As filed with the Securities and Exchange Commission on November 16, 2018.

Registration No. 333-

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

FORM S-1
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

BEYOND MEAT, INC.

(Exact Name of Registrant as Specified in Its Charter)

Delaware	**2000**	**26-4087597**
(State or Other Jurisdiction of Incorporation or Organization)	(Primary Standard Industrial Classification Code Number)	(I.R.S. Employer Identification Number)

1325 E. El Segundo Blvd.
El Segundo, CA 90245
(866) 756-4112
(Address, Including Zip Code, and Telephone Number, Including Area Code, of Registrant's Principal Executive Offices)

Ethan Brown
President and Chief Executive Officer
Beyond Meat, Inc.
1325 E. El Segundo Blvd.
El Segundo, CA 90245
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Approximate date of commencement of proposed sale to the public: As soon as practicable after the effective date of this Registration Statement.

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

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

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

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

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

Large accelerated filer	☐	Accelerated filer	☐
Non-accelerated filer	x	Smaller reporting company	☐
		Emerging growth company	x

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 to Section 7(a)(2)(B) of the Securities Act. ☐

CALCULATION OF REGISTRATION FEE

Title of each class of securities to be registered	**Proposed maximum aggregate offering price**[1][2]	**Amount of registration fee**
Common Stock, par value $0.0001 per share	$100,000,000	$12,120

(1) Estimated solely for the purpose of computing the amount of the registration fee pursuant to Rule 457(o) under the Securities Act of 1933, as amended.
(2) Includes shares of common stock issuable upon exercise of the Underwriters' option to purchase additional shares. See "Underwriting."

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

The information in this preliminary prospectus is not complete and may be changed. We may not sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This preliminary prospectus is not an offer to sell these securities and it is not soliciting an offer to buy these securities in any jurisdiction where the offer or sale is not permitted.

SUBJECT TO COMPLETION, DATED NOVEMBER 16, 2018

Shares

Beyond Meat, Inc.

Common Stock

This is the initial public offering of shares of common stock of Beyond Meat, Inc. Prior to this offering, there has been no public market for our common stock. The initial public offering price is expected to be between $ and $ per share.

We have applied to list our common stock on the Nasdaq Global Market under the symbol "BYND."

We are an "emerging growth company," as defined under the federal securities laws and, as such, we have elected to comply with certain reduced public company reporting requirements for this prospectus and future filings.

Investing in our common stock involves a high degree of risk. See the section entitled "Risk Factors" beginning on page 14 to read about factors you should consider before buying shares of our common stock.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or passed upon the accuracy or adequacy of this prospectus. Any representation to the contrary is a criminal offense.

	Per Share	Total
Initial public offering price	$	$
Underwriting discounts and commissions[(1)]	$	$
Proceeds, before expenses	$	$

(1) See "Underwriting" for additional disclosure regarding underwriting discounts and commissions and estimated offering expenses.

We have granted the underwriters a 30-day option to purchase up to additional shares of common stock from us at the initial public offering price less the underwriting discounts and commissions, solely to cover the underwriters' option to purchase additional shares.

The underwriters expect to deliver the shares of common stock to purchasers on or about , 2018.

Goldman Sachs & Co. LLC ***J.P. Morgan*** ***Credit Suisse***

BofA Merrill Lynch ***Jefferies***

William Blair

Prospectus dated , 2018


MEAT.
THE FUTURE OF PROTEIN®
BEYOND MEAT®


BEYOND MEAT
THE BEYOND BURGER
PLANT-BASED BURGER PATTIES
20G OF PLANT PROTEIN PER SERVING
NO SOY
NO GLUTEN
GMO FREE
See nutrition facts for fat and saturated fat content
READY TO COOK
PERISHABLE: KEEP REFRIGERATED
TWO - 1/4LB PATTIES • NET WT. 8 OZ (227 g)
USE-BY DATE:


TGI FRIDAYS
THE BEYOND BURGER®


A&W
BEYOND MEAT
Beyond Meat
BURGER


BEYOND MEAT
LOCAL


Beyond Sausage
Vegetarian Sweet Italian
Beyond Sausage
Vegetarian Bratwurst
nutmeg & savory blend of spices


BEYOND SAUSAGE®

EAT WHAT YOU LOVE™

THE FUTURE OF PROTEIN™
BEYOND MEAT®

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Neither we nor the underwriters have authorized anyone to provide any information or to make any representations other than those contained in this prospectus or in any free writing prospectuses we have prepared. Neither we nor the underwriters take responsibility for, and can provide no assurance as to the reliability of, any other information that others may give you. This prospectus is an offer to sell only the shares offered hereby, but only under circumstances and in jurisdictions where it is lawful to do so. The information contained in this prospectus is current only as of its date.

For investors outside of the United States: Neither we nor the underwriters have done anything that would permit this offering or possession or distribution of this prospectus in any jurisdiction where action for that purpose is required, other than in the United States. You are required to inform yourself about, and to observe any restrictions relating to, this offering and the distribution of this prospectus outside of the United States.

INDUSTRY AND MARKET DATA

This prospectus contains estimates, projections and other information concerning our industry, our business and the markets for our products. Some market data and statistical information contained in this prospectus are also based on management's estimates and calculations, which are derived from our review and interpretation of the independent sources listed below, our internal research and knowledge of the meat industry and plant-based protein market. This information involves a number of assumptions and limitations, and you are cautioned not to give undue weight to these estimates. In addition, projections, assumptions and estimates of the future performance of the industry in which we operate and our future performance are necessarily subject to uncertainty and risk due to a variety of factors, including those described in the sections titled "Risk Factors" and "Cautionary Note Regarding Forward-Looking Statements." These and other factors could cause results to differ materially from those expressed in the projections and estimates made by the independent third parties and us.

Unless otherwise expressly stated, we obtained industry, business, market and other data from the reports, publications and other materials and sources listed below. In some cases, we do not expressly refer to the sources from which this data is derived. In that regard, when we refer to one or more sources of this type of data in any paragraph, you should assume that other data of this type appearing in the same paragraph is derived from the same sources, unless otherwise expressly stated or the context otherwise requires.

- Fitch Solutions Macro Research, a division of Fitch Solutions ("Fitch Research"), research data, August 6, 2018;
- Fitch Research, research data, August 13, 2018;
- Mintel Group Ltd., US Non-Dairy Milk Market Report, September 2017 (the "Mintel Report");
- The World Resources Institute, Creating a Sustainable Food Future, 2013 (the "WRI Report");
- The Organisation for Economic Cooperation and Development ("OECD"), Meat consumption (indicator). doi: 10.1787/fa290fd0-en (Accessed on 13 October 2018);
- The World Health Organization ("WHO"), Q&A on the carcinogenicity of the consumption of red meat and processed meat, October 2015;
- Climate Change 2014: Synthesis Report. Contribution of Working Groups I, II and III to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change (Core Writing Team, R.K. Pachauri and L.A. Meyer (eds.)). Intergovernmental Panel on Climate Change ("IPCC"), Geneva, Switzerland, 151 pp. (the "IPCC Report");
- Livestock's Long Shadow-Environmental Issues and Options, Food and Agriculture Organization ("FAO"), 2006;
- Key, Timothy J. et al., Diet, nutrition and the prevention of cancer, Scientific background papers of the joint WHO/FAO expert consultation, Geneva, 28 January - 1 February 2002, Public Health Nutrition, Vol 7, No. 1(A), Supplement 1001, February 2004;
- Plant Based Foods Association, 2018 Retail Sales Data for Plant-Based Foods (the "PBFA Report");
- Plant Based Diet Associated with Less Heart Failure Risk Report, presented at the American Heart Association scientific meeting, November 13, 2017;
- U.S. Bureau of Labor Statistics, Unemployment Rate for Columbia, Missouri (August 2018);

- Heller, Martin C. and Keoleian, Gregory A. (2018) “Beyond Meat’s Beyond Burger Life Cycle Assessment: A detailed comparison between a plant-based and an animal-based protein source.” CSS Report no.18-10, University of Michigan: Ann Arbor 1-38; and
- Reprinted from Water Resources and Industry, Volumes 1–2, March–June 2013, P.W. Gerbens-Leenes, M.M. Mekonnen, A.Y. Hoekstra, The water footprint of poultry, pork and beef: A comparative study in different countries and production systems, Page No. 26, Copyright (2013), with permission from Elsevier (the “WRI Water Report”).

PROSPECTUS SUMMARY

This summary highlights certain significant aspects of our business and this offering and is a summary of information contained elsewhere in this prospectus. This summary does not contain all the information that you should consider before deciding to invest in our common stock. You should read the entire prospectus carefully, including "Risk Factors," "Management's Discussion and Analysis of Financial Condition and Results of Operations," "Business" and our financial statements and related notes thereto included in this prospectus, before making an investment decision.

Overview

Beyond Meat is one of the fastest growing food companies in the United States, offering a portfolio of revolutionary plant-based meats. We build meat directly from plants, an innovation that enables consumers to experience the taste, texture and other sensory attributes of popular animal-based meat products while enjoying the nutritional benefits of eating our plant-based meat products. Our brand commitment, "Eat What You Love," represents our strong belief that by eating our plant-based meats, consumers can enjoy more, not less, of their favorite meals, and by doing so, help address concerns related to human health, climate change, resource conservation and animal welfare. The success of our breakthrough innovation model and products has allowed us to appeal to a broad range of consumers, including those who typically eat animal-based meats, positioning us to compete directly in the $1.4 trillion global meat industry.

To capture this broad market opportunity, we have developed three core plant-based product platforms that align with the largest meat categories globally: beef, pork and poultry. We create our plant-based products using proprietary scientific processes that determine the architecture of the animal-based meat we are seeking to replicate and then we assemble it using plant-derived amino acids, lipids, trace minerals and water. We are focused on continually improving our products so that they are, to the human sensory system, indistinguishable from their animal-based counterparts.

Our flagship product is The Beyond Burger, the world's first 100% plant-based burger merchandised in the meat case of grocery stores. The Beyond Burger is designed to look, cook and taste like traditional ground beef. Our products are currently available in approximately 28,000 points of distribution primarily in the United States as well as several other countries, across mainstream grocery, mass merchandiser and natural retailer channels, and various food-away-from-home channels, including restaurants, foodservice outlets and schools. We enjoy a strong base of well-known retail and foodservice customers that continues to grow.

Research, development and innovation are core elements of our business strategy and we believe they represent a critical competitive advantage for us. Through our Rapid and Relentless Innovation Program, our team of scientists and engineers focuses on making continuous improvements to our existing product formulations and developing new products across our plant-based beef, pork and poultry platforms. Our state-of-the-art Manhattan Beach Project Innovation Center in El Segundo, California brings together leading scientists from chemistry, biology, material science, food science and biophysics disciplines who work together with process engineers and culinary specialists to pursue our vision of perfectly building plant-based meat.

We have experienced strong revenue growth over the past few years, increasing our net revenues from $8.8 million in 2015 to $32.6 million in 2017, representing a 92% compound annual growth rate. We have generated losses since inception. Net loss in 2016 was $25.1 million compared to $30.4 million in 2017, an increase of $5.3 million, as we invested in innovation and the growth of our business. In the nine months ended September 29, 2018, our net revenues were $56.4 million, a 167% increase from $21.1 million in the nine months ended September 30, 2017. For the nine months ended September 29, 2018, our net loss was $22.4 million. Going forward, we intend to continue to invest in innovation, supply chain capabilities, manufacturing and marketing initiatives as we believe the demand for our products will continue to accelerate across both retail and foodservice channels as well as internationally.

The Beyond Meat Strategic Difference

- ***Unique Approach to the Product***

We employ a revolutionary and unique approach to create our products, with a goal of delivering the same satisfying taste, texture and aroma as the animal-based meats we seek to replicate. In our Manhattan Beach Project Innovation Center, our scientists and engineers continuously improve our products to replicate the sensory experience of animal-based meat. Through our investment in innovation, we have pioneered products like The Beyond Burger and Beyond Sausage, which we believe closely replicate the sensory experience of meat—from the look of the package and raw product, to the sizzle on the grill, to the juicy and protein-packed satisfaction of biting into a "meaty" burger or sausage.

- ***Unique Approach to the Market***

Our breakthrough product innovations have enabled a paradigm shift in both marketing and target audience—tapping into the curious and enthusiastic pull from mainstream consumers for delicious and satisfying yet better-for-you plant-based meats. At one of the nation's largest conventional grocers, Kroger, 93% of Beyond Burger buyers over the 26-week period ended June 30, 2018 also purchased animal protein during the same period, which evidences Beyond Meat's appeal to meat-loving consumers.

Instead of marketing and merchandising The Beyond Burger to vegans and vegetarians (who represent less than 5% of the U.S. population), we request that the product be sold in the meat case at grocery retailers, where meat-loving consumers are accustomed to shopping for center-of-plate proteins. We believe merchandising in the meat case in the retail channel has helped drive greater brand awareness with our end consumers. The Beyond Burger is now carried by approximately 11,000 of our 17,000 grocery store customers across the United States.

Reflecting the strength and value of the Beyond Meat brand to its partners, many of our restaurant, hotel and other foodservice customers choose to prominently feature our brand name on their menu and within item descriptions, in addition to displaying Beyond Meat branded signage throughout their venue. We believe that we have established our brand as one with "halo" benefits to our partners, as evidenced by the speed of adoption by key partners. For example, Beyond Meat was the fastest new-product launch in the history of both A&W Canada and TGI Fridays, and a number of our key partners are investing their own resources to tap into our brand and product awareness. Our products are now carried by approximately 11,000 restaurant and foodservice outlets across the United States.

Our recent success with A&W Canada illustrates the growing international demand for our products. We launched in Europe in August 2018 through contracts with three major distributors and have also received strong expressions of interest from some of Europe's largest grocery and restaurant chains. We intend to establish production capabilities in Europe in 2020. Additionally, for several years we have maintained a presence and generated brand awareness in Hong Kong through our local distributor and expect further expansion in Asia over time.

- ***Unique Approach to Our Brand***

Our mission is to create nutritious plant-based meats that taste delicious and deliver a consumer experience indistinguishable from that provided by animal-based meats. We believe our brand commitment, "Eat What You Love," encourages consumers to eat more, not less, of the traditional dishes they enjoy by using our products, while feeling great about the health, sustainability, and animal welfare benefits associated with consuming plant-based protein. Consumers and the media are enthusiastic about the concept of an authentically meaty tasting plant-based burger and drove more than 4.0 billion earned media impressions in 2017, which are growing at an even faster pace in 2018—with 7.5 billion earned media impressions between January and September 2018. See "Business—The Beyond Meat Strategic Difference—Unique Approach to Our Brand" for more information on "earned media impressions" and the limitations of this metric.

Our Industry and Market Opportunity

We operate in the large and global meat industry, which is comprised of fresh and packaged animal-based meats for human consumption. According to data from Fitch Solutions Macro Research, the meat industry is the largest category in food and in 2017 generated estimated sales across retail and foodservice channels of approximately $270 billion in the United States and approximately $1.4 trillion globally.

We believe that consumer awareness of the perceived negative health, environmental and animal-welfare impacts of animal-based meat consumption has resulted in a surge in demand for viable plant-based protein alternatives. A key analogy for both the approach to and the scale of our opportunity is the strategy by which the plant-based dairy industry captured significant market share of the dairy industry. In the United States, the current size of the non-dairy milk category is equivalent to approximately 13% of the size of the dairy milk category. According to the Mintel Report, the non-dairy milk category in the United States was estimated to be approximately $2 billion in 2017. The success of the plant-based dairy industry was based on a strategy of creating plant-based dairy products that tasted better than previous non-dairy substitutes, packaged and merchandised adjacent to their dairy equivalents. We believe that by applying the same strategy to the plant-based meat category, it can grow to be at least the same proportion of the approximately $270 billion meat category in the United States, which over time would represent a category size of $35 billion in the United States alone. As a market leader in the plant-based meats category, we believe we are well-positioned to capture and drive a significant amount of this category growth. We also believe there is a significant international market opportunity for our products.

Our Competitive Strengths

We believe that the following strengths position us to generate significant growth and pursue our objective to become a leader in the global meat category.

Dedicated Focus on Innovation. We invest significant resources in our innovation capabilities to develop plant-based meat alternatives to popular animal-based meat products. Our innovation team, comprised of approximately 40 scientists, engineers, researchers, technicians and chefs, has delivered several unique plant-based meat breakthroughs, as well as continuous improvements to existing products. We are able to leverage what we learn about taste, texture and aroma across our platform and apply this knowledge to each of our product offerings. In addition, we recently opened our 30,000 square foot Manhattan Beach Project Innovation Center in El Segundo, California, which is ten times the size of our previous lab space. In our new innovation center, we have a strong pipeline of products in development and can more rapidly transition our research from benchtop to scaled production. As our knowledge and expertise deepens, our pace of innovation is accelerating, allowing for reduced time between new product launches. After taking multiple years to develop the first Beyond Burger, it took us less than a year to develop a new version with improved taste, texture and aroma attributes. This newer version of The Beyond Burger is already being sold by A&W Canada, generating enthusiastic comparisons to traditional beef. We expect this faster pace of product introductions and meaningful enhancements to existing products to continue as we innovate within our core plant-based platforms of beef, pork and poultry.

Brand Mission Aligned with Consumer Trends. Our brand is uniquely positioned to capitalize on growing consumer interest in great-tasting, nutritious, convenient, higher protein content and plant-based foods. We have also tapped into growing public awareness of major issues connected to animal protein, including human health, climate change, resource conservation and animal welfare. Simply put, our products aim to enable consumers to “Eat What You Love” without the downsides of conventional animal protein. We have built a powerful brand with broad demographic appeal and a passionate consumer base. Our brand awareness is driven by strong social marketing, with over 1.0 million combined social media and newsletter followers as of September 2018, more than 4.0 billion earned media impressions in 2017 and 7.5 billion earned media impressions between January and September 2018. Our audience

continues to grow from the attention generated by our large following of celebrities, influencers and brand ambassadors who identify with our mission.

Product Portfolio Generates Significant Demand from Retail and Restaurant Customers. Rapidly growing sales of our products by both our retail and restaurant partners have helped us foster strong relationships in a relatively short period of time. We provide our retailers with exciting new products in the meat case, where innovation rarely occurs. Many of our retail customers have experienced increasing levels of velocity of our products, measured by units sold per month per store, as well as repeat purchases. Our restaurant customers are excited by the opportunity to differentiate their menu offering and attract new customers by partnering with Beyond Meat and are seeking new ways to further promote our product. In summer 2018, A&W Canada, the country's second largest burger chain, ran an advertising campaign promoting The Beyond Burger as an exciting new product offering to drive consumer traffic. We believe their choice to feature The Beyond Burger demonstrates the marketing power of our brand and overall consumer excitement for our product.

Experienced and Passionate Executive Management Team. We are led by a proven and experienced executive management team. Ethan Brown, our founder, President and Chief Executive Officer, has significant experience in clean tech and a natural appreciation for animal agriculture. Seth Goldman, our Executive Chair, has extensive experience working at fast-growing brands in the food and beverage industry. The other members of our executive management team have an average of 21 years of industry experience, having driven growth at both consumer packaged goods companies and high growth businesses. We believe this blend of talent gives us tremendous insights and capabilities to create demand and fulfill it in a scalable, profitable and sustainable way.

Our Growth Strategy

Pursue Top-line Growth Across our Distribution Channels. We believe there is a significant opportunity to expand Beyond Meat well beyond our current retail and restaurant and foodservice footprint of approximately 28,000 points of distribution across the United States and abroad.

- *Retail:* We have a significant opportunity to grow our sales within U.S. retail by focusing on increasing sales at our existing points of distribution, as well as increasing sales of new products. We also expect to grow our U.S. retail distribution by establishing commercial relationships with new customers.
- *Restaurant and Foodservice:* Our products are currently being served in approximately 11,000 restaurant and foodservice outlets. We plan to continue to aggressively expand our network of restaurant and foodservice partners.
- *International:* We believe there is significant demand for our products across the globe in retail and restaurant and foodservice channels. We are increasing production for sales in Canada and Europe and have established and seek to establish additional relationships with distributors in other geographies for future expansion.

Invest in Infrastructure and Capabilities. We are committed to prioritizing investment in our infrastructure and capabilities in order to support our strategic expansion plans. This year, we commenced production at a new state-of-the-art manufacturing facility and entered into relationships with several co-manufacturers to significantly increase our production capacity. By the end of the first quarter of 2019, we expect to triple our monthly production capacity as compared to the end of the second quarter of 2018.

We have plans to unlock additional capacity both domestically and internationally in 2019. We are continuing to hire experienced employees in our sales, marketing, operations, innovation and finance teams to support our rapid growth.

Expand Our Product Offerings. The successes of The Beyond Burger and Beyond Sausage products have confirmed our belief that there is significant demand for additional plant-based meat products. We intend to strengthen our product offering by improving the formulations for our existing portfolio of products, and by creating new products that expand the portfolio. We are continuously refining our products to improve their taste, texture and aroma. In addition, we are committed to increasing our investment in research and development to continue to innovate within our core plant-based platforms of beef, pork and poultry to create exciting new product lines and improve the formulations for our existing portfolio of products.

Continue to Grow Our Brand. We plan to continue to create relevant content with our network of celebrities, influencers and brand ambassadors, who have successfully built significant brand awareness for us by supporting our mission and products. We also intend to expand our field marketing efforts to sample products directly with consumers in stores and at relevant events.

Remain Mission Focused and True to Our Values. We are a mission-driven business with long-standing core values. We strive to operate in an honest, socially responsible and environmentally sustainable manner and are committed to help solve the major health and global environmental issues which we believe are caused by an animal-based protein diet and existing meat industry practices. We believe our authentic and long-standing commitment to these causes better positions us to build loyalty and trust with current consumers and helps attract new ones. Our corporate culture embodies these values and, as a result, we enjoy a highly motivated and skilled work force committed to our mission and our enterprise.

Risks Associated with Our Business

Investing in our common stock involves substantial risk. You should carefully consider all of the information in this prospectus prior to investing in our common stock. There are several risks related to our business that are described under “Risk Factors” elsewhere in this prospectus. Among these important risks are the following:

- We have a history of losses, and we may be unable to achieve or sustain profitability. We have experienced net losses in each year since our inception and we may therefore not be able to achieve or sustain profitability in the future.
- If we fail to effectively expand our manufacturing and production capacity, our business and operating results and our brand reputation could be harmed.
- Because we rely on a limited number of raw materials to create our products and a limited number of third-party suppliers to supply our raw materials, we may not be able to obtain raw materials on a timely basis, at cost effective pricing or in sufficient quantities to produce our products and we may not be able to produce our products or meet the demand for our products.
- Our future business, results of operations and financial condition may be adversely affected by reduced or limited availability of pea protein that meets our standards.
- We use a limited number of distributors for the substantial majority of our sales, and if we experience the loss of one or more such distributors and cannot replace them in a timely manner or at all, our results of operations may be adversely affected.
- We do not currently have any written contracts with co-manufacturers. The loss of these co-manufacturers or the inability of these co-manufacturers to fulfill our orders would adversely affect our ability to make timely deliveries of our products and would have a material adverse effect on our business.
- We face intense competition in our market from our competitors, including manufacturers of animal-based meat products and other brands that produce plant-based protein products.

- We may require additional financing to achieve our goals, and a failure to obtain this necessary capital when needed on acceptable terms, or at all, may force us to delay, limit, reduce or terminate our product manufacturing and development, and other operations.
- Our brand and reputation may be diminished due to real or perceived quality or health issues with our products, which could have an adverse effect on our business, reputation, operating results and financial condition.
- Food safety and food-borne illness incidents or advertising or product mislabeling may materially adversely affect our business by exposing us to lawsuits, product recalls or regulatory enforcement actions, increasing our operating costs and reducing demand for our product offerings.
- Failure by our suppliers of raw materials or co-manufacturers to comply with food safety, environmental or other laws and regulations, or with the specifications and requirements of our products, may disrupt our supply of products and adversely affect our business.
- Sales of The Beyond Burger contribute a significant portion of our revenue. A reduction in sales of The Beyond Burger would have an adverse effect on our financial condition.
- The primary components of all of our products are manufactured in our two Columbia, Missouri facilities and any damage or disruption at these facilities may harm our business. Moreover, Columbia, Missouri has a tight labor market and we may be unable to hire and retain employees at these facilities.
- We may not successfully ramp up operations at our new Columbia, Missouri facility or this facility may not operate in accordance with our expectations.
- Failure to introduce new products or successfully improve existing products may adversely affect our ability to continue to grow. In addition, if we fail to cost-effectively acquire new customers or retain our existing customers, or if we fail to derive revenue from our existing customers consistent with our historical performance, our business could be materially adversely affected.
- If we fail to manage our future growth effectively, our business could be materially adversely affected. We may also face difficulties as we expand our operations into countries in which we have no prior operating experience.
- Our operations are subject to U.S. Food and Drug Administration, or FDA, regulation and state regulation, and there is no assurance that we will be in compliance with all regulations. Any changes in applicable laws, regulations or policies of the FDA or U.S. Department of Agriculture, or USDA, that relate to the use of the word “meat” in connection with plant-based protein products could adversely affect our business, prospects, results of operations or financial condition.
- We are or will be subject to international regulations that could adversely affect our business and results of operations.

Our Corporate Information

Beyond Meat, Inc. was incorporated in Delaware on April 8, 2011 originally under the name “J Green Natural Foods Co.” On October 5, 2011, we changed our corporate name to “Savage River, Inc.,” with “Beyond Meat” being our “doing business as” name. On September 7, 2018, we changed our corporate name to “Beyond Meat, Inc.” Our principal executive offices are located at 1325 East El Segundo Blvd., El Segundo, CA 90245, and our telephone number is (866) 756-4112. Our website address is www.beyondmeat.com. The information contained on or accessible through our website is not part of this prospectus or the registration statement of which this prospectus forms a part, and potential investors should not rely on such information in making a decision to purchase our common stock in this offering.

In this prospectus, the terms “Beyond Meat,” “we,” “us,” “our” and “the company” refer to Beyond Meat, Inc., a Delaware corporation. We refer to our Series A convertible preferred stock, Series B convertible preferred stock, Series C convertible preferred stock, Series D convertible preferred stock, Series E convertible preferred stock, Series F convertible preferred stock, Series G convertible preferred stock and Series H convertible preferred stock as our “convertible preferred stock” in this prospectus. In this prospectus, we refer to our outstanding warrants as either warrants to purchase shares of convertible preferred stock or warrants to purchase shares of common stock.

“The Beyond Burger,” ”Beyond Beef,” “Beyond Chicken,” “Beyond Meat,” “Beyond Sausage,” “The Cookout Classic” and “The Future of Protein” and “The Future of Protein Beyond Meat” and design are registered trademarks of Beyond Meat, Inc. in the United States and, in some cases, in certain other countries. All other brand names or trademarks appearing in this prospectus are the property of their respective holders. Solely for convenience, the trademarks and trade names in this prospectus are referred to without the ® and ™ symbols, but such references should not be construed as any indicator that their respective owners will not assert, to the fullest extent under applicable law, their rights thereto.

Implications of Being an Emerging Growth Company

We qualify as an “emerging growth company” as defined in the Jumpstart Our Business Startups Act of 2012, or the JOBS Act. As an emerging growth company, we may take advantage of specified reduced disclosure and other requirements that are otherwise applicable generally to public companies, including:

- presenting only two years of audited financial statements and only two years of related Management’s Discussion and Analysis of Financial Condition and Results of Operations disclosure;
- reduced disclosure about our executive compensation arrangements;
- exemption from the requirements to hold non-binding advisory votes on executive compensation;
- extended transition periods for complying with new or revised accounting standards;
- exemption from the auditor attestation requirement in the assessment of our internal controls over financial reporting pursuant to Section 404(b) of the Sarbanes-Oxley Act of 2002, or the Sarbanes-Oxley Act; and
- exemption from complying with any requirement that may be adopted by the Public Company Accounting Oversight Board, or the PCAOB, regarding mandatory audit firm rotation or a supplement to the auditor’s report providing additional information about the audit and the financial statements (i.e., an auditor discussion and analysis).

We may take advantage of these exemptions up until the last day of the fiscal year following the fifth anniversary of this offering or such earlier time that we are no longer an emerging growth company. We would cease to be an emerging growth company if we have more than $1.07 billion in annual revenue, we have more than $700 million in market value of our stock held by non-affiliates (and we have been a public company for at least 12 months and have filed one annual report on Form 10-K) or we issue more than $1 billion of non-convertible debt securities over a three-year period. We may choose to take advantage of some, but not all, of the available exemptions. We have taken advantage of certain reduced reporting obligations in this prospectus. Further, pursuant to Section 107 of the JOBS Act, as an emerging growth company, we have elected to use the extended transition period for complying with new or revised accounting standards until those standards would otherwise apply to private companies. Accordingly, the information contained herein may be different than the information you receive from other public companies in which you hold stock, and our financial statements may not be comparable to the financial statements of issuers who are required to comply with the effective dates for new or revised accounting standards that are applicable to public companies. See “Risk Factors—Risks Related to Being a Public Company” which describes that we are an emerging growth company, and we cannot be certain if the

reduced disclosure requirements applicable to emerging growth companies will make our common stock less attractive to investors.

The Offering

Common stock offered by us	shares
Option to purchase additional shares of common stock	shares
Common stock to be outstanding after the offering	shares (shares if the option to purchase additional shares is exercised in full.)
Use of proceeds	We intend to use the net proceeds from this offering to invest in current and additional manufacturing facilities and expand our research and development and our sales and marketing capabilities, as well as for working capital and general corporate purposes. See “Use of Proceeds” for more information.
Directed share program	At our request, the underwriters have reserved for sale, at the initial public offering price, up to 5% of the shares offered by this prospectus for sale to some of our directors, officers, employees, distributors, dealers, business associates and related persons. If these persons purchase reserved shares, it will reduce the number of shares available for sale to the general public. Any reserved shares that are not so purchased will be offered by the underwriters to the general public on the same terms as the other shares offered by this prospectus. For further information regarding our directed share program, see “Underwriting.”
Risk factors	Investing in our common stock involves a high degree of risk. You should carefully read and consider the information set forth under “Risk Factors” and all other information in this prospectus before investing in our common stock.
Listing	We have applied to list our common stock on the Nasdaq Global Market under the symbol “BYND.”

The number of shares of our common stock to be outstanding after this offering includes the number of shares of common stock outstanding as of September 29, 2018, after giving effect to the automatic conversion on a one-for-one basis of all outstanding shares of convertible preferred stock into shares of common stock upon the closing of this offering. This number excludes:

- Up to 203,685 unvested shares of restricted common stock subject to our repurchase right which may be issued pursuant to rights to purchase such shares granted on October 24, 2018 at a price of $0.01 per share;
- warrants to purchase 182,533 shares of our Series B convertible preferred stock at $0.71 per share and 58,607 shares of our Series E convertible preferred stock at $2.45 per share, all of which will automatically convert into warrants to purchase an aggregate of 241,140 shares of common stock upon the closing of this offering;
- warrants to purchase 90,000 shares of common stock at $2.00 per share;
- 7,211,699 shares of common stock issuable upon exercise of stock options outstanding as of September 29, 2018, having a weighted-average exercise price of $1.00 per share;

- 796,834 shares of common stock issuable upon exercise of stock options granted after September 29, 2018, having a weighted-average exercise price of $11.35 per share;
- 21,722,448 shares of common stock reserved for future grant or issuance under our 2018 Equity Incentive Plan, or the 2018 Plan, which shares will automatically increase each year, as more fully described in "Executive Compensation—Employee Benefit Plans;" and
- 1,206,233 shares of common stock reserved for issuance under our 2018 Employee Stock Purchase Plan, which shares will automatically increase each year, as more fully described in "Executive Compensation—Employee Stock Purchase Plan."

Except as otherwise indicated, all information in this prospectus reflects and assumes:

- the automatic conversion upon the closing of this offering of all outstanding shares of convertible preferred stock on a one-for-one basis into an aggregate of 62,340,174 shares of common stock, as described above;
- the automatic conversion of warrants to purchase an aggregate of 241,140 shares of convertible preferred stock into warrants to purchase an aggregate of 241,140 shares of common stock upon the closing of this offering;
- no exercise or termination of outstanding stock options or warrants after September 29, 2018;
- the filing and effectiveness of our amended and restated certificate of incorporation and the adoption of our amended and restated bylaws immediately prior to the closing of this offering; and
- no exercise by the underwriters of their option to purchase up to an additional shares of our common stock from us in this offering.

Summary Financial Data

The following tables set forth summary financial data for the periods and at the dates indicated. The statement of operations data for the years ended December 31, 2016 and 2017 have been derived from our audited financial statements included elsewhere in this prospectus. The statement of operations data for the nine months ended September 30, 2017 and September 29, 2018 and the summary balance sheet data as of September 29, 2018 have been derived from unaudited financial statements included elsewhere in this prospectus. Our unaudited interim financial statements were prepared in accordance with U.S. generally accepted accounting principles, or U.S. GAAP, on the same basis as our audited financial statements and include, in the opinion of management, all adjustments, consisting of normal recurring adjustments, that are necessary for the fair statement of the financial information set forth in those financial statements. Our historical results are not necessarily indicative of the results to be expected for any future periods, and results for the nine months ended September 29, 2018 are not necessarily indicative of results that may be expected for the full fiscal year or any other period. You should read the following financial information together with the information under "Capitalization," "Management's Discussion and Analysis of Financial Condition and Results of Operations," "Selected Financial Data" and our financial statements and related notes included elsewhere in this prospectus.

	Year Ended December 31,		Nine Months Ended	
(in thousands, except per share data)	2016	2017	September 30, 2017	September 29, 2018
Statements of Operations Data:				
Net revenues	$ 16,182	$ 32,581	$ 21,129	$ 56,420
Cost of goods sold	22,494	34,772	24,250	46,709
Gross (loss) profit	(6,312)	(2,191)	(3,121)	9,711
Restructuring expenses	—	3,509	3,078	1,170
Total operating expenses	18,454	26,374	19,491	30,570
Loss from operations	(24,766)	(28,565)	(22,612)	(20,859)
Total other expense	(380)	(1,814)	(764)	(1,575)
Loss before income taxes	(25,146)	(30,379)	(23,376)	(22,434)
Income tax expense	3	5	3	—
Net loss	(25,149)	(30,384)	(23,379)	(22,434)
Net loss per share attributable to common stock:				
Basic and diluted[1]	$ (3.67)	$ (3.71)	$ (2.90)	$ (2.45)
Pro forma net income per share attributable to common stock:				
Basic and diluted[1]		$ (0.45)		$ (0.33)

(1) For the calculation of basic and diluted income (loss) per share and pro forma basic and diluted net income per share, see notes 7 and 11 to our financial statements included elsewhere in this prospectus.

(in thousands)	As of September 29, 2018		
Balance Sheet Data:	**Actual[1]**	**Pro Forma[2]**	**Pro Forma As Adjusted [3][5]**
Cash and cash equivalents	$ 49,780	$ 74,781	
Working capital[4]	36,383	87,609	
Total assets	112,222	137,223	
Total debt	30,767	30,767	
Stock warrant liability	2,051	826	
Convertible preferred stock	149,541	—	
Total stockholders' (deficit) equity	(115,692)	85,075	

(1) Includes $25.0 million received prior to September 29, 2018 as advance payment for shares of Series H preferred stock issued subsequent to September 29, 2018 in our Series H preferred stock financing.

(2) The pro forma balance sheet gives effect to (i) the conversion of all outstanding preferred stock to common stock on a one-for-one basis at the closing of this offering, including 3,112,696 shares of our Series H preferred stock issued subsequent to September 29, 2018, (ii) the resulting reclassification of warrant liability to additional paid-in capital with respect to a convertible Series B preferred stock warrant, and (iii) proceeds of additional $25.0 million raised from our issuance and sale of shares of Series H preferred stock subsequent to September 29, 2018, net of issuance costs.

(3) The pro forma as adjusted balance sheet gives effect to (i) the items reflected in footnote (2) above and (ii) to the sale of shares of common stock by us in this offering at an assumed initial public offering price of $ per share (the midpoint of the estimated price range set forth on the cover of this prospectus), after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us.

(4) Working capital is defined as total current assets minus total current liabilities.

(5) Each $1.00 increase or decrease in the assumed initial public offering price of $ per share, which is the midpoint of the estimated offering price range set forth on the cover page of this prospectus, would increase or decrease our cash and cash equivalents, working capital, total assets and total stockholders' equity by approximately $ million, assuming that the number of shares of our common stock offered by us, as set forth on the cover page of this prospectus, remains the same and after deducting estimated underwriting discounts and commissions payable by us. Each increase or decrease of 1.0 million shares in the number of shares offered by us would increase or decrease the amount of our cash and cash equivalents, working capital, total assets and total stockholders' equity by approximately $ million, assuming an initial public offering price of $ per share (the midpoint of the estimated price range set forth on the cover page of this prospectus), after deducting estimated underwriting discounts and commissions payable by us. The pro forma as adjusted information discussed above is illustrative only and will be adjusted based on the actual public offering price and other terms of our initial public offering that will be determined at pricing.

	Year Ended December 31,		Nine Months Ended	
Non-GAAP Financial Data:	**2016**	**2017**	**September 30, 2017**	**September 29, 2018**
Adjusted EBITDA[1]	$ (21,957)	$ (17,557)	$ (13,010)	$ (15,553)

(1) Adjusted EBITDA is a financial measure that is not calculated in accordance with GAAP. We define adjusted EBITDA as net loss adjusted to exclude, when applicable, income tax expense, interest expense, depreciation and amortization expense, restructuring expenses, share-based compensation expense, inventory losses from termination of an exclusive supply agreement with a co-manufacturer and costs of termination of an exclusive supply agreement with the same co-manufacturer.

Adjusted EBITDA should not be considered as an alternative to net loss or any other measure of financial performance calculated and presented in accordance with U.S. GAAP. There are a number of limitations related to the use of adjusted EBITDA rather than net loss, which is the most directly comparable GAAP measure. Some of these limitations are:

- adjusted EBITDA excludes depreciation and amortization expense and, although these are non-cash expenses, the assets being depreciated may have to be replaced in the future increasing our cash requirements;
- adjusted EBITDA does not reflect interest expense, or the cash required to service our debt, which reduces cash available to us;
- adjusted EBITDA does not reflect income tax payments that reduce cash available to us;
- adjusted EBITDA does not reflect restructuring expenses that reduce cash available to us;
- adjusted EBITDA does not reflect share-based compensation expenses and, therefore, does not include all of our compensation costs;
- adjusted EBITDA does not reflect other income (expense) that may increase or decrease cash available to us; and
- other companies, including companies in our industry, may calculate adjusted EBITDA differently, which reduces its usefulness as a comparative measure.

Because of these limitations, we consider, and you should consider, adjusted EBITDA together with other operating and financial performance measures presented in accordance with U.S. GAAP. Below we have provided a reconciliation of adjusted EBITDA to net loss, as reported, the most directly comparable financial measure calculated and presented in accordance with U.S. GAAP, for each of the periods presented.

	Year Ended December 31,		Nine Months Ended	
(in thousands)	**2016**	**2017**	**September 30, 2017**	**September 29, 2018**
Net loss, as reported	$ (25,149)	$ (30,384)	$ (23,379)	$ (22,434)
Income tax expense	3	5	3	—
Interest expense	380	1,002	484	388
Depreciation and amortization expense	2,074	3,181	2,363	3,046
Restructuring expenses[(a)]	—	3,509	3,078	1,170
Inventory losses from termination of exclusive supply agreement[(b)]	—	2,440	2,429	—
Costs of termination of exclusive supply agreement[(c)]	—	1,213	1,213	—
Share-based compensation expense	735	665	519	1,090
Other, net[(d)]	—	812	280	1,187
Adjusted EBITDA	$ (21,957)	$ (17,557)	$ (13,010)	$ (15,553)

(a) In connection with the termination of an exclusive supply agreement with a co-manufacturer in May 2017, we recorded restructuring expenses related to the impairment write-off of long-lived assets, primarily comprised of certain unrecoverable equipment located at the co-manufacturer's site and company-paid leasehold improvements to the co-manufacturer's facility, and legal and other expenses associated with the dispute with the co-manufacturer. See "Management's Discussion and Analysis of Financial Condition and Results of Operations" and "Business—Legal Proceedings" elsewhere in this prospectus.

(b) Consists of additional charges related to inventory losses incurred as a result of termination of an exclusive supply agreement with a co-manufacturer and is recorded in cost of goods sold.

(c) Consists of additional charges incurred as a result of termination of an exclusive supply agreement with a co-manufacturer and is recorded in selling, general and administrative expenses.

(d) Includes expenses primarily associated with the conversion of our convertible notes and remeasurement of our preferred stock warrant liability and common stock warrant liability.

