (d) references to "hereunder" or "herein" relate to this Agreement.

6.10 No Third Party Beneficiaries. This Agreement is intended for the benefit of the parties hereto and their respective permitted successors and assigns, and is not for the benefit of, nor may any provision hereof be enforced by, any other Person.

6.11 Survival. The representations, warranties and covenants of the Company and the Stockholder contained herein shall survive the Closing and delivery of the Exchange Shares.

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

6.13 No Strict Construction. The language used in this Agreement will be deemed to be the language chosen by the parties to express their mutual intent, and no rules of strict construction will be applied against any party.

[SIGNATURES ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed and delivered as of the date first provided above.

ICONIC BRANDS, INC.

By: */s/ Richard DeCicco*
Name: Richard DeCicco
Title: Chief Executive Officer

STOCKHOLDER

By: */s/ Richard DeCicco*
Richard DeCicco

[*Signature Page to Exchange Agreement***]**

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

EXHIBIT 10.10

SECURITIES PURCHASE AGREEMENT

SECURITIES PURCHASE AGREEMENT (the "***Agreement***") is made, effective as of the 26 day of July 2021, by and between Iconic Brands, Inc., a Nevada corporation (the "***Buyer***"), and Richard DeCicco (the "***Seller***").

WHEREAS, as of the date hereof, the Seller is the owner of one hundred percent (100%) of the issued and outstanding capital stock (the "***Securities***") of United Spirits, Inc., a New York corporation ("***United***");

WHEREAS, subject to the terms and conditions set forth in this Agreement and in reliance on Section 4(a)(2) of the Securities Act of 1933, as amended (the "***Securities Act***"), the Buyer desires to acquire from the Seller, and the Seller desires to transfer to the Buyer, one hundred percent (100%) of the Securities of United in exchange for a purchase price of one million dollars ($1,000,000) (the "***Purchase Price***"), to be paid in accordance with Section 1 of this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in consideration of the premises and the mutual agreements, representations and warranties, provisions and covenants contained herein, the parties hereto, intending to be legally bound hereby, agree as follows:

1. Purchase; Waiver. Subject to the terms and conditions of this Agreement, the Seller shall transfer, and the Buyer shall acquire, pursuant to Section 4(a)(2) of the Securities Act, one hundred percent (100%) of the Securities of United in exchange for the Purchase Price. The transfer of the Securities and the payment of the Purchase Price (the "***Closing***") shall take place remotely, on the first Business day following the satisfaction or waiver of the conditions set forth in Section 2 of this Agreement (other than conditions which, by their nature, are to be satisfied at Closing, which must be satisfied at Closing, unless waived in accordance with this Agreement), or at any other place, time or date as may be mutually agreed by the Buyer and the Seller (the "***Closing Date***"). Subject to the terms and conditions of this Agreement, the following transactions shall occur (collectively, the "***Purchase***"):

1.1 On the Closing Date, the Seller shall execute and deliver an assignment of the Securities transferring all of its rights and title to the Securities to the Buyer.

1.2 On the Closing Date, in consideration for the transfer of the Securities, the Buyer shall pay the Purchase Price to the Seller by wire transfer pursuant to the Seller's wire transfer instructions included in the signature page attached hereto.

As used herein, "***Business Day***" means any day other than a Saturday, Sunday or a day on which banks in the City of New York are permitted or obligated by law to be closed for regular banking business.

As used herein, "***Person***" means an individual or corporation, partnership, trust, incorporated or unincorporated association, joint venture, limited liability company, joint stock company, government (or an agency or subdivision thereof) or other entity of any kind.

1.3 On the Closing Date, the Buyer and the Seller shall execute and/or deliver such other documents and agreements as are customary and reasonably necessary to effectuate the Purchase, including, at the request of the Buyer or its transfer agent, executed stock powers in customary form.

2. Closing Conditions.

2.1 Conditions to the Seller's Obligations. The obligation of the Seller to consummate the Purchase is subject to the fulfillment, to the Seller's reasonable satisfaction, prior to or at the Closing, of each of the following conditions:

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(a) Representations and Warranties. The representations and warranties of the Buyer contained in this Agreement shall be true and correct in all material respects on the date hereof and on and as of the Closing Date as if made on and as of such date.

(b) No Actions. No action, proceeding, investigation, regulation or legislation shall have been instituted, threatened or proposed before any court, governmental agency or authority or legislative body to enjoin, restrain, prohibit or obtain substantial damages in respect of, this Agreement or the consummation of the transactions contemplated by this Agreement.

(c) Proceedings and Documents. All proceedings in connection with the transactions contemplated hereby and all documents and instruments incident to such transactions shall be satisfactory in substance and form to the Seller, and the Seller shall have received all such counterpart originals or certified or other copies of such documents as they may reasonably request.

2.2 Conditions to the Buyer's Obligations. The obligation of the Buyer to consummate the Purchase is subject to the fulfillment, to the Buyer's reasonable satisfaction, prior to or at the Closing, of each of the following conditions:

(a) Representations and Warranties. The representations and warranties of the Seller contained in this Agreement shall be true and correct in all material respects on the date hereof and on and as of the Closing Date as if made on and as of such date.

(b) No Actions. No action, proceeding, investigation, regulation or legislation shall have been instituted, threatened or proposed before any court, governmental agency or authority or legislative body to enjoin, restrain, prohibit, or obtain substantial damages in respect of, this Agreement or the consummation of the transactions contemplated by this Agreement.

(c) Proceedings and Documents. All proceedings in connection with the transactions contemplated hereby and all documents and instruments incident to such transactions shall be satisfactory in substance and form to the Buyer and the Buyer shall have received all such counterpart originals or certified or other copies of such documents as the Buyer may reasonably request.

2.3 Closing Conditions to Both Seller's and Buyer's Obligations.

(a) All governmental approvals and consents necessary so that each alcohol beverage license and permit necessary or convenient to purchase, store, advertise, transport, distribute, sell or otherwise deal with alcoholic beverages as conducted by United prior to Closing have been obtained.

(b) Notwithstanding Section 2.3(a) of this Agreement, if the parties have all the approvals required for all states except Delaware and Michigan, the parties may agree to close and cease shipping into Delaware and Michigan until such time as approval has been received from said states, which may be after the Closing Date.

3. Representations and Warranties of the Buyer. The Buyer hereby represents and warrants to the Seller that:

3.1 Organization, Good Standing and Qualification. The Buyer is a corporation duly organized, validly existing and in good standing under the laws of the State of Nevada. The Buyer is duly qualified to transact business and is in good standing in each jurisdiction in which the failure to so qualify would have a material adverse effect on its business or properties.

3.2 Authorization. All corporate action on the part of the Buyer, its officers, directors and stockholders necessary for the authorization, execution and delivery of this Agreement and the performance of all obligations of the Buyer hereunder, have been taken on or prior to the date hereof.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

3.3 Compliance with Laws. The Buyer has not violated any law or any governmental regulation or requirement which violation has had or would reasonably be expected to have a material adverse effect on its business and the Buyer has not received written notice of any such violation.

3.4 Consents; Waivers. No consent, waiver, approval or authority of any nature, or other formal action, by any Person, not already obtained, is required in connection with the execution and delivery of this Agreement by the Buyer or the consummation by the Buyer of the transactions provided for herein and therein.

3.5 Absence of Litigation. There is no action, suit, proceeding, inquiry or investigation before or by any court, public board, government agency, self-regulatory organization or body pending or, to the knowledge of the Buyer, threatened against or affecting the Buyer, the Securities or any of the Buyer's officers or directors in their capacities as such.

3.6 Validity; Enforcement; No Conflicts. This Agreement has been duly and validly authorized, executed and delivered on behalf of the Buyer and shall constitute the legal, valid and binding obligations of the Buyer enforceable against the Buyer in accordance with their respective terms, except as such enforceability may be limited by general principles of equity or to applicable bankruptcy, insolvency, reorganization, moratorium, liquidation and other similar laws relating to, or affecting generally, the enforcement of applicable creditors' rights and remedies. The execution, delivery and performance by the Buyer of this Agreement and the consummation by the Buyer of the transactions contemplated hereby will not (i) result in a violation of the organizational documents of the Buyer or (ii) conflict with, or constitute a default (or an event which with notice or lapse of time or both would become a default) under, or give to others any rights of termination, amendment, acceleration or cancellation of, any agreement, indenture or instrument to which the Buyer is a party or by which it is bound, or (iii) result in a violation of any law, rule, regulation, order, judgment or decree (including federal and state securities or "blue sky" laws) applicable to the Buyer, except in the case of clause (ii) above, for such conflicts, defaults or rights which would not, individually or in the aggregate, reasonably be expected to have a material adverse effect on the ability of the Buyer to perform its obligations hereunder.

3.7 Bring-Down of Representations and Warranties. All legal and factual representations and warranties made by the Buyer to the Seller in any prior agreements pursuant to which the shares of Securities were originally issued are accurate and complete in all material respects as of the date hereof, unless as of a specific date therein in which case they shall be accurate as of such date (or, to the extent representations or warranties are qualified by materiality or Material Adverse Effect (as defined in such agreements), in all respects).

3.8 No Brokers or Finders**.** No Person has or will have, as a result of any act or omission of the Seller, any right, interest or valid claim against or upon the Buyer for any commission, fee or other compensation as a finder or broker, or in any similar capacity, in connection with the transactions contemplated by this Agreement.

4. Representations and Warranties of the Seller. The Seller hereby represents, warrants and covenants that:

4.1 Authorization. The Seller has full power and authority to enter into this Agreement, to perform its obligations hereunder and to consummate the transactions contemplated hereby and has taken all action necessary to authorize the execution and delivery of this Agreement, the performance of its obligations hereunder and the consummation of the transactions contemplated hereby.

4.2 Validity; Enforcement; No Conflicts. This Agreement has been duly and validly authorized, executed and delivered on behalf of the Seller and shall constitute the legal, valid and binding obligations of the Seller enforceable against the Seller in accordance with their respective terms, except as such enforceability may be limited by general principles of equity or to applicable bankruptcy, insolvency, reorganization, moratorium, liquidation and other similar laws relating to, or affecting generally, the enforcement of applicable creditors' rights and remedies. The execution, delivery and performance by the Seller of this Agreement and the consummation by the Seller of the transactions contemplated hereby will not (i) result in a violation of the organizational documents of United or (ii) conflict with, or constitute a default (or an event which with notice or lapse of time or both would become a default) under, or give to others any rights of termination, amendment, acceleration or cancellation of, any agreement,

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

indenture or instrument to which United is a party, or (iii) result in a violation of any law, rule, regulation, order, judgment or decree (including federal and state securities or "blue sky" laws) applicable to United, except in the case of clause (ii) above, for such conflicts, defaults or rights which would not, individually or in the aggregate, reasonably be expected to have a material adverse effect on the ability of the Seller to perform its obligations hereunder.

4.3 Ownership of Securities. The Seller is the record owner, and has good and valid title to, the Securities, free and clear of any charge, mortgage, pledge, security interest, lien, or encumbrance, other than restrictions on transfer imposed by applicable securities laws. The Seller is not a party to any option, warrant, right, contract, call, put or other agreement or commitment providing for the disposition or acquisition of any such Securities, nor is the Seller a party to any voting trust, proxy or other contract, agreement or understanding with respect to the voting of any such Securities. Upon delivery to the Buyer at the Closing of an assignment of the Securities, good and valid title to the Securities will pass to the Buyer, free and clear of any charge, mortgage, pledge, security interest, lien, or encumbrance, other than restrictions on transfer imposed by applicable securities laws.

4.4 Bring-Down of Representations and Warranties. All legal and factual representations and warranties made by the Seller to the Buyer in any prior agreements pursuant to which the Securities were originally issued are accurate and complete in all material respects as of the date hereof, unless as of a specific date therein in which case they shall be accurate as of such date (or, to the extent representations or warranties are qualified by materiality or Material Adverse Effect (as defined in such agreements), in all respects).

5. Miscellaneous.

5.1 Successors and Assigns. Except as otherwise provided herein, the terms and conditions of this Agreement shall inure to the benefit of and be binding upon the parties hereto and the respective successors and assigns of the parties. Nothing in this Agreement, express or implied, is intended to confer upon any party, other than the parties hereto or their respective successors and assigns, any rights, remedies, obligations or liabilities under or by reason of this Agreement, except as expressly provided in this Agreement.

5.2 Governing Law; Jurisdiction; Jury Trial. All questions concerning the construction, validity, enforcement and interpretation of this Agreement shall be governed by the internal laws of the State of New York, without giving effect to any choice of law or conflict of law provision or rule (whether of the State of New York or any other jurisdictions) that would cause the application of the laws of any jurisdictions other than the State of New York. Each party hereby irrevocably submits to the exclusive jurisdiction of the state or federal courts sitting in The City of New York, Borough of Manhattan, for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein, and hereby irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of any such court, that such suit, action or proceeding is brought in an inconvenient forum or that the venue of such suit, action or proceeding is improper. Each party hereby irrevocably waives personal service of process and consents to process being served in any such suit, action or proceeding by mailing a copy thereof to such party at the address for such notices to it under this Agreement and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any manner permitted by law. **EACH PARTY HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE, AND AGREES NOT TO REQUEST, A JURY TRIAL FOR THE ADJUDICATION OF ANY DISPUTE HEREUNDER OR IN CONNECTION WITH OR ARISING OUT OF THIS AGREEMENT OR ANY TRANSACTION CONTEMPLATED HEREBY**.

5.3 Titles and Subtitles. The titles and subtitles used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

5.4 Notices. All notices and other communications given or made pursuant to this Agreement shall be in writing and shall be deemed effectively given: (i) upon personal delivery to the Party to be notified; (ii) when sent by confirmed electronic mail or facsimile if sent during normal business hours of the recipient, and if not so confirmed, then on the next business day; (iii) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid; or (iv) one (1) day after deposit with a nationally recognized overnight courier, specifying next day delivery, with written verification of receipt.

5.5 Amendments and Waivers. Any term of this Agreement may be amended and the observance of any term of this Agreement may be waived (either generally or in a particular instance and either retroactively or prospectively), only with the written consent of the Buyer and the Seller. Any amendment or waiver effected in accordance with this paragraph shall be binding upon the Seller and the Buyer, provided that no such amendment shall be binding on a holder that does not consent thereto to the extent such amendment treats such party differently than any party that does consent thereto.

5.6 Severability. If one or more provisions of this Agreement are held to be unenforceable under applicable law, such provision shall be excluded from this Agreement and the balance of the Agreement shall be interpreted as if such provision were so excluded and shall be enforceable in accordance with its terms.

5.7 Entire Agreement. This Agreement represents the entire agreement and understanding between the parties concerning the Purchase and the other matters described herein and therein and supersede and replaces any and all prior agreements and understandings solely with respect to the subject matter hereof and thereof.

5.8 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

5.9 Interpretation. Unless the context of this Agreement clearly requires otherwise, (a) references to the plural include the singular, the singular the plural, the part the whole, (b) references to any gender include all genders, (c) “including” has the inclusive meaning frequently identified with the phrase “but not limited to” and (d) references to “hereunder” or “herein” relate to this Agreement.

5.10 No Third-Party Beneficiaries. This Agreement is intended for the benefit of the parties hereto and their respective permitted successors and assigns, and is not for the benefit of, nor may any provision hereof be enforced by, any other Person.

5.11 Survival. The representations, warranties and covenants of the Buyer and the Seller contained herein shall survive the Closing.

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

5.13 No Strict Construction. The language used in this Agreement will be deemed to be the language chosen by the parties to express their mutual intent, and no rules of strict construction will be applied against any party.

[SIGNATURES ON THE FOLLOWING PAGE]

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed and delivered as of the date provided above.

THE BUYER

ICONIC BRANDS, INC.

By: /s/ Richard DeCicco
Name: Richard DeCicco
Title: Chief Executive Officer

THE SELLER

/s/ Richard DeCicco
Richard DeCicco

THE SELLER'S WIRE INSTRUCTIONS

Bank Name:

Account Name:

Bank Address:

Routing Number:

Account Number:

Incoming USD International Wires
Swift Code:

[*Signature Page to United SPA*]

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

EXHIBIT 10.11

AMENDED AND RESTATED

LIMITED LIABILITY COMPANY AGREEMENT

OF

BELLISSIMA SPIRITS LLC

THIS AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT (as it may be amended from time to time in accordance with its terms, this "Agreement") dated as of July 26, 2021 (the "Effective Date"), of Bellissima Spirits LLC, a Nevada limited liability company (the "Company"), is entered into among the Persons listed on Annex A attached hereto or who are otherwise subsequently admitted as members of the Company pursuant to the terms of this Agreement (each such Person, in its capacity as a member of the Company, a "Member", and collectively, the "Members"). Certain capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in Annex B attached hereto.

RECITALS

WHEREAS, the Company was organized as a limited liability company under the laws of the State of Nevada on November 23, 2015 for the purpose of operating the business of the Company;

WHEREAS, the Company owns all of the intellectual property and know-how, whether protected, created or arising under domestic or international laws relating to the marketing or sale of wine or spirits under the (a) Bellissima brand name, which includes all Bellissima prosecco, sparkling wines and still wines products, or (b) the brand name Bella Sprizz, which includes all Bella Sprizz aperitifs and bitters products, including all: (i) trademarks and service marks (registered, unregistered, and those arising by common law), trade names, service names, brand names, trade dress rights, logos, corporate names, trade styles, logos, and other source or business identifiers and general intangibles of a like nature, together with the goodwill associated with any of the foregoing, except for the Botticelli Venus trademark, which is owned by Richard DeCicco and registered with the U.S. Patent and Trademark Office under the Registration Number 4053608, Serial Number 77950336, Class 033; (ii) patents, (iii) internet domain names; (iv) copyrights and mask work, database and design rights, whether or not registered or published and any rights arising from artwork, package labeling, designs, publicity, advertising copy and promotional materials; (v) trade secrets, know-how and similar confidential and proprietary information protected by the Uniform Trade Secrets Act or similar legislation; (vi) applications, registrations, renewals and extensions relating to the foregoing; (vii) intellectual property rights arising from or relating to the foregoing; (viii) rights to sue and recover at law or in equity for any past, present or future infringement, misappropriation, dilution, violation or other impairment of the foregoing; and (ix) contract rights relating to or under the foregoing;

WHEREAS, the Members entered into an operating agreement, dated as of November 15, 2015 (the "Operating Agreement");

WHEREAS, by way of Securities Purchase Agreement between the Company, its then current members and Iconic Brands, Inc. ("Iconic"), dated as of December 13, 2016, 51% of the Membership Interests of the Company were transferred to Iconic; and

WHEREAS, the parties hereto now desire to amend and restate the Operating Agreement and adopt and approve this Agreement as the operating agreement for the Company, to establish their respective rights and responsibilities and to govern their relationships as Members of the Company.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained in this Agreement, and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Name; Term.

(a) The name of the Company is Bellissima Spirits, LLC. The business of the Company may be conducted under any other name deemed necessary or desirable by the Members. The Manager (as defined below) shall give notice to the Members of any change to the name of the Company.

(b) The Company was previously formed as a limited liability company pursuant to the provisions of the Nevada Revised Statutes (the "NRS"), the Company is currently covered by the NRS. The rights, duties and liabilities of the Members and the Manager (as defined below) shall be as provided in the NRS for members and manager except as provided herein. To the extent that the rights, powers, duties, obligations and liabilities of any Member are different by reason of any provision of this Agreement than they would be under the NRS in the absence of such provision, this Agreement shall, to the extent permitted by the NRS, control.

(c) The term of the Company commenced on the date the Articles of Organization was filed with the Secretary of State of the State of Nevada and shall continue in existence perpetually until the Company is dissolved in accordance with the provisions of this Agreement.

2. Purpose. The Company is formed for the object and purpose of, and the nature of the business to be conducted and promoted by the Company is, engaging in any lawful act or activity for which limited liability companies may be formed under the NRS and engaging in any and all activities necessary or incidental to the foregoing.

3. Registered Office; Registered Agent. The address of the registered office of the Company in the State of Nevada is 3773 Howard Hughes Pkwy Ste 500S, Las Vegas, NV, 89169; and the name of the registered agent of the corporation in the State of Nevada at such address is Incorp Services, Inc.

4. Principal Office. The principal office address of the Company shall be 44 Seabro Avenue, Amityville, NY 11701, or such other place as the Manager (as defined below) may determine from time to time.

5. Members.

(a) The name, mailing address and Membership Interest percentage of each Member is set forth in Annex A attached hereto. The Members are the sole members of the Company and agree to be bound by the terms of this Agreement.

(b) Additional Members (each an "Additional Member", and collectively the "Additional Members") may be admitted to the Company only with the Consent of the Manager. This Agreement shall be amended to reflect the Additional Members as parties, and Annex A shall be amended to set forth the information relating to said Additional Member(s), including the amount of their capital contributions and percent ownership. The Members acknowledge and agree that the admission of Additional Members will reduce their proportionate rights with respect to the Company, including without limitation their ownership interest, and hereby consent to the admission of Additional Members and to such reductions. The Additional Members shall be required to execute this Agreement, as so amended as a condition to admission.

(c) A Member shall not withdraw or resign as a Member except upon the written consent of the Manager. Withdrawal will not release a Member from any obligations and liabilities under this Agreement accrued or incurred before the effective date of withdrawal.

6. Transfer of Membership Interests.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(a) The Company shall require each Person that acquires any Membership Interest (pursuant to a Transfer or otherwise) after the date hereof, as a condition to the effectiveness of such acquisition, to execute a joinder to this Agreement, whereupon such Person shall be bound by, and entitled to the benefits of and subject to the obligations of, the provisions of this Agreement as a Member of the Company; provided, however, that the Transferring Member will not be released from liabilities as a Member solely as a result of such Transfer, both with respect to obligations to the Company and to third parties, incurred prior to such Transfer.

(b) No Transfer of any Membership Interest shall become effective unless and until: (i) such Transfer constitutes a Transfer of all of the Transferring Member's Membership Interest; (ii) the transferee (unless already subject to this Agreement) executes and delivers to the Company a joinder agreement, agreeing to be treated in the same manner as the Transferring Member pursuant to Section 6(a); and (iii) such Transfer is made in compliance with this Section 6. Any Transfer of a Membership Interest by a Member not made in accordance with this Section 6 shall be void *ab initio*.

(c) Preemptive Rights.

(i) If the Company proposes to issue any additional Membership Interests to any Person after the date hereof ("Additional Membership Interests"), the Company shall, before such issuance, deliver to each Member a written notice offering to issue to the Members such Additional Membership Interests upon the terms set forth in this Section 6(c) (the "Preemptive Offer Notice"). The Preemptive Offer Notice shall state that the Company proposes to issue Additional Membership Interests and shall set forth the number and terms and conditions (including the purchase price) of such Additional Membership Interests. The offer (the "Preemptive Offer") shall remain open and irrevocable for a period of twenty (20) business days (the "Preemptive Offer Period") from the date of its delivery.

(ii) Each Member may accept the Preemptive Offer by delivering to the Company a notice (the "Purchase Notice") at any time during the Preemptive Offer Period. The Purchase Notice shall state the percentage (the "Preemptive Offer Percentage") of Additional Membership Interests such Member desires to purchase. If the sum of all Preemptive Offer Percentage exceeds the number of Additional Membership Interests, the Additional Membership Interests shall be allocated among the Members that delivered a Purchase Notice in accordance with their respective Membership Interest at the time of the Preemptive Offer.

(iii) The issuance of Additional Membership Interests to the Members shall be made on a business day, as designated by the Company, not more than sixty (60) days after expiration of the Preemptive Offer Period on those terms and conditions of the Preemptive Offer not inconsistent with this Section 6(c).

(iv) If the number of Additional Membership Interests exceeds the sum of all Preemptive Offer Percentages, the Company may issue such excess or any portion thereof on the terms and conditions set forth in the Preemptive Offer to any Person within ninety (90) days after expiration of the Preemptive Offer Period. If such issuance is not made within such ninety (90)-day period, the restrictions provided for in this Section 6(c) shall again become effective.

(d) Member's Right of First Refusal.

(i) If at any time a Member proposes to Transfer all or a portion of such Member's Membership Interest (a "Transferring Member"), then the Transferring Member shall promptly give the other Member (the "Non-Transferring Member") written notice of the Transferring Member's intention to make such Transfer (the "Transfer Notice"). The Transfer Notice shall include (A) a description of the Membership Interest to be Transferred (the "Offered Interest"), (B) the name(s) and address(es) of the prospective transferee(s), (C) the consideration proposed to be paid by such prospective transferee(s) in exchange for the Offered Interest and (D) the material terms and conditions upon which the proposed Transfer is to be made. The Transfer Notice shall certify that the Transferring Member has received a firm offer from the prospective transferee(s) and in good faith believes a binding agreement for the Transfer is obtainable on the terms set forth in the Transfer Notice. The Transfer Notice shall also include a copy of any written proposal, term sheet or letter of intent or other agreement relating to the proposed Transfer.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(ii) The Non-Transferring Member shall have an option for a period of twenty (20) days from delivery of the Transfer Notice to elect to purchase the Offered Interest at the same price and subject to the same material terms and conditions as described in the Transfer Notice. The Non-Transferring Member may exercise such purchase option and purchase the Offered Interest by notifying the Transferring Member in writing before the expiration of such twenty (20) day period. If the Non-Transferring Member gives the Transferring Member notice that it desires to purchase such Offered Interest (the "Purchasing Member"), then payment for the Offered Interest shall be by check or wire transfer, against delivery of the Offered Interest to be purchased at a place agreed upon between the parties and at the time of the scheduled closing therefor, which shall be no later than sixty (60) days after delivery to the Non-Transferring Member of the Transfer Notice, unless the Transfer Notice contemplated a later closing with the prospective third-party transferee(s) or unless the value of the purchase price has not yet been established pursuant to Section 6(d)(iii).

(iii) Should the purchase price specified in the Transfer Notice be payable in property other than cash or evidences of indebtedness, the Purchasing Member shall have the right to pay the purchase price in the form of cash equal in amount to the fair market value of such property. If the Transferring Member and the Purchasing Member cannot agree on such cash value within fifteen (15) days after delivery to the Non-Transferring Member of the Transfer Notice, the valuation shall be made by an appraiser of recognized standing mutually selected by the Transferring Member and the Purchasing Member or, if they cannot agree on an appraiser within twenty (20) days after delivery to the Non-Transferring Member of the Transfer Notice, each shall select an appraiser of recognized standing and those appraisers shall designate a third appraiser of recognized standing, whose appraisal shall be determinative of such value. The cost of such appraisal shall be shared equally by the Transferring Member and the Purchasing Member. If the time for the closing of the Purchasing Member's purchase has expired but the determination of the value of the purchase price offered by the prospective transferee(s) has not been finalized, then such closing shall be held on or prior to the fifth business day after such valuation shall have been made pursuant to this Section 6(d)(iii).

(e) Right of Co-Sale. If the Non-Transferring Member does not exercise its right of refusal pursuant to Section 6(d), such Non-Transferring Member shall have the right to participate in such Transfer of Membership Interest (the "Participating Member") to such-third party transferee(s) on the same terms and conditions as specified in the Transfer Notice upon providing the Transferring Member with written notice of the Participating Member's intention to participate in such Transfer within thirty (30) days after delivery of the Transfer Notice.

(f) Notwithstanding anything herein to the contrary, the net proceeds of any Transfer of a Membership Interest governed by this Section 6 shall be apportioned in accordance with their respective distribution priorities set forth in Section 13(b), and after making all allocations required by this Agreement.

(g) Non-Exercise of Rights. If the Non-Transferring Member does not exercise its right of first refusal pursuant to Section 6(d) or its right of co-sale pursuant to Section 6(e), the Transferring Member shall have a period of thirty (30) days from the expiration of such rights in which to Transfer the Offered Interest upon the terms and conditions (including the purchase price) no more favorable than those specified in the Transfer Notice, to the third-party transferee(s) identified in the Transfer Notice. The third-party transferee(s) shall acquire the Offered Interest free and clear of any subsequent right of first refusal or co-sale right under this Agreement. In the event that the Transferring Member does not consummate the Transfer of the Offered Interest within the thirty (30) day period from the expiration of these rights, the Non-Transferring Member's right of first refusal and co-sale right shall continue to be applicable to any subsequent disposition of the Offered Interest by the Transferring Member until such right lapses in accordance with the terms of this Agreement. Furthermore, the exercise or non-exercise of the rights of the Non-Transferring Member under Section 6(d) and Section 6(e) shall not adversely affect its rights to make subsequent purchases from the Non-Transferring Member or participate in subsequent Transfers of Membership Interests by the Non-Transferring Member.

7. Powers. The Company shall have the power to do any and all acts necessary or convenient to or for the furtherance of the purposes described herein, including all powers, statutory or otherwise, granted under the laws of the State of Nevada. Richard DeCicco is hereby designated as an authorized person, within the meaning of the NRS, to execute, deliver and file any amendments and/or restatements to the Certificate of Formation of the Company and any other certificates (and any amendments and/or restatements thereof) necessary for the Company to

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

qualify to do business in any jurisdiction in which the Company may wish to conduct business as well as such other agreements and instruments in connection with matters and transactions otherwise approved by the Company with respect to conduct of its business.

8. Management.

(a) Except for situations in which the approval of any Member(s) is specifically required by this Agreement, all management powers over the business and affairs of the Company shall be exclusively vested in one or more managers who shall be appointed by the Members. The Members hereby appoint Richard DeCicco as the sole Manager of the Company (the "Manager") and the Manager hereby accepts such appointment and agrees to be bound by the provisions of this Agreement. To the extent permitted by law, the Manager shall be the only person authorized to act on behalf of and to bind the Company in all respects, without any further consent, vote or approval of any of the Members, and the Manager's powers shall include, without limitation, the authority to negotiate, complete, execute and deliver any and all agreements, deeds, instruments, receipts, certificates and other documents on behalf of the Company, and to take all such other actions on behalf of the Company as the Manager may consider necessary, appropriate or advisable in connection with the management of the business and affairs of the Company. The Manager's acts on behalf of the Company shall be conclusive evidence of his authority to act on behalf of and to bind the Company. Provided, however, that the Company shall not enter into any transaction that would constitute or involve a Capital Event, without the prior unanimous written consent of the Members.

(b) The Manager may resign at any time by giving written notice to the Members and may be removed by a vote of the Members holding a majority of the Membership Interests at any time upon written notice to the Manager. The resignation or removal of the Managing Member shall not affect his rights as a Member and shall not constitute a withdrawal of such Member. Further, unless otherwise specified in the notice, the resignation shall take effect upon receipt thereof by the Members, and the acceptance of the resignation shall not be necessary to make it effective.

(c) The Members agree that all determinations, decisions and actions made or taken by the Manager in accordance with this Agreement shall be conclusive and absolutely binding upon the Company, the Members and their respective successors, assigns and personal representatives. No other Member of the Company shall have any authority or right to act on behalf of or bind the Company, unless otherwise provided herein or unless specifically authorized by the Manager pursuant to a resolution expressly authorizing such action which resolution is duly adopted by the Manager.

(d) Persons dealing with the Company are entitled to rely conclusively upon the power and authority of the Manager as herein set forth.

(e) The Manager may appoint individuals as officers of the Company (the "Officers") as it deems necessary or desirable to carry on the business of the Company and the Manager may delegate to such Officers such power and authority as the Manager deems advisable. No Officer need be a Member of the Company. Any individual may hold two or more offices of the Company. Each Officer shall hold office until his successor is designated by the Manager or until his earlier death, resignation or removal. Any Officer may resign at any time upon written notice to the Manager. Any Officer may be removed by the Manager with or without cause at any time. A vacancy in any office occurring because of death, resignation, removal or otherwise, may, but need not, be filled by the Manager.

(f) The Manager and each duly appointed officer are authorized and empowered to open bank accounts and brokerage accounts on behalf of the Company with any banks or other financial institutions, and designate the persons authorized to sign checks, notes, drafts, bills of exchange, acceptances, undertakings or orders for payment of money from funds of the Company on deposit in such accounts, as may be deemed by the Manager

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

or such duly appointed officer, or any of them, to be necessary, appropriate or otherwise in the best interests of the Company.

(g) The Manager shall keep the other Members reasonably informed on a timely basis of any material fact, information, litigation, employee relations or other matter that could reasonably be expected to have a material impact on the operations or financial position of the Company. The Manager shall provide all material information relating to the Company or the management or operation of the Company as any Member may reasonably request from time to time.

(h) Nothing contained in this Agreement shall prevent any Member, including the Manager, from engaging in any other activities or businesses, regardless of whether those activities or businesses are similar to or competitive with the Company or the Fund. None of the Members shall be obligated to account to the Company or to the other Member for any profits or income earned or derived from other such activities or businesses. In addition, none of the Members shall be obligated to inform the Company or the other Member of any business opportunity of any type or description.

9. Capital Contributions. In connection with the execution of this Agreement, no additional contributions to the capital of the Company are being made by the Members.

10. Additional Contributions.

(a) No Member shall be required to make any additional Capital Contributions ("Additional Capital Contributions") to the Company. The Manager may, in its sole and absolute discretion, but shall in no event be obligated to, offer to one or more Members the opportunity to make Additional Capital Contributions in an amount deemed appropriate by the Manager in cash at any time that the Manager determines in its sole and absolute discretion.

(b) If the Manager at any time or from time to time determines to permit Additional Capital Contributions from Members, the Manager shall give Notice to each Member that the Company is permitting Additional Capital Contributions and the date on which funds from each Member who decides to make an Additional Capital Contribution will be due and payable.

11. Intentionally Omitted.

12. Intentionally Omitted.

13. Distribution. Subject to applicable law, the Manager may cause the Company to make distributions in accordance with Section 13(a) and Section 13(b) below at such times and in such amounts as the Manager may determine in the Manager's sole discretion.

(a) Distributions of Available Cash Flow. The Manager may cause the Company to make distributions of Available Cash Flow to the Members pro rata in accordance with their Cash Flow Ratios.

(b) Distributions of Net Proceeds from Capital Events. The Manager shall cause the Company to make distributions of net proceeds attributable to Capital Events to the Members pro rata in accordance with their Membership Interest percentage as set forth opposite each Member's name in Annex A attached hereto.

14. Fiscal Year; Tax Matters.

(a) The Fiscal Year of the Company for accounting and tax purposes shall begin on January 1 and end on December 31 of each year, except for the short taxable years in the years of the Company's formation and termination.

(b) If requested by the Manager, each Member shall, if able to do so, deliver to the Manager: (i) an affidavit in form satisfactory to the Manager that the applicable Member (or its members, as the case may be) is not

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

subject to withholding under the provisions of any federal, state, local, foreign or other law; (ii) any certificate that the Manager may reasonably request with respect to any such laws; and (iii) any other form or instrument reasonably requested by the Manager relating to any Member's status under such law. If a Member fails or is unable to deliver to the Manager any such requested affidavit, certificate or other form or instrument reasonably satisfactory to the Manager, then the Manager may withhold amounts from such Member in accordance with Section 14(c) below.

(c) To the extent the Company is required by law to withhold or to make tax payments on behalf of or with respect to any Member ("Withholding Advances"), the Manager may withhold such amounts and make such tax payments as so required. All Withholding Advances made on behalf of a Member shall (i) be paid on demand by the Member on whose behalf such Withholding Advances were made, or (ii) with the consent of the Manager, in its sole discretion, be repaid by reducing the amount of the current or next succeeding distribution or distributions which would otherwise have been made to such Member or, if such distributions are not sufficient for that purpose, by so reducing the proceeds of liquidation otherwise payable to such Member. Notwithstanding the foregoing, whenever repayment of a Withholding Advance by a Member is made as described in clause (ii), for all other purposes of this Agreement such Member shall be treated as having received all distributions (whether before or upon dissolution) unreduced by the amount of such Withholding Advance. The liability and obligation of a Member under clause (i) of this Section 14(c) shall survive any sale, exchange, liquidation, retirement or other disposition of such Member's interest in the Company.

(d) Tax Status.

(i) It is the intention of the Company and the Members that the Company shall be treated as a U.S. corporation for federal and all relevant state income tax purposes. All provisions of this Agreement are to be construed to preserve the Company's tax status as a U.S. corporation.

(ii) Each Member shall, promptly upon request, provide to the Company duly completed and executed documentation and other documents, information and instruments required under any tax law or regulation applicable with respect to the Company or such Member that is necessary in order for the Company to (A) comply with the requirements imposed on the Company by any such tax law or regulation, or (B) avoid, mitigate, reduce or exempt the Company from the application of liability or other obligation under, or to enable the Company to elect not to have apply to it, any documentation, information collection, reporting, payment or withholding liability or obligation imposed on the Company by any such tax law or regulation. In the case of a Member that is (or becomes) treated as a partnership, S corporation, trust or other fiscally transparent entity or that is (or becomes) treated as an intermediary with respect to direct or indirect holders of interests in such Member for purposes of any such tax law or regulation, the obligation of such Member under the immediately preceding sentence shall include providing such documentation and other documents, information and instruments with respect to the direct or indirect holders of interests in such Member.

(e) The Company and the Members intend for the amendments made pursuant to this Agreement to be treated as a "recapitalization" of the Company within the meaning of Section 368(a)(1)(E) of the Code. The Company and each Member agrees not to take any position inconsistent with such characterization on any tax return, before any tax authority, or in any proceeding relating to taxes, unless otherwise required by a final determination by any tax authority.

15. Books and Records. Proper and complete records and books of account of the business of the Company shall be maintained at the Company's principal place of business. The Members and their duly authorized representatives may, for any reason reasonably related to their interest as Members of the Company, examine the Company's books of account. The Members shall maintain the records of the Company for three years following the termination of the Company.

16. Liability of Members. The Members shall not have any liability for the obligations or liabilities of the Company except to the extent provided in the NRS.

17. Minority Member's Right of First Refusal.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(a) If at any time the Company proposes to Transfer all or substantially all of the assets of the Company, then the Company shall promptly give the Members written notice of the Company's intention to make such Transfer (the "Asset Sale Notice"). The Asset Sale Notice shall include (A) a description of the assets to be Transferred (the "Offered Assets"), (B) the name(s) and address(es) of the prospective transferee(s), (C) the consideration proposed to be paid by such prospective transferee(s) in exchange for the Offered Assets and (D) the material terms and conditions upon which the proposed Transfer is to be made. The Asset Sale Notice shall certify that the Company has received a firm offer from the prospective transferee(s) and in good faith believes a binding agreement for the Transfer is obtainable on the terms set forth in the Asset Sale Notice. The Asset Sale Notice shall also include a copy of any written proposal, term sheet or letter of intent or other agreement relating to the proposed Transfer.