RISK FACTORS

Investing in our common stock involves a high degree of risk. You should carefully consider the following risk factors, as well as the other information in this prospectus, before deciding whether to invest in shares of our common stock. If any of the following risks actually occurs, our business, results of operations and financial condition could be materially adversely affected. In this case, the trading price of our common stock would likely decline and you might lose part or all your investment in our common stock.

Risks Related to Our Business, Our Brand, Our Products and Our Industry

We have a history of losses, and we may be unable to achieve or sustain profitability.

We have experienced net losses in each year since our inception. In the years ended December 31, 2016 and 2017, we incurred net losses of $25.1 million and $30.4 million, respectively. In the nine months ended September 30, 2017 and September 29, 2018, we incurred net losses of $23.4 million and $22.4 million, respectively. We anticipate that our operating expenses and capital expenditures will increase substantially in the foreseeable future as we continue to invest to increase our customer base, supplier network and co-manufacturing partners, expand our marketing channels, invest in our distribution and manufacturing facilities, hire additional employees and enhance our technology and production capabilities. Our expansion efforts may prove more expensive than we anticipate, and we may not succeed in increasing our revenues and margins sufficiently to offset the anticipated higher expenses. We incur significant expenses in developing our innovative products, building out our manufacturing facilities, obtaining and storing ingredients and other products and marketing the products we offer. In addition, many of our expenses, including the costs associated with our existing and any future manufacturing facilities, are fixed. Accordingly, we may not be able to achieve or sustain profitability, and we may incur significant losses for the foreseeable future.

If we fail to effectively expand our manufacturing and production capacity, our business and operating results and our brand reputation could be harmed.

We currently do not have sufficient capacity to meet our customers' demands and to satisfy increased demand, we need to expand our operations, supply and manufacturing capabilities. However, there is risk in our ability to effectively scale production processes and effectively manage our supply chain requirements. We must accurately forecast demand for our products in order to ensure we have adequate available manufacturing capacity. Our forecasts are based on multiple assumptions which may cause our estimates to be inaccurate and affect our ability to obtain adequate manufacturing capacity (whether our own manufacturing capacity or co-manufacturing capacity) in order to meet the demand for our products, which could prevent us from meeting increased customer demand and harm our brand and our business and in some cases may result in fines we must pay customers or distributors if we are unable to fulfill orders placed by them in a timely manner or at all.

However, if we overestimate our demand and overbuild our capacity, we may have significantly underutilized assets and may experience reduced margins. If we do not accurately align our manufacturing capabilities with demand, if we experience disruptions or delays in our supply chain, or if we cannot obtain raw materials of sufficient quantity and quality at reasonable prices and in a timely manner, our business, financial condition and results of operations may be materially adversely affected.

Because we rely on a limited number of third-party suppliers, we may not be able to obtain raw materials on a timely basis or in sufficient quantities to produce our products or meet the demand for our products.

We rely on a limited number of vendors to supply us with raw materials. Our financial performance depends in large part on our ability to arrange for the purchase of raw materials in sufficient quantities at competitive prices. We are not assured of continued supply or pricing of raw materials. Any of our suppliers could discontinue or seek to alter their relationship with us. For example, we may be adversely

affected if they raise their prices, stop selling to us or our co-manufacturers or enter into arrangements that impair their ability to provide raw materials for us.

We have one single source supplier for the pea protein used in our fresh products. During 2017, and in the nine months ended September 29, 2018, products that contain pea protein from this supplier represented approximately 48% and 79%, respectively, of our net revenues. Any disruption in this supplier relationship would have a material adverse effect on our business. We have in the past experienced interruptions in the supply of pea protein from this supplier that resulted in delays in delivery to us, and we could experience similar delays in the future. For more information regarding contract terms, see the section of this prospectus captioned “Business—Roquette Supply Agreement.”

This supplier manufactures its pea protein at a limited number of facilities. A natural disaster, fire, power interruption, work stoppage or other calamity affecting these facilities, or any interruption in its operations, could negatively impact our ability to obtain required quantities of pea protein in a timely manner, or at all, which could materially reduce our net product sales and have a material adverse effect on our business and financial condition.

Events that adversely affect our suppliers could impair our ability to obtain raw material inventory in the quantities that we desire. Such events include problems with our suppliers’ businesses, finances, labor relations, ability to import raw materials, costs, production, insurance and reputation, as well as natural disasters, fires or other catastrophic occurrences. We continuously seek alternative sources of protein to use in our products, but we may not be successful in diversifying the raw materials we use in our products.

If we need to replace an existing supplier, there can be no assurance that supplies of raw materials will be available when required on acceptable terms, or at all, or that a new supplier would allocate sufficient capacity to us in order to meet our requirements, fill our orders in a timely manner or meet our strict quality standards. If we are unable to manage our supply chain effectively and ensure that our products are available to meet consumer demand, our operating costs could increase and our profit margins could decrease.

Our future business, results of operations and financial condition may be adversely affected by reduced or limited availability of pea protein that meets our standards.

Our ability to ensure a continuing supply of ingredients at competitive prices depends on many factors beyond our control, such as the number and size of farms that grow certain crops such as Canadian and European yellow peas, the vagaries of these farming businesses (including poor harvests impacting the quality of the peas grown), changes in national and world economic conditions and our ability to forecast our ingredient requirements. The high quality ingredients used in many of our products are vulnerable to adverse weather conditions and natural disasters, such as floods, droughts, frosts, earthquakes, hurricanes and pestilence. Adverse weather conditions and natural disasters can lower crop yields and reduce crop size and quality, which in turn could reduce the available supply of, or increase the price of, quality ingredients. In addition, we purchase some ingredients offshore, and the availability of such ingredients may be affected by events in other countries, including France and Canada. We also compete with other food producers in the procurement of ingredients, and this competition may increase in the future if consumer demand for plant-based protein products increases. If supplies of quality ingredients are reduced or there is greater demand for such ingredients from us and others, we may not be able to obtain sufficient supply that meets our strict quality standards on favorable terms, or at all, which could impact our ability to supply products to distributors and retailers and may adversely affect our business, results of operations and financial condition.

We use a limited number of distributors for the substantial majority of our sales, and if we experience the loss of one or more distributors and cannot replace them in a timely manner, our results of operations may be adversely affected.

Many retailers purchase our products through food distributors which purchase, store, sell, and deliver our products to retailers. For 2017, our largest distributors in terms of their respective percentage of our gross revenues included the following: United Natural Foods, Inc., or UNFI, 38%; KeHE Distributors, LLC, or KeHE, 10%; and DOT Foods, Inc., or DOT, 10%. In the nine months ended September 29, 2018 sales to our largest distributors and their respective percentage of our gross revenues included the following: UNFI, 38%; DOT, 17%; and Sysco Merchandising and Supply Chain Services, Inc., or Sysco, 14%. We expect that most of our sales will be made through a core number of distributors for the foreseeable future. Since these distributors act as intermediaries between us and the retail grocers or restaurants and foodservice providers, we do not have short-term or long-term commitments or minimum purchase volumes in our contracts with them that ensure future sales of our products. If we lose one or more of our significant distributors and cannot replace the distributor in a timely manner or at all, our business, results of operation and financial condition may be materially adversely affected.

Consolidation of customers or the loss of a significant customer could negatively impact our sales and profitability.

Supermarkets in North America and the European Union, continue to consolidate. This consolidation has produced larger, more sophisticated organizations with increased negotiating and buying power that are able to resist price increases, as well as operate with lower inventories, decrease the number of brands that they carry and increase their emphasis on private label products, all of which could negatively impact our business. The consolidation of retail customers also increases the risk that a significant adverse impact on their business could have a corresponding material adverse impact on our business.

The loss of any large customer, the reduction of purchasing levels or the cancellation of any business from a large customer for an extended length of time could negatively impact our sales and profitability.

Furthermore, as retailers consolidate, they may reduce the number of branded products they offer in order to accommodate private label products and generate more competitive terms from branded suppliers. Consequently, our financial results may fluctuate significantly from period to period based on the actions of one or more significant retailers. A retailer may take actions that affect us for reasons that we cannot always anticipate or control, such as their financial condition, changes in their business strategy or operations, the introduction of competing products or the perceived quality of our products. Despite operating in different channels, our retailers sometimes compete for the same consumers. Because of actual or perceived conflicts resulting from this competition, retailers may take actions that negatively affect us.

We do not currently have any written contracts with our co-manufacturers. Loss of one or more of our co-manufacturers or our failure to timely identify and establish relationships with new co-manufacturers could harm our business and impede our growth.

A significant amount of our revenue is derived from products manufactured at manufacturing facilities owned and operated by our co-manufacturers. We do not currently have written manufacturing contracts with our co-manufacturers, including CLW Foods LLC and FLP Food LLC that co-manufacture our top selling products. Because of the absence of such contracts, any of our co-manufacturers could seek to alter or terminate its relationship with us at any time, leaving us with periods during which we have limited or no ability to manufacture our products. If we need to replace a co-manufacturer, there can be no assurance that additional capacity will be available when required on acceptable terms, or at all.

An interruption in, or the loss of operations at, one or more of our co-manufacturing facilities, which may be caused by work stoppages, disease outbreaks or pandemics, acts of war, terrorism, fire, earthquakes, flooding or other natural disasters at one or more of these facilities, could delay, postpone or

reduce production of some of our products, which could have a material adverse effect on our business, results of operations and financial condition until such time as such interruption is resolved or an alternate source of production is secured.

We believe there are a limited number of competent, high-quality co-manufacturers in the industry that meet our strict quality and control standards, and as we seek to obtain additional or alternative co-manufacturing arrangements in the future, there can be no assurance that we would be able to do so on satisfactory terms, in a timely manner, or at all. Therefore, the loss of one or more co-manufacturers, any disruption or delay at a co-manufacturer or any failure to identify and engage co-manufacturers for new products and product extensions could delay, postpone or reduce production of our products, which could have a material adverse effect on our business, results of operations and financial condition.

We may not be able to compete successfully in our highly competitive market.

We operate in a highly competitive market. Numerous brands and products compete for limited retailer shelf space, foodservice and restaurant customers and consumers. In our market, competition is based on, among other things, product quality and taste, brand recognition and loyalty, product variety, interesting or unique product names, product packaging and package design, shelf space, reputation, price, advertising, promotion and nutritional claims.

We compete with conventional animal-protein companies such as Cargill, Hormel, JBS, Tyson and WH Group (including its Smithfield division), who may have substantially greater financial and other resources than us and whose animal-based products are well-accepted in the marketplace today. They may also have lower operational costs, and as a result may be able to offer conventional animal meat to customers at lower costs than plant-based meat. This could cause us to lower our prices, resulting in lower profitability or, in the alternative, cause us to lose market share if we fail to lower prices.

We also compete with other food brands that develop and sell plant-based protein products, including, but not limited to, Boca Foods, Field Roast Grain Meat Co., Gardein, Impossible Foods, Lightlife, Morningstar Farms and Tofurky, and with companies which may be more innovative, have more resources and be able to bring new products to market faster and to more quickly exploit and serve niche markets such as lab-grown or “clean meat.” We compete with these competitors for foodservice and restaurant customers, retailer shelf space and consumers.

Generally, the food industry is dominated by multinational corporations with substantially greater resources and operations than us. We cannot be certain that we will successfully compete with larger competitors that have greater financial, sales and technical resources. Conventional food companies may acquire our competitors or launch their own plant-based protein products, and they may be able to use their resources and scale to respond to competitive pressures and changes in consumer preferences by introducing new products, reducing prices or increasing promotional activities, among other things. Retailers also market competitive products under their own private labels, which are generally sold at lower prices and compete with some of our products. Similarly, retailers could change the merchandising of our products and we may be unable to retain the placement of our products in meat cases to effectively compete with animal-protein products. Competitive pressures or other factors could cause us to lose market share, which may require us to lower prices, increase marketing and advertising expenditures, or increase the use of discounting or promotional campaigns, each of which would adversely affect our margins and could result in a decrease in our operating results and profitability. See “Business—Competition.”

We may require additional financing to achieve our goals, and a failure to obtain this necessary capital when needed on acceptable terms, or at all, may force us to delay, limit, reduce or terminate our product manufacturing and development, and other operations.

Since our inception, substantially all of our resources have been dedicated to the development of our three core plant-based product platforms of beef, pork and poultry. Net cash used in operating activities was $23.5 million and $25.3 million for 2016 and 2017, respectively. Net cash used in operating activities

was $24.4 million in the nine months ended September 29, 2018. As of December 31, 2017 and September 29, 2018, we had working capital of $39.8 million and $36.4 million, respectively, and cash and cash equivalents of $39.0 million and $49.8 million, respectively. Net cash used in investing activities was $5.0 million and $8.1 million for 2016 and 2017, respectively, and with respect to 2016, related to purchases of property, plant and equipment, principally to support the development and production of The Beyond Burger, and with respect to 2017, related to the build-out and equipping of our Manhattan Beach Project Innovation Center. Net cash used in investing activities was $18.2 million in the nine months ended September 29, 2018, primarily for manufacturing facility improvements and manufacturing equipment.

Net cash provided by financing activities in 2016 and 2017 was $31.9 million and $55.4 million, respectively, primarily due to the net proceeds from our issuance of convertible preferred stock and net borrowings under a revolving credit facility and a term loan facility. Net cash provided by financing activities in the nine months ended September 29, 2018 was $53.3 million, primarily due to net proceeds from our issuance of convertible preferred stock, and net borrowings under our revolving credit facility, our term loan facility and our equipment loan and included a $25.0 million advance deposit received for the issuance of Series H preferred stock.

We believe that we will continue to expend substantial resources for the foreseeable future as we expand into additional markets we may choose to pursue. These expenditures are expected to include costs associated with research and development, manufacturing and supply, as well as marketing and selling existing and new products. In addition, other unanticipated costs may arise.

After giving effect to the anticipated net proceeds from this offering, we expect that our existing cash will be sufficient to fund our planned operating expenses, capital expenditure requirements and debt service payments through at least the next 12 months. However, our operating plan may change because of factors currently unknown to us, and we may need to seek additional funds sooner than planned, through public or private equity or debt financings or other sources, such as strategic collaborations. Such financing may result in dilution to stockholders, imposition of debt covenants and repayment obligations, or other restrictions that may adversely affect our business. In addition, we may seek additional capital due to favorable market conditions or strategic considerations even if we believe we have sufficient funds for our current or future operating plans.

Our future capital requirements depend on many factors, including:

- the number and characteristics of any additional products or manufacturing processes we develop or acquire to serve new or existing markets;
- the scope, progress, results and costs of researching and developing future products or improvements to existing products or manufacturing processes;
- any lawsuits related to our products or commenced against us, including the costs associated with our current litigation with a former co-manufacturer;
- the expenses needed to attract and retain skilled personnel;
- the costs associated with being a public company;
- the costs involved in preparing, filing, prosecuting, maintaining, defending and enforcing patent claims, including litigation costs and the outcome of such litigation; and
- the timing, receipt and amount of sales of, or royalties on, any future approved products, if any.

Additional funds may not be available when we need them, on terms that are acceptable to us, or at all. If adequate funds are not available to us on a timely basis, we may be required to:

- delay, limit, reduce or terminate our manufacturing, research and development activities; or

- delay, limit, reduce or terminate our establishment of sales and marketing capabilities or other activities that may be necessary to generate revenue and achieve profitability.

Our brand and reputation may be diminished due to real or perceived quality or health issues with our products, which could have an adverse effect on our business, reputation, operating results and financial condition.

We believe our consumers rely on us to provide them with high-quality plant-based protein products. Therefore, real or perceived quality or food safety concerns or failures to comply with applicable food regulations and requirements, whether or not ultimately based on fact and whether or not involving us (such as incidents involving our competitors), could cause negative publicity and reduced confidence in our company, brand or products, which could in turn harm our reputation and sales, and could materially adversely affect our business, financial condition and operating results. Although we believe we have a rigorous quality control process, there can be no assurance that our products will always comply with the standards set for our products. For example, although we strive to keep our products free of pathogenic organisms, they may not be easily detected and cross-contamination can occur. In addition, in 2017, before our products were shipped to distributors or customers, we discovered, through our quality control process, that certain of our products manufactured by a former co-manufacturer were contaminated with salmonella. There is no assurance that this health risk will always be preempted by our quality control processes.

We have no control over our products once purchased by consumers. Accordingly, consumers may prepare our products in a manner that is inconsistent with our directions or store our products for long periods of time, which may adversely affect the quality and safety of our products. If consumers do not perceive our products to be safe or of high quality, then the value of our brand would be diminished, and our business, results of operations and financial condition would be adversely affected.

Any loss of confidence on the part of consumers in the ingredients used in our products or in the safety and quality of our products would be difficult and costly to overcome. Any such adverse effect could be exacerbated by our position in the market as a purveyor of high-quality plant-based protein products and may significantly reduce our brand value. Issues regarding the safety of any of our products, regardless of the cause, may have a substantial and adverse effect on our brand, reputation and operating results.

The growing use of social and digital media by us, our consumers and third parties increases the speed and extent that information or misinformation and opinions can be shared. Negative publicity about us, our brands or our products on social or digital media could seriously damage our brands and reputation. If we do not maintain the favorable perception of our brands, our sales and profits could be negatively impacted.

Food safety and food-borne illness incidents or advertising or product mislabeling may materially adversely affect our business by exposing us to lawsuits, product recalls or regulatory enforcement actions, increasing our operating costs and reducing demand for our product offerings.

Selling food for human consumption involves inherent legal and other risks, and there is increasing governmental scrutiny of and public awareness regarding food safety. Unexpected side effects, illness, injury or death related to allergens, food-borne illnesses or other food safety incidents caused by products we sell, or involving our suppliers, could result in the discontinuance of sales of these products or our relationships with such suppliers, or otherwise result in increased operating costs, regulatory enforcement actions or harm to our reputation. Shipment of adulterated or misbranded products, even if inadvertent, can result in criminal or civil liability. Such incidents could also expose us to product liability, negligence or other lawsuits, including consumer class action lawsuits. Any claims brought against us may exceed or be outside the scope of our existing or future insurance policy coverage or limits. Any judgment against us

that is more than our policy limits or not covered by our policies or not subject to insurance would have to be paid from our cash reserves, which would reduce our capital resources.

The occurrence of food-borne illnesses or other food safety incidents could also adversely affect the price and availability of affected ingredients, resulting in higher costs, disruptions in supply and a reduction in our sales. Furthermore, any instances of food contamination or regulatory noncompliance, whether or not caused by our actions, could compel us, our suppliers, our distributors or our customers, depending on the circumstances, to conduct a recall in accordance with FDA regulations, and comparable state laws. Food recalls could result in significant losses due to their costs, the destruction of product inventory, lost sales due to the unavailability of the product for a period of time and potential loss of existing distributors or customers and a potential negative impact on our ability to attract new customers due to negative consumer experiences or because of an adverse impact on our brand and reputation. The costs of a recall could exceed or be outside the scope of our existing or future insurance policy coverage or limits.

In addition, food companies have been subject to targeted, large-scale tampering as well as to opportunistic, individual product tampering, and we, like any food company, could be a target for product tampering. Forms of tampering could include the introduction of foreign material, chemical contaminants and pathological organisms into consumer products as well as product substitution. Recently issued FDA regulations will require companies like us to analyze, prepare and implement mitigation strategies specifically to address tampering designed to inflict widespread public health harm. If we do not adequately address the possibility, or any actual instance, of product tampering, we could face possible seizure or recall of our products and the imposition of civil or criminal sanctions, which could materially adversely affect our business, financial condition and operating results.

Sales of The Beyond Burger contribute a significant portion of our revenue. A reduction in sales of The Beyond Burger would have an adverse effect on our financial condition.

The Beyond Burger accounted for approximately 48% and 71% of our gross revenues for the year ended December 31, 2017 and the nine months ended September 29, 2018, respectively. The Beyond Burger is our flagship product and has been the focal point of our development and marketing efforts, and we believe that sales of The Beyond Burger will continue to constitute a significant portion of our revenues, income and cash flow for the foreseeable future. We cannot be certain that we will be able to continue to expand production and distribution of The Beyond Burger, or that customer demand for our other existing and future products will expand to allow such products to represent a larger percentage of our revenue than they do currently. Accordingly, any factor adversely affecting sales of The Beyond Burger could have a material adverse effect on our business, financial condition and results of operations.

The primary components of all of our products are manufactured in our two Columbia, Missouri facilities and any damage or disruption at these facilities may harm our business. Moreover, Columbia, Missouri has a tight labor market and we may be unable to hire and retain employees at these facilities.

A significant portion of our operations are located in our two Columbia, Missouri facilities. A natural disaster, fire, power interruption, work stoppage or other calamity at one or both of these facilities would significantly disrupt our ability to deliver our products and operate our business. If any material amount of our machinery or inventory were damaged, we would be unable to meet our contractual obligations and cannot predict when, if at all, we could replace or repair such machinery, which could materially adversely affect our business, financial condition and operating results.

Our plans for addressing our rapid growth include expanding operations at our Columbia, Missouri facilities. In this tight labor market, we may be unable to hire and retain skilled employees, which will severely hamper our expansion plans, product development and manufacturing efforts. As of August 2018, the Columbia area had an unemployment rate of 2.6%. As a result of this tight labor market, we currently rely on temporary workers in addition to full-time employees, and in the future, we may be

unable to attract and retain employees with the skills we require, which could impact our ability to expand our operations.

We may not successfully ramp up operations at our new Columbia, Missouri facility or this facility may not operate in accordance with our expectations.

In June 2018, we commenced manufacturing operations in our new Columbia, Missouri facility and expect to ramp up the facility to full production by December 2019. Any substantial delay in bringing this facility up to full production on our current schedule may hinder our ability to produce all of the product needed to meet orders and/or achieve our expected financial performance. Opening this facility has required, and will continue to require, additional capital expenditures and the efforts and attention of our management and other personnel, which has and will continue to divert resources from our existing business or operations. In addition, we will need to hire and retain more skilled employees to operate the expanded facility in this tight labor market. Even if our new Columbia, Missouri facility is brought up to full production according to our current schedule, it may not provide us with all of the operational and financial benefits we expect to receive.

Our Columbia, Missouri facilities and the manufacturing equipment we use to produce our products is costly to replace or repair and may require substantial lead-time to do so. For example, our estimate of throughput or our extrusion capacity may be impacted by disruption from extruder lead-in time, calibration, maintenance and unexpected delays. In addition, our ability to procure new extruders may face more lengthy lead times than is typical. We may also not be able to find suitable alternatives with co-manufacturers to replace the output from such equipment on a timely basis and at a reasonable cost. In the future, we may also experience plant shutdowns or periods of reduced production because of regulatory issues, equipment failure or delays in raw material deliveries. Any such disruption or unanticipated event may cause significant interruptions or delays in our business and the reduction or loss of inventory may render us unable to fulfill customer orders in a timely manner, or at all. We have property and business disruption insurance in place for our Columbia, Missouri facility; however, such insurance coverage may not be sufficient to cover all of our potential losses and may not continue to be available to us on acceptable terms, or at all.

Failure to introduce new products or successfully improve existing products may adversely affect our ability to continue to grow.

A key element of our growth strategy depends on our ability to develop and market new products and improvements to our existing products that meet our standards for quality and appeal to consumer preferences. The success of our innovation and product development efforts is affected by our ability to anticipate changes in consumer preferences, the technical capability of our innovation staff in developing and testing product prototypes, including complying with applicable governmental regulations, and the success of our management and sales and marketing teams in introducing and marketing new products. Our innovation staff are continuously testing alternative plant-based proteins to the proteins we currently use in our products, as they seek to find additional protein options to our current ingredients that are more easily sourced, and which retain and build upon the quality and appeal of our current product offerings. Failure to develop and market new products that appeal to consumers may lead to a decrease in our growth, sales and profitability.

Additionally, the development and introduction of new products requires substantial research, development and marketing expenditures, which we may be unable to recoup if the new products do not gain widespread market acceptance. If we are unsuccessful in meeting our objectives with respect to new or improved products, our business could be harmed.

If we fail to cost-effectively acquire new customers or retain our existing customers, or if we fail to derive revenue from our existing customers consistent with our historical performance, our business could be materially adversely affected.

Our success, and our ability to increase revenue and operate profitably, depends in part on our ability to cost-effectively acquire new customers, to retain existing customers, and to keep existing customers engaged so that they continue to purchase products from us. If we are unable to cost-effectively acquire new customers, retain our existing customers or keep existing customers engaged, our business, financial condition and operating results would be materially adversely affected. Further, if customers do not perceive our product offerings to be of sufficient value and quality, or if we fail to offer new and relevant product offerings, we may not be able to attract or retain customers or engage existing customers so that they continue to purchase products from us. We may lose loyal customers to our competitors if we are unable to meet customers' orders in a timely manner.

If we fail to manage our future growth effectively, our business could be materially adversely affected.

We have grown rapidly since inception and anticipate further growth. For example, our net revenues increased from $16.2 million at December 31, 2016 to $32.6 million at December 31, 2017 and from $21.2 million at September 30, 2017 to $56.4 million at September 29, 2018. The number of our full-time employees increased from 142 (which included 44 contract employees) at December 31, 2016, to 184 (which included 52 contract employees) at December 31, 2017 and to 355 (which included 130 contract employees) at September 29, 2018. This growth has placed significant demands on our management, financial, operational, technological and other resources. The anticipated growth and expansion of our business and our product offerings will place significant demands on our management and operations teams and require significant additional resources to meet our needs, which may not be available in a cost-effective manner, or at all. If we do not effectively manage our growth, we may not be able to execute on our business plan, respond to competitive pressures, take advantage of market opportunities, satisfy customer requirements or maintain high-quality product offerings, any of which could harm our business, brand, results of operations and financial condition.

We face intense competition in our market from our competitors, including manufacturers of animal-based meat products and other brands that produce plant-based protein products, and potential competitors and may lack sufficient financial or other resources to compete successfully.

Our future success depends, in large part, on our ability to implement our growth strategy of expanding supply and distribution, improving placement of our products, attracting new consumers to our brand and introducing new products and product extensions. Our ability to implement this growth strategy depends, among other things, on our ability to:

- manage relationships with various suppliers, co-manufacturers, distributors, customers and other third parties, and expend time and effort to integrate new suppliers, co-manufacturers and customers into our fulfillment operations;
- continue to compete in the retail channel and the restaurant and foodservice channel;
- secure placement in the meat case for our products;
- increase our brand recognition;
- expand and maintain brand loyalty; and
- develop new product lines and extensions.

We may not be able to implement our growth strategy successfully. Our sales and operating results will be adversely affected if we fail to implement our growth strategy or if we invest resources in a growth strategy that ultimately proves unsuccessful.

We may face difficulties as we expand our operations into countries in which we have no prior operating experience.

We intend to continue to expand our global footprint in order to enter into new markets. This may involve expanding into countries other than those in which we currently operate. It may also involve expanding into less developed countries, which may have less political, social or economic stability and less developed infrastructure and legal systems. In addition, it may be difficult for us to understand and accurately predict taste preferences and purchasing habits of consumers in these new geographic markets. It is costly to establish, develop and maintain international operations and develop and promote our brands in international markets. As we expand our business into new countries, we may encounter regulatory, legal, personnel, technological and other difficulties that increase our expenses and/or delay our ability to become profitable in such countries, which may have a material adverse effect on our business and brand.

We are or will be subject to international regulations that could adversely affect our business and results of operations.

We are or will be subject to extensive regulations internationally where we manufacture, distribute and/or will sell our products. Our products are subject to numerous food safety and other laws and regulations relating to the sourcing, manufacturing, storing, labeling, marketing, advertising and distribution of these products. For example, in early 2018, we received an inquiry from Canadian officials about the labeling and composition of products that we export to Canada. We responded promptly to that inquiry, identifying minor formulation changes that we made under Canadian regulations and have not heard more from regulators in Canada. We have continued to export to Canada without further inquiry from Canadian officials. However, if regulators determine that the labeling and/or composition of any of our products is not in compliance with Canadian law or regulations, or if we or our co-manufacturers otherwise fail to comply with applicable laws and regulations, we could be subject to civil remedies or penalties, such as fines, injunctions, recalls or seizures, warning letters, restrictions on the marketing or manufacturing of the products, or refusals to permit the import or export of products, as well as potential criminal sanctions. In addition, enforcement of existing laws and regulations, changes in legal requirements and/or evolving interpretations of existing regulatory requirements may result in increased compliance costs and create other obligations, financial or otherwise, that could adversely affect our business, financial condition or operating results.

In addition, with our expanding international operations, we could be adversely affected by violations of the U.S. Foreign Corrupt Practices Act, or FCPA, and similar worldwide anti-bribery laws, which generally prohibit companies and their intermediaries from making improper payments to non-U.S. officials or other third parties for the purpose of obtaining or retaining business. While our policies mandate compliance with these anti-bribery laws, our internal control policies and procedures may not protect us from reckless or criminal acts committed by our employees or agents. Violations of these laws, or allegations of such violations, could disrupt our business and result in a material adverse effect on our results of operations, cash flows and financial condition.

Ingredient and packaging costs are volatile and may rise significantly, which may negatively impact the profitability of our business.

We purchase large quantities of raw materials, including ingredients derived from Canadian and European yellow peas, mung beans, sunflower seeds, rice, canola oil and coconut oil. In addition, we purchase and use significant quantities of cardboard, film and plastic to package our products. Costs of ingredients and packaging are volatile and can fluctuate due to conditions that are difficult to predict, including global competition for resources, weather conditions, consumer demand and changes in

governmental trade and agricultural programs. Volatility in the prices of raw materials and other supplies we purchase could increase our cost of sales and reduce our profitability. Moreover, we may not be able to implement price increases for our products to cover any increased costs, and any price increases we do implement may result in lower sales volumes. If we are not successful in managing our ingredient and packaging costs, if we are unable to increase our prices to cover increased costs or if such price increases reduce our sales volumes, then such increases in costs will adversely affect our business, results of operations and financial condition.

If we fail to develop and maintain our brand, our business could suffer.

We have developed a strong and trusted brand that has contributed significantly to the success of our business, and we believe our continued success depends on our ability to maintain and grow the value of the Beyond Meat brand. Maintaining, promoting and positioning our brand and reputation will depend on, among other factors, the success of our plant-based product offerings, food safety, quality assurance, marketing and merchandising efforts and our ability to provide a consistent, high-quality customer experience. Any negative publicity, regardless of its accuracy, could materially adversely affect our business. Brand value is based on perceptions of subjective qualities, and any incident that erodes the loyalty of our customers, suppliers or co-manufacturers, including adverse publicity or a governmental investigation or litigation, could significantly reduce the value of our brand and significantly damage our business.

Consumer preferences for our products are difficult to predict and may change, and, if we are unable to respond quickly to new trends, our business may be adversely affected.

Our business is focused on the development, manufacture, marketing and distribution of a line of branded plant-based protein products as alternatives to meat-based protein products. Consumer demand could change based on a number of possible factors, including dietary habits and nutritional values, concerns regarding the health effects of ingredients and shifts in preference for various product attributes. If consumer demand for our products decreased, our business and financial condition would suffer. In addition, sales of plant-based protein or meat-alternative products are subject to evolving consumer preferences that we may not be able to accurately predict or respond to. Consumer trends that we believe favor sales of our products could change based on a number of possible factors, including a shift in preference from plant-based protein to animal-based protein products, economic factors and social trends. A significant shift in consumer demand away from our products could reduce our sales or our market share and the prestige of our brand, which would harm our business and financial condition.

Our revenues and earnings may fluctuate as a result of our promotional activities.

We routinely offer sales discounts and promotions through various programs to customers and consumers which may occasionally result in reduced margins. These programs include rebates, temporary on shelf price reductions, off-invoice discounts, retailer advertisements, product coupons and other trade activities. We anticipate that, at times, these promotional activities may adversely impact our net revenues and results of operations.

Litigation or legal proceedings could expose us to significant liabilities and have a negative impact on our reputation or business.

From time to time, we may be party to various claims and litigation proceedings. We evaluate these claims and litigation proceedings to assess the likelihood of unfavorable outcomes and to estimate, if possible, the amount of potential losses. Based on these assessments and estimates, we may establish reserves, as appropriate. These assessments and estimates are based on the information available to management at the time and involve a significant amount of management judgment. Actual outcomes or losses may differ materially from our assessments and estimates. For example, on May 25, 2017, following our termination of our supply agreement with Don Lee Farms, a co-manufacturer, Don Lee Farms filed a lawsuit against us in California state court claiming that we wrongfully terminated the parties' contract and that we misappropriated their trade secrets by sharing with subsequent co-

manufacturers the processes for manufacturing our products-processes which they claim to have developed. On July 27, 2017 we filed a cross-complaint, alleging that Don Lee Farms (1) breached the supply agreement, including by failing to provide saleable product, as certain of our products manufactured by Don Lee Farms were contaminated with salmonella and other foreign objects, and that Don Lee Farms did not take appropriate actions to address these issues; (2) engaged in unfair competition in violation of California's Unfair Competition Law; and (3) unlawfully converted certain Beyond Meat property, including certain pieces of equipment. Don Lee Farms is seeking unspecified compensatory and punitive damages, declaratory and injunctive relief, including the prohibition of Beyond Meat's use or disclosure of the alleged trade secrets, and attorneys' fees and costs. In addition, in October 2018, Don Lee Farms amended its complaint to add ProPortion Foods, LLC (one of Beyond Meat's current contract manufacturers) as a defendant, principally for claims arising from ProPortion's alleged use of Don Lee Farms' alleged trade secrets, and for replacing Don Lee Farms as Beyond Meat's co-manufacturer. We are seeking monetary damages, restitution of monies paid to Don Lee Farms, and attorneys' fees and costs. We believe we were justified in terminating the supply agreement with Don Lee Farms, that we did not misappropriate their alleged trade secrets and that Don Lee Farms is liable for the conduct alleged in our cross-complaint. We intend to vigorously defend ourselves against their claims and prosecute our own. However, we cannot assure you that they will not prevail in all or some of their claims against us or that we will prevail in some or all of our claims against Don Lee Farms. If Don Lee Farms succeeds in the lawsuit, we could be required to pay contract damages, reasonably calculated at what we would have paid them to produce our products through 2019, the end of the contract term, and Don Lee Farms could also claim some ownership in the intellectual property that we possess in our products, and thus claim a stake in the value we will derive from that intellectual property going forward.

Even when not merited, the defense of these lawsuits may divert our management's attention, and we may incur significant expenses in defending these lawsuits. The results of litigation and other legal proceedings are inherently uncertain, and adverse judgments or settlements in some of these legal disputes may result in adverse monetary damages, penalties or injunctive relief against us, which could have a material adverse effect on our financial position, cash flows or results of operations. Any claims or litigation, even if fully indemnified or insured, could damage our reputation and make it more difficult to compete effectively or to obtain adequate insurance in the future.

Furthermore, while we maintain insurance for certain potential liabilities, such insurance does not cover all types and amounts of potential liabilities and is subject to various exclusions as well as caps on amounts recoverable. Even if we believe a claim is covered by insurance, insurers may dispute our entitlement to recovery for a variety of potential reasons, which may affect the timing and, if the insurers prevail, the amount of our recovery.

Legal claims, government investigations or other regulatory enforcement actions could subject us to civil and criminal penalties.

We operate in a highly regulated environment with constantly evolving legal and regulatory frameworks. Consequently, we are subject to heightened risk of legal claims, government investigations or other regulatory enforcement actions. Although we have implemented policies and procedures designed to ensure compliance with existing laws and regulations, there can be no assurance that our employees, temporary workers, contractors or agents will not violate our policies and procedures. Moreover, a failure to maintain effective control processes could lead to violations, unintentional or otherwise, of laws and regulations. Legal claims, government investigations or regulatory enforcement actions arising out of our failure or alleged failure to comply with applicable laws and regulations could subject us to civil and criminal penalties that could materially and adversely affect our product sales, reputation, financial condition and operating results. In addition, the costs and other effects of defending potential and pending litigation and administrative actions against us may be difficult to determine and could adversely affect our financial condition and operating results.

Failure by our transportation providers to deliver our products on time, or at all, could result in lost sales.

We currently rely upon third-party transportation providers for a significant portion of our product shipments. Our utilization of delivery services for shipments is subject to risks, including increases in fuel prices, which would increase our shipping costs, and employee strikes and inclement weather, which may impact the ability of providers to provide delivery services that adequately meet our shipping needs. We periodically change shipping companies, and we could face logistical difficulties that could adversely affect deliveries. In addition, we could incur costs and expend resources in connection with such change. Moreover, we may not be able to obtain terms as favorable as those we receive from the third-party transportation providers that we currently use, which in turn would increase our costs and thereby adversely affect our operating results.

The estimates of market opportunity and forecasts of market growth included in this prospectus may prove to be inaccurate, and even if the market in which we compete achieves the forecasted growth, our business could fail to grow at similar rates, if at all.

Market opportunity estimates and growth forecasts are subject to significant uncertainty and are based on assumptions and estimates that may not prove to be accurate. For example, several of the reports rely on employ projections of consumer adoption and incorporate data from secondary sources such as company websites as well as industry, trade and government publications. While our estimates of market size and expected growth of our market were made in good faith and are based on assumptions and estimates we believe to be reasonable, these estimates may not prove to be accurate. Even if the market in which we compete meets the size estimates and growth forecast in this prospectus, our business could fail to grow at the rate we anticipate, if at all.

Fluctuations in our results of operations for our second and third quarters may impact, and may have a disproportionate effect on our overall financial condition and results of operations.

Our business is subject to seasonal fluctuations that may have a disproportionate effect on our results of operations. Historically, we have realized a higher portion of our net revenues, net income and operating cash flows in our second and third quarters due to weather and related increase in outdoor activities such as barbecues. Any factors that harm our second and third quarters operating results, including disruptions in our supply chain, adverse weather or unfavorable economic conditions, may have a disproportionate effect on our results of operations for the entire year.

Historical quarter-to-quarter and period-over-period comparisons of our sales and operating results are not necessarily indicative of future quarter-to-quarter and period-over-period results. You should not rely on the results of a single quarter or period as an indication of our annual results or our future performance.

Failure to retain our senior management may adversely affect our operations.

Our success is substantially dependent on the continued service of certain members of our senior management, including Ethan Brown, our Chief Executive Officer. These executives have been primarily responsible for determining the strategic direction of our business and for executing our growth strategy and are integral to our brand, culture and the reputation we enjoy with suppliers, co-manufacturers, distributors, customers and consumers. The loss of the services of any of these executives could have a material adverse effect on our business and prospects, as we may not be able to find suitable individuals to replace them on a timely basis, if at all. In addition, any such departure could be viewed in a negative light by investors and analysts, which may cause the price of our common stock to decline. We do not currently carry key-person life insurance for our senior executives.

If we are unable to attract, train and retain employees, we may not be able to grow or successfully operate our business.

Our success depends in part upon our ability to attract, train and retain a sufficient number of employees who understand and appreciate our culture and can represent our brand effectively and establish credibility with our business partners and consumers. If we are unable to hire and retain employees capable of meeting our business needs and expectations, our business and brand image may be impaired. Any failure to meet our staffing needs or any material increase in turnover rates of our employees may adversely affect our business, results of operations and financial condition.

Our employees are employed by a professional employer organization.

We contract with a professional employer organization, or PEO, that administers our human resources, payroll and employee benefits functions. Although we recruit and select our personnel, each of our employees is also an employee of record of the PEO. As a result, our personnel are compensated through the PEO, receive their W-2s from the PEO and are governed by the personnel policies created by the PEO. This relationship permits management to focus on operations and profitability rather than human resource administration, but this relationship also exposes us to some risks. Among other risks, if the PEO fails to adequately withhold or pay employer taxes or to comply with other laws, such as the Fair Labor Standards Act, the Family and Medical Leave Act, the Employee Retirement Income Security Act or state and federal anti-discrimination laws, each of which is outside of our control, we would be liable for such violations, and indemnification provisions with the PEO, if applicable, may not be sufficient to insulate us from those liabilities. Court and administrative proceedings related to these matters could distract management from our business and cause us to incur significant expense. If we were held liable for violations by the PEO, such amounts may adversely affect our profitability and could negatively affect our business and results of operations.

We rely on information technology systems and any inadequacy, failure, interruption or security breaches of those systems may harm our ability to effectively operate our business.

We are dependent on various information technology systems, including, but not limited to, networks, applications and outsourced services in connection with the operation of our business. A failure of our information technology systems to perform as we anticipate could disrupt our business and result in transaction errors, processing inefficiencies and loss of sales, causing our business to suffer. In addition, our information technology systems may be vulnerable to damage or interruption from circumstances beyond our control, including fire, natural disasters, systems failures, viruses and security breaches. Any such damage or interruption could have a material adverse effect on our business.

A cybersecurity incident or other technology disruptions could negatively impact our business and our relationships with customers.

We use computers in substantially all aspects of our business operations. We also use mobile devices, social networking and other online activities to connect with our employees, suppliers, co-manufacturers, distributors, customers and consumers. Such uses give rise to cybersecurity risks, including security breaches, espionage, system disruption, theft and inadvertent release of information. Our business involves the storage and transmission of numerous classes of sensitive and/or confidential information and intellectual property, including customers' and suppliers' information, private information about employees and financial and strategic information about us and our business partners. Further, as we pursue a strategy to grow through acquisitions and to pursue new initiatives that improve our operations and cost structure, we will also be expanding and improving our information technologies, resulting in a larger technological presence and corresponding exposure to cybersecurity risk. If we fail to assess and identify cybersecurity risks associated with acquisitions and new initiatives, we may become increasingly vulnerable to such risks. Additionally, while we have implemented measures to prevent security breaches and cyber incidents, our preventative measures and incident response efforts may not be entirely effective. The theft, destruction, loss, misappropriation, or release of sensitive and/or

confidential information or intellectual property, or interference with our information technology systems or the technology systems of third parties on which we rely, could result in business disruption, negative publicity, brand damage, violation of privacy laws, loss of customers, potential liability and competitive disadvantage all of which could have a material adverse effect on our business, financial condition or results of operations.

Disruptions in the worldwide economy may adversely affect our business, results of operations and financial condition.

Adverse and uncertain economic conditions may impact distributor, retailer, foodservice and consumer demand for our products. In addition, our ability to manage normal commercial relationships with our suppliers, co-manufacturers, distributors, retailers, foodservice consumers and creditors may suffer. Consumers may shift purchases to lower-priced or other perceived value offerings during economic downturns. In particular, consumers may reduce the amount of plant-based food products that they purchase where there are conventional animal-based protein offerings, which generally have lower retail prices. In addition, consumers may choose to purchase private label products rather than branded products because they are generally less expensive. Distributors and retailers may become more conservative in response to these conditions and seek to reduce their inventories. Our results of operations depend upon, among other things, our ability to maintain and increase sales volume with our existing distributors, retailer and foodservice customers, our ability to attract new consumers, the financial condition of our consumers and our ability to provide products that appeal to consumers at the right price. Prolonged unfavorable economic conditions may have an adverse effect on our sales and profitability.

A major earthquake, tsunami, tornado or other natural disaster could seriously disrupt our entire business.

Our corporate offices and research and development functions are located in El Segundo, California, and our industrial manufacturing facilities are located in Columbia, Missouri. The impact of a major earthquake or tsunami, or both, or other natural disasters in the Los Angeles area, or a tornado or other natural disaster in the Columbia area, on our facilities and overall operations is difficult to predict, but such a natural disaster could seriously disrupt our entire business. Our insurance may not adequately cover our losses and expenses in the event of such a natural disaster. As a result, natural disasters, such as a major earthquake, tsunami or tornado in the Los Angeles or Columbia areas or in areas where our co-manufacturers are located, could lead to substantial losses.

We may be subject to significant liability that is not covered by insurance.

Although we believe that the extent of our insurance coverage is consistent with industry practice, any claim under our insurance policies may be subject to certain exceptions, may not be honored fully, in a timely manner, or at all, and we may not have purchased sufficient insurance to cover all losses incurred. If we were to incur substantial liabilities or if our business operations were interrupted for a substantial period of time, we could incur costs and suffer losses. Such inventory and business interruption losses may not be covered by our insurance policies. Additionally, in the future, insurance coverage may not be available to us at commercially acceptable premiums, or at all.

Climate change may negatively affect our business and operations.

There is concern that carbon dioxide and other greenhouse gases in the atmosphere may have an adverse impact on global temperatures, weather patterns and the frequency and severity of extreme weather and natural disasters. If such climate change has a negative effect on agricultural productivity, we may be subject to decreased availability or less favorable pricing for certain commodities that are necessary for our products, such as Canadian and European yellow peas, mung beans, sunflowers, rice, canola oil and coconut oil. Due to climate change, we may also be subjected to decreased availability of water, deteriorated quality of water or less favorable pricing for water, which could adversely impact our manufacturing and distribution operations.

Regulatory Risks

Our operations are subject to FDA governmental regulation and state regulation, and there is no assurance that we will be in compliance with all regulations.

Our operations are subject to extensive regulation by the FDA, and other federal, state and local authorities. Specifically, we are subject to the requirements of the Federal Food, Drug and Cosmetic Act and regulations promulgated thereunder by the FDA. This comprehensive regulatory program governs, among other things, the manufacturing, composition and ingredients, packaging, labeling and safety of food. Under this program the FDA requires that facilities that manufacture food products comply with a range of requirements, including hazard analysis and preventative controls regulations, current good manufacturing practices, or cGMPs, and supplier verification requirements. Our processing facilities, including those of our co-manufacturers, are subject to periodic inspection by federal, state and local authorities. We do not control the manufacturing processes of, and rely upon, our co-manufacturers for compliance with cGMPs for the manufacturing of our products that is conducted by our co-manufacturers. If we or our co-manufacturers cannot successfully manufacture products that conform to our specifications and the strict regulatory requirements of the FDA or others, we or they may be subject to adverse inspectional findings or enforcement actions, which could materially impact our ability to market our products, could result in our co-manufacturers' inability to continue manufacturing for us, or could result in a recall of our product that has already been distributed. In addition, we rely upon our co-manufacturers to maintain adequate quality control, quality assurance and qualified personnel. If the FDA or a comparable foreign regulatory authority determines that we or these co-manufacturers have not complied with the applicable regulatory requirements, our business may be materially impacted.

We seek to comply with applicable regulations through a combination of employing internal experience and expert personnel to ensure quality-assurance compliance (i.e., assuring that our products are not adulterated or misbranded) and contracting with third-party laboratories that conduct analyses of products to ensure compliance with nutrition labeling requirements and to identify any potential contaminants before distribution. Failure by us or our co-manufacturers to comply with applicable laws and regulations or maintain permits, licenses or registrations relating to our or our co-manufacturers' operations could subject us to civil remedies or penalties, including fines, injunctions, recalls or seizures, warning letters, restrictions on the marketing or manufacturing of products, or refusals to permit the import or export of products, as well as potential criminal sanctions, which could result in increased operating costs resulting in a material effect on our operating results and business. See "Business—Government Regulation."

Changes in existing laws or regulations, or the adoption of new laws or regulations may increase our costs and otherwise adversely affect our business, results of operations and financial condition.

The manufacture and marketing of food products is highly regulated. We, our suppliers and co-manufacturers are subject to a variety of laws and regulations. These laws and regulations apply to many aspects of our business, including the manufacture, packaging, labeling, distribution, advertising, sale, quality and safety of our products, as well as the health and safety of our employees and the protection of the environment.

In the United States, we are subject to regulation by various government agencies, including the FDA, Federal Trade Commission, or FTC, Occupational Safety and Health Administration and the Environmental Protection Agency, as well as various state and local agencies. We are also regulated outside the United States by various international regulatory bodies. In addition, we are subject to certain standards, such as Global Food Safety Initiative, or GFSI, standards and review by voluntary organizations, such as the Council of Better Business Bureaus' National Advertising Division. We could incur costs, including fines, penalties and third-party claims, because of any violations of, or liabilities under, such requirements, including any competitor or consumer challenges relating to compliance with such requirements. For example, in connection with the marketing and advertisement of our products, we

could be the target of claims relating to false or deceptive advertising, including under the auspices of the FTC and the consumer protection statutes of some states.

The regulatory environment in which we operate could change significantly and adversely in the future. Any change in manufacturing, labeling or packaging requirements for our products may lead to an increase in costs or interruptions in production, either of which could adversely affect our operations and financial condition. New or revised government laws and regulations could result in additional compliance costs and, in the event of non-compliance, civil remedies, including fines, injunctions, withdrawals, recalls or seizures and confiscations, as well as potential criminal sanctions, any of which may adversely affect our business, results of operations and financial condition. In particular, recent federal and state attention to the naming of plant-based meat products could result in standards or requirements that mandate changes to our current labeling.

Any changes in applicable laws, regulations or policies of the FDA or U.S. Department of Agriculture, or USDA, or state regulators that relate to the use of the word "meat" in connection with plant-based protein products could adversely affect our business, prospects, results of operations or financial condition.

The FDA and the USDA or state regulators could take action to impact our ability to use the term "meat" or similar words (such as "beef") to describe our products. For example, the state of Missouri recently passed a law prohibiting any person engaged in advertising, offering for sale, or sale of food products from misrepresenting a product as meat that is not derived from harvested production livestock or poultry. While the state of Missouri Department of Agriculture clarified its interpretation that products which include prominent disclosure that the product is "made from plants," or comparable disclosure such as through the use of the phrase "plant-based," are not misrepresented under the Missouri law, other regulators could always take a different position.

In addition, a food may be deemed misbranded if its labeling is false or misleading in any particular way, and the FDA or other regulators could interpret the use of the term "meat" or any similar phrase(s) to describe our plant-based protein products as false or misleading. Recently, the FDA announced that it will reexamine its enforcement of the standard of identity for milk, the official definition of which involves "lacteal secretion," which may result in the restriction of the use of the term "milk" to only those products that are animal-based (we note there is no comparable FDA standard of identity for "meat" or other terms that we use to label our products). The USDA has also received a petition from industry requesting that the USDA exclude products not derived from the tissue or flesh of animals that have been harvested in the traditional manner from being labeled and marketed as "meat," and exclude products not derived from cattle born, raised and harvested in the traditional manner from being labeled and marketed as "beef." The USDA has not yet responded substantively to this petition, but has indicated that the petition is being considered as a petition for a policy change under the USDA's regulations. We do not believe that USDA has the statutory authority to regulate plant-based products under the current legislative framework. However, should regulatory authorities take action with respect to the use of the term "meat" or similar terms, such that we are unable to use those terms with respect to our plant-based products, we could be subject to enforcement action or recall of our products marketed with these terms, we may be required to modify our marketing strategy, and our business, prospects, results of operations or financial condition could be adversely affected.

Failure by our suppliers of raw materials or co-manufacturers to comply with food safety, environmental or other laws and regulations, or with the specifications and requirements of our products, may disrupt our supply of products and adversely affect our business.

If our suppliers or co-manufacturers fail to comply with food safety, environmental or other laws and regulations, or face allegations of non-compliance, their operations may be disrupted. Additionally, our co-manufacturers are required to maintain the quality of our products and to comply with our product specifications. In the event of actual or alleged non-compliance, we might be forced to find an alternative supplier or co-manufacturer and we may be subject to lawsuits related to such non-compliance by our

suppliers and co-manufacturers. As a result, our supply of raw materials or finished inventory could be disrupted or our costs could increase, which would adversely affect our business, results of operations and financial condition. The failure of any co-manufacturer to produce products that conform to our standards could adversely affect our reputation in the marketplace and result in product recalls, product liability claims and economic loss. For example, some of our co-manufacturers also process products with textured vegetable protein, a GMO product and while we require them to process our products in separate designated quarters in their facilities, cross-contamination may occur and result in genetically modified organisms in our supply chain. Additionally, actions we may take to mitigate the impact of any disruption or potential disruption in our supply of raw materials or finished inventory, including increasing inventory in anticipation of a potential supply or production interruption, may adversely affect our business, results of operations and financial condition.

Risks Related To Our Intellectual Property

We may not be able to protect our proprietary technology adequately, which may impact our commercial success.

Our commercial success depends in part on our ability to protect our intellectual property and proprietary technologies. We rely on a combination of patent protection, where appropriate and available, copyrights, trade secrets and trademarks laws, as well as confidentiality and other contractual restrictions to protect our proprietary technology. However, these legal means afford only limited protection and may not adequately protect our proprietary technology or permit us to gain or keep any competitive advantage. As of September 29, 2018, we have one issued U.S. patent and 20 pending patent applications, including eight in the United States and 12 international patent applications.

We cannot offer any assurances about which, if any, patents will issue from these applications, the breadth of any such patents, or whether any issued patents will be found invalid and unenforceable or will be threatened by third parties. Any successful opposition to these patents or any other patents owned by or, if applicable in the future, licensed to us could deprive us of rights necessary for the successful commercialization of products that we may develop. Since patent applications in the United States and most other countries are confidential for a period of time after filing (in most cases 18 months after the filing of the priority application), we cannot be certain that we were the first to file on the technologies covered in several of the patent applications related to our technologies or products. Furthermore, a derivation proceeding can be provoked by a third party, or instituted by the U.S. Patent and Trademark Office, or USPTO, to determine who was the first to invent any of the subject matter covered by the patent claims of our applications.

Patent law can be highly uncertain and involve complex legal and factual questions for which important principles remain unresolved. In the United States and in many international jurisdictions, policy regarding the breadth of claims allowed in patents can be inconsistent and/or unclear. The U.S. Supreme Court and the Court of Appeals for the Federal Circuit have made, and will likely continue to make, changes in how the patent laws of the United States are interpreted. Similarly, international courts and governments have made, and will continue to make, changes in how the patent laws in their respective countries are interpreted. We cannot predict future changes in the interpretation of patent laws by U.S. and international judicial bodies or changes to patent laws that might be enacted into law by U.S. and international legislative bodies.

Moreover, in the United States, the Leahy-Smith America Invents Act, enacted in September 2011, brought significant changes to the U.S. patent system, including a change from a “first to invent” system to a “first to file” system. Other changes in the Act affect the way patent applications are prosecuted, redefine prior art and may affect patent litigation. The USPTO developed new regulations and procedures to govern administration of the Leahy-Smith Act, and many of the substantive changes to patent law associated with the Leahy-Smith Act became effective on March 16, 2013. The Leahy-Smith Act and its implementation could increase the uncertainties and costs surrounding the prosecution of our patent

applications and the enforcement or defense of our issued patents, which could have a material adverse effect on our business and financial condition.

We may not be able to protect our intellectual property adequately, which may harm the value of our brand.

We believe that our intellectual property has substantial value and has contributed significantly to the success of our business. Our trademarks, including The Beyond Burger, Beyond Beef, Beyond Chicken, Beyond Meat, Beyond Sausage, The Cookout Classic, The Future of Protein and The Future of Protein Beyond Meat, are valuable assets that reinforce our brand and consumers' favorable perception of our products. We also rely on unpatented proprietary expertise, recipes and formulations and other trade secrets and copyright protection to develop and maintain our competitive position. Our continued success depends, to a significant degree, upon our ability to protect and preserve our intellectual property, including our trademarks, trade dress, trade secrets and copyrights. We rely on confidentiality agreements and trademark, trade secret and copyright law to protect our intellectual property rights.

Our confidentiality agreements with our employees and certain of our consultants, contract employees, suppliers and independent contractors, including some of our co-manufacturers who use our formulations to manufacture our products, generally require that all information made known to them be kept strictly confidential. Nevertheless, trade secrets are difficult to protect. Although we attempt to protect our trade secrets, our confidentiality agreements may not effectively prevent disclosure of our proprietary information and may not provide an adequate remedy in the event of unauthorized disclosure of such information. In addition, others may independently discover our trade secrets, in which case we would not be able to assert trade secret rights against such parties. Further, some of our formulations have been developed by or with our suppliers and co-manufacturers. As a result, we may not be able to prevent others from using similar formulations.

We cannot assure you that the steps we have taken to protect our intellectual property rights are adequate, that our intellectual property rights can be successfully defended and asserted in the future or that third parties will not infringe upon or misappropriate any such rights. In addition, our trademark rights and related registrations may be challenged in the future and could be canceled or narrowed. Failure to protect our trademark rights could prevent us in the future from challenging third parties who use names and logos similar to our trademarks, which may in turn cause consumer confusion or negatively affect consumers' perception of our brand and products. In addition, if we do not keep our trade secrets confidential, others may produce products with our recipes or formulations. Moreover, intellectual property disputes and proceedings and infringement claims may result in a significant distraction for management and significant expense, which may not be recoverable regardless of whether we are successful. Such proceedings may be protracted with no certainty of success, and an adverse outcome could subject us to liabilities, force us to cease use of certain trademarks or other intellectual property or force us to enter into licenses with others. Any one of these occurrences may have a material adverse effect on our business, results of operations and financial condition.

Risks Related To Being a Public Company

If we fail to maintain proper and effective internal controls, our ability to produce accurate financial statements on a timely basis could be impaired, which would adversely affect our business.

Ensuring that we have adequate internal financial and accounting controls and procedures in place to produce accurate financial statements on a timely basis is a costly and time-consuming effort that needs to be re-evaluated frequently. The rapid growth of our operations and the planned initial public offering has created a need for additional resources within the accounting and finance functions due to the increasing need to produce timely financial information and to ensure the level of segregation of duties customary for a U.S. public company. We have hired additional resources in the accounting and finance

function and continue to reassess the sufficiency of finance personnel in response to these increasing demands and expectations.

Our management is responsible for establishing and maintaining adequate internal control over financial reporting to provide reasonable assurance regarding the reliability of our financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. Our management does not expect that our internal control over financial reporting will prevent or detect all errors and all fraud. A control system, no matter how well designed and operated, can provide only reasonable, not absolute, assurance that the control system's objectives will be met. Because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that misstatements due to error or fraud will not occur or that all control issues and instances of fraud, if any, within our company will have been detected.

Commencing with our second annual report on Form 10-K that we will file after becoming a public reporting company, we must perform system and process evaluation and testing of our internal control over financial reporting to allow management to report on the effectiveness of our internal control over financial reporting in our Form 10-K filing for that year, as required by Section 404 of the Sarbanes Oxley Act. We expect to expend significant resources in developing the necessary documentation and testing procedures required by Section 404. We cannot be certain that the actions we will be taking to improve our internal controls over financial reporting will be sufficient, or that we will be able to implement our planned processes and procedures in a timely manner. In addition, if we are unable to produce accurate financial statements on a timely basis, investors could lose confidence in the reliability of our financial statements, which could cause the market price of our common stock to decline and make it more difficult for us to finance our operations and growth.

We are an emerging growth company and we cannot be certain if the reduced disclosure requirements applicable to emerging growth companies will make our common stock less attractive to investors.

We are an "emerging growth company" as defined in the JOBS Act. Under the JOBS Act, emerging growth companies can delay adopting new or revised accounting standards until such time as those standards apply to private companies. We have elected to use this exemption from new or revised accounting standards and, therefore, we will not be subject to the same new or revised accounting standards as other public companies that have not made this election.

For as long as we continue to be an emerging growth company, we also intend to take advantage of certain other exemptions from various reporting requirements that are applicable to other public companies including, but not limited to, reduced disclosure obligations regarding executive compensation in our periodic reports and proxy statements, and exemptions from the requirements of holding a non-binding advisory vote on executive compensation and stockholder approval of any golden parachute payments not previously approved. We cannot predict if investors will find our common stock less attractive because we will rely on these exemptions. If some investors find our common stock less attractive as a result, there may be a less active trading market for our common stock and our stock price may be more volatile.

We will remain an emerging growth company until the earliest of (i) the last day of the year in which we have total annual gross revenue of $1.07 billion or more; (ii) the last day of the year following the fifth anniversary of the date of the closing of this offering; (iii) the date on which we have issued more than $1.0 billion in nonconvertible debt during the previous three years; or (iv) the date on which we are deemed to be a large accelerated filer under the rules of the SEC.

The requirements of being a public company may strain our resources, divert management's attention and affect our ability to attract and retain qualified board members.

As a public company, we will be subject to the reporting requirements of the Securities Exchange Act of 1934, as amended, or the Exchange Act, the Sarbanes-Oxley Act, the Dodd-Frank Wall Street Reform

and Consumer Protection Act, or the Dodd-Frank Act, the listing requirements of the Nasdaq Global Market on which our common stock will be traded and other applicable securities rules and regulations. The SEC and other regulators have continued to adopt new rules and regulations and make additional changes to existing regulations that require our compliance. Stockholder activism, the current political environment and the current high level of government intervention and regulatory reform may lead to substantial new regulations and disclosure obligations, which may lead to additional compliance costs and impact, in ways we cannot currently anticipate, the manner in which we operate our business. We will need to institute a comprehensive compliance function and establish internal policies to ensure we have the ability to prepare financial statements that are fully compliant with all SEC reporting requirements on a timely basis and establish an investor relations function. Compliance with these rules and regulations may cause us to incur additional accounting, legal and other expenses that we did not incur as a private company. We also anticipate that we will incur costs associated with corporate governance requirements, including requirements under securities laws, as well as rules and regulations implemented by the SEC and the Nasdaq Global Market, particularly after we are no longer an "emerging growth company." We expect these rules and regulations to increase our legal and financial compliance costs and to make some activities more time-consuming and costly, while also diverting some of management's time and attention from revenue-generating activities. Furthermore, these rules and regulations could make it more difficult or more costly for us to obtain certain types of insurance, including director and officer liability insurance, and we may be forced to accept reduced policy limits and coverage or incur substantially higher costs to obtain the same or similar coverage. The impact of these requirements could also make it more difficult for us to attract and retain qualified persons to serve on our board of directors, our board committees or as executive officers. We are currently evaluating and monitoring developments with respect to these rules and regulations, and we cannot predict or estimate the amount of additional costs we may incur or the timing of such costs.

Risks Related to this Offering and Ownership of Our Common Stock

No public market for our common stock currently exists, and an active trading market may not develop or be sustained following this offering.

Prior to this offering, there has been no public market for our common stock. Although we have applied to have our common stock listed on the Nasdaq Global Market, an active trading market may not develop following the closing of this offering or, if developed, may not be sustained. The lack of an active market may impair your ability to sell your shares at the time you wish to sell them or at a price that you consider reasonable. The lack of an active market may also reduce the fair market value of your shares. An inactive market may also impair our ability to raise capital to continue to fund operations by selling shares and may impair our ability to acquire other companies or technologies by using our shares as consideration. The initial public offering price was determined by negotiations between us and the underwriters and may not be indicative of the future prices of our common stock.

Our share price may be volatile, and you may be unable to sell your shares at or above the offering price.

The market price of our common stock is likely to be volatile and could be subject to wide fluctuations in response to many risk factors listed in this section, and others beyond our control, including:

- actual or anticipated fluctuations in our financial condition and operating results, including fluctuations in our quarterly and annual results;
- announcements of innovations by us or our competitors;
- overall conditions in our industry and the markets in which we operate;
- market conditions or trends in the packaged food sales industry or in the economy as a whole;

- addition or loss of significant customers or other developments with respect to significant customers;
- changes in laws or regulations applicable to our products;
- actual or anticipated changes in our growth rate relative to our competitors;
- announcements by us or our competitors of significant acquisitions, strategic partnerships, joint ventures or capital commitments;
- additions or departures of key personnel;
- competition from existing products or new products that may emerge;
- issuance of new or updated research or reports by securities analysts;
- fluctuations in the valuation of companies perceived by investors to be comparable to us;
- disputes or other developments related to proprietary rights, including patents, and our ability to obtain intellectual property protection for our products;
- litigation matters;
- announcement or expectation of additional financing efforts;
- sales of our common stock by us or our stockholders;
- share price and volume fluctuations attributable to inconsistent trading volume levels of our shares;
- the expiration of contractual lock-up agreements with our executive officers, directors and stockholders; and
- general economic and market conditions.

Furthermore, the stock markets have experienced price and volume fluctuations that have affected and continue to affect the market prices of equity securities of many companies. These fluctuations often have been unrelated or disproportionate to the operating performance of those companies. These broad market and industry fluctuations, as well as general economic, political and market conditions such as recessions, interest rate changes or international currency fluctuations, may negatively impact the market price of our common stock. If the market price of our common stock after this offering does not exceed the initial public offering price, you may not realize any return on your investment in us and may lose some or all of your investment. In the past, companies that have experienced volatility in the market price of their stock have been subject to securities class action litigation. We may be the target of this type of litigation in the future. Securities litigation against us could result in substantial costs and divert our management's attention from other business concerns, which could seriously harm our business.

Future sales and issuances of our common stock or rights to purchase common stock, including pursuant to our equity incentive plans, could result in additional dilution of the percentage ownership of our stockholders and could cause the stock price of our common stock to decline.

We may issue additional securities following the closing of this offering. In the future, we may sell common stock, convertible securities or other equity securities in one or more transactions at prices and in a manner we determine from time to time. We also expect to issue common stock to employees, consultants and directors pursuant to our equity incentive plans. If we sell common stock, convertible securities or other equity securities in subsequent transactions, or common stock is issued pursuant to equity incentive plans, investors may be materially diluted. New investors in such subsequent transactions could gain rights, preferences and privileges senior to those of holders of our common stock.

Future sales of our common stock in the public market could cause our share price to fall.

Sales of a substantial number of shares of our common stock in the public market after this offering, or the perception that these sales might occur, could depress the market price of our common stock and could impair our ability to raise capital through the sale of additional equity securities. Based on 9,924,666 shares of common stock outstanding as of September 29, 2018 and the automatic conversion of all of our preferred stock on a one-for-one basis upon the closing of this offering into 62,340,174 shares of common stock, upon the closing of this offering, we will have shares of common stock outstanding.

All of the common stock sold in this offering will be freely tradable without restrictions or further registration under the Securities Act of 1933, as amended, or the Securities Act, except for any shares held by our affiliates as defined in Rule 144 under the Securities Act and any shares sold to our directors or officers pursuant to our directed share program. The remaining shares of common stock outstanding after this offering will be restricted as a result of securities laws, lock-up agreements or other contractual restrictions that restrict transfers for at least 180 days after the date of this prospectus, subject to certain extensions. See also the section of this prospectus captioned “Shares Eligible For Future Sale.”

The underwriters may, in their sole discretion, release all or some portion of the shares subject to lock-up agreements with the underwriters prior to expiration of the lock-up period. For more information regarding the lock-up agreements with the underwriters see the section of this prospectus captioned “Underwriting.”

The holders of 62,340,174 shares of common stock, or %, based on shares outstanding on an as-converted basis as of September 29, 2018 and the automatic conversion of all of our preferred stock upon the closing of this offering into shares of common stock on a one-for-one basis, will be entitled to rights with respect to registration of such shares under the Securities Act pursuant to a registration rights agreement between such holders and us. See “Description of Capital Stock—Registration Rights” below. If such holders, by exercising their registration rights, sell a large number of shares, they could adversely affect the market price for our common stock. We intend to file a registration statement on Form S-8 under the Securities Act to register the shares subject to outstanding stock options under the 2011 Plan as of the date of this prospectus and 22,928,681 shares of common stock for issuance under our 2018 Plan and 2018 Employee Stock Purchase Plan. The 2018 Plan will provide for automatic increases in the shares reserved for grant or issuance under the plan which could result in additional dilution to our stockholders. Once we register the shares under these plans, they can be freely sold in the public market upon issuance and vesting, subject to a 180-day lock-up period and other restrictions provided under the terms of the applicable plan and/or the award agreements entered into with participants.

Our management has broad discretion in the use of the net proceeds from this offering and may not use the net proceeds effectively.

Our management will have broad discretion in the application of the net proceeds of this offering. We cannot specify with certainty the uses to which we will apply these net proceeds. The failure by our management to apply these funds effectively could adversely affect our ability to continue maintaining and expanding our business.

If securities or industry analysts do not publish research or publish unfavorable research about our business, our stock price and trading volume could decline.

The trading market for our common stock will be influenced by the research and reports that industry or securities analysts publish about us or our business. If one or more of these analysts ceases coverage of our company or fails to publish reports on us regularly, we could lose visibility in the financial markets, which in turn could cause our stock price or trading volume to decline. Moreover, if our operating results do not meet the expectations of the investor community, one or more of the analysts who cover our company may change their recommendations regarding our company, and our stock price could decline.

If you purchase shares of our common stock in this offering, you will incur immediate and substantial dilution.

The offering price of our common stock is substantially higher than the net tangible book value per share of our common stock, which on a pro forma basis was $1.18 per share of our common stock as of September 29, 2018. As a result, you will incur immediate and substantial dilution in net tangible book value when you buy our common stock in this offering. This means that you will pay a higher price per share than the amount of our total tangible assets, less our total liabilities, divided by the number of shares of common stock outstanding. In addition, you may also experience additional dilution if options or other rights to purchase our common stock that are outstanding or that we may issue in the future are exercised or converted or we issue additional shares of our common stock at prices lower than our net tangible book value at such time. See "Dilution."

We have never paid dividends on our capital stock and we do not intend to pay dividends for the foreseeable future. Consequently, any gains from an investment in our common stock will likely depend on whether the price of our common stock increases.

We have never declared or paid any dividends on our common stock and do not intend to pay any dividends in the foreseeable future. We anticipate that we will retain all of our future earnings for use in the operation of our business and for general corporate purposes. Any determination to pay dividends in the future will be at the discretion of our board of directors. Accordingly, investors must rely on sales of their common stock after price appreciation, which may never occur, as the only way to realize any future gains on their investments. Furthermore, we are party to a credit agreement with Silicon Valley Bank which contains negative covenants that limit our ability to pay dividends. For more information, see the section of this prospectus captioned "Management's Discussion and Analysis of Financial Condition and Results of Operations—Liquidity and Capital Resources."

Our charter documents and Delaware law could prevent a takeover that stockholders consider favorable and could also reduce the market price of our stock.

Our amended and restated certificate of incorporation and our amended and restated bylaws will contain provisions that could delay or prevent a change in control of our company. These provisions could also make it more difficult for stockholders to elect directors and take other corporate actions. These provisions include:

- providing for a classified board of directors with staggered, three-year terms;
- authorizing our board of directors to issue preferred stock with voting or other rights or preferences that could discourage a takeover attempt or delay changes in control;
- prohibiting cumulative voting in the election of directors;
- providing that vacancies on our board of directors may be filled only by a majority of directors then in office, even though less than a quorum;
- prohibiting the adoption, amendment or repeal of our amended and restated bylaws or the repeal of the provisions of our amended and restated certificate of incorporation regarding the election and removal of directors without the required approval of at least 66.67% of the shares entitled to vote at an election of directors;
- prohibiting stockholder action by written consent;
- limiting the persons who may call special meetings of stockholders; and
- requiring advance notification of stockholder nominations and proposals.

These provisions may frustrate or prevent any attempts by our stockholders to replace or remove our current management by making it more difficult for stockholders to replace members of our board of directors, which is responsible for appointing the members of our management. In addition, the provisions of Section 203 of the Delaware General Corporate Law, or the DGCL, govern us. These provisions may prohibit large stockholders, in particular those owning 15% or more of our outstanding voting stock, from merging or combining with us for a certain period of time without the consent of our board of directors.

These and other provisions in our amended and restated certificate of incorporation and our amended and restated bylaws and under Delaware law could discourage potential takeover attempts, reduce the price investors might be willing to pay in the future for shares of our common stock and result in the market price of our common stock being lower than it would be without these provisions. For more information, see the section of this prospectus captioned "Description of Capital Stock—Anti-Takeover Effects of Certain Provisions of Delaware Law, Our Amended and Restated Certificate of Incorporation and Our Amended and Restated Bylaws."

Insiders have substantial control over us and will be able to influence corporate matters.

Our directors and executive officers and their affiliates will beneficially own, in the aggregate, approximately % of our outstanding capital stock upon the closing of this offering (assuming the conversion of preferred stock into common stock upon the closing of this offering). As a result, these stockholders will be able to exercise significant influence over all matters requiring stockholder approval, including the election of directors and approval of significant corporate transactions, such as a merger or other sale of our company or its assets. This concentration of ownership could limit stockholders' ability to influence corporate matters and may have the effect of delaying or preventing a third party from acquiring control over us.

Our amended and restated certificate of incorporation that will become effective immediately prior to the closing of this offering provides that the Court of Chancery of the State of Delaware and the federal district courts of the United States of America will be the exclusive forums for substantially all disputes between us and our stockholders, which could limit our stockholders' ability to obtain a favorable judicial forum for disputes with us or our directors, officers, or employees.

Our amended and restated certificate of incorporation that will become effective immediately prior to the closing of this offering provides that the Court of Chancery of the State of Delaware is the exclusive forum for:

- any derivative action or proceeding brought on our behalf;
- any action asserting a claim of breach of a fiduciary duty owed by, or other wrongdoing by, any of our directors, officers, employees or agents or our stockholders;
- any action asserting a claim against us arising under the DGCL, our amended and restated certificate of incorporation, or our amended and restated bylaws; and
- any action asserting a claim against us that is governed by the internal-affairs doctrine;

provided, that with respect to any derivative action or proceeding brought on our behalf to enforce any liability or duty created by the Exchange Act or the rules and regulations thereunder, the exclusive forum will be the federal district courts of the United States of America. Our amended and restated certificate of incorporation further provides that the federal district courts of the United States of America will be the exclusive forum for resolving any complaint asserting a cause of action arising under the Securities Act.

These exclusive forum provisions may limit a stockholder's ability to bring a claim in a judicial forum that it finds favorable for disputes with us or our directors, officers, or other employees, which may discourage lawsuits against us and our directors, officers and other employees. If a court were to find

either exclusive forum provision in our amended and restated certificate of incorporation to be inapplicable or unenforceable in an action, we may incur additional costs associated with resolving the dispute in other jurisdictions, which could seriously harm our business.

Claims for indemnification by our directors and officers may reduce our available funds to satisfy successful third-party claims against us and may reduce the amount of money available to us.

Our amended and restated certificate of incorporation and amended and restated bylaws provide that we will indemnify our directors and officers, in each case to the fullest extent permitted by Delaware law.

In addition, as permitted by Section 145 of the DGCL, our amended and restated bylaws and our indemnification agreements that we have entered into with our directors and officers provide that:

- we will indemnify our directors and officers for serving us in those capacities or for serving other business enterprises at our request, to the fullest extent permitted by Delaware law. Delaware law provides that a corporation may indemnify such person if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the registrant and, with respect to any criminal proceeding, had no reasonable cause to believe such person's conduct was unlawful;
- we may, in our discretion, indemnify employees and agents in those circumstances where indemnification is permitted by applicable law;
- we are required to advance expenses, as incurred, to our directors and officers in connection with defending a proceeding, except that such directors or officers shall undertake to repay such advances if it is ultimately determined that such person is not entitled to indemnification;
- we will not be obligated pursuant to our amended and restated bylaws to indemnify a person with respect to proceedings initiated by that person against us or our other indemnitees, except with respect to proceedings authorized by our board of directors or brought to enforce a right to indemnification;
- the rights conferred in our amended and restated bylaws are not exclusive, and we are authorized to enter into indemnification agreements with our directors, officers, employees and agents and to obtain insurance to indemnify such persons; and
- we may not retroactively amend our amended and restated bylaw provisions to reduce our indemnification obligations to directors, officers, employees and agents.

Our ability to utilize our federal net operating loss and tax credit carryforwards may be limited under Sections 382 and 383 of the Internal Revenue Code of 1986, as amended, or the Code.

The limitations apply if a corporation undergoes an "ownership change," which is generally defined as a greater than 50 percentage point change (by value) in its equity ownership by certain stockholders over a three-year period. If we have experienced an ownership change at any time since our incorporation, we may already be subject to limitations on our ability to utilize our existing net operating losses and other tax attributes to offset taxable income. In addition, future changes in our stock ownership, which may be outside of our control, may trigger an ownership change and, consequently, Section 382 and 383 limitations. Similar provisions of state tax law may also apply to limit our use of accumulated state tax attributes. As a result, if we earn net taxable income, our ability to use our pre-change net operating loss carryforwards and other tax attributes to offset such taxable income may be subject to limitations, which could potentially result in increased future income tax liability to us.

SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS

This prospectus includes forward-looking statements within the meaning of the federal securities laws. We have based these forward-looking statements largely on our current expectations and projections about future events and financial trends affecting the operating results and financial condition of our business. Forward-looking statements should not be read as a guarantee of future performance or results, and will not necessarily be accurate indications of the times at, or by, which such performance or results will be achieved. Forward-looking statements are based on information available at the time those statements are made and/or management's good faith belief as of that time with respect to future events, and are subject to risks and uncertainties that could cause actual performance or results to differ materially from those expressed in or suggested by the forward-looking statements. Important factors that could cause such differences include, but are not limited to, statements about:

- estimates of our expenses, future revenues, capital requirements and our needs for additional financing;
- our estimates of the size of our market opportunities;
- our ability to effectively manage our growth;
- our ability to effectively expand our manufacturing and production capacity;
- our ability to successfully enter new markets, manage our international expansion and comply with any applicable laws and regulations;
- the effects of increased competition from our market competitors;
- the success of our marketing efforts and the ability to grow brand awareness and maintain, protect and enhance our brand;
- our ability to attract and retain our suppliers, distributors, co-manufacturers and customers;
- our ability to procure sufficient high quality, raw materials to manufacture our products;
- the availability of pea protein that meets our standards;
- real or perceived quality or health issues with our products or other issues that adversely affect our brand and reputation;
- changes in the tastes and preferences of our consumers;
- significant disruption in, or breach in security of our information technology systems and resultant interruptions in service and any related impact on our reputation;
- the attraction and retention of qualified employees and key personnel;
- the effects of natural or man-made catastrophic events particularly involving our or any of our co-manufacturers' manufacturing facilities or our suppliers' facilities;
- the effectiveness of our internal controls;
- changes in laws and government regulation affecting our business, including FDA governmental regulation and state regulation;
- changes in laws, regulations or policies of governmental agencies or regulators relating to the labeling of or products;
- the impact of adverse economic conditions;

- the financial condition of, and our relationships with our suppliers, co-manufacturers, distributors, retailers and foodservice customers;
- the ability of our suppliers and co-manufacturers to comply with food safety, environmental or other laws or regulations;
- seasonality;
- the sufficiency of our cash and cash equivalents to meet our liquidity needs and service our indebtedness;
- economic conditions and their impact on consumer spending;
- outcomes of legal or administrative proceedings; and
- our, our suppliers' and our co-manufacturers' ability to protect our proprietary technology and intellectual property adequately.

In addition, in this prospectus, the words "believe," "may," "will," "estimate," "continue," "anticipate," "intend," "expect," "predict," "potential" and similar expressions, as they relate to our company, our business and our management, are intended to identify forward-looking statements. In light of these risks and uncertainties, the forward-looking events and circumstances discussed in this prospectus may not occur and actual results could differ materially from those anticipated or implied in the forward-looking statements.

Forward-looking statements speak only as of the date of this prospectus. You should not put undue reliance on any forward-looking statements. We assume no obligation to update forward-looking statements to reflect actual results, changes in assumptions or changes in other factors affecting forward-looking information, except to the extent required by applicable laws. If we update one or more forward-looking statements, no inference should be drawn that we will make additional updates with respect to those or other forward-looking statements.

You should read this prospectus and the documents that we reference in this prospectus and have filed with the Securities and Exchange Commission as exhibits to the registration statement of which this prospectus is a part with the understanding that our actual future results, levels of activity, performance and events and circumstances may be materially different from what we expect.

USE OF PROCEEDS

We estimate that the net proceeds from our issuance and sale of shares of our common stock in this offering will be approximately $ million, assuming an initial public offering price of $ per share, which is the midpoint of the estimated offering price range set forth on the cover page of this prospectus, after deducting estimated underwriting discounts and commissions and estimated offering expenses payable by us.

Each $1.00 increase or decrease in the assumed initial public offering price of $ per share, which is the midpoint of the estimated offering price range set forth on the cover page of this prospectus, would increase or decrease our net proceeds from this offering by approximately $ million, assuming that the number of shares of our common stock offered by us, as set forth on the cover page of this prospectus, remains the same and after deducting estimated underwriting discounts and commissions payable by us. An increase or decrease of 1,000,000 shares in the number of shares offered by us, as set forth on the cover page of this prospectus, would increase or decrease our net proceeds from this offering by approximately $ million, assuming no change in the assumed initial public offering price per share and after deducting estimated underwriting discounts and commissions payable by us. We do not expect that a change in the offering price or the number of shares by these amounts would have a material effect on our intended uses of the net proceeds from this offering, although it may impact the amount of time prior to which we may need to seek additional capital.

We currently estimate that we will use the net proceeds from this offering as follows:

- $ million to $ million to invest in current and additional manufacturing facilities;
- $ million to $ million to expand our research and development and our sales and marketing capabilities; and
- Any proceeds not applied to the foregoing will be used for working capital and general corporate purposes, including funding our operations and to potentially repay indebtedness.

A portion of our net proceeds may also be used to fund potential acquisitions of, or investments in, complementary technologies or businesses, although we have no present commitments or agreements to enter into any such acquisitions or to make any such investments.

This expected use of the net proceeds from this offering and our existing cash and our cash equivalents and short-term investments represents our intentions based upon our current plans and business conditions, which could change in the future as our plans and business conditions evolve. As of the date of this prospectus, we cannot predict with certainty all of the particular uses for the proceeds to be received upon the closing of this offering or the actual amounts that we will spend on the uses set forth above. As a result, our management will retain broad discretion over the allocation of the net proceeds from this offering. Pending our use of the net proceeds from this offering, we intend to invest the net proceeds in a variety of capital preservation investments, including short-term, investment-grade, interest-bearing instruments and U.S. government securities.