(b) The Minority Member shall have an option for a period of twenty (20) days from delivery of the Asset Sale Notice to the Members to elect to purchase the Offered Assets at the same price and subject to the same material terms and conditions as described in the Asset Sale Notice. The Minority Member may exercise such purchase option and purchase the Offered Assets by notifying the Company in writing before the expiration of such twenty (20) day period. If the Minority Member gives the Company notice that he desires to purchase such Offered Assets, then payment for the Offered Assets shall be by check or wire transfer, against delivery of the Offered Assets to be purchased at a place agreed upon between the Company and the Minority Member and at the time of the scheduled closing therefor, which shall be no later than sixty (60) days after delivery to the Members of the Asset Sale Notice, unless the Asset Sale Notice contemplated a later closing with the prospective third-party transferee(s) or unless the value of the purchase price has not yet been established pursuant to Section 17(c).

(c) Should the purchase price specified in the Asset Sale Notice be payable in property other than cash or evidences of indebtedness, the Minority Member shall have the right to pay the purchase price in the form of cash equal in amount to the fair market value of such property. If the Company and the Minority Member cannot agree on such cash value within fifteen (15) days after delivery to the Members of the Asset Sale Notice, the valuation shall be made by an appraiser of recognized standing mutually selected by the Company and the Minority Member or, if they cannot agree on an appraiser within twenty (20) days after delivery to the Members of the Asset Sale Notice, each shall select an appraiser of recognized standing and those appraisers shall designate a third appraiser of recognized standing, whose appraisal shall be determinative of such value. The cost of such appraisal shall be shared equally by the Company and the Minority Member. If the time for the closing of the Minority Member's purchase has expired but the determination of the value of the purchase price offered by the prospective transferee(s) has not been finalized, then such closing shall be held on or prior to the fifth business day after such valuation shall have been made pursuant to this Section 17(c).

18. Dissolution. The Company shall dissolve, and its affairs shall be wound up upon the first to occur of the following: (i) the written consent of all of the Members, (ii) the death, retirement, resignation, expulsion, bankruptcy or dissolution of the Members or the occurrence of any other event which terminates the continued membership of the Members in the Company, including the disposition of all of the Members' interest in the Company, unless the business of the Company is continued by the consent of all of any remaining members of the Company within 90 days following the occurrence of any such event or in a manner permitted by the NRS, or (iii) the entry of a decree of judicial dissolution under the NRS.

19. Procedures Upon Dissolution. Upon dissolution of the Company, the Company shall be terminated, and the Manager, or if there is no Manager, such other Person(s) appointed in accordance with applicable law to wind up the Company's affairs (the "Liquidator(s)") shall liquidate the assets of the Company as promptly as possible, but in an orderly and businesslike manner so as to not involve undue sacrifice. The proceeds of liquidation shall be applied and distributed in the following order of priority:

(a) first, to the payment of the debts and liabilities of the Company (other than any loans or advances made by any of the Members to the Company) and the expenses of liquidation;

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(b) second, to the creation of any reserves that the Liquidator(s) deem(s) reasonably necessary for the payment of any contingent or unforeseen liabilities or obligations of the Company arising out of or in connection with the business and operation of the Company;

(c) third, to the payment of any loans or advances made by any of the Members to the Company; and

(d) thereafter, to the Members and the Manager in accordance with their respective distribution priorities set forth in Section 13(b) of this Agreement.

20. Indemnification. To the full extent permitted by the NRS and applicable law, the Company shall (a) indemnify the Manager, and any director or officer of the Company or such person's heirs, distributees, next of kin, successors, appointees, executors, administrators, legal representatives or assigns who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative by reason of the fact that such person is or was a Manager, director or officer of the Company or is or was serving at the request of the Company or as a Manager, director or officer of another corporation, limited liability company, partnership, joint venture, trust or other enterprise, domestic or foreign, on or after the date hereof, against expenses, attorneys' fees, court costs, judgments, fines, amounts paid in settlement and other losses actually and reasonably incurred by such person in connection with such action, suit or proceeding and (b) advance expenses incurred by a Manager, officer or director in defending such civil or criminal action, suit or proceeding to the full extent authorized or permitted by the laws of the State of Nevada. A Manager shall have no personal liability to the Company or its members for monetary damages for breach of fiduciary duty as a Manager; provided, however, that the foregoing provision shall not eliminate the liability of a Manager for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law or for any transaction from which the Manager derived an improper personal benefit. The provisions of this Section 20 shall survive the dissolution, liquidation, winding up and termination of the Company.

21. Amendments. This Agreement may not be amended or modified except by the unanimous written consent of the Members.

22. Governing Law. This Agreement shall be governed by, and construed under, the laws of the State of Nevada, all rights and remedies being governed by said laws. The Members intend the provisions of the NRS to be controlling as to any matters not set forth in this Agreement.

23. Reimbursement. The Company shall reimburse the Manager for all expenses incurred by him on behalf of the Company, including, without limitation, expenses incurred in connection with the establishment of the Company, all legal, audit and accounting expenses, investment expenses such as commissions, research fees, service contracts for quotation equipment and newswires, borrowing charges on securities sold short and other borrowing charges, custodian fees, bank service fees, fees or expenses associated with insuring the Company's assets, insurance premiums benefiting the Company and/or its Members and any reasonable expenses related to the purchase, sale or transmittal of the Company's assets as shall be determined by the Managers in their sole discretion. Any reimbursement by the Company to the Manager shall be treated as an expense of the Company that shall be deducted in computing net profits and net losses and such reimbursement shall be made out of the assets of the Company (including the proceeds of the initial sale of Membership Interests) to the extent possible. The Manager's determination of which expenses may be reimbursed, and the amount thereof shall be conclusive. The Manager shall be entitled to charge all Members in accordance with their ownership interest to the extent necessary in order to collect full reimbursement hereunder. The obligations of the Manager to be performed under this Agreement will not be affected by a failure of the Company to reimburse expenses.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

24. Assignments and Substitution. A Member may not assign in whole or in part his or her limited liability company interest in the Company or cause an assignee of all or part of such interest to be admitted as a member of the Company without, in each case, the written consent of the Manager to such assignment and/or admission. The assignment of a limited liability company interest in the Company to a minor or person adjudged insane or incompetent is prohibited, and the consent of the Members to any such transfer or assignment shall be void and of no effect. Any purported assignment of a limited liability company interest in violation of the provisions of this Agreement shall be of no effect as between the Company and the purported assignee and shall be unenforceable as against the Company or the Members.

25. Agreement in Counterparts. This Agreement may be executed in any number of counterparts, and all counterparts so executed shall together constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart.

26. Captions. Captions contained in this Agreement are inserted as a matter of convenience and in no way define, limit, extend or describe the scope of this Agreement or the intent of any provision hereof.

27. Partial Invalidity. If any provision of this Agreement is held to be invalid, unlawful or incapable of being enforced by reason of rule of law or public policy, all other provisions of this Agreement which can be given effect without such invalid, unlawful or unenforceable provisions shall, nevertheless, remain in full force and effect.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned, intending to be legally bound hereby, have duly executed this Agreement as of the day first above written.

MEMBERS:

Richard DeCicco

/s/ Richard DeCicco

Roseann Faltings

/s/ Roseann Faltings

PNBM Holdings LLC

By: /s/ Peter Levine
Name: Peter Levine
Title: Manager

Iconic Brands, Inc.

By: /s/ Richard DeCicco
Name: Richard DeCicco
Title: Chief Executive Officer

ANNEX A

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Name and Address of Member	*Membership Interest Percentage*
Richard DeCicco 44 Seabro Avenue Amityville, NY 11710	**15.34%**
Roseann Faltings 44 Seabro Avenue Amityville, NY 11710	**15.33%**
PNBM Holdings LLC 3 Butternut Road Randolph, NJ 07869	**15.33%**
Iconic Brands, Inc. 44 Seabro Avenue Amityville, NY 11710	**54%**

ANNEX B

Definitions

Definitions. When used in this Agreement, the following terms shall have the meanings set forth below:

"Additional Capital Contributions" is defined in Section 9.

"Additional Membership Interests" is defined in Section 6(c)(i).

"Agreement" means this amended and restated limited liability company agreement, as originally executed and as amended from time to time.

"Asset Sale Notice" is defined in Section 17(a).

"Available Cash Flow" means the gross receipts and other miscellaneous revenue derived from Company operations (but not including proceeds from a Capital Event) less all cash operating expenses of the Company including, without limitation, (i) debt service on any Company loans, (ii) taxes and other fees incurred in connection with the operation of the Company, and (iii) increases, if any, in reserves established by the Manager from time to time for working capital and other purposes.

"Capital Contribution" means the total amount of cash and fair market value of property contributed to the Company by the Members.

"Capital Event" means any transaction or series of related transactions involving: (i) any merger, acquisition, consolidation, conversion, amalgamation, business combination, reorganization, recapitalization, tender offer, exchange offer or issuance of securities involving a change of ownership or control (whether in whole or in part and whether the Company will survive or exist after such change) of the Company; (ii) the Transfer of a Membership Interest by a Member, other than to another Member; (iii) the sale, exchange or other disposition of a capital asset of the Company; (iv) any insurance or other payments derived from losses or damage to, or the involuntary conversion of, a capital asset; (v) the refinancing of the Company's indebtedness; and (vi) similar events. For purposes of this definition, the phrase "other disposition" includes a taking of all or substantially all of a property by eminent domain or the damage or destruction of all or substantially all of such property or any transaction not in the ordinary course of

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

business which results in the Company's receipt of cash or other consideration including condemnations, recoveries of damage awards and insurance proceeds.

"Cash Flow Ratios" of the Members with respect to any distribution of Available Cash Flow pursuant to Section 13(a) shall be as follows:

Iconic Brands, Inc.	100%
Richard DeCicco	0%
PNBM Holdings LLC	0%
Roseann Faltings	0%

"Code" means the Internal Revenue Code of 1986, as amended from time to time, the provisions of succeeding law, and to the extent applicable, the Treasury Regulations.

"Manager" means a Person that manages the business and affairs of the Company as provided herein.

"Member" means a Person who acquires a Membership Interest, as permitted under this Agreement.

"Membership Interest" means a Member's entire interest in the Company including the right to vote on or participate in the management, and the right to receive information concerning the business and affairs, of the Company. Each Member's Membership Interest percentage is set forth opposite each Member's name in Annex A.

"Minority Member" means Richard DeCicco, an individual residing at 44 Seabro Avenue, Amityville, New York 11710 and his successors and assigns.

"Non-Transferring Member" is defined in Section 5(f)(i).

"Offered Assets" is defined in Section 17(a).

"Offered Interest" is defined in Section 5(f)(i).

"Participating Member" is defined in Section 6(e).

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

"Preemptive Offer" is defined in Section 6(c)(i).

"Preemptive Offer Notice" is defined in Section 6(c)(i).

"Preemptive Offer Percentage" is defined in Section 6(c)(ii).

"Preemptive Offer Period" is defined in Section 6(c)(i).

"Purchase Notice" is defined in Section 6(c)(ii).

"Purchasing Member" is defined in Section 6(e)(ii).

"Transfer" means any voluntary or involuntary transfer, sale, pledge or hypothecation or other disposition, whether directly or indirectly and whether through one or a series of transactions (including by way of a Change of Control of any Member), and, as a verb, voluntarily or involuntarily to transfer, sell, pledge or hypothecate or otherwise dispose of, whether directly or indirectly and whether through one or a series of transactions.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

"Transfer Notice" is defined in Section 5(f)(i).

"Transferring Member" is defined in Section 5(f)(i).

"Treasury Regulations" means the final or temporary regulations that have been issued by the U.S. Department of Treasury pursuant to its authority under the Code, and any successor regulations.

"Withholding Advances" is defined in Section 13.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

EXHIBIT 10.12

AMENDED AND RESTATED

LIMITED LIABILITY COMPANY AGREEMENT

OF

BIVI LLC

THIS LIMITED LIABILITY COMPANY AGREEMENT (as it may be amended from time to time in accordance with its terms, this "Agreement") dated as of July 26, 2021 (the "Effective Date"), of BiVi LLC, a Nevada limited liability company (the "Company"), is entered into among the Persons listed on Annex A attached hereto or who are otherwise subsequently admitted as members of the Company pursuant to the terms of this Agreement (each such Person, in its capacity as a member of the Company, a "Member", and collectively, the "Members"). Certain capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in Annex B attached hereto.

RECITALS

WHEREAS, the Company was organized as a limited liability company under the laws of the State of Nevada on May 4, 2015 for the purpose of operating the business of the Company;

WHEREAS, the Company owns all of the intellectual property and know-how, whether protected, created or arising under domestic or international laws relating to the marketing or sale of wine or spirits under the BiVi brand name including all: (i) patents; (ii) trademarks and service marks (registered, unregistered, and those arising by common law), trade names, service names, brand names, trade dress rights, logos, corporate names, trade styles, logos, and other source or business identifiers and general intangibles of a like nature, together with the goodwill associated with any of the foregoing; (iii) internet domain names; (iv) copyrights and mask work, database and design rights, whether or not registered or published and any rights arising from artwork, package labeling, designs, publicity, advertising copy and promotional materials; (v) trade secrets, know-how and similar confidential and proprietary information protected by the Uniform Trade Secrets Act or similar legislation; (vi) applications, registrations, renewals and extensions relating to the foregoing; (vii) intellectual property rights arising from or relating to the foregoing; (viii) rights to sue and recover at law or in equity for any past, present or future infringement, misappropriation, dilution, violation or other impairment of the foregoing; and (ix) contract rights relating to or under the foregoing;

WHEREAS, the Members entered into an operating agreement, dated as of May 15, 2015 (the "Operating Agreement");

WHEREAS, by way of Securities Exchange Agreement between the Company, its then current members and Iconic Brands, Inc. ("Iconic"), dated as of May 15, 2015, 51% of the Membership Interests of the Company were transferred to Iconic; and

WHEREAS, the parties hereto now desire to amend and restate the Operating Agreement, and adopt and approve this Agreement as the operating agreement for the Company, to establish their respective rights and responsibilities and to govern their relationships as Members of the Company.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained in this Agreement, and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Name; Term.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(a) The name of the Company is BiVi, LLC. The business of the Company may be conducted under any other name deemed necessary or desirable by the Members. The Manager (as defined below) shall give notice to the Members of any change to the name of the Company.

(b) The Company was previously formed as a limited liability company pursuant to the provisions of the Nevada Revised Statutes (the "NRS"), the Company is currently covered by the NRS. The rights, duties and liabilities of the Members and the Manager (as defined below) shall be as provided in the NRS for members and manager except as provided herein. To the extent that the rights, powers, duties, obligations and liabilities of any Member are different by reason of any provision of this Agreement than they would be under the NRS in the absence of such provision, this Agreement shall, to the extent permitted by the NRS, control.

(c) The term of the Company commenced on the date the Articles of Organization was filed with the Secretary of State of the State of Nevada and shall continue in existence perpetually until the Company is dissolved in accordance with the provisions of this Agreement.

2. Purpose. The Company is formed for the object and purpose of, and the nature of the business to be conducted and promoted by the Company is, engaging in any lawful act or activity for which limited liability companies may be formed under the NRS and engaging in any and all activities necessary or incidental to the foregoing.

3. Registered Office; Registered Agent. The address of the registered office of the Company in the State of Nevada is 3773 Howard Hughes Pkwy Ste 500S, Las Vegas, NV, 89169; and the name of the registered agent of the corporation in the State of Nevada at such address is Incorp Services, Inc.

4. Principal Office. The principal office address of the Company shall be 44 Seabro Avenue, Amityville, NY 11701, or such other place as the Manager (as defined below) may determine from time to time.

5. Members.

(a) The name, mailing address and Membership Interest percentage of each Member is set forth in Annex A attached hereto. The Members are the sole members of the Company and agree to be bound by the terms of this Agreement.

(b) Additional Members (each an "Additional Member", and collectively the "Additional Members") may be admitted to the Company only with the Consent of the Manager. This Agreement shall be amended to reflect the Additional Members as parties, and Annex A shall be amended to set forth the information relating to said Additional Member(s), including the amount of their capital contributions and percent ownership. The Members acknowledge and agree that the admission of Additional Members will reduce their proportionate rights with respect to the Company, including without limitation their ownership interest, and hereby consent to the admission of Additional Members and to such reductions. The Additional Members shall be required to execute this Agreement, as so amended as a condition to admission.

(c) A Member shall not withdraw or resign as a Member except upon the written consent of the Manager. Withdrawal will not release a Member from any obligations and liabilities under this Agreement accrued or incurred before the effective date of withdrawal.

6. Transfer of Membership Interests.

(a) The Company shall require each Person that acquires any Membership Interest (pursuant to a Transfer or otherwise) after the date hereof, as a condition to the effectiveness of such acquisition, to execute a joinder to this Agreement, whereupon such Person shall be bound by, and entitled to the benefits of and subject to the obligations of, the provisions of this Agreement as a Member of the Company; provided, however, that the Transferring Member will not be released from liabilities as a Member solely as a result of such Transfer, both with respect to obligations to the Company and to third parties, incurred prior to such Transfer.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(b) No Transfer of any Membership Interest shall become effective unless and until: (i) such Transfer constitutes a Transfer of all of the Transferring Member's Membership Interest; (ii) the transferee (unless already subject to this Agreement) executes and delivers to the Company a joinder agreement, agreeing to be treated in the same manner as the Transferring Member pursuant to Section 6(a); and (iii) such Transfer is made in compliance with this Section 6. Any Transfer of a Membership Interest by a Member not made in accordance with this Section 6 shall be void *ab initio*.

(c) Preemptive Rights.

(i) If the Company proposes to issue any additional Membership Interests to any Person after the date hereof ("Additional Membership Interests"), the Company shall, before such issuance, deliver to each Member a written notice offering to issue to the Members such Additional Membership Interests upon the terms set forth in this Section 6(c) (the "Preemptive Offer Notice"). The Preemptive Offer Notice shall state that the Company proposes to issue Additional Membership Interests and shall set forth the number and terms and conditions (including the purchase price) of such Additional Membership Interests. The offer (the "Preemptive Offer") shall remain open and irrevocable for a period of twenty (20) business days (the "Preemptive Offer Period") from the date of its delivery.

(ii) Each Member may accept the Preemptive Offer by delivering to the Company a notice (the "Purchase Notice") at any time during the Preemptive Offer Period. The Purchase Notice shall state the percentage (the "Preemptive Offer Percentage") of Additional Membership Interests such Member desires to purchase. If the sum of all Preemptive Offer Percentage exceeds the number of Additional Membership Interests, the Additional Membership Interests shall be allocated among the Members that delivered a Purchase Notice in accordance with their respective Membership Interest at the time of the Preemptive Offer.

(iii) The issuance of Additional Membership Interests to the Members shall be made on a business day, as designated by the Company, not more than sixty (60) days after expiration of the Preemptive Offer Period on those terms and conditions of the Preemptive Offer not inconsistent with this Section 6(c).

(iv) If the number of Additional Membership Interests exceeds the sum of all Preemptive Offer Percentages, the Company may issue such excess or any portion thereof on the terms and conditions set forth in the Preemptive Offer to any Person within ninety (90) days after expiration of the Preemptive Offer Period. If such issuance is not made within such ninety (90)-day period, the restrictions provided for in this Section 6(c) shall again become effective.

(d) Member's Right of First Refusal.

(i) If at any time a Member proposes to Transfer all or a portion of such Member's Membership Interest (a "Transferring Member"), then the Transferring Member shall promptly give the other Member (the "Non-Transferring Member") written notice of the Transferring Member's intention to make such Transfer (the "Transfer Notice"). The Transfer Notice shall include (A) a description of the Membership Interest to be Transferred (the "Offered Interest"), (B) the name(s) and address(es) of the prospective transferee(s), (C) the consideration proposed to be paid by such prospective transferee(s) in exchange for the Offered Interest and (D) the material terms and conditions upon which the proposed Transfer is to be made. The Transfer Notice shall certify that the Transferring Member has received a firm offer from the prospective transferee(s) and in good faith believes a binding agreement for the Transfer is obtainable on the terms set forth in the Transfer Notice. The Transfer Notice shall also include a copy of any written proposal, term sheet or letter of intent or other agreement relating to the proposed Transfer.

(ii) The Non-Transferring Member shall have an option for a period of twenty (20) days from delivery of the Transfer Notice to elect to purchase the Offered Interest at the same price and subject to the same material terms and conditions as described in the Transfer Notice. The Non-Transferring Member may exercise such purchase option and purchase the Offered Interest by notifying the Transferring Member in writing before the expiration of such twenty (20) day period. If the Non-Transferring Member gives the Transferring Member notice that it desires to purchase such Offered Interest (the "Purchasing Member"), then payment for the Offered Interest shall be

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

by check or wire transfer, against delivery of the Offered Interest to be purchased at a place agreed upon between the parties and at the time of the scheduled closing therefor, which shall be no later than sixty (60) days after delivery to the Non-Transferring Member of the Transfer Notice, unless the Transfer Notice contemplated a later closing with the prospective third-party transferee(s) or unless the value of the purchase price has not yet been established pursuant to Section 6(d)(iii).

(iii) Should the purchase price specified in the Transfer Notice be payable in property other than cash or evidences of indebtedness, the Purchasing Member shall have the right to pay the purchase price in the form of cash equal in amount to the fair market value of such property. If the Transferring Member and the Purchasing Member cannot agree on such cash value within fifteen (15) days after delivery to the Non-Transferring Member of the Transfer Notice, the valuation shall be made by an appraiser of recognized standing mutually selected by the Transferring Member and the Purchasing Member or, if they cannot agree on an appraiser within twenty (20) days after delivery to the Non-Transferring Member of the Transfer Notice, each shall select an appraiser of recognized standing and those appraisers shall designate a third appraiser of recognized standing, whose appraisal shall be determinative of such value. The cost of such appraisal shall be shared equally by the Transferring Member and the Purchasing Member. If the time for the closing of the Purchasing Member's purchase has expired but the determination of the value of the purchase price offered by the prospective transferee(s) has not been finalized, then such closing shall be held on or prior to the fifth business day after such valuation shall have been made pursuant to this Section 6(d)(iii).

(e) Right of Co-Sale. If the Non-Transferring Member does not exercise its right of refusal pursuant to Section 6(d), such Non-Transferring Member shall have the right to participate in such Transfer of Membership Interest (the "Participating Member") to such-third party transferee(s) on the same terms and conditions as specified in the Transfer Notice upon providing the Transferring Member with written notice of the Participating Member's intention to participate in such Transfer within thirty (30) days after delivery of the Transfer Notice.

(f) Notwithstanding anything herein to the contrary, the net proceeds of any Transfer of a Membership Interest governed by this Section 6 shall be apportioned in accordance with their respective distribution priorities set forth in Section 13(b), and after making all allocations required by this Agreement.

(g) Non-Exercise of Rights. If the Non-Transferring Member does not exercise its right of first refusal pursuant to Section 6(d) or its right of co-sale pursuant to Section 6(e), the Transferring Member shall have a period of thirty (30) days from the expiration of such rights in which to Transfer the Offered Interest upon the terms and conditions (including the purchase price) no more favorable than those specified in the Transfer Notice, to the third-party transferee(s) identified in the Transfer Notice. The third-party transferee(s) shall acquire the Offered Interest free and clear of any subsequent right of first refusal or co-sale right under this Agreement. In the event that the Transferring Member does not consummate the Transfer of the Offered Interest within the thirty (30) day period from the expiration of these rights, the Non-Transferring Member's right of first refusal and co-sale right shall continue to be applicable to any subsequent disposition of the Offered Interest by the Transferring Member until such right lapses in accordance with the terms of this Agreement. Furthermore, the exercise or non-exercise of the rights of the Non-Transferring Member under Section 6(d) and Section 6(e) shall not adversely affect its rights to make subsequent purchases from the Non-Transferring Member or participate in subsequent Transfers of Membership Interests by the Non-Transferring Member.

7. Powers. The Company shall have the power to do any and all acts necessary or convenient to or for the furtherance of the purposes described herein, including all powers, statutory or otherwise, granted under the laws of the State of Nevada. Richard DeCicco is hereby designated as an authorized person, within the meaning of the NRS, to execute, deliver and file any amendments and/or restatements to the Certificate of Formation of the Company and any other certificates (and any amendments and/or restatements thereof) necessary for the Company to qualify to do business in any jurisdiction in which the Company may wish to conduct business as well as such other agreements and instruments in connection with matters and transactions otherwise approved by the Company with respect to conduct of its business.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

8. Management.

(a) Except for situations in which the approval of any Member(s) is specifically required by this Agreement, all management powers over the business and affairs of the Company shall be exclusively vested in one or more managers who shall be appointed by the Members. The Members hereby appoint Richard DeCicco as the sole Manager of the Company (the "Manager") and the Manager hereby accepts such appointment and agrees to be bound by the provisions of this Agreement. To the extent permitted by law, the Manager shall be the only person authorized to act on behalf of and to bind the Company in all respects, without any further consent, vote or approval of any of the Members, and the Manager's powers shall include, without limitation, the authority to negotiate, complete, execute and deliver any and all agreements, deeds, instruments, receipts, certificates and other documents on behalf of the Company, and to take all such other actions on behalf of the Company as the Manager may consider necessary, appropriate or advisable in connection with the management of the business and affairs of the Company. The Manager's acts on behalf of the Company shall be conclusive evidence of his authority to act on behalf of and to bind the Company. Provided, however, that the Company shall not enter into any transaction that would constitute or involve a Capital Event, without the prior unanimous written consent of the Members.

(b) The Manager may resign at any time by giving written notice to the Members and may be removed by a vote of the Members holding a majority of the Membership Interests at any time upon written notice to the Manager. The resignation or removal of the Managing Member shall not affect his rights as a Member and shall not constitute a withdrawal of such Member. Further, unless otherwise specified in the notice, the resignation shall take effect upon receipt thereof by the Members, and the acceptance of the resignation shall not be necessary to make it effective.

(c) The Members agree that all determinations, decisions and actions made or taken by the Manager in accordance with this Agreement shall be conclusive and absolutely binding upon the Company, the Members and their respective successors, assigns and personal representatives. No other Member of the Company shall have any authority or right to act on behalf of or bind the Company, unless otherwise provided herein or unless specifically authorized by the Manager pursuant to a resolution expressly authorizing such action which resolution is duly adopted by the Manager.

(d) Persons dealing with the Company are entitled to rely conclusively upon the power and authority of the Manager as herein set forth.

(e) The Manager may appoint individuals as officers of the Company (the "Officers") as it deems necessary or desirable to carry on the business of the Company and the Manager may delegate to such Officers such power and authority as the Manager deems advisable. No Officer need be a Member of the Company. Any individual may hold two or more offices of the Company. Each Officer shall hold office until his successor is designated by the Manager or until his earlier death, resignation or removal. Any Officer may resign at any time upon written notice to the Manager. Any Officer may be removed by the Manager with or without cause at any time. A vacancy in any office occurring because of death, resignation, removal or otherwise, may, but need not, be filled by the Manager.

(f) The Manager and each duly appointed officer are authorized and empowered to open bank accounts and brokerage accounts on behalf of the Company with any banks or other financial institutions, and designate the persons authorized to sign checks, notes, drafts, bills of exchange, acceptances, undertakings or orders for payment of money from funds of the Company on deposit in such accounts, as may be deemed by the Manager or such duly appointed officer, or any of them, to be necessary, appropriate or otherwise in the best interests of the Company.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(g) The Manager shall keep the other Members reasonably informed on a timely basis of any material fact, information, litigation, employee relations or other matter that could reasonably be expected to have a material impact on the operations or financial position of the Company. The Manager shall provide all material information relating to the Company or the management or operation of the Company as any Member may reasonably request from time to time.

(h) Nothing contained in this Agreement shall prevent any Member, including the Manager, from engaging in any other activities or businesses, regardless of whether those activities or businesses are similar to or competitive with the Company or the Fund. None of the Members shall be obligated to account to the Company or to the other Member for any profits or income earned or derived from other such activities or businesses. In addition, none of the Members shall be obligated to inform the Company or the other Member of any business opportunity of any type or description.

9. Capital Contributions. In connection with the execution of this Agreement, no additional contributions to the capital of the Company are being made by the Members.

10. Additional Contributions.

(a) No Member shall be required to make any additional Capital Contributions ("Additional Capital Contributions") to the Company. The Manager may, in its sole and absolute discretion, but shall in no event be obligated to, offer to one or more Members the opportunity to make Additional Capital Contributions in an amount deemed appropriate by the Manager in cash at any time that the Manager determines in its sole and absolute discretion.

(b) If the Manager at any time or from time to time determines to permit Additional Capital Contributions from Members, the Manager shall give Notice to each Member that the Company is permitting Additional Capital Contributions and the date on which funds from each Member who decides to make an Additional Capital Contribution will be due and payable.

11. Intentionally Omitted.

12. Intentionally Omitted.

13. Distribution. Subject to applicable law, the Manager may cause the Company to make distributions in accordance with Section 13(a) and Section 13(b) below at such times and in such amounts as the Manager may determine in the Manager's sole discretion.

(a) Distributions of Available Cash Flow. The Manager may cause the Company to make distributions of Available Cash Flow to the Members pro rata in accordance with their Cash Flow Ratios.

(b) Distributions of Net Proceeds from Capital Events. The Manager shall cause the Company to make distributions of net proceeds attributable to Capital Events to the Members pro rata in accordance with their Membership Interest percentage as set forth opposite each Member's name in Annex A attached hereto.

14. Fiscal Year; Tax Matters.

(a) The Fiscal Year of the Company for accounting and tax purposes shall begin on January 1 and end on December 31 of each year, except for the short taxable years in the years of the Company's formation and termination.

(b) If requested by the Manager, each Member shall, if able to do so, deliver to the Manager: (i) an affidavit in form satisfactory to the Manager that the applicable Member (or its members, as the case may be) is not subject to withholding under the provisions of any federal, state, local, foreign or other law; (ii) any certificate that the Manager may reasonably request with respect to any such laws; and (iii) any other form or instrument reasonably requested by the Manager relating to any Member's status under such law. If a Member fails or is unable to deliver

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

to the Manager any such requested affidavit, certificate or other form or instrument reasonably satisfactory to the Manager, then the Manager may withhold amounts from such Member in accordance with Section 14(c) below.

(c) To the extent the Company is required by law to withhold or to make tax payments on behalf of or with respect to any Member ("Withholding Advances"), the Manager may withhold such amounts and make such tax payments as so required. All Withholding Advances made on behalf of a Member shall (i) be paid on demand by the Member on whose behalf such Withholding Advances were made, or (ii) with the consent of the Manager, in its sole discretion, be repaid by reducing the amount of the current or next succeeding distribution or distributions which would otherwise have been made to such Member or, if such distributions are not sufficient for that purpose, by so reducing the proceeds of liquidation otherwise payable to such Member. Notwithstanding the foregoing, whenever repayment of a Withholding Advance by a Member is made as described in clause (ii), for all other purposes of this Agreement such Member shall be treated as having received all distributions (whether before or upon dissolution) unreduced by the amount of such Withholding Advance. The liability and obligation of a Member under clause (i) of this Section 14(c) shall survive any sale, exchange, liquidation, retirement or other disposition of such Member's interest in the Company.

(d) Tax Status.

(i) It is the intention of the Company and the Members that the Company shall be treated as a U.S. corporation for federal and all relevant state income tax purposes. All provisions of this Agreement are to be construed to preserve the Company's tax status as a U.S. corporation.

(ii) Each Member shall, promptly upon request, provide to the Company duly completed and executed documentation and other documents, information and instruments required under any tax law or regulation applicable with respect to the Company or such Member that is necessary in order for the Company to (A) comply with the requirements imposed on the Company by any such tax law or regulation, or (B) avoid, mitigate, reduce or exempt the Company from the application of liability or other obligation under, or to enable the Company to elect not to have apply to it, any documentation, information collection, reporting, payment or withholding liability or obligation imposed on the Company by any such tax law or regulation. In the case of a Member that is (or becomes) treated as a partnership, S corporation, trust or other fiscally transparent entity or that is (or becomes) treated as an intermediary with respect to direct or indirect holders of interests in such Member for purposes of any such tax law or regulation, the obligation of such Member under the immediately preceding sentence shall include providing such documentation and other documents, information and instruments with respect to the direct or indirect holders of interests in such Member.

(e) The Company and the Members intend for the amendments made pursuant to this Agreement to be treated as a "recapitalization" of the Company within the meaning of Section 368(a)(1)(E) of the Code. The Company and each Member agrees not to take any position inconsistent with such characterization on any tax return, before any tax authority, or in any proceeding relating to taxes, unless otherwise required by a final determination by any tax authority.

15. Books and Records. Proper and complete records and books of account of the business of the Company shall be maintained at the Company's principal place of business. The Members and their duly authorized representatives may, for any reason reasonably related to their interest as Members of the Company, examine the Company's books of account. The Members shall maintain the records of the Company for three years following the termination of the Company.

16. Liability of Members. The Members shall not have any liability for the obligations or liabilities of the Company except to the extent provided in the NRS.

17. Minority Member's Right of First Refusal.

(a) If at any time the Company proposes to Transfer all or substantially all of the assets of the Company, then the Company shall promptly give the Members written notice of the Company's intention to make

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

such Transfer (the "Asset Sale Notice"). The Asset Sale Notice shall include (A) a description of the assets to be Transferred (the "Offered Assets"), (B) the name(s) and address(es) of the prospective transferee(s), (C) the consideration proposed to be paid by such prospective transferee(s) in exchange for the Offered Assets and (D) the material terms and conditions upon which the proposed Transfer is to be made. The Asset Sale Notice shall certify that the Company has received a firm offer from the prospective transferee(s) and in good faith believes a binding agreement for the Transfer is obtainable on the terms set forth in the Asset Sale Notice. The Asset Sale Notice shall also include a copy of any written proposal, term sheet or letter of intent or other agreement relating to the proposed Transfer.

(b) The Minority Member shall have an option for a period of twenty (20) days from delivery of the Asset Sale Notice to the Members to elect to purchase the Offered Assets at the same price and subject to the same material terms and conditions as described in the Asset Sale Notice. The Minority Member may exercise such purchase option and purchase the Offered Assets by notifying the Company in writing before the expiration of such twenty (20) day period. If the Minority Member gives the Company notice that he desires to purchase such Offered Assets, then payment for the Offered Assets shall be by check or wire transfer, against delivery of the Offered Assets to be purchased at a place agreed upon between the Company and the Minority Member and at the time of the scheduled closing therefor, which shall be no later than sixty (60) days after delivery to the Members of the Asset Sale Notice, unless the Asset Sale Notice contemplated a later closing with the prospective third-party transferee(s) or unless the value of the purchase price has not yet been established pursuant to Section 17(c).

(c) Should the purchase price specified in the Asset Sale Notice be payable in property other than cash or evidences of indebtedness, the Minority Member shall have the right to pay the purchase price in the form of cash equal in amount to the fair market value of such property. If the Company and the Minority Member cannot agree on such cash value within fifteen (15) days after delivery to the Members of the Asset Sale Notice, the valuation shall be made by an appraiser of recognized standing mutually selected by the Company and the Minority Member or, if they cannot agree on an appraiser within twenty (20) days after delivery to the Members of the Asset Sale Notice, each shall select an appraiser of recognized standing and those appraisers shall designate a third appraiser of recognized standing, whose appraisal shall be determinative of such value. The cost of such appraisal shall be shared equally by the Company and the Minority Member. If the time for the closing of the Minority Member's purchase has expired but the determination of the value of the purchase price offered by the prospective transferee(s) has not been finalized, then such closing shall be held on or prior to the fifth business day after such valuation shall have been made pursuant to this Section 17(c).

18. Dissolution. The Company shall dissolve, and its affairs shall be wound up upon the first to occur of the following: (i) the written consent of all of the Members, (ii) the death, retirement, resignation, expulsion, bankruptcy or dissolution of the Members or the occurrence of any other event which terminates the continued membership of the Members in the Company, including the disposition of all of the Members' interest in the Company, unless the business of the Company is continued by the consent of all of any remaining members of the Company within 90 days following the occurrence of any such event or in a manner permitted by the NRS, or (iii) the entry of a decree of judicial dissolution under the NRS.

19. Procedures Upon Dissolution. Upon dissolution of the Company, the Company shall be terminated, and the Manager, or if there is no Manager, such other Person(s) appointed in accordance with applicable law to wind up the Company's affairs (the "Liquidator(s)") shall liquidate the assets of the Company as promptly as possible, but in an orderly and businesslike manner so as to not involve undue sacrifice. The proceeds of liquidation shall be applied and distributed in the following order of priority:

(a) first, to the payment of the debts and liabilities of the Company (other than any loans or advances made by any of the Members to the Company) and the expenses of liquidation;

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(b) second, to the creation of any reserves that the Liquidator(s) deem(s) reasonably necessary for the payment of any contingent or unforeseen liabilities or obligations of the Company arising out of or in connection with the business and operation of the Company;

(c) third, to the payment of any loans or advances made by any of the Members to the Company; and

(d) thereafter, to the Members and the Manager in accordance with their respective distribution priorities set forth in Section 13(b) of this Agreement.

20. Indemnification. To the full extent permitted by the NRS and applicable law, the Company shall (a) indemnify the Manager, and any director or officer of the Company or such person's heirs, distributees, next of kin, successors, appointees, executors, administrators, legal representatives or assigns who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative by reason of the fact that such person is or was a Manager, director or officer of the Company or is or was serving at the request of the Company or as a Manager, director or officer of another corporation, limited liability company, partnership, joint venture, trust or other enterprise, domestic or foreign, on or after the date hereof, against expenses, attorneys' fees, court costs, judgments, fines, amounts paid in settlement and other losses actually and reasonably incurred by such person in connection with such action, suit or proceeding and (b) advance expenses incurred by a Manager, officer or director in defending such civil or criminal action, suit or proceeding to the full extent authorized or permitted by the laws of the State of Nevada. A Manager shall have no personal liability to the Company or its members for monetary damages for breach of fiduciary duty as a Manager; provided, however, that the foregoing provision shall not eliminate the liability of a Manager for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law or for any transaction from which the Manager derived an improper personal benefit. The provisions of this Section 20 shall survive the dissolution, liquidation, winding up and termination of the Company.

21. Amendments. This Agreement may not be amended or modified except by the unanimous written consent of the Members.

22. Governing Law. This Agreement shall be governed by, and construed under, the laws of the State of Nevada, all rights and remedies being governed by said laws. The Members intend the provisions of the NRS to be controlling as to any matters not set forth in this Agreement.