DIVIDEND POLICY

We have never declared or paid cash dividends on our capital stock. We currently intend to retain all available funds and any future earnings for use in the operation of our business and do not anticipate paying any cash dividends in the foreseeable future. Any decision to declare and pay dividends in the future will be made at the discretion of our board of directors and will depend on, among other things, our results of operations, cash requirements, financial condition, contractual restrictions, and other factors that our board of directors may deem relevant. In addition, the terms of our current credit facilities contain restrictions on our ability to declare and pay cash dividends.

CAPITALIZATION

The following table sets forth our cash and capitalization as of September 29, 2018 on:

- an actual basis;
- a pro forma basis, to give effect to (i) the conversion of all outstanding shares of our convertible preferred stock on a one-for-one basis into 62,340,174 shares of our common stock upon the closing of this offering, including 3,112,696 shares of our Series H preferred stock issued subsequent to September 29, 2018; (ii) the resulting reclassification of warrant liability to additional paid-in capital with respect to a convertible Series B preferred stock warrant; (iii) proceeds of additional $25.0 million raised from our issuance and sale of shares of Series H preferred stock subsequent to September 29, 2018, net of issuance costs; and (iv) the effectiveness of our amended and restated certificate of incorporation prior to the closing of this offering; and
- a pro forma as adjusted basis, giving effect to (i) the pro forma adjustments set forth above and (ii) the sale and issuance of shares of our common stock by us in this offering, based upon the assumed initial public offering price of $ per share, which is the midpoint of the estimated offering price range set forth on the cover page of this prospectus, after deducting estimated underwriting discounts and commissions and estimated offering expenses payable by us.

The information below is illustrative only, and our capitalization following the completion of this offering will be adjusted based on the actual initial public offering price and other terms of the offering determined at the pricing of this offering. You should read this table together with the section of this prospectus entitled "Management's Discussion and Analysis of Financial Condition and Results of Operations," "Use of Proceeds," "Selected Financial Data," and our audited financial statements for the years ended December 31, 2016 and 2017 and our unaudited interim financial statements for the nine month periods ended September 30, 2017 and September 29, 2018 and related notes included elsewhere in this prospectus.

	As of September 29, 2018		
(in thousands, except share and per share data)	**Actual**	**Pro Forma**	**Pro Forma As Adjusted[1]**
Cash and cash equivalents	$ 49,780	$ 74,781	
Debt:			
Revolving credit facility[2]	$ 6,000	$ 6,000	
Long-term debt	19,767	19,767	
Equipment loan	5,000	5,000	
Total debt	$ 30,767	$ 30,767	
Stock warrant liability	$ 2,051	$ 826	
Convertible preferred stock, par value $0.0001 per share—59,506,790 shares authorized; 59,227,478 shares issued and outstanding, actual; 65,821,015 shares authorized, 62,340,174 shares issued and outstanding, pro forma and no shares issued and outstanding pro forma as adjusted	$ 149,541	$ —	
Stockholders' (deficit) equity:			
Preferred stock, par value $0.0001 per share (no shares authorized, issued and outstanding, actual; pro forma and pro forma as adjusted: shares authorized and no shares issued and outstanding)	—	—	
Common stock par value $0.0001 per share (78,000,000 shares authorized, 9,924,666 shares issued and outstanding; pro forma: 88,000,000 shares authorized, 72,264,840 shares issued and outstanding; and pro forma as adjusted: shares issued and outstanding):	1	7	
Additional paid-in capital	6,527	207,288	
Accumulated deficit	(122,220)	(122,220)	
Total stockholders' (deficit) equity	$ (115,692)	$ 85,075	
Total capitalization	$ 66,667	$ 116,668	

(1) Each $1.00 increase or decrease in the assumed initial public offering price of $ per share, which is the midpoint of the estimated offering price range set forth on the cover page of this prospectus, would increase or decrease, as applicable, our cash, cash equivalents and short-term investments, working capital, total assets and total stockholders' equity and total capitalization by approximately $ million, assuming that the number of shares of our common stock offered by us, as set forth on the cover page of this prospectus, remains the same and after deducting estimated underwriting discounts and commissions payable by us. Each increase or decrease of 1.0 million shares in the number of shares offered by us would increase or decrease the amount of our cash, total assets and total stockholders' equity by approximately $ million, assuming an initial public offering price of $ per share, which is the midpoint of the estimated offering price range set forth on the cover page of this prospectus, after deducting estimated underwriting discounts and commissions payable by us.

(2) We refinanced the 2016 Revolving Credit Facility and the 2016 Term Loan Facility in June 2018, such that the 2016 Revolving Credit Facility with SVB was expanded from $2.5 million to $6.0 million, and all loans under the 2016 Term Loan Facility were paid in full without a prepayment penalty and the 2016 Term Loan Facility was discontinued. See “Management’s Discussion and Analysis of Financial Condition and Results of Operations—Liquidity and Capital Resources—Credit Facilities” for additional information.

The total number of shares of our common stock reflected in the discussion and table above excludes:

- Up to 203,685 unvested shares of restricted common stock subject to our repurchase right which may be issued pursuant to rights to purchase such shares granted on October 24, 2018 at a price of $0.01 per share;
- 182,533 shares of our Series B convertible preferred stock at $0.71 per share and 58,607 shares of our Series E convertible preferred stock at $2.45 per share, all of which will automatically convert into warrants to purchase an aggregate of 241,140 shares of common stock upon the closing of this offering;
- warrants to purchase 90,000 shares of common stock at $2.00 per share;
- 7,211,699 shares of common stock issuable upon exercise of stock options outstanding as of September 29, 2018, having a weighted-average exercise price of $1.00 per share;
- 796,834 shares of common stock issuable upon exercise of stock options granted after September 29, 2018, having a weighted-average exercise price of $11.35 per share;
- 21,722,448 shares of common stock reserved for future grant or issuance under our 2018 Equity Incentive Plan, or the 2018 Plan, which shares will automatically increase each year, as more fully described in “Executive Compensation—Employee Benefit Plans;” and
- 1,206,233 shares of common stock reserved for issuance under our 2018 Employee Stock Purchase Plan, which shares will automatically increase each year, as more fully described in “Executive Compensation—Employee Stock Purchase Plan.”

DILUTION

If you invest in our common stock, your interest will be diluted to the extent of the difference between the public offering price per share of our common stock and the pro forma as adjusted net tangible book value per share of our common stock after this offering. Our historical net tangible book value (deficit) as of September 29, 2018 was $(115.8) million, or $(11.66) per share of common stock. Our net tangible book value per share represents total tangible assets less total liabilities and convertible preferred stock, divided by the number of shares of common stock outstanding as of September 29, 2018. Our pro forma net tangible book value at September 29, 2018, before giving effect to this offering, was $85.0 million, or $1.18 per share of our common stock. Our pro forma net tangible book value before the issuance of shares in this offering gives effect to (i) the conversion of our outstanding convertible preferred stock, including shares of Series H preferred stock issued subsequent to September 29, 2018, into our common stock upon the closing of this offering, (ii) the related reclassification of warrant liability to additional paid-in capital with respect to a convertible Series B preferred stock warrant, and (iii) additional proceeds of $25.0 million raised from our issuance and sale of shares of Series H preferred stock subsequent to September 29, 2018, net of issuance costs.

After giving effect to our sale of shares of our common stock in this offering at an assumed initial public offering price of $ per share, which is the midpoint of the estimated offering price range set forth on the cover page of this prospectus, after deducting estimated underwriting discounts and commissions payable by us, our pro forma as adjusted net tangible book value as of September 29, 2018 would have been $, or $ per share. This represents an immediate increase in net tangible book value of $ per share to our existing stockholders and an immediate dilution of $ per share to new investors purchasing shares of common stock in this offering. The following table illustrates this dilution on a per share basis:

Assumed initial public offering price per share		$
Historical net tangible book value (deficit) per share as of September 29, 2018	$ (11.66)	
Pro forma increase in net tangible book value per share attributable to conversion of convertible preferred stock and preferred warrants and proceeds from additional preferred stock financing	12.84	
Pro forma net tangible book value per share as of September 29, 2018 before giving effect to this offering	1.18	
Increase in net tangible book value per share attributable to new investors purchasing shares in this offering		
Pro forma as adjusted net tangible book value per share after giving effect to this offering		
Dilution in pro forma net tangible book value per share to new investors in this offering		$

Each $1.00 increase or decrease in the assumed initial public offering price of $ per share, which is the midpoint of the estimated offering price range set forth on the cover page of this prospectus, would increase or decrease, as applicable, our pro forma as adjusted net tangible book value by approximately $ million, or approximately $ per share, and would increase or decrease, as applicable, dilution per share to new investors in this offering by $, assuming that the number of shares of our common stock offered by us, as set forth on the cover page of this prospectus, remains the same and after deducting estimated underwriting discounts and commissions payable by us. An increase or decrease of 1,000,000 shares in the number of shares offered by us would increase or decrease, as applicable, our pro forma as adjusted net tangible book value by approximately $ million, or approximately $ per share, and would increase or decrease, as applicable, dilution per share to new investors in this offering by approximately $ per share, assuming an initial public offering price of $ per share, which is the midpoint of the estimated offering price range set forth on the cover page of this prospectus, and after deducting estimated underwriting discounts and commissions payable

by us. The pro forma as adjusted information discussed above is illustrative only and will be adjusted based on the actual public offering price and other terms of this offering determined at pricing. If the underwriters exercise their option to purchase additional shares in full, the pro forma as adjusted net tangible book value per share would be $ per share, and the dilution per share to new investors in this offering would be $ per share.

The following table summarizes the pro forma on an as adjusted basis as described above, as of September 29, 2018, the differences between the existing stockholders and new investors with respect to the number of shares of common stock purchased from us, the total consideration paid to us and the average price per share paid or to be paid to us at an assumed initial public offering price of $ per share, which is the midpoint of the estimated offering price range set forth on the cover page of this prospectus, before deducting estimated underwriting discounts and commissions and estimated offering expenses payable by us:

	Shares purchased		Total consideration		Weighted Average price per share
	Number	Percent	Amount	Percent	
Existing stockholders	72,264,840	%	$ 207,289,343	%	$ 2.87
New investors					
Total		100.0%		100.0%	

Each $1.00 increase or decrease in the assumed initial public offering price of $ per share, which is the midpoint of the estimated offering price range set forth on the cover page of this prospectus, would increase or decrease, as applicable, the total consideration paid to us by new investors and total consideration paid to us by all stockholders by $ million, assuming that the number of shares of our common stock offered by us, as set forth on the cover page of this prospectus, remains the same, and after deducting estimated underwriting discounts and commissions payable by us. An increase or decrease of 1,000,000 shares in the number of shares offered by us would increase or decrease the total consideration paid to us by new investors and total consideration paid to us by all stockholders by $ million, assuming an initial public offering price of $ per share, which is the midpoint of the estimated offering price range set forth on the cover page of this prospectus, and after deducting estimated underwriting discounts and commissions payable by us.

If all of the outstanding options noted below were exercised, (1) the number of shares of our common stock held by existing stockholders would be increased to shares, or % of the total number of shares of our common stock outstanding after this offering, and the percentage of shares of common stock held by new investors participating in the offering would be decreased to % of the total number of shares of our common stock outstanding after this offering, (2) the consideration paid by existing stockholders would be increased to $ million, or % of the total consideration paid by stockholders after this offering and the percentage of consideration paid by new investors participating in the offering would be decreased to % of the total consideration paid by stockholders after this offering, and (3) the average price per share paid by existing stockholders would decrease to $ per share.

Assuming the exercise of all of our options outstanding as of September 29, 2018, the amounts set forth in the table immediately above would change as follows:

	Shares purchased		Total consideration		Weighted Average price per share
	Number	Percent	Amount	Percent	
Existing stockholders	79,476,539	%	$ 214,519,591	%	$ 2.69
New investors					
Total		100.0%		100.0%	

The total number of shares of our common stock reflected in the discussion and tables above excludes:

- Up to 203,685 unvested shares of restricted common stock subject to our repurchase right which may be issued pursuant to rights to purchase such shares granted on October 24, 2018 at a price of $0.01 per share;
- 182,533 shares of our Series B convertible preferred stock at $0.71 per share and 58,607 shares of our Series E convertible preferred stock at $2.45 per share, all of which will automatically convert into warrants to purchase an aggregate of 241,140 shares of common stock upon the closing of this offering;
- warrants to purchase 90,000 shares of common stock at $2.00 per share;
- 7,211,699 shares of common stock issuable upon exercise of stock options outstanding as of September 29, 2018, having a weighted-average exercise price of $1.00 per share;
- 796,834 shares of common stock issuable upon exercise of stock options granted after September 29, 2018, having a weighted-average exercise price of $11.35 per share;
- 21,722,448 shares of common stock reserved for future grant or issuance under our 2018 Equity Incentive Plan, or the 2018 Plan, which shares will automatically increase each year, as more fully described in “Executive Compensation—Employee Benefit Plans;” and
- 1,206,233 shares of common stock reserved for issuance under our 2018 Employee Stock Purchase Plan, which shares will automatically increase each year, as more fully described in “Executive Compensation—Employee Stock Purchase Plan.”

To the extent that any outstanding options are exercised, new options are issued under our stock-based compensation plans or we issue additional shares of common stock or other equity or convertible debt securities in the future, there will be further dilution to investors participating in this offering.

SELECTED FINANCIAL DATA

The following tables set forth our selected financial data for the periods and at the dates indicated. The statement of operations data for the years ended December 31, 2016 and 2017 and the balance sheet data as of December 31, 2016 and 2017 have been derived from our audited financial statements included elsewhere in this prospectus. The statement of operations data for the nine months ended September 30, 2017 and September 29, 2018 and the selected balance sheet data as of September 29, 2018 have been derived from unaudited financial statements included elsewhere in this prospectus. Our unaudited interim financial statements were prepared in accordance with U.S. GAAP on the same basis as our audited financial statements and include, in the opinion of management, all adjustments, consisting of normal recurring adjustments, that are necessary for the fair statement of the financial information set forth in those financial statements. Our historical results are not necessarily indicative of the results to be expected for any future periods, and results for the nine months ended September 29, 2018 are not necessarily indicative of results that may be expected for the full fiscal year or any other period. You should read the following financial information together with the information under “Capitalization” and “Management’s Discussion and Analysis of Financial Condition and Results of Operations” and our financial statements and related notes included elsewhere in this prospectus.

	Year Ended December 31,		Nine Months Ended	
(in thousands, except share and per share data)	**2016**	**2017**	**September 30, 2017**	**September 29, 2018**
Statements of Operations Data:				
Net revenues	$ 16,182	$ 32,581	$ 21,129	$ 56,420
Cost of goods sold	22,494	34,772	24,250	46,709
Gross (loss) profit	(6,312)	(2,191)	(3,121)	9,711
Research and development expenses	5,782	5,722	4,060	6,267
Selling, general and administrative expenses	12,672	17,143	12,353	23,133
Restructuring expenses	—	3,509	3,078	1,170
Total operating expenses	18,454	26,374	19,491	30,570
Loss from operations	(24,766)	(28,565)	(22,612)	(20,859)
Other expense:				
Interest expense	(380)	(1,002)	(484)	(388)
Other, net	—	(812)	(280)	(1,187)
Total other expense, net	(380)	(1,814)	(764)	(1,575)
Loss before income taxes	(25,146)	(30,379)	(23,376)	(22,434)
Income tax expense	3	5	3	—
Net loss	$ (25,149)	$ (30,384)	$ (23,379)	$ (22,434)
Net loss per common share—basic and diluted	$ (3.67)	$ (3.71)	$ (2.90)	$ (2.45)
Weighted average shares of common stock outstanding—basic and diluted	6,849,849	8,186,109	8,057,412	9,155,279

Balance Sheet Data:

(in thousands)	December 31, 2016	December 31, 2017	September 29, 2018
Cash and cash equivalents	$ 16,998	$ 39,035	$ 49,780
Working capital[(1)]	19,365	39,819	36,383
Property, plant and equipment, net	10,277	14,118	28,007
Total assets	34,935	66,463	112,222
Total debt	2,878	4,915	30,767
Stock warrant liability	165	550	2,051
Convertible preferred stock	93,804	148,194	149,541
Stockholders' deficit	(66,573)	(95,913)	(115,692)

(1) Working capital is defined as total current assets, including cash, minus total current liabilities.

Other Financial Data:

(in thousands, except percentages)	Year Ended December 31, 2016	Year Ended December 31, 2017	Nine Months Ended September 30, 2017	Nine Months Ended September 29, 2018
Adjusted EBITDA[(1)]	$ (21,957)	$ (17,557)	$ (13,010)	$ (15,553)
Depreciation and amortization	$ 2,074	$ 3,181	$ 2,363	$ 3,046
Capital expenditures	$ (4,955)	$ (7,908)	$ (4,302)	$ (18,250)
Gross margin	(39.0)%	(6.7)%	(14.8)%	17.2%

(1) Adjusted EBITDA is a financial measure that is not calculated in accordance with U.S. GAAP. We define adjusted EBITDA as net loss adjusted to exclude, when applicable, income tax expense, interest expense, depreciation and amortization expense, restructuring expenses, share-based compensation expense, inventory losses from termination of exclusive supply agreement with a co-manufacturer and costs of termination of an exclusive supply agreement with the same co-manufacturer.

Non-GAAP Financial Measures

We include adjusted EBITDA in this prospectus because it is an important measure upon which our management assesses our operating performance. We use adjusted EBITDA as a key performance measure because we believe this measure facilitates operating performance comparison from period-to-period by excluding potential differences primarily caused by the impact of restructuring, asset depreciation and amortization, non-cash share-based compensation and non-operational charges including the impact to cost of goods sold and selling, general and administrative expenses related to the termination of an exclusive co-manufacturing agreement, early extinguishment of convertible notes and remeasurement of warrant liability. Because adjusted EBITDA facilitates internal comparisons of our historical operating performance on a more consistent basis, we also use it for our business planning purposes. In addition, we believe adjusted EBITDA is widely used by investors, securities analysts, ratings agencies and other parties in evaluating companies in our industry as a measure of our operational performance.

Adjusted EBITDA should not be considered as an alternative to net loss or any other measure of financial performance calculated and presented in accordance with U.S. GAAP. There are a number of limitations related to the use of adjusted EBITDA rather than net loss, which is the most directly comparable U.S. GAAP measure. Some of these limitations are:

- adjusted EBITDA excludes depreciation and amortization expense and, although these are non-cash expenses, the assets being depreciated may have to be replaced in the future increasing our cash requirements;
- adjusted EBITDA does not reflect interest expense, or the cash required to service our debt, which reduces cash available to us;
- adjusted EBITDA does not reflect income tax payments that reduce cash available to us;
- adjusted EBITDA does not reflect restructuring expenses that reduce cash available to us;
- adjusted EBITDA does not reflect share-based compensation expenses and therefore does not include all of our compensation costs;
- adjusted EBITDA does not reflect other income (expense) that may increase or decrease cash available to us; and
- other companies, including companies in our industry, may calculate adjusted EBITDA differently, which reduces its usefulness as a comparative measure.

Because of these limitations, we consider, and you should consider, adjusted EBITDA with other operating and financial performance measures presented in accordance with U.S. GAAP. Below we have provided a reconciliation of adjusted EBITDA to net loss, as reported, the most directly comparable financial measure calculated and presented in accordance with U.S. GAAP, for each of the periods presented.

The following table presents the reconciliation of adjusted EBITDA to its most comparable U.S. GAAP measure, net loss, as reported:

	Year Ended December 31,		Nine Months Ended	
(in thousands)	**2016**	**2017**	**September 30, 2017**	**September 29, 2018**
Net loss, as reported	$ (25,149)	$ (30,384)	$ (23,379)	$ (22,434)
Income tax expense	3	5	3	—
Interest expense	380	1,002	484	388
Depreciation and amortization expense	2,074	3,181	2,363	3,046
Restructuring expenses[(1)]	—	3,509	3,078	1,170
Inventory losses from termination of exclusive supply agreement[(2)]	—	2,440	2,429	—
Costs of termination of exclusive supply agreement[(3)]	—	1,213	1,213	—
Share-based compensation expense	735	665	519	1,090
Other, net[(4)]	—	812	280	1,187
Adjusted EBITDA	$ (21,957)	$ (17,557)	$ (13,010)	$ (15,553)

(1) In connection with the termination of an exclusive supply agreement with a co-manufacturer in May 2017, we recorded restructuring expenses related to the impairment write-off of long-lived assets, primarily comprised of certain unrecoverable equipment located at the co-manufacturer's site and company-paid leasehold improvements to the co-manufacturer's facility, and legal and other expenses associated with the dispute with

the co-manufacturer. See “Management’s Discussion and Analysis of Financial Condition and Results of Operations” and “Business—Legal Proceedings” elsewhere in this prospectus.

(2) Consists of additional charges related to inventory losses incurred as a result of termination of an exclusive supply agreement with a co-manufacturer and is recorded in cost of goods sold.

(3) Consists of additional charges incurred as a result of termination of an exclusive supply agreement with a co-manufacturer and is recorded in selling, general and administrative expenses.

(4) Includes expenses primarily associated with the conversion of our convertible notes and remeasurement of our preferred stock warrant liability and common stock warrant liability.

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

The following discussion contains forward-looking statements that involve risks and uncertainties. Our actual results may differ materially from those discussed in the forward-looking statements as a result of various factors, including those set forth in "Risk Factors" and "Special Note Regarding Forward-Looking Statements." The following discussion of our financial condition and results of operations should be read in conjunction with our financial statements and related notes included elsewhere in this prospectus, as well as the information presented under "Selected Financial Data."

Overview

Beyond Meat is one of the fastest growing food companies in the United States, offering a portfolio of revolutionary plant-based meats. We build meat directly from plants, an innovation that enables consumers to experience the taste, texture and other sensory attributes of popular animal-based meat products while enjoying the nutritional benefits of eating our plant-based meat products. Our brand commitment, "Eat What You Love," represents a strong belief that by eating our plant-based meats, consumers can enjoy more, not less, of their favorite meals, and by doing so help address concerns related to human health, climate change, resource conservation, and animal welfare. The success of our breakthrough innovation model and products has allowed us to appeal to a broad range of consumers, including those who typically eat animal-based meats, positioning us to compete directly in the $1.4 trillion global meat industry.

We operate on a fiscal calendar year, and each interim quarter is comprised of one 5-week period and two 4-week periods, with each week ending on a Saturday. Our fiscal year always begins on January 1 and ends on December 31. As a result, our first and fourth fiscal quarters may have more or fewer days included than a traditional 91-day fiscal quarter.

We sell a range of plant-based products across the three main meat platforms of beef, pork and poultry. They are offered in ready-to-cook formats (merchandised in the meat case), which we refer to as our "fresh" platform, and ready-to-heat formats (merchandised in the freezer), which we refer to as our "frozen" platform.

We have experienced strong sales growth over the past few years, increasing our net revenues from $8.8 million in 2015 to $32.6 million in 2017, representing a 92% compound annual growth rate. Our net loss in 2015, 2016 and 2017 was $17.9 million, $25.1 million and $30.4 million, respectively. In the nine months ended September 29, 2018, our net revenues were $56.4 million, a 167% increase from $21.1 million in the nine months ended September 30, 2017. For the nine months ended September 29, 2018, our net loss was $22.4 million. The Beyond Burger is our flagship product and has been the focal point of our development and marketing efforts, and we believe that sales of The Beyond Burger will continue to constitute a significant portion of our revenues, income and cash flow for the foreseeable future. For the nine months ended September 29, 2018, the Beyond Burger represented 71% of our gross revenues.

Going forward, we intend to continue to invest in innovation, supply chain capabilities, manufacturing and marketing initiatives as we believe the demand for our products will continue to accelerate across both retail and foodservice channels as well as internationally.

Components of Our Results of Operations and Trends and Other Factors Affecting Our Business

Net Revenues

We generate net revenues primarily from sales of our products, including The Beyond Burger, Beyond Sausage, Beyond Chicken and other plant-based meat products to our customers, which include mainstream grocery, mass merchandiser and natural retailers, as well as restaurants and other foodservice outlets mainly in the United States.

We have experienced substantial growth in net revenues in the past two years. The following factors and trends in our business have driven net revenue growth over this period and are expected to be key drivers of our net revenue growth for the foreseeable future:

- increased penetration across our retail channel, including mainstream grocery, mass merchandiser and natural retailer customers, and our restaurant and foodservice channel, including restaurants, foodservice outlets and schools;
- increased velocity of our fresh product sales across our channels, by which we mean that the volume of our products sold per outlet has generally increased period-over-period due to greater adoption of and demand for our products;
- our continued innovation, including enhancing existing products and introducing new products that appeal to a broad range of consumers, including those who typically eat animal-based meat;
- impact of marketing efforts as we continue to build our brand and drive consumer adoption of our products; and
- overall market trends, including growing consumer demand for nutritious, convenient and high protein plant-based foods.

In addition to the factors and trends above, we expect the following to positively impact net revenues going forward:

- increased production levels as we scale production to meet demand for our products across our distribution channels both domestically and internationally, including Australia, Canada, Europe, Hong Kong, Israel, South Africa, South Korea and parts of the Middle East; and
- increased desire by restaurant and foodservice establishments to add plant-based products to their menus and to highlight these offerings.

Net revenues from sales in our retail channel increased by 106.5% from $12.3 million in 2016 to $25.5 million in 2017, and net revenues from sales in our restaurant and foodservice channel increased by 84.7% from $3.8 million in 2016 to $7.1 million in 2017. Net revenues from sales in our retail channel increased by 121.3% from $16.8 million in the nine months ended September 30, 2017 to $37.2 million in the nine months ended September 29, 2018, and net revenues from sales in our restaurant and foodservice channel increased by 344.2% from $4.3 million in the nine months ended September 30, 2017 to $19.2 million in the nine months ended September 29, 2018. We expect further growth in both channels as we increase our production capacity in response to demand.

Over the next few years, the main driver of growth in our net revenues is expected to be sales of our fresh products, primarily The Beyond Burger, in both our retail channel and our restaurant and foodservice channel predominantly in the United States, as well as internationally. We also expect net revenues and gross margin to benefit from increased sales of our fresh products due to the higher net selling price per pound of our fresh platform products compared to our frozen platform products.

As we seek to continue to rapidly grow our net revenues, we face several challenges. In 2017, continuing into 2018, demand for our products has exceeded our expectations and production capacity. While we expect to triple our monthly production capacity by the end of the first quarter of 2019 as compared to the end of the second quarter of 2018, our net revenue growth has been significantly constrained relative to what we believe is our total demand opportunity. We run a risk of losing potential future sales due to these supply challenges when we are unable to fulfill customer demand for their preferred products on a timely basis. Recently, we have also had to delay our launch of full-scale retail sales of The Beyond Burger in Europe due to capacity constraints and inability to meet reliable shipment schedules. If we are unable to increase our capacity in a timely manner, it may take longer to fully execute our growth strategy.

We routinely offer sales discounts and promotions through various programs to customers and consumers. These programs include rebates, temporary on-shelf price reductions, off-invoice discounts, retailer advertisements, product coupons and other trade activities. The expense associated with these discounts and promotions is estimated and recorded as a reduction in total gross revenues in order to arrive at reported net revenues. We anticipate that these promotional activities could impact our net revenues and that changes in such activities could impact period-over-period results.

In addition, because we do not have any purchase commitments from our distributors or customers, the amount of net revenues we recognize will vary from period to period depending on the volume and mix of our products sold, particularly between products in our fresh and frozen platforms, and the channels through which our products are sold, causing variability in our results.

Gross (Loss) Profit

Gross (loss) profit consists of our net revenues less costs of goods sold. Our cost of goods sold primarily consists of the cost of raw materials and ingredients for our products, direct labor and certain supply costs, co-manufacturing fees, in-bound and internal shipping and handling costs incurred in manufacturing our products, plant and equipment overhead, depreciation and amortization expense, as well as the cost of packaging our products.

In order to keep pace with demand, we have had to very quickly scale production and we have not been able to meet all demand for our products. As a result, we have had to quickly expand our sources of supply for our core protein inputs such as pea protein. Our growth has also significantly increased facility and warehouse utilization rates. We intend to continue to increase our production capabilities at our two in-house manufacturing facilities in Columbia, Missouri. As a result, we expect our cost of goods sold to increase in absolute dollars to support our growth. However, we expect such expenses to decrease as a percentage of net revenues over time as we continue to scale our business.

Gross margin improved by 32.3 points from (39.0)% in 2016 to (6.7)% in 2017 and by 32.0 points from (14.8)% in the nine months ended September 30, 2017 to 17.2% in the nine months ended September 29, 2018. Gross margin benefited from an increase in the amount of product sold and from a greater proportion of revenues from products in our fresh platform which have a higher net selling price per pound. As we continue to expand production and are able to increase manufacturing efficiency and leverage the cost of our fixed production and staff costs, we expect to substantially increase our gross margin. We also expect to continue to increase gross margin through ingredient cost savings achieved through scale of purchasing and through expanding our co-manufacturing network and negotiating lower tolling fees.

Operating Expenses

Research and Development Expenses

Research and development expenses consist primarily of personnel and related expenses for our research and development staff, including salaries, benefits, bonuses, and share-based compensation. Our research and development efforts are focused on enhancements to our product formulations and production processes in addition to the development of new products. We expect to continue to invest substantial amounts in research and development, as most recently evidenced in the build-out of our state-of-the-art Manhattan Beach Project Innovation Center. Research and development and innovation are core elements of our business strategy, as we believe they represent a critical competitive advantage for us. We believe that we need to continue to rapidly innovate in order to be able to continue to capture a larger market share of consumers who typically eat animal-based meats. We expect these expenses to increase somewhat in absolute dollars, but to decrease as a percentage of net revenues as we continue to scale production.

Selling, General and Administrative Expenses

Selling, general and administrative expenses consist primarily of marketing, selling and administrative expenses, including personnel and related expenses, share-based compensation, outbound shipping and handling costs, non-manufacturing rent expense, depreciation and amortization expense on non-manufacturing assets and other miscellaneous operating items. Marketing and selling expenses include advertising costs, costs associated with consumer promotions, product samples and sales aids incurred to acquire new customers, retain existing customers and build our brand awareness. Administrative expenses include the expenses related to management, accounting, IT, and other office functions.

Selling, general and administrative expenses increased $4.5 million from 2016 to 2017 primarily due to an increase in outbound freight expenses and an increase in headcount. As a percentage of net revenues selling, general and administrative expenses decreased from 78.3% in 2016 to 52.6% in 2017. Selling, general and administrative expenses increased $10.8 million, or 87.3%, from the nine months ended September 30, 2017 to the nine months ended September 29, 2018 primarily due to an increase in headcount and an increase in outbound freight expenses. As a percentage of net revenues, selling, general and administrative expenses decreased from 58.5% in the nine months ended September 30, 2017 to 41.0% in the nine months ended September 29, 2018. We expect selling, general and administrative expenses to increase in absolute dollars as we increase our domestic and international expansion efforts to meet our product demand and incur costs related to our status as a public company.

Our selling and marketing expense is expected to increase, both through a greater focus on marketing and additions to our sales organizations. We expect to significantly expand our marketing efforts to achieve greater brand awareness, attract new customers and increase market penetration. We have historically had a very small sales force, with only nine full-time sales employees as of December 31, 2017 and 17 full-time sales employees as of September 29, 2018. As we continue to grow, we expect to expand our sales force to address additional opportunities, which could substantially increase our selling expense. Our administrative expenses are expected to increase when we operate as a public company with increased personnel cost in accounting, IT and compliance-related expenses.

Restructuring Expenses

In May 2017, management approved a plan to terminate an exclusive supply agreement with one of our co-manufacturers. See “—Results of Operations—Year Ended December 31, 2016 Compared to Year Ended December 31, 2017—Restructuring Expenses” for a discussion of these expenses.

Other, Net

Other, net includes expense primarily associated with the conversion of our convertible notes and remeasurement of our preferred stock warrant liability and common stock warrant liability. Our convertible notes have been fully converted into shares of our preferred stock.

Results of Operations

The following table sets forth selected items in our statements of operations for the periods presented:

	Year Ended		Nine Months Ended	
(in thousands)	December 31, 2016	December 31, 2017	September 30, 2017	September 29, 2018
Net revenues	$ 16,182	$ 32,581	$ 21,129	$ 56,420
Cost of goods sold	22,494	34,772	24,250	46,709
Gross (loss) profit	(6,312)	(2,191)	(3,121)	9,711
Research and development expenses	5,782	5,722	4,060	6,267
Selling, general and administrative expenses	12,672	17,143	12,353	23,133
Restructuring expenses	—	3,509	3,078	1,170
Total operating expenses	18,454	26,374	19,491	30,570
Loss from operations	$ (24,766)	$ (28,565)	$ (22,612)	$ (20,859)

The following table presents selected items in our statements of operations as a percentage of net revenues for the respective periods presented:

	Year Ended		Nine Months Ended	
	December 31, 2016	December 31, 2017	September 30, 2017	September 29, 2018
Net revenues	100.0 %	100.0 %	100.0 %	100.0 %
Cost of goods sold	139.0	106.7	114.8	82.8
Gross (loss) profit	(39.0)	(6.7)	(14.8)	17.2
Research and development expenses	35.7	17.6	19.2	11.1
Selling, general and administrative expenses	78.3	52.6	58.5	41.0
Restructuring expenses	—	10.8	14.6	2.1
Total operating expenses	114.0	80.9	92.2	54.2
Loss from operations	(153.0)%	(87.7)%	(107.0)%	(37.0)%

Nine Months Ended September 30, 2017 Compared to Nine Months Ended September 29, 2018

Net Revenues

(in thousands)	Nine Months Ended September 30, 2017	Nine Months Ended September 29, 2018	Change Amount	Change Percentage
Revenues:				
Fresh platform	$ 11,296	$ 51,530	$ 40,234	356.2 %
Frozen platform	13,232	11,549	(1,683)	(12.7)
Less: Discounts	(3,399)	(6,659)	(3,260)	95.9
Total net revenues	$ 21,129	$ 56,420	$ 35,291	167.0 %

(in thousands)	Nine Months Ended September 30, 2017	Nine Months Ended September 29, 2018	Change Amount	Change Percentage
Net revenues:				
Retail	$ 16,796	$ 37,173	$ 20,377	121.3%
Restaurant and Foodservice	4,333	19,247	14,914	344.2
Total net revenues	$ 21,129	$ 56,420	$ 35,291	167.0%

Total net revenues increased by $35.3 million, or 167.0%, from the nine months ended September 30, 2017 to nine months ended September 29, 2018 primarily due to strong growth in sales volumes of products in our fresh platform across both our retail and our restaurant and foodservice channels.

Revenues from sales of products in our fresh platform increased $40.2 million, or 356.2%, primarily due to increases in sales of The Beyond Burger. Net revenues from retail sales increased $20.4 million, or 121.3%, due primarily to the increase in sales of The Beyond Burger. Net revenues from sales through our restaurant and foodservice channel increased $14.9 million, or 344.2%, primarily due to the national launch of The Beyond Burger, which resulted in it being served in approximately 11,000 restaurant and foodservice outlets.

The following tables present volume of our products sold in pounds:

(in thousands)	Nine Months Ended September 30, 2017	Nine Months Ended September 29, 2018	Change Amount	Change Percentage
Retail:				
Fresh Platform	1,228	4,521	3,293	268.2 %
Frozen Platform	2,080	1,826	(254)	(12.2)
Total	3,308	6,347	3,039	91.9 %

(in thousands)	Nine Months Ended		Change	
	September 30, 2017	September 29, 2018	Amount	Percentage
Restaurant and foodservice:				
Fresh Platform	308	2,757	2,449	795.1 %
Frozen Platform	541	490	(51)	(9.4)
Total	849	3,247	2,398	282.4 %

Cost of Goods Sold

(in thousands)	Nine Months Ended		Change	
	September 30, 2017	September 29, 2018	Amount	Percentage
Cost of goods sold	$ 24,250	$ 46,709	$ 22,459	92.6%

Total cost of goods sold increased by $22.5 million, or 92.6%, from nine months ended September 30, 2017 to nine months ended September 29, 2018, primarily due to the increase in the sales volume of our products and from a 70% increase in manufacturing-related headcount to handle increased demand for our products. Cost of goods sold in the nine months ended September 30, 2017 includes $2.4 million in write-off of unrecoverable inventory related to the termination of an exclusive agreement with our co-manufacturer at the time. See “Business—Legal Proceedings” and Note 3 to our financial statements included in this prospectus for a description of the termination of this exclusive agreement.

Gross (Loss) Profit and Gross Margin

(in thousands)	Nine Months Ended		Change	
	September 30, 2017	September 29, 2018	Amount	Percentage
Gross (loss) profit	$ (3,121)	$ 9,711	$ 12,832	N/A
Gross margin	(14.8)%	17.2%	N/A	N/A

Gross loss in the nine months ended September 30, 2017 was $3.1 million compared to gross profit of $9.7 million in the nine months ended September 29, 2018, an improvement of $12.8 million. The improvement in gross profit and gross margin was primarily due to an increase in the amount of product sold, resulting in the ability to leverage our fixed costs across a greater amount of revenue. The greater proportion of product revenues from our fresh platform also contributed to the improvement in margin, due to a higher net selling price per pound of products in our fresh versus frozen platform. As disclosed in Note 2 to our financial statements, elsewhere in this prospectus, we include outbound shipping and handling costs within selling, general and administrative expense. As a result, our gross profit and gross margin may not be comparable to other entities that present all shipping and handling costs as a component of cost of goods sold.

Research and Development Expenses

(in thousands)	Nine Months Ended		Change	
	September 30, 2017	September 29, 2018	Amount	Percentage
Research and development expenses	$ 4,060	$ 6,267	$ 2,207	54.4%

Research and development expenses increased $2.2 million, or 54.4%, from the nine months ended September 30, 2017 to the nine months ended September 29, 2018. Research and development

expenses increased primarily due to higher scale-up expenses and depreciation and amortization expense.

Selling, General and Administrative Expenses

	Nine Months Ended		Change	
(in thousands)	**September 30, 2017**	**September 29, 2018**	**Amount**	**Percentage**
Selling, general and administrative expenses	$ 12,353	$ 23,133	$ 10,780	87.3%

Selling, general and administrative expenses increased by $10.8 million, or 87.3%, from the nine months ended September 30, 2017 to the nine months ended September 29, 2018. The increase was primarily due to $4.2 million in higher salaries and related expenses due to a 111% increase in headcount, $2.3 million in higher outbound freight expenses, $1.7 million in higher supply chain expenses, $1.0 million in higher marketing services, $0.8 million in higher professional fees and $0.5 million in higher broker commissions in the nine months ended September 29, 2018 compared to same period in the prior year. Selling, general and administrative expenses in the nine months ended September 30, 2017 include $1.2 million primarily related to disputed fees resulting from the co-manufacturer's failure to meet agreed upon minimum production and expedited outbound freight expenses we incurred for alternative arrangements after we terminated the exclusive supply agreement with this co-manufacturer.

Restructuring Expenses

As a result of the termination in May 2017 of an exclusive supply agreement with one of our co- manufacturers due to non-performance under the agreement, we recorded restructuring expenses of $3.1 million in the nine months ended September 30, 2017, of which $2.3 million were related to the impairment write-off of long-lived assets, comprised of certain unrecoverable equipment located at the co-manufacturer's site and company-paid leasehold improvements to the co-manufacturer's facility pursuant to the agreement, and $0.8 million primarily related to legal and other expenses associated with the dispute. See Note 9 to the financial statements included elsewhere in this prospectus. In addition, we recorded $2.4 million in write-off of unrecoverable inventory held at the co-manufacturer's site, which is included in cost of goods sold, and $1.2 million primarily related to disputed fees for not meeting the agreed upon minimum production and expedited outbound freight expenses, which are included in selling, general and administrative expenses in our statement of operations for the nine months ended September 30, 2017. See Note 3 to the financial statements included elsewhere in this prospectus. As of September 30, 2017, there were no accrued unpaid liabilities associated with this contract termination, although we continue to incur legal fees in connection with our ongoing efforts to resolve this dispute. See "Business—Legal Proceedings" included elsewhere in this prospectus.

Income Tax Expense

For the nine months ended September 30, 2017 and September 29, 2018, we recorded income tax expense of $3,000 and $0, respectively. These amounts primarily consist of income taxes for state jurisdictions which have minimum tax requirements. No tax benefit was provided for losses incurred because those losses are offset by a full valuation allowance.

Year Ended December 31, 2016 Compared to Year Ended December 31, 2017

Net Revenues

(in thousands)	Year Ended December 31, 2016	2017	Change Amount	Percentage
Revenues:				
Fresh platform	$ 813	$ 18,109	$ 17,296	2,127.4%
Frozen platform	18,236	19,588	1,352	7.4
Less: Discounts	(2,867)	(5,116)	(2,249)	78.4
Total net revenues	$ 16,182	$ 32,581	$ 16,399	101.3%

(in thousands)	Year Ended December 31, 2016	2017	Change Amount	Percentage
Net revenues:				
Retail	$ 12,342	$ 25,490	$ 13,148	106.5%
Restaurant and Foodservice	3,840	7,091	3,251	84.7
Total net revenues	$ 16,182	$ 32,581	$ 16,399	101.3%

Total net revenues increased by $16.4 million, or 101.3%, from 2016 to 2017 primarily due to strong growth in sales volumes of products in our fresh platform across both our retail and our restaurant and foodservice channels. Revenues from sales of products in our fresh platform increased $17.3 million, or 2,127.4%, primarily due to increases in sales of The Beyond Burger, which was first available commercially in the second quarter of 2016. Net revenues from retail sales increased by $13.1 million, or 106.5%, due primarily to the increase in sales of The Beyond Burger and modest growth in sales of products in our frozen platform. Net revenues from sales through our restaurant and foodservice channel increased $3.3 million, or 84.7%, primarily due to the national launch of The Beyond Burger, which resulted in it being served in approximately 10,000 restaurant and foodservice outlets.

The following tables present volume of our products sold in pounds:

(in thousands)	Year Ended December 31, 2016	2017	Change Amount	Percentage
Retail:				
Fresh Platform	90	1,837	1,747	1,941.1%
Frozen Platform	2,940	3,123	183	6.2
Total	3,030	4,960	1,930	63.7%

(in thousands)	Year Ended December 31, 2016	2017	Change Amount	Percentage
Restaurant and foodservice:				
Fresh Platform	18	637	619	3,438.9 %
Frozen Platform	932	754	(178)	(19.1)
Total	950	1,391	441	46.4 %

Cost of Goods Sold

(in thousands)	Year Ended December 31, 2016	2017	Change Amount	Percentage
Cost of goods sold	$ 22,494	$ 34,772	$ 12,278	54.6%

Total cost of goods sold increased by $12.3 million, or 54.6%, from 2016 to 2017, primarily due to the increase in the sales volume of our products. Cost of goods sold includes the write-off of discontinued product inventories totaling $1.2 million in 2016, principally from the discontinuation of one line of frozen products after production began, but before formal commercial launch. Cost of goods sold in 2017 includes $2.4 million in write-off of unrecoverable inventory related to the termination of an exclusive agreement with our co-manufacturer at the time. See “Business—Legal Proceedings” and Note 3 to our financial statements included in this prospectus for a description of the termination of this exclusive agreement.

Gross Loss and Gross Margin

(in thousands)	Year Ended December 31, 2016	2017	Change Amount	Percentage
Gross loss	$ (6,312)	$ (2,191)	$ 4,121	N/A
Gross margin	(39.0)%	(6.7)%	N/A	N/A

Gross loss in 2016 was $6.3 million compared to gross loss of $2.2 million in 2017, an improvement of $4.1 million. The improvement in gross loss and gross margin was primarily due to an increase in the amount of product sold, resulting in the ability to leverage our fixed costs across a greater amount of revenue. The greater proportion of product revenues from our fresh platform also contributed to the improvement in margin, due to a higher net selling price per pound of products in our fresh versus frozen platform.

Research and Development Expenses

(in thousands)	Year Ended December 31, 2016	2017	Change Amount	Percentage
Research and development expenses	$ 5,782	$ 5,722	$ (60)	(1.0)%

Research and development expenses from 2016 to 2017 were essentially flat, decreasing by $60,000 or 1.0%. Although research and development was flat, there were significant decreases in spend due to product development costs associated with the launch and scale-up of The Beyond Burger in 2016 which were absent in 2017, offset by significant expenses related to our investment in our Manhattan Beach Project Innovation Center and the hiring of new research scientists in 2017 to support our innovation program. Research and development headcount increased approximately 24.2% from 2016 to 2017.

Selling, General and Administrative Expenses

(in thousands)	Year Ended December 31, 2016	2017	Change Amount	Percentage
Selling, general and administrative expenses	$ 12,672	$ 17,143	$ 4,471	35.3%

Selling, general and administrative expenses increased by $4.5 million, or 35.3%, from 2016 to 2017. The increase was primarily due to $1.2 million in higher outbound freight expenses, $1.9 million in higher salaries and related expenses due to a 18.5% increase in headcount, $0.3 million in higher rent expense from additional facilities and $0.3 million in higher professional fees in 2017 compared to 2016. Selling, general and administrative expenses in 2016 included $2.9 million in costs to transition certain manufacturing and packaging operations from our manufacturing facility in Columbia, Missouri to a third-party co-manufacturer. Selling, general and administrative expenses in 2017 include $1.2 million primarily relating to disputed fees resulting from a co-manufacturer's failure to meet agreed upon minimum production and expedited outbound freight expenses we incurred for alternative arrangements after we terminated the exclusive supply agreement with this co-manufacturer.

Restructuring Expenses

As a result of the termination in May 2017 of an exclusive supply agreement with one of our co-manufacturers due to non-performance under the agreement, we recorded restructuring expenses of $3.5 million in 2017, of which $2.3 million were related to the impairment write-off of long-lived assets, comprised of certain unrecoverable equipment located at the co-manufacturer's site and company-paid leasehold improvements to the co-manufacturer's facility pursuant to the agreement, and $1.2 million primarily related to legal and other expenses associated with the dispute. See Note 9 to the financial statements included elsewhere in this prospectus. In addition, we recorded $2.4 million in write-off of unrecoverable inventory held at the co-manufacturer's site, which is included in cost of goods sold, and $1.2 million primarily related to disputed fees for not meeting the agreed upon minimum production and expedited outbound freight expenses, which are included in selling, general and administrative expenses in our statement of operations for the year ended December 31, 2017. See Note 3 to the financial statements included elsewhere in this prospectus. As of December 31, 2017, there were no accrued unpaid liabilities associated with this contract termination, although we continue to incur legal fees in connection with our ongoing efforts to resolve this dispute. See "Business—Legal Proceedings" included elsewhere in this prospectus.

Income Tax Expense

(in thousands)	Year Ended December 31, 2016	2017
Current:		
Federal	$ —	$ —
State	3	5
	$ 3	$ 5
Deferred:		
Federal	$ —	$ —
State	—	—
	—	—
Provision for income tax	$ 3	$ 5

We have provided a 100% valuation allowance on our deferred tax assets. Provision for income taxes in 2016 and 2017 was primarily for cash taxes payable to various states.

Seasonality

Generally, we expect to experience greater demand for certain of our products during the summer grilling season. In 2017, we experienced strong net revenue growth compared to 2016, which masked this expected seasonal impact. As our business continues to grow, we expect to see additional seasonality effects, with revenue growth tending to be greater in the second and third quarters of the year.

Quarterly Results of Operations

The following table sets forth our unaudited quarterly statements of operations data for each of the periods presented. In management's opinion, the data below have been prepared on the same basis as the audited financial statements included elsewhere in this prospectus and reflect all necessary adjustments, consisting only of normal recurring adjustments, necessary for a fair statement of this data. The results of historical periods are not necessarily indicative of the results to be expected for a full year or any future period. The following quarterly financial data should be read in conjunction with our audited financial statements and related notes included elsewhere in this prospectus.

	Three Months Ended						
(in thousands)	Apr. 1, 2017	Jul. 1, 2017	Sep. 30, 2017	Dec. 31, 2017	Mar. 31, 2018	Jun. 30, 2018	Sep. 29, 2018
Net revenues	$ 6,173	$ 5,565	$ 9,391	$ 11,452	$ 12,776	$ 17,367	$ 26,277
Cost of goods sold	6,210	9,068	8,972	10,522	10,719	14,755	21,235
Gross (loss) profit	(37)	(3,503)	419	930	2,057	2,612	5,042
Gross margin	(0.6)%	(62.9)%	4.5%	8.1%	16.1%	15.0%	19.2%
Research and development expenses	1,409	1,181	1,470	1,662	1,605	2,497	2,165
Selling, general and administrative expenses	3,413	3,934	5,006	4,790	5,737	7,043	10,353
Restructuring expenses	19	2,463	596	431	294	348	528
Total operating expenses	4,841	7,578	7,072	6,883	7,636	9,888	13,046
Loss from operations	(4,878)	(11,081)	(6,653)	(5,953)	(5,579)	(7,276)	(8,004)
Other expense:							
Interest expense	(30)	(38)	(416)	(518)	(47)	(28)	(313)
Other expense, net	(92)	(96)	(92)	(532)	(70)	(92)	(1,025)
Total other expense	(122)	(134)	(508)	(1,050)	(117)	(120)	(1,338)
Loss before taxes	(5,000)	(11,215)	(7,161)	(7,003)	(5,696)	(7,396)	(9,342)
Income tax expense	—	3	—	2	—	—	—
Net loss	$ (5,000)	$ (11,218)	$ (7,161)	$ (7,005)	$ (5,696)	$ (7,396)	$ (9,342)

Quarterly Trends

Our net revenues have generally increased in each quarter presented with the exception of the quarter ended July 1, 2017 primarily due to increased sales. Net revenues in the quarter ended July 1, 2017, declined due to production challenges but increased significantly in subsequent quarters after the launch of The Beyond Burger and as production capacity increased and we brought new customers on board. Cost of goods sold in the quarter ended July 1, 2017 increased due to inefficiencies from production challenges resulting in the lowest gross profit among the periods presented. With the exception of the quarter ended July 1, 2017, gross profit and gross margin continued to grow in the periods presented as net revenues increased. We cannot assure you that this pattern of sequential growth in net revenues and/or gross profit and gross margin will continue. We anticipate that gross profit and gross margin may fluctuate from quarter to quarter because of variability in product mix.

Our operating expenses generally have increased sequentially in each quarter primarily due to increases in headcount and related expenses to support our growth. Production challenges and cost of terminating a supply agreement with one of our contract manufacturers significantly impacted our quarter

ended July 1, 2017. Quarterly fluctuations in our costs and expenses overall primarily reflect changes in our headcount. Research and development expenses have fluctuated based on the timing of personnel additions and related spending on innovation expenditures. Selling, general and administrative expenses fluctuated within a narrow range in the quarterly periods in 2017 but increased substantially in the quarterly periods in 2018 primarily due to increase in headcount and higher outbound freight,

We anticipate our operating expenses will continue to increase in absolute dollars in future periods as we invest in the long-term growth of our business. Historical patterns should not be considered a reliable indicator of our future sales activity or performance.

Liquidity and Capital Resources

Our primary cash needs are for operating expenses, working capital and capital expenditures to support the growth in our business. Historically, we have financed our operations through private sales of equity securities and through sales of our products. Since our inception and through September 29, 2018, we have raised a total of $149.5 million, excluding a $25.0 million advance payment for shares of Series H convertible preferred stock issued and sold subsequent to September 29, 2018, from the sale of convertible preferred stock, including through sales of convertible notes which were converted into preferred stock, net of costs associated with such financings. We have also entered into the credit facilities described below with Silicon Valley Bank.

We believe that our cash and cash equivalents, cash flow from operating activities and available borrowings under our credit facilities will be sufficient to meet our capital requirements for at least the next 12 months.

Credit Facilities

In June 2016, we entered into a Loan and Security Agreement, referred to as the Original LSA, with Silicon Valley Bank, or SVB, which comprised a $2.5 million revolving line of credit, or the 2016 Revolving Credit Facility, and a $1.5 million growth capital term loan advance, or the 2016 Term Loan Facility. As of December 31, 2017, the outstanding principal balance under the 2016 Revolving Credit Facility was $2.5 million and the outstanding principal balance of the 2016 Term Loan Facility was $1.0 million.

We refinanced the 2016 Revolving Credit Facility and the 2016 Term Loan Facility in June 2018, such that the 2016 Revolving Credit Facility with SVB was expanded from $2.5 million to $6.0 million, and all loans under the 2016 Term Loan Facility were paid in full without a prepayment penalty and the 2016 Term Loan Facility was discontinued. The $6.0 million revolving credit facility, or 2018 Revolving Credit Facility, has a floating interest rate equal to the prime rate, plus a premium ranging from 0.75% to 1.25% per annum, with an additional 5% on the outstanding balances upon the occurrence and during the continuance of an event of a default. Interest is payable monthly. The 2018 Revolving Credit Facility will mature in June 2020. As of September 29, 2018, we had fully drawn on the 2018 Revolving Credit Facility.

In June 2018, we also entered into a new Loan and Security Agreement with SVB with a term loan commitment amount of $20.0 million, or the 2018 Term Loan Facility, comprised of (i) a $10.0 million term loan advance at closing, (ii) a conditional $5.0 million term loan advance, if no event of default has occurred and is continuing through the borrowing date, and (iii) an additional conditional term loan advance of $5.0 million if no event of default has occurred and is continuing based upon a minimum level of gross profit for the trailing 12-month period. As of September 29, 2018, we had fully drawn on the 2018 Term Loan Facility. The 2018 Term Loan Facility has a floating interest rate that is equal to 4.0% above the prime rate, with interest payable monthly and principal amortizing commencing on January 1, 2020 and will mature in June 2022.

The 2018 Term Loan Facility and the 2018 Revolving Credit Facility, or together, the SVB Credit Facilities, contain customary negative covenants that limit our ability to, among other things, incur additional indebtedness, grant liens, make investments, repurchase stock, pay dividends, transfer assets

and merge or consolidate. The SVB Credit Facilities are secured by a blanket lien on all of our personal property assets. The SVB Credit Facilities also contain customary affirmative covenants, including delivery of audited financial statements. We were in compliance with the covenants in the SVB Credit Facilities as of September 29, 2018.

Equipment Loan

In September 2018, we entered into an Equipment Loan and Security Agreement with Structural Capital Investments II, LP, or Structural Capital, and Ocean II PLO, LLC, as administrative and collateral agent, pursuant to which Structural Capital agreed to provide an equipment loan facility to us in the amount of $5.0 million for the purpose of purchasing equipment. Subject to Structural Capital's approval, we may request that they advance to us up to an additional $5.0 million or an aggregate of $10.0 million. However, Structural Capital is not required to advance to us any funds after December 31, 2018.

We are required to pay interest on any unpaid principal amounts at a per annum rate equal to 6.25% plus the greater of 4.75% or the prime rate then in effect. Interest on each advance made to us is due and payable on the first business day of each month. We must begin repaying the aggregate principal amount of all advances we have received in equal monthly installments beginning on June 30, 2019, which may be extended for six or 18 months depending on whether we achieve certain milestones. The unpaid balance of all advances will become due on May 1, 2022. We must also pay a final payment fee of 13% of the facility commitment amount on the maturity date and such other date as the advances become due and such fee will increase by 1% if certain milestones are achieved.

The equipment loan facility has a prepayment penalty of 2% during the first two years of the term and 1% thereafter. The facility contains customary negative covenants that limit our ability to, among other things, grant liens, repurchase stock, pay dividends, transfer assets and merge or consolidate. It is secured by all equipment purchased with cash borrowed under the facility and all of our accounts, money, books, records and any cash or noncash proceeds of the foregoing. The facility also contains customary affirmative covenants, including delivery of audited financial statements. We were in compliance with the covenants contained in the facility as of September 29, 2018.

As of September 29, 2018, we had borrowed an aggregate of $5.0 million under the equipment loan facility.

Cash Flows

The following table presents the major components of net cash flows from and used in operating, investing and financing activities for the periods indicated.

	Year Ended		Nine Months Ended	
(in thousands)	December 31, 2016	December 31, 2017	September 30, 2017	September 29, 2018
Cash (used in) provided by:				
Operating activities	$ (23,495)	$ (25,273)	$ (19,352)	$ (24,377)
Investing activities	(5,038)	(8,115)	(4,356)	(18,205)
Financing activities	31,914	55,425	9,568	53,327

Net Cash Used in Operating Activities

In 2016, we incurred a net loss of $25.1 million, which was the primary reason for net cash used in operating activities of $23.5 million. Net cash used in operating activities also included $1.5 million in net cash outflows from changes in our operating assets and liabilities, fully offset by $3.1 million in non-cash expenses, comprised of depreciation and amortization expense, share-based compensation expense and convertible note-related expense.

In 2017, we incurred a net loss of $30.4 million, which was the primary reason for net cash used in operating activities of $25.3 million. Net cash used in operating activities also included $2.6 million in net cash outflows from changes in our operating assets and liabilities, fully offset by $5.4 million in non-cash expenses comprised of depreciation and amortization expense, share-based compensation expense, convertible note-related expense and change in warrant liability. In 2017, net loss included a non-cash restructuring loss of $2.3 million on the write-off of fixed assets related to our termination of an exclusive supply agreement with a co-manufacturer.

In the nine months ended September 30, 2017, we incurred a net loss of $23.4 million, which was the primary reason for net cash used in operating activities of $19.4 million. Net cash used in operating activities also included $1.9 million in net cash outflows from changes in our operating assets and liabilities, fully offset by $3.6 million in non-cash expenses comprised of depreciation and amortization expense, share-based compensation expense, convertible note-related expense and change in warrant liability. In the nine months ended September 30, 2017, net loss included a non-cash restructuring loss of $2.3 million on the write-off of fixed assets related to our termination of an exclusive supply agreement with a co-manufacturer.

In the nine months ended September 29, 2018, we incurred a net loss of $22.4 million, which was the primary reason for net cash used in operating activities of $24.4 million. Net cash used in operating activities also included $7.5 million in net cash outflows from changes in our operating assets and liabilities, partially offset by $5.5 million in non-cash expenses comprised of depreciation and amortization expense, share-based compensation expense, convertible note-related expense and change in warrant liability.

Depreciation and amortization expense was $2.1 million and $3.2 million in 2016 and 2017, respectively. Depreciation and amortization expense was $2.4 million and $3.0 million in the nine months ended September 30, 2017 and September 29, 2018, respectively. We anticipate our depreciation and amortization expense will be approximately $1.6 million per quarter in 2018 and $1.9 million per quarter in 2019 based on our existing fixed assets and anticipated capital expenditures as we expand our production capabilities to meet increased demand for our products.

Net Cash Used in Investing Activities

Net cash used in investing activities primarily relates to capital expenditures to support our growth and investment in property, plant and equipment.

In 2016, net cash used in investing activities was $5.0 million and consisted of cash outflows for the purchases of property, plant and equipment, principally to support the development and production of The Beyond Burger.

In 2017, net cash used in investing activities was $8.1 million and consisted of cash outflows for the purchases of property, plant and equipment, principally for the build-out and equipping of our Manhattan Beach Project Innovation Center.

In 2018, we anticipate spending approximately $24.0 million in capital expenditures as we scale our production capacity, including expenditures for additional machinery and equipment, as well as investment facilities and expenditures to replace normal wear and tear of machinery and equipment.

In the nine months ended September 30, 2017, net cash used in investing activities was $4.4 million and consisted of cash outflows for the purchases of property, plant and equipment, principally for the build-out and equipping of our Manhattan Beach Project Innovation Center. In the nine months ended September 29, 2018, net cash used in investing activities was $18.2 million and consisted of cash outflows for the purchase of property, plant and equipment, primarily for manufacturing facility improvements and manufacturing equipment.

Net Cash Provided by Financing Activities

Net cash provided by financing activities in 2016 and 2017 was primarily due to the net proceeds from our issuance of convertible preferred stock and net borrowings under the 2016 Revolving Credit Facility and 2016 Term Loan Facility.

In 2016, financing activities provided $31.9 million in cash primarily as a result of $25.8 million of net proceeds from the issuance of our Series E and F preferred stock, net of issuance costs, $4.0 million in proceeds from the issuance of convertible notes that were eventually converted into Series G preferred stock, $1.5 million of proceeds from 2016 Term Loan Facility borrowing, $1.6 million in 2016 Revolving Credit Facility borrowings and $0.7 million in proceeds from option exercises, partially offset by payments towards our revolving credit facility borrowings and payments towards our capital lease obligations. Financing and revolving credit facility borrowings were used to finance our operations. In 2017, financing activities provided $55.4 million in cash as a result of $43.3 million of proceeds from the issuance of our Series F and G preferred stock, net of issuance costs, $10.0 million in proceeds from the issuance of convertible notes that were eventually converted into Series G preferred stock, $2.5 million in 2016 Revolving Credit Facility borrowings and $0.4 million in proceeds from option exercises, partially offset by payments towards our 2016 Revolving Credit Facility borrowings and capital lease obligations. The proceeds from the borrowings were used to finance our operations.

In the nine months ended September 30, 2017, financing activities provided $9.6 million in cash primarily as a result of $8.4 million of net proceeds from the issuance of our Series E and F preferred stock, net of issuance costs and $1.3 million in borrowings from our 2016 Revolving Credit Facility. In the nine months ended September 29, 2018, financing activities provided $53.3 million in cash primarily as a result of a $25.0 million advance deposit for the issuance of our Series H preferred stock, $20.0 million in borrowings under our 2018 Term Loan Facility, $6.0 million in borrowings under our 2018 Revolving Credit Facility and $5.0 million in borrowings under an equipment loan facility, partially offset by cash outflows for repayments of the Missouri Note, 2016 Revolving Credit Facility and 2016 Term Loan Facility. The proceeds from the borrowings were used to finance our operations.

As of September 29, 2018, we had borrowed the entire availability of $20.0 million under the 2018 Term Loan Facility and $6.0 million under the 2018 Revolving Credit Facility.

Contractual Obligations and Commitments

The following table summarizes our significant contractual obligations as of December 31, 2017:

	Payments Due by Period				
(in thousands)	**Total**	**Less Than One Year**	**1-3 Years**	**3-5 Years**	**More Than Five Years**
Rent obligations[1]	$ 6,427	$ 1,195	$ 2,200	$ 1,677	$ 1,355
Equipment lease obligations[2]	200	151	40	9	—
2016 Revolving Credit Facility[3]	2,500	2,500	—	—	—
2016 Term Loan Facility[4]	1,055	542	513	—	—
Missouri Note[5]	1,450	—	—	1,450	—
Total[6]	$ 11,632	$ 4,388	$ 2,753	$ 3,136	$ 1,355

(1) Includes lease payments for our corporate offices and Manhattan Beach Project Innovation Center in El Segundo, California and our manufacturing facilities in Columbia, Missouri.
(2) Consists of payments under various capital leases for certain equipment.
(3) Consists of principal under a revolving credit facility from SVB. Interest accrued at a floating rate. We refinanced the 2016 Revolving Credit Facility in June 2018 (see Note 6 and Note 12 to our financial statements elsewhere in this prospectus).

(4) Consists of a term loan with SVB. Includes principal and interest payments. We refinanced our 2016 Term Loan Facility in June 2018 (see Note 6 and Note 12 to our financial statements elsewhere in this prospectus).
(5) Consists of a promissory note to the Missouri Department of Economic Development, for the build-out of our Columbia, Missouri production facilities (see Note 6 and Note 12 to our financial statements elsewhere in this prospectus), which has been paid in full in June 2018.
(6) Subsequent to the year ended December 31, 2017, we refinanced our 2016 Revolving Credit Facility and 2016 Term Loan Facility and entered into the 2018 Revolving Credit Facility and 2018 Term Loan Facility. As of September 29, 2018, we have borrowed a total of $6.0 million under the 2018 Revolving Credit Facility and $20.0 million under the 2018 Term Loan Facility. In addition, in September 2018, we entered into an equipment loan facility under which we may borrow $5.0 million for the purpose of purchasing equipment, and subject to the lender's approval, we may borrow up to an additional $5.0 million for an aggregate of $10.0 million. As of September 29, 2018, we have borrowed a total of $5.0 million under this equipment loan facility. As the 2018 Revolving Credit Facility, the 2018 Term Loan Facility and the equipment loan facility were not entered into prior to December 31, 2017, they are not reflected in the above table. See "—Liquidity and Capital Resources—Credit Facilities," "—Equipment Loan" and Note 12 to our financial statements elsewhere in this prospectus.

Segment Information

We have one operating segment and one reportable segment, as our chief operating decision maker, who is our Chief Executive Officer, reviews financial information on an aggregate basis for purposes of allocating resources and evaluating financial performance.

Off-balance Sheet Arrangements

We do not have any off-balance sheet arrangements or any holdings in variable interest entities.

Quantitative and Qualitative Disclosures about Market Risk

We are exposed to certain market risks in the ordinary course of our business. These risks primarily consist of interest rates, raw material prices and inflation as follows:

Interest Rate Risk

Our cash consists of amounts held by third-party financial institutions. Prior to the closing of this offering, we plan to adopt an investment policy which will have as its primary objective investment activities which preserves principal without significantly increasing risk.

We are subject to interest rate risk in connection with our SVB Credit Facilities. See "—Liquidity and Capital Resources—Credit Facilities" above. Based on the average interest rate on our 2016 Revolving Credit Facility during the year ended December 31, 2017 and to the extent that borrowings were outstanding, we do not believe that a 1.0% change in the interest rate would have a material effect on our results of operations or financial condition.

Ingredient Risk

Our profitability is dependent on, among other things, our ability to anticipate and react to raw material and food costs. Currently, the main ingredient in our products is pea protein, which we source from Canada and France. The prices of pea protein and other ingredients we use are subject to many factors beyond our control, such as the number and size of farms that grow Canadian and European yellow peas, the vagaries of these farming businesses, including poor harvests due to adverse weather conditions, natural disasters and pestilence, and changes in national and world economic conditions. In addition, we purchase some ingredients and other materials offshore, and the price and availability of such ingredients and materials may be affected by political events or other conditions in these countries or tariffs or trade wars. As of September 29, 2018, a hypothetical 10% increase or 10% decrease in the weighted-average cost of pea protein, our primary ingredient, would have resulted in an increase of approximately $0.5 million or a decrease of $0.5 million, respectively, to cost of goods sold. We are working to diversify our sources of supply and intend to enter into long-term contracts to better ensure stability of prices of our raw materials.

Foreign Exchange Risk

Our sales and costs are denominated in U.S. dollars and are not subject to foreign exchange risk. However, to the extent our sourcing strategy changes or we commence generating net sales outside of the United States and Canada that are denominated in currencies other than the U.S. dollar, our results of operations could be impacted by changes in exchange rates.

Inflation Risk

We do not believe that inflation has had a material effect on our business, results of operations, or financial condition. If our costs were to become subject to significant inflationary pressures, we may not be able to fully offset such higher costs through price increases. Our inability or failure to do so could harm our business, results of operations and financial condition.

Critical Accounting Policies

In preparing our financial statements in accordance with GAAP, we are required to make estimates and assumptions that affect the amounts of assets, liabilities, revenue, costs and expenses, and disclosure of contingent assets and liabilities that are reported in the financial statements and accompanying disclosures. We believe that the estimates, assumptions and judgments involved in the accounting policies described below have the greatest potential impact on our financial statements because they involve the most difficult, subjective or complex judgments about the effect of matters that are inherently uncertain. Therefore, we consider these to be our critical accounting policies. Accordingly, we evaluate our estimates and assumptions on an ongoing basis. Our actual results may differ from these estimates and assumptions. See Note 2 to our financial statements included in this prospectus for information about these critical accounting policies, as well as a description of our other accounting policies.

Revenue Recognition

While our revenue recognition does not involve significant judgment, it represents an important accounting policy. Our revenues are generated through sales of our products to distributors or customers. We recognize revenues when they are realized or realizable and earned. Revenue is recognized upon the transfer of the title to the product, ownership, and risk of loss to the distributor or customer, which typically occurs on the date of receipt of the product by the distributor or customer.

We routinely offer sales discounts and incentives through various programs to our customers and consumers. These programs include rebates, temporary on shelf price reductions, off-invoice discounts, retailer advertisements, and other trade activities. At the end of each accounting period, we recognize a liability for estimated sales discounts that have been incurred but not paid. The offsetting charge is recorded as a reduction of revenues in the same period when the expense is incurred.

Share-Based Compensation

We account for all shared-based compensation awards using a fair-value method. Options are recorded at their estimated fair value using the Black-Scholes option pricing model. We recognize the fair value of each award as an expense on a straight-line basis over the requisite service period, generally the vesting period of the equity grant.

Determining the fair value of share-based awards at the grant date requires significant judgment. The determination of the grant date fair value of stock options using the Black-Scholes option-pricing model is affected by our estimated common stock fair value as well as other highly subjective assumptions including, the expected term of the awards, our expected volatility over the expected term of the awards, expected dividend yield, risk-free interest rates. The assumptions used in our option-pricing model represent management's best estimates. These assumptions and estimates are as follows:

- Fair Value of Common Stock. As our stock is not publicly traded, we estimate the fair value of common stock as discussed in "Common Stock Valuations" below.
- Expected Term. The expected term of employee stock options during the year ended December 31, 2017 was determined based on management's expectations as to the expected term of options granted, which were expected to remain outstanding. The expected term of options granted to nonemployees is equal to the remaining contractual life of the options.
- Expected Volatility. As we do not have trading history for our common stock, the selected volatility used is representative of expected future volatility. We based expected future volatility on the historical and implied volatility of comparable publicly traded companies over the expected term of the options.
- Expected Dividend Yield. We have never declared or paid any cash dividends and do not presently intend to pay cash dividends in the foreseeable future. As a result, we used an expected dividend yield of zero.
- Risk-Free Interest Rates. We determined the average risk-free interest rate using the yield on actively traded U.S. Treasury notes with the same maturity as the expected term of the underlying options. If any assumptions used in the Black-Scholes option-pricing model change significantly, share-based compensation for future awards may differ materially compared with the awards granted previously.

	Year Ended		Nine Months Ended	
	December 31, 2016	December 31, 2017	September 30, 2017	September 29, 2018
Risk-free interest rate	1.6%	2.0%	2.0%	2.7%
Average expected term (years)	5.6	5.9	5.9	5.9
Expected stock price volatility	55.0%	55.0%	55.0%	55.0%
Dividend yield	—	—	—	—

The assumptions underlying these valuations represent management's best estimates, which involve inherent uncertainties and the application of management judgment. As a result, if factors or expected outcomes change and we use significantly different assumptions or estimates, our share-based compensation expense could be materially different.

The following table sets forth by grant date the number of shares of our common stock subject to options granted in the past 18 months, the per share exercise price of the options and the fair value of our common stock per share on each grant date:

Grant Date	Shares of Common Stock Underlying Options Granted	Exercise Price Per Share ($)	Per Share Fair Value of Common Stock on Grant Date ($)
May 4, 2017	188,520	1.04	1.04
May 16, 2017	241,233	1.04	1.04
February 15, 2018	1,451,700	2.00	2.00
May 17, 2018	242,087	2.00	2.00
May 30, 2018	713,400	2.00	2.00
October 24, 2018	616,584	11.35	11.35
November 9, 2018	50,200	11.35	11.35
November 15, 2018	130,050	11.35	11.35

Assuming an initial public offering price of $ per share, which is the midpoint of the price range set forth on the cover of this prospectus, the aggregate intrinsic value of stock options outstanding as of September 29, 2018 was approximately $ million, of which approximately $ million related to vested awards and approximately $ million related to unvested awards.

Common Stock Valuations

As there has been no public market for shares of our common stock to date, the fair value of our shares has been determined by our board of directors as of the date of each award grant, with input from management, considering our most recently available third-party valuations of our common stock and our board of directors' assessment of additional objective and subjective factors that it believed were relevant and which may have changed from the date of the most recent valuation through the date of the grant. Our board of directors intends all options granted to be exercisable at a price per share not less than the per share fair value of our common stock underlying those options on the date of grant. The fair value of our common stock was determined at each valuation date in accordance with the guidelines outlined in the American Institute of Certified Public Accountants Practice Aid.

Valuation of Privately-Held-Company Equity Securities Issued as Compensation.

In the absence of a public trading market, our board of directors, with input from management, exercised significant judgment and considered numerous objective and subjective factors to determine the fair market value of our common stock as of the date of each option grant, including the following factors:

- contemporaneous valuations performed at periodic intervals by an unrelated third party valuation firm;
- the prices, rights, preferences and privileges of our preferred stock relative to our common stock;
- our operating and financial performance;
- current business conditions and projections;
- our stage of development;
- the likelihood of achieving a liquidity event, such as an initial public offering, a merger, or an acquisition of our business;

- the lack of marketability of our common stock;
- the market performance of comparable publicly traded peer companies; and
- macroeconomic conditions, including U.S. and global capital market conditions.

In determining the fair value of share-based compensation awards, we first determined our business equity value using the prior sales of company stock method under the market approach, adjusted our enterprise value for cash and debt and then allocated the equity value among the securities that comprise the capital structure of the company using the Option-Pricing Method, or OPM, as described in the AICPA Practice Aid entitled Valuation of Privately-Held-Company Equity Securities Issued as Compensation. See below for a description of the valuation and allocation methods.

The prior sales of company stock method estimates value by considering prior arm's length sales of the company's equity. When considering prior sales of the company's equity, this method considers the size of the equity sale, the relationship of the parties involved in the transaction, the timing of the equity sale, and the financial condition of the company at the time of the sale. Each valuation date occurred no greater than two months after the sale of our preferred stock and was based on such sale. Although the sale involved preferred stock, new investors participated and the purpose of the sale was to provide financing. We did not use the income approach because at the time of each valuation we did not have a reliable financial forecast for our business.

After determining an equity value, we then utilized the option pricing method, or the OPM, to allocate the equity value to our common stock. The OPM treats common stock and convertible preferred stock as call options on a business with a claim on the business at an exercise price equal to the remaining value immediately after the convertible preferred stock is liquidated. Therefore, the common stock has value only if the funds available for distribution to common shareholders exceed the value of the liquidation preferences at the time of a liquidity event, such as a merger, sale, or initial public offering, assuming the business has funds available to make a liquidation preference meaningful and collectible by shareholders. The OPM uses the Black-Scholes option-pricing model to price the call option. We used the OPM to allocate the equity value to our common stock because at the time of the valuations there was a range of possible future outcomes of our business.

Finally, because we are a privately held company, we also applied a non-marketability discount of 30% in determining the fair value of our common stock.

Following the closing of this initial public offering the fair value per share of our common stock for purposes of determining share-based compensation will be the closing price of our common stock as reported on the applicable grant date.

Emerging Growth Company Status

We are an "emerging growth company," as defined in the JOBS Act, and we may take advantage of certain exemptions from various reporting requirements that are applicable to other public companies that are not "emerging growth companies." We may take advantage of these exemptions until we are no longer an "emerging growth company." Section 107 of the JOBS Act provides that an "emerging growth company" can take advantage of the extended transition period afforded by the JOBS Act for the implementation of new or revised accounting standards. We have elected to use the extended transition period for complying with new or revised accounting standards and as a result of this election, our financial statements may not be comparable to companies that comply with public company effective dates. We may take advantage of these exemptions up until the last day of the fiscal year following the fifth anniversary of this offering or such earlier time that we are no longer an emerging growth company. We would cease to be an emerging growth company if we have more than $1.07 billion in annual revenue, we have more than $700.0 million in market value of our stock held by non-affiliates (and we have been a public company for at least 12 months and have filed one annual report on Form 10-K) or we issue more than $1.0 billion of non-convertible debt securities over a three-year period.

Recently Adopted Accounting Pronouncements (unaudited)

In March 2016, the FASB issued ASU No. 2016-09, “Compensation—Stock Compensation (Topic 718): Improvements to Employee Share-Based Payment Accounting” (“ASU 2016-09”). ASU 2016-09 simplifies certain aspects of accounting for share-based payment transactions, including the income tax consequences, classification of awards as either equity or liabilities, and an option to recognize gross stock compensation expense with actual forfeitures recognized as they occur, as well as certain classifications in the statements of cash flows. ASU 2016-09 is effective for all entities other than public business entities for fiscal years beginning after December 15, 2017, and therefore, effective for us for the fiscal year ending December 31, 2018. Early adoption is permitted. We adopted ASU 2016-09 beginning January 1, 2018. Adoption of ASU 2016-09 did not have a material impact on our financial position, results of operations, or cash flows.

In May 2017, the FASB issued ASU No. 2017-09, “Compensation—Stock Compensation (Topic 718): Scope of Modification Accounting” (“ASU 2017-09”). ASU 2017-09 amends the scope of modification accounting for share-based payment arrangements and provides guidance on the types of changes to the terms or conditions of share-based payment awards to which an entity would be required to apply modification accounting. Specifically, an entity would not apply modification accounting if the fair value, vesting conditions, and classification of the awards are the same immediately before and after the modification. ASU 2017-09 is effective for all entities for annual periods, and interim periods within those annual periods, beginning after December 15, 2017 with early adoption permitted. We adopted ASU 2017-09 beginning January 1, 2018. Adoption of ASU 2017-09 did not have a material impact on our financial position, results of operations, or cash flows.

Recent Accounting Pronouncements

In May 2014, the FASB issued Accounting Standards Update (ASU) No. 2014-09, “Revenue from Contracts with Customers” (“ASU 2014-09”), which, along with subsequent ASUs, amends the existing accounting standards for revenue recognition. This guidance is based on principles that govern the recognition of revenue at an amount an entity expects to be entitled to receive when products are transferred to customers. ASU 2014-09 is effective for annual reporting periods beginning after December 15, 2017, including interim periods within that reporting period for public business entities, and for annual reporting periods beginning after December 15, 2018 for business entities that are not public. ASU 2014-09 is effective for us beginning January 1, 2019. ASU 2014-09 may be applied retrospectively to each prior period presented or retrospectively with the cumulative effect recognized as of the date of adoption. Additionally, ASU 2014-09 requires enhanced disclosures, including revenue recognition policies to identify performance obligations to customers and significant judgments in measurement and recognition. We are currently in the process of assessing our adoption methodology for ASU 2014-09 and have not yet selected a method. We are also evaluating the impact of the adoption on our financial statements. While we believe that adoption of ASU 2014-09 may require capitalization of certain selling costs that are currently expensed, such as sales and partner commissions, it has not yet determined whether the effect of these, or other adjustments will be material to revenue or results of operations. We are continuing to assess the impact of adoption of ASU 2014-09, which may identify other impacts on our financial statements. We expect to adopt and implement ASU 2014-09 effective January 1, 2019.

In January 2016, the FASB issued ASU No. 2016-01, “Financial Instruments—Overall (Subtopic 825-10): Recognition and Measurement of Financial Assets and Financial Liabilities” (“ASU 2016-01”), which makes amendments to the guidance in U.S. GAAP on the classification and measurement of financial instruments. ASU 2016-01 significantly revises an entity’s accounting related to (1) the classification and measurement of investments in equity securities and (2) the presentation of certain fair value changes for financial liabilities measured at fair value. It also amends certain disclosure requirements associated with the fair value of financial instruments. For all entities other than public entities, ASU 2016-01 is effective for fiscal years beginning after December 15, 2018, including interim periods within fiscal years beginning after December 15, 2019. Early adoption is permitted. We expect to adopt and implement ASU 2016-01 for the year ending December 31, 2019 and

for interim periods beginning January 1, 2020. We do not expect that adoption of ASU 2016-01 to have a material impact on our financial position, results of operations, or cash flows.

In February 2016, the FASB issued ASU No. 2016-02, “Leases” (“ASU 2016-02”). ASU 2016-02 requires lessees to generally recognize most operating leases on the balance sheets but record expenses on the income statements in a manner similar to current accounting. ASU 2016-02 is effective for nonpublic companies for the annual reporting period beginning after December 15, 2019, and, therefore, effective for us beginning January 1, 2020. Early application is permitted. We are currently evaluating the impact ASU 2016-02 will have on its financial statements and currently expects that most operating lease commitments will be subject to ASU 2016-02 and will be recognized as operating lease liabilities and right-of-use assets upon adoption. While we have not yet quantified the impact, adjustments resulting from the adoption of ASU 2016-02 will materially increase total assets and total liabilities relative to such amounts reported prior to adoption.

In August 2016, the FASB issued ASU No. 2016-15, “Statements of Cash Flows (Topic 230) Classification of Certain Cash Receipts and Cash Payments” (“ASU 2016-15”), which addresses eight specific cash flow issues with the objective of reducing the existing diversity in practice in how certain cash receipts and cash payments are presented and classified in the statements of cash flows. ASU 2016-15 is effective for annual periods (including interim periods) beginning after December 15, 2018 for business entities that are not public, should be applied retrospectively, and early adoption is permitted. We are currently evaluating the impact that will result from adopting ASU 2016-15 on its cash flows.