23. Reimbursement. The Company shall reimburse the Manager for all expenses incurred by him on behalf of the Company, including, without limitation, expenses incurred in connection with the establishment of the Company, all legal, audit and accounting expenses, investment expenses such as commissions, research fees, service contracts for quotation equipment and newswires, borrowing charges on securities sold short and other borrowing charges, custodian fees, bank service fees, fees or expenses associated with insuring the Company's assets, insurance premiums benefiting the Company and/or its Members and any reasonable expenses related to the purchase, sale or transmittal of the Company's assets as shall be determined by the Managers in their sole discretion. Any reimbursement by the Company to the Manager shall be treated as an expense of the Company that shall be deducted in computing net profits and net losses and such reimbursement shall be made out of the assets of the Company (including the proceeds of the initial sale of Membership Interests) to the extent possible. The Manager's determination of which expenses may be reimbursed and the amount thereof shall be conclusive. The Manager shall be entitled to charge all Members in accordance with their ownership interest to the extent necessary in order to collect full reimbursement hereunder. The obligations of the Manager to be performed under this Agreement will not be affected by a failure of the Company to reimburse expenses.

24. Assignments and Substitution. A Member may not assign in whole or in part his or her limited liability company interest in the Company or cause an assignee of all or part of such interest to be admitted as a member of the Company without, in each case, the written consent of the Manager to such assignment and/or admission. The assignment of a limited liability company interest in the Company to a minor or person adjudged

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

insane or incompetent is prohibited, and the consent of the Members to any such transfer or assignment shall be void and of no effect. Any purported assignment of a limited liability company interest in violation of the provisions of this Agreement shall be of no effect as between the Company and the purported assignee and shall be unenforceable as against the Company or the Members.

25. Agreement in Counterparts. This Agreement may be executed in any number of counterparts, and all counterparts so executed shall together constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart.

26. Captions. Captions contained in this Agreement are inserted as a matter of convenience and in no way define, limit, extend or describe the scope of this Agreement or the intent of any provision hereof.

27. Partial Invalidity. If any provision of this Agreement is held to be invalid, unlawful or incapable of being enforced by reason of rule of law or public policy, all other provisions of this Agreement which can be given effect without such invalid, unlawful or unenforceable provisions shall, nevertheless, remain in full force and effect.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned, intending to be legally bound hereby, have duly executed this Agreement as of the day first above written.

MEMBERS:

Richard DeCicco

/s/ Richard DeCicco

Roseann Faltings

/s/ Roseann Faltings

PNBM Holdings LLC

By: /s/ Peter Levine
Name:Peter Levine
Title: Manager

Iconic Brands, Inc.

By: /s/ Richard DeCicco
Name:Richard DeCicco
Title: Chief Executive Officer

[*Signature Page to BiVi LLC Amended and Restated LLC Agreement***]**

ANNEX A

Name and Address of Member	***Membership Interest Percentage***

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Richard DeCicco 44 Seabro Avenue Amityville, NY 11710	**15.34%**
Roseann Faltings 44 Seabro Avenue Amityville, NY 11710	**15.33%**
PNBM Holdings LLC 3 Butternut Road Randolph, NJ 07869	**15.33%**
Iconic Brands, Inc. 44 Seabro Avenue Amityville, NY 11710	**54%**

ANNEX B

Definitions

Definitions. When used in this Agreement, the following terms shall have the meanings set forth below:

"Additional Capital Contributions" is defined in Section 9.

"Additional Membership Interests" is defined in Section 6(c)(i).

"Agreement" means this amended and restated limited liability company agreement, as originally executed and as amended from time to time.

"Asset Sale Notice" is defined in Section 17(a).

"Available Cash Flow" means the gross receipts and other miscellaneous revenue derived from Company operations (but not including proceeds from a Capital Event) less all cash operating expenses of the Company including, without limitation, (i) debt service on any Company loans, (ii) taxes and other fees incurred in connection with the operation of the Company, and (iii) increases, if any, in reserves established by the Manager from time to time for working capital and other purposes.

"Capital Contribution" means the total amount of cash and fair market value of property contributed to the Company by the Members.

"Capital Event" means any transaction or series of related transactions involving: (i) any merger, acquisition, consolidation, conversion, amalgamation, business combination, reorganization, recapitalization, tender offer, exchange offer or issuance of securities involving a change of ownership or control (whether in whole or in part and whether the Company will survive or exist after such change) of the Company; (ii) the Transfer of a Membership Interest by a Member, other than to another Member; (iii) the sale, exchange or other disposition of a capital asset of the Company; (iv) any insurance or other payments derived from losses or damage to, or the involuntary conversion of, a capital asset; (v) the refinancing of the Company's indebtedness; and (vi) similar events. For purposes of this definition, the phrase "other disposition" includes a taking of all or substantially all of a property by eminent domain or the damage or destruction of all or substantially all of such property or any transaction not in the ordinary course of business which results in the Company's receipt of cash or other consideration including condemnations, recoveries of damage awards and insurance proceeds.

"Cash Flow Ratios" of the Members with respect to any distribution of Available Cash Flow pursuant to Section 13(a) shall be as follows:

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Iconic Brands, Inc.	100%
Richard DeCicco	0%
PNBM Holdings LLC	0%
Roseann Faltings	0%

"Code" means the Internal Revenue Code of 1986, as amended from time to time, the provisions of succeeding law, and to the extent applicable, the Treasury Regulations.

"Manager" means a Person that manages the business and affairs of the Company as provided herein.

"Member" means a Person who acquires a Membership Interest, as permitted under this Agreement.

"Membership Interest" means a Member's entire interest in the Company including the right to vote on or participate in the management, and the right to receive information concerning the business and affairs, of the Company. Each Member's Membership Interest percentage is set forth opposite each Member's name in Annex A.

"Minority Member" means Richard DeCicco, an individual residing at 44 Seabro Avenue, Amityville, New York 11710 and his successors and assigns.

"Non-Transferring Member" is defined in Section 5(f)(i).

"Offered Assets" is defined in Section 17(a).

"Offered Interest" is defined in Section 5(f)(i).

"Participating Member" is defined in Section 6(e).

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

"Preemptive Offer" is defined in Section 6(c)(i).

"Preemptive Offer Notice" is defined in Section 6(c)(i).

"Preemptive Offer Percentage" is defined in Section 6(c)(ii).

"Preemptive Offer Period" is defined in Section 6(c)(i).

"Purchase Notice" is defined in Section 6(c)(ii).

"Purchasing Member" is defined in Section 6(e)(ii).

"Transfer" means any voluntary or involuntary transfer, sale, pledge or hypothecation or other disposition, whether directly or indirectly and whether through one or a series of transactions (including by way of a Change of Control of any Member), and, as a verb, voluntarily or involuntarily to transfer, sell, pledge or hypothecate or otherwise dispose of, whether directly or indirectly and whether through one or a series of transactions.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

"Transfer Notice" is defined in Section 5(f)(i).

"Transferring Member" is defined in Section 5(f)(i).

"Treasury Regulations" means the final or temporary regulations that have been issued by the U.S. Department of Treasury pursuant to its authority under the Code, and any successor regulations.

"Withholding Advances" is defined in Section 13.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

EXHIBIT 10.13

REDEMPTION AGREEMENT

This REDEMPTION AGREEMENT (this "Agreement"), dated as of July 26, 2021, by and between Jason DiPaola ("JD") and Iconic Brands, Inc., a Nevada corporation (the "Company").

W I T N E S S E T H :

WHEREAS, JD is the owner of Seventy Five (75) uncertificated shares of the Company's Series F Convertible Preferred Stock, par value $0.001 per share (the "Securities");

WHEREAS, the Securities are convertible into One Hundred Twenty Thousand (120,000) shares of the Company's common stock, par value $0.001 per share; and

WHEREAS, JD desires to sell all of the Securities owned by him to the Company and the Company desires to redeem all of the Securities owned by JD upon the terms hereinafter set forth.

NOW, **THEREFORE**, in consideration of the mutual promises and covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, the parties hereto agree as follows:

SECTION 1. REDEMPTION OF SECURITIES.

1.1 Redemption of the Securities. Subject to the terms and conditions of this Agreement, effective as of the Closing Date (as defined below), the Company hereby agrees to redeem, purchase, acquire and accept from JD, and JD hereby agrees to sell and deliver to the Company, all of the Securities, constituting all of the capital, equity and/or ownership interests of the Company owned by JD, free and clear of all liens, claims or other encumbrances of any kind. At the Closing (as defined below), JD shall deliver to the Company a stock power in the form attached hereto as Exhibit A, duly endorsed in blank, representing the Securities. Following the Closing, the Company shall cause the books and records of the Company to show that the Securities have been sold by JD and redeemed by the Company.

1.2 Purchase Price. In consideration of the Securities, the Company shall pay JD an aggregate purchase price of Seventy Five Thousand Dollars ($75,000) (the "Purchase Price") by wire transfer of immediately available funds to an account designated in writing by JD.

1.3 Closing. The closing of the transactions contemplated by this Agreement (the "Closing") shall take place remotely on the date hereof (the "Closing Date"), or at such other place and time (or method such as via fax or pdf) as the parties may agree in writing.

SECTION 2. REPRESENTATIONS AND WARRANTIES OF JD.

2.1 JD represents and warrants to the Company as follows:

(a) JD is the owner of all of the Securities being sold hereunder.

(b) The Securities constitute and represent all of the issued and outstanding capital, equity and/or ownership interests of the Company owned by JD, and are free and clear of and from any and all security interests, liens, pledges, claims, charges, escrows, encumbrances, options, rights of first refusal, restrictions on transfer, security agreements and other agreements, arrangements, contracts, commitments, understandings or obligations.

(c) JD is a natural person with the legal capacity to execute and deliver this Agreement, to perform his obligations hereunder and to carry out the transactions contemplated hereby. This Agreement has been duly

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

executed by JD and constitutes the legal, valid and binding obligation of JD enforceable against JD in accordance with its terms, subject to any applicable bankruptcy, insolvency, reorganization, moratorium or similar laws nor or hereafter in effect relating to creditors' rights generally or to general principles or equity.

(d) The execution, delivery and performance of this Agreement by JD does not conflict with, or result in any violation of or default (with or without notice or lapse of time, or both) under, or give rise to a right of termination, suspension, cancellation or acceleration of any obligation or to loss of a material benefit under, or result in the creation of any encumbrance of any kind under (i) any provision of any bond, mortgage, indenture, agreement, deed of trust, license, lease, contract, commitment, shareholders agreement, voting trust, loan or other agreement to which JD is a party or by which JD or any of his properties or assets may be bound, or (ii) any judgment, order, decree, statute, law, ordinance, rule or regulation applicable to JD.

(e) There is no action, suit, proceeding, hearing or investigation of, in or before any court or quasi-judicial or administrative agency of any federal, state, local, or foreign jurisdiction or before any arbitrator involving the Securities owned by JD, his ownership or authority with respect to such Securities, or the transactions contemplated by this Agreement.

(f) No representations or warranties have been made to JD by the Company or any agent, employee or affiliate thereof regarding the Company and in making his decision to sell the Securities hereunder in consideration of his purchase and receipt of the Purchase Price, JD is relying solely on his own independent analysis.

(g) With respect to the tax considerations of the transactions arising out of this Agreement, JD is relying on his own tax adviser as to the specific tax consequences to him of such transactions.

(h) JD has had the opportunity to meet with representatives of the Company and to have them answer any questions and provide information regarding the finances, operations, business and prospects of the Company deemed relevant by JD and his representatives, and all such questions have been answered and requested information provided to JD and his representatives' full satisfaction.

SECTION 3. REPRESENTATIONS AND WARRANTIES OF THE COMPANY.

3.1 The Company represents and warrants to JD as follows:

(a) The Company has all requisite power and authority to execute and deliver this Agreement, to perform its obligations hereunder and to carry out the transactions contemplated hereby. This Agreement has been duly executed by the Company and constitutes the legal, valid and binding obligation of the Company enforceable against the Company in accordance with its terms, subject to any applicable bankruptcy, insolvency, reorganization, moratorium or similar laws nor or hereafter in effect relating to creditors' rights generally or to general principles or equity.

(b) The execution, delivery and performance of this Agreement by the Company does not conflict with, or result in any violation of or default (with or without notice or lapse of time, or both) under, or give rise to a right of termination, suspension, cancellation or acceleration of any obligation or to loss of a material benefit under, or result in the creation of any encumbrance of any kind under (i) any provision of any bond, mortgage, indenture, agreement, deed of trust, license, lease, contract, commitment, shareholders agreement, voting trust, loan or other agreement to which the Company is a party or by which any of its properties or assets may be bound, or (ii) any judgment, order, decree, statute, law, ordinance, rule or regulation applicable to the Company.

SECTION 4. INDEMNIFICATION.

4.1 JD Indemnity. JD agrees to save, defend, indemnify and hold harmless the Company and its officers, directors and agents, from and against any and all losses, liabilities, damages, claims, costs and expenses, including reasonable attorneys' fees, suffered or incurred by it or them, directly or indirectly, arising from, related to or as a result of (a) any breach or default by JD of any provisions of this Agreement and (b) the untruth, inaccuracy or breach

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

of any representation, warranty, agreement or covenant of JD contained in or made in connection with this Agreement.

4.2 Company Indemnity. The Company agrees to save, defend, indemnify and hold harmless JD, from and against any and all losses, liabilities, damages, claims, costs and expenses, including reasonable attorneys' fees, suffered or incurred by him, directly or indirectly, arising from, related to or as a result of (a) any breach or default by the Company of any provisions of this Agreement and (b) the untruth, inaccuracy or breach of any representation, warranty, agreement or covenant of the Company contained in or made in connection with this Agreement.

SECTION 5. MISCELLANEOUS.

5.1 Notices. Any notice required by this Agreement shall be in writing, and shall be deemed to be duly given, delivered by overnight courier or mailed certified mail, return receipt requested, with a copy sent by first class mail, to the addresses set forth below or to such other address as either party shall designate in writing from time to time or to the email addresses set forth herein, as the case may be. The addresses set forth below for the respective parties shall be the places where notices shall be sent, unless written notice of a change of address is given.

If to JD:

Mr. Jason DiPaola
88 West Shore Drive
Massapequa, NY 11758
Email: jaycpcap@aim.com

If to the Company:

Iconic Brands, Inc.
44 Seabro Avenue
Amityville, New York 11701
Attn: Mr. Richard DeCicco
Email: Richard.decicco@gmail.com

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

Pryor Cashman LLP
7 Times Square, 40th Floor
New York, NY 10036
Attention: Eric M. Hellige and Nicholas J. Williams
Email: ehellige@pryorcashman.com
nwilliams@pryorcashman.com

5.2 Captions. The captions and section headings herein are for convenience only, and in no way define, limit or describe the scope or intent thereof, or in any way affect the construction of this Agreement.

5.3 Entire Agreement. This Agreement sets forth the entire understanding of the parties with respect to the subject matter hereof and may not be amended or modified except in writing signed by all the parties hereto.

5.4 Governing Law. This Agreement shall be made in, governed by and construed and enforced in accordance with the laws of the State of New York, without giving effect to principles of conflict of laws. The parties consent to the exclusive jurisdiction of the Supreme Court of the State of New York and the United States District Court for the Southern District of New York, for all purposes in connection with any proceedings. The parties consent that any process or notice of motion or other application to either of said courts, in any paper in connection with the proceedings may be served by certified mail, return receipt requested, or by personal service or in such other manner as may be permissible under the rules of the applicable court, provided a reasonable time for appearance is allowed.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

5.5 Waiver; Beneficiary. The failure of any party to insist upon strict performance of any of the provisions of this Agreement shall not be construed as a waiver of any subsequent default.

5.6 Non-Exclusive Remedies. No remedy conferred by any provision hereof shall be exclusive of any other remedy, and each and every remedy shall be cumulative and in addition to every remedy given hereunder or now or hereafter existing at law or in equity. The election of any one or more remedies by any party shall not constitute a waiver of the right to obtain other available remedies.

5.7 Modification. This Agreement contains the entire agreement of the parties and supersedes any prior or contemporaneous negotiations, understanding or agreements between the parties, written or oral, with respect to the transaction contemplated by this Agreement. This Agreement may not be changed or terminated orally, but may only be changed by an agreement in writing signed by the party against whom enforcement of any waiver, change, modification, extension, discharge or termination is sought.

5.8 Assignment. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, but may not be assigned by any party without the express written consent of all other parties, which consent shall not be unreasonably withheld or delayed.

5.9 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together will constitute one and the same instrument.

5.10 Expenses. Each party hereto shall bear its own costs and expenses (including its legal and accounting fees and expenses) incurred in connection with the preparation, execution and delivery of this Agreement and the transactions contemplated hereby.

5.11 Further Assurances. Subject to the terms and conditions of this Agreement, each of the parties hereto will use all reasonable efforts to take, or cause to be taken, all action, and to do, or cause to be done, all things necessary, proper or advisable, under applicable laws and regulations or otherwise, to fulfill its obligations under this Agreement and to consummate the transactions contemplated by this Agreement.

[*Signature Page Follows***]**

IN WITNESS WHEREOF, the parties hereto have caused the execution of this Agreement as of the date and year first above written.

ICONIC BRANDS, INC.

By:/s/ Richard DeCicco
Richard DeCicco
Chief Executive Officer

/s/ Jason DiPaola
Jason DiPaola

[Signature Page to Redemption Agreement]

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

EXHIBIT A

Assignment and Stock Power

[*See attached.***]**

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

EXHIBIT 10.14

REDEMPTION AGREEMENT

This REDEMPTION AGREEMENT (this "Agreement"), dated as of July 26, 2021, by and between 32 Entertainment LLC, a New York limited liability company ("32 Entertainment"), and Iconic Brands, Inc., a Nevada corporation (the "Company").

W I T N E S S E T H:

WHEREAS, 32 Entertainment is the owner of One Hundred Fifty (150) uncertificated shares of the Company's Series F Convertible Preferred Stock, par value $0.001 per share (the "Securities");

WHEREAS, the Securities are convertible into Two Hundred Forty Thousand (240,000) shares of the Company's common stock, par value $0.001 per share; and

WHEREAS, 32 Entertainment desires to sell all of the Securities owned by it to the Company and the Company desires to redeem all of the Securities owned by 32 Entertainment upon the terms hereinafter set forth.

NOW, **THEREFORE**, in consideration of the mutual promises and covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, the parties hereto agree as follows:

SECTION 1. REDEMPTION OF SECURITIES.

1.1 Redemption of the Securities. Subject to the terms and conditions of this Agreement, effective as of the Closing Date (as defined below), the Company hereby agrees to redeem, purchase, acquire and accept from 32 Entertainment, and 32 Entertainment hereby agrees to sell and deliver to the Company, all of the Securities, constituting all of the capital, equity and/or ownership interests of the Company owned by 32 Entertainment, free and clear of all liens, claims or other encumbrances of any kind. At the Closing (as defined below), 32 Entertainment shall deliver to the Company a stock power in the form attached hereto as Exhibit A, duly endorsed in blank, representing the Securities. Following the Closing, the Company shall cause the books and records of the Company to show that the Securities have been sold by 32 Entertainment and redeemed by the Company.

1.2 Purchase Price. In consideration of the Securities, the Company shall pay 32 Entertainment an aggregate purchase price of One Hundred Fifty Thousand Dollars ($150,000) (the "Purchase Price") by wire transfer of immediately available funds to an account designated in writing by 32 Entertainment.

1.3 Closing. The closing of the transactions contemplated by this Agreement (the "Closing") shall take place remotely on the date hereof (the "Closing Date"), or at such other place and time (or method such as via fax or pdf) as the parties may agree in writing.

SECTION 2. REPRESENTATIONS AND WARRANTIES OF 32 ENTERTAINMENT.

2.1 32 Entertainment represents and warrants to the Company as follows:

(a) 32 Entertainment is the owner of all of the Securities being sold hereunder.

(b) The Securities constitute and represent all of the issued and outstanding capital, equity and/or ownership interests of the Company owned by 32 Entertainment, and are free and clear of and from any and all security interests, liens, pledges, claims, charges, escrows, encumbrances, options, rights of first refusal, restrictions on transfer, security agreements and other agreements, arrangements, contracts, commitments, understandings or obligations.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(c) 32 Entertainment has all requisite power and authority to execute and deliver this Agreement, to perform its obligations hereunder and to carry out the transactions contemplated hereby. This Agreement has been duly executed by 32 Entertainment and constitutes the legal, valid and binding obligation of 32 Entertainment enforceable against 32 Entertainment in accordance with its terms, subject to any applicable bankruptcy, insolvency, reorganization, moratorium or similar laws nor or hereafter in effect relating to creditors' rights generally or to general principles or equity.

(d) The execution, delivery and performance of this Agreement by 32 Entertainment does not conflict with, or result in any violation of or default (with or without notice or lapse of time, or both) under, or give rise to a right of termination, suspension, cancellation or acceleration of any obligation or to loss of a material benefit under, or result in the creation of any encumbrance of any kind under (i) any provision of any bond, mortgage, indenture, agreement, deed of trust, license, lease, contract, commitment, shareholders agreement, voting trust, loan or other agreement to which 32 Entertainment is a party or by which 32 Entertainment or any of its properties or assets may be bound, or (ii) any judgment, order, decree, statute, law, ordinance, rule or regulation applicable to 32 Entertainment.

(e) There is no action, suit, proceeding, hearing or investigation of, in or before any court or quasi-judicial or administrative agency of any federal, state, local, or foreign jurisdiction or before any arbitrator involving the Securities owned by 32 Entertainment, its ownership or authority with respect to such Securities, or the transactions contemplated by this Agreement.

(f) No representations or warranties have been made to 32 Entertainment by the Company or any agent, employee or affiliate thereof regarding the Company and in making its decision to sell the Securities hereunder in consideration of its purchase and receipt of the Purchase Price, 32 Entertainment is relying solely on its own independent analysis.

(g) With respect to the tax considerations of the transactions arising out of this Agreement, 32 Entertainment is relying on its own tax adviser as to the specific tax consequences to it of such transactions.

(h) 32 Entertainment has had the opportunity to meet with representatives of the Company and to have them answer any questions and provide information regarding the finances, operations, business and prospects of the Company deemed relevant by 32 Entertainment and its representatives, and all such questions have been answered and requested information provided to 32 Entertainment and its representatives' full satisfaction.

SECTION 3. REPRESENTATIONS AND WARRANTIES OF THE COMPANY.

3.1 The Company represents and warrants to 32 Entertainment as follows:

(a) The Company has all requisite power and authority to execute and deliver this Agreement, to perform its obligations hereunder and to carry out the transactions contemplated hereby. This Agreement has been duly executed by the Company and constitutes the legal, valid and binding obligation of the Company enforceable against the Company in accordance with its terms, subject to any applicable bankruptcy, insolvency, reorganization, moratorium or similar laws nor or hereafter in effect relating to creditors' rights generally or to general principles or equity.

(b) The execution, delivery and performance of this Agreement by the Company does not conflict with, or result in any violation of or default (with or without notice or lapse of time, or both) under, or give rise to a right of termination, suspension, cancellation or acceleration of any obligation or to loss of a material benefit under, or result in the creation of any encumbrance of any kind under (i) any provision of any bond, mortgage, indenture, agreement, deed of trust, license, lease, contract, commitment, shareholders agreement, voting trust, loan or other agreement to which the Company is a party or by which any of its properties or assets may be bound, or (ii) any judgment, order, decree, statute, law, ordinance, rule or regulation applicable to the Company.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

SECTION 4. INDEMNIFICATION.

4.1 32 Entertainment Indemnity. 32 Entertainment agrees to save, defend, indemnify and hold harmless the Company and its officers, directors and agents, from and against any and all losses, liabilities, damages, claims, costs and expenses, including reasonable attorneys' fees, suffered or incurred by it or them, directly or indirectly, arising from, related to or as a result of (a) any breach or default by 32 Entertainment of any provisions of this Agreement and (b) the untruth, inaccuracy or breach of any representation, warranty, agreement or covenant of 32 Entertainment contained in or made in connection with this Agreement.

4.2 Company Indemnity. The Company agrees to save, defend, indemnify and hold harmless 32 Entertainment, from and against any and all losses, liabilities, damages, claims, costs and expenses, including reasonable attorneys' fees, suffered or incurred by it, directly or indirectly, arising from, related to or as a result of (a) any breach or default by the Company of any provisions of this Agreement and (b) the untruth, inaccuracy or breach of any representation, warranty, agreement or covenant of the Company contained in or made in connection with this Agreement.

SECTION 5. MISCELLANEOUS.

5.1 Notices. Any notice required by this Agreement shall be in writing, and shall be deemed to be duly given, delivered by overnight courier or mailed certified mail, return receipt requested, with a copy sent by first class mail, to the addresses set forth below or to such other address as either party shall designate in writing from time to time or to the email addresses set forth herein, as the case may be. The addresses set forth below for the respective parties shall be the places where notices shall be sent, unless written notice of a change of address is given.

If to 32 Entertainment:

32 Entertainment LLC
9 Westerleigh Road,
Purchase, NY 10577
Email: rwolf@32advisors.com

If to the Company:

Iconic Brands, Inc.
44 Seabro Avenue
Amityville, New York 11701
Attn: Mr. Richard DeCicco
Email: Richard.decicco@gmail.com

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

Pryor Cashman LLP
7 Times Square, 40th Floor
New York, NY 10036
Attention: Eric M. Hellige and Nicholas J. Williams
Email: ehellige@pryorcashman.com
nwilliams@pryorcashman.com

5.2 Captions. The captions and section headings herein are for convenience only, and in no way define, limit or describe the scope or intent thereof, or in any way affect the construction of this Agreement.

5.3 Entire Agreement. This Agreement sets forth the entire understanding of the parties with respect to the subject matter hereof and may not be amended or modified except in writing signed by all the parties hereto.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

5.4 Governing Law. This Agreement shall be made in, governed by and construed and enforced in accordance with the laws of the State of New York, without giving effect to principles of conflict of laws. The parties consent to the exclusive jurisdiction of the Supreme Court of the State of New York and the United States District Court for the Southern District of New York, for all purposes in connection with any proceedings. The parties consent that any process or notice of motion or other application to either of said courts, in any paper in connection with the proceedings may be served by certified mail, return receipt requested, or by personal service or in such other manner as may be permissible under the rules of the applicable court, provided a reasonable time for appearance is allowed.

5.5 Waiver; Beneficiary. The failure of any party to insist upon strict performance of any of the provisions of this Agreement shall not be construed as a waiver of any subsequent default.

5.6 Non-Exclusive Remedies. No remedy conferred by any provision hereof shall be exclusive of any other remedy, and each and every remedy shall be cumulative and in addition to every remedy given hereunder or now or hereafter existing at law or in equity. The election of any one or more remedies by any party shall not constitute a waiver of the right to obtain other available remedies.

5.7 Modification. This Agreement contains the entire agreement of the parties and supersedes any prior or contemporaneous negotiations, understanding or agreements between the parties, written or oral, with respect to the transaction contemplated by this Agreement. This Agreement may not be changed or terminated orally, but may only be changed by an agreement in writing signed by the party against whom enforcement of any waiver, change, modification, extension, discharge or termination is sought.

5.8 Assignment. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, but may not be assigned by any party without the express written consent of all other parties, which consent shall not be unreasonably withheld or delayed.

5.9 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together will constitute one and the same instrument.

5.10 Expenses. Each party hereto shall bear its own costs and expenses (including its legal and accounting fees and expenses) incurred in connection with the preparation, execution and delivery of this Agreement and the transactions contemplated hereby.

5.11 Further Assurances. Subject to the terms and conditions of this Agreement, each of the parties hereto will use all reasonable efforts to take, or cause to be taken, all action, and to do, or cause to be done, all things necessary, proper or advisable, under applicable laws and regulations or otherwise, to fulfill its obligations under this Agreement and to consummate the transactions contemplated by this Agreement.

[*Signature Page Follows***]**

IN WITNESS WHEREOF, the parties hereto have caused the execution of this Agreement as of the date and year first above written.

ICONIC BRANDS, INC.

By: /s/ Richard DeCicco
Richard DeCicco
Chief Executive Officer

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

32 ENTERTAINMENT LLC

By: /s/ Robert Wolf
Name: Robert Wolf
Title: Founder, 32 Entertainment LLC

[Signature Page to Redemption Agreement]

EXHIBIT A

Assignment and Stock Power

[*See attached.***]**

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

EXHIBIT 10.15

WAIVER AGREEMENT

This Waiver Agreement, dated as of July 26, 2021 (this "Agreement"), is entered into by and among Iconic Brands, Inc., a Nevada corporation ("Borrower") and certain accredited investors signatory hereto (the "Lenders").

RECITALS

WHEREAS, on August 7, 2020, Borrower issued an aggregate of Two Million One Hundred Thousand Dollars ($2,100,000) face amount of Five Percent (5%) Original Issue Discount Promissory Notes to Anson Investments Master Fund LP, Joseph Reda, and Gregory Castaldo for an aggregate purchase price of Two Million Dollars ($2,000,000) (collectively, the "First Promissory Note"), which was deposited in an attorney escrow account and, on September 23, 2020, the attorney escrow account returned the Two Million Dollars ($2,000,000) cash to the Lenders in partial satisfaction of the First Promissory Note, and One Hundred Thousand Dollars ($100,000) on the First Promissory Note remained outstanding;

WHEREAS, on April 16, 2021, Borrower issued an Original Issue Discount Promissory Note to The Special Equities Opportunity Fund, LLC, for the principal sum of Three Hundred Thirty Thousand Dollars ($330,000) (the "Second Promissory Note");

WHEREAS, on June 7, 2021, Borrower issued an Original Issue Discount Promissory Note to The Special Equities Opportunity Fund, LLC, for the principal sum of One Hundred and Three Thousand Three Hundred and Thirty-Three Dollars and Thirty-Three Cents ($103,333.33) (the "Third Promissory Note");

WHEREAS, on June 7, 2021, Borrower issued an Original Issue Discount Promissory Note to Gregory Castaldo, for the principal sum of One Hundred and Forty-Three Thousand Three Hundred and Seventy-Five Dollars ($143,375) (the "Fourth Promissory Note" together with the First Promissory Note, Second Promissory Note and Third Promissory Note, collectively, the "Promissory Notes");

WHEREAS, the Borrower desires a waiver from the Lenders, such that the Promissory Notes shall be terminated, all of the terms and provisions contained therein shall be null and void and of no effect whatsoever, and the Borrower shall have no further obligations thereunder;

WHEREAS, pursuant to Section 8 of the First Promissory Note and Section 5 of each of the Second Promissory Note, Third Promissory Note and Fourth Promissory Note, any modification, amendment or waiver of any term or provision of the Promissory Notes must be by written agreement or consent signed by the party to be bound thereby;

WHEREAS, the Lenders desire to terminate the Promissory Notes, waive all of the terms and provisions contained therein, and forgive and cancel any and all obligations of the Borrower provided thereunder; and

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual promises hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. Waiver. Pursuant to Section 8 of the First Promissory Note and Section 5 of each of the Second Promissory Note, Third Promissory Note and Fourth Promissory Note, the Lenders hereby agree to terminate the Promissory Notes, waive all of the terms and provisions contained therein, and forgive and cancel any and all obligations of the Borrower provided thereunder.

2. Entire Agreement. This Agreement embodies the entire agreement and understanding of the parties hereto with respect to the subject matter hereof and supersedes all prior and contemporaneous oral or written agreements,

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

representations, warranties, contracts, correspondence, conversations, memoranda and understandings between or among the parties or any of their agents, representatives or affiliates relative to such subject matter, including, without limitation, any term sheets, emails or draft documents.

3. Governing Law. All questions concerning the construction, validity, enforcement and interpretation of this Agreement shall be governed by the internal laws of the State of New York, without giving effect to any choice of law or conflict of law provision or rule that would cause the application of the laws of any jurisdictions other than the State of New York. EACH PARTY HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE TO, AND AGREES NOT TO REQUEST, A JURY TRIAL FOR THE ADJUDICATION OF ANY DISPUTE HEREUNDER OR IN CONNECTION WITH OR ARISING OUT OF THIS AGREEMENT OR ANY TRANSACTION CONTEMPLATED HEREBY.

4. Counterparts. This Agreement may be executed in multiple counterparts, and on separate counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument. Any counterpart or other signature hereupon delivered by facsimile shall be deemed for all purposes as constituting good and valid execution and delivery of this Agreement by such party.

[*Signature page follows*]

IN WITNESS WHEREOF, the Borrower and the Lenders have executed this Agreement as of the date first written above.

BORROWER:

ICONIC BRANDS, INC.

By: /s/ Richard DeCicco
Name: Richard DeCicco
Title: Chief Executive Officer

[Borrower Signature Page to Waiver Agreement]

LENDERS:

By: _____
The Special Equities Opportunity Fund, LLC
Name:
Title:

By: _____
Anson Investments Master Fund LP
Name:
Title:

By: /s/ Joseph Reda
Joseph Reda

By: /s/ Gregory Castaldo
Gregory Castaldo

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

EXHIBIT 10.16

EMPLOYMENT AGREEMENT

This employment agreement (the "***Agreement***"), when duly executed, is made and entered into as of July 26, 2021, by and between Iconic Brands, Inc., a Nevada corporation located at 44 Seabro Avenue, Amityville, New York 11701 (the "***Company***"), and Richard DeCicco ("***you***"), with an address c/o Iconic Brands, Inc., 44 Seabro Avenue, Amityville, New York 11701 (the "Company" and "you" are referred to herein in the collective as the "***Parties***").

WHEREAS, the Company has entered into certain securities purchase agreements (collectively the "***Purchase Agreements***") with certain accredited investors for the sale of newly-created series A-2 Convertible Preferred Stock, par value $0.001 ("***Series A-2 Preferred Stock***"), and warrants to purchase shares of the Company's common stock, par value $0.001 (the "***Common Stock***"); and

WHEREAS, the Company has entered into certain securities exchange agreements (collectively the "***Exchange Agreements***") with holders of the Company's Series E, F, and G Convertible Preferred Stock and Series E, F, and G Common Stock Purchase Warrants, whereby such holders will exchange such securities for newly-issued Series A-2 Preferred Stock; and

WHEREAS, the Company has entered into a securities exchange agreement (the "***Series A Exchange Agreement***") with Richard DeCicco, whereby Mr. DeCicco will exchange his one (1) share of Series A Preferred Stock for a specified number of Common Stock; and

WHEREAS, the Company has entered into a securities purchase agreement (the "***United Purchase Agreement***") with Mr. DeCicco to purchase all of the issued and outstanding capital stock of United Spirits, Inc., a New York corporation; and

WHEREAS, the Company has entered into an acquisition agreement with TopPop LLC ("***TopPop***"), a New Jersey limited liability company, as part of a transaction under Section 351 of the Internal Revenue Code (the "***Code***"), pursuant to which the Company will acquire all of the membership interest in TopPop (the "***TopPop Agreement***" and collectively with the United Purchase Agreement, the Purchase Agreements, the Exchange Agreements, and the Series A Exchange Agreement, the "***Iconic Agreements***"); and

WHEREAS, in connection with the transactions contemplated in the Iconic Agreements, the Company and the Executive wish to enter into this Agreement effective immediately upon the closing of the transactions contemplated in the Iconic Agreements, on the terms and conditions, and for the consideration, herein set forth;

NOW THEREFORE, in consideration of the covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. Title/Duties. You shall be employed by the Company as President, and Chairman of the Company's board of directors (the "***Board***"). You will be responsible for the duties and obligations consistent with your position, which will be subject to the control and direction of the Company and may change from time to time upon mutual agreement (the "***Services***"). You shall report to the Board, and you shall devote sufficient time to the performance of your duties for the Company as reasonably determined by you to be appropriate. Notwithstanding the foregoing, nothing in this Agreement shall restrict you from managing your investments, or serving on civic, religious, or charitable boards or committees, provided that no such activities materially interfere with the performance of your obligations under this Agreement and provided further that you comply with the terms of the NDA (defined below).

2. Location. You shall perform the Services primarily remotely, at locations of your choosing; provided that you will be available, from time to time, as reasonably requested by the Company, for meetings and otherwise to provide the Services at the Company's office in Amityville, New York. You shall also undertake reasonable travel from time to time as requested by the Company.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

3. Term. This Agreement shall commence as of the date of the closing of the transactions contemplated in the Iconic Agreements (the "***Effective Date***") and shall continue until the two (2) year anniversary of the Effective Date (the "***Initial Term***"). Upon the expiration of the Initial Term or any Renewal Term (defined below), this Agreement shall automatically renew for an additional two (2) years (each such renewal being a "***Renewal Term***" and all such Renewal Terms, if any, combined with the Initial Term being the "***Term***"), unless either party provides written notice to the other of non-renewal at least ninety (90) days prior to the end of the then current Term. Notwithstanding anything in this Agreement to the contrary, in the event that the transactions contemplated in the Iconic Agreements are not consummated by September 1, 2021, this Agreement shall become null and void *ab initio*.

4. Base Salary. As full and complete consideration for the Services provided herein by you, and on the condition that you fully and faithfully perform the Services, duties and obligations required to be performed hereunder, and that you are not in breach of this Agreement or NDA, the Company shall pay you a base salary of Two Hundred Sixty-Five Thousand and 00/100 Dollars ($265,000) gross per annum (prorated for partial years) in accordance with the Company's payroll practices and subject to customary tax withholdings and deductions (the "*Base Salary*"). The Company may, in its sole discretion, increase, but not decrease Base Salary during the Term, and as so increased shall constitute "Base Salary" thereafter.

5. Annual Bonus. In addition to your Base Salary, you shall be eligible to receive an annual bonus (the "***Bonus***") during the Term with a target amount equal to twenty-five percent (25%) of Base Salary (the "***Target Bonus***"), based on performance criteria determined by the Board after good faith discussions with you. The Company shall pay you such bonus (if earned) in the calendar year following the calendar year for which it is earned; provided that, except as described below in Section 12, you must be an employee in good standing with the Company on the date such bonus is to be paid to you in order to receive it.

6. Stock Options. During the Term, you shall also be eligible for award(s) of stock options and/or restricted stock of the Company pursuant to the terms of the Company's equity incentive plan (which is yet to be established). The amount, frequency, and other details of such awards shall be determined by the Company's Board of Directors after good faith discussions with you.

7. Health Care Benefits. You may participate in the Company's health insurance plan, subject to the terms of such plan. However, nothing herein requires the Company to keep a health insurance plan or arrangement in place, or continue any health insurance plan or arrangement, and the Company may modify, amend or terminate such plan or program at any time in its sole discretion.

8. Retirement Plan. You shall also be eligible to enroll and participate in the Company's 401(k) plan in accordance with the terms of such 401(k) plan, once/if such a plan is established. For the avoidance of doubt, the Company currently does not have a 401(k) plan in place. Nothing herein requires the Company to offer or maintain any benefit plan, program, or practice, and the Company may modify, amend, or terminate such plan, program, and practice at any time in its sole discretion.

9. Corporate Opportunities. During the Term, you will submit to the Board all business, commercial and investment opportunities or offers presented to you or of which you become aware which directly relate to the businesses of the Company, as such business of the Company exist from time to time during the Term ("***Corporate Opportunities***"). During the Term, unless approved by the Board, you will not accept or pursue, directly or indirectly, any Corporate Opportunities on your own behalf, unless after submitting such Corporate Opportunity to the Board, the Board: (a) rejects such opportunity in writing and consents to your pursuing such opportunity; or (b) does not commence material activity (negotiations, financing, etc.) in respect of such Corporate Opportunity within thirty (30) days of your notice to the Board of such Corporate Opportunity (such Corporate Opportunities which the Company declines or does not pursue as described in (a) and (b) being the "***Company Declined Corporate Opportunities***"). For the avoidance of doubt, you shall be free to pursue such Company Declined Corporate Opportunities, immediately in the case of (a) or upon expiration of such thirty (30) day period in the case of (b) (as applicable).

10. Paid Time Off.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(a) Vacation. You shall be entitled to forty (40) business days of paid vacation in each calendar year, subject to the policies and procedures of the Company concerning vacation days and the conditions set forth herein. Vacation days shall be in addition to any holidays observed by the Company. Any unused vacation shall be forfeited without payment therefor at the end of each calendar year or upon termination. Nothing contained herein shall be read to contravene any rights provided by applicable law, which shall govern and supersede in the event of a conflict between its terms and the policy stated herein.

(b) Sick Days. You shall be entitled to seven (7) days of paid sick time each calendar year, with all seven (7) days for 2021 available as of the Effective Date. Any unused sick time shall be forfeited without payment therefor at the end of each calendar year or upon termination. Nothing contained herein shall be read to contravene any rights provided by applicable law, which shall govern and supersede in the event of a conflict between its terms and the policy stated herein.

11. Business Expenses. The Company will reimburse you for reasonably-incurred business expenses, including, but not limited to, travel and entertainment expenses, in accordance with Company expense and travel policies.

12. Termination.

(a) In the event that your employment with the Company is terminated for any reason, the Company shall pay you: (i) your Base Salary through the date of termination to the extent not yet paid to you; (ii) any unreimbursed business expenses payable to you; (iii) if your employment has been terminated by the Company without Cause or by you for Good Reason (as such terms are defined below), any bonus compensation earned in a prior year but which is not yet paid to you; and (iv) any payments and benefits to which you are entitled pursuant to the terms of any employee benefit or compensation plan or program in which you participate (or participated) (items (i) through (iv) being the "***Accrued Amounts***"). The Company shall pay you the items in (i) through (iii) within ten (10) days following the date of termination and the amounts under (iv) in accordance with the terms of such plans or programs.

(b) In addition to the Accrued Amounts, in the event your employment is terminated by the Company without Cause, due to your resignation for Good Reason, or due to your Disability (defined below), the Company shall also pay you an amount equal to: (i) twenty-four (24) months of your Base Salary; plus (ii) a prorated bonus for the year of termination equal to your Target Bonus multiplied by a fraction, the numerator of which is the number of days you were employed by the Company in the year of termination and the denominator being 365; plus (iii) a bonus for the severance period equal to the Target Bonus multiplied by a fraction, the numerator of which is the number of months you are receiving severance and the denominator being 12; payable as a lump sum within sixty (60) days following termination ("***Severance***"). Furthermore, if you elect to continue to receive group health insurance coverage under the Company's group health plan pursuant to COBRA, the Company will reimburse you for such monthly COBRA premiums for twenty-four (24) months following the termination date (such monthly payments being the "***COBRA Amount***"), provided you provide the Company with adequate documentation of your payment of such monthly COBRA premiums. The COBRA Amount shall maintain the coverage you and your dependents (if applicable) had immediately prior to the termination of your employment with the Company. In the event you do not elect COBRA coverage, you subsequently become ineligible for continued COBRA coverage, or you fail to provide the Company with adequate documentation of your payment of such COBRA premiums, the Company shall no longer be obligated to pay you the COBRA Amount.

(c) Notwithstanding the above, in order to receive Severance and continued payments of COBRA Amount, you must satisfy the Release Condition (defined below). If you do not satisfy the Release Condition, the Company shall have no obligation to pay you Severance or continue paying you the COBRA Amount.

(d) Definitions.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(i) "***Cause***" means: (i) your conviction of or entry of a plea of guilty or *nolo contendere* to (A) any felony; or (B) a misdemeanor involving moral turpitude; (ii) your willful malfeasance or willful misconduct in connection with your employment; (iii) alcohol or substance abuse that materially interferes with the performance of your duties for the Company; (iv) your material breach of this Agreement or the Restrictive Covenant Agreement; (v) engagement by you in immoral conduct that has or could reasonably have a material adverse effect on the business or goodwill of Company or any of its affiliates, materially adversely reflects on the reputation of Company or any of its affiliates, or materially interferes with the performance of your services to Company or any of its affiliates; or (vi) your refusal to perform, or gross negligence in performing, your duties to Company or any of its affiliates or your refusal to abide by a lawful directive of the Board; provided, however, that in each case (other than (i), (ii), and (v)), the Company shall have provided you with written notice describing such event(s) or circumstance(s), you have been afforded at least thirty (30) days to cure, and you have failed to cure such event(s) or circumstances within such cure period.

(ii) ***"Disability"*** means that: (i) you have become totally and permanently disabled under the Company's long-term disability benefit plan as in effect from time to time (if such a plan exists) and are receiving long-term disability benefits thereunder; or (ii) if there is no long-term disability benefit plan, that you experience a mental or physical disability resulting in your being unable to perform your material duties hereunder for ninety (90) consecutive days, or an aggregate period of one hundred eighty (180) days in any twelve (12) month period (as determined by a physician selected by the Company in its good faith judgment and reasonable acceptable to you). The Company shall hold all personal information collected as part of this process, including any medical records, medical history, or other health information, in the strictest confidence and shall limit the dissemination of such information to employees of the Company on a need-to-know basis.

(iii) "***Good Reason***" means the occurrence of any of the following events without your prior written consent: (i) a material diminution of your titles, authorities, duties, responsibilities, or reporting relationships, with such determination being made with reference to the greatest extent of your titles, authorities, duties, responsibilities, or reporting relationships; (ii) the assignment to you of duties materially inconsistent with your position with Company; (iii) any diminution of your Base Salary; (iv) any requirement that you stop working remotely or report to a Company office not located in Suffolk County, New York; (v) the Company's failure to pay any amount due you under this Agreement; (vi) the Company's or any affiliate's material breach of this Agreement or any other written agreement between the Company and you; or (vii) the Company's providing you with notice of non-renewal, as described above in Section 3; provided, however, that you shall have provided the Company with written notice that such events have occurred and afforded Company thirty (30) days to cure and Company shall have failed to cure such events within such 30 day cure period.

(iv) "***Release Condition***" means that you have executed a general release of claims in favor of Company and its affiliates, officers, directors, and employees in a form reasonably provided by Company by the date specified in such release and such release has become irrevocable by its terms; provided that in the event that the period you have to sign and/or revoke such release spans two calendar years, Company will begin paying you the Severance as soon as possible but in no event earlier than the beginning of such second calendar year. Such release shall not require you to waive any rights you may have to the Accrued Amounts and the Severance, in accordance with the terms of this Agreement. Notwithstanding the above, such release shall not require you to release any claims or rights arising or in any way related to: (i) the Severance or COBRA Amount; (ii) reimbursement for business expenses incurred prior to the date of termination, in accordance with any Company business expense policies (as applicable); (iii) any employee benefit or compensation plan or program in which you participate (or participated); (iv) your rights to be indemnified and to the advancement of expenses for all claims or proceedings, or threatened claims or proceedings, that arise out of or relate to your service as an officer or employee of the Company, including attorneys' fees; (v) your equity interest and any similar interest in the Company or any affiliate; and (vi) any rights or claims that that arise after the signing of the release or which otherwise cannot be waived as a matter of law.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

13. Confidentiality. You agree that during your employment with the Company you will have access to the Company's confidential information, that said confidential information is valuable to the Company, and that the unauthorized release of that information would cause serious damage to the Company. As a condition of your employment with the Company, you agree to be subject to the covenants and other provisions of the Confidentiality, Restrictive Covenant, and Assignment Agreement (the "***NDA***") annexed hereto as Exhibit A. You agree that your employment with the Company is contingent upon your adherence to the NDA and to the Company's policies and procedures. In the event that your employment with the Company terminates for any reason or no reason, you agree that you will continue to be bound by the provisions of the NDA which by its terms continue in full force and effect after the termination of your employment with the Company. You shall indemnify the Company for all damages incurred by your violation of the NDA, and reimburse the Company for any attorneys' fees and expenses incurred in the Company's efforts to enforce the NDA.

14. Return of Materials. Upon termination of your employment with the Company, or at any time the Company so requests, (a) you shall return immediately to the Company all Company property and all materials (in written, electronic, or other form) containing or constituting confidential information or related to work, including any copies, reproductions, or other images, and (b) you shall not use confidential information in any way for any purpose.

15. Section 409A. This Agreement is intended to comply with the requirements of Section 409A of the Code ("***Section 409A***"), and the Parties hereby agree to amend this Agreement as and when necessary or desirable to conform to or otherwise properly reflect any guidance issued under Section 409A after the date hereof without violating Section 409A. In case any one or more provisions of this Agreement fails to comply with the provisions of Section 409A, the remaining provisions of this Agreement shall remain in effect, and this Agreement shall be administered and applied as if the non-complying provisions were not part of this Agreement. The Parties in that event shall endeavor to agree upon a reasonable substitute for the non-complying provisions, to the extent that a substituted provision would not cause this Agreement to fail to comply with Section 409A, and, upon so agreeing, shall incorporate such substituted provisions into this Agreement. In no event whatsoever shall the Company be liable for any additional tax, interest or penalty that may be imposed on you by Section 409A or damages for failing to comply with Section 409A. A termination of your employment hereunder shall not be deemed to have occurred for purposes of any provision of this Agreement providing for the payment of any amount or benefit constituting "deferred compensation" under Section 409A upon or following a termination of employment unless such termination is also a "separation from service" within the meaning of Section 409A and, for purposes of any such provision of this Agreement, references to a "termination," "termination of employment" or like terms shall mean "separation from service." In the event that any payment or benefit made hereunder or under any compensation plan, program or arrangement of the Company would constitute payments or benefits pursuant to a non-qualified deferred compensation plan within the meaning of Section 409A and, at the time of your "separation from service" you are a "specified employee" within the meaning of Section 409A, then any such payments or benefits shall be delayed until the six-month anniversary of the date of your "separation from service." Each payment made under this Agreement shall be designated as a "separate payment" within the meaning of Section 409A. All reimbursements and in-kind benefits provided under this Agreement shall be made or provided in accordance with the requirements of Section 409A to the extent that such reimbursements or in-kind benefits are subject to Section 409A. All reimbursements for expenses paid pursuant hereto that constitute taxable income to you shall in no event be paid later than the end of the calendar year next following the calendar year in which you incur such expense or pays such related tax. Unless otherwise permitted by Section 409A, the right to reimbursement or in-kind benefits under this Agreement shall not be subject to liquidation or exchange for another benefit and the amount of expenses eligible for reimbursement, or in-kind benefits, provided during any taxable year shall not affect the expenses eligible for reimbursement, or in-kind benefits to be provided, respectively, in any other taxable year. In the event that any payment(s) from the Company to you is conditioned upon your execution and non-revocation of a general release of claims in favor of the Company, and the period you have to sign and/or revoke such release spans two calendar years, the Company will pay (or begin paying you, as applicable) such payment(s) as soon as possible but in no event earlier than the beginning of such second calendar year.

16. Governing Law and Arbitration. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of New York. Other than a claimed violation by you of the separately executed NDA (the "***Injunctive Relief Exception***"), any dispute or controversy arising out of or relating to this Agreement,

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

and/or related to your employment with the Company, that could otherwise be resolved by a court shall be resolved through arbitration in accordance with the Employment Arbitration Rules and Mediation Procedures of the American Arbitration Association, in which neither class nor collective proceedings will be permitted. Judgment upon the award may be entered in any court having jurisdiction thereover. Except for the Injunctive Relief Exception, you and the Company give up and waive any right to resolve a controversy through any other means, and ***the right to sue in court in connection with claims related to this Agreement and/or your employment with the Company***. This waiver of the right to sue in court includes, for example, claims based on federal statutes such as Title VII of the Civil Rights Act of 1964 and the Fair Labor Standards Act and claims based on statutes, common law causes of action and concerning compensation. If there is more than one dispute between you and the Company, all such disputes may be heard in a single proceeding. Disputes pertaining to different employees of the Company will be heard in separate proceedings. Any arbitration shall be held in the County of New York, State of New York or in such other place as the Parties hereto may agree, unless applicable law requires otherwise.

17. No Credit for Drafting. You understand that this Agreement is deemed to have been drafted jointly by the Parties. Any uncertainty or ambiguity shall not be construed for or against any Party based on attribution of drafting to any Party.

18. Survival. You agree that notwithstanding anything in this Agreement to the contrary, your obligations under this Agreement, specifically but without limitation, your obligations under the NDA, shall survive any termination of this Agreement and/or the relationship between you and the Company, to the extent necessary to give effect to the subject provisions according to their terms.

19. Assignment. This Agreement shall be binding upon and inure to the benefit of your heirs and representatives and the assigns and successors of the Company, but neither this Agreement nor any rights or obligations hereunder shall be assignable or otherwise subject to hypothecation by either you or the Company without the written consent of the other party.

20. No Mitigation. You shall not be required to mitigate any payment provided for under this Agreement by seeking other employment or otherwise after the termination of your employment hereunder, and any amounts earned by you, whether from self-employment, as a common-law employee or otherwise, shall not reduce any amounts otherwise payable to you hereunder, including, but not limited to, the Severance.

21. Severability. Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be prohibited by or invalid under applicable law, such provision shall fail to be in effect only to the extent of such prohibition or invalidity, without invalidating the remainder of this Agreement or of any such provision.

22. Amendment and Modification. No provision of this Agreement may be modified, amended, waived or terminated except by a writing signed by both you and the Company. No course of dealing between you and the Company will modify, amend, waive or terminate any provision of this Agreement or any rights or obligations of any Party under or by reason of this Agreement.

23. Entire Agreement. This Agreement constitutes the entire agreement between the Parties hereto relating to the subject matter hereof. All prior or contemporaneous agreements or understandings between the Parties relating to the subject matter hereof, whether oral or written, are superseded by and merged into this Agreement. You acknowledge that no other promises were made to you other than are or may be contained in this Agreement, and that no other inducement caused you to sign this letter.

24. Withholding. The Company shall be entitled to withhold from payment any amount of withholding required by law. Certain of the benefits described above which the Company intends to offer you may constitute taxable income to you. In the event that it does, you understand and agree that you shall be responsible for such additional taxes and the Company shall not pay any portion of such additional taxes.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

25. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument.

26. Facsimile Signatures. Facsimile signed counterparts to this Agreement, including signed counterparts delivered in PDF or other electronic format, shall be acceptable and binding and treated in all respects with the same force and effect as an originally executed counterpart signature.

27. Acknowledgment. You acknowledge that you have had the opportunity to consult legal counsel regarding this Agreement, have read and understand this Agreement, are fully aware of its legal effect, and have entered into it freely and voluntarily and not on any representations of promises other than those contained in this Agreement.

28. Indemnification. While employed by the Company and thereafter, the Company shall defend and indemnify you and hold you and your heirs and representatives harmless, to the maximum extent permitted by law, against any and all damages, costs, liabilities, losses and expenses (each an "***Indemnification Obligation***") as a result of any claim or proceeding, or threatened claim or proceeding, against you that arises out of or relates to your service as an officer, director or employee, as the case may be, of the Company, or your service in any such capacity or similar capacity with any affiliated company or subsidiary or other entity at the request of the Company, and to advance to you, and/or your successors, heirs or representatives (as the case may be), upon written request, such expenses and other amounts as are necessary to reimburse and otherwise make you whole for any such Indemnification Obligation. While employed by the Company, the Company shall provide you with coverage under its current directors' and officers' liability policy (if any).

[Signature page follows]

* * * * *

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed as of the date first written above.

ICONIC BRANDS, INC.	**EMPLOYEE**
By: /s/ Richard DeCicco	/s/ Richard DeCicco
Name:Richard DeCicco	Richard DeCicco
Title: Chief Executive Officer	

EXHIBIT A
CONFIDENTIALITY, RESTRICTIVE COVENANT, AND ASSIGNMENT AGREEMENT

As a condition of my employment with Iconic Brands, Inc., its subsidiaries, affiliates, successors or assigns (together, the "***Company***"), and in consideration of my employment with the Company and my receipt of the compensation now and hereafter paid to me by the Company, I, Richard DeCicco, agree, effective as of July 26, 2021, to the following (the "***NDA***"):

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

1. Confidential Information.

(a) I agree that I have had access to the Company's Confidential Information, as defined herein, that said Confidential Information is valuable to the Company, and that the unauthorized release of that information would cause serious damage to the Company. I therefore agree to hold in strictest confidence, and not to use, except for the benefit of the Company, or to disclose to any person, firm or corporation without written authorization of the Company, any Confidential Information of the Company. I understand that "***Confidential Information***" means any of the Company's proprietary information, technical data, trade secrets or know-how, including, but not limited to, business plans, financial analyses, specifications, programming, flow charts, data, compilations of data, research, product plans, products, services, client lists, markets, software, developments, inventions, processes, formulas, technology, marketing, finances, business plans, or other business information disclosed to me by the Company either directly or indirectly in writing, orally or by drawings or observation. I acknowledge that such Confidential Information is a valuable and unique asset of the Company and I covenant that I will not, unless expressly authorized in writing by the Company, at any time during the course of my engagement by the Company, use any Confidential Information or divulge or disclose any Confidential Information to any person, firm or corporation except (A) in connection with the performance of my duties for and on behalf of the Company and in a manner consistent with the Company's policies regarding Confidential Information; (B) as necessary to enforce the terms of my employment agreement or any other agreement between the Company and me; or (C) except when required to do so by a court of law, by any governmental agency having supervisory authority over the business of the Company or by any administrative or legislative body (including a committee thereof) with apparent jurisdiction to order me to divulge, disclose or make accessible such information. In the event that I am required by law to disclose any Confidential Information, I will give the Company prompt advance written notice thereof and will provide the Company with reasonable assistance in obtaining an order to protect the Confidential Information from public disclosure. For the avoidance of doubt, Confidential Information shall not include any information that (i) is or becomes generally available to the public other than as a result of an unauthorized disclosure by me, (ii) has been independently developed by me or others without the use or reference to Confidential Information, (iii) otherwise enters the public domain through lawful means, (iv) I received from a third party outside of the Company that was disclosed without a breach of any confidentiality obligation to the Company, (v) Company approved for release by written authorization, or (vi) is generally applicable business or industry know-how or acumen of mine which does not embody and is not predicated upon Confidential Information.

(b) Notice of Immunity Under the Economic Espionage Act of 1996, as amended by the Defend Trade Secrets Act of 2016. Notwithstanding any other provision of this NDA:

(i) I will not be held criminally or civilly liable under any federal or state trade secret law for any disclosure of a trade secret that is made: (i) in confidence to a federal, state, or local government official, either directly or indirectly, or to an attorney, and solely for the purpose of reporting or investigating a suspected violation of law; or (ii) in a complaint or other document that is filed under seal in a lawsuit or other proceeding.

(ii) If I file a lawsuit for retaliation by the Company for reporting a suspected violation of law, I may disclose the Company's trade secrets to my attorney and use the trade secret information in the court proceeding if I: (i) file any document containing the trade secret under seal; and (ii) do not disclose the trade secret, except pursuant to court order.

2. Inventions.

(a) Inventions Retained and Licensed. I have attached hereto, as Exhibit A, a list describing all inventions, designs original works of authorship, developments, improvements, and trade secrets which were made by me prior to my employment with the Company (collectively referred to as "***Prior Inventions***"), which belong to me, which relate to the Company's business, products or product development, and which are not assigned to the Company hereunder. If there are no such Prior Inventions indicated on Exhibit A, I represent that there are no such Prior Inventions. If in the course of providing services to the Company, I incorporate into a Company product, process or design a Prior Invention owned by me or in which I have an interest, the Company is hereby granted and shall have

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

a nonexclusive, royalty-free, irrevocable, perpetual, worldwide license to make, have made, modify, use and sell such Prior Invention as part of or in connection with such product, process or design.

(b) Assignment of Inventions. I acknowledge that during my employment with the Company and/or during such time as I am providing services to the Company as a consultant, contractor, or in any capacity (both my employment and/or my provision of services are referred to collectively herein as "employment" or being "employed"), I will be expected to undertake creative work, either alone or jointly with others, which may lead to inventions, original works of authorship, developments, concepts, improvements, trade secrets or other intellectual property rights, whether or not patentable or registrable under copyright or similar laws ("***Inventions***"). I hereby agree that all Inventions created while employed by the Company (whether or not on the Company's premises or using the Company's equipment and materials or during regular business hours) shall be a work-for-hire and shall be the sole and exclusive property of the Company, and I hereby assign to the Company all of my right, title and interest in and to any and all such Inventions. In addition, any Inventions created after the termination of my employment with the Company which are based upon or derived from Confidential Information shall be the sole and exclusive property of the Company, and I hereby assign to the Company all of my right, title and interest in and to any and all such Inventions. Nothing in the preceding sentence shall be construed to limit my obligations under Section 1 of this NDA.

(c) Patent and Copyright Registrations. I agree to assist the Company, or its designee, in every way, to secure the Company's rights in the Inventions and any copyrights, patents, mask work rights or other intellectual property rights relating thereto in any and all countries, including the disclosure to the Company of all pertinent information and data with respect thereto, the execution of all applications, specifications, oaths, assignments and all other instruments which the Company shall deem necessary in order to apply for and obtain such rights and in order to assign and convey to the Company, its successors, assigns and nominees the sole and exclusive rights, title and interest in and to such Inventions, and any copyrights, patents, mask work rights or other intellectual property rights relating thereto. I further agree that my obligation to execute or cause to be executed any such instrument or papers shall continue after the termination of this NDA; provided that the I only undertake to execute such documents and/or take such actions as my attorneys reasonably deem necessary or appropriate in connection with my obligations under this Section 2 (and Company shall bear the sole costs of my attorneys' fees and disbursements incurred in connection with drafting, negotiating, amending, and reviewing such requested documents).

(d) Originality. I hereby warrant and represent to the Company that, to the best of my knowledge and except as expressly disclosed to the Company in writing by me, all Inventions, and Prior Inventions are original and were not conceived, reduced to practice, authored or otherwise developed by misappropriating the trade secrets or other proprietary technology or intellectual property of any third parties. I hereby agree to indemnify, defend and hold the Company harmless from and against any and all third party claims, and any costs, damages and liabilities resulting therefrom, made against or imposed upon the Company as a result of my breach of the above representation and warranty. The foregoing representation and warranty shall be deemed first made on the date hereof and shall run continuously thereafter and apply to all Inventions and Prior Inventions governed by this NDA.

(e) Application. I agree that the provisions of this Section 2 shall apply with respect to any and all Inventions, whether created during my employment with the Company or any predecessor entity, or during any pre-organization period. I acknowledge that the Company and its future investors shall rely on this representation.

3. Restrictive Covenants.

(a) Non-competition. At all times during my employment or engagement with the Company, and for a period thereafter of twelve (12) months, I shall not, directly or indirectly, on my own behalf or on behalf of any person, firm, company, or entity: (i) engage in any business that competes, directly or indirectly, with the business of the Company; or (ii) provide to any third party that engages in any business that competes, directly or indirectly, with the business of the Company any services comparable to those I provided to the Company in the course of my engagement or employment with the Company.

(b) Non-Service. At all times during my employment or engagement with the Company, and for a period thereafter of twelve (12) months, I agree that I shall not, directly or indirectly, on my own behalf or on behalf

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

of any person, firm, company, or entity, accept business of the type offered by the Company during my employment with the Company or perform or supervise the performance of any services related to such business for any: (i) client, customer, prospective client, prospective customer, or vendor of the Company, whom I solicited or serviced, directly or indirectly or who were solicited or serviced by those who I supervised, directly or indirectly, in whole or in part; (ii) former client, customer or vendor of the Company who was such within twelve (12) months prior to the termination of my employment with the Company and whom I solicited or serviced, directly or indirectly, or who were solicited or serviced by those who I supervised, directly or indirectly, in whole or in part; or (iii) any clients, customers, prospective clients, prospective customers, or vendors of the Company, who the Company solicited or serviced during my employment with the Company.

(c) Non-solicitation. At all times during my employment or engagement with the Company, and for a period thereafter of twelve (12) months, I shall not, directly or indirectly, on my own behalf or on behalf of any person, firm, company, or entity: (i) solicit, offer employment to, or hire (collectively, "***Restricted Solicitation***") any person who consulted with or has been employed by the Company at any time during the twelve (12) months immediately preceding such Restricted Solicitation; or (ii) solicit, call upon, or otherwise communicate in any way with any client, customer, prospective client, prospective customer, or vendor of the Company for the purposes of causing or of attempting to cause any such person to purchase products sold or services rendered by the Company from any person or entity other than the Company. Notwithstanding the above, this provision shall not apply to any employee who responds to a general advertisement not targeted at any specific employees of the Company, or to any employee who independently seeks employment with my subsequent employer through no solicitation, contact or referral by me, either directly or indirectly, including through a headhunter; and provided further, that I may ask the Company to permit Company employees and/or consultants to assist me on Company Declined Corporate Opportunities from time to time, but the Company shall be free to approve or decline such request(s) (with such approval not to be unreasonably withheld).

(d) Company Declined Corporate Opportunities. For the avoidance of doubt, the Company and I agree that the provisions of Section 3(a) and (b) shall not apply to any Company Declined Corporate Opportunity. Such Company Declined Corporate Opportunities shall be deemed not competitive with the Company for purposes of this NDA.

4. Social Media. I agree that, except as permitted by applicable law, I am prohibited from posting any confidential, financial, sensitive, or proprietary information, or job-related content, about the Company, or any of the Company's current, former, or potential employees, partners, suppliers, vendors, licensors, or business relations on social media in accordance with the NDA. This prohibition applies to all forms of social media including, but not limited to: blogs, Facebook, Twitter, LinkedIn, YouTube, Tumblr, and Instagram. Content regarding the Company that is truthful, accurate and respectful may be posted if it is approved in advance, in writing, by the Company in each and every instance. I am representing myself, not the Company, when participating in social networking. I agree not to represent that I am in any way speaking on behalf of the Company unless I am authorized to do so in writing.

5. Publicity. I agree that I shall acquire no right under this NDA to use, and shall not use, the Company's name, or any derivation of the Company's name (either alone or in conjunction with or as a part of any other work or name) in any of my advertising, publicity or promotions to express or imply any endorsement by the Company of my employment, engagement, or services, or in any other manner whatsoever unless written approval is obtained from the Company prior to such usage. Nothing contained herein shall be construed to prevent me from communicating with third parties or prospective employers concerning my position and duties with the Company. The Company shall have no obligation to accord me credit for the services rendered hereunder.

6. Non-Disparagement. Neither party shall, and the Company shall cause its officers and directors to not, make any statement which might adversely affect the reputation of the other party. For the purpose of this Section,

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

the term "disparage" shall include, without limitation, any statement accusing either party of acting in violation of any law or governmental regulation or of condoning any such action, or otherwise acting in an unprofessional, dishonest, disreputable, improper, incompetent or negligent manner.

7. Specific Performance and Equitable Relief. I acknowledge and agree that the Company would suffer irreparable harm if the Confidential Information was disclosed to third parties without the Company's consent or if I breached the restrictive covenants and non-disparagement provisions contained herein. I further agree that the restrictive covenants in this NDA are reasonable covenants under the circumstances, and further agree that if in the opinion of any court of competent jurisdiction such restraints are not reasonable in any respect, such court shall have the right, power and authority to excise or modify such provision or provisions of such covenants as to the court shall appear not reasonable and to enforce the remainder of the covenants as so amended. Accordingly, I hereby consent to and agree that, in the event of a breach or threatened breach of this NDA by me, the Company shall have the right to exercise any and all rights by appropriate action either by law or in equity, including specific performance of my obligations arising pursuant to this NDA, and that the Company shall be entitled to equitable relief, including injunctive relief, in connection with any breach or threatened breach, by me, of my obligations arising pursuant to this NDA, and specifically, without limitation, the confidentiality, restrictive covenant, and non-disparagement provisions above. I further agree that the Company may, in addition to pursuing any remedies it may have in law or in equity, and that I shall not request that the Company post, nor shall the Company be obligated to post, a bond in connection with any equitable relief authorized pursuant to this Section and in fact requested by the Company. To the extent the Company expends attorneys' fees in enforcing the terms of this NDA against me, I shall be responsible for indemnifying the Company for said fees.

8. No Further Consideration. I acknowledge and agree that, except as compensated in accordance with my status as an employee of or consultant with the Company and as set forth herein, I shall not be entitled to any further or additional compensation in consideration of complying with the confidentiality, non-competition, non-solicitation, and non-disparagement obligations set forth herein.

9. Effect on Employment. I acknowledge that none of the covenants in this NDA is intended to create a contract of employment and that the term of my employment with the Company is governed by the attached employment agreement.

10. Returning Company Documents. I agree that, at the time I cease performing services for the Company, I will immediately deliver to the Company (and will not keep in my possession, recreate or deliver to anyone else) any and all software, devices, records, data, notes, reports, proposals, lists, correspondence, specifications, materials, equipment, other documents or property, including all Confidential Information or reproductions of any of the aforementioned items developed during or in connection with my employment with the Company or otherwise belonging to the Company, its successors or assigns. Notwithstanding the above, however, nothing herein shall require me to return to the Company any computers or telecommunication equipment or tangible property which I own, including, but not limited to, personal computers, phones and tablet devices; provided, however, that I shall remove any Confidential Information stored thereon.

11. Warranty by Employee. I represent and warrant that: (a) consulting with or being employed by the Company does not constitute a breach of any agreement or other legal obligation with or to a third party; (b) I am not bound by or subject to any agreement or other legal obligation with a third party that would adversely affect my consulting with or being employed by the Company, including but not limited to, a prior employment agreement, confidentiality agreement, or covenant not to compete, not to solicit or other restriction against competition; and (c) I will not use in connection with my employment with the Company any confidential or proprietary information belonging to any third party without first obtaining a written release from that third party. I shall indemnify, defend, and hold harmless the Company, and the present, former and future officers, directors, managers, shareholders, members, employees, contractors and agents of the Company, from any and all losses, claims, damages, judgments, awards, costs and expenses (including without limitation, reasonable attorneys' fees and costs, and direct, indirect, and consequential damages) incurred as a result of any breach of this Section or any other provision of this NDA.

12. General Provisions.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(a) Severability. I agree that if one or more of the provisions in this NDA are deemed void by law, then the remaining provisions will continue in full force and effect and, if legally permitted, such offending provision or provisions shall be replaced with an enforceable provision or enforceable provisions that as nearly as possible effects the parties' intent. Without limiting the generality of the foregoing, the parties hereby expressly state their intent that, to the extent any provision of this NDA is unenforceable due to the scope (temporal, geographic or otherwise) being too broad, the court or arbitrator properly adjudicating any dispute with respect thereto shall modify such provision to the minimum extent necessary to cause such provision to be enforceable.

(b) Successors and Assigns. This NDA will be binding upon my heirs, executors, administrators and other legal representatives and will be for the benefit of the Company, its successors, and its assigns. I acknowledge and agree that I cannot assign or transfer this NDA nor any rights hereunder without the express written consent of the Company, in its absolute discretion. The Company, however, shall have the right to assign this NDA and/or any of its rights or obligations set forth herein to any successor (whether by merger, purchase or otherwise) to the stock, assets or business of the Company.

(c) Survival. I agree that notwithstanding anything in this NDA to the contrary, the provisions of this NDA shall survive any termination of my employment with the Company or termination of this NDA to the extent necessary to give effect to the subject provisions according to their terms, and shall remain in full force and effect indefinitely.

(d) Amendment and Modification. No provision of this NDA may be modified, amended, waived or terminated except by a writing signed by both myself and the Company. No course of dealing between me and the Company will modify, amend, waive or terminate any provision of this NDA or any rights or obligations of any party under or by reason of this NDA.

(e) Counterparts. This NDA may be executed in two or more counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument.

(f) Facsimile Signatures. A facsimile or PDF scanned copy of my or the Company's signature shall be as valid and binding as an original.

(g) Governing Law. This NDA shall be governed by, and construed and enforced in accordance with, the laws of the State of New York (excluding the choice of law rules thereof). **I ACKNOWLEDGE AND AGREE THAT, PRIOR TO EXECUTING THIS NDA, I WAS AFFORDED AN OPPORTUNITY TO OBTAIN THE ADVICE OF INDEPENDENT LEGAL COUNSEL AND HAVE READ AND UNDERSTAND ALL OF THIS NDA. ACCORDINGLY, THIS NDA SHALL NOT BE CONSTRUED AGAINST ANY PARTY BY REASON OF THE DRAFTING OR PREPARATION OF THIS NDA**.

(h) Choice of Forum. Each of the parties hereby consents to the jurisdiction of any state or federal court located within the County of New York, State of New York and irrevocably agrees that all actions or proceedings relating to this NDA must be litigated in such courts, and each of the parties waives any objections which it/he/she may have based on improper venue or forum *non conveniens* to the conduct of any proceeding in such court.

(i) No Expectation of Privacy. I acknowledge and agree that I have no expectation of privacy in respect of any information (e.g., emails and voice mail), whether personal or otherwise, stored on Company's networking, telecommunications, computer and other equipment, which information may be monitored by Company at any time without notice.

[Signature page follows]

* * * * *

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

IN WITNESS WHEREOF, the Parties hereto have caused this NDA to be duly executed as of the date first written above.

ICONIC BRANDS, INC.	**EMPLOYEE**
By: /s/ Richard DeCicco	/s/ Richard DeCicco
Name: Richard DeCicco	Richard DeCicco
Title: Chief Executive Officer	

EXHIBIT A
LIST OF PRIOR INVENTIONS
AND ORIGINAL WORKS OF AUTHORSHIP

Title	**Date**	**Identifying Number or Brief Description**

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

EXHIBIT 10.17

EMPLOYMENT AGREEMENT

This employment agreement (the "***Agreement***"), when duly executed, is made and entered into as of July 26, 2021, by and between Iconic Brands, Inc., a Nevada corporation located at 44 Seabro Avenue, Amityville, New York 11701 (the "***Company***"), and Roseann Faltings ("***you***"), with an address c/o Iconic Brands, Inc., 44 Seabro Avenue, Amityville, New York 11701 (the "Company" and "you" are referred to herein in the collective as the "***Parties***").

WHEREAS, the Company has entered into certain securities purchase agreements (collectively the "***Purchase Agreements***") with certain accredited investors for the sale of newly-created series A-2 Convertible Preferred Stock, par value $0.001 ("***Series A-2 Preferred Stock***"), and warrants to purchase shares of the Company's common stock, par value $0.001 (the "***Common Stock***"); and

WHEREAS, the Company has entered into certain securities exchange agreements (collectively the "***Exchange Agreements***") with holders of the Company's Series E, F, and G Convertible Preferred Stock and Series E, F, and G Common Stock Purchase Warrants, whereby such holders will exchange such securities for newly-issued Series A-2 Preferred Stock; and

WHEREAS, the Company has entered into a securities exchange agreement (the "***Series A Exchange Agreement***") with Richard DeCicco, whereby Mr. DeCicco will exchange his one (1) share of Series A Preferred Stock for a specified number of Common Stock; and

WHEREAS, the Company has entered into a securities purchase agreement (the "***United Purchase Agreement***") with Mr. DeCicco to purchase all of the issued and outstanding capital stock of United Spirits, Inc., a New York corporation; and

WHEREAS, the Company has entered into an acquisition agreement with TopPop LLC ("***TopPop***"), a New Jersey limited liability company, as part of a transaction under Section 351 of the Internal Revenue Code (the "***Code***"), pursuant to which the Company will acquire all of the membership interest in TopPop (the "***TopPop Agreement***" and collectively with the United Purchase Agreement, the Purchase Agreements, the Exchange Agreements, and the Series A Exchange Agreement, the "***Iconic Agreements***"); and

WHEREAS, in connection with the transactions contemplated in the Iconic Agreements, the Company and the Executive wish to enter into this Agreement effective immediately upon the closing of the transactions contemplated in the Iconic Agreements, on the terms and conditions, and for the consideration, herein set forth;

NOW THEREFORE, in consideration of the covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. Title/Duties. You shall be employed by the Company as Vice President and member of the Company's board of directors (the "***Board***"). You will be responsible for the duties and obligations consistent with your position, which will be subject to the control and direction of the Company and may change from time to time upon mutual agreement (the "***Services***"). You shall report to the Board, and you shall devote sufficient time to the performance of your duties for the Company as reasonably determined by you to be appropriate. Notwithstanding the foregoing, nothing in this Agreement shall restrict you from managing your investments, or serving on civic, religious, or charitable boards or committees, provided that no such activities materially interfere with the performance of your obligations under this Agreement and provided further that you comply with the terms of the NDA (defined below).

2. Location. You shall perform the Services primarily remotely, at locations of your choosing; provided that you will be available, from time to time, as reasonably requested by the Company, for meetings and otherwise to provide the Services at the Company's office in Amityville, New York. You shall also undertake reasonable travel from time to time as requested by the Company.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

3. Term. This Agreement shall commence as of the date of the closing of the transactions contemplated in the Iconic Agreements (the "***Effective Date***") and shall continue until the two (2) year anniversary of the Effective Date (the "***Initial Term***"). Upon the expiration of the Initial Term or any Renewal Term (defined below), this Agreement shall automatically renew for an additional two (2) years (each such renewal being a "***Renewal Term***" and all such Renewal Terms, if any, combined with the Initial Term being the "***Term***"), unless either party provides written notice to the other of non-renewal at least ninety (90) days prior to the end of the then current Term. Notwithstanding anything in this Agreement to the contrary, in the event that the transactions contemplated in the Iconic Agreements are not consummated by September 1, 2021, this Agreement shall become null and void *ab initio*.