LETTER FROM ETHAN BROWN, OUR FOUNDER AND CHIEF EXECUTIVE OFFICER

Beyond Meat's story begins on farmland. Through my father's love of farming and the natural world, my urban childhood was interwoven with time spent on our family's farm in Western Maryland where we were partners in a Holstein dairy operation. As a child, I was fascinated by the animals surrounding us: the companions at our sides, the livestock in the barns and fields, and the wildlife in the woods, streams, and ponds. As a young adult, I enjoyed a career in clean energy but continued to wrestle with a question born of these early days: do we need animals to produce meat? Over the years, the question knocked more loudly and I set out to understand meat.

I learned that we are deeply indebted to the carnivorous tendencies of our ancestor, the Great Southern Ape of Africa. The so-called Australopithecus Africanus increasingly integrated meat into a steady diet of vegetation, the nutrient density of which reduced the size and energy requirement of our stomachs, freeing up energy for our brains which more than doubled in volume. With this outsized brain came increased capabilities, and increasingly sophisticated hominids shifted from scavengers to hunters.

It was not until some 12,000 years ago that agriculture appeared as we shifted from hunters of game to harvesters of crops and livestock. Farming enabled population growth, which demanded more from agriculture. We responded with a full display of human ingenuity and creativity. Across different geographies, soil types and climates, we grew and harvested crops and raised and slaughtered livestock. The model worked for the five million people alive in agriculture's early days and for 250 million humans in early A.D. and provided the caloric fuel to grow the world's population to today's 7.6 billion.

As population increased over the last century, we used science and technology to get more output per acre of land and more meat per species of livestock. For example, in the United States between the 1930s and 2016, the yield per acre of corn has grown nearly 600% and soybeans 400%, and from 1925 to 2017, broiler chickens have increased in weight by 250%. The result: ubiquitous availability of low-cost meat.

But progress came with cost in four key areas: human health, climate change, natural resources, and animal welfare. Correlations between animal protein consumption and disease spawned a cottage industry of studies and documentaries on the relationship between certain meats and epidemics of cancer, heart disease, and diabetes. Livestock emerged as a major contributor of greenhouse gas emissions, with related burdens on land, energy, and water.

We do not, however, face a binary decision to eat or abandon meat. There is a path forward that I believe will unlock a new era of productivity for farmers, one capable of exceeding the gains made in the 20th century. It requires a change in perception, coupled with the use of science and technology.

If we insist meat be defined by origin—namely poultry, pigs and cows—we face limited choices. But if we define meat by composition and structure—amino acids, lipids, trace minerals, vitamins, and water woven together in the familiar assembly of muscle, or meat—we can innovate toward a solution.

Here's how. None of these core elements of meat is exclusive to the animal. They are abundant in the plant kingdom. The animal serves as a bioreactor, consuming vegetation and water and using their digestive and muscular system to organize these inputs into what has traditionally been called meat. At Beyond Meat, we take these constituent parts directly from plants, and together with water, organize them following the basic architecture of animal-based meat. We bypass the animal, agriculture's greatest bottleneck.

For the consumer, this means that we can provide great tasting meat from plants -meat that delivers health benefits and environmental upside (90% fewer greenhouse gas emissions, 99% less water, 93% less land, and 46% less energy) and side steps the animal welfare issue. This is not a call to consume less meat. My own children enjoy more, rather than less, of their favorite meat occasions (sausage breakfasts, burger dinners) as I am comfortably aware that Beyond Meat products are free of cholesterol

and other aspects of animal protein that preoccupy public health debate. As we rush to keep up with consumer demand for our products, my guess is that many families are having the same experience.

All of this takes us back to the farm. I am, like many, troubled by the fraying fabric of our rural heritage, one increasingly torn by vanquished towns, marginalized populations ensnared in an opioid crisis, and hidden factory farms. In too many ways, rural communities stood as spectator in the digital revolution that has reshaped our economy. Not in the Beyond Meat story. Instead of growing low-value commodity feed for animals, I see a future of farmers growing higher value protein crops for more direct human consumption via plant-based meat. As attendant efficiency gains (which are worth repeating-93% less land, 99% less water, and 46% less energy per pound of consumable meat) are realized, we open vast resources for further wealth creation by the farmer, carbon sequestration (pending rational carbon policies that reward the farmer as land steward), and, of course, conservation. I believe there is a new dawn for American agriculture and this conversion is our awakening hour.

At Beyond Meat, we can do our part by relentlessly pursuing that perfect build of meat from plants. At our innovation center, the Manhattan Beach Project, scientists and engineers are rapidly closing in on the differences between our plant-based meats and their animal protein equivalents. Certainly, gaps do and will remain for some time. However, having looked under the hood and through the microscope, we can say with confidence that we see no material obstacles to a perfect build of meat from plants. With each advance, I believe the market for our products will increase, and our sales will grow.

Lastly, as we embark on this next leg of our journey, I'd like to thank our partners-the consumer-for being with us each step of the way. From the first days in 2009 of sampling our products to shoppers throughout the Mid-Atlantic, Ohio, and Kentucky, we've always felt an important message: consumers want this to work. Through successes and struggles, the consumer has been there for us, offering feedback, love and inspiration. Today, together we are breaking new ground. This summer, for twelve consecutive weeks, The Beyond Burger outsold (by unit) all packaged beef patties in the meat case across the Southern California division of Ralph's, a subsidiary of Kroger, one of the nation's largest conventional grocers. This outcome surprised us—our aspiration as the only plant-based entrant in the meat case was to simply hold our own. As a new and plant-based entrant in the meat case, we did not contemplate this #1 position. And we learned that from January through June this year, nationwide across Kroger, 93% of consumers who bought The Beyond Burger also put animal meat in their shopping cart—an important indication of mainstream appeal. Lastly, as we launched The Beyond Burger in the second largest quick-serve restaurant in Canada, A&W, consumer demand drove up store traffic across the chain, strongly outstripped forecasts, and led to much publicized outages.

In closing, it is with gratitude that we now offer the consumer the opportunity to become an owner in the company they helped build, bite by bite. We hope investors join us as we seek to become the first generation of humans to separate meat from animals, unlocking the next era in the American story of innovation, disruption, and growth.

Ethan Brown
Founder and Chief Executive Officer

BUSINESS

Overview

Beyond Meat is one of the fastest growing food companies in the United States, offering a portfolio of revolutionary plant-based meats. We build meat directly from plants, an innovation that enables consumers to experience the taste, texture and other sensory attributes of popular animal-based meat products while enjoying the nutritional benefits of eating our plant-based meat products. Our brand commitment, “Eat What You Love,” represents a strong belief that by eating our plant-based meats, consumers can enjoy more, not less, of their favorite meals, and by doing so, help to address concerns related to human health, climate change, resource conservation and animal welfare. The success of our breakthrough innovation model and products has allowed us to appeal to a broad range of consumers, including those who typically eat animal-based meats, positioning us to compete directly in the $1.4 trillion global meat industry.

To capture this broad market opportunity, we have developed three core plant-based product platforms that align with the largest meat categories globally: beef, pork and poultry. The primary components of animal-based meat—amino acids, lipids, trace minerals, and water—are not exclusive to animals and are plentiful in plants. We create our plant-based products using proprietary scientific processes that determine the architecture of the animal-based meat we are seeking to replicate and then we assemble it using plant-derived amino acids, lipids, trace minerals and water. We are focused on continually improving our products so that they are, to the human sensory system, indistinguishable from their animal-based counterparts.

Our flagship product is The Beyond Burger, the world’s first 100% plant-based burger merchandised in the meat case of grocery stores. The Beyond Burger is designed to look, cook and taste like traditional ground beef. We also sell a range of other plant-based meat products, including Beyond Sausage and Beyond Chicken. All of our products are antibiotic-free, hormone-free, GMO-free and gluten-free. Our products are currently available in approximately 28,000 points of distribution primarily in the United States as well as several other countries, across mainstream grocery, mass merchandiser and natural retailer channels, and various food-away-from-home channels, including restaurants, foodservice outlets and schools. We enjoy a strong base of well-known retail and foodservice customers that continues to grow.

Research, development and innovation are core elements of our business strategy and we believe they represent a critical competitive advantage for us. Through our Rapid and Relentless Innovation Program, our team of scientists and engineers focuses on making continuous improvements to our existing product formulations and developing new products across our plant-based beef, pork and poultry platforms. Our state-of-the-art Manhattan Beach Project Innovation Center in El Segundo, California brings together leading scientists from chemistry, biology, material science, food science, and biophysics disciplines who work together with process engineers and culinary specialists to pursue our vision of perfectly building plant-based meat.

We have experienced strong revenue growth over the past few years, increasing our net revenues from $8.8 million in 2015 to $32.6 million in 2017, representing a 92% compound annual growth rate. We have generated losses since inception. Net loss in 2016 was $25.1 million compared to $30.4 million in 2017, an increase of $5.3 million, as we invested in innovation and growth of our business. In the nine months ended September 29, 2018, our net revenues were $56.4 million, a 167% increase from $21.1 million for the nine months ended September 30, 2017. For the nine months ended September 29, 2018, our net loss was $22.4 million. Going forward, we intend to continue to invest in innovation, supply chain capabilities, manufacturing and marketing initiatives, as we believe the demand for our products will continue to accelerate across both retail and foodservice channels as well as internationally.

The Beyond Meat Strategic Difference

- ***Unique Approach to the Product***

We employ a revolutionary and unique approach to create our products, with a goal of delivering the same satisfying taste, smell and texture as the animal-based meats we seek to replicate. In our Manhattan Beach Project Innovation Center, our scientists and engineers continuously improve our products to replicate the sensory experience of animal-based meat. Through our investment in innovation, we have pioneered products like The Beyond Burger and Beyond Sausage, which we believe closely replicate the sensory experience of meat—from the look of the package and raw product, to the sizzle on the grill, to the juicy and protein-packed satisfaction of biting into a “meaty” burger or sausage.

We start by analyzing the composition and design of relevant animal-based meats at the molecular and structural level. The primary components, other than water, comprising animal-based meats are amino acids, lipids, minerals and vitamins, which are not exclusive to animals and are present in abundance in plants. The amino acids that form the proteins which represent the muscle of animal-based meat can be sourced from plants. We use proteins primarily extracted from yellow peas, as well as legumes and other plant stock, through a natural process to separate protein and fiber. We then apply heating, cooling and pressure at rapid and varied intervals to weave the protein into a fibrous structure to create woven protein. Once we have the woven protein, we then add the remaining ingredients, such as water, lipids, flavor, color, trace minerals, and vitamins.

We operate approximately 100,000 square feet of production space in two facilities in Columbia, Missouri where we produce our woven protein. This woven protein is then converted according to our formulas and specifications into a packaged product, either in our facilities in Columbia, Missouri or by our network of co-manufacturers. This capital efficient production model allows us to scale more quickly and cost-effectively to service the rapidly increasing demand for our products. We plan to continue expanding our own internal production facilities domestically and abroad to produce our woven protein while forming additional strategic relationships with co-manufacturers.

- ***Unique Approach to the Market***

Our breakthrough product innovations have enabled a paradigm shift in both marketing and target audience—tapping into the enthusiastic pull from mainstream consumers for delicious and satisfying, yet better-for-you plant-based meats. This approach is summed up in our brand promise—”Eat What You Love.” At one of the nation’s largest conventional grocers, Kroger, 93% of Beyond Burger buyers over the 26-week period ended June 30, 2018 also purchased animal protein during the same period, which evidences Beyond Meat’s appeal to meat-loving consumers.

It is not, and has never been, our goal to become the best-selling veggie burger company or to market our products in a manner similar to traditional veggie burgers and soy-based meat. These products have had limited appeal to traditional meat eaters, who commonly criticize their inferior taste. Consumer research shows that, when choosing among plant-based meat options, taste is the single most important product attribute for plant-based foods. Legacy vegetarian brands have typically aimed to compensate for poor taste appeal by positioning their products as a noble sacrifice-something consumers *should* do for the benefit of their health, the environment, and/or animal welfare.

When we launched our flagship Beyond Burger in 2016, we approached the marketplace in an unprecedented way. Instead of marketing and merchandising The Beyond Burger to vegans and vegetarians (who represent less than 5% of the U.S. population), we requested that the product be sold in the meat case at grocery retailers where meat-loving consumers are accustomed to shopping for center-of-plate proteins.

The first grocery unit to sell The Beyond Burger in its meat section was the Rocky Mountain Division of Whole Foods Market. In May 2016, they placed The Beyond Burger alongside its animal-based equivalents, and soon other Whole Foods Market regions followed. In April 2017, Safeway of Northern

California started merchandising The Beyond Burger in its meat section, and within a few weeks several Kroger divisions announced they would do the same. The Beyond Burger is now carried by approximately 11,000 of our 17,000 grocery store customers across the United States.

In the Southern California division of Ralph's, a subsidiary of one of the nation's largest conventional grocers, Kroger, The Beyond Burger was the #1 selling packaged burger patty by unit in the meat case for the 12-week period ending August 4, 2018. We believe merchandising in the meat case in the retail channel has helped drive greater brand awareness with our end consumers.

Reflecting the strength and value of the Beyond Meat brand to its partners, many of our restaurant, hotel and other foodservice customers choose to prominently feature our brand name on their menu and within item descriptions, in addition to displaying Beyond Meat branded signage throughout the venue. Our foodservice business not only functions as a form of paid trial for our products, helping to drive additional retail demand, but also creates even greater brand awareness for Beyond Meat through the on-menu and in-store publicity we receive. We believe that we have established our brand as one with "halo" benefits to our partners as evidenced by the speed of adoption by key partners. For example, Beyond Meat was the fastest new-product launch in the history of A&W Canada and TGI Fridays, and a number of our key partners are investing their own resources to tap into our brand and product awareness. For example, A&W Canada is currently investing significant amounts of money across television, digital media and press to promote the addition of The Beyond Burger to their menu. The Beyond Burger is now carried by approximately 11,000 restaurant and foodservice outlets across the United States. Our distribution across retail and foodservice outlets continues to grow on a monthly basis.

Our recent success with A&W Canada illustrates growing international demand for our products. We launched in Europe in August 2018 through contracts with three major distributors and have also received strong expressions of interest from some of Europe's largest grocery and restaurant chains. We intend to establish production capabilities in Europe in 2020. Additionally, for several years we have maintained a presence and generated brand awareness in Asia through our local distributor, and expect further expansion in the region over time.

- ***Unique Approach to Our Brand***

Our mission is to create nutritious plant-based meats that taste delicious and deliver a consumer experience that is indistinguishable from that provided by animal-based meats. We believe our brand commitment, "Eat What You Love" encourages consumers to eat more, not less, of the traditional dishes they enjoy by using our products, while feeling great about the health, sustainability, and animal welfare benefits associated with consuming plant-based protein. Our approach of bringing to market the best innovations each year is a strategy that engages the consumer and provides feedback from which we iterate and improve. This approach is one of the reasons we worked for and obtained Non-GMO Project certification for all of our current products.

Our brand awareness has been driven by strong social marketing. Consumers and the media are enthusiastic about the concept of an authentically meaty tasting plant-based burger and drove more than 4.0 billion earned media impressions in 2017, which are growing at an even faster pace in 2018—with 7.5 billion earned media impressions between January and September 2018. The viral nature of our marketing and brand-building has been enhanced by both the network of brand ambassadors we have developed throughout the United States, and our strong following by celebrities from the worlds of sports and entertainment who help promote the benefits of a plant-based diet and the Beyond Meat brand.

We launched The Future of Protein marketing campaign in the summer of 2015, which seeks to mobilize our ambassadors to help raise brand awareness and make our products aspirational. Our joint announcement with Leonardo DiCaprio about his becoming a Beyond Meat brand ambassador in October 2017 has generated over 378 million earned media impressions, including a viral video released by *Now This Entertainment* that drew more than 8.5 million views. When we shared the announcement on Beyond Meat's Instagram, it quickly became one of our most liked posts.

“Earned media impressions” refers to the amount of exposure that a piece of content in a television show, newspaper, website, blog or other form of media receives based on the readership or viewership for that particular media. Impressions are only calculated for stories that mention our brand or products specifically by name. For example, if as of January 2018, 3 million people subscribed to a particular newspaper and an article ran in January 2018 in that newspaper mentioning or featuring Beyond Meat or any of our products such as The Beyond Burger or Beyond Sausage which is not as a result of any payment by us, then the earned media impressions for that article would be 3 million.

Earned media impressions reflect interest in our products, our products’ or brand’s relevance to the media, the audiences they service and the overall positioning of our products in the marketplace. We believe that continued growth in this number year-over-year reflects increasing organic media interest in us and thus consumer exposure to our brand and products. While we use earned media impressions to evaluate growth in brand awareness of our products, we do not use them as a metric in evaluating our business or results of operations.

Earned media impressions contain limitations in that they are calculated based on readership or viewership numbers of the particular media in which the impression appears and not on the number of readers or viewers who actually see the impression. Therefore, earned media impression numbers assume each person in the entire readership or viewership has been exposed to the impression. In addition, earned media impressions do not take into account whether there is any overlap in the readership or viewership of various media. Therefore, investors should not place undue reliance or emphasis on earned media impressions given these limitations and the fact that they do not bear any direct relationship to the company’s operations or financial results.

A recent *Food Insider* video covering Beyond Meat’s unveiling of its new Manhattan Beach Project Innovation Center, went viral on Facebook, being shared more than 170,000 times and generating approximately 23 million views in three weeks.

History

We founded Beyond Meat in 2009 with a vision of building meat products directly from plants. This vision was in response to growing global challenges in the areas of health, climate change, natural resource use and conservation, and animal welfare, which we now call our four horsemen of change. Our founder and CEO, Ethan Brown, began his professional career in the clean energy sector. For over a decade, Ethan saw first-hand the sizable investments in solar, lithium ion batteries, fuel cells, wind and other alternative forms of energy in an effort to reduce greenhouse gas emissions. Ethan realized we were ignoring a large piece of the global solution to climate stabilization: the large and growing contribution of the livestock industry to greenhouse gas emissions, estimated to be from 18-51% of total emissions, depending on the methodology used. He began to think about applying the same framework to solving livestock emissions, specifically using technology, science, and significant capital investment to address a global challenge and opportunity: bypassing the animal and building meat directly from plants.

Growing up in Washington, D.C. and College Park, Maryland, Ethan spent considerable time on his family’s farms, most notably Savage River Farms, a Holstein dairy operation in Western Maryland. As an adolescent and young adult, Ethan began to ask a recurring question: what is the determining biological difference between the animals we keep as pets and those relegated to the dinner plate? Later, raising his own children and seeking to satisfy their protein requirements as they grew, this question returned, along with growing concerns around human health, climate change, and the natural resource implications of intensive animal protein production and consumption. In 2009, Ethan responded by founding Beyond Meat to understand the fundamental composition of meat and build it directly from plants.

In 2009, we opened our first operation in a small commercial kitchen in Maryland and we began selling an early plant-based product to Whole Foods Markets Prepared Foods in the Mid-Atlantic region. In 2010, also in Maryland, we opened our own modest manufacturing facility. During this period, Ethan began working extensively with two researchers at the University of Missouri’s Bioengineering and Food

Science Department at the College of Agriculture and Natural Resources, along with faculty and students at the University of Maryland's Nutrition & Food Science Department. Ethan ultimately licensed a process developed by the researchers that combined proteins from plants into a basic structure resembling animal muscle, or meat, and used this as an initial foundation for Beyond Meat products. With this basic protein platform and an understanding that the balance of parts of meat, namely lipids, trace minerals, and water, were also present in abundance outside the animal, it became clear that with appropriate resources, building meat from plants was indeed possible.

Over the years, Beyond Meat has continued to invest heavily in research, development and innovation as recently demonstrated by our state of the art Manhattan Beach Project Innovation Center which is a part of our world headquarters in El Segundo, California. Our work is a team effort, defined by passionate and capable management, scientists, technicians and engineers who share a common goal to achieve enormous lasting benefits to our society and the planet.

Industry

- ***Our Market Opportunity***

We operate in the large and global meat industry, which is comprised of fresh and packaged animal-based meats for human consumption. According to data from Fitch Solutions Macro Research, the meat industry is the largest category in food and in 2017 generated estimated sales across retail and foodservice channels of approximately $270 billion in the United States and approximately $1.4 trillion globally. Our core target market is the United States, which has the highest level of animal-based meat consumption per person on a global basis, according to the OECD.

We believe that consumer awareness of the perceived negative health, environmental and animal-welfare impacts of animal-based meat consumption has resulted in a surge in demand for viable plant-based protein alternatives. Despite this growing demand, the plant-based meats category currently represents approximately two percent of the U.S. meat industry, highlighting the lack of satisfying plant-based meat options and scaled winners in the category. According to Nielsen data commissioned by the Plant Based Foods Association, sales of plant-based meat in the retail channel generated just over $670 million of retail sales over the 52-week period ending June 16, 2018.

We are growing at a substantially faster rate than the existing animal-based meat and plant-based meat industries and expect our growth to accelerate. We believe our outsized revenue growth will allow us to capture an increased share of the broader U.S. meat category, supported by a number of key drivers, including the authentic comparability and sensory experience of our products to their animal-based meat equivalents, continued mainstream acceptance of our products with the traditional animal-based meat consumer, heightened consumer awareness of the role that food and nutrition, particularly plant-based foods, play in long-term health and wellness, and growing concerns related to the negative environmental and animal-welfare impacts of animal-based meat consumption.

A key analogy for both the approach to and the scale of our opportunity is the strategy by which the plant-based dairy industry captured significant market share of the dairy industry over the past two decades. According to research firm Mintel, the current size of the non-dairy milk category is equivalent to approximately 13% of the size of the dairy milk category in the United States. According to the Mintel Report, the non-dairy milk category in the United States was estimated to be approximately $2 billion as of 2017, which grew at a compound annual growth rate of 10% from 2012 to 2017. The success of the plant-based dairy industry was based on a strategy of creating plant-based dairy products that tasted better than previous non-dairy substitutes, packaged and merchandised adjacent to their dairy equivalents. We believe that by applying the same strategy to the plant-based meat category, it can grow to be at least the same proportion of the $270 billion meat category in the United States, which over time would represent a category size of $35 billion in the United States alone. We also believe that the introduction of our plant-based products is serving as a similar catalyst in the meat industry. As a market

leader in the plant-based meats category, we believe we are well-positioned to capture and drive a significant amount of this category growth.

We believe there is significant demand for our products across the globe in retail and restaurant and foodservice channels. In markets excluding the United States, the amount of meat consumed has more than doubled in the past two decades from 120 million tons in 1997 to 280 million tons in 2017, according to the OECD. Our initial target markets include Australia, Europe, Hong Kong, Israel, South Korea, South Africa and parts of the Middle East, where we have received strong inbound interest for our plant-based products.

- ***Health and Environmental Impact of Animal-Based Meat Consumption***

Consumer interest in plant-based proteins, particularly among millennial and younger generations, has been driven in part by growing awareness of the health and environmental impact of animal-based meat consumption. Now that consumers have access to unprecedented levels of information provided via the Internet and social media channels, we expect global awareness of these issues to grow and have a positive impact on consumer demand for our products.

- *Health*: The negative impact on health caused by certain meats has been well publicized in recent years. In 2004, the WHO highlighted a paper indicating that dietary factors, including consumption of certain meats, accounted for at least 30% of most cancers in developed countries and up to 20% in developing countries. The WHO has since added processed meats such as hot dogs, ham, bacon and sausage to its Group 1 category of carcinogens. A similar conclusion was presented at the American Heart Association, where researchers conducting a 2017 dietary study of over 15,000 adults between 2003 to 2013 highlighted that people who eat mostly a plant-based diet were associated with a 42% reduced risk of developing heart failure among people without diagnosed heart disease or heart failure. Additionally, animals and livestock are also susceptible to various diseases such as Mad Cow (beef), Swine Flu (pork) and Avian Influenza (poultry) that may cause further health risks from consuming potentially infected animal meats.

- *Climate change*: The global livestock industry is estimated to be responsible for a significant portion of global greenhouse gas emissions, such as methane and nitrous oxide. Estimates range from 18 to 51%. The landmark IPCC Report highlighted that climate change is expected to cause “severe, widespread, and irreversible impacts” on the natural environment unless carbon emissions are cut sharply and rapidly. The report highlighted that behavioral changes, including dietary changes such as eating less meat, can have a significant role in cutting emissions.

- *Global resource usage*: Rising global meat consumption and livestock production has been shown to have major negative impacts on the environment due to the burden placed on land

and water resources. According to the FAO, livestock occupies 30% of the planet's land surface and accounts for 78% of all agricultural land use. The WRI Water Report also indicates that 29% of the water in agriculture is directly or indirectly used for animal production. Meat consumption is also burdensome on the environment in terms of production inputs. According to the WRI Report, beef is highly inefficient to produce because only 1% of the feed consumed by cattle is converted to calories that people consumed from eating beef while pork converts approximately 10% and poultry converts approximately 11% of their feed to human-edible calories. During 2017 and 2018, Beyond Meat engaged the University of Michigan to conduct a peer-reviewed, third-party-led Life Cycle Assessment comparing the environmental impacts associated with producing a ¼-lb Beyond Burger versus a ¼-lb, standard 80/20 beef burger (which is a mixture of 80% lean cow muscle and 20% cow fat). The results of this study show that compared to a beef burger, The Beyond Burger generates 90% less greenhouse gas emissions, requires 46% less energy, has 99% less impact on water scarcity and 93% less impact on land use.

- *Animal welfare*: Worldwide, it is estimated that about 60-70 billion farm animals are now produced for food each year; with two out of every three being factory farmed. Over the past decade, animal welfare groups have publicized a range of investigations highlighting the issues related to safety, welfare and well-being of animals caused by mass livestock production, which we believe has led to substantial movement toward more plant-based alternatives.

Our Competitive Strengths

We believe that the following strengths position us to generate significant growth and pursue our objective to become a leader in the global meat category.

- ***Dedicated Focus on Innovation***

We invest significant resources in our innovation capabilities to develop plant-based meat alternatives to popular animal-based meat products. Our innovation team, comprised of approximately 44 scientists, engineers, researchers, technicians and chefs, has delivered multiple first-to-market plant-based meat breakthroughs, as well as continuous improvements to existing products. Both our Beyond Burger and our Beyond Sausage products are the result of this approach. We are able to leverage what we learn about taste, texture and aroma across our platform and apply this knowledge to each of our product offerings. In addition, we recently opened our 30,000 square foot Manhattan Beach Project Innovation Center in El Segundo, California, which is ten times the size of our previous lab space. In our new innovation center, we have a strong pipeline of new products in development, and can more rapidly transition our research from bench top to scaled production. As our knowledge and expertise deepens, our pace of innovation is accelerating, allowing for reduced time between new product launches. Our goal is to develop at least one new product a year. After taking multiple years to develop the first Beyond Burger, it took us less than a year to develop a new version, with improved taste, texture and aroma attributes. This newer version of The Beyond Burger is already being sold by A&W Canada, generating enthusiastic comparisons to beef. We expect this faster pace of product introductions and meaningful enhancements to existing products to continue as we innovate within our core plant-based platforms of beef, pork and poultry.

- ***Brand Mission Aligned with Consumer Trends***

Our brand is uniquely positioned to capitalize on growing consumer interest in great-tasting, nutritious, convenient, higher protein and plant-based foods. We have also tapped into growing public awareness of major issues connected to animal protein, including human health, climate change, resource conservation and animal welfare. Simply put, our products aim to enable consumers to "Eat What You Love" without the downsides of conventional animal protein. Consumer research shows that health concerns are some of the key reasons consumers seek plant-based alternatives to meat. Our ¼-lb

retail Beyond Burger contains zero cholesterol and about 40% less saturated fat than a ¼-lb standard 80/20 beef burger.

We have built a powerful brand with broad demographic appeal and a passionate consumer base. Our brand awareness is driven by strong social marketing, with over 1.0 million combined social media and newsletter followers as of September 2018, more than 4.0 billion earned media impressions in 2017, and 7.5 billion earned media impressions between January and September 2018. See "—The Beyond Meat Strategic Difference—Unique Approach to Our Brand" above for more information on "earned media impressions" and the limitations of this metric. Our audience continues to grow from the attention generated by our large following of celebrities, influencers and brand ambassadors who identify with our mission.

- ***Product Portfolio Generates Significant Demand from Retail and Restaurant Customers***

Rapidly growing sales of our products by both our retail and restaurant partners have helped us foster strong relationships in a relatively short period of time. We provide our retailers with exciting new products in the meat case, where innovation rarely occurs. Many of our retail customers have experienced increasing levels of velocity of our products, measured by units sold per month per store, as well as repeat purchases. Recent shopper data research demonstrates Beyond Meat's mainstream consumer appeal, revealing that 93% of Beyond Burger buyers at one of the nation's largest conventional grocers, Kroger, also purchase meat over the 26-week period ended June 30, 2018, which indicates that our products appeal to a much wider audience than the niche audience of vegans and vegetarians that typically purchase legacy meat substitutes. Our restaurant customers are excited by the opportunity to differentiate their menu offering and attract new customers by partnering with Beyond Meat, and are seeking new ways to further promote our product. In summer 2018, A&W Canada, the country's second largest burger chain, ran an advertising campaign promoting The Beyond Burger as an exciting new product offering to drive consumer traffic. We believe their choice to feature The Beyond Burger demonstrates the marketing power of our brand and overall consumer excitement for our product. Additionally, popular restaurants have approached us directly to carry our branded product, despite already carrying our competitors' products. This type of demand for our products has been a driving force in building strong ties with customers who have been continuously impressed by the impact our brand can make on their business.

- ***Experienced and Passionate Executive Management Team***

We are led by a proven and experienced executive management team. Prior to founding Beyond Meat, Ethan Brown, our President and Chief Executive Officer, spent over a decade in the clean energy industry working for hydrogen fuel cell leader, Ballard Power Systems, rising from an entry level manager to reporting directly to the Chief Executive Officer. Mr. Brown's significant experience in clean tech, coupled with a natural appreciation for animal agriculture, led him to start a plant-based food company. Seth Goldman, our Executive Chair, has extensive experience working at fast-growing brands in the food and beverage industry, having founded Honest Tea Inc., which was later sold to The Coca-Cola Company. Our management team plays an integral role in Beyond Meat's success by instilling a culture committed to innovation, customer satisfaction and growth. Over time, we have grown our executive management team with carefully selected individuals who possess substantial industry experience and share our core values. The other members of our executive management team, which include Mark J. Nelson, Chief Financial Officer; Charles Muth, Chief Growth Officer; Dariush Ajami, Chief Innovation Officer; and Stephanie Pullings Hart, Senior Vice President, Operations, have an average of 21 years of industry experience, having driven growth at both consumer packaged goods companies and high growth businesses, such as The Clorox Company, The Coca-Cola Company, Farmer Bros. Co. and Nestlé. We believe this blend of talent gives us tremendous insights and capabilities to create demand and fulfill it in a scalable, profitable and sustainable way.

Our Growth Strategy

- ***Pursue Top-line Growth Across our Distribution Channels***

We believe there is a significant opportunity to expand Beyond Meat well beyond our current retail and restaurant footprint. Our early focus was to establish a presence in the grocery retail channel, and we have successfully expanded into approximately 28,000 points of distribution across the United States and abroad. In addition to further growth within retail, we are beginning to sell more of our product in restaurants and other foodservice locations and developing relationships with international partners, both of which represent significant new opportunities. We believe increased distribution will lead more consumers to purchase our products and increase the overall size of the plant-based protein category as more consumers shift their diets away from animal-based proteins.

We have developed a strategy to pursue growth within the following distribution channels:

- *Retail:* Building on the strong success of The Beyond Burger, we intend to increase our presence as the first plant-based protein offering in the meat case. We have a strong presence at leading food retailers, including Albertsons, Kroger, Wegmans and Whole Foods Market. We have a significant opportunity to grow our sales within U.S. retail by focusing on increasing sales at our existing points of distribution, as well as increasing sales of new products, such as our Beyond Sausage product. We also expect to grow our U.S. retail distribution by establishing commercial relationships with new customers. Examples of customer wins in 2018 include Publix and Sprouts.

- *Restaurant and Foodservice:* Our 2017 national food distribution launch of The Beyond Burger has resulted in our products being served in approximately 11,000 restaurant and foodservice outlets. We have established other partnerships with selected restaurant chains, including BurgerFi, Bareburger, TGI Fridays and A&W Canada. We plan to continue to aggressively expand our network of restaurant and foodservice partners. We have received significant interest from new potential partners and are expecting to launch at several prominent restaurant chains in 2019.

- *International:* We believe there is significant demand for our products in Canada and Europe across retail and restaurant and foodservice channels and expect to increase production for those regions in 2019. We have established and seek to establish additional relationships with distributors in other geographies, including Australia, Israel, South Korea, South Africa and parts of the Middle East.

- ***Invest in Infrastructure and Capabilities***

We are committed to prioritizing investment in our infrastructure and capabilities in order to support our strategic expansion plans. As a fast-growing company, we are making significant investments in hiring the best people, maximizing our supply chain capabilities and optimizing our systems in order to establish a sustainable market-leading position for the long-term future. This year, we commenced production at a new state-of-the-art manufacturing facility and entered into relationships with several co-manufacturers (increasing from two in the first half of 2018 to four currently, with one more expected by year-end) to significantly increase our production capacity. By the end of the first quarter of 2019, we expect to triple our monthly production capacity as compared to the end of the second quarter of 2018. We have plans to unlock additional capacity both domestically and internationally in 2019. We are continuing to hire experienced employees in our sales, marketing, operations, innovation and finance teams to support our rapid growth. We are constantly evaluating and improving our supply chain processes and partnerships, so that we can increase manufacturing efficiencies and quality, while reducing costs.

- ***Expand Our Product Offerings***

The successes of The Beyond Burger and Beyond Sausage products have confirmed our belief that there is significant demand for additional plant-based meat alternative products. We intend to strengthen our product offering by improving the formulations for our existing portfolio of products and by creating new products that expand the portfolio. We are continuously refining our products to improve their taste, texture and aroma. In addition, we are committed to increasing our investment in research and development to continue to innovate within our core plant-based platforms of beef, pork and poultry to create exciting new product lines and improve the formulations for our existing portfolio of products.

- ***Continue to Grow Our Brand***

We intend to continue to develop our brand and increase awareness of Beyond Meat. We plan on highlighting our “Eat What You Love” message and the global environmental benefits that come with consumers eating more of our products. We also plan to continue to create relevant content with our network of celebrities, influencers and brand ambassadors, who have successfully built significant brand awareness for us by supporting our mission and products and incorporating Beyond Meat into their daily lifestyle. We intend to expand our field marketing efforts to sample products directly with consumers in stores and at relevant events. We are launching a Beyond Meat food truck in the fall of 2018 that can support consumer sampling, content creation, as well as media, influencer and customer activations.

- ***Remain Mission Focused and True to Our Values***

We are a mission-driven business with long-standing core values. We strive to operate in an honest, socially responsible and environmentally sustainable manner and are committed to help solve the major health and global environmental issues which we believe are caused by an animal-based protein diet and existing meat industry practices. We believe our authentic and long-standing commitment to these causes better positions us to build loyalty and trust with current consumers and helps attract new ones. Our corporate culture embodies these values and, as a result, we enjoy a highly motivated and skilled work force committed to our mission and our enterprise.

Our Products

We sell a range of products across the three core plant-based platforms of beef, pork and poultry. They are offered in ready-to-cook formats (merchandised in the meat case), which we refer to as our “fresh” platform, and ready-to-heat formats (merchandised in the freezer), which we refer to as our “frozen” platform. Though the original line of Beyond Meat products were ready-to-heat, our ready-to-cook offerings, such as Beyond Burger and Beyond Sausage, have been the chief drivers of our growth. All of our products are 100% free of gluten and GMOs and are significantly lower in saturated fats than their animal-based equivalents. We are focused on making them nutritionally dense, with minimal negative attributes.

Ready-to-cook (“Fresh”)

***The Beyond Burger*.** The Beyond Burger, our flagship product, was our first product merchandised in the meat case of grocery stores. The Beyond Burger is designed to look, cook and taste like traditional ground beef. The Beyond Burger’s primary source of protein comes from yellow peas, providing 20 grams of protein and three grams of fiber per serving, and is free from soy, gluten and GMOs.

***Beyond Sausage*.** Beyond Sausage is a ready-to-cook sausage designed to look, cook and taste like a pork sausage. Beyond Sausage’s primary source of protein comes from yellow peas, providing 16 grams of protein and three grams of fiber per serving, and is free from soy, gluten and GMOs. Beyond Sausage currently comes in three flavors across both retail and foodservice: Brat Original, Hot Italian and Sweet Italian.

Ready-to-heat (“Frozen”)

***Beyond Beef Crumbles*.** Beyond Beef Crumbles are ready-to-heat products designed to look and satisfy like minced or ground beef. Beyond Beef Crumbles’ primary source of protein comes from yellow peas, providing approximately 13 grams of protein and one gram of fiber per serving, and is free from soy, gluten and GMOs. Beyond Beef Crumbles currently come in two flavors for retail: Beefy and Feisty. The four flavors available for foodservice are Plain, Beefy, Feisty and Sausage.

***Beyond Chicken Strips*.** Beyond Chicken Strips are ready-to-heat products that are intended to shred and satisfy like chicken. Beyond Chicken Strips’ source of protein comes from soy and yellow peas, providing approximately 22 grams of protein and three grams of fiber per serving, and is free from gluten and GMOs. Beyond Chicken Strips currently come in three flavors for retail: Southwest Style, Grilled and Lightly Seasoned. The two flavors available for foodservice are Plain and Lightly Seasoned.

Customers and Distributors

- ***Retail***

Since the success of The Beyond Burger, we have created a strong presence at leading food retailers across the country, such as Ahold, Kroger, Safeway, Shop Rite, Stater Brothers, Target, Wegmans and Whole Foods Market.

Many of these retailers purchase our products through food distributors which purchase, store, sell, and deliver our products to retailers. Because such distributors function in an intermediary role, we do not consider them to be customers.

For 2017, our largest distributors in terms of their respective percentage of our gross revenues included the following: UNFI, 38%; KeHE, 10% and DOT, 10%. For 2017, sales to Whole Foods, our largest customer, was 10%.

For 2017, our U.S. retail channel accounted for approximately 78% of our net revenues and has grown approximately 107% since 2016. We have a significant opportunity to grow our sales within U.S. retailers with improved fill rates at new and existing retail partners as we increase our production capacity, as well as increased sales of our innovations, such as our Beyond Sausage.

- ***Restaurant and Foodservice***

Our 2017 national food distribution launch of The Beyond Burger has resulted in its being served in approximately 11,000 restaurant and foodservice outlets. We have established partnerships with selected restaurant chains, including A&W, Bareburger, BurgerFi, TGI Fridays and Veggie Grill. Our products are also available in prominent entertainment and hospitality vendors, such as Cinemark Theatres, Disney World, Hilton, Hyatt, LEGOLAND and Marriott. In 2017, our restaurant and foodservice channel accounted for approximately 22% of our net revenues, and has grown approximately 85% since 2016. We

expect to launch The Beyond Burger and other products at additional prominent restaurant chains in 2019.

- ***International***

We distribute our products internationally, using distributors in Australia, Canada, Chile, China, Germany, Hong Kong, Ireland, Israel, New Zealand, South Korea, Taiwan, the European Union, the Middle East and the United Kingdom. In 2017 and in the nine months ended September 29, 2018, our international channel represented approximately 1% and 3%, respectively, of our gross revenues. We expect our international channel to grow substantially in the future, and believe that it will contribute an increasing share of our net revenues in coming periods.

Case Studies

- ***Kroger***

Beyond Meat generated considerable excitement in July 2016, when it launched the plant-based The Beyond Burger and sold it in the meat section. There was considerable skepticism in the conventional grocer community in general as to whether the product—and bold merchandising strategy—would work in conventional grocery chains, and whether the success of the product's initial launch at natural foods and specialty grocer chains was driven solely by vegans and vegetarians and other natural consumers. Beyond Meat maintained that The Beyond Burger was developed for, and held strong appeal among, meat eaters who enjoyed the taste of meat, but increasingly sought to avoid the health issues associated with animal-based meat.

In June 2017, Kroger put The Beyond Burger and Beyond Meat's consumer-target hypothesis to the test, authorizing close to 1,000 Kroger and Kroger-affiliated brand stores in five geographically diverse divisions in Atlanta and Michigan Kroger divisions plus King Soopers (Colorado), Ralphs (Southern California) and Fred Meyer (Oregon/Washington), to carry the product, selling it in the meat section. The product was an immediate success across store brands and geographies. The average velocity steadily increased from an average of four to five units sold per store per week upon launch to an average of 16 to 19 units sold per store per week as of August 2018. In the Southern California division of Ralph's, a subsidiary of Kroger, The Beyond Burger was the #1 selling packaged burger patty by unit in the meat case for a 12-week period, outselling other packaged burgers by more than 50%. Due to the popularity of The Beyond Burger, Kroger recently extended the product's distribution to an additional 11 divisions, bringing the total distribution store count to slightly more than 1,500 stores and 17 total divisions.