4. Base Salary. As full and complete consideration for the Services provided herein by you, and on the condition that you fully and faithfully perform the Services, duties and obligations required to be performed hereunder, and that you are not in breach of this Agreement or NDA, the Company shall pay you a base salary of Two Hundred Thousand and 00/100 Dollars ($200,000) gross per annum (prorated for partial years) in accordance with the Company's payroll practices and subject to customary tax withholdings and deductions (the "*Base Salary*"). The Company may, in its sole discretion, increase, but not decrease Base Salary during the Term, and as so increased shall constitute "Base Salary" thereafter.

5. Annual Bonus. In addition to your Base Salary, you shall be eligible to receive an annual bonus (the "***Bonus***") during the Term with a target amount equal to twenty-five percent (25%) of Base Salary (the "***Target Bonus***"), based on performance criteria determined by the Board after good faith discussions with you. The Company shall pay you such bonus (if earned) in the calendar year following the calendar year for which it is earned; provided that, except as described below in Section 12, you must be an employee in good standing with the Company on the date such bonus is to be paid to you in order to receive it.

6. Stock Options. During the Term, you shall also be eligible for award(s) of stock options and/or restricted stock of the Company pursuant to the terms of the Company's equity incentive plan (which is yet to be established). The amount, frequency, and other details of such awards shall be determined by the Company's Board of Directors after good faith discussions with you.

7. Health Care Benefits. You may participate in the Company's health insurance plan, subject to the terms of such plan. However, nothing herein requires the Company to keep a health insurance plan or arrangement in place, or continue any health insurance plan or arrangement, and the Company may modify, amend or terminate such plan or program at any time in its sole discretion.

8. Retirement Plan. You shall also be eligible to enroll and participate in the Company's 401(k) plan in accordance with the terms of such 401(k) plan, once/if such a plan is established. For the avoidance of doubt, the Company currently does not have a 401(k) plan in place. Nothing herein requires the Company to offer or maintain any benefit plan, program, or practice, and the Company may modify, amend, or terminate such plan, program, and practice at any time in its sole discretion.

9. Corporate Opportunities. During the Term, you will submit to the Board all business, commercial and investment opportunities or offers presented to you or of which you become aware which directly relate to the businesses of the Company, as such business of the Company exist from time to time during the Term ("***Corporate Opportunities***"). During the Term, unless approved by the Board, you will not accept or pursue, directly or indirectly, any Corporate Opportunities on your own behalf, unless after submitting such Corporate Opportunity to the Board, the Board: (a) rejects such opportunity in writing and consents to your pursuing such opportunity; or (b) does not commence material activity (negotiations, financing, etc.) in respect of such Corporate Opportunity within thirty (30) days of your notice to the Board of such Corporate Opportunity (such Corporate Opportunities which the Company declines or does not pursue as described in (a) and (b) being the "***Company Declined Corporate Opportunities***"). For the avoidance of doubt, you shall be free to pursue such Company Declined Corporate Opportunities, immediately in the case of (a) or upon expiration of such thirty (30) day period in the case of (b) (as applicable).

10. Paid Time Off.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(a) Vacation. You shall be entitled to forty (40) business days of paid vacation in each calendar year, subject to the policies and procedures of the Company concerning vacation days and the conditions set forth herein. Vacation days shall be in addition to any holidays observed by the Company. Any unused vacation shall be forfeited without payment therefor at the end of each calendar year or upon termination. Nothing contained herein shall be read to contravene any rights provided by applicable law, which shall govern and supersede in the event of a conflict between its terms and the policy stated herein.

(b) Sick Days. You shall be entitled to seven (7) days of paid sick time each calendar year, with all seven (7) days for 2021 available as of the Effective Date. Any unused sick time shall be forfeited without payment therefor at the end of each calendar year or upon termination. Nothing contained herein shall be read to contravene any rights provided by applicable law, which shall govern and supersede in the event of a conflict between its terms and the policy stated herein.

11. Business Expenses. The Company will reimburse you for reasonably-incurred business expenses, including, but not limited to, travel and entertainment expenses, in accordance with Company expense and travel policies.

12. Termination.

(a) In the event that your employment with the Company is terminated for any reason, the Company shall pay you: (i) your Base Salary through the date of termination to the extent not yet paid to you; (ii) any unreimbursed business expenses payable to you; (iii) if your employment has been terminated by the Company without Cause or by you for Good Reason (as such terms are defined below), any bonus compensation earned in a prior year but which is not yet paid to you; and (iv) any payments and benefits to which you are entitled pursuant to the terms of any employee benefit or compensation plan or program in which you participate (or participated) (items (i) through (iv) being the "***Accrued Amounts***"). The Company shall pay you the items in (i) through (iii) within ten (10) days following the date of termination and the amounts under (iv) in accordance with the terms of such plans or programs.

(b) In addition to the Accrued Amounts, in the event your employment is terminated by the Company without Cause, due to your resignation for Good Reason, or due to your Disability (defined below), the Company shall also pay you an amount equal to: (i) twenty-four (24) months of your Base Salary; plus (ii) a prorated bonus for the year of termination equal to your Target Bonus multiplied by a fraction, the numerator of which is the number of days you were employed by the Company in the year of termination and the denominator being 365; plus (iii) a bonus for the severance period equal to the Target Bonus multiplied by a fraction, the numerator of which is the number of months you are receiving severance and the denominator being 12; payable as a lump sum within sixty (60) days following termination ("***Severance***"). Furthermore, if you elect to continue to receive group health insurance coverage under the Company's group health plan pursuant to COBRA, the Company will reimburse you for such monthly COBRA premiums for twenty-four (24) months following the termination date (such monthly payments being the "***COBRA Amount***"), provided you provide the Company with adequate documentation of your payment of such monthly COBRA premiums. The COBRA Amount shall maintain the coverage you and your dependents (if applicable) had immediately prior to the termination of your employment with the Company. In the event you do not elect COBRA coverage, you subsequently become ineligible for continued COBRA coverage, or you fail to provide the Company with adequate documentation of your payment of such COBRA premiums, the Company shall no longer be obligated to pay you the COBRA Amount.

(c) Notwithstanding the above, in order to receive Severance and continued payments of COBRA Amount, you must satisfy the Release Condition (defined below). If you do not satisfy the Release Condition, the Company shall have no obligation to pay you Severance or continue paying you the COBRA Amount.

(d) Definitions.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(i) "***Cause***" means: (i) your conviction of or entry of a plea of guilty or *nolo contendere* to (A) any felony; or (B) a misdemeanor involving moral turpitude; (ii) your willful malfeasance or willful misconduct in connection with your employment; (iii) alcohol or substance abuse that materially interferes with the performance of your duties for the Company; (iv) your material breach of this Agreement or the Restrictive Covenant Agreement; (v) engagement by you in immoral conduct that has or could reasonably have a material adverse effect on the business or goodwill of Company or any of its affiliates, materially adversely reflects on the reputation of Company or any of its affiliates, or materially interferes with the performance of your services to Company or any of its affiliates; or (vi) your refusal to perform, or gross negligence in performing, your duties to Company or any of its affiliates or your refusal to abide by a lawful directive of the Board; provided, however, that in each case (other than (i), (ii), and (v)), the Company shall have provided you with written notice describing such event(s) or circumstance(s), you have been afforded at least thirty (30) days to cure, and you have failed to cure such event(s) or circumstances within such cure period.

(ii) ***"Disability"*** means that: (i) you have become totally and permanently disabled under the Company's long-term disability benefit plan as in effect from time to time (if such a plan exists) and are receiving long-term disability benefits thereunder; or (ii) if there is no long-term disability benefit plan, that you experience a mental or physical disability resulting in your being unable to perform your material duties hereunder for ninety (90) consecutive days, or an aggregate period of one hundred eighty (180) days in any twelve (12) month period (as determined by a physician selected by the Company in its good faith judgment and reasonable acceptable to you). The Company shall hold all personal information collected as part of this process, including any medical records, medical history, or other health information, in the strictest confidence and shall limit the dissemination of such information to employees of the Company on a need-to-know basis.

(iii) "***Good Reason***" means the occurrence of any of the following events without your prior written consent: (i) a material diminution of your titles, authorities, duties, responsibilities, or reporting relationships, with such determination being made with reference to the greatest extent of your titles, authorities, duties, responsibilities, or reporting relationships; (ii) the assignment to you of duties materially inconsistent with your position with Company; (iii) any diminution of your Base Salary; (iv) any requirement that you stop working remotely or report to a Company office not located in Suffolk County, New York; (v) the Company's failure to pay any amount due you under this Agreement; (vi) the Company's or any affiliate's material breach of this Agreement or any other written agreement between the Company and you; or (vii) the Company's providing you with notice of non-renewal, as described above in Section 3; provided, however, that you shall have provided the Company with written notice that such events have occurred and afforded Company thirty (30) days to cure and Company shall have failed to cure such events within such 30 day cure period.

(iv) "***Release Condition***" means that you have executed a general release of claims in favor of Company and its affiliates, officers, directors, and employees in a form reasonably provided by Company by the date specified in such release and such release has become irrevocable by its terms; provided that in the event that the period you have to sign and/or revoke such release spans two calendar years, Company will begin paying you the Severance as soon as possible but in no event earlier than the beginning of such second calendar year. Such release shall not require you to waive any rights you may have to the Accrued Amounts and the Severance, in accordance with the terms of this Agreement. Notwithstanding the above, such release shall not require you to release any claims or rights arising or in any way related to: (i) the Severance or COBRA Amount; (ii) reimbursement for business expenses incurred prior to the date of termination, in accordance with any Company business expense policies (as applicable); (iii) any employee benefit or compensation plan or program in which you participate (or participated); (iv) your rights to be indemnified and to the advancement of expenses for all claims or proceedings, or threatened claims or proceedings, that arise out of or relate to your service as an officer or employee of the Company, including attorneys' fees; (v) your equity interest and any similar interest in the Company or any affiliate; and (vi) any rights or claims that that arise after the signing of the release or which otherwise cannot be waived as a matter of law.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

13. Confidentiality. You agree that during your employment with the Company you will have access to the Company's confidential information, that said confidential information is valuable to the Company, and that the unauthorized release of that information would cause serious damage to the Company. As a condition of your employment with the Company, you agree to be subject to the covenants and other provisions of the Confidentiality, Restrictive Covenant, and Assignment Agreement (the "***NDA***") annexed hereto as Exhibit A. You agree that your employment with the Company is contingent upon your adherence to the NDA and to the Company's policies and procedures. In the event that your employment with the Company terminates for any reason or no reason, you agree that you will continue to be bound by the provisions of the NDA which by its terms continue in full force and effect after the termination of your employment with the Company. You shall indemnify the Company for all damages incurred by your violation of the NDA, and reimburse the Company for any attorneys' fees and expenses incurred in the Company's efforts to enforce the NDA.

14. Return of Materials. Upon termination of your employment with the Company, or at any time the Company so requests, (a) you shall return immediately to the Company all Company property and all materials (in written, electronic, or other form) containing or constituting confidential information or related to work, including any copies, reproductions, or other images, and (b) you shall not use confidential information in any way for any purpose.

15. Section 409A. This Agreement is intended to comply with the requirements of Section 409A of the Code ("***Section 409A***"), and the Parties hereby agree to amend this Agreement as and when necessary or desirable to conform to or otherwise properly reflect any guidance issued under Section 409A after the date hereof without violating Section 409A. In case any one or more provisions of this Agreement fails to comply with the provisions of Section 409A, the remaining provisions of this Agreement shall remain in effect, and this Agreement shall be administered and applied as if the non-complying provisions were not part of this Agreement. The Parties in that event shall endeavor to agree upon a reasonable substitute for the non-complying provisions, to the extent that a substituted provision would not cause this Agreement to fail to comply with Section 409A, and, upon so agreeing, shall incorporate such substituted provisions into this Agreement. In no event whatsoever shall the Company be liable for any additional tax, interest or penalty that may be imposed on you by Section 409A or damages for failing to comply with Section 409A. A termination of your employment hereunder shall not be deemed to have occurred for purposes of any provision of this Agreement providing for the payment of any amount or benefit constituting "deferred compensation" under Section 409A upon or following a termination of employment unless such termination is also a "separation from service" within the meaning of Section 409A and, for purposes of any such provision of this Agreement, references to a "termination," "termination of employment" or like terms shall mean "separation from service." In the event that any payment or benefit made hereunder or under any compensation plan, program or arrangement of the Company would constitute payments or benefits pursuant to a non-qualified deferred compensation plan within the meaning of Section 409A and, at the time of your "separation from service" you are a "specified employee" within the meaning of Section 409A, then any such payments or benefits shall be delayed until the six-month anniversary of the date of your "separation from service." Each payment made under this Agreement shall be designated as a "separate payment" within the meaning of Section 409A. All reimbursements and in-kind benefits provided under this Agreement shall be made or provided in accordance with the requirements of Section 409A to the extent that such reimbursements or in-kind benefits are subject to Section 409A. All reimbursements for expenses paid pursuant hereto that constitute taxable income to you shall in no event be paid later than the end of the calendar year next following the calendar year in which you incur such expense or pays such related tax. Unless otherwise permitted by Section 409A, the right to reimbursement or in-kind benefits under this Agreement shall not be subject to liquidation or exchange for another benefit and the amount of expenses eligible for reimbursement, or in-kind benefits, provided during any taxable year shall not affect the expenses eligible for reimbursement, or in-kind benefits to be provided, respectively, in any other taxable year. In the event that any payment(s) from the Company to you is conditioned upon your execution and non-revocation of a general release of claims in favor of the Company, and the period you have to sign and/or revoke such release spans two calendar years, the Company will pay (or begin paying you, as applicable) such payment(s) as soon as possible but in no event earlier than the beginning of such second calendar year.

16. Governing Law and Arbitration. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of New York. Other than a claimed violation by you of the separately executed NDA (the "***Injunctive Relief Exception***"), any dispute or controversy arising out of or relating to this Agreement,

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

and/or related to your employment with the Company, that could otherwise be resolved by a court shall be resolved through arbitration in accordance with the Employment Arbitration Rules and Mediation Procedures of the American Arbitration Association, in which neither class nor collective proceedings will be permitted. Judgment upon the award may be entered in any court having jurisdiction thereover. Except for the Injunctive Relief Exception, you and the Company give up and waive any right to resolve a controversy through any other means, and ***the right to sue in court in connection with claims related to this Agreement and/or your employment with the Company***. This waiver of the right to sue in court includes, for example, claims based on federal statutes such as Title VII of the Civil Rights Act of 1964 and the Fair Labor Standards Act and claims based on statutes, common law causes of action and concerning compensation. If there is more than one dispute between you and the Company, all such disputes may be heard in a single proceeding. Disputes pertaining to different employees of the Company will be heard in separate proceedings. Any arbitration shall be held in the County of New York, State of New York or in such other place as the Parties hereto may agree, unless applicable law requires otherwise.

17. No Credit for Drafting. You understand that this Agreement is deemed to have been drafted jointly by the Parties. Any uncertainty or ambiguity shall not be construed for or against any Party based on attribution of drafting to any Party.

18. Survival. You agree that notwithstanding anything in this Agreement to the contrary, your obligations under this Agreement, specifically but without limitation, your obligations under the NDA, shall survive any termination of this Agreement and/or the relationship between you and the Company, to the extent necessary to give effect to the subject provisions according to their terms.

19. Assignment. This Agreement shall be binding upon and inure to the benefit of your heirs and representatives and the assigns and successors of the Company, but neither this Agreement nor any rights or obligations hereunder shall be assignable or otherwise subject to hypothecation by either you or the Company without the written consent of the other party.

20. No Mitigation. You shall not be required to mitigate any payment provided for under this Agreement by seeking other employment or otherwise after the termination of your employment hereunder, and any amounts earned by you, whether from self-employment, as a common-law employee or otherwise, shall not reduce any amounts otherwise payable to you hereunder, including, but not limited to, the Severance.

21. Severability. Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be prohibited by or invalid under applicable law, such provision shall fail to be in effect only to the extent of such prohibition or invalidity, without invalidating the remainder of this Agreement or of any such provision.

22. Amendment and Modification. No provision of this Agreement may be modified, amended, waived or terminated except by a writing signed by both you and the Company. No course of dealing between you and the Company will modify, amend, waive or terminate any provision of this Agreement or any rights or obligations of any Party under or by reason of this Agreement.

23. Entire Agreement. This Agreement constitutes the entire agreement between the Parties hereto relating to the subject matter hereof. All prior or contemporaneous agreements or understandings between the Parties relating to the subject matter hereof, whether oral or written, are superseded by and merged into this Agreement. You acknowledge that no other promises were made to you other than are or may be contained in this Agreement, and that no other inducement caused you to sign this letter.

24. Withholding. The Company shall be entitled to withhold from payment any amount of withholding required by law. Certain of the benefits described above which the Company intends to offer you may constitute taxable income to you. In the event that it does, you understand and agree that you shall be responsible for such additional taxes and the Company shall not pay any portion of such additional taxes.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

25. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument.

26. Facsimile Signatures. Facsimile signed counterparts to this Agreement, including signed counterparts delivered in PDF or other electronic format, shall be acceptable and binding and treated in all respects with the same force and effect as an originally executed counterpart signature.

27. Acknowledgment. You acknowledge that you have had the opportunity to consult legal counsel regarding this Agreement, have read and understand this Agreement, are fully aware of its legal effect, and have entered into it freely and voluntarily and not on any representations of promises other than those contained in this Agreement.

28. Indemnification. While employed by the Company and thereafter, the Company shall defend and indemnify you and hold you and your heirs and representatives harmless, to the maximum extent permitted by law, against any and all damages, costs, liabilities, losses and expenses (each an "***Indemnification Obligation***") as a result of any claim or proceeding, or threatened claim or proceeding, against you that arises out of or relates to your service as an officer, director or employee, as the case may be, of the Company, or your service in any such capacity or similar capacity with any affiliated company or subsidiary or other entity at the request of the Company, and to advance to you, and/or your successors, heirs or representatives (as the case may be), upon written request, such expenses and other amounts as are necessary to reimburse and otherwise make you whole for any such Indemnification Obligation. While employed by the Company, the Company shall provide you with coverage under its current directors' and officers' liability policy (if any).

[Signature page follows]

* * * * *

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed as of the date first written above.

ICONIC BRANDS, INC.	**EMPLOYEE**
By: /s/ Richard DeCicco	/s/ Roseann Faltings
Name:Richard DeCicco	Roseann Faltings
Title: Chief Executive Officer	

EXHIBIT A
CONFIDENTIALITY, RESTRICTIVE COVENANT, AND ASSIGNMENT AGREEMENT

As a condition of my employment with Iconic Brands, Inc., its subsidiaries, affiliates, successors or assigns (together, the "***Company***"), and in consideration of my employment with the Company and my receipt of the

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

compensation now and hereafter paid to me by the Company, I, Roseann Faltings, agree, effective as of July 26, 2021, to the following (the "***NDA***"):

1. Confidential Information.

(a) I agree that I have had access to the Company's Confidential Information, as defined herein, that said Confidential Information is valuable to the Company, and that the unauthorized release of that information would cause serious damage to the Company. I therefore agree to hold in strictest confidence, and not to use, except for the benefit of the Company, or to disclose to any person, firm or corporation without written authorization of the Company, any Confidential Information of the Company. I understand that "***Confidential Information***" means any of the Company's proprietary information, technical data, trade secrets or know-how, including, but not limited to, business plans, financial analyses, specifications, programming, flow charts, data, compilations of data, research, product plans, products, services, client lists, markets, software, developments, inventions, processes, formulas, technology, marketing, finances, business plans, or other business information disclosed to me by the Company either directly or indirectly in writing, orally or by drawings or observation. I acknowledge that such Confidential Information is a valuable and unique asset of the Company and I covenant that I will not, unless expressly authorized in writing by the Company, at any time during the course of my engagement by the Company, use any Confidential Information or divulge or disclose any Confidential Information to any person, firm or corporation except (A) in connection with the performance of my duties for and on behalf of the Company and in a manner consistent with the Company's policies regarding Confidential Information; (B) as necessary to enforce the terms of my employment agreement or any other agreement between the Company and me; or (C) except when required to do so by a court of law, by any governmental agency having supervisory authority over the business of the Company or by any administrative or legislative body (including a committee thereof) with apparent jurisdiction to order me to divulge, disclose or make accessible such information. In the event that I am required by law to disclose any Confidential Information, I will give the Company prompt advance written notice thereof and will provide the Company with reasonable assistance in obtaining an order to protect the Confidential Information from public disclosure. For the avoidance of doubt, Confidential Information shall not include any information that (i) is or becomes generally available to the public other than as a result of an unauthorized disclosure by me, (ii) has been independently developed by me or others without the use or reference to Confidential Information, (iii) otherwise enters the public domain through lawful means, (iv) I received from a third party outside of the Company that was disclosed without a breach of any confidentiality obligation to the Company, (v) Company approved for release by written authorization, or (vi) is generally applicable business or industry know-how or acumen of mine which does not embody and is not predicated upon Confidential Information.

(b) Notice of Immunity Under the Economic Espionage Act of 1996, as amended by the Defend Trade Secrets Act of 2016. Notwithstanding any other provision of this NDA:

(i) I will not be held criminally or civilly liable under any federal or state trade secret law for any disclosure of a trade secret that is made: (i) in confidence to a federal, state, or local government official, either directly or indirectly, or to an attorney, and solely for the purpose of reporting or investigating a suspected violation of law; or (ii) in a complaint or other document that is filed under seal in a lawsuit or other proceeding.

(ii) If I file a lawsuit for retaliation by the Company for reporting a suspected violation of law, I may disclose the Company's trade secrets to my attorney and use the trade secret information in the court proceeding if I: (i) file any document containing the trade secret under seal; and (ii) do not disclose the trade secret, except pursuant to court order.

2. Inventions.

(a) Inventions Retained and Licensed. I have attached hereto, as Exhibit A, a list describing all inventions, designs original works of authorship, developments, improvements, and trade secrets which were made by me prior to my employment with the Company (collectively referred to as "***Prior Inventions***"), which belong to me, which relate to the Company's business, products or product development, and which are not assigned to the Company hereunder. If there are no such Prior Inventions indicated on Exhibit A, I represent that there are no such

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Prior Inventions. If in the course of providing services to the Company, I incorporate into a Company product, process or design a Prior Invention owned by me or in which I have an interest, the Company is hereby granted and shall have a nonexclusive, royalty-free, irrevocable, perpetual, worldwide license to make, have made, modify, use and sell such Prior Invention as part of or in connection with such product, process or design.

(b) Assignment of Inventions. I acknowledge that during my employment with the Company and/or during such time as I am providing services to the Company as a consultant, contractor, or in any capacity (both my employment and/or my provision of services are referred to collectively herein as "employment" or being "employed"), I will be expected to undertake creative work, either alone or jointly with others, which may lead to inventions, original works of authorship, developments, concepts, improvements, trade secrets or other intellectual property rights, whether or not patentable or registrable under copyright or similar laws ("***Inventions***"). I hereby agree that all Inventions created while employed by the Company (whether or not on the Company's premises or using the Company's equipment and materials or during regular business hours) shall be a work-for-hire and shall be the sole and exclusive property of the Company, and I hereby assign to the Company all of my right, title and interest in and to any and all such Inventions. In addition, any Inventions created after the termination of my employment with the Company which are based upon or derived from Confidential Information shall be the sole and exclusive property of the Company, and I hereby assign to the Company all of my right, title and interest in and to any and all such Inventions. Nothing in the preceding sentence shall be construed to limit my obligations under Section 1 of this NDA.

(c) Patent and Copyright Registrations. I agree to assist the Company, or its designee, in every way, to secure the Company's rights in the Inventions and any copyrights, patents, mask work rights or other intellectual property rights relating thereto in any and all countries, including the disclosure to the Company of all pertinent information and data with respect thereto, the execution of all applications, specifications, oaths, assignments and all other instruments which the Company shall deem necessary in order to apply for and obtain such rights and in order to assign and convey to the Company, its successors, assigns and nominees the sole and exclusive rights, title and interest in and to such Inventions, and any copyrights, patents, mask work rights or other intellectual property rights relating thereto. I further agree that my obligation to execute or cause to be executed any such instrument or papers shall continue after the termination of this NDA; provided that the I only undertake to execute such documents and/or take such actions as my attorneys reasonably deem necessary or appropriate in connection with my obligations under this Section 2 (and Company shall bear the sole costs of my attorneys' fees and disbursements incurred in connection with drafting, negotiating, amending, and reviewing such requested documents).

(d) Originality. I hereby warrant and represent to the Company that, to the best of my knowledge and except as expressly disclosed to the Company in writing by me, all Inventions, and Prior Inventions are original and were not conceived, reduced to practice, authored or otherwise developed by misappropriating the trade secrets or other proprietary technology or intellectual property of any third parties. I hereby agree to indemnify, defend and hold the Company harmless from and against any and all third party claims, and any costs, damages and liabilities resulting therefrom, made against or imposed upon the Company as a result of my breach of the above representation and warranty. The foregoing representation and warranty shall be deemed first made on the date hereof and shall run continuously thereafter and apply to all Inventions and Prior Inventions governed by this NDA.

(e) Application. I agree that the provisions of this Section 2 shall apply with respect to any and all Inventions, whether created during my employment with the Company or any predecessor entity, or during any pre-organization period. I acknowledge that the Company and its future investors shall rely on this representation.

3. Restrictive Covenants.

(a) Non-competition. At all times during my employment or engagement with the Company, and for a period thereafter of twelve (12) months, I shall not, directly or indirectly, on my own behalf or on behalf of any person, firm, company, or entity: (i) engage in any business that competes, directly or indirectly, with the business of the Company; or (ii) provide to any third party that engages in any business that competes, directly or indirectly, with the business of the Company any services comparable to those I provided to the Company in the course of my engagement or employment with the Company.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(b) Non-Service. At all times during my employment or engagement with the Company, and for a period thereafter of twelve (12) months, I agree that I shall not, directly or indirectly, on my own behalf or on behalf of any person, firm, company, or entity, accept business of the type offered by the Company during my employment with the Company or perform or supervise the performance of any services related to such business for any: (i) client, customer, prospective client, prospective customer, or vendor of the Company, whom I solicited or serviced, directly or indirectly or who were solicited or serviced by those who I supervised, directly or indirectly, in whole or in part; (ii) former client, customer or vendor of the Company who was such within twelve (12) months prior to the termination of my employment with the Company and whom I solicited or serviced, directly or indirectly, or who were solicited or serviced by those who I supervised, directly or indirectly, in whole or in part; or (iii) any clients, customers, prospective clients, prospective customers, or vendors of the Company, who the Company solicited or serviced during my employment with the Company.

(c) Non-solicitation. At all times during my employment or engagement with the Company, and for a period thereafter of twelve (12) months, I shall not, directly or indirectly, on my own behalf or on behalf of any person, firm, company, or entity: (i) solicit, offer employment to, or hire (collectively, "***Restricted Solicitation***") any person who consulted with or has been employed by the Company at any time during the twelve (12) months immediately preceding such Restricted Solicitation; or (ii) solicit, call upon, or otherwise communicate in any way with any client, customer, prospective client, prospective customer, or vendor of the Company for the purposes of causing or of attempting to cause any such person to purchase products sold or services rendered by the Company from any person or entity other than the Company. Notwithstanding the above, this provision shall not apply to any employee who responds to a general advertisement not targeted at any specific employees of the Company, or to any employee who independently seeks employment with my subsequent employer through no solicitation, contact or referral by me, either directly or indirectly, including through a headhunter; and provided further, that I may ask the Company to permit Company employees and/or consultants to assist me on Company Declined Corporate Opportunities from time to time, but the Company shall be free to approve or decline such request(s) (with such approval not to be unreasonably withheld).

(d) Company Declined Corporate Opportunities. For the avoidance of doubt, the Company and I agree that the provisions of Section 3(a) and (b) shall not apply to any Company Declined Corporate Opportunity. Such Company Declined Corporate Opportunities shall be deemed not competitive with the Company for purposes of this NDA.

4. Social Media. I agree that, except as permitted by applicable law, I am prohibited from posting any confidential, financial, sensitive, or proprietary information, or job-related content, about the Company, or any of the Company's current, former, or potential employees, partners, suppliers, vendors, licensors, or business relations on social media in accordance with the NDA. This prohibition applies to all forms of social media including, but not limited to: blogs, Facebook, Twitter, LinkedIn, YouTube, Tumblr, and Instagram. Content regarding the Company that is truthful, accurate and respectful may be posted if it is approved in advance, in writing, by the Company in each and every instance. I am representing myself, not the Company, when participating in social networking. I agree not to represent that I am in any way speaking on behalf of the Company unless I am authorized to do so in writing.

5. Publicity. I agree that I shall acquire no right under this NDA to use, and shall not use, the Company's name, or any derivation of the Company's name (either alone or in conjunction with or as a part of any other work or name) in any of my advertising, publicity or promotions to express or imply any endorsement by the Company of my employment, engagement, or services, or in any other manner whatsoever unless written approval is obtained from the Company prior to such usage. Nothing contained herein shall be construed to prevent me from communicating with third parties or prospective employers concerning my position and duties with the Company. The Company shall have no obligation to accord me credit for the services rendered hereunder.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

6. Non-Disparagement. Neither party shall, and the Company shall cause its officers and directors to not, make any statement which might adversely affect the reputation of the other party. For the purpose of this Section, the term "disparage" shall include, without limitation, any statement accusing either party of acting in violation of any law or governmental regulation or of condoning any such action, or otherwise acting in an unprofessional, dishonest, disreputable, improper, incompetent or negligent manner.

7. Specific Performance and Equitable Relief. I acknowledge and agree that the Company would suffer irreparable harm if the Confidential Information was disclosed to third parties without the Company's consent or if I breached the restrictive covenants and non-disparagement provisions contained herein. I further agree that the restrictive covenants in this NDA are reasonable covenants under the circumstances, and further agree that if in the opinion of any court of competent jurisdiction such restraints are not reasonable in any respect, such court shall have the right, power and authority to excise or modify such provision or provisions of such covenants as to the court shall appear not reasonable and to enforce the remainder of the covenants as so amended. Accordingly, I hereby consent to and agree that, in the event of a breach or threatened breach of this NDA by me, the Company shall have the right to exercise any and all rights by appropriate action either by law or in equity, including specific performance of my obligations arising pursuant to this NDA, and that the Company shall be entitled to equitable relief, including injunctive relief, in connection with any breach or threatened breach, by me, of my obligations arising pursuant to this NDA, and specifically, without limitation, the confidentiality, restrictive covenant, and non-disparagement provisions above. I further agree that the Company may, in addition to pursuing any remedies it may have in law or in equity, and that I shall not request that the Company post, nor shall the Company be obligated to post, a bond in connection with any equitable relief authorized pursuant to this Section and in fact requested by the Company. To the extent the Company expends attorneys' fees in enforcing the terms of this NDA against me, I shall be responsible for indemnifying the Company for said fees.

8. No Further Consideration. I acknowledge and agree that, except as compensated in accordance with my status as an employee of or consultant with the Company and as set forth herein, I shall not be entitled to any further or additional compensation in consideration of complying with the confidentiality, non-competition, non-solicitation, and non-disparagement obligations set forth herein.

9. Effect on Employment. I acknowledge that none of the covenants in this NDA is intended to create a contract of employment and that the term of my employment with the Company is governed by the attached employment agreement.

10. Returning Company Documents. I agree that, at the time I cease performing services for the Company, I will immediately deliver to the Company (and will not keep in my possession, recreate or deliver to anyone else) any and all software, devices, records, data, notes, reports, proposals, lists, correspondence, specifications, materials, equipment, other documents or property, including all Confidential Information or reproductions of any of the aforementioned items developed during or in connection with my employment with the Company or otherwise belonging to the Company, its successors or assigns. Notwithstanding the above, however, nothing herein shall require me to return to the Company any computers or telecommunication equipment or tangible property which I own, including, but not limited to, personal computers, phones and tablet devices; provided, however, that I shall remove any Confidential Information stored thereon.

11. Warranty by Employee. I represent and warrant that: (a) consulting with or being employed by the Company does not constitute a breach of any agreement or other legal obligation with or to a third party; (b) I am not bound by or subject to any agreement or other legal obligation with a third party that would adversely affect my consulting with or being employed by the Company, including but not limited to, a prior employment agreement, confidentiality agreement, or covenant not to compete, not to solicit or other restriction against competition; and (c) I will not use in connection with my employment with the Company any confidential or proprietary information belonging to any third party without first obtaining a written release from that third party. I shall indemnify, defend, and hold harmless the Company, and the present, former and future officers, directors, managers, shareholders, members, employees, contractors and agents of the Company, from any and all losses, claims, damages, judgments, awards, costs and expenses (including without limitation, reasonable attorneys' fees and costs, and direct, indirect, and consequential damages) incurred as a result of any breach of this Section or any other provision of this NDA.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

12. General Provisions.

(a) Severability. I agree that if one or more of the provisions in this NDA are deemed void by law, then the remaining provisions will continue in full force and effect and, if legally permitted, such offending provision or provisions shall be replaced with an enforceable provision or enforceable provisions that as nearly as possible effects the parties' intent. Without limiting the generality of the foregoing, the parties hereby expressly state their intent that, to the extent any provision of this NDA is unenforceable due to the scope (temporal, geographic or otherwise) being too broad, the court or arbitrator properly adjudicating any dispute with respect thereto shall modify such provision to the minimum extent necessary to cause such provision to be enforceable.

(b) Successors and Assigns. This NDA will be binding upon my heirs, executors, administrators and other legal representatives and will be for the benefit of the Company, its successors, and its assigns. I acknowledge and agree that I cannot assign or transfer this NDA nor any rights hereunder without the express written consent of the Company, in its absolute discretion. The Company, however, shall have the right to assign this NDA and/or any of its rights or obligations set forth herein to any successor (whether by merger, purchase or otherwise) to the stock, assets or business of the Company.

(c) Survival. I agree that notwithstanding anything in this NDA to the contrary, the provisions of this NDA shall survive any termination of my employment with the Company or termination of this NDA to the extent necessary to give effect to the subject provisions according to their terms, and shall remain in full force and effect indefinitely.

(d) Amendment and Modification. No provision of this NDA may be modified, amended, waived or terminated except by a writing signed by both myself and the Company. No course of dealing between me and the Company will modify, amend, waive or terminate any provision of this NDA or any rights or obligations of any party under or by reason of this NDA.

(e) Counterparts. This NDA may be executed in two or more counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument.

(f) Facsimile Signatures. A facsimile or PDF scanned copy of my or the Company's signature shall be as valid and binding as an original.

(g) Governing Law. This NDA shall be governed by, and construed and enforced in accordance with, the laws of the State of New York (excluding the choice of law rules thereof). **I ACKNOWLEDGE AND AGREE THAT, PRIOR TO EXECUTING THIS NDA, I WAS AFFORDED AN OPPORTUNITY TO OBTAIN THE ADVICE OF INDEPENDENT LEGAL COUNSEL AND HAVE READ AND UNDERSTAND ALL OF THIS NDA. ACCORDINGLY, THIS NDA SHALL NOT BE CONSTRUED AGAINST ANY PARTY BY REASON OF THE DRAFTING OR PREPARATION OF THIS NDA**.

(h) Choice of Forum. Each of the parties hereby consents to the jurisdiction of any state or federal court located within the County of New York, State of New York and irrevocably agrees that all actions or proceedings relating to this NDA must be litigated in such courts, and each of the parties waives any objections which it/he/she may have based on improper venue or forum *non conveniens* to the conduct of any proceeding in such court.

(i) No Expectation of Privacy. I acknowledge and agree that I have no expectation of privacy in respect of any information (e.g., emails and voice mail), whether personal or otherwise, stored on Company's networking, telecommunications, computer and other equipment, which information may be monitored by Company at any time without notice.

[Signature page follows]

* * * * *

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

IN WITNESS WHEREOF, the Parties hereto have caused this NDA to be duly executed as of the date first written above.

ICONIC BRANDS, INC.	**EMPLOYEE**
By: /s/ Richard DeCicco	/s/ Roseann Faltings
Name:Richard DeCicco	Roseann Faltings
Title: Chief Executive Officer	

EXHIBIT A
LIST OF PRIOR INVENTIONS
AND ORIGINAL WORKS OF AUTHORSHIP

Title	**Date**	**Identifying Number or Brief Description**

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

EXHIBIT 10.18

EMPLOYMENT AGREEMENT

This employment agreement (the "***Agreement***"), when duly executed, is made and entered into as of July 26, 2021, by and between Iconic Brands, Inc., a Nevada corporation located at 44 Seabro Avenue, Amityville, New York 11701 (the "***Company***"), and Larry Romer ("***you***"), with an address c/o Iconic Brands, Inc., 44 Seabro Avenue, Amityville, New York 11701 (the "Company" and "you" are referred to herein in the collective as the "***Parties***").

WHEREAS, the Company has entered into certain securities purchase agreements (collectively the "***Purchase Agreements***") with certain accredited investors for the sale of newly-created series A-2 Convertible Preferred Stock, par value $0.001 ("***Series A-2 Preferred Stock***"), and warrants to purchase shares of the Company's common stock, par value $0.001 (the "***Common Stock***"); and

WHEREAS, the Company has entered into certain securities exchange agreements (collectively the "***Exchange Agreements***") with holders of the Company's Series E, F, and G Convertible Preferred Stock and Series E, F, and G Common Stock Purchase Warrants, whereby such holders will exchange such securities for newly-issued Series A-2 Preferred Stock; and

WHEREAS, the Company has entered into a securities exchange agreement (the "***Series A Exchange Agreement***") with Richard DeCicco, whereby Mr. DeCicco will exchange his one (1) share of Series A Preferred Stock for a specified number of Common Stock; and

WHEREAS, the Company has entered into a securities purchase agreement (the "***United Purchase Agreement***") with Mr. DeCicco to purchase all of the issued and outstanding capital stock of United Spirits, Inc., a New York corporation; and

WHEREAS, the Company has entered into an acquisition agreement with TopPop LLC ("***TopPop***"), a New Jersey limited liability company, as part of a transaction under Section 351 of the Internal Revenue Code (the "***Code***"), pursuant to which the Company will acquire all of the membership interest in TopPop (the "***TopPop Agreement***" and collectively with the United Purchase Agreement, the Purchase Agreements, the Exchange Agreements, and the Series A Exchange Agreement, the "***Iconic Agreements***"); and

WHEREAS, in connection with the transactions contemplated in the Iconic Agreements, the Company and the Executive wish to enter into this Agreement effective immediately upon the closing of the transactions contemplated in the Iconic Agreements, on the terms and conditions, and for the consideration, herein set forth;

NOW THEREFORE, in consideration of the covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. Title/Duties. You shall be employed by the Company as Chief Executive Officer. You will be responsible for the duties and obligations consistent with your position, which will be subject to the control and direction of the Company and may change from time to time at the Company's sole discretion (the "***Services***"). You shall report to Richard DeCicco, currently the Company's Chief Executive Officer and Chairman of the Company's board of directors (the "***Board***"), and you shall devote your full time and best efforts to the performance of your duties for the Company. While employed by the Company, you shall not perform work on behalf of, or provide services to, any third parties (even if not in competition with the Company), whether as an employee, consultant, or otherwise.

2. Location. You shall perform the Services primarily remotely, at locations of your choosing; provided that you will be available, from time to time, as reasonably requested by the Company, for meetings and otherwise to provide the Services at the Company's office in Amityville, New York. You shall also undertake reasonable travel from time to time as requested by the Company.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

3. Term. This Agreement shall commence as of the date of the closing of the transactions contemplated in the Iconic Agreements (the "***Effective Date***") and shall continue until the two (2) year anniversary of the Effective Date (the "***Initial Term***"). Upon the expiration of the Initial Term or any Renewal Term (defined below), this Agreement shall automatically renew for an additional two (2) years (each such renewal being a "***Renewal Term***" and all such Renewal Terms, if any, combined with the Initial Term being the "***Term***"), unless either party provides written notice to the other of non-renewal at least ninety (90) days prior to the end of the then current Term. Notwithstanding anything in this Agreement to the contrary, in the event that the transactions contemplated in the Iconic Agreements are not consummated by September 1, 2021, this Agreement shall become null and void *ab initio*.

4. Base Salary. As full and complete consideration for the Services provided herein by you, and on the condition that you fully and faithfully perform the Services, duties and obligations required to be performed hereunder, and that you are not in breach of this Agreement or NDA, the Company shall pay you a base salary of Two Hundred Fifty Thousand and 00/100 Dollars ($250,000) gross per annum (prorated for partial years) in accordance with the Company's payroll practices and subject to customary tax withholdings and deductions (the "***Base Salary***"). The Company may, in its sole discretion, adjust Base Salary during the Term, and as so adjusted shall constitute "Base Salary" thereafter.

5. Annual Bonus. In addition to your Base Salary, you shall be eligible to receive an annual bonus (the "***Bonus***") during the Term with a target amount equal to thirty-five percent (35%) of Base Salary (the "***Target Bonus***"), based on performance criteria determined by the Board in its sole discretion. The Company shall pay you such bonus (if earned) in the calendar year following the calendar year for which it is earned; provided that, except as described below in Section 12, you must be an employee in good standing with the Company on the date such bonus is to be paid to you in order to receive it.

6. Stock Options. During the Term, you shall also be eligible for award(s) of stock options and/or restricted stock of the Company pursuant to the terms of the Company's equity incentive plan (which is yet to be established). The amount, frequency, and other details of such awards shall be determined by the Board in its sole discretion.

7. Sale Bonus. If the Company consummates a sale of its "*Bellissima*"™ product line during the Term ("***Bellissima Sale***"), you shall be entitled to receive a payment equal to two and a half percent (2.5%) of the "Net Proceeds" received by the Company from such Bellissima Sale (the "***Sale Bonus***"). For purposes of this Agreement, "Net Proceeds" shall mean the sum of any cash and the fair market value of any securities or other assets or property paid to the Company in connection with the Bellissima Sale, less all of the Company's transaction fees and expenses (including, without limitation, payments to investment bankers, accountants and attorneys in connection with such sale). The Sale Bonus will be paid to you upon the closing of the Bellissima Sale (provided you remain continuously employed through the date of such sale).

8. Health Care Benefits. You may participate in the Company's health insurance plan, subject to the terms of such plan. However, nothing herein requires the Company to keep a health insurance plan or arrangement in place, or continue any health insurance plan or arrangement, and the Company may modify, amend or terminate such plan or program at any time in its sole discretion.

9. Retirement Plan. You shall also be eligible to enroll and participate in the Company's 401(k) plan in accordance with the terms of such 401(k) plan, once/if such a plan is established. For the avoidance of doubt, the Company currently does not have a 401(k) plan in place. Nothing herein requires the Company to offer or maintain any benefit plan, program, or practice, and the Company may modify, amend, or terminate such plan, program, and practice at any time in its sole discretion.

10. Paid Time Off.

(a) Vacation. You shall be entitled to twenty (20) business days of paid vacation in each calendar year, subject to the policies and procedures of the Company concerning vacation days and the conditions set forth herein. Vacation days shall be in addition to any holidays observed by the Company. Any unused vacation shall be forfeited without payment therefor at the end of each calendar year or upon termination. Nothing contained herein

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

shall be read to contravene any rights provided by applicable law, which shall govern and supersede in the event of a conflict between its terms and the policy stated herein.

(b) Sick Days. You shall be entitled to seven (7) days of paid sick time each calendar year, with all seven (7) days for 2021 available as of the Effective Date. Any unused sick time shall be forfeited without payment therefor at the end of each calendar year or upon termination. Nothing contained herein shall be read to contravene any rights provided by applicable law, which shall govern and supersede in the event of a conflict between its terms and the policy stated herein.

11. Business Expenses. The Company will reimburse you for reasonably-incurred business expenses, including, but not limited to, travel and entertainment expenses, in accordance with Company expense and travel policies.

12. Termination.

(a) In the event that your employment with the Company is terminated for any reason, the Company shall pay you: (i) your Base Salary through the date of termination to the extent not yet paid to you; (ii) any unreimbursed business expenses payable to you; (iii) if your employment has been terminated by the Company without Cause (defined below), any bonus compensation earned in a prior year but which is not yet paid to you; and (iv) any payments and benefits to which you are entitled pursuant to the terms of any employee benefit or compensation plan or program in which you participate (or participated) (items (i) through (iv) being the "***Accrued Amounts***"). The Company shall pay you the items in (i) through (iii) within ten (10) days following the date of termination and the amounts under (iv) in accordance with the terms of such plans or programs.

(b) In addition to the Accrued Amounts, in the event your employment is terminated by the Company without Cause or due to your Disability (defined below), the Company shall also pay you an amount equal to: (i) twelve (12) months of your Base Salary; plus (ii) a prorated bonus for the year of termination equal to your Target Bonus multiplied by a fraction, the numerator of which is the number of days you were employed by the Company in the year of termination and the denominator being 365; payable as a lump sum within sixty (60) days following termination ("***Severance***"). Furthermore, if you elect to continue to receive group health insurance coverage under the Company's group health plan pursuant to COBRA, the Company will reimburse you for such monthly COBRA premiums for twelve (12) months following the termination date (such monthly payments being the "***COBRA Amount***"), provided you provide the Company with adequate documentation of your payment of such monthly COBRA premiums. The COBRA Amount shall maintain the coverage you and your dependents (if applicable) had immediately prior to the termination of your employment with the Company. In the event you do not elect COBRA coverage, you subsequently become ineligible for continued COBRA coverage, or you fail to provide the Company with adequate documentation of your payment of such COBRA premiums, the Company shall no longer be obligated to pay you the COBRA Amount.

(c) Notwithstanding the above, in order to receive Severance and continued payments of COBRA Amount, you must satisfy the Release Condition (defined below). If you do not satisfy the Release Condition, the Company shall have no obligation to pay you Severance or continue paying you the COBRA Amount.

(d) Definitions.

(i) "***Cause***" means: (i) your conviction of or entry of a plea of guilty or *nolo contendere* to (A) any felony; or (B) a misdemeanor involving moral turpitude; (ii) your willful malfeasance or willful misconduct in connection with your employment; (iii) alcohol or substance abuse that materially interferes with the performance of your duties for the Company; (iv) your material breach of this Agreement or the Restrictive Covenant Agreement; (v) engagement by you in immoral conduct that has or could reasonably have a material adverse effect on the business or goodwill of Company or any of its affiliates, materially adversely reflects on the reputation of Company or any of its affiliates, or materially interferes with the performance of your services to Company or any of its affiliates; or (vi) your failure or refusal to perform, or gross negligence in performing, your duties to Company or any of its affiliates or your failure or refusal to abide by a lawful directive of Company (including those of your supervisors); provided, however, that

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

in each case (other than (i), (ii), and (v)), the Company shall have provided you with written notice describing such event(s) or circumstance(s), you have been afforded at least thirty (30) days to cure, and you have failed to cure such event(s) or circumstances within such cure period.

(ii) ***"Disability"*** means that: (i) you have become totally and permanently disabled under the Company's long-term disability benefit plan as in effect from time to time (if such a plan exists) and are receiving long-term disability benefits thereunder; or (ii) if there is no long-term disability benefit plan, that you experience a mental or physical disability resulting in your being unable to perform your material duties hereunder for ninety (90) consecutive days, or an aggregate period of one hundred eighty (180) days in any twelve (12) month period (as determined by a physician selected by the Company in its good faith judgment and reasonable acceptable to you). The Company shall hold all personal information collected as part of this process, including any medical records, medical history, or other health information, in the strictest confidence and shall limit the dissemination of such information to employees of the Company on a need-to-know basis.

(iii) "***Release Condition***" means that you have executed a general release of claims in favor of Company and its affiliates, officers, directors, and employees in a form reasonably provided by Company by the date specified in such release and such release has become irrevocable by its terms; provided that in the event that the period you have to sign and/or revoke such release spans two calendar years, Company will begin paying you the Severance as soon as possible but in no event earlier than the beginning of such second calendar year. Such release shall not require you to waive any rights you may have to the Accrued Amounts and the Severance, in accordance with the terms of this Agreement.

13. Confidentiality. You agree that during your employment with the Company you will have access to the Company's confidential information, that said confidential information is valuable to the Company, and that the unauthorized release of that information would cause serious damage to the Company. As a condition of your employment with the Company, you agree to be subject to the covenants and other provisions of the Confidentiality, Restrictive Covenant, and Assignment Agreement (the "***NDA***") annexed hereto as Exhibit A. You agree that your employment with the Company is contingent upon your adherence to the NDA and to the Company's policies and procedures. In the event that your employment with the Company terminates for any reason or no reason, you agree that you will continue to be bound by the provisions of the NDA which by its terms continue in full force and effect after the termination of your employment with the Company. You shall indemnify the Company for all damages incurred by your violation of the NDA, and reimburse the Company for any attorneys' fees and expenses incurred in the Company's efforts to enforce the NDA.

14. Return of Materials. Upon termination of your employment with the Company, or at any time the Company so requests, (a) you shall return immediately to the Company all Company property and all materials (in written, electronic, or other form) containing or constituting confidential information or related to work, including any copies, reproductions, or other images, and (b) you shall not use confidential information in any way for any purpose.

15. Section 409A. This Agreement is intended to comply with the requirements of Section 409A of the Code ("***Section 409A***"), and the Parties hereby agree to amend this Agreement as and when necessary or desirable to conform to or otherwise properly reflect any guidance issued under Section 409A after the date hereof without violating Section 409A. In case any one or more provisions of this Agreement fails to comply with the provisions of Section 409A, the remaining provisions of this Agreement shall remain in effect, and this Agreement shall be administered and applied as if the non-complying provisions were not part of this Agreement. The Parties in that event shall endeavor to agree upon a reasonable substitute for the non-complying provisions, to the extent that a substituted provision would not cause this Agreement to fail to comply with Section 409A, and, upon so agreeing, shall incorporate such substituted provisions into this Agreement. In no event whatsoever shall the Company be liable for any additional tax, interest or penalty that may be imposed on you by Section 409A or damages for failing to

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

comply with Section 409A. A termination of your employment hereunder shall not be deemed to have occurred for purposes of any provision of this Agreement providing for the payment of any amount or benefit constituting "deferred compensation" under Section 409A upon or following a termination of employment unless such termination is also a "separation from service" within the meaning of Section 409A and, for purposes of any such provision of this Agreement, references to a "termination," "termination of employment" or like terms shall mean "separation from service." In the event that any payment or benefit made hereunder or under any compensation plan, program or arrangement of the Company would constitute payments or benefits pursuant to a non-qualified deferred compensation plan within the meaning of Section 409A and, at the time of your "separation from service" you are a "specified employee" within the meaning of Section 409A, then any such payments or benefits shall be delayed until the six-month anniversary of the date of your "separation from service." Each payment made under this Agreement shall be designated as a "separate payment" within the meaning of Section 409A. All reimbursements and in-kind benefits provided under this Agreement shall be made or provided in accordance with the requirements of Section 409A to the extent that such reimbursements or in-kind benefits are subject to Section 409A. All reimbursements for expenses paid pursuant hereto that constitute taxable income to you shall in no event be paid later than the end of the calendar year next following the calendar year in which you incur such expense or pays such related tax. Unless otherwise permitted by Section 409A, the right to reimbursement or in-kind benefits under this Agreement shall not be subject to liquidation or exchange for another benefit and the amount of expenses eligible for reimbursement, or in-kind benefits, provided during any taxable year shall not affect the expenses eligible for reimbursement, or in-kind benefits to be provided, respectively, in any other taxable year. In the event that any payment(s) from the Company to you is conditioned upon your execution and non-revocation of a general release of claims in favor of the Company, and the period you have to sign and/or revoke such release spans two calendar years, the Company will pay (or begin paying you, as applicable) such payment(s) as soon as possible but in no event earlier than the beginning of such second calendar year.

16. Governing Law and Arbitration. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of New York. Other than a claimed violation by you of the separately executed NDA (the "***Injunctive Relief Exception***"), any dispute or controversy arising out of or relating to this Agreement, and/or related to your employment with the Company, that could otherwise be resolved by a court shall be resolved through arbitration in accordance with the Employment Arbitration Rules and Mediation Procedures of the American Arbitration Association, in which neither class nor collective proceedings will be permitted. Judgment upon the award may be entered in any court having jurisdiction thereover. Except for the Injunctive Relief Exception, you and the Company give up and waive any right to resolve a controversy through any other means, and ***the right to sue in court in connection with claims related to this Agreement and/or your employment with the Company***. This waiver of the right to sue in court includes, for example, claims based on federal statutes such as Title VII of the Civil Rights Act of 1964 and the Fair Labor Standards Act and claims based on statutes, common law causes of action and concerning compensation. If there is more than one dispute between you and the Company, all such disputes may be heard in a single proceeding. Disputes pertaining to different employees of the Company will be heard in separate proceedings. Any arbitration shall be held in the County of New York, State of New York or in such other place as the Parties hereto may agree, unless applicable law requires otherwise.

17. Employee Representations/Background Check/Work Authorization. You have represented to us that you are under no restrictions that would prevent you from being employed by and performing the Services contemplated by this Agreement. You also agree to assist and cooperate with the Company on any background checks the Company wishes to perform on you, including any credit reports, and you will execute all appropriate authorizations to obtain any such background checks and/or reports. This offer of employment is conditioned upon the satisfactory outcome of such background checks, as determined by the Company in its sole discretion. This Agreement and each of its terms is also contingent upon proof of your work eligibility. Please note that because of employer regulations adopted in the Immigration Reform and Control Act of 1986, within three (3) business days following the commencement of your employment with the Company, you will need to present documentation demonstrating that you have authorization to work in the United States. If you have questions about this requirement, which applies to U.S. citizens and non-U.S. citizens alike, you may contact the Company.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

18. No Credit for Drafting. You understand that this Agreement is deemed to have been drafted jointly by the Parties. Any uncertainty or ambiguity shall not be construed for or against any Party based on attribution of drafting to any Party.

19. Survival. You agree that notwithstanding anything in this Agreement to the contrary, your obligations under this Agreement, specifically but without limitation, your obligations under the NDA, shall survive any termination of this Agreement and/or the relationship between you and the Company, to the extent necessary to give effect to the subject provisions according to their terms.

20. Assignment. This Agreement shall be binding upon and inure to the benefit of your heirs and representatives and the assigns and successors of the Company, but neither this Agreement nor any rights or obligations hereunder shall be assignable or otherwise subject to hypothecation by you. The Company shall have the right to assign this Agreement to any of its affiliates, successors, or related companies, whether now in existence or later formed.

21. No Mitigation. You shall not be required to mitigate any payment provided for under this Agreement by seeking other employment or otherwise after the termination of your employment hereunder, and any amounts earned by you, whether from self-employment, as a common-law employee or otherwise, shall not reduce any amounts otherwise payable to you hereunder, including, but not limited to, the Severance.

22. Severability. Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be prohibited by or invalid under applicable law, such provision shall fail to be in effect only to the extent of such prohibition or invalidity, without invalidating the remainder of this Agreement or of any such provision.

23. Amendment and Modification. No provision of this Agreement may be modified, amended, waived or terminated except by a writing signed by both you and the Company. No course of dealing between you and the Company will modify, amend, waive or terminate any provision of this Agreement or any rights or obligations of any Party under or by reason of this Agreement.

24. Entire Agreement. This Agreement constitutes the entire agreement between the Parties hereto relating to the subject matter hereof. All prior or contemporaneous agreements or understandings between the Parties relating to the subject matter hereof, whether oral or written, are superseded by and merged into this Agreement. You acknowledge that no other promises were made to you other than are or may be contained in this Agreement, and that no other inducement caused you to sign this letter.

25. Withholding. The Company shall be entitled to withhold from payment any amount of withholding required by law. Certain of the benefits described above which the Company intends to offer you may constitute taxable income to you. In the event that it does, you understand and agree that you shall be responsible for such additional taxes and the Company shall not pay any portion of such additional taxes.

26. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument.

27. Facsimile Signatures. Facsimile signed counterparts to this Agreement, including signed counterparts delivered in PDF or other electronic format, shall be acceptable and binding and treated in all respects with the same force and effect as an originally executed counterpart signature.

28. Acknowledgment. You acknowledge that you have had the opportunity to consult legal counsel regarding this Agreement, have read and understand this Agreement, are fully aware of its legal effect, and have entered into it freely and voluntarily and not on any representations of promises other than those contained in this Agreement.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

29. Indemnification. While employed by the Company and thereafter, the Company shall defend and indemnify you and hold you and your heirs and representatives harmless, to the maximum extent permitted by law, against any and all damages, costs, liabilities, losses and expenses (each an "***Indemnification Obligation***") as a result of any claim or proceeding, or threatened claim or proceeding, against you that arises out of or relates to your service as an officer, director or employee, as the case may be, of the Company, or your service in any such capacity or similar capacity with any affiliated company or subsidiary or other entity at the request of the Company, and to advance to you, and/or your successors, heirs or representatives (as the case may be), upon written request, such expenses and other amounts as are necessary to reimburse and otherwise make you whole for any such Indemnification Obligation. While employed by the Company, the Company shall provide you with coverage under its current directors' and officers' liability policy (if any).

[Signature page follows]

* * * * *

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed as of the date first written above.

ICONIC BRANDS, INC.	**EMPLOYEE**
By: */s/ Richard DeCicco*	*/s/ Larry Romer*
Name: Richard DeCicco	Larry Romer
Title: Chairman of the Board and Chief Executive Officer	

EXHIBIT A
CONFIDENTIALITY, RESTRICTIVE COVENANT, AND ASSIGNMENT AGREEMENT

As a condition of my employment with Iconic Brands, Inc., its subsidiaries, affiliates, successors or assigns (together, the "***Company***"), and in consideration of my employment with the Company and my receipt of the compensation now and hereafter paid to me by the Company, I, Larry Romer, agree, effective as of July 21, 2021, to the following (the "***NDA***"):

1. Confidential Information.

(a) I agree that I have had access to the Company's Confidential Information, as defined herein, that said Confidential Information is valuable to the Company, and that the unauthorized release of that information would cause serious damage to the Company. I therefore agree to hold in strictest confidence, and not to use, except for the benefit of the Company, or to disclose to any person, firm or corporation without written authorization of the Company, any Confidential Information of the Company. I understand that "***Confidential Information***" means any of the Company's proprietary information, technical data, trade secrets or know-how, including, but not limited to, business plans, financial analyses, specifications, programming, flow charts, data, compilations of data, research, product plans, products, services, client lists, markets, software, developments, inventions, processes, formulas, technology, marketing, finances, business plans, or other business information disclosed to me by the Company either directly or indirectly in writing, orally or by drawings or observation. In the event that I am required by law to disclose any Confidential Information, I will give the Company prompt advance written notice thereof and will provide the Company with reasonable assistance in obtaining an order to protect the Confidential Information from public disclosure.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(b) Notice of Immunity Under the Economic Espionage Act of 1996, as amended by the Defend Trade Secrets Act of 2016. Notwithstanding any other provision of this NDA:

(i) I will not be held criminally or civilly liable under any federal or state trade secret law for any disclosure of a trade secret that is made: (i) in confidence to a federal, state, or local government official, either directly or indirectly, or to an attorney, and solely for the purpose of reporting or investigating a suspected violation of law; or (ii) in a complaint or other document that is filed under seal in a lawsuit or other proceeding.

(ii) If I file a lawsuit for retaliation by the Company for reporting a suspected violation of law, I may disclose the Company's trade secrets to my attorney and use the trade secret information in the court proceeding if I: (i) file any document containing the trade secret under seal; and (ii) do not disclose the trade secret, except pursuant to court order.

2. Inventions.

(a) Inventions Retained and Licensed. I have attached hereto, as Exhibit A, a list describing all inventions, designs original works of authorship, developments, improvements, and trade secrets which were made by me prior to my employment with the Company (collectively referred to as "***Prior Inventions***"), which belong to me, which relate to the Company's business, products or product development, and which are not assigned to the Company hereunder. If there are no such Prior Inventions indicated on Exhibit A, I represent that there are no such Prior Inventions. If in the course of providing services to the Company, I incorporate into a Company product, process or design a Prior Invention owned by me or in which I have an interest, the Company is hereby granted and shall have a nonexclusive, royalty-free, irrevocable, perpetual, worldwide license to make, have made, modify, use and sell such Prior Invention as part of or in connection with such product, process or design.

(b) Assignment of Inventions. I acknowledge that during my employment with the Company and/or during such time as I am providing services to the Company as a consultant, contractor, or in any capacity (both my employment and/or my provision of services are referred to collectively herein as "employment" or being "employed"), I will be expected to undertake creative work, either alone or jointly with others, which may lead to inventions, original works of authorship, developments, concepts, improvements, trade secrets or other intellectual property rights, whether or not patentable or registrable under copyright or similar laws ("***Inventions***"). I hereby agree that all Inventions created while employed by the Company (whether or not on the Company's premises or using the Company's equipment and materials or during regular business hours) shall be a work-for-hire and shall be the sole and exclusive property of the Company, and I hereby assign to the Company all of my right, title and interest in and to any and all such Inventions. In addition, any Inventions created after the termination of my employment with the Company which are based upon or derived from Confidential Information shall be the sole and exclusive property of the Company, and I hereby assign to the Company all of my right, title and interest in and to any and all such Inventions. Nothing in the preceding sentence shall be construed to limit my obligations under Section 1 of this NDA.

(c) Patent and Copyright Registrations. I agree to assist the Company, or its designee, in every way, to secure the Company's rights in the Inventions and any copyrights, patents, mask work rights or other intellectual property rights relating thereto in any and all countries, including the disclosure to the Company of all pertinent information and data with respect thereto, the execution of all applications, specifications, oaths, assignments and all other instruments which the Company shall deem necessary in order to apply for and obtain such rights and in order to assign and convey to the Company, its successors, assigns and nominees the sole and exclusive rights, title and interest in and to such Inventions, and any copyrights, patents, mask work rights or other intellectual property rights relating thereto. I further agree that my obligation to execute or cause to be executed any such instrument or papers shall continue after the termination of this NDA. If the Company is unable because of my mental or physical incapacity or for any other reason to secure my signature to apply for or to pursue any application for any United States or foreign patents or copyright registrations covering Inventions or original works of authorship assigned to the Company as above, then I hereby irrevocably designate and appoint the Company and its duly authorized officers and agents as my agent and attorney in fact, to act for and in my behalf and stead to execute and file any such applications and to do all

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

other lawfully permitted acts to further the prosecution and issuance of letters patent or copyright registrations thereon with the same legal force and effect as if executed by me.

(d) Originality. I hereby warrant and represent to the Company that, to the best of my knowledge and except as expressly disclosed to the Company in writing by me, all Inventions, and Prior Inventions are original and were not conceived, reduced to practice, authored or otherwise developed by misappropriating the trade secrets or other proprietary technology or intellectual property of any third parties. I hereby agree to indemnify, defend and hold the Company harmless from and against any and all third party claims, and any costs, damages and liabilities resulting therefrom, made against or imposed upon the Company as a result of my breach of the above representation and warranty. The foregoing representation and warranty shall be deemed first made on the date hereof and shall run continuously thereafter and apply to all Inventions and Prior Inventions governed by this NDA.

(e) Application. I agree that the provisions of this Section 2 shall apply with respect to any and all Inventions, whether created during my employment with the Company or any predecessor entity, or during any pre-organization period. I acknowledge that the Company and its future investors shall rely on this representation.

3. Restrictive Covenants.

(a) Non-competition. At all times during my employment or engagement with the Company, and for a period thereafter of twelve (12) months, I shall not, directly or indirectly, on my own behalf or on behalf of any person, firm, company, or entity: (i) engage in any business that competes, directly or indirectly, with the business of the Company; or (ii) provide to any third party that engages in any business that competes, directly or indirectly, with the business of the Company any services comparable to those I provided to the Company in the course of my engagement or employment with the Company.

(b) Non-Service. At all times during my employment or engagement with the Company, and for a period thereafter of twelve (12) months, I agree that I shall not, directly or indirectly, on my own behalf or on behalf of any person, firm, company, or entity, accept business of the type offered by the Company during my employment with the Company or perform or supervise the performance of any services related to such business for any: (i) client, customer, prospective client, prospective customer, or vendor of the Company, whom I solicited or serviced, directly or indirectly or who were solicited or serviced by those who I supervised, directly or indirectly, in whole or in part; (ii) former client, customer or vendor of the Company who was such within twelve (12) months prior to the termination of my employment with the Company and whom I solicited or serviced, directly or indirectly, or who were solicited or serviced by those who I supervised, directly or indirectly, in whole or in part; or (iii) any clients, customers, prospective clients, prospective customers, or vendors of the Company, who the Company solicited or serviced during my employment with the Company.

(c) Non-solicitation. At all times during my employment or engagement with the Company, and for a period thereafter of twelve (12) months, I shall not, directly or indirectly, on my own behalf or on behalf of any person, firm, company, or entity: (i) solicit, offer employment to, or hire (collectively, "***Restricted Solicitation***") any person who consulted with or has been employed by the Company at any time during the twelve (12) months immediately preceding such Restricted Solicitation; or (ii) solicit, call upon, or otherwise communicate in any way with any client, customer, prospective client, prospective customer, or vendor of the Company for the purposes of causing or of attempting to cause any such person to purchase products sold or services rendered by the Company from any person or entity other than the Company.

(d) Tolling. I agree that the time periods of the covenants contained in this Section 3 shall be extended by any and all periods during which I am in breach of such covenants.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

4. Social Media. I agree that, except as permitted by applicable law, I am prohibited from posting any confidential, financial, sensitive, or proprietary information, or job-related content, about the Company, or any of the Company's current, former, or potential employees, partners, suppliers, vendors, licensors, or business relations on social media in accordance with the NDA. This prohibition applies to all forms of social media including, but not limited to: blogs, Facebook, Twitter, LinkedIn, YouTube, Tumblr, and Instagram. Content regarding the Company that is truthful, accurate and respectful may be posted if it is approved in advance, in writing, by the Company in each and every instance. I am representing myself, not the Company, when participating in social networking. I agree not to represent that I am in any way speaking on behalf of the Company unless I am authorized to do so in writing.

5. Publicity. I agree that I shall acquire no right under this NDA to use, and shall not use, the Company's name, or any derivation of the Company's name (either alone or in conjunction with or as a part of any other work or name) in any of my advertising, publicity or promotions to express or imply any endorsement by the Company of my employment, engagement, or services, or in any other manner whatsoever unless written approval is obtained from the Company prior to such usage. Nothing contained herein shall be construed to prevent me from communicating with third parties or prospective employers concerning my position and duties with the Company. The Company shall have no obligation to accord me credit for the services rendered **hereunder**.

6. Non-Disparagement. I shall not disparage or make any statement which might adversely affect the reputation of the Company. For the purpose of this Section, the term "disparage" shall include, without limitation, any statement accusing the Company of acting in violation of any law or governmental regulation or of condoning any such action, or otherwise acting in an unprofessional, dishonest, disreputable, improper, incompetent or negligent manner.

7. Specific Performance and Equitable Relief. I acknowledge and agree that the Company would suffer irreparable harm if the Confidential Information was disclosed to third parties without the Company's consent or if I breached the restrictive covenants and non-disparagement provisions contained herein. I further agree that the restrictive covenants in this NDA are reasonable covenants under the circumstances, and further agree that if in the opinion of any court of competent jurisdiction such restraints are not reasonable in any respect, such court shall have the right, power and authority to excise or modify such provision or provisions of such covenants as to the court shall appear not reasonable and to enforce the remainder of the covenants as so amended. Accordingly, I hereby consent to and agree that, in the event of a breach or threatened breach of this NDA by me, the Company shall have the right to exercise any and all rights by appropriate action either by law or in equity, including specific performance of my obligations arising pursuant to this NDA, and that the Company shall be entitled to equitable relief, including injunctive relief, in connection with any breach or threatened breach, by me, of my obligations arising pursuant to this NDA, and specifically, without limitation, the confidentiality, restrictive covenant, and non-disparagement provisions above. I further agree that the Company may, in addition to pursuing any remedies it may have in law or in equity, cease making any payments otherwise required by any agreement between the Company and me, and that I shall not request that the Company post, nor shall the Company be obligated to post, a bond in connection with any equitable relief authorized pursuant to this Section and in fact requested by the Company. To the extent the Company expends attorneys' fees in enforcing the terms of this NDA against me, I shall be responsible for indemnifying the Company for said fees.

8. No Further Consideration. I acknowledge and agree that, except as compensated in accordance with my status as an employee of or consultant with the Company and as set forth herein, I shall not be entitled to any further or additional compensation in consideration of complying with the confidentiality, non-competition, non-solicitation, and non-disparagement obligations set forth herein.

9. Effect on Employment. I acknowledge that none of the covenants in this NDA is intended to create a contract of employment and that the term of my employment with the Company is governed by the attached employment agreement.

10. Returning Company Documents. I agree that, at the time I cease performing services for the Company, I will immediately deliver to the Company (and will not keep in my possession, recreate or deliver to anyone else) any and all software, devices, records, data, notes, reports, proposals, lists, correspondence, specifications,

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

materials, equipment, other documents or property, including all Confidential Information or reproductions of any of the aforementioned items developed during or in connection with my employment with the Company or otherwise belonging to the Company, its successors or assigns.

11. Warranty by Employee. I represent and warrant that: (a) consulting with or being employed by the Company does not constitute a breach of any agreement or other legal obligation with or to a third party; (b) I am not bound by or subject to any agreement or other legal obligation with a third party that would adversely affect my consulting with or being employed by the Company, including but not limited to, a prior employment agreement, confidentiality agreement, or covenant not to compete, not to solicit or other restriction against competition; (c) I will not use in connection with my employment with the Company any confidential or proprietary information belonging to any third party without first obtaining a written release from that third party; and (d) in performing services for the Company, I shall comply with all policies and procedures of the Company (as applicable) and all applicable laws. I shall indemnify, defend, and hold harmless the Company, and the present, former and future officers, directors, managers, shareholders, members, employees, contractors and agents of the Company, from any and all losses, claims, damages, judgments, awards, costs and expenses (including without limitation, reasonable attorneys' fees and costs, and direct, indirect, and consequential damages) incurred as a result of any breach of this Section or any other provision of this NDA.

12. General Provisions.

(a) Severability. I agree that if one or more of the provisions in this NDA are deemed void by law, then the remaining provisions will continue in full force and effect and, if legally permitted, such offending provision or provisions shall be replaced with an enforceable provision or enforceable provisions that as nearly as possible effects the parties' intent. Without limiting the generality of the foregoing, the parties hereby expressly state their intent that, to the extent any provision of this NDA is unenforceable due to the scope (temporal, geographic or otherwise) being too broad, the court or arbitrator properly adjudicating any dispute with respect thereto shall modify such provision to the minimum extent necessary to cause such provision to be enforceable.

(b) Successors and Assigns. This NDA will be binding upon my heirs, executors, administrators and other legal representatives and will be for the benefit of the Company, its successors, and its assigns. I acknowledge and agree that I cannot assign or transfer this NDA nor any rights hereunder without the express written consent of the Company, in its absolute discretion. The Company, however, shall have the right to assign this NDA and/or any of its rights or obligations set forth herein.

(c) Survival. I agree that notwithstanding anything in this NDA to the contrary, the provisions of this NDA shall survive any termination of my employment with the Company or termination of this NDA to the extent necessary to give effect to the subject provisions according to their terms, and shall remain in full force and effect indefinitely.

(d) Amendment and Modification. No provision of this NDA may be modified, amended, waived or terminated except by a writing signed by both myself and the Company. No course of dealing between me and the Company will modify, amend, waive or terminate any provision of this NDA or any rights or obligations of any party under or by reason of this NDA.

(e) Counterparts. This NDA may be executed in two or more counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument.

(f) Facsimile Signatures. A facsimile or PDF scanned copy of my or the Company's signature shall be as valid and binding as an original.

(g) Governing Law. This NDA shall be governed by, and construed and enforced in accordance with, the laws of the State of New York (excluding the choice of law rules thereof). **I ACKNOWLEDGE AND AGREE THAT, PRIOR TO EXECUTING THIS NDA, I WAS AFFORDED AN OPPORTUNITY TO OBTAIN THE ADVICE OF INDEPENDENT LEGAL COUNSEL AND HAVE READ AND UNDERSTAND ALL OF**

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

THIS NDA. ACCORDINGLY, THIS NDA SHALL NOT BE CONSTRUED AGAINST ANY PARTY BY REASON OF THE DRAFTING OR PREPARATION OF THIS NDA.

(h) Choice of Forum. Each of the parties hereby consents to the jurisdiction of any state or federal court located within the County of New York, State of New York and irrevocably agrees that all actions or proceedings relating to this NDA must be litigated in such courts, and each of the parties waives any objections which it/he/she may have based on improper venue or forum *non conveniens* to the conduct of any proceeding in such court.

(i) No Expectation of Privacy. I acknowledge and agree that I have no expectation of privacy in respect of any information (e.g., emails and voice mail), whether personal or otherwise, stored on Company's networking, telecommunications, computer and other equipment, which information may be monitored by Company at any time without notice.

[Signature page follows]

* * * * *

IN WITNESS WHEREOF, the Parties hereto have caused this NDA to be duly executed as of the date first written above.

ICONIC BRANDS, INC.	**EMPLOYEE**
By: */s/ Richard DeCicco*	*/s/ Larry Romer*
Name:Richard DeCicco	NameLarry Romer
Title: Chairman of the Board and Chief Executive Officer	

EXHIBIT A
LIST OF PRIOR INVENTIONS
AND ORIGINAL WORKS OF AUTHORSHIP

Title	Date	Identifying Number or Brief Description

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

EXHIBIT 10.19

EMPLOYMENT AGREEMENT

This employment agreement (the "***Agreement***"), when duly executed, is made and entered into as of July 26, 2021, by and between Iconic Brands, Inc., a Nevada corporation located at 44 Seabro Avenue, Amityville, New York 11701 (the "***Company***"), and David Allen ("***you***"), whose current residence is located at 23 East Wharf Road, Madison, CT 06443 (the "Company" and "you" are referred to herein in the collective as the "***Parties***").

WHEREAS, the Company has entered into certain securities purchase agreements (collectively the "***Purchase Agreements***") with certain accredited investors for the sale of newly-created series A-2 Convertible Preferred Stock, par value $0.001 ("***Series A-2 Preferred Stock***"), and warrants to purchase shares of the Company's common stock, par value $0.001 (the "***Common Stock***"); and

WHEREAS, the Company has entered into certain securities exchange agreements (collectively the "***Exchange Agreements***") with holders of the Company's Series E, F, and G Convertible Preferred Stock and Series E, F, and G Common Stock Purchase Warrants, whereby such holders will exchange such securities for newly-issued Series A-2 Preferred Stock; and

WHEREAS, the Company has entered into a securities exchange agreement (the "***Series A Exchange Agreement***") with Richard DeCicco, whereby Mr. DeCicco will exchange his one (1) share of Series A Preferred Stock for a specified number of Common Stock; and

WHEREAS, the Company has entered into a securities purchase agreement (the "***United Purchase Agreement***") with Mr. DeCicco to purchase all of the issued and outstanding capital stock of United Spirits, Inc., a New York corporation; and

WHEREAS, the Company has entered into an acquisition agreement with TopPop LLC ("***TopPop***"), a New Jersey limited liability company, as part of a transaction under Section 351 of the Internal Revenue Code (the "***Code***"), pursuant to which the Company will acquire all of the membership interest in TopPop (the "***TopPop Agreement***" and collectively with the United Purchase Agreement, the Purchase Agreements, the Exchange Agreements, and the Series A Exchange Agreement, the "***Iconic Agreements***"); and

WHEREAS, in connection with the transactions contemplated in the Iconic Agreements, the Company and the Executive wish to enter into this Agreement effective immediately upon the closing of the transactions contemplated in the Iconic Agreements, on the terms and conditions, and for the consideration, herein set forth;

NOW THEREFORE, in consideration of the covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. Title/Duties. You shall be employed by the Company as Chief Financial Officer. You will be responsible for the duties and obligations consistent with your position, which will be subject to the control and direction of the Company and may change from time to time at the Company's sole discretion (the "***Services***"). You shall report to the Company's Chief Executive Officer, his/her designee, or another senior executive as directed by the Company, and you shall devote your full time and best efforts to the performance of your duties for the Company. While employed by the Company, you shall not perform work on behalf of, or provide services to, any third parties (even if not in competition with the Company), whether as an employee, consultant, or otherwise. Notwithstanding the foregoing, Company agrees that you may continue to sit on the boards of the companies listed on **Exhibit B** (your "***Outside Board Seats***"), so long as such activities do not materially conflict or materially interfere with the performance of your duties and obligations hereunder. For the avoidance of doubt, you shall have the right to retain all fees, compensation, and/or other remuneration paid to you by reason of the Outside Board Seats.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

2. Location. You shall perform the Services primarily remotely, at locations of your choosing; provided that you will be available, from time to time, as reasonably requested by the Company, for meetings and otherwise to provide the Services at the Company's office in Amityville, New York. You shall also undertake reasonable travel from time to time as requested by the Company.