- ***A&W Canada***

In late 2017, we were approached by A&W Canada, the second largest quick-serve burger chain in Canada, to hold some exploratory discussions around the addition of The Beyond Burger to A&W's menu at its nearly 1,000 outlets. A&W Canada, a separate entity from A&W US, has a long history of adopting forward-thinking business practices aimed at better ingredients, transparency, and environmental stewardship.

While the A&W team saw a strong sustainability story in the idea of offering The Beyond Burger, they were initially more cautious in wanting to validate that The Beyond Burger would appeal to A&W's meat-loving consumer base. In January 2018, A&W conducted concept and focus group testing to gauge consumers' appetite for The Beyond Burger.

The results of the consumer testing were very positive. The concept of a plant-based burger that tasted like real meat, but without its health baggage, held strong appeal. In addition, in the taste testing, the actual product received high marks from surprised consumers. A&W CEO, Susan Senecal commented, "We were blown away by the flavor and taste and delicious 'burgerness' of Beyond." On the strength of these results, The Beyond Burger became the fastest new-product launch in A&W history. More than 90,000 patties were sold in the first three days after the launch and prior to the start of any

media promotions. Nationwide, the level of consumer demand outpaced both A&W's & Beyond Meat's projections, leading to product sell-outs and widespread clamoring for more burgers. A&W also received reports from store managers that guest counts were up, indicating that The Beyond Burger was driving incremental business.

Our Supply Chain

- ***Sourcing and Suppliers***

The principal ingredients to manufacture our products include pea protein and our plant-based flavors. We procure the raw materials for our woven protein from a number of different suppliers. Although most of the raw materials we require are typically readily available from multiple sources, we rely on one single source supplier, Roquette America, Inc., or Roquette, for the pea protein used for The Beyond Burger and Beyond Sausage.

We have a second supplier of yellow peas sourced from Canada which we use in our Beef Crumbles and Beyond Chicken Strips, but it is not a single source supplier. This supplier based in China exports the pea protein it processes into the U.S. to an intermediary facility before it is shipped to our facilities in Columbia, Missouri.

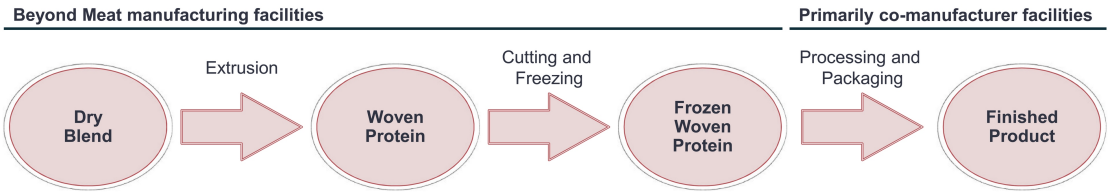
We continually seek additional sources of pea protein and other plant-based protein for our products that meet our criteria.

Flavors consist of product flavors that have been developed by our innovation team in collaboration with our supply partners exclusively for us. The formulas are then produced by our suppliers for use in our products. Ingredients in our flavors are qualified through trials to ensure manufacturability. Upon receipt of the ingredients, we receive Certificates of Analysis from our suppliers in our quality control process to confirm that our rigorous standards have been met. Flavors are extensively tested prior to introduction to ensure finished product attributes such as taste, texture and appearance are not negatively impacted.

We do not have long-term supply agreements with most of our suppliers. However, we secure our supplies on a purchase order basis. As most of the raw materials we use in our flavors are readily available in the market from many suppliers, we believe that we can within a reasonable period of time make satisfactory alternative arrangements in the event of an interruption of supply from our vendors. As of September 29, 2018, we believe that we had an adequate supply for our flavors for at least 20 weeks.

Manufacturing

Our manufacturing process is diagrammed below.



First, a dry blend containing our pea protein is combined within our manufacturing facility. The dry blend then enters our extruder, where both water and steam are added. We then use a combination of heating, cooling and variations of pressure to weave together the proteins. The formed woven protein is then cut into smaller pieces to expedite the freezing process and assist in the final manufacturing process. The frozen woven protein is used as the basis of all our products. Next, our co-manufacturers further process the frozen woven protein by combining flavorings and other ingredients, after which the co-manufacturer prepares the final packaged product that is then shipped to stores. In order to sustain

the quality of our products, we have implemented a “define, measure, analyze, improve and control,” or DMAIC, approach to improve, optimize and stabilize our processes and design.

While we manufacture The Beyond Burger for sale to the foodservice channel, we depend on co-manufacturers for all of our other products. Our co-manufacturers are located in California, Texas, Georgia and Pennsylvania. All third-party co-manufacturers sign non-disclosure agreements to ensure that our proprietary intellectual property and trade secrets are protected. We continue to explore establishing relationships with additional co-manufacturers as the business grows to take advantage of more competitive pricing and availability of our products.

Quality Control

In-process quality checks are performed throughout the manufacturing process, including temperature, physical dimension and weight. We provide specific instructions to vendors and restaurants for storing and cooking our products. All products are transported and stored frozen. Frozen products such as the Beyond Beef Crumbles and Beyond Chicken Strips are intended to be prepared from their frozen state, with cooking instructions enclosed on all packaging.

Retail products sold in the meat case as part of our “fresh” platform, such as The Beyond Burger and Beyond Sausage are shipped to the customer frozen. The foodservice customer is provided instructions on ‘slacking,’ which is typically done by moving frozen food to a refrigerator to allow it to slowly and safely thaw before cooking. For this step, retail customers must apply a “use by date” sticker of seven days for Beyond Sausage or ten days for The Beyond Burger.

Distribution

Distribution of products occurs from our in-house manufacturing facilities in Columbia, Missouri. From our co-manufacturing facilities, products are transferred by third-party logistics providers to cold storage facilities or are directly shipped to the customer.

At present, we do not utilize internal software to track loads but we leverage the systems of our transportation partners to manage our supply chain through retail distribution.

Ingredient and Packaging Suppliers

Packaging supplies are sourced in the United States with the exception of the Beyond Sausage tray which is currently sourced from China. We maintain approximately 10 weeks of inventory on these trays to ensure that we can mitigate any risk of interruption in supply.

We utilize an industry standard Number 3 Modified Atmospheric Packaging, or MAP Tray, that is slotted for the placement of two four ounce patties and used for the retail Beyond Burger. Packaging specifications are clearly defined and shared with our third-party relationships.

Order Fulfillment

Our customer service and logistics functions are responsible for customer-facing activities, order management, customer logistics, 4PL leadership and intra-company distribution. These functional areas reside in the Sales Operations department. We utilize NetSuite (ERP), MS Applications and Cloud interface platforms for these processes. Customer orders are principally transmitted via electronic data interface, or EDI, but may be processed manually if necessary. Orders are accepted in NetSuite, reviewed for accuracy and fulfillment plans are developed. When fulfillment plans are ready, orders are downloaded and emailed to our transportation partners for tendering. The order fulfillment process is led by the Sales Operations Manager and two direct-reports. Metrics for the Customer Service and Logistics team include order fill, on-time shipping, customer scorecards as needed and cost leadership. We have agreements with third-party service providers for all of our shipping needs.

Sales and Marketing and Consumer Outreach

- ***Sales***

As of September 29, 2018, our 35-person sales and commercial team, led by Chief Growth Officer, Charles Muth, is organized into three divisions, retail, foodservice and international. The sales team has an extensive range of experience from leading natural food, meat and plant-based protein companies. The retail, foodservice and international teams work in close coordination with a national network of broker and distributor sales teams that gives us access to accounts across the United States.

- ***Field Marketing Representatives***

We have an active field marketing team that samples our products at special events and utilizes a food truck. As of September 2018, we have executed 263 such events, with approximately 76,000 samples distributed.

- ***Digital Marketing and Social Media***

The primary means by which we drive consumer awareness and interest in our products is via (i) social media, (ii) our digital newsletter, which had over 202,000 subscribers as of September 2018 and (iii) our website, which had on average over 273,000 unique monthly visits through September 2018.

While we enjoy upward growth in our online marketing activities, we have historically done a relatively modest amount of paid targeting. In 2017, we dedicated approximately 4% of our marketing and advertising spend to digital marketing channels. We maintain a registered domain website at www.beyondmeat.com, which serves as the primary source of information regarding our products. Our website had approximately 1.9 million visitors in 2017 based on internal tracking. Our website presence has continued to grow, as we have had approximately 2.4 million new visitors to our website between January and September 2018, based on Google Analytics. Our website is used as a platform to promote our products, provide news, share recipes, highlight nutritional facts and provide general information on where to purchase our products, whether retail or as served in an establishment.

We extensively use social media platforms such as Facebook, Instagram and Twitter for online collaboration. These platforms are fundamentally changing the way we engage with our consumers and allow us to directly reach desirable target demographics such as millennials and “Generation Z.” A few examples of how we use social media to connect with our consumers and promote healthy lifestyles are summarized below.

- *Facebook:* We maintain a company Facebook page, which we use to facilitate consumer services, distribute brand information and news and publish videos and pictures promoting the brand. We also conduct regular contests and giveaways. As of September 2018, we had over 339,000 Facebook followers.

- *Instagram*: We maintain an active company Instagram account, @beyondmeat, which we use to publish content related to our products and company in order to better connect with potential and existing consumers. We frequently publish news, celebrity promotion and content related to our activities. As of September 2018, we had over 450,000 Instagram followers.

- *Twitter*: We maintain an active company Twitter account, @BeyondMeat, which we use to disseminate trending news and information, as well as to publish short format tips, tricks and shortcuts. We also regularly interact with our consumers. As of September 2018, we had over 60,000 Twitter followers.

- *LinkedIn:* We maintain an active company LinkedIn account, which we use to disseminate news related to Beyond Meat and industry-related media and information. We use our LinkedIn account as a job board for individuals interested in working with us. As of September 2018, we had more than 11,000 LinkedIn followers.

Celebrity Endorsement

We are fortunate to have partnered with celebrities such as Tia Blanco, Leonardo DiCaprio, Snoop Dogg, Kyrie Irving, DeAndre Hopkins and DeAndre Jordan who share our core values. Their organic involvement and interest are helpful to promoting our overall mission.

Competition

We operate in a highly competitive environment. We believe that we compete with both conventional animal-protein companies, such as Cargill, Hormel, JBS, Tyson and WH Group (including its Smithfield division) and also plant-based protein brands, such as Boca Foods, Field Roast Grain Meat Co., Gardein, Impossible Foods, Lightlife, Morningstar Farms and Tofurky. We believe the principal competitive factors in our industry are:

- taste;
- nutritional profile;
- ingredients;
- texture;
- ease of integration into the consumer diet;
- low-carbohydrate, low-sugar, high fiber and protein;
- lack of soy, gluten and GMOs;
- convenience;
- cost;
- brand awareness and loyalty among consumers;
- media spending;
- product variety and packaging;
- access to major retailer shelf space and retail locations;
- access to major restaurant and foodservice outlets and integration into menus; and
- intellectual property protection on products.

We believe we compete effectively with respect to each of these factors. However, many companies in our industry have substantially greater financial resources, more comprehensive product lines, broader market presence, longer standing relationships with distributors and suppliers, longer operating histories, greater production and distribution capabilities, stronger brand recognition and greater marketing resources than we have.

Employees

As of September 29, 2018, we had 355 full-time employees, including 233 in operations, 44 in innovation, research and development, 35 in sales and marketing and 11 in finance. 130 of these full-time employees are contract workers. None of our employees is represented by a labor union. We have never experienced a labor-related work stoppage.

Facilities

We do not own any real property. We lease our headquarters which includes the Manhattan Beach Project Innovation Center at 1325 East El Segundo Blvd., El Segundo, California pursuant to a lease agreement that expires on January 31, 2022. If we are not in breach of the terms of our lease and provide our landlord with the required notice, we have an option to extend the term for an additional twenty-four month period commencing when the prior term expires upon written notice to our lessor. The approximately 30,000 square foot space houses our corporate headquarters and the Manhattan Beach Project Innovation Center.

We also lease our industrial manufacturing plant located at 1714 Commerce Ct., Suites A&B, Columbia, Missouri pursuant to a lease agreement, as supplemented by a side letter dated June 10, 2014. The lease expires on June 30, 2019. The approximately 26,000 square foot facility houses our industrial manufacturing plant.

We have recently opened an expanded manufacturing facility located at 2400 Maguire Boulevard, Columbia, Missouri pursuant to a lease agreement that expires on October 1, 2024. The manufacturing facility is approximately 64,000 square feet. If we are not in breach of the terms of our lease, the term of the lease will be automatically renewed for two consecutive three-year option periods.

We believe that our facilities are sufficient to meet our current needs and that suitable additional space will be available as and when needed.

Research and Development

We have dedicated approximately 26,000 square feet of our headquarters (the Manhattan Beach Project Innovation Center) to our research and development team, who create, test and refine our products. We employ in-house scientists, engineers, researchers and testers to help create the next iterations to plant-based meat products. Our team has delivered a number of first-to-market breakthroughs focused on plant-based meat and we are also focused on continuous improvement of existing products. We have and will continue to protect any intellectual property created by us.

As of September 29, 2018, we employed approximately 44 scientists, engineers, researchers, technicians and chefs to help create the next generation of food for our consumers.

Our Beyond Meat Rapid and Relentless Innovation Program defines the details of the product innovation process from ideation and prototype development through commercialization. This process assigns responsibility and accountability of each functional team throughout the process and defines deliverables at each step.

Product Innovation

Innovation is a core competency of ours and important part of our growth strategy. Our goal is to identify large, animal-based meat product categories across our core plant-based platforms of beef, pork and poultry that exhibit long-term consumer trends. We then dedicate significant research and development resources to create authentic plant-based versions for these products that replicate taste, texture and aroma of their animal-based equivalents. We have been able to leverage the success of our existing products and resulting brand equity to launch improved versions our existing products and create new products. We have a range of new products in our pipeline and our goal is to develop at least one new product a year.

The innovation team undertakes extensive research projects to increase our fundamental understanding of animal-based meat and plant-based equivalents. A few examples of where we are focusing on continued refinements of our products include:

- *Better fat adipose tissue and saturated fat mimics*: We are researching new materials and technologies capable of mimicking saturated fat in terms of texture and appearance, but without the nutritional drawbacks of saturated fat.
- *Alternative functional proteins*: We pursue new non-animal proteins that add function to our food products, including native proteins that can denature during cooking, protein binders and protein emulsifying agents and proteins.
- *Additional connective tissue equivalents*: We are seeking materials and methods to introduce additional cartilaginous-like materials and heterogeneity in the form of both texture and appearance in our food products.
- *Encapsulation materials and technology:* We are seeking new materials and technologies to expand the scope of controlled-release delivery systems in our food products as it relates to delivering flavor, color and texturizing agents.
- *Materials and technologies to support flavor and texture development:* We are seeking non-GMO enzymes that can assist with protein enzymolysis as it relates to flavor reactions.

Seasonality

Generally, we expect to experience greater demand for certain of our products during the summer grilling season. In 2017 and in the nine months ended September 29, 2018, we experienced strong net revenue growth compared to 2016, which masked this expected seasonal impact. As our business continues to grow, we expect to see additional seasonality effects, with revenue growth tending to be greater in the second and third quarters of the year.

Trademarks and Other Intellectual Property

We own domestic and international trademarks and other proprietary rights that are important to our business. Depending upon the jurisdiction, trademarks are valid as long as they are used in the regular course of trade and/or their registrations are properly maintained. Our primary trademarks are The Beyond Burger, Beyond Beef, Beyond Chicken, Beyond Meat, Beyond Sausage, The Cookout Classic, The Future of Protein and The Future of Protein Beyond Meat, all of which are registered with the U.S. Patent and Trademark Office. Our trademarks are valuable assets that reinforce the distinctiveness of our brand to our consumers. We have applied for or have trademark registrations internationally as well, including in Argentina, Australia, Brazil, Canada, Chile, China, Colombia, Costa Rica, Egypt, the European Union, Hong Kong, India, Indonesia, Israel, Japan, Mexico, the Middle East, New Zealand, Norway, Philippines, South Korea, Russia, Saudi Arabia, Singapore, South Africa, Switzerland, Taiwan, Thailand, Turkey and the United Arab Emirates. We believe the protection of our trademarks, copyrights, patents, domain names, trade dress and trade secrets are important to our success.

We aggressively protect our intellectual property rights by relying on trademark, copyright, patent, trade dress and trade secret laws and through the domain name dispute resolution system. Our domain name is www.beyondmeat.com, which drew approximately 2.4 million visitors from January through September 2018 based on Google Analytics.

We believe our intellectual property has substantial value and has contributed significantly to our business. We have one issued patent in the United States and have eight pending patent applications in the United States and 12 pending international patent applications.

We consider the specifics of our marketing, promotions and products as a trade secret, and information we wish to keep confidential. In addition, we consider proprietary information related to

formulas, processes, know-how and methods used in our production and manufacturing as trade secrets, and information we wish to keep confidential. We have taken reasonable measures to keep the above-mentioned items, as well as our business and marketing plans, customer lists and contracts reasonably protected, and they are accordingly not readily ascertainable by the public.

Segments

Operating segments are defined as components of an entity for which separate financial information is available and that is regularly reviewed by its chief operating decision maker, or CODM, in deciding how to allocate resources to an individual segment and in assessing performance. Our CODM is our Chief Executive Officer. We have determined that we operate in one operating segment and one reportable segment, as our CODM reviews financial information presented on an aggregate basis for purposes of making operating decisions, allocating resources, and evaluating financial performance.

Government Regulation

Along with our co-manufacturers, brokers, distributors and ingredients and packaging suppliers, we are subject to extensive laws and regulations in the United States by federal, state and local government authorities. In the United States, the primary federal agencies governing the manufacture, distribution, labeling and advertising of our products are the U.S. Food and Drug Administration, or FDA, and the U.S. Federal Trade Commission, or FTC. Under various federal statutes and implementing regulations, these agencies, among other things, prescribe the requirements and establish the standards for quality and safety and regulate our product composition, manufacturing, labeling and other marketing and advertising to consumers. Among other things, the facilities in which our products and ingredients are manufactured must register with the FDA, comply with current good manufacturing practices, or cGMPs and comply with a range of food safety requirements established by and implemented under the Food Safety Modernization Act of 2011. The FDA has the authority to inspect these facilities to evaluate compliance with these requirements. The FDA also requires that certain nutrition and product information appear on our product labels and, more generally, that our labels and labeling be truthful and non-misleading. Similarly, the FTC requires that our marketing and advertising be truthful, non-misleading and not deceptive to consumers. We are also restricted from making certain types of claims about our products, including nutrient content claims, health claims, and claims regarding the effects of our products on any structure or function of the body, whether express or implied, unless we satisfy certain regulatory requirements.

In addition, the U.S. Department of Agriculture, or USDA, regulates certain categories of food products, including meat and poultry products. Although our plant-based products are not currently regulated by the USDA, in February 2018, the agency received a petition from industry requesting that it exclude products not derived from the tissue or flesh of animals that have been harvested in the traditional manner from being labeled and marketed as “meat,” and exclude products not derived from cattle born, raised and harvested in the traditional manner from being labeled and marketed as “beef.” The USDA has not yet responded substantively to this petition, but has indicated that the petition is being considered as a petition for a policy change under the USDA’s regulations.

In addition to federal regulatory requirements in the United States, certain states impose their own manufacturing and labeling requirements. For example, every state in which our products are manufactured requires facility registration with the relevant state food safety agency, and those facilities are subject to state inspection as well as federal inspection. Further, states can impose state-specific labeling requirements. For example, this year, the state of Missouri passed a law that prohibits any person engaged in advertising, offering for sale, or sale of food products from misrepresenting products as meat that are not derived from harvested production livestock or poultry. The state of Missouri Department of Agriculture has clarified its interpretation that products which include prominent disclosure that the product is “made from plants,” or comparable disclosure such as through the use of the phrase “plant-based,” are not misrepresented under Missouri law. We believe that our products are manufactured and labeled in material compliance with all relevant state requirements, including the recent Missouri law,

and pay close attention to any developments at the state or federal level that could apply to our products and our labeling claims.

Internationally, we are subject to the laws of Australia, Canada, Hong Kong, Israel and the United Kingdom.

We are subject to labor and employment laws, laws governing advertising, privacy laws, safety regulations and other laws, including consumer protection regulations that regulate retailers or govern the promotion and sale of merchandise. Our operations, and those of our co-manufacturers, distributors and suppliers, are subject to various laws and regulations relating to environmental protection and worker health and safety matters. We monitor changes in these laws and believe that we are in material compliance with applicable laws.

Legal Proceedings

We are subject to various legal proceedings and claims that arise in the ordinary course of our business. Although the outcome of these and other claims cannot be predicted with certainty, management does not believe the ultimate resolution of the current matters will have a material adverse effect on our business, financial condition, results of operations or cash flows.

On May 25, 2017, Don Lee Farms, a division of Goodman Food Products, Inc., filed a complaint against us in the Superior Court of the State of California for the County of Los Angeles asserting claims for breach of contract, misappropriation of trade secrets, unfair competition under the California Business and Professions Code, money owed and due, declaratory relief and injunctive relief, each arising out of our decision to terminate an exclusive supply agreement between us and Goodman Food Products, Inc. We deny all of these claims and filed counterclaims on July 27, 2017, alleging breach of contract, unfair competition under the California Business and Professions Code and conversion. In October 2018, Don Lee Farms amended its complaint to add ProPortion Foods, LLC (one of Beyond Meat's current contract manufacturers) as a defendant, principally for claims arising from ProPortion's alleged use of Don Lee Farms' alleged trade secrets, and for replacing Don Lee Farms as Beyond Meat's co-manufacturer. Don Lee Farms is seeking unspecified compensatory and punitive damages, declaratory and injunctive relief, including the prohibition of Beyond Meat's use or disclosure of the alleged trade secrets, and attorneys' fees and costs. We are seeking monetary damages, restitution of monies paid to Don Lee Farms, and attorney's fees and costs. We believe we were justified in terminating the supply agreement with Don Lee Farms, that we did not misappropriate their alleged trade secrets and that Don Lee Farms is liable for the conduct alleged in our cross-complaint. We are currently in the process of litigating this matter and intend to vigorously defend ourselves against the claims. Based on our current knowledge, we have determined that the amount of any material loss or range of any losses that is reasonably possible to result from this lawsuit is not estimable.

Roquette Supply Agreement

Pursuant to a supply agreement, Roquette provides us with pea protein sourced from yellow peas from Canada and France which we use in The Beyond Burger and Beyond Sausage. The Roquette agreement has an effective date of January 1, 2018 and expires on December 31, 2019. The pea protein obtained pursuant to the supply agreement is obtained on a purchase order basis. We are required to purchase no less than the minimum volume specified in the agreement in 2018, or the minimum volume commitment, and the total volume specified in the agreement during the term of the agreement, or the total volume commitment. If we purchase less than the minimum volume commitment in 2018, we will be required to pay Roquette the difference between the actual volume purchased and the minimum volume commitment. In addition, if we purchase less than the total volume commitment over the term of the agreement, we will be required to pay Roquette the difference between the actual total volume purchased and the total volume commitment. The agreement also contains maximum volume levels that we can purchase in 2018. We are also required to provide Roquette with three-month rolling forecasts. These

forecasts are subject to approval by Roquette. Payment terms are on a net 60-day basis. Roquette is located in France and they ship the pea protein to an intermediary storage facility in Chicago, Illinois.

As of September 29, 2018, we had in inventory three weeks supply of pea protein based on our current usage rate. We are seeking additional sources to increase our supply and are currently in discussions with another supplier.

MANAGEMENT

Executive Officers and Directors

The following table sets forth information regarding our executive officers and directors as of November 9, 2018.

Name	Age	Position
Ethan Brown	47	President and Chief Executive Officer, Board Member
Seth Goldman	53	Executive Chair, Board Member
Mark J. Nelson	49	Chief Financial Officer, Treasurer and Secretary
Charles Muth	63	Chief Growth Officer
Dariush Ajami	43	Chief Innovation Officer
Stephanie Pullings Hart	46	Senior Vice President, Operations
Gregory Bohlen	59	Board Member
Diane Carhart	63	Board Member
Raymond J. Lane	71	Board Member
Bernhard van Lengerich, Ph.D.	66	Board Member
Michael Pucker[(1)]	57	Board Member
Ned Segal	44	Board Member
Christopher Isaac Stone	44	Board Member
Donald Thompson	55	Board Member
Kathy N. Waller	60	Board Member

(1) Mr. Pucker will resign as one of our directors immediately prior to the effectiveness of the registration statement on Form S-1, of which this prospectus forms a part. As Mr. Pucker is a partner in the law firm of Latham & Watkins LLP, law firm policy prohibits Mr. Pucker from serving on the board of directors of a public company.

Executive Officers

Ethan Brown. Ethan Brown is the founder of Beyond Meat and has served as our President and Chief Executive Officer and as a member of our board of directors since our inception in 2009. He also served as our Secretary since our inception to September 2018. Mr. Brown began his career with a focus on clean energy and the environment, serving as an energy analyst for the National Governors' Center for Best Practices. He then joined Ballard Power Systems (NASDAQ: BLDP), a hydrogen fuel-cell company where he worked for several years, being promoted from an entry-level manager to reporting directly to the Chief Executive Officer before leaving to found Beyond Meat. Mr. Brown also created and opened a center for fuel reformation and has held several industry positions, including Vice Chairman of the Board at The National Hydrogen Association and Secretary of the United States Fuel Cell Council. He is a Henry Crown Fellow at the Aspen Institute and, along with Beyond Meat, is the recipient of the United Nation's highest environmental accolade, Champion of the Earth (2018). Mr. Brown holds a MBA from Columbia University and an MPP with a focus on Environment from the University of Maryland. We believe Mr. Brown's strategic vision for the company and his expertise in technology and business operations makes him qualified to serve on our board.

Seth Goldman. Seth Goldman joined Beyond Meat as Executive Chair and as a member of our board of directors in February 2013. Mr. Goldman is also currently the TeaEO Emeritus and Innovation Catalyst for Coca-Cola Company's Venturing & Emerging Brands, a part-time position he has held since November 2015. Mr. Goldman co-founded Honest Tea Inc., a bottled organic tea company, in February 1998, which was later sold to The Coca-Cola Company, and previously served as Honest Tea's President

and TeaEO until 2015. In 2015, Mr. Goldman was named the #1 Disruptor by Beverage World, and Beverage Executive of the Year by Beverage Industry magazine. He has also been recognized as an Ernst & Young Entrepreneur of the Year and the Washington DC Business Hall of Fame. In 2018, Partnership for a Healthier America recognized Mr. Goldman with its Visionary CEO award. Mr. Goldman serves on the advisory boards of Ripple Foods, a dairy-free plant-based milk company (November 2015 to present), the Yale School of Management (July 2013 to present), the American Beverage Association (April 2010 to present), and Bethesda Green, a local sustainability non-profit he co-founded (January 2008 to present). He has a BA degree in Government from Harvard College and a Masters of Private & Public Management degree from Yale School of Management and is a Henry Crown Fellow of the Aspen Institute. We believe that Mr. Goldman is qualified to serve on our board of directors due to his extensive experience working at fast-growing brands in the food and beverage industry, his experience founding and building an entrepreneurial company and his knowledge of sustainable business practices.

Mark J. Nelson. Mark J. Nelson rejoined Beyond Meat as Chief Operating Officer and Chief Financial Officer in May 2017. In September 2018, he was also appointed Treasurer and Secretary and resigned his Chief Operating Officer position. Mr. Nelson briefly served as Senior Vice President and Chief Financial Officer of Biolase (NASDAQ: BIOL), a medical device company, from March 2017 to May 2017. From February 2016 to March 2017, Mr. Nelson served as our Chief Operating Officer and Chief Financial Officer and from December 2015 to February 2016 served solely as our Chief Financial Officer. From April 2013 to November 2015, Mr. Nelson was Treasurer and Chief Financial Officer of Farmer Bros. Co. (NASDAQ: FARM), a manufacturer, wholesaler and distributor of coffee, tea, spices and culinary products. Prior to that, Mr. Nelson served as Chief Accounting Officer (April 2010 to April 2013), Vice President, Corporate Controller (June 2008 to April 2010) and Vice President and General Manager (June 2006 to May 2008) at Newport Corporation, a formerly publicly traded global supplier of advanced-technology products and systems. He also worked at Thermo Fisher (NYSE: TMO), a biotechnology product development company from June 2002 to October 2004. Mr. Nelson has a BS degree in Business Administration from the University of Massachusetts at Amherst, and an MBA degree from Babson College.

Charles Muth. Charles Muth joined Beyond Meat as Chief Growth Officer in May 2017. In addition to his role at Beyond Meat, Mr. Muth also serves on the board of directors of Bali Beverage Company LLC, a beverage company, which specializes in beverages made from mangosteen. From January 2014 to January 2017, Mr. Muth led the creation of a new entrepreneurial sales and commercial organization within the Coca-Cola Company called Venturing & Emerging Brands as Senior Vice-President. From January 2010 to January 2017, Mr. Muth was Vice President of Sales at Honest Tea Inc. after its acquisition by the Coca-Cola Company. From February 2004 to January 2010, Mr. Muth was Senior Vice President of Sales and Marketing at The Philadelphia Coca-Cola Bottling Company. Mr. Muth also served as Managing Director of Seagram's non-alcoholic mixer business from 2002 to 2004 after its acquisition by the Coca-Cola Company. Prior to the acquisition, Mr. Muth served as the Vice President and General Manager of Joseph E. Seagram & Sons, Inc.'s global non-alcoholic beverages business unit from 1992 to 2002. Mr. Muth has a BS degree in Marketing and Management from Montclair State University and an MBA degree in Finance from Fairleigh Dickenson University.

Dariush Ajami, Ph.D. Dariush Ajami, Ph.D., joined Beyond Meat in June 2015. Since July 2018, Dr. Ajami has been Chief Innovation Officer of Beyond Meat. He served as Director of Chemistry from June 2015 to August 2016, Director of Research from August 2016 to August 2017 and Vice President of Innovation from August 2017 to July 2018. Prior to joining Beyond Meat, Mr. Ajami was an Assistant Professor of Molecular Assembly at The Scripps Research Institute and Skaggs Institute of Chemical Biology from July 2008 to June 2015, where he worked on the fundamentals of molecular assembly, natural products and their applications in therapeutic development. Mr. Ajami has a BS degree in Chemistry from Isfahan University, Iran, a M.S. in Organic Chemistry from the Chemistry and Chemical Engineering Research Center of Iran, and a Ph.D. degree in Organic Chemistry from Technical University of Brunswick (Technische Universität Braunschweig), Germany.

Stephanie Pullings Hart. Stephanie Pullings Hart joined Beyond Meat as Senior Vice President, Operations in January 2018. Prior to her current role, Ms. Hart was Vice President, Technical & Production for Nestlé USA's Confections and Global Foods and Ice Cream divisions from March 2016 to January 2018. She assumed her role in Nestlé USA, a subsidiary of Nestlé SA (SWX: NESN), after a three-year assignment as the Executive Director Technical & Production, Nestlé Australia Ltd. from January 2013 to March 2016. Ms. Hart also worked as the Vice President, Operations, Nestlé Nutrition – Jenny Craig from January 2010 to December 2012. Ms. Hart began her career with Nestlé in 1995 and has held roles of increasing responsibility in manufacturing, research and development and human resources. She has a BS degree in Chemical Engineering from Florida State University and an Executive MBA degree from Benedictine College.

Directors

Ethan Brown. Business background information regarding Mr. Brown is set forth under "Executive Officers" above.

Seth Goldman. Business background information regarding Mr. Goldman is set forth under "Executive Officers" above.

Gregory Bohlen. Gregory Bohlen has served as a member of our board of directors since February 2013. Mr. Bohlen co-founded Union Grove Venture Partners, a venture capital firm, in March 2014 and serves as a Managing Partner. Prior to that, Mr. Bohlen served as Managing Director, Venture Capital at Morgan Creek Capital Management, LLC, an investment management services company, from November 2011 to March 2014 to extend Morgan Creek's venture exposure. From November 2002 to November 2011, Mr. Bohlen served as a managing director of Wasatch Advisors Cross Creek Fund, a venture capital firm. Mr. Bohlen's experience and relationships in the venture capital and investment banking communities span over 30 years, and he has invested in over 50 venture-backed companies. Mr. Bohlen has a BS degree in Agricultural Economics and a MBA degree from the University of Illinois at Urbana-Champaign. We believe that Mr. Bohlen is qualified to serve on our board of directors due to his deep experience in working with entrepreneurial companies.

Diane Carhart. Diane Carhart has served as a member of our board of directors since January 2016. Ms. Carhart joined Stonyfield Farm, Inc., an organic yogurt maker, as Chief Financial Officer in April 1992. and also began serving as Chief Operating Officer in August 2006. Ms. Carhart has a BS degree in Accounting from the University of Connecticut and an MBA degree with a finance concentration from Boston University. We believe that Ms. Carhart is qualified to serve on our board because she has more than 40 years in accounting, finance and operations management with 26 years in the food industry.

Raymond J. Lane. Raymond J. Lane has served as a member of our board of directors since February 2015. Mr. Lane has been a Managing Partner at GreatPoint Ventures, a venture capital firm since March 2015. Mr. Lane has served as a Partner Emeritus and Advisor of Kleiner, Perkins, Caufield & Byers LLC, a venture capital firm, since April 2013 and was a Managing Partner of Kleiner, Perkins, Caufield & Byers LLC from September 2000 to April 2013. Mr. Lane has served on the board of directors of Hewlett Packard Enterprises (NYSE: HPE) from November 2015 to the present. In addition, Mr. Lane previously served as a member of the board of directors of Hewlett Packard, Inc. (NYSE: HPQ) from September 2010 to November 2015, where he also was the executive Chairman of the Board from September 2011 to April 2013 and the non-executive Chairman of the Board from November 2010 to September 2011. Prior to joining Kleiner Perkins, Mr. Lane was President and Chief Operating Officer and a director of Oracle Corporation, a software company. Mr. Lane also served as Chairman of the Board of Trustees of Carnegie Mellon University from July 2009 to July 2015. Mr. Lane holds a BS degree in Mathematics and honorary Ph.D. Science from West Virginia University. We believe that Mr. Lane is qualified to serve on our board of directors due to his experience in working with entrepreneurial companies and his experience on other public company boards of directors.

Bernhard van Lengerich, Ph.D. Bernhard van Lengerich, Ph.D., has served as a member of our board

of directors since November 2016. Dr. van Lengerich joined General Mills, Inc. (NYSE: GIS), a multinational manufacturer and marketer of branded consumer food, in 1994 and was the Chief Scientific Officer and Vice President for Technology Strategy from 2007 until his retirement from General Mills in March 2015. Dr. van Lengerich is the founder of Seeding the Future Foundation, a 501c(3) organization focusing on food security in sub-Saharan Africa. He also founded Food System Strategies, LLC in 2015, pursuant to which he provides strategic advisory services to companies along the food value chain. Dr. van Lengerich served as our interim Chief Technical Officer and head of Research, Development and Innovation from February 2016 to February 2017 and has provided advisory services to us pursuant to an advisor agreement with Food System Strategies, LLC since October 2015. At General Mills, he led the development of key enabling capabilities resulting in both, new product innovations driving top line growth and major productivity benefits for General Mills' Holistic Margin Management program. He also led a new Game Changer program and created a novel "Cashless Venturing" initiative, enabling faster and more disruptive innovations. Dr. van Lengerich is inventor/co-inventor of over 150 national and international patents and patent applications and he is an IFT Fellow. He has MS and Ph.D. degrees in Food and Biotechnology from the Technical University of Berlin, which awarded him an Honorarium Professorship and where he also teaches Extrusion Processing. We believe that Dr. van Lengerich is qualified to serve on our board of directors due to his experience in the food industry and strong food science and technology background.

Michael A. Pucker. Michael A. Pucker has served as a member of our board of directors since June 2014. Mr. Pucker founded DNS Capital, LLC in April 2013, where he serves as Chairman and Chief Executive Officer. Mr. Pucker also serves as a partner at the law firm of Latham & Watkins LLP, where he has practiced law since 1999. Mr. Pucker's legal practice focuses on general corporate counseling, mergers and acquisitions, private equity, venture capital, capital markets, company representation, counseling boards and senior management in a variety of industries, and counseling families and related closely held enterprises in avoiding, mitigating and resolving disputes. Mr. Pucker currently serves as a member of the board of directors of Ann and Robert H. Lurie Children's Hospital, the Advisory Board of After School Matters, the Board of Advisors of American Jewish World Service, the Board of Trustees of Bernard Zell Anshe Emet Day School, and the Board of Trustees of Facing History and Ourselves. Mr. Pucker has a BA degree in History and a JD degree from Columbia University. Mr. Pucker will resign as one of our directors immediately prior to the effectiveness of the registration statement on Form S-1, of which this prospectus forms a part. As Mr. Pucker is a partner in the law firm of Latham & Watkins LLP, law firm policy prohibits Mr. Pucker from serving on the board of directors of a public company.

Ned Segal. Ned Segal has served as a member of our board of directors since November 2018. Mr. Segal has served as the Chief Financial Officer of Twitter Inc. (NYSE: TWTR) since August 2017. From January 2015 to August 2017, Mr. Segal served as Senior Vice President of Finance of Intuit Inc. (NASDAQ: INTU), a small business and financial software company. From April 2013 to January 2015, Mr. Segal served as Chief Financial Officer of RPX Corporation, a former publicly traded company that provides patent risk management and discovery services. From 1996 to April 2013, Mr. Segal held various positions at The Goldman Sachs Group, Inc. (NYSE: GS), most recently as Head of Global Software Investment Banking. Mr. Segal holds a BS degree in Spanish from Georgetown University. We believe that Mr. Segal is qualified to serve on our board because of his experience in finance at a number of major public companies.

Christopher Isaac "Biz" Stone. Christopher Isaac "Biz" Stone has served as a member of our board of directors since January 2012. Mr. Stone is a Co-founder of Twitter, Inc. (NYSE: TWTR) where he has served as Creative Director since 2006 with a hiatus as Advisor between 2012 and 2017. Mr. Stone was the Co-Founder and Chief Executive Officer at Jelly Industries, Inc. from January 2013 to March 2017. Biz served as Special Advisor to the founders of Pinterest from March 2017 to March 2018, has been a Visiting Fellow at Oxford University since August 2015, has served as an advisor to The Global AI Council since August 2018 and is an active angel investor in companies such as Slack, Square, and Intercom. In addition to Twitter, Inc., Mr. Stone co-founded A Medium Corporation in January 2012, which provides an online publishing platform and has served as a member of its Board of Directors since January 2012 and

as Creative Director from February 2012 to April 2013. He was also Chairman of the Board of Polaroid Swing, Inc. from July 2016 to November 2017 and was an independent director of Workpop, Inc. from September 2014 until May 2017. His honors include Inc. magazine's Entrepreneur of the Decade, TIME magazine's 100 Most Influential People in the World, GQ magazine's Nerd of the Year and The Economist's "Innovation Award." We believe that Mr. Stone is qualified to serve on our board of directors due to his extensive experience in working with entrepreneurial companies.

Donald Thompson. Donald Thompson has served as a member of our board of directors since October 2015. Mr. Thompson is the Founder and Chief Executive Officer of Cleveland Avenue, LLC, which he founded in 2015. Mr. Thompson served as Chief Executive Officer and President of McDonald's Corp. (NYSE: MCD) from July 2012 to March 2015 and as Chief Operating Officer of McDonald's Corp. from January 2010 to June 2012. Mr. Thompson has been a member of the board of directors of Northern Trust Corporation (NASDAQ: NTRS), a financial services company, since March 2015 and has been a member of the board of directors of Royal Caribbean Cruises Ltd. (NYSE: RCL), a global cruise company, since May 2015. Mr. Thompson has been a member of the Advisory Board of DocuSign, Inc. (NASDAQ: DOCU), an electronic signature technology company, since February 2016. He serves on the Board of Trustees of Northwestern Memorial Hospital, Cleveland Avenue Foundation for Education and Purdue University (July 2009 to present). Mr. Thompson served as a member of the board of directors of McDonald's Corp. from January 2011 to March 2015 and as a member of the board of directors of Exelon Corporation (NYSE: EXC), an energy company, from May 2007 to April 2013. Mr. Thompson has a BS degree in Electrical Engineering from Purdue University and a Doctor of Science degree from Excelsior College in Albany, New York. We believe that Mr. Thompson is qualified to serve on our board of directors due to his experience in the food industry and his experience on other public company boards of directors.

Kathy N. Waller. Kathy N. Waller has served as a member of our board of directors since November 2018. Ms. Waller is Executive Vice President, Chief Financial Officer and President, Enabling Services of The Coca-Cola Company (NYSE: KO). Ms. Waller joined The Coca-Cola Company in 1987 as a senior accountant in the Accounting Research Department and has served in a number of accounting and finance roles of increasing responsibility. From July 2004 to August 2009, Ms. Waller served as Chief of Internal Audit. In December 2005, she was elected Vice President of The Coca-Cola Company, and in August 2009, she was elected Controller. In August 2013, she became Vice President, Finance and Controller, assuming additional responsibilities for corporate treasury, corporate tax and finance capabilities, and served in that position until April 2014, when she was appointed Chief Financial Officer and elected Executive Vice President. Ms. Waller assumed expanded responsibility for The Coca-Cola Company's strategic governance areas when she was also appointed to serve as President, Enabling Services, on May 1, 2017. She received a BA degree from the University of Rochester in New York and a MBA degree from the William E. Simon School of Business Administration at the University of Rochester, and is a CPA. We believe that Ms. Waller is qualified to serve on our board because she has more than 30 years of experience in accounting and finance at a major public company.

Board of Directors Composition

After the closing of this offering, our board of directors will consist of ten members. In addition, the number of directors will be fixed by our board of directors, subject to the terms of our amended and restated certificate of incorporation and amended and restated bylaws. Each of our current directors, except for Mr. Pucker, will continue to serve as a director until the election and qualification of his or her successor, or until his or her earlier death, resignation or removal. Mr. Pucker will resign as one of our directors immediately prior to the effectiveness of the registration statement on Form S-1, of which this prospectus forms a part.

Our amended and restated certificate of incorporation will provide that our board of directors will be divided into three classes with staggered three-year terms. Only one class of directors will be elected at each annual meeting of stockholders, with the other classes continuing for the remainder of their respective three-year terms. Our current directors will be divided among the three classes as follows:

- the Class I directors will be Seth Goldman, Christopher Isaac “Biz” Stone and Kathy N. Waller, and their terms will expire at the annual meeting of stockholders to be held in 2019;
- the Class II directors will be Gregory Bohlen, Bernhard van Lengerich and Donald Thompson, and their terms will expire at the annual meeting of stockholders to be held in 2020; and
- the Class III directors will be Ethan Brown, Diane Carhart, Raymond J. Lane and Ned Segal, and their terms will expire at the annual meeting of stockholders to be held in 2021.

At each annual meeting of stockholders, upon the expiration of the term of a class of directors, the successor to each such director in the class will be elected to serve from the time of election and qualification until the third annual meeting following his or her election and until his or her successor is duly elected and qualified, in accordance with our amended and restated certificate of incorporation. Any additional directorships resulting from an increase in the number of directors will be distributed among the three classes so that, as nearly as possible, each class will consist of one-third of our directors.

This classification of our board of directors may have the effect of delaying or preventing changes in control of our company.

Director Independence

Upon the closing of this offering, our common stock will be listed on the Nasdaq Global Market, or Nasdaq. Under the rules of Nasdaq, independent directors must comprise a majority of a listed company’s board of directors within one year of the completion of its initial public offering. In addition, the rules of Nasdaq require that, subject to specified exceptions, each member of a listed company’s audit, compensation and corporate governance and nominating committees be independent. Audit committee members and compensation committee members must also satisfy the independence criteria set forth in Rule 10A-3 and Rule 10C-1, respectively, under the Exchange Act. Under the rules of Nasdaq, a director will only qualify as an “independent director” if, in the opinion of that company’s board of directors, that person does not have a relationship that would interfere with the exercise of independent judgment in carrying out the responsibilities of a director with that listed company.

To be considered to be independent for purposes of Rule 10A-3 and under the rules of Nasdaq, a member of an audit committee of a listed company may not, other than in his or her capacity as a member of the audit committee, the board of directors, or any other board of directors committee: (1) accept, directly or indirectly, any consulting, advisory, or other compensatory fee from the listed company or any of its subsidiaries; or (2) be an affiliated person of the listed company or any of its subsidiaries.

To be considered independent for purposes of Rule 10C-1 and under the rules of Nasdaq, the board of directors must affirmatively determine that each member of the compensation committee is independent, including a consideration of all factors specifically relevant to determining whether the director has a relationship to the company which is material to that director’s ability to be independent from management in connection with the duties of a compensation committee member, including, but not limited to: (i) the source of compensation of such director, including any consulting, advisory or other compensatory fee paid by the company to such director; and (ii) whether such director is affiliated with the company, a subsidiary of the company or an affiliate of a subsidiary of the company.

Our board of directors undertook a review of its composition, the composition of its committees and the independence of our directors and considered whether any director has a material relationship with us that could compromise his or her ability to exercise independent judgment in carrying out his or her

responsibilities. Based upon information requested from and provided by each director concerning his or her background, employment and affiliations, including family relationships, our board of directors has determined that each of Messrs. Bohlen, Lane, Stone, Thompson and Segal and Mses. Carhart and Waller do not have relationships that would interfere with the exercise of independent judgment in carrying out the responsibilities of a director and that each of these directors is "independent" as that term is defined under the applicable rules of the SEC and the listing standards of Nasdaq. Ethan Brown, Seth Goldman and Bernhard van Lengerich are not independent under Nasdaq's independence standards.

In making these determinations, our board of directors considered the current and prior relationships that each non-employee director has with our company and all other facts and circumstances our board of directors deemed relevant in determining their independence, including the beneficial ownership of our capital stock by each non-employee director, and the transactions involving them described in the section titled "Certain Relationships and Related-Party Transactions." There are no family relationships among any of our directors or executive officers.

Board of Directors Leadership Structure

The board of directors has no set policy with respect to the separation of the offices of Executive Chair and Chief Executive Officer. Currently, Seth Goldman serves as Executive Chair and Chairman of the Board and Ethan Brown serves as Chief Executive Officer. Raymond J. Lane serves as our lead independent director. The board of directors believes that this overall structure of a separate Chairman of the Board and Chief Executive Officer, combined with a lead independent director, results in an effective balancing of responsibilities, experience and independent perspectives that meets the current corporate governance needs and oversight responsibilities of the board of directors.

Role of the Board in Risk Oversight

One of the key functions of our board of directors is to oversee our risk management process. Our board of directors does not have a standing risk management committee, but rather administers this oversight function directly through our board of directors as a whole, as well as through various standing committees of our board of directors that address the risks inherent in their respective areas of oversight. In particular, our board of directors is responsible for monitoring and assessing strategic risk exposure and our audit committee has the responsibility to consider and discuss our major financial risk exposures and the steps our management has taken to monitor and control these exposures, including guidelines and policies to govern the process by which risk assessment and management is undertaken. The audit committee also monitors compliance with legal and regulatory requirements. Our compensation committee assesses and monitors whether any of our compensation policies and programs has the potential to encourage excessive risk-taking.

Board of Directors Committees

Our board of directors has an audit committee, a compensation committee and a corporate governance and nominating committee, each of which has the composition and the responsibilities described below. Upon the closing of this offering, copies of the charters for each committee will be available on the investor relations portion of our website at www.beyondmeat.com. Members serve on these committees until their resignations or removal. The inclusion of our website in this prospectus does not include or incorporate by reference the information on our website into this prospectus.

Audit Committee

Following the closing of this offering, our audit committee will consist of Diane Carhart, Ned Segal and Kathy N. Waller, each of whom will meet the requirements for independence under the listing standards of Nasdaq and SEC rules and regulations. Kathy N. Waller will be the chair of our audit committee and Mr. Segal and Ms. Waller are "audit committee financial experts" as such term is defined under the SEC rules implementing SOX Section 407. Following the closing of this offering, our audit committee will be responsible for, among other things:

- selecting a qualified firm to serve as the independent registered public accounting firm to audit our financial statements;
- helping to ensure the independence and overseeing performance of the independent registered public accounting firm;
- reviewing and discussing the scope and results of the audit with the independent registered public accounting firm, and reviewing with management and the independent registered public accounting firm our interim and year-end operating results;
- reviewing our financial statements and our critical accounting policies and estimates;
- reviewing the adequacy and effectiveness of our internal controls;
- developing procedures for employees to submit concerns anonymously about questionable accounting, internal accounting controls, or audit matters;
- overseeing our policies on risk assessment and risk management;
- overseeing compliance with our code of business conduct and ethics;
- reviewing related-party transactions; and
- pre-approving all audit and all permissible non-audit services (other than de minimis non-audit services) to be performed by the independent registered public accounting firm.

Our audit committee will operate under a written charter, to be effective prior to the closing of this offering, which will satisfy the applicable rules of the SEC and the listing standards of Nasdaq and will be available on our website at www.beyondmeat.com.

Compensation Committee

Following the closing of this offering, our compensation committee will consist of Raymond J. Lane and Donald Thompson, each of whom will meet the requirements for independence under the listing standards of Nasdaq and SEC rules and regulations. In addition, each member of our compensation committee will also be a non-employee director, as defined pursuant to Rule 16b-3 of the Exchange Act. Mr. Thompson will be the chair of our compensation committee. Following the closing of this offering, the compensation committee will be responsible for, among other things:

- reviewing, approving and determining, or making recommendations to our board of directors regarding, the compensation of our executive officers, including our Chief Executive Officer;
- administering our equity compensation plans and agreements with our executive officers;
- reviewing, approving and administering incentive compensation and equity compensation plans;
- reviewing and approving our overall compensation philosophy; and

- making recommendations regarding non-employee director compensation to our full board of directors.

Our compensation committee will operate under a written charter, to be effective prior to the closing of this offering, which will satisfy the applicable rules of the SEC and the listing standards of Nasdaq and will be available on our website at www.beyondmeat.com.

Nominating and Corporate Governance Committee

Following the closing of this offering, our nominating and corporate governance committee will consist of Greg Bohlen and Christopher Stone, each of whom will meet the requirements for independence under the listing standards of Nasdaq and SEC rules and regulations. Christopher Stone will be the chair of our nominating and corporate governance committee. Following the closing of this offering, the nominating and corporate governance committee will be responsible for, among other things:

- identifying, evaluating and selecting, or making recommendations to our board of directors regarding, nominees for election to our board of directors and its committees;
- overseeing the evaluation and the performance of our board of directors and of individual directors;
- considering and making recommendations to our board of directors regarding the composition of our board of directors and its committees;
- overseeing our corporate governance practices;
- contributing to succession planning; and
- developing and making recommendations to our board of directors regarding corporate governance guidelines and matters.

Our nominating and corporate governance committee will operate under a written charter, to be effective prior to the closing of this offering, which will satisfy the applicable rules of the SEC and the listing standards of Nasdaq and will be available on our website at www.beyondmeat.com.

Compensation Committee Interlocks and Inside Participation

None of the members of our compensation committee is or has been an officer or employee of our company. None of our executive officers currently serves, or in the past fiscal year has served, as a member of the board of directors or compensation committee (or other board of directors committee performing equivalent functions or, in the absence of any such committee, the entire board of directors) of any entity that has one or more executive officers serving on our board of directors or compensation committee. Certain members of our compensation committee are affiliated with entities that purchased our preferred stock. Please see “Certain Relationships and Related-Party Transactions—Sales of Securities” for more information.

Code of Business Conduct and Ethics

We have adopted a written code of business conduct and ethics that applies to our directors, officers and employees, including our principal executive officer, principal financial officer, principal accounting officer or controller, or persons performing similar functions. Following the closing of this offering, the code of business conduct and ethics will be available on our website at www.beyondmeat.com. We intend to disclose future amendments to such code, or any waivers of its requirements, applicable to any principal executive officer, principal financial officer, principal accounting officer or controller or persons performing similar functions or our directors on our website identified above. The inclusion of our website address in this prospectus does not include or incorporate by reference the information on our website into this prospectus.

Non-Employee Director Compensation

Historically, we have neither had a formal compensation policy for our non-employee directors, nor have we had a formal policy of reimbursing expenses incurred by our non-employee directors in connection with their board service. However, we have reimbursed our non-employee directors for travel, lodging and other reasonable expenses incurred in connection with their attendance at board of directors or committee meetings and occasionally granted stock options to our non-employee directors. Except to the limited extent described below, we did not provide our non-employee directors, in their capacities as such, with any cash, equity or other compensation in fiscal 2017.

The following table sets forth information regarding the compensation awarded, earned or paid for services rendered to us by our non-employee directors for fiscal 2017:

Name	Stock Awards[1]	Option Awards[2]	All Other Compensation	Total ($)
Seth Goldman (Executive Chair)	—	—	$250,250[3]	$250,250
Donald Thompson	—	—	—	—
Diane Carhart	—	—	—	—
Michael A. Pucker[5]	—	—	—	—
Raymond J. Lane	—	—	—	—
Christopher Isaac Stone	—	—	—	—
Bernhard van Lengerich	—	—	120,000[4]	120,000
Gregory Bohlen	—	—	—	—

(1) The number of shares of unvested restricted stock held by each non-employee director as of December 31, 2017 was: Mr. Goldman (251,652) and Mr. Thompson (167,768).
(2) The number of outstanding stock options held by each non-employee director as of December 31, 2017 were: Mr. Goldman (90,595), Ms. Carhart (150,000) and Mr. van Lengerich (798,848).
(3) This amount includes $175,000 in fees earned for services Mr. Goldman performed as a consultant in fiscal 2017, as well as a bonus of $75,250 paid to Mr. Goldman for fiscal 2017 in relation to such services.
(4) This amount consists of fees paid to Food System Strategies, LLC that was earned for services Mr. van Lengerich performed as a consultant in fiscal 2017.
(5) Mr. Pucker will resign as one of our directors immediately prior to the effectiveness of the registration statement on Form S-1, of which this prospectus forms a part.

In November 2018, our board of directors approved an outside director compensation policy that will become effective upon the closing of this offering. Under this policy, we will pay our directors who are not employees of the company, other than Seth Goldman, an annual cash retainer for service on the board of directors and an additional annual cash retainer for service on each committee on which the director is a member, which will be paid quarterly in arrears. The chairman of each committee will receive higher annual cash retainers for such service. The fees paid to non-employee directors for service on the board of directors and for service on each committee of the board of directors on which the director is a member are as follows:

	Member Annual Cash Retainer	Chairperson Annual Cash Retainer	Lead Independent Director Annual Cash Retainer
Board of Directors	$ 40,000	$ 67,500	$ 48,000
Audit Committee	7,500	17,500[1]	
Compensation Committee	5,000	10,000	
Nominating and Corporate Governance Committee	3,000	8,000	

(1) The annual retainer to be paid to Kathy N. Waller for her service as chairperson of the audit committee shall commence on the date of the annual meeting to be held in 2019.

Director Compensation Arrangements

Seth Goldman

We entered into a consulting agreement with Seth Goldman on March 2, 2016, which was amended and restated on November 15, 2018. Pursuant to the consulting agreement, as amended, we have agreed to pay Mr. Goldman $16,877.00 per month for services rendered under the consulting agreement and, on the date of each annual meeting of the company's stockholders after which Mr. Goldman's non-employee service on the board of directors will continue, we have agreed to grant Mr. Goldman a restricted stock unit award under the 2018 Plan having a grant date fair value of $105,000. Each restricted stock unit grant will vest based on continued service in equal monthly installments over the 12-month period following the grant date, provided it will vest in full immediately prior to, and contingent upon, a change in control of the company. For additional information, see "Executive Compensation—Employee Benefit Plans—2018 Equity Incentive Plan."

The consulting agreement may be terminated by either party at any time upon 120 business days' written notice. In the event of a default in the performance of the consulting agreement or material breach of any obligations under the consulting agreement, the non-breaching party may terminate the consulting agreement immediately if the breaching party fails to cure the breach within 30 business days after having received written notice by the non-breaching party of the default or breach.

Bernhard van Lengerich

We first entered into an advisor agreement with Food System Strategies, LLC in October 2015. Bernhard van Lengerich, Ph.D. is the Chief Executive Officer of Food System Strategies, LLC. Pursuant to this advisor agreement, we paid Food System Strategies, LLC $4,000 for each day that Dr. van Lengerich provided services to us. In February 2016, we entered into a new advisor agreement with Food System Strategies, LLC, which superseded the original agreement, and provided for a $25,000 monthly retainer and a non-qualified stock option covering 798,848 shares, which vests in equal monthly installments over three years in consideration of Dr. van Lengerich providing services as our interim Chief Technical Officer and the head of research and development, and the increased time commitment associated with these roles. In December 2016, the advisor agreement was amended to provide for a $10,000 monthly retainer to reflect the fact that Dr. van Lengerich would only be providing advisory

services for five to six days a month going forward. The advisor agreement may be terminated at any time upon written notice to the other party.

Director and Officer Indemnification Agreements

We have entered, and intend to continue to enter, into separate indemnification agreements with our directors and executive officers, in addition to the indemnification provided for in our amended and restated bylaws. These agreements, among other things, require us to indemnify our directors and executive officers for certain expenses, including attorneys' fees, judgments, penalties, fines and settlement amounts incurred by a director or executive officer in any action or proceeding arising out of their services as one of our directors or executive officers or as a director or executive officer of any other company or enterprise to which the person provides services at our request.

EXECUTIVE COMPENSATION

Overview

As an emerging growth company, we have opted to comply with the executive compensation disclosure rules applicable to "smaller reporting companies," as such term is defined in the rules promulgated under the Securities Act.

Our named executive officers for fiscal 2017, determined in accordance with these rules were:

- Ethan Brown, our President and Chief Executive Officer;
- Mark J. Nelson, our Chief Financial Officer, Treasurer and Secretary; and
- Charles Muth, our Chief Growth Officer.

This discussion may contain forward-looking statements that are based on our current plans, considerations, expectations and determinations regarding future compensation programs. Actual compensation programs that we adopt following the completion of this offering may differ materially from the currently planned programs and arrangements summarized in this discussion.

2017 Summary Compensation Table

The following table provides information regarding the compensation awarded to, earned by and paid to each of our named executive officers for fiscal 2017:

Name and Principal Position	Year	Salary ($)	Non-Equity Incentive Plan Compensation ($)[1]	All Other Compensation ($)	Total ($)
Ethan Brown, President and Chief Executive Officer	2017	288,789	124,700	—	413,489
Mark J. Nelson, Chief Financial Officer, Treasurer and Secretary	2017	287,336	117,042	—	404,378
Charles Muth, Chief Growth Officer	2017	173,010	75,067	64,336[2]	312,413

(1) The amounts in this column reflect performance bonus awards earned by our named executive officers for fiscal 2017 performance.
(2) This amount represents a relocation assistance payment relating to closing costs on the sale of Mr. Muth's residence.

Narrative to Summary Compensation Table

Executive Employment Arrangements

Each of our named executive officers is an at-will employee. The company does not have any offer letter or employment agreement with Mr. Brown. However, in November 2018, our compensation committee approved an annual base salary of $500,000 for Mr. Brown that we expect will be memorialized in an employment agreement with Mr. Brown, which employment agreement we expect to also provide for an annual target bonus opportunity of 50% of Mr. Brown's base salary.

Except as set forth below, we have not entered into any employment agreements or offer letters with our other named executive officers.

Mark J. Nelson

On April 29, 2017, we entered into an offer letter with Mark J. Nelson, our Chief Financial Officer, Treasurer and Secretary. Pursuant to the offer letter, Mr. Nelson's annual base salary is $325,000 and Mr. Nelson is eligible to earn an annual bonus with a target bonus equal to 50% of his annual base salary. In November 2018, our compensation committee approved an increase to Mr. Nelson's base salary to an annual base salary of $365,000.

Charles Muth

On May 5, 2017, we entered into an offer letter with Charles Muth, our Chief Growth Officer. Pursuant to the offer letter, Mr. Muth's annual base salary is $295,000 and Mr. Muth is eligible to earn an annual bonus with a target bonus equal to 50% of his annual base salary. In November 2018, our compensation committee approved an increase to Mr. Muth's base salary to an annual base salary of $365,000. In addition, Mr. Muth's offer letter provides that he will be entitled to a severance payment equal to six months of his base salary if we terminate his employment without cause at any time.

Outstanding Equity Awards as of December 31, 2017

The following table provides information regarding the unexercised stock options and unvested restricted stock held by each of our named executive officers as of December 31, 2017:

		Option Awards			
Name	**Grant Date**	**Number of Securities Underlying Unexercised Options (#) Exercisable[1]**	**Number of Securities Underlying Unexercised Options (#) Unexercisable[1]**	**Option Exercise Price ($)[2]**	**Option Expiration Date**
Ethan Brown	8/26/2013	303,181[3]	—	0.43	8/25/2023
	1/22/2015	1,267,820[4]	181,118[4]	0.62	1/21/2025
	7/20/2016	160,408[5]	292,511[5]	0.63	7/19/2026
Mark J. Nelson	12/1/2015	37,748[6]	301,983[6]	0.63	11/30/2025
	2/4/2016	13,625[7]	109,002[7]	0.63	2/3/2026
	7/20/2016	14,272[8]	123,688[8]	0.63	7/19/2026
	7/20/2016	8,752[9]	67,834[9]	0.63	7/19/2026
Charles Muth	—	—	—	—	—

(1) All awards were granted under our 2011 Plan.
(2) This column represents the fair market value of a share of our common stock on the date of grant, as determined by our board of directors.
(3) These option shares were part of a stock option grant covering 303,181 shares of our common stock. One-fourth of the grant vested on May 26, 2014 and the remainder of the grant vested in 36 equal monthly installments thereafter, subject to Mr. Brown's continuous service through the applicable vesting date. In addition, if we had terminated Mr. Brown's employment without "cause" (as defined in the 2011 Plan), or if Mr. Brown had resigned for "good reason" (as defined in agreements applicable to Mr. Brown's equity), in either case, upon the consummation of, or within 12 months following, a change in control in our ownership, then 50% of the then unvested shares subject to this option would have immediately vested (the "Brown Acceleration") (however, these options have now fully vested based on their underlying four-year vesting schedule, so the Brown Acceleration is no longer relevant to this option).
(4) These option shares were part of a stock option grant covering 1,448,938 shares of our common stock. One-fourth of the grant vested on June 19, 2015 and the remainder of the grant vested and will vest in 36 equal monthly installments thereafter, subject to Mr. Brown's continuous service through the applicable vesting date. In addition, the Brown Acceleration applies to these option shares prior to their full vesting.

(5) These option shares were part of a stock option grant covering 452,919 shares of our common stock. One-fourth of the grant vested on July 20, 2017 and the remainder of the grant vested and will vest in 36 equal monthly installments thereafter, subject to Mr. Brown's continuous service through the applicable vesting date. In addition, the Brown Acceleration applies to these option shares prior to their full vesting.
(6) These option shares were part of a stock option grant covering 603,965 shares of our common stock. One-fourth of the grant vested on December 1, 2016 and the remainder of the grant vested and will vest in 36 equal monthly installments thereafter, subject to Mr. Nelson's continuous service through the applicable vesting date. In addition, if we terminate Mr. Nelson's employment without "cause" (as defined in the 2011 Plan), or if Mr. Nelson resigns for "good reason" (as defined in agreements applicable to Mr. Nelson's equity), in either case, upon the consummation of, or within 12 months following, a change in control of our stock ownership, then 50% of the then unvested shares subject to this option will immediately vest (the "Nelson Acceleration").
(7) These option shares were part of a stock option grant covering 218,003 shares of our common stock. One-fourth of the grant vested on December 1, 2016 and the remainder of the grant vested and will vest in 36 equal monthly installments thereafter, subject to Mr. Nelson's continuous service through each vesting date. In addition, the Nelson Acceleration applies to these option shares prior to their full vesting.
(8) These option shares were part of a stock option grant covering 228,347 shares of our common stock. One-fourth of the grant vested on February 4, 2017 and the remainder of the grant vested and will vest in 36 equal monthly installments thereafter, subject to Mr. Nelson's continuous service through the applicable vesting date. In addition, the Nelson Acceleration applies to these option share prior to their full vesting.
(9) These option shares were part of a stock option grant covering 105,032 shares of our common stock. One-fourth of the grant vested on July 20, 2017 and the remainder of the grant vested and will vest in 36 equal monthly installments thereafter, subject to Mr. Nelson's continuous service through the applicable vesting date. In addition, the Nelson Acceleration applies to these option shares prior to full vesting.

Severance Agreements not in Connection with a Change in Control

Charles Muth

Pursuant to the offer letter entered into with Charles Muth on May 5, 2017, if we terminate Mr. Muth's employment without cause at any time, Mr. Muth will be entitled to a severance payment equal to six months of Mr. Muth's base salary.

Change in Control and Severance Agreements

In November 2018, our compensation committee approved change in control severance benefits for our named executive officers. We expect this benefit will be provided in an employment agreement to be entered into with Mr. Brown. We have entered into change in control severance agreements with Mr. Nelson and Mr. Muth.

These agreements with Mr. Nelson and Mr. Muth provide, and we expect the agreement with Mr. Brown will provide, that if, within the period beginning three months prior to, and ending 18 months following, a change in control of the company, we terminate a named executive officer's employment without cause or such named executive officer resigns for good reason, such named executive officer will be eligible to receive the following severance benefits, subject to, among other things, executing a general release of claims in favor of the company and complying with the terms of his confidentiality agreement:

- a cash payment equal to 18 months of his then-current base salary in the case of Mr. Brown and 12 months of his then-current base salary in the case of Mr. Nelson and Mr. Muth;
- a cash payment equal to the COBRA premiums that would be due for COBRA coverage (assuming such coverage is elected) for a period of 18 months in the case of Mr. Brown and 12 months in the case of Mr. Nelson and Mr. Muth; and
- 100% immediate vesting acceleration of all of the shares of our common stock underlying any then-outstanding unvested stock options and other unvested equity awards that are subject to time-based vesting.

In addition, each applicable agreement contains or will contain a “better after-tax” provision, which provides that if any of the payments or benefits provided to an executive constitutes a parachute payment under Section 280G of the Code, the payments or benefits will either be (i) reduced or (ii) provided in full, whichever results in the named executive officer receiving the greater amount after taking into account all applicable federal, state and local income taxes, including the excise tax under Section 4999 of the Code.

Employee Benefit Plans

2011 Equity Incentive Plan

Our board of directors originally adopted, and our stockholders approved, our 2011 Plan, in April 2011. Our 2011 Plan was amended most recently in October 2018. Our 2011 Plan allows for the grant of incentive stock options to eligible employees, including employees of any parent or subsidiary, and for the grant of nonstatutory stock options, stock appreciation rights, restricted stock awards and restricted stock units to employees, directors and consultants, including employees, directors and consultants of our affiliates. We intend to amend and restate the 2011 Plan as the 2018 Plan which will be effective upon the consummation of this offering. The terms of the 2011 Plan as described herein will continue to govern the terms and conditions of the outstanding awards previously granted thereunder.

Authorized Shares. The maximum number of shares of our common stock that may be issued under our 2011 Plan is 14,192,973. As of September 29, 2018, options to purchase 7,211,699 shares of our common stock were outstanding and 685,269 shares were available for future grants our 2011 Plan. Shares subject to stock awards granted under our 2011 Plan that expire, are forfeited, or terminate without being exercised in full or settled in cash do not reduce the number of shares available for issuance under our 2011 Plan. Additionally, shares used to pay the exercise price of a stock award or to satisfy the tax withholding obligations related to a stock award become available for future grant under our 2011 Plan.

Plan Administration. Our board of directors, or a duly authorized committee of our board of directors, administers our 2011 Plan and the stock awards granted under it. Our board of directors may also delegate to one or more of our officers the authority to (1) designate our officers and employees or any of our subsidiaries to receive certain stock awards and (2) determine the number of shares subject to such stock awards. Under our 2011 Plan, the board of directors has the authority to construe and interpret the terms of the 2011 Plan and awards granted pursuant to the 2011 Plan and to determine and amend the terms of awards and underlying agreements, including, without limitation:

- recipients;
- the exercise, purchase, or strike price of stock awards, if any;
- the number of shares subject to each stock award;
- the vesting schedule applicable to the awards, together with any vesting acceleration; and
- the form of consideration, if any, payable on exercise or settlement of the award.

Under the 2011 Plan, the board of directors also generally has the authority to effect, with the consent of any adversely affected participant:

- the reduction of the exercise price of any outstanding option or stock appreciation right;
- the cancellation of any outstanding option or stock appreciation right and the grant in substitution therefore of other awards, cash, or other consideration; or
- any other action that is treated as a repricing under generally accepted accounting principles.

Stock options granted under our 2011 Plan generally have a maximum term of 10 years from the

grant date and an exercise price equal to the fair market value of our common stock on the grant date, provided incentive stock options granted to any employee who owns more than 10% of the total combined voting power of all classes of our outstanding stock as of the grant date may not have a maximum term in excess of 5 years and must have an exercise price of at least 110% of the fair market value on the grant date. Stock options granted under the 2011 Plan typically provide that a participant may exercise their option at any time up to the date that is 3 months after their termination of service, or 12 or 18 months after their termination of service in the case of termination due to disability or death, respectively (however, in no event may an option be exercised later than the expiration of its maximum term).

Restricted stock granted under our 2011 Plan generally vests in accordance with terms and conditions established by our board of directors at the time of grant, and the company generally has a right to repurchase any shares that are unvested on the date a participant's service with the company terminates at the original purchase price paid for the shares. Our board of directors also determines the number of shares of restricted stock a participant may purchase or receive, the price to be paid (if any) and all other terms and conditions applicable to the restricted stock award.

Transferability. Under our 2011 Plan, the board of directors may provide for limitations on the transferability of awards, in its sole discretion. Option awards are generally not transferable other than by will or the laws of descent and distribution, except as otherwise provided under our 2011 Plan.

Certain adjustments. In the event of certain corporate events or changes in our capitalization made in our common stock, appropriate adjustments will be made in the number and class of shares that may be delivered under the 2011 Plan and/or the number, class and price of shares covered by each outstanding award.

Dissolution or liquidation. Except as otherwise provided in an award agreement, in the event of our dissolution or liquidation of the company, each outstanding stock award will terminate upon the consummation of such action, and the shares of common stock subject to our repurchase rights or subject to a forfeiture condition may be repurchased or reacquired by us notwithstanding the fact that the holder of such award is providing continuous service.

Corporate Transactions. Our 2011 Plan provides that in the event of certain specified corporate transactions, generally including: (1) a sale of all or substantially all of our assets, (2) the sale or disposition of at least 90% of our outstanding securities, (3) the consummation of a merger or consolidation where we do not survive the transaction and (4) the consummation of a merger or consolidation where we do survive the transaction but the shares of common stock outstanding before such transaction are converted or exchanged into other property by virtue of the transaction, unless otherwise provided in an award agreement or other written agreement between us and the award holder, the administrator may take one or more of the following actions with respect to such stock awards: (1) arrange for the assumption, continuation or substitution of a stock award by a successor corporation, (2) arrange for the assignment of any reacquisition or repurchase rights held by us to a successor corporation, (3) accelerate the vesting, in whole or in part, of the stock award and provide for its termination before the transaction, (4) arrange for the lapse, in whole or in part, of any reacquisition or repurchase rights held by us, (5) cancel or arrange for the cancellation of the stock award before the transaction in exchange for a cash payment, if any, determined by the board of directors, or (6) make a payment, in the form determined by the board of directors, equal to the excess, if any, of the value of the property the participant would have received on exercise of the stock award before the transaction over any exercise price payable by the participant in connection with the exercise. The plan administrator is not obligated to treat all stock awards, even those that are of the same type, or all participants, in the same manner.

In the event of a change in control, awards granted under the 2011 Plan will not generally receive automatic acceleration of vesting and exercisability, although the board of directors may provide for this treatment in an award agreement. Under the 2011 Plan, a change in control is defined to include (1) the

acquisition by any person of more than 50% of the combined voting power of our then outstanding stock, (2) a merger, consolidation, or similar transaction in which our stockholders immediately before the transaction do not own, directly or indirectly, more than 50% of the combined voting power of the surviving entity (or the parent of the surviving entity), (3) our stockholders approve or our board of directors approves a plan of complete dissolution or liquidation or a complete dissolution or liquidation otherwise occurs except for a liquidation into a parent corporation and (4) a sale, lease, exclusive license, or other disposition of all or substantially all of the assets to an entity that did not previously hold more than 50% of the voting power of our stock.

Plan Amendment or Termination. Our board of directors may at any time amend, suspend or terminate the 2011 Plan, although certain material amendments require the approval of our stockholders, and amendments that would impair the rights of any participant require the consent of that participant.

2018 Equity Incentive Plan

General. Our 2011 Equity Incentive Plan was amended, restated and re-named the 2018 Equity Incentive Plan, or 2018 Plan, by our board of directors on November 15, 2018 and our stockholders on November , 2018. The 2018 Plan will become effective on the day immediately prior to the date that the registration statement of which this prospectus forms a part becomes effective.

Share Reserve. The maximum aggregate number of shares that may be issued under the 2018 Plan is 21,722,448 shares of our common stock. In addition, the number of shares reserved for issuance under the 2018 Plan will be increased automatically on the first day of each fiscal year beginning with the 2020 fiscal year, by a number equal to the least of:

- 3,216,621 shares;
- 4% of the shares of common stock outstanding on the last day of the prior fiscal year; or
- such number of shares determined by our board of directors.

If an award expires, is forfeited or becomes unexercisable for any reason without having been exercised in full, or is surrendered pursuant to an exchange program, the unissued shares that were subject to the award will, unless the 2018 Plan is terminated, continue to be available under the 2018 Plan for issuance pursuant to future awards. In addition, any shares which are retained by the company upon exercise of an award in order to satisfy the exercise or purchase price for such award or any withholding taxes due with respect to such award will be treated as not issued and will continue to be available under the 2018 Plan for issuance pursuant to future awards. Shares issued under the 2018 Plan and later forfeited to the company due to the failure to vest or repurchased by the company at the original purchase price paid to the company for the shares (including, without limitation, upon forfeiture to or repurchase by the company in connection with a participant ceasing to be a service provider) will again be available for future grant under the 2018 Plan. To the extent an award under the 2018 Plan is paid out in cash rather than shares, such cash payment will not result in reducing the number of Shares available for issuance under the 2018 Plan.

Plan administration. Our board of directors has delegated its authority to administer the 2018 Plan to our compensation committee. Subject to the provisions of our 2018 Plan, the administrator has the power to determine the terms of awards, including the recipients, the exercise price, if any, the number of shares subject to each award, the fair market value of a share of our common stock, the vesting schedule applicable to the awards, together with any vesting acceleration, and the form of consideration, if any, payable upon exercise of the award and the terms of the award agreement for use under the 2018 Plan. The administrator also has the authority, subject to the terms of the 2018 Plan, to amend existing awards, to prescribe rules and to construe and interpret the 2018 Plan and awards granted thereunder and to institute an exchange program by which outstanding awards may be surrendered in exchange for awards of the same type which may have a lower exercise price or different terms, awards of a different type and/or cash subject to stockholder approval.

Eligibility. Employees, members of our board of directors who are not employees and consultants are eligible to participate in our 2018 Plan.

*Non-employee director*s. Our 2018 Plan provides that all non-employee directors will be eligible to receive all types of awards under our 2018 Plan except for incentive stock options. Prior to the completion of this offering, we intend to implement a formal policy pursuant to which our non-employee directors will be eligible to receive equity awards under our 2018 Plan. In addition, in order to provide a maximum limit on awards that can be provided to our non-employee directors under the 2018 Plan, our 2018 Plan provides that no non-employee director may receive awards under the 2018 Plan that, when combined with cash compensation received for service as a non-employee director, exceeds $650,000 in a calendar year, increased to $900,000 in the calendar year of his or her initial services as a non-employee director. For purposes of this limit, the value of stock options and stock appreciation rights will be calculated using the Black-Scholes valuation methodology on the date of grant, and the value for all other types of awards will be determined by either (i) calculating the product of the fair market value per share on the date of grant and the aggregate number of shares subject to the award or (ii) calculating the product using an average of the fair market value over a number of trading days and the aggregate number of shares subject to the award.

Types of award. Our 2018 Plan provides for the grant of incentive stock options, within the meaning of Section 422 of the Code, to our employees and the employees of our subsidiaries, and for the grant of nonstatutory stock options, stock appreciation rights, restricted stock, restricted stock units, performance units, and performance shares to our employees, directors, and consultants and the employees and consultants of our subsidiaries.

Stock options. The administrator may grant incentive and/or non-statutory stock options under our 2018 Plan, provided that incentive stock options may only be granted to employees. The exercise price of such options must generally be equal to at least the fair market value of our common stock on the date of grant. The term of an option may not exceed 10 years; provided, however, that an incentive stock option held by a participant who owns more than 10% of the total combined voting power of all classes of our stock, or of certain of our subsidiary corporations, may not have a term in excess of five years and must have an exercise price of at least 110% of the fair market value of our common stock on the grant date. The administrator will determine the methods of payment of the exercise price of an option, which may include cash, shares or other property acceptable to the administrator. Subject to the provisions of our 2018 Plan, the administrator determines the remaining terms of the options (e.g., vesting). After the termination of service of an employee, director or consultant, the participant may exercise his or her option, to the extent vested, for the period of time stated in his or her option agreement. Generally, if termination is due to death or disability, the option will remain exercisable for 12 months. In the event of a termination for cause, options generally terminate immediately upon the termination of the participant for cause. In all other cases, the option will generally remain exercisable for three months following the termination of service. However, in no event may an option be exercised later than the expiration of its term. The maximum aggregate number of shares of our common stock that may be issued under the 2018 Plan pursuant to incentive stock options may not exceed the maximum number of shares reserved under the 2018 Plan and to the extent allowable under Section 422 of the Internal Revenue Code, or the Code, any other shares that become available for issuance or reissuance pursuant to the terms of the 2018 Plan.

Stock appreciation rights. Stock appreciation rights may be granted under our 2018 Plan. Stock appreciation rights allow the recipient to receive the appreciation in the fair market value of our common stock between the date of grant and the exercise date. Subject to the provisions of our 2018 Plan, the administrator determines the terms of stock appreciation rights, including when such rights vest and become exercisable and whether to settle such awards in cash or with shares of our common stock, or a combination thereof, except that the per share exercise price for the shares to be issued pursuant to the exercise of a stock appreciation right will be no less than 100% of the fair market value per share on the date of grant. The specific terms will be set forth in an award agreement.

Restricted stock. Restricted stock may be granted under our 2018 Plan. Restricted stock awards are grants of shares of our common stock that are subject to various restrictions, including restrictions on transferability and forfeiture provisions. Shares of restricted stock will vest and the restrictions on such shares will lapse, in accordance with terms and conditions established by the administrator. Such terms may include, among other things, vesting upon the achievement of specific performance goals determined by the administrator and/or continued service. The administrator, in its sole discretion, may accelerate the time at which any restrictions will lapse or be removed. Recipients of restricted stock awards generally will have voting and dividend rights with respect to such shares upon grant without regard to vesting, unless the administrator provides otherwise. Shares of restricted stock that do not vest for any reason will be subject to our right of repurchase or forfeited by the recipient and will revert to us. The specific terms will be set forth in an award agreement.

Restricted stock units. Restricted stock units may be granted under our 2018 Plan, and may include the right to dividend equivalents, as determined in the discretion of the administrator. Each restricted stock unit granted is a bookkeeping entry representing an amount equal to the fair market value of one share of our common stock. The administrator determines the terms and conditions of restricted stock units, including the vesting criteria, which may include achievement of specified performance criteria and/or continued service, and the form and timing of payment. The administrator, in its sole discretion, may accelerate the time at which any restrictions will lapse or be removed. The administrator determines, in its sole discretion, whether an award will be settled in stock, cash or a combination of both. The specific terms will be set forth in an award agreement.

Performance units/performance shares. Performance units and performance shares may be granted under our 2018 Plan. Performance units and performance shares are awards that will result in a payment to a participant if performance goals established by the administrator are achieved and any other applicable vesting provisions are satisfied. The administrator will establish organizational or individual performance goals in its discretion, which, depending on the extent to which they are met, will determine the number and/or the value of performance units and performance shares to be paid out to participants. For purposes of such awards, the performance goals may be based on one or more of the following performance criteria and any adjustment(s) thereto, in each case as determined by the administrator: (i) sales or non-sales revenue; (ii) return on revenues; (iii) operating income; (iv) income or earnings including operating income; (v) income or earnings before or after taxes, interest, depreciation, and/or amortization; (vi) income or earnings from continuing operations; (vii) net income; (viii) pre-tax income or after-tax income; (ix) net income excluding amortization of intangible assets, depreciation and impairment of goodwill and intangible assets, and/or excluding charges attributable to the adoption of new accounting pronouncements; (x) raising of financing or fundraising; (xi) project financing; (xii) revenue backlog; (xiii) gross margin; (xiv) operating margin or profit margin; (