3. Term. This Agreement shall commence as of the date of the closing of the transactions contemplated in the Iconic Agreements (the "***Effective Date***") and shall continue until the two (2) year anniversary of the Effective Date (the "***Initial Term***"). Upon the expiration of the Initial Term or any Renewal Term (defined below), this Agreement shall automatically renew for an additional two (2) years (each such renewal being a "***Renewal Term***" and all such Renewal Terms, if any, combined with the Initial Term being the "***Term***"), unless either party provides written notice to the other of non-renewal at least ninety (90) days prior to the end of the then current Term. Notwithstanding anything in this Agreement to the contrary, in the event that the transactions contemplated in the Iconic Agreements are not consummated by September 1, 2021, this Agreement shall become null and void *ab initio*.

4. Base Salary. As full and complete consideration for the Services provided herein by you, and on the condition that you fully and faithfully perform the Services, duties and obligations required to be performed hereunder, and that you are not in breach of this Agreement or NDA, the Company shall pay you a base salary of Two Hundred Fifty Thousand and 00/100 Dollars ($250,000) gross per annum (prorated for partial years) in accordance with the Company's payroll practices and subject to customary tax withholdings and deductions (the "***Base Salary***"). The Company may, in its sole discretion, adjust Base Salary during the Term, and as so adjusted shall constitute "Base Salary" thereafter.

5. Annual Bonus. In addition to your Base Salary, you shall be eligible to receive an annual bonus (the "***Bonus***") during the Term with a target amount equal to twenty-five percent (25%) of Base Salary (the "***Target Bonus***"), based on performance criteria determined by the Company's board of directors (the "***Board***") in its sole discretion. The Company shall pay you such bonus (if earned) in the calendar year following the calendar year for which it is earned; provided that, except as described below in Section 11, you must be an employee in good standing with the Company on the date such bonus is to be paid to you in order to receive it.

6. Stock Options. During the Term, you shall also be eligible for award(s) of stock options and/or restricted stock of the Company pursuant to the terms of the Company's equity incentive plan (which is yet to be established). The amount, frequency, and other details of such awards shall be determined by the Company's Board of Directors in its sole discretion.

7. Health Care Benefits. You may participate in the Company's health insurance plan, subject to the terms of such plan. However, nothing herein requires the Company to keep a health insurance plan or arrangement in place, or continue any health insurance plan or arrangement, and the Company may modify, amend or terminate such plan or program at any time in its sole discretion.

8. Retirement Plan. You shall also be eligible to enroll and participate in the Company's 401(k) plan in accordance with the terms of such 401(k) plan, once/if such a plan is established. For the avoidance of doubt, the Company currently does not have a 401(k) plan in place. Nothing herein requires the Company to offer or maintain any benefit plan, program, or practice, and the Company may modify, amend, or terminate such plan, program, and practice at any time in its sole discretion.

9. Corporate Opportunities. During the Term, you will submit to the Board all business, commercial and investment opportunities or offers presented to you or of which you become aware which directly relate to the businesses of the Company, as such business of the Company exist from time to time during the Term ("***Corporate Opportunities***"). During the Term, unless approved by the Board, you will not accept or pursue, directly or indirectly, any Corporate Opportunities on your own behalf, unless after submitting such Corporate Opportunity to the Board, the Board: (a) rejects such opportunity in writing and consents to your pursuing such opportunity; or (b) does not commence material activity (negotiations, financing, etc.) in respect of such Corporate Opportunity within thirty (30) days of your notice to the Board of such Corporate Opportunity (such Corporate Opportunities which the Company declines or does not pursue as described in (a) and (b) being the "***Company Declined Corporate Opportunities***"). For

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

the avoidance of doubt, you shall be free to pursue such Company Declined Corporate Opportunities, immediately in the case of (a) or upon expiration of such thirty (30) day period in the case of (b) (as applicable).

10. Paid Time Off.

(a) Vacation. You shall be entitled to thirty (30) business days of paid vacation in each calendar year, subject to the policies and procedures of the Company concerning vacation days and the conditions set forth herein. Vacation days shall be in addition to any holidays observed by the Company. Any unused vacation shall be forfeited without payment therefor at the end of each calendar year or upon termination. Nothing contained herein shall be read to contravene any rights provided by applicable law, which shall govern and supersede in the event of a conflict between its terms and the policy stated herein.

(b) Sick Days. You shall be entitled to seven (7) days of paid sick time each calendar year, with all seven (7) days for 2021 available as of the Effective Date. Any unused sick time shall be forfeited without payment therefor at the end of each calendar year or upon termination. Nothing contained herein shall be read to contravene any rights provided by applicable law, which shall govern and supersede in the event of a conflict between its terms and the policy stated herein.

11. Business Expenses. The Company will reimburse you for reasonably-incurred business expenses, including, but not limited to, travel and entertainment expenses, in accordance with Company expense and travel policies.

12. Termination.

(a) In the event that your employment with the Company is terminated for any reason, the Company shall pay you: (i) your Base Salary through the date of termination to the extent not yet paid to you; (ii) any unreimbursed business expenses payable to you; (iii) if your employment has been terminated by the Company without Cause or by you for Good Reason (as such terms are defined below), any bonus compensation earned in a prior year but which is not yet paid to you; and (iv) any payments and benefits to which you are entitled pursuant to the terms of any employee benefit or compensation plan or program in which you participate (or participated) (items (i) through (iv) being the "***Accrued Amounts***"). The Company shall pay you the items in (i) through (iii) within ten (10) days following the date of termination and the amounts under (iv) in accordance with the terms of such plans or programs.

(b) In addition to the Accrued Amounts, in the event your employment is terminated by the Company without Cause, due to your resignation for Good Reason, or due to your Disability (defined below), the Company shall also pay you an amount equal to: (i) twenty-four (24) months of your Base Salary; plus (ii) a prorated bonus for the year of termination equal to your Target Bonus multiplied by a fraction, the numerator of which is the number of days you were employed by the Company in the year of termination and the denominator being 365; plus (iii) a bonus for the severance period equal to the Target Bonus multiplied by a fraction, the numerator of which is the number of months you are receiving severance and the denominator being 12; payable as a lump sum within sixty (60) days following termination ("***Severance***"). Furthermore, if you elect to continue to receive group health insurance coverage under the Company's group health plan pursuant to COBRA, the Company will reimburse you for such monthly COBRA premiums for twenty-four (24) months following the termination date (such monthly payments being the "***COBRA Amount***"), provided you provide the Company with adequate documentation of your payment of such monthly COBRA premiums. The COBRA Amount shall maintain the coverage you and your dependents (if applicable) had immediately prior to the termination of your employment with the Company. In the event you do not elect COBRA coverage, you subsequently become ineligible for continued COBRA coverage, or you fail to provide the Company with adequate documentation of your payment of such COBRA premiums, the Company shall no longer be obligated to pay you the COBRA Amount.

(c) Notwithstanding the above, in order to receive Severance and continued payments of COBRA Amount, you must satisfy the Release Condition (defined below). If you do not satisfy the Release Condition, the Company shall have no obligation to pay you Severance or continue paying you the COBRA Amount.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(d) Definitions.

(i) "***Cause***" means: (i) your conviction of or entry of a plea of guilty or *nolo contendere* to (A) any felony; or (B) a misdemeanor involving moral turpitude; (ii) your willful malfeasance or willful misconduct in connection with your employment; (iii) alcohol or substance abuse that materially interferes with the performance of your duties for the Company; (iv) your material breach of this Agreement or the Restrictive Covenant Agreement; (v) engagement by you in immoral conduct that has or could reasonably have a material adverse effect on the business or goodwill of Company or any of its affiliates, materially adversely reflects on the reputation of Company or any of its affiliates, or materially interferes with the performance of your services to Company or any of its affiliates; or (vi) your refusal to perform, or gross negligence in performing, your duties to Company or any of its affiliates or your refusal to abide by a lawful directive of Company (including those of your supervisors); provided, however, that in each case (other than (i), (ii), and (v)), the Company shall have provided you with written notice describing such event(s) or circumstance(s), you have been afforded at least thirty (30) days to cure, and you have failed to cure such event(s) or circumstances within such cure period.

(ii) ***"Disability"*** means that: (i) you have become totally and permanently disabled under the Company's long-term disability benefit plan as in effect from time to time (if such a plan exists) and are receiving long-term disability benefits thereunder; or (ii) if there is no long-term disability benefit plan, that you experience a mental or physical disability resulting in your being unable to perform your material duties hereunder for ninety (90) consecutive days, or an aggregate period of one hundred eighty (180) days in any twelve (12) month period (as determined by a physician selected by the Company in its good faith judgment and reasonable acceptable to you). The Company shall hold all personal information collected as part of this process, including any medical records, medical history, or other health information, in the strictest confidence and shall limit the dissemination of such information to employees of the Company on a need-to-know basis.

(iii) "***Good Reason***" means the occurrence of any of the following events without your prior written consent: (i) a material diminution of your titles, authorities, duties, responsibilities, or reporting relationships, with such determination being made with reference to the greatest extent of your titles, authorities, duties, responsibilities, or reporting relationships; (ii) the assignment to you of duties materially inconsistent with your position with Company; (iii) any diminution of your Base Salary; (iv) any requirement that you stop working remotely or report to a Company office not located in Suffolk County, New York; (v) the Company's failure to pay any amount due you under this Agreement; (vi) the Company's or any affiliate's material breach of this Agreement or any other written agreement between the Company and you; or (vii) the Company's providing you with notice of non-renewal, as described above in Section 3; provided, however, that you shall have provided the Company with written notice that such events have occurred and afforded Company thirty (30) days to cure and Company shall have failed to cure such events within such 30 day cure period.

(iv) "***Release Condition***" means that you have executed a general release of claims in favor of Company and its affiliates, officers, directors, and employees in a form reasonably provided by Company by the date specified in such release and such release has become irrevocable by its terms; provided that in the event that the period you have to sign and/or revoke such release spans two calendar years, Company will begin paying you the Severance as soon as possible but in no event earlier than the beginning of such second calendar year. Such release shall not require you to waive any rights you may have to the Accrued Amounts and the Severance, in accordance with the terms of this Agreement. Notwithstanding the above, such release shall not require you to release any claims or rights arising or in any way related to: (i) the Severance or COBRA Amount; (ii) reimbursement for business expenses incurred prior to the date of termination, in accordance with any Company business expense policies (as applicable); (iii) any employee benefit or compensation plan or program in which you participate (or participated); (iv) your rights to be indemnified and to the advancement of expenses for all claims or proceedings, or threatened claims or proceedings, that arise out of or relate to your service as an officer or employee of the Company, including attorneys' fees; (v) any equity interest or other similar interest in the Company or any affiliate; and (vi) any rights or claims that that arise after the signing of the release or which otherwise cannot be waived as a matter of law.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

13. Confidentiality. You agree that during your employment with the Company you will have access to the Company's confidential information, that said confidential information is valuable to the Company, and that the unauthorized release of that information would cause serious damage to the Company. As a condition of your employment with the Company, you agree to be subject to the covenants and other provisions of the Confidentiality, Restrictive Covenant, and Assignment Agreement (the "***NDA***") annexed hereto as Exhibit A. You agree that your employment with the Company is contingent upon your adherence to the NDA and to the Company's policies and procedures. In the event that your employment with the Company terminates for any reason or no reason, you agree that you will continue to be bound by the provisions of the NDA which by its terms continue in full force and effect after the termination of your employment with the Company. You shall indemnify the Company for all damages incurred by your violation of the NDA, and reimburse the Company for any attorneys' fees and expenses incurred in the Company's efforts to enforce the NDA.

14. Return of Materials. Upon termination of your employment with the Company, or at any time the Company so requests, (a) you shall return immediately to the Company all Company property and all materials (in written, electronic, or other form) containing or constituting confidential information or related to work, including any copies, reproductions, or other images, and (b) you shall not use confidential information in any way for any purpose.

15. Section 409A. This Agreement is intended to comply with the requirements of Section 409A of the Code ("***Section 409A***"), and the Parties hereby agree to amend this Agreement as and when necessary or desirable to conform to or otherwise properly reflect any guidance issued under Section 409A after the date hereof without violating Section 409A. In case any one or more provisions of this Agreement fails to comply with the provisions of Section 409A, the remaining provisions of this Agreement shall remain in effect, and this Agreement shall be administered and applied as if the non-complying provisions were not part of this Agreement. The Parties in that event shall endeavor to agree upon a reasonable substitute for the non-complying provisions, to the extent that a substituted provision would not cause this Agreement to fail to comply with Section 409A, and, upon so agreeing, shall incorporate such substituted provisions into this Agreement. In no event whatsoever shall the Company be liable for any additional tax, interest or penalty that may be imposed on you by Section 409A or damages for failing to comply with Section 409A. A termination of your employment hereunder shall not be deemed to have occurred for purposes of any provision of this Agreement providing for the payment of any amount or benefit constituting "deferred compensation" under Section 409A upon or following a termination of employment unless such termination is also a "separation from service" within the meaning of Section 409A and, for purposes of any such provision of this Agreement, references to a "termination," "termination of employment" or like terms shall mean "separation from service." In the event that any payment or benefit made hereunder or under any compensation plan, program or arrangement of the Company would constitute payments or benefits pursuant to a non-qualified deferred compensation plan within the meaning of Section 409A and, at the time of your "separation from service" you are a "specified employee" within the meaning of Section 409A, then any such payments or benefits shall be delayed until the six-month anniversary of the date of your "separation from service." Each payment made under this Agreement shall be designated as a "separate payment" within the meaning of Section 409A. All reimbursements and in-kind benefits provided under this Agreement shall be made or provided in accordance with the requirements of Section 409A to the extent that such reimbursements or in-kind benefits are subject to Section 409A. All reimbursements for expenses paid pursuant hereto that constitute taxable income to you shall in no event be paid later than the end of the calendar year next following the calendar year in which you incur such expense or pays such related tax. Unless otherwise permitted by Section 409A, the right to reimbursement or in-kind benefits under this Agreement shall not be subject to liquidation or exchange for another benefit and the amount of expenses eligible for reimbursement, or in-kind benefits, provided during any taxable year shall not affect the expenses eligible for reimbursement, or in-kind benefits to be provided, respectively, in any other taxable year. In the event that any payment(s) from the Company to you is conditioned upon your execution and non-revocation of a general release of claims in favor of the Company, and the period you have to sign and/or revoke such release spans two calendar years, the Company will pay (or begin paying you, as applicable) such payment(s) as soon as possible but in no event earlier than the beginning of such second calendar year.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

16. Governing Law and Arbitration. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of New York. Other than a claimed violation by you of the separately executed NDA (the "***Injunctive Relief Exception***"), any dispute or controversy arising out of or relating to this Agreement, and/or related to your employment with the Company, that could otherwise be resolved by a court shall be resolved through arbitration in accordance with the Employment Arbitration Rules and Mediation Procedures of the American Arbitration Association, in which neither class nor collective proceedings will be permitted. Judgment upon the award may be entered in any court having jurisdiction thereover. Except for the Injunctive Relief Exception, you and the Company give up and waive any right to resolve a controversy through any other means, and ***the right to sue in court in connection with claims related to this Agreement and/or your employment with the Company***. This waiver of the right to sue in court includes, for example, claims based on federal statutes such as Title VII of the Civil Rights Act of 1964 and the Fair Labor Standards Act and claims based on statutes, common law causes of action and concerning compensation. If there is more than one dispute between you and the Company, all such disputes may be heard in a single proceeding. Disputes pertaining to different employees of the Company will be heard in separate proceedings. Any arbitration shall be held in the County of New York, State of New York or in such other place as the Parties hereto may agree, unless applicable law requires otherwise.

17. Employee Representations/Background Check/Work Authorization. You have represented to us that you are under no restrictions that would prevent you from being employed by and performing the Services contemplated by this Agreement. You also agree to assist and cooperate with the Company on any background checks the Company wishes to perform on you, including any credit reports, and you will execute all appropriate authorizations to obtain any such background checks and/or reports. This offer of employment is conditioned upon the satisfactory outcome of such background checks, as determined by the Company in its sole discretion. This Agreement and each of its terms is also contingent upon proof of your work eligibility. Please note that because of employer regulations adopted in the Immigration Reform and Control Act of 1986, within three (3) business days following the commencement of your employment with the Company, you will need to present documentation demonstrating that you have authorization to work in the United States. If you have questions about this requirement, which applies to U.S. citizens and non-U.S. citizens alike, you may contact the Company.

18. No Credit for Drafting. You understand that this Agreement is deemed to have been drafted jointly by the Parties. Any uncertainty or ambiguity shall not be construed for or against any Party based on attribution of drafting to any Party.

19. Survival. You agree that notwithstanding anything in this Agreement to the contrary, your obligations under this Agreement, specifically but without limitation, your obligations under the NDA, shall survive any termination of this Agreement and/or the relationship between you and the Company, to the extent necessary to give effect to the subject provisions according to their terms.

20. Assignment. This Agreement shall be binding upon and inure to the benefit of your heirs and representatives and the assigns and successors of the Company, but neither this Agreement nor any rights or obligations hereunder shall be assignable or otherwise subject to hypothecation by you. The Company shall have the right to assign this Agreement to any of its affiliates, successors, or related companies, whether now in existence or later formed.

21. No Mitigation. You shall not be required to mitigate any payment provided for under this Agreement by seeking other employment or otherwise after the termination of your employment hereunder, and any amounts earned by you, whether from self-employment, as a common-law employee or otherwise, shall not reduce any amounts otherwise payable to you hereunder, including, but not limited to, the Severance.

22. Severability. Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be prohibited by or invalid under applicable law, such provision shall fail to be in effect only to the extent of such prohibition or invalidity, without invalidating the remainder of this Agreement or of any such provision.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

23. Amendment and Modification. No provision of this Agreement may be modified, amended, waived or terminated except by a writing signed by both you and the Company. No course of dealing between you and the Company will modify, amend, waive or terminate any provision of this Agreement or any rights or obligations of any Party under or by reason of this Agreement.

24. Entire Agreement. This Agreement constitutes the entire agreement between the Parties hereto relating to the subject matter hereof. All prior or contemporaneous agreements or understandings between the Parties relating to the subject matter hereof, whether oral or written, are superseded by and merged into this Agreement. You acknowledge that no other promises were made to you other than are or may be contained in this Agreement, and that no other inducement caused you to sign this letter.

25. Withholding. The Company shall be entitled to withhold from payment any amount of withholding required by law. Certain of the benefits described above which the Company intends to offer you may constitute taxable income to you. In the event that it does, you understand and agree that you shall be responsible for such additional taxes and the Company shall not pay any portion of such additional taxes.

26. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument.

27. Facsimile Signatures. Facsimile signed counterparts to this Agreement, including signed counterparts delivered in PDF or other electronic format, shall be acceptable and binding and treated in all respects with the same force and effect as an originally executed counterpart signature.

28. Acknowledgment. You acknowledge that you have had the opportunity to consult legal counsel regarding this Agreement, have read and understand this Agreement, are fully aware of its legal effect, and have entered into it freely and voluntarily and not on any representations of promises other than those contained in this Agreement.

29. Indemnification. While employed by the Company and thereafter, the Company shall defend and indemnify you and hold you and your heirs and representatives harmless, to the maximum extent permitted by law, against any and all damages, costs, liabilities, losses and expenses (each an "***Indemnification Obligation***") as a result of any claim or proceeding, or threatened claim or proceeding, against you that arises out of or relates to your service as an officer, director or employee, as the case may be, of the Company, or your service in any such capacity or similar capacity with any affiliated company or subsidiary or other entity at the request of the Company, and to advance to you, and/or your successors, heirs or representatives (as the case may be), upon written request, such expenses and other amounts as are necessary to reimburse and otherwise make you whole for any such Indemnification Obligation. While employed by the Company, the Company shall provide you with coverage under its current directors' and officers' liability policy (if any).

[Signature page follows]

* * * * *

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed as of the date first written above.

ICONIC BRANDS, INC.	**EMPLOYEE**
By: /s/ Richard DeCicco	/s/ David Allen

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

EXHIBIT A
CONFIDENTIALITY, RESTRICTIVE COVENANT, AND ASSIGNMENT AGREEMENT

As a condition of my employment with Iconic Brands, Inc., its subsidiaries, affiliates, successors or assigns (together, the "***Company***"), and in consideration of my employment with the Company and my receipt of the compensation now and hereafter paid to me by the Company, I, David Allen, agree, effective as of July 26, 2021, to the following (the "***NDA***"):

1. Confidential Information.

(a) I agree that I have had access to the Company's Confidential Information, as defined herein, that said Confidential Information is valuable to the Company, and that the unauthorized release of that information would cause serious damage to the Company. I therefore agree to hold in strictest confidence, and not to use, except for the benefit of the Company, or to disclose to any person, firm or corporation without written authorization of the Company, any Confidential Information of the Company. I understand that "***Confidential Information***" means any of the Company's proprietary information, technical data, trade secrets or know-how, including, but not limited to, business plans, financial analyses, specifications, programming, flow charts, data, compilations of data, research, product plans, products, services, client lists, markets, software, developments, inventions, processes, formulas, technology, marketing, finances, business plans, or other business information disclosed to me by the Company either directly or indirectly in writing, orally or by drawings or observation. In the event that I am required by law to disclose any Confidential Information, I will give the Company prompt advance written notice thereof and will provide the Company with reasonable assistance in obtaining an order to protect the Confidential Information from public disclosure.

(b) Notice of Immunity Under the Economic Espionage Act of 1996, as amended by the Defend Trade Secrets Act of 2016. Notwithstanding any other provision of this NDA:

(i) I will not be held criminally or civilly liable under any federal or state trade secret law for any disclosure of a trade secret that is made: (i) in confidence to a federal, state, or local government official, either directly or indirectly, or to an attorney, and solely for the purpose of reporting or investigating a suspected violation of law; or (ii) in a complaint or other document that is filed under seal in a lawsuit or other proceeding.

(ii) If I file a lawsuit for retaliation by the Company for reporting a suspected violation of law, I may disclose the Company's trade secrets to my attorney and use the trade secret information in the court proceeding if I: (i) file any document containing the trade secret under seal; and (ii) do not disclose the trade secret, except pursuant to court order.

2. Inventions.

(a) Inventions Retained and Licensed. I have attached hereto, as Exhibit A, a list describing all inventions, designs original works of authorship, developments, improvements, and trade secrets which were made by me prior to my employment with the Company (collectively referred to as "***Prior Inventions***"), which belong to me, which relate to the Company's business, products or product development, and which are not assigned to the Company hereunder. If there are no such Prior Inventions indicated on Exhibit A, I represent that there are no such Prior Inventions. If in the course of providing services to the Company, I incorporate into a Company product, process or design a Prior Invention owned by me or in which I have an interest, the Company is hereby granted and shall have a nonexclusive, royalty-free, irrevocable, perpetual, worldwide license to make, have made, modify, use and sell such Prior Invention as part of or in connection with such product, process or design.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(b) Assignment of Inventions. I acknowledge that during my employment with the Company and/or during such time as I am providing services to the Company as a consultant, contractor, or in any capacity (both my employment and/or my provision of services are referred to collectively herein as "employment" or being "employed"), I will be expected to undertake creative work, either alone or jointly with others, which may lead to inventions, original works of authorship, developments, concepts, improvements, trade secrets or other intellectual property rights, whether or not patentable or registrable under copyright or similar laws ("***Inventions***"). I hereby agree that all Inventions created while employed by the Company (whether or not on the Company's premises or using the Company's equipment and materials or during regular business hours) shall be a work-for-hire and shall be the sole and exclusive property of the Company, and I hereby assign to the Company all of my right, title and interest in and to any and all such Inventions. In addition, any Inventions created after the termination of my employment with the Company which are based upon or derived from Confidential Information shall be the sole and exclusive property of the Company, and I hereby assign to the Company all of my right, title and interest in and to any and all such Inventions. Nothing in the preceding sentence shall be construed to limit my obligations under Section 1 of this NDA.

(c) Patent and Copyright Registrations. I agree to assist the Company, or its designee, in every way, to secure the Company's rights in the Inventions and any copyrights, patents, mask work rights or other intellectual property rights relating thereto in any and all countries, including the disclosure to the Company of all pertinent information and data with respect thereto, the execution of all applications, specifications, oaths, assignments and all other instruments which the Company shall deem necessary in order to apply for and obtain such rights and in order to assign and convey to the Company, its successors, assigns and nominees the sole and exclusive rights, title and interest in and to such Inventions, and any copyrights, patents, mask work rights or other intellectual property rights relating thereto. I further agree that my obligation to execute or cause to be executed any such instrument or papers shall continue after the termination of this NDA. If the Company is unable because of my mental or physical incapacity or for any other reason to secure my signature to apply for or to pursue any application for any United States or foreign patents or copyright registrations covering Inventions or original works of authorship assigned to the Company as above, then I hereby irrevocably designate and appoint the Company and its duly authorized officers and agents as my agent and attorney in fact, to act for and in my behalf and stead to execute and file any such applications and to do all other lawfully permitted acts to further the prosecution and issuance of letters patent or copyright registrations thereon with the same legal force and effect as if executed by me.

(d) Originality. I hereby warrant and represent to the Company that, to the best of my knowledge and except as expressly disclosed to the Company in writing by me, all Inventions, and Prior Inventions are original and were not conceived, reduced to practice, authored or otherwise developed by misappropriating the trade secrets or other proprietary technology or intellectual property of any third parties. I hereby agree to indemnify, defend and hold the Company harmless from and against any and all third party claims, and any costs, damages and liabilities resulting therefrom, made against or imposed upon the Company as a result of my breach of the above representation and warranty. The foregoing representation and warranty shall be deemed first made on the date hereof and shall run continuously thereafter and apply to all Inventions and Prior Inventions governed by this NDA.

(e) Application. I agree that the provisions of this Section 2 shall apply with respect to any and all Inventions, whether created during my employment with the Company or any predecessor entity, or during any pre-organization period. I acknowledge that the Company and its future investors shall rely on this representation.

3. Restrictive Covenants.

(a) Non-competition. At all times during my employment or engagement with the Company, and for a period thereafter of twelve (12) months, I shall not, directly or indirectly, on my own behalf or on behalf of any person, firm, company, or entity: (i) engage in any business that competes, directly or indirectly, with the business of the Company; or (ii) provide to any third party that engages in any business that competes, directly or indirectly,

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

with the business of the Company any services comparable to those I provided to the Company in the course of my engagement or employment with the Company.

(b) Non-Service. At all times during my employment or engagement with the Company, and for a period thereafter of twelve (12) months, I agree that I shall not, directly or indirectly, on my own behalf or on behalf of any person, firm, company, or entity, accept business of the type offered by the Company during my employment with the Company or perform or supervise the performance of any services related to such business for any: (i) client, customer, prospective client, prospective customer, or vendor of the Company, whom I solicited or serviced, directly or indirectly or who were solicited or serviced by those who I supervised, directly or indirectly, in whole or in part; (ii) former client, customer or vendor of the Company who was such within twelve (12) months prior to the termination of my employment with the Company and whom I solicited or serviced, directly or indirectly, or who were solicited or serviced by those who I supervised, directly or indirectly, in whole or in part; or (iii) any clients, customers, prospective clients, prospective customers, or vendors of the Company, who the Company solicited or serviced during my employment with the Company.

(c) Non-solicitation. At all times during my employment or engagement with the Company, and for a period thereafter of twelve (12) months, I shall not, directly or indirectly, on my own behalf or on behalf of any person, firm, company, or entity: (i) solicit, offer employment to, or hire (collectively, "***Restricted Solicitation***") any person who consulted with or has been employed by the Company at any time during the twelve (12) months immediately preceding such Restricted Solicitation; or (ii) solicit, call upon, or otherwise communicate in any way with any client, customer, prospective client, prospective customer, or vendor of the Company for the purposes of causing or of attempting to cause any such person to purchase products sold or services rendered by the Company from any person or entity other than the Company. Notwithstanding the above, this provision shall not apply to any employee who responds to a general advertisement not targeted at any specific employees of the Company, or to any employee who independently seeks employment with my subsequent employer through no solicitation, contact or referral by me, either directly or indirectly, including through a headhunter; and provided further, that I may ask the Company to permit Company employees and/or consultants to assist me on Company Declined Corporate Opportunities from time to time, but the Company shall be free to approve or decline such request(s) (with such approval not to be unreasonably withheld).

(d) Company Declined Corporate Opportunities. For the avoidance of doubt, the Company and I agree that the provisions of Section 3(a) and (b) shall not apply to any Company Declined Corporate Opportunity. Such Company Declined Corporate Opportunities shall be deemed not competitive with the Company for purposes of this NDA.

(e) Tolling. I agree that the time periods of the covenants contained in this Section 3 shall be extended by any and all periods during which I am in breach of such covenants.

4. Social Media. I agree that, except as permitted by applicable law, I am prohibited from posting any confidential, financial, sensitive, or proprietary information, or job-related content, about the Company, or any of the Company's current, former, or potential employees, partners, suppliers, vendors, licensors, or business relations on social media in accordance with the NDA. This prohibition applies to all forms of social media including, but not limited to: blogs, Facebook, Twitter, LinkedIn, YouTube, Tumblr, and Instagram. Content regarding the Company that is truthful, accurate and respectful may be posted if it is approved in advance, in writing, by the Company in each and every instance. I am representing myself, not the Company, when participating in social networking. I agree not to represent that I am in any way speaking on behalf of the Company unless I am authorized to do so in writing.

5. Publicity. I agree that I shall acquire no right under this NDA to use, and shall not use, the Company's name, or any derivation of the Company's name (either alone or in conjunction with or as a part of any other work or name) in any of my advertising, publicity or promotions to express or imply any endorsement by the Company of my employment, engagement, or services, or in any other manner whatsoever unless written approval is obtained from the Company prior to such usage. Nothing contained herein shall be construed to prevent me from communicating with third parties or prospective employers concerning my position and duties with the Company. The Company shall have no obligation to accord me credit for the services rendered hereunder.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

6. Non-Disparagement. Neither party shall, and the Company shall cause its officers and directors to not, make any statement which might adversely affect the reputation of the other party. For the purpose of this Section, the term "disparage" shall include, without limitation, any statement accusing either party of acting in violation of any law or governmental regulation or of condoning any such action, or otherwise acting in an unprofessional, dishonest, disreputable, improper, incompetent or negligent manner.

7. Specific Performance and Equitable Relief. I acknowledge and agree that the Company would suffer irreparable harm if the Confidential Information was disclosed to third parties without the Company's consent or if I breached the restrictive covenants and non-disparagement provisions contained herein. I further agree that the restrictive covenants in this NDA are reasonable covenants under the circumstances, and further agree that if in the opinion of any court of competent jurisdiction such restraints are not reasonable in any respect, such court shall have the right, power and authority to excise or modify such provision or provisions of such covenants as to the court shall appear not reasonable and to enforce the remainder of the covenants as so amended. Accordingly, I hereby consent to and agree that, in the event of a breach or threatened breach of this NDA by me, the Company shall have the right to exercise any and all rights by appropriate action either by law or in equity, including specific performance of my obligations arising pursuant to this NDA, and that the Company shall be entitled to equitable relief, including injunctive relief, in connection with any breach or threatened breach, by me, of my obligations arising pursuant to this NDA, and specifically, without limitation, the confidentiality, restrictive covenant, and non-disparagement provisions above. I further agree that the Company may, in addition to pursuing any remedies it may have in law or in equity, cease making any payments otherwise required by any agreement between the Company and me, and that I shall not request that the Company post, nor shall the Company be obligated to post, a bond in connection with any equitable relief authorized pursuant to this Section and in fact requested by the Company. To the extent the Company expends attorneys' fees in enforcing the terms of this NDA against me, I shall be responsible for indemnifying the Company for said fees.

8. No Further Consideration. I acknowledge and agree that, except as compensated in accordance with my status as an employee of or consultant with the Company and as set forth herein, I shall not be entitled to any further or additional compensation in consideration of complying with the confidentiality, non-competition, non-solicitation, and non-disparagement obligations set forth herein.

9. Effect on Employment. I acknowledge that none of the covenants in this NDA is intended to create a contract of employment and that the term of my employment with the Company is governed by the attached employment agreement.

10. Returning Company Documents. I agree that, at the time I cease performing services for the Company, I will immediately deliver to the Company (and will not keep in my possession, recreate or deliver to anyone else) any and all software, devices, records, data, notes, reports, proposals, lists, correspondence, specifications, materials, equipment, other documents or property, including all Confidential Information or reproductions of any of the aforementioned items developed during or in connection with my employment with the Company or otherwise belonging to the Company, its successors or assigns.

11. Warranty by Employee. I represent and warrant that: (a) consulting with or being employed by the Company does not constitute a breach of any agreement or other legal obligation with or to a third party; (b) I am not bound by or subject to any agreement or other legal obligation with a third party that would adversely affect my consulting with or being employed by the Company, including but not limited to, a prior employment agreement, confidentiality agreement, or covenant not to compete, not to solicit or other restriction against competition; (c) I will not use in connection with my employment with the Company any confidential or proprietary information belonging to any third party without first obtaining a written release from that third party; and (d) in performing services for the Company, I shall comply with all policies and procedures of the Company (as applicable) and all applicable laws. I shall indemnify, defend, and hold harmless the Company, and the present, former and future officers, directors, managers, shareholders, members, employees, contractors and agents of the Company, from any and all losses, claims, damages, judgments, awards, costs and expenses (including without limitation, reasonable attorneys' fees and costs,

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

and direct, indirect, and consequential damages) incurred as a result of any breach of this Section or any other provision of this NDA.

12. General Provisions.

(a) Severability. I agree that if one or more of the provisions in this NDA are deemed void by law, then the remaining provisions will continue in full force and effect and, if legally permitted, such offending provision or provisions shall be replaced with an enforceable provision or enforceable provisions that as nearly as possible effects the parties' intent. Without limiting the generality of the foregoing, the parties hereby expressly state their intent that, to the extent any provision of this NDA is unenforceable due to the scope (temporal, geographic or otherwise) being too broad, the court or arbitrator properly adjudicating any dispute with respect thereto shall modify such provision to the minimum extent necessary to cause such provision to be enforceable.

(b) Successors and Assigns. This NDA will be binding upon my heirs, executors, administrators and other legal representatives and will be for the benefit of the Company, its successors, and its assigns. I acknowledge and agree that I cannot assign or transfer this NDA nor any rights hereunder without the express written consent of the Company, in its absolute discretion. The Company, however, shall have the right to assign this NDA and/or any of its rights or obligations set forth herein.

(c) Survival. I agree that notwithstanding anything in this NDA to the contrary, the provisions of this NDA shall survive any termination of my employment with the Company or termination of this NDA to the extent necessary to give effect to the subject provisions according to their terms, and shall remain in full force and effect indefinitely.

(d) Amendment and Modification. No provision of this NDA may be modified, amended, waived or terminated except by a writing signed by both myself and the Company. No course of dealing between me and the Company will modify, amend, waive or terminate any provision of this NDA or any rights or obligations of any party under or by reason of this NDA.

(e) Counterparts. This NDA may be executed in two or more counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument.

(f) Facsimile Signatures. A facsimile or PDF scanned copy of my or the Company's signature shall be as valid and binding as an original.

(g) Governing Law. This NDA shall be governed by, and construed and enforced in accordance with, the laws of the State of New York (excluding the choice of law rules thereof). **I ACKNOWLEDGE AND AGREE THAT, PRIOR TO EXECUTING THIS NDA, I WAS AFFORDED AN OPPORTUNITY TO OBTAIN THE ADVICE OF INDEPENDENT LEGAL COUNSEL AND HAVE READ AND UNDERSTAND ALL OF THIS NDA. ACCORDINGLY, THIS NDA SHALL NOT BE CONSTRUED AGAINST ANY PARTY BY REASON OF THE DRAFTING OR PREPARATION OF THIS NDA**.

(h) Choice of Forum. Each of the parties hereby consents to the jurisdiction of any state or federal court located within the County of New York, State of New York and irrevocably agrees that all actions or proceedings relating to this NDA must be litigated in such courts, and each of the parties waives any objections which it/he/she may have based on improper venue or forum *non conveniens* to the conduct of any proceeding in such court.

(i) No Expectation of Privacy. I acknowledge and agree that I have no expectation of privacy in respect of any information (e.g., emails and voice mail), whether personal or otherwise, stored on Company's

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

networking, telecommunications, computer and other equipment, which information may be monitored by Company at any time without notice.

[Signature page follows]

* * * * *

IN WITNESS WHEREOF, the Parties hereto have caused this NDA to be duly executed as of the date first written above.

ICONIC BRANDS, INC.	**EMPLOYEE**
By: /s/ Richard DeCicco	/s/ David Allen
Name: Richard DeCicco	David Allen
Title: Chief Executive Officer	

EXHIBIT A
LIST OF PRIOR INVENTIONS
AND ORIGINAL WORKS OF AUTHORSHIP

Title	**Date**	**Identifying Number or Brief Description**

EXHIBIT B

Outside Board Seats

1. Board Member and Audit Committee Chair of MariMed, Inc. (OTCMKTS: MRMD).

2. Board Member of Charlie's Holdings, Inc. (OTCMKTS: CHUC).

3. Board Member of Clinton Nurseries, Inc. (private company).

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

EXHIBIT 10.20

EMPLOYMENT AGREEMENT

This employment agreement (the "***Agreement***"), when duly executed, is made and entered into as of July 26, 2021, by and between Iconic Brands, Inc., a Nevada corporation located at 44 Seabro Avenue, Amityville, New York 11701 (the "***Company***"), and John Cosenza ("***you***"), with an address c/o Iconic Brands, Inc., 44 Seabro Avenue, Amityville, New York 11701 (the "Company" and "you" are referred to herein in the collective as the "***Parties***").

WHEREAS, the Company has entered into certain securities purchase agreements (collectively the "***Purchase Agreements***") with certain accredited investors for the sale of newly-created series A-2 Convertible Preferred Stock, par value $0.001 ("***Series A-2 Preferred Stock***"), and warrants to purchase shares of the Company's common stock, par value $0.001 (the "***Common Stock***"); and

WHEREAS, the Company has entered into certain securities exchange agreements (collectively the "***Exchange Agreements***") with holders of the Company's Series E, F, and G Convertible Preferred Stock and Series E, F, and G Common Stock Purchase Warrants, whereby such holders will exchange such securities for newly-issued Series A-2 Preferred Stock; and

WHEREAS, the Company has entered into a securities exchange agreement (the "***Series A Exchange Agreement***") with Richard DeCicco, whereby Mr. DeCicco will exchange his one (1) share of Series A Preferred Stock for a specified number of Common Stock; and

WHEREAS, the Company has entered into a securities purchase agreement (the "***United Purchase Agreement***") with Mr. DeCicco to purchase all of the issued and outstanding capital stock of United Spirits, Inc., a New York corporation; and

WHEREAS, the Company has entered into an acquisition agreement with TopPop LLC ("***TopPop***"), a New Jersey limited liability company, as part of a transaction under Section 351 of the Internal Revenue Code (the "***Code***"), pursuant to which the Company will acquire all of the membership interest in TopPop (the "***TopPop Agreement***" and collectively with the United Purchase Agreement, the Purchase Agreements, the Exchange Agreements, and the Series A Exchange Agreement, the "***Iconic Agreements***"); and

WHEREAS, in connection with the transactions contemplated in the Iconic Agreements, the Company and the Executive wish to enter into this Agreement effective immediately upon the closing of the transactions contemplated in the Iconic Agreements, on the terms and conditions, and for the consideration, herein set forth;

NOW THEREFORE, in consideration of the covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. Title/Duties. You shall be employed by the Company as Chief Operating Officer. You will be responsible for the duties and obligations consistent with your position, which will be subject to the control and direction of the Company and may change from time to time at the Company's sole discretion (the "***Services***"). You shall report to the Company's Chief Executive Officer, his/her designee, or another senior executive as directed by the Company, and you shall devote your full time and best efforts to the performance of your duties for the Company. While employed by the Company, you shall not perform work on behalf of, or provide services to, any third parties (even if not in competition with the Company), whether as an employee, consultant, or otherwise.

2. Location. You shall perform the Services primarily remotely, at locations of your choosing; provided that you will be available, from time to time, as reasonably requested by the Company, for meetings and otherwise to provide the Services at the Company's office in Amityville, New York. You shall also undertake reasonable travel from time to time as requested by the Company.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

3. Term. This Agreement shall commence as of the date of the closing of the transactions contemplated in the Iconic Agreements (the "***Effective Date***") and shall continue until the two (2) year anniversary of the Effective Date (the "***Initial Term***"). Upon the expiration of the Initial Term or any Renewal Term (defined below), this Agreement shall automatically renew for an additional two (2) years (each such renewal being a "***Renewal Term***" and all such Renewal Terms, if any, combined with the Initial Term being the "***Term***"), unless either party provides written notice to the other of non-renewal at least ninety (90) days prior to the end of the then current Term. Notwithstanding anything in this Agreement to the contrary, in the event that the transactions contemplated in the Iconic Agreements are not consummated by September 1, 2021, this Agreement shall become null and void *ab initio*.

4. Base Salary. As full and complete consideration for the Services provided herein by you, and on the condition that you fully and faithfully perform the Services, duties and obligations required to be performed hereunder, and that you are not in breach of this Agreement or NDA, the Company shall pay you a base salary of Two Hundred Twenty-Five Thousand and 00/100 Dollars ($225,000) gross per annum (prorated for partial years) in accordance with the Company's payroll practices and subject to customary tax withholdings and deductions (the "***Base Salary***"). The Company may, in its sole discretion, adjust Base Salary during the Term, and as so adjusted shall constitute "Base Salary" thereafter.

5. Annual Bonus. In addition to your Base Salary, you shall be eligible to receive an annual bonus (the "***Bonus***") during the Term with a target amount equal to twenty-five percent (25%) of Base Salary (the "***Target Bonus***"), based on performance criteria determined by the Company's board of directors (the "***Board***") in its sole discretion. The Company shall pay you such bonus (if earned) in the calendar year following the calendar year for which it is earned; provided that, except as described below in Section 11, you must be an employee in good standing with the Company on the date such bonus is to be paid to you in order to receive it.

6. Stock Options. During the Term, you shall also be eligible for award(s) of stock options and/or restricted stock of the Company pursuant to the terms of the Company's equity incentive plan (which is yet to be established). The amount, frequency, and other details of such awards shall be determined by the Board in its sole discretion.

7. Health Care Benefits. You may participate in the Company's health insurance plan, subject to the terms of such plan. However, nothing herein requires the Company to keep a health insurance plan or arrangement in place, or continue any health insurance plan or arrangement, and the Company may modify, amend or terminate such plan or program at any time in its sole discretion.

8. Retirement Plan. You shall also be eligible to enroll and participate in the Company's 401(k) plan in accordance with the terms of such 401(k) plan, once/if such a plan is established. For the avoidance of doubt, the Company currently does not have a 401(k) plan in place. Nothing herein requires the Company to offer or maintain any benefit plan, program, or practice, and the Company may modify, amend, or terminate such plan, program, and practice at any time in its sole discretion.

9. Paid Time Off.

(a) Vacation. You shall be entitled to twenty (20) business days of paid vacation in each calendar year, subject to the policies and procedures of the Company concerning vacation days and the conditions set forth herein. Vacation days shall be in addition to any holidays observed by the Company. Any unused vacation shall be forfeited without payment therefor at the end of each calendar year or upon termination. Nothing contained herein shall be read to contravene any rights provided by applicable law, which shall govern and supersede in the event of a conflict between its terms and the policy stated herein.

(b) Sick Days. You shall be entitled to seven (7) days of paid sick time each calendar year, with all seven (7) days for 2021 available as of the Effective Date. Any unused sick time shall be forfeited without payment therefor at the end of each calendar year or upon termination. Nothing contained herein shall be read to contravene any rights provided by applicable law, which shall govern and supersede in the event of a conflict between its terms and the policy stated herein.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

10. Business Expenses. The Company will reimburse you for reasonably-incurred business expenses, including, but not limited to, travel and entertainment expenses, in accordance with Company expense and travel policies.

11. Termination.

(a) In the event that your employment with the Company is terminated for any reason, the Company shall pay you: (i) your Base Salary through the date of termination to the extent not yet paid to you; (ii) any unreimbursed business expenses payable to you; (iii) if your employment has been terminated by the Company without Cause (defined below), any bonus compensation earned in a prior year but which is not yet paid to you; and (iv) any payments and benefits to which you are entitled pursuant to the terms of any employee benefit or compensation plan or program in which you participate (or participated) (items (i) through (iv) being the "***Accrued Amounts***"). The Company shall pay you the items in (i) through (iii) within ten (10) days following the date of termination and the amounts under (iv) in accordance with the terms of such plans or programs.

(b) In addition to the Accrued Amounts, in the event your employment is terminated by the Company without Cause or due to your Disability (defined below), the Company shall also pay you an amount equal to: (i) six (6) months of your Base Salary; plus (ii) a prorated bonus for the year of termination equal to your Target Bonus multiplied by a fraction, the numerator of which is the number of days you were employed by the Company in the year of termination and the denominator being 365; payable as a lump sum within sixty (60) days following termination ("***Severance***"). Furthermore, if you elect to continue to receive group health insurance coverage under the Company's group health plan pursuant to COBRA, the Company will reimburse you for such monthly COBRA premiums for six (6) months following the termination date (such monthly payments being the "***COBRA Amount***"), provided you provide the Company with adequate documentation of your payment of such monthly COBRA premiums. The COBRA Amount shall maintain the coverage you and your dependents (if applicable) had immediately prior to the termination of your employment with the Company. In the event you do not elect COBRA coverage, you subsequently become ineligible for continued COBRA coverage, or you fail to provide the Company with adequate documentation of your payment of such COBRA premiums, the Company shall no longer be obligated to pay you the COBRA Amount.

(c) Notwithstanding the above, in order to receive Severance and continued payments of COBRA Amount, you must satisfy the Release Condition (defined below). If you do not satisfy the Release Condition, the Company shall have no obligation to pay you Severance or continue paying you the COBRA Amount.

(d) Definitions.

(i) "***Cause***" means: (i) your conviction of or entry of a plea of guilty or *nolo contendere* to (A) any felony; or (B) a misdemeanor involving moral turpitude; (ii) your willful malfeasance or willful misconduct in connection with your employment; (iii) alcohol or substance abuse that materially interferes with the performance of your duties for the Company; (iv) your material breach of this Agreement or the Restrictive Covenant Agreement; (v) engagement by you in immoral conduct that has or could reasonably have a material adverse effect on the business or goodwill of Company or any of its affiliates, materially adversely reflects on the reputation of Company or any of its affiliates, or materially interferes with the performance of your services to Company or any of its affiliates; or (vi) your failure or refusal to perform, or gross negligence in performing, your duties to Company or any of its affiliates or your failure or refusal to abide by a lawful directive of Company (including those of your supervisors); provided, however, that in each case (other than (i), (ii), and (v)), the Company shall have provided you with written notice describing such event(s) or circumstance(s), you have been afforded at least thirty (30) days to cure, and you have failed to cure such event(s) or circumstances within such cure period.

(ii) ***"Disability"*** means that: (i) you have become totally and permanently disabled under the Company's long-term disability benefit plan as in effect from time to time (if such a plan exists) and are receiving long-term disability benefits thereunder; or (ii) if there is no long-term disability benefit plan, that you experience a mental or physical disability resulting in your being unable to perform your material duties hereunder for ninety (90) consecutive days, or an aggregate period of one hundred eighty (180) days in any twelve (12) month period (as determined by a physician

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

selected by the Company in its good faith judgment and reasonable acceptable to you). The Company shall hold all personal information collected as part of this process, including any medical records, medical history, or other health information, in the strictest confidence and shall limit the dissemination of such information to employees of the Company on a need-to-know basis.

(iii) "***Release Condition***" means that you have executed a general release of claims in favor of Company and its affiliates, officers, directors, and employees in a form reasonably provided by Company by the date specified in such release and such release has become irrevocable by its terms; provided that in the event that the period you have to sign and/or revoke such release spans two calendar years, Company will begin paying you the Severance as soon as possible but in no event earlier than the beginning of such second calendar year. Such release shall not require you to waive any rights you may have to the Accrued Amounts and the Severance, in accordance with the terms of this Agreement.

12. Confidentiality. You agree that during your employment with the Company you will have access to the Company's confidential information, that said confidential information is valuable to the Company, and that the unauthorized release of that information would cause serious damage to the Company. As a condition of your employment with the Company, you agree to be subject to the covenants and other provisions of the Confidentiality, Restrictive Covenant, and Assignment Agreement (the "***NDA***") annexed hereto as Exhibit A. You agree that your employment with the Company is contingent upon your adherence to the NDA and to the Company's policies and procedures. In the event that your employment with the Company terminates for any reason or no reason, you agree that you will continue to be bound by the provisions of the NDA which by its terms continue in full force and effect after the termination of your employment with the Company. You shall indemnify the Company for all damages incurred by your violation of the NDA, and reimburse the Company for any attorneys' fees and expenses incurred in the Company's efforts to enforce the NDA.

13. Return of Materials. Upon termination of your employment with the Company, or at any time the Company so requests, (a) you shall return immediately to the Company all Company property and all materials (in written, electronic, or other form) containing or constituting confidential information or related to work, including any copies, reproductions, or other images, and (b) you shall not use confidential information in any way for any purpose.

14. Section 409A. This Agreement is intended to comply with the requirements of Section 409A of the Code ("***Section 409A***"), and the Parties hereby agree to amend this Agreement as and when necessary or desirable to conform to or otherwise properly reflect any guidance issued under Section 409A after the date hereof without violating Section 409A. In case any one or more provisions of this Agreement fails to comply with the provisions of Section 409A, the remaining provisions of this Agreement shall remain in effect, and this Agreement shall be administered and applied as if the non-complying provisions were not part of this Agreement. The Parties in that event shall endeavor to agree upon a reasonable substitute for the non-complying provisions, to the extent that a substituted provision would not cause this Agreement to fail to comply with Section 409A, and, upon so agreeing, shall incorporate such substituted provisions into this Agreement. In no event whatsoever shall the Company be liable for any additional tax, interest or penalty that may be imposed on you by Section 409A or damages for failing to comply with Section 409A. A termination of your employment hereunder shall not be deemed to have occurred for purposes of any provision of this Agreement providing for the payment of any amount or benefit constituting "deferred compensation" under Section 409A upon or following a termination of employment unless such termination is also a "separation from service" within the meaning of Section 409A and, for purposes of any such provision of this Agreement, references to a "termination," "termination of employment" or like terms shall mean "separation from service." In the event that any payment or benefit made hereunder or under any compensation plan, program or arrangement of the Company would constitute payments or benefits pursuant to a non-qualified deferred compensation plan within the meaning of Section 409A and, at the time of your "separation from service" you are a "specified employee" within the meaning of Section 409A, then any such payments or benefits shall be delayed until the six-month anniversary of the date of your "separation from service." Each payment made under this Agreement shall be designated as a "separate payment" within the meaning of Section 409A. All reimbursements and in-kind benefits provided under this Agreement shall be made or provided in accordance with the requirements of Section 409A to the extent that such reimbursements or in-kind benefits are subject to Section 409A. All reimbursements for expenses paid pursuant hereto that constitute taxable income to you shall in no event be paid later than the end of the calendar

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

year next following the calendar year in which you incur such expense or pays such related tax. Unless otherwise permitted by Section 409A, the right to reimbursement or in-kind benefits under this Agreement shall not be subject to liquidation or exchange for another benefit and the amount of expenses eligible for reimbursement, or in-kind benefits, provided during any taxable year shall not affect the expenses eligible for reimbursement, or in-kind benefits to be provided, respectively, in any other taxable year. In the event that any payment(s) from the Company to you is conditioned upon your execution and non-revocation of a general release of claims in favor of the Company, and the period you have to sign and/or revoke such release spans two calendar years, the Company will pay (or begin paying you, as applicable) such payment(s) as soon as possible but in no event earlier than the beginning of such second calendar year.

15. Governing Law and Arbitration. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of New York. Other than a claimed violation by you of the separately executed NDA (the "***Injunctive Relief Exception***"), any dispute or controversy arising out of or relating to this Agreement, and/or related to your employment with the Company, that could otherwise be resolved by a court shall be resolved through arbitration in accordance with the Employment Arbitration Rules and Mediation Procedures of the American Arbitration Association, in which neither class nor collective proceedings will be permitted. Judgment upon the award may be entered in any court having jurisdiction thereover. Except for the Injunctive Relief Exception, you and the Company give up and waive any right to resolve a controversy through any other means, and ***the right to sue in court in connection with claims related to this Agreement and/or your employment with the Company***. This waiver of the right to sue in court includes, for example, claims based on federal statutes such as Title VII of the Civil Rights Act of 1964 and the Fair Labor Standards Act and claims based on statutes, common law causes of action and concerning compensation. If there is more than one dispute between you and the Company, all such disputes may be heard in a single proceeding. Disputes pertaining to different employees of the Company will be heard in separate proceedings. Any arbitration shall be held in the County of New York, State of New York or in such other place as the Parties hereto may agree, unless applicable law requires otherwise.

16. Employee Representations/Background Check/Work Authorization. You have represented to us that you are under no restrictions that would prevent you from being employed by and performing the Services contemplated by this Agreement. You also agree to assist and cooperate with the Company on any background checks the Company wishes to perform on you, including any credit reports, and you will execute all appropriate authorizations to obtain any such background checks and/or reports. This offer of employment is conditioned upon the satisfactory outcome of such background checks, as determined by the Company in its sole discretion. This Agreement and each of its terms is also contingent upon proof of your work eligibility. Please note that because of employer regulations adopted in the Immigration Reform and Control Act of 1986, within three (3) business days following the commencement of your employment with the Company, you will need to present documentation demonstrating that you have authorization to work in the United States. If you have questions about this requirement, which applies to U.S. citizens and non-U.S. citizens alike, you may contact the Company.

17. No Credit for Drafting. You understand that this Agreement is deemed to have been drafted jointly by the Parties. Any uncertainty or ambiguity shall not be construed for or against any Party based on attribution of drafting to any Party.

18. Survival. You agree that notwithstanding anything in this Agreement to the contrary, your obligations under this Agreement, specifically but without limitation, your obligations under the NDA, shall survive any termination of this Agreement and/or the relationship between you and the Company, to the extent necessary to give effect to the subject provisions according to their terms.

19. Assignment. This Agreement shall be binding upon and inure to the benefit of your heirs and representatives and the assigns and successors of the Company, but neither this Agreement nor any rights or

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

obligations hereunder shall be assignable or otherwise subject to hypothecation by you. The Company shall have the right to assign this Agreement to any of its affiliates, successors, or related companies, whether now in existence or later formed.

20. No Mitigation. You shall not be required to mitigate any payment provided for under this Agreement by seeking other employment or otherwise after the termination of your employment hereunder, and any amounts earned by you, whether from self-employment, as a common-law employee or otherwise, shall not reduce any amounts otherwise payable to you hereunder, including, but not limited to, the Severance.

21. Severability. Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be prohibited by or invalid under applicable law, such provision shall fail to be in effect only to the extent of such prohibition or invalidity, without invalidating the remainder of this Agreement or of any such provision.

22. Amendment and Modification. No provision of this Agreement may be modified, amended, waived or terminated except by a writing signed by both you and the Company. No course of dealing between you and the Company will modify, amend, waive or terminate any provision of this Agreement or any rights or obligations of any Party under or by reason of this Agreement.

23. Entire Agreement. This Agreement constitutes the entire agreement between the Parties hereto relating to the subject matter hereof. All prior or contemporaneous agreements or understandings between the Parties relating to the subject matter hereof, whether oral or written, are superseded by and merged into this Agreement. You acknowledge that no other promises were made to you other than are or may be contained in this Agreement, and that no other inducement caused you to sign this letter.

24. Withholding. The Company shall be entitled to withhold from payment any amount of withholding required by law. Certain of the benefits described above which the Company intends to offer you may constitute taxable income to you. In the event that it does, you understand and agree that you shall be responsible for such additional taxes and the Company shall not pay any portion of such additional taxes.

25. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument.

26. Facsimile Signatures. Facsimile signed counterparts to this Agreement, including signed counterparts delivered in PDF or other electronic format, shall be acceptable and binding and treated in all respects with the same force and effect as an originally executed counterpart signature.

27. Acknowledgment. You acknowledge that you have had the opportunity to consult legal counsel regarding this Agreement, have read and understand this Agreement, are fully aware of its legal effect, and have entered into it freely and voluntarily and not on any representations of promises other than those contained in this Agreement.

[Signature page follows]

* * * * *

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed as of the date first written above.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

ICONIC BRANDS, INC.	**EMPLOYEE**
By: /s/ Richard DeCicco	/s/ John Cosenza
Name: Richard DeCicco	John Cosenza
Title: Chief Executive Officer	

EXHIBIT A
CONFIDENTIALITY, RESTRICTIVE COVENANT, AND ASSIGNMENT AGREEMENT

As a condition of my employment with Iconic Brands, Inc., its subsidiaries, affiliates, successors or assigns (together, the "***Company***"), and in consideration of my employment with the Company and my receipt of the compensation now and hereafter paid to me by the Company, I, John Cosenza, agree, effective as of July 21, 2021, to the following (the "***NDA***"):

1. Confidential Information.

(a) I agree that I have had access to the Company's Confidential Information, as defined herein, that said Confidential Information is valuable to the Company, and that the unauthorized release of that information would cause serious damage to the Company. I therefore agree to hold in strictest confidence, and not to use, except for the benefit of the Company, or to disclose to any person, firm or corporation without written authorization of the Company, any Confidential Information of the Company. I understand that "***Confidential Information***" means any of the Company's proprietary information, technical data, trade secrets or know-how, including, but not limited to, business plans, financial analyses, specifications, programming, flow charts, data, compilations of data, research, product plans, products, services, client lists, markets, software, developments, inventions, processes, formulas, technology, marketing, finances, business plans, or other business information disclosed to me by the Company either directly or indirectly in writing, orally or by drawings or observation. In the event that I am required by law to disclose any Confidential Information, I will give the Company prompt advance written notice thereof and will provide the Company with reasonable assistance in obtaining an order to protect the Confidential Information from public disclosure.

(b) Notice of Immunity Under the Economic Espionage Act of 1996, as amended by the Defend Trade Secrets Act of 2016. Notwithstanding any other provision of this NDA:

(i) I will not be held criminally or civilly liable under any federal or state trade secret law for any disclosure of a trade secret that is made: (i) in confidence to a federal, state, or local government official, either directly or indirectly, or to an attorney, and solely for the purpose of reporting or investigating a suspected violation of law; or (ii) in a complaint or other document that is filed under seal in a lawsuit or other proceeding.

(ii) If I file a lawsuit for retaliation by the Company for reporting a suspected violation of law, I may disclose the Company's trade secrets to my attorney and use the trade secret information in the court proceeding if I: (i) file any document containing the trade secret under seal; and (ii) do not disclose the trade secret, except pursuant to court order.

2. Inventions.

(a) Inventions Retained and Licensed. I have attached hereto, as Exhibit A, a list describing all inventions, designs original works of authorship, developments, improvements, and trade secrets which were made by me prior to my employment with the Company (collectively referred to as "***Prior Inventions***"), which belong to me, which relate to the Company's business, products or product development, and which are not assigned to the Company hereunder. If there are no such Prior Inventions indicated on Exhibit A, I represent that there are no such Prior Inventions. If in the course of providing services to the Company, I incorporate into a Company product, process or design a Prior Invention owned by me or in which I have an interest, the Company is hereby granted and shall have

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

a nonexclusive, royalty-free, irrevocable, perpetual, worldwide license to make, have made, modify, use and sell such Prior Invention as part of or in connection with such product, process or design.

(b) Assignment of Inventions. I acknowledge that during my employment with the Company and/or during such time as I am providing services to the Company as a consultant, contractor, or in any capacity (both my employment and/or my provision of services are referred to collectively herein as "employment" or being "employed"), I will be expected to undertake creative work, either alone or jointly with others, which may lead to inventions, original works of authorship, developments, concepts, improvements, trade secrets or other intellectual property rights, whether or not patentable or registrable under copyright or similar laws ("***Inventions***"). I hereby agree that all Inventions created while employed by the Company (whether or not on the Company's premises or using the Company's equipment and materials or during regular business hours) shall be a work-for-hire and shall be the sole and exclusive property of the Company, and I hereby assign to the Company all of my right, title and interest in and to any and all such Inventions. In addition, any Inventions created after the termination of my employment with the Company which are based upon or derived from Confidential Information shall be the sole and exclusive property of the Company, and I hereby assign to the Company all of my right, title and interest in and to any and all such Inventions. Nothing in the preceding sentence shall be construed to limit my obligations under Section 1 of this NDA.

(c) Patent and Copyright Registrations. I agree to assist the Company, or its designee, in every way, to secure the Company's rights in the Inventions and any copyrights, patents, mask work rights or other intellectual property rights relating thereto in any and all countries, including the disclosure to the Company of all pertinent information and data with respect thereto, the execution of all applications, specifications, oaths, assignments and all other instruments which the Company shall deem necessary in order to apply for and obtain such rights and in order to assign and convey to the Company, its successors, assigns and nominees the sole and exclusive rights, title and interest in and to such Inventions, and any copyrights, patents, mask work rights or other intellectual property rights relating thereto. I further agree that my obligation to execute or cause to be executed any such instrument or papers shall continue after the termination of this NDA. If the Company is unable because of my mental or physical incapacity or for any other reason to secure my signature to apply for or to pursue any application for any United States or foreign patents or copyright registrations covering Inventions or original works of authorship assigned to the Company as above, then I hereby irrevocably designate and appoint the Company and its duly authorized officers and agents as my agent and attorney in fact, to act for and in my behalf and stead to execute and file any such applications and to do all other lawfully permitted acts to further the prosecution and issuance of letters patent or copyright registrations thereon with the same legal force and effect as if executed by me.

(d) Originality. I hereby warrant and represent to the Company that, to the best of my knowledge and except as expressly disclosed to the Company in writing by me, all Inventions, and Prior Inventions are original and were not conceived, reduced to practice, authored or otherwise developed by misappropriating the trade secrets or other proprietary technology or intellectual property of any third parties. I hereby agree to indemnify, defend and hold the Company harmless from and against any and all third party claims, and any costs, damages and liabilities resulting therefrom, made against or imposed upon the Company as a result of my breach of the above representation and warranty. The foregoing representation and warranty shall be deemed first made on the date hereof and shall run continuously thereafter and apply to all Inventions and Prior Inventions governed by this NDA.

(e) Application. I agree that the provisions of this Section 2 shall apply with respect to any and all Inventions, whether created during my employment with the Company or any predecessor entity, or during any pre-organization period. I acknowledge that the Company and its future investors shall rely on this representation.

3. Restrictive Covenants.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(a) Non-competition. At all times during my employment or engagement with the Company, and for a period thereafter of twelve (12) months, I shall not, directly or indirectly, on my own behalf or on behalf of any person, firm, company, or entity: (i) engage in any business that competes, directly or indirectly, with the business of the Company; or (ii) provide to any third party that engages in any business that competes, directly or indirectly, with the business of the Company any services comparable to those I provided to the Company in the course of my engagement or employment with the Company.

(b) Non-Service. At all times during my employment or engagement with the Company, and for a period thereafter of twelve (12) months, I agree that I shall not, directly or indirectly, on my own behalf or on behalf of any person, firm, company, or entity, accept business of the type offered by the Company during my employment with the Company or perform or supervise the performance of any services related to such business for any: (i) client, customer, prospective client, prospective customer, or vendor of the Company, whom I solicited or serviced, directly or indirectly or who were solicited or serviced by those who I supervised, directly or indirectly, in whole or in part; (ii) former client, customer or vendor of the Company who was such within twelve (12) months prior to the termination of my employment with the Company and whom I solicited or serviced, directly or indirectly, or who were solicited or serviced by those who I supervised, directly or indirectly, in whole or in part; or (iii) any clients, customers, prospective clients, prospective customers, or vendors of the Company, who the Company solicited or serviced during my employment with the Company.

(c) Non-solicitation. At all times during my employment or engagement with the Company, and for a period thereafter of twelve (12) months, I shall not, directly or indirectly, on my own behalf or on behalf of any person, firm, company, or entity: (i) solicit, offer employment to, or hire (collectively, "***Restricted Solicitation***") any person who consulted with or has been employed by the Company at any time during the twelve (12) months immediately preceding such Restricted Solicitation; or (ii) solicit, call upon, or otherwise communicate in any way with any client, customer, prospective client, prospective customer, or vendor of the Company for the purposes of causing or of attempting to cause any such person to purchase products sold or services rendered by the Company from any person or entity other than the Company.

(d) Tolling. I agree that the time periods of the covenants contained in this Section 3 shall be extended by any and all periods during which I am in breach of such covenants.

4. Social Media. I agree that, except as permitted by applicable law, I am prohibited from posting any confidential, financial, sensitive, or proprietary information, or job-related content, about the Company, or any of the Company's current, former, or potential employees, partners, suppliers, vendors, licensors, or business relations on social media in accordance with the NDA. This prohibition applies to all forms of social media including, but not limited to: blogs, Facebook, Twitter, LinkedIn, YouTube, Tumblr, and Instagram. Content regarding the Company that is truthful, accurate and respectful may be posted if it is approved in advance, in writing, by the Company in each and every instance. I am representing myself, not the Company, when participating in social networking. I agree not to represent that I am in any way speaking on behalf of the Company unless I am authorized to do so in writing.

5. Publicity. I agree that I shall acquire no right under this NDA to use, and shall not use, the Company's name, or any derivation of the Company's name (either alone or in conjunction with or as a part of any other work or name) in any of my advertising, publicity or promotions to express or imply any endorsement by the Company of my employment, engagement, or services, or in any other manner whatsoever unless written approval is obtained from the Company prior to such usage. Nothing contained herein shall be construed to prevent me from communicating with third parties or prospective employers concerning my position and duties with the Company. The Company shall have no obligation to accord me credit for the services rendered **hereunder**.

6. Non-Disparagement. I shall not disparage or make any statement which might adversely affect the reputation of the Company. For the purpose of this Section, the term "disparage" shall include, without limitation, any statement accusing the Company of acting in violation of any law or governmental regulation or of condoning any such action, or otherwise acting in an unprofessional, dishonest, disreputable, improper, incompetent or negligent manner.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

7. Specific Performance and Equitable Relief. I acknowledge and agree that the Company would suffer irreparable harm if the Confidential Information was disclosed to third parties without the Company's consent or if I breached the restrictive covenants and non-disparagement provisions contained herein. I further agree that the restrictive covenants in this NDA are reasonable covenants under the circumstances, and further agree that if in the opinion of any court of competent jurisdiction such restraints are not reasonable in any respect, such court shall have the right, power and authority to excise or modify such provision or provisions of such covenants as to the court shall appear not reasonable and to enforce the remainder of the covenants as so amended. Accordingly, I hereby consent to and agree that, in the event of a breach or threatened breach of this NDA by me, the Company shall have the right to exercise any and all rights by appropriate action either by law or in equity, including specific performance of my obligations arising pursuant to this NDA, and that the Company shall be entitled to equitable relief, including injunctive relief, in connection with any breach or threatened breach, by me, of my obligations arising pursuant to this NDA, and specifically, without limitation, the confidentiality, restrictive covenant, and non-disparagement provisions above. I further agree that the Company may, in addition to pursuing any remedies it may have in law or in equity, cease making any payments otherwise required by any agreement between the Company and me, and that I shall not request that the Company post, nor shall the Company be obligated to post, a bond in connection with any equitable relief authorized pursuant to this Section and in fact requested by the Company. To the extent the Company expends attorneys' fees in enforcing the terms of this NDA against me, I shall be responsible for indemnifying the Company for said fees.

8. No Further Consideration. I acknowledge and agree that, except as compensated in accordance with my status as an employee of or consultant with the Company and as set forth herein, I shall not be entitled to any further or additional compensation in consideration of complying with the confidentiality, non-competition, non-solicitation, and non-disparagement obligations set forth herein.

9. Effect on Employment. I acknowledge that none of the covenants in this NDA is intended to create a contract of employment and that the term of my employment with the Company is governed by the attached employment agreement.

10. Returning Company Documents. I agree that, at the time I cease performing services for the Company, I will immediately deliver to the Company (and will not keep in my possession, recreate or deliver to anyone else) any and all software, devices, records, data, notes, reports, proposals, lists, correspondence, specifications, materials, equipment, other documents or property, including all Confidential Information or reproductions of any of the aforementioned items developed during or in connection with my employment with the Company or otherwise belonging to the Company, its successors or assigns.

11. Warranty by Employee. I represent and warrant that: (a) consulting with or being employed by the Company does not constitute a breach of any agreement or other legal obligation with or to a third party; (b) I am not bound by or subject to any agreement or other legal obligation with a third party that would adversely affect my consulting with or being employed by the Company, including but not limited to, a prior employment agreement, confidentiality agreement, or covenant not to compete, not to solicit or other restriction against competition; (c) I will not use in connection with my employment with the Company any confidential or proprietary information belonging to any third party without first obtaining a written release from that third party; and (d) in performing services for the Company, I shall comply with all policies and procedures of the Company (as applicable) and all applicable laws. I shall indemnify, defend, and hold harmless the Company, and the present, former and future officers, directors, managers, shareholders, members, employees, contractors and agents of the Company, from any and all losses, claims, damages, judgments, awards, costs and expenses (including without limitation, reasonable attorneys' fees and costs, and direct, indirect, and consequential damages) incurred as a result of any breach of this Section or any other provision of this NDA.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

12. General Provisions.

(a) Severability. I agree that if one or more of the provisions in this NDA are deemed void by law, then the remaining provisions will continue in full force and effect and, if legally permitted, such offending provision or provisions shall be replaced with an enforceable provision or enforceable provisions that as nearly as possible effects the parties' intent. Without limiting the generality of the foregoing, the parties hereby expressly state their intent that, to the extent any provision of this NDA is unenforceable due to the scope (temporal, geographic or otherwise) being too broad, the court or arbitrator properly adjudicating any dispute with respect thereto shall modify such provision to the minimum extent necessary to cause such provision to be enforceable.

(b) Successors and Assigns. This NDA will be binding upon my heirs, executors, administrators and other legal representatives and will be for the benefit of the Company, its successors, and its assigns. I acknowledge and agree that I cannot assign or transfer this NDA nor any rights hereunder without the express written consent of the Company, in its absolute discretion. The Company, however, shall have the right to assign this NDA and/or any of its rights or obligations set forth herein.

(c) Survival. I agree that notwithstanding anything in this NDA to the contrary, the provisions of this NDA shall survive any termination of my employment with the Company or termination of this NDA to the extent necessary to give effect to the subject provisions according to their terms, and shall remain in full force and effect indefinitely.

(d) Amendment and Modification. No provision of this NDA may be modified, amended, waived or terminated except by a writing signed by both myself and the Company. No course of dealing between me and the Company will modify, amend, waive or terminate any provision of this NDA or any rights or obligations of any party under or by reason of this NDA.

(e) Counterparts. This NDA may be executed in two or more counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument.

(f) Facsimile Signatures. A facsimile or PDF scanned copy of my or the Company's signature shall be as valid and binding as an original.

(g) Governing Law. This NDA shall be governed by, and construed and enforced in accordance with, the laws of the State of New York (excluding the choice of law rules thereof). **I ACKNOWLEDGE AND AGREE THAT, PRIOR TO EXECUTING THIS NDA, I WAS AFFORDED AN OPPORTUNITY TO OBTAIN THE ADVICE OF INDEPENDENT LEGAL COUNSEL AND HAVE READ AND UNDERSTAND ALL OF THIS NDA. ACCORDINGLY, THIS NDA SHALL NOT BE CONSTRUED AGAINST ANY PARTY BY REASON OF THE DRAFTING OR PREPARATION OF THIS NDA**.

(h) Choice of Forum. Each of the parties hereby consents to the jurisdiction of any state or federal court located within the County of New York, State of New York and irrevocably agrees that all actions or proceedings relating to this NDA must be litigated in such courts, and each of the parties waives any objections which it/he/she may have based on improper venue or forum *non conveniens* to the conduct of any proceeding in such court.

(i) No Expectation of Privacy. I acknowledge and agree that I have no expectation of privacy in respect of any information (e.g., emails and voice mail), whether personal or otherwise, stored on Company's networking, telecommunications, computer and other equipment, which information may be monitored by Company at any time without notice.

[Signature page follows]

* * * * *

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

IN WITNESS WHEREOF, the Parties hereto have caused this NDA to be duly executed as of the date first written above.

ICONIC BRANDS, INC.	**EMPLOYEE**
By: /s/ Richard DeCicco	/s/ John Cosenza
Name: Richard DeCicco	John Cosenza
Title: Chief Executive Officer	

EXHIBIT A

LIST OF PRIOR INVENTIONS

AND ORIGINAL WORKS OF AUTHORSHIP

Title	**Date**	**Identifying Number or Brief Description**

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

EXHIBIT 99.1

Iconic Brands, Inc. Announces $40 Million Dollar Private Placement and Restructuring

Company simultaneously closes acquisition of TopPop LLC to add significant revenues and EBITDA

TopPop LLC acquisition expands Iconic Brands, Inc. into new and exciting market of ready-to-freeze single serve alcohol ice pops

AMITYVILLE, NY, July 27, 2021 — Iconic Brands, Inc. (OTCQB: ICNB) ("Iconic" or the "Company"), a lifestyle branding company and developer of premium alcoholic beverages, today announced that it has signed definitive agreements for approximately $40 million equity financing and restructuring with existing shareholders, institutions, insiders, and accredited investors. The Company also announced the closure of its acquisition of TopPop LLC ("TopPop"), a contract manufacturing company specializing in the development of products containing alcohol.

Under the terms of the financing agreement, investors purchased approximately $40 million of Iconic's Series A-2 Convertible Preferred Stock (the "A-2 Preferred Stock") convertible into common stock at $0.3125 per share with 100% warrant coverage at an exercise price of $0.3125 per share and exercisable for five years. After the restructuring, the A-2 Preferred Stock will be the Company's only existing preferred stock and the rest of the outstanding capital stock of the Company will be shares of the Company's common stock.

The net cash proceeds from the offering after the restructuring and acquisition are anticipated to be approximately $30 million. The Company intends to use the proceeds to acquire 100% of TopPop, expand TopPop's existing 30,000 square foot FDA registered facility, ramp up the domestic and international expansion of its Bellissima brand, increase brand awareness through social media and digital marketing, hire brand ambassadors and product influencers, increase inventory for accelerating demand, and roll out new brands in the near future. In addition, the Company plans to recruit top-notch C-suite executives and seasoned board members in preparation for a potential up-list to a national exchange.

Commenting on the acquisition of TopPop, Richard DeCicco, President and Chairman of the Board of Directors of Iconic stated, "we are excited to be entering into a brand new category of ready-to-freeze alcohol, which is expected to be one of the hottest sectors in the alcohol industry since ready-to-drink cocktails. We expect this to significantly increase sales given the soaring demand for this product and we are thrilled to be working with TopPop, an industry leader. TopPop is already producing products in the market for some of the largest alcohol beverage companies in the world."

The Special Equities Group (SEG), a division of Dawson James Securities, Inc., acted as sole placement agent for the transaction.

Full terms of the financing agreement can be found in the Company's Current Report on Form 8-K to be filed with the U.S. Securities and Exchange Commission.

About TopPop
TopPop, a product development and contract manufacturing company in the U.S. specializes in manufacturing products containing alcohol. TopPop has received federal and state licensing to manufacture malt, spirit, and wine-based products in its facility. TopPop's team of seasoned professionals manufactures its products with the highest quality controls. For more information, visit its website at http://www.toppoppackaging.com.

About Iconic
Iconic is a lifestyle branding company with the highest expertise in developing, from inception to completion, alcoholic beverages for itself and third parties. Iconic markets and places products into national distribution through long-standing industry relationships. Iconic is a leader in "celebrity branding" of beverages, procuring superior and unique products from around the world and branding its products with internationally recognized celebrities. It currently offers Bellissima Prosecco and BiVi Vodka.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Please visit the Iconic's websites and follow us on social media.
Websites: Iconicbrandsusa.com; bivivodka.com; bellissimaprosecco.com
Twitter: @BiviVodka
Instagram: @IconicBrandsUSA; @BellissimaProsecco; @Bivivodka

Forward-Looking Statements

This press release contains forward-looking statements within the meaning of the "safe harbor" provisions of the Private Securities Litigation Reform Act. These forward-looking statements are made on the basis of the current beliefs, expectations, and assumptions of management, are not guarantees of performance, and are subject to significant risks and uncertainty. These forward-looking statements should, therefore, be considered in light of various important factors, including those set forth in Iconic's reports that it files from time to time with the Securities and Exchange Commission and which you should review, including those statements under "Item 1A – Risk Factors" in Iconic's Annual Report on Form 10-K.

Copyright © 2021 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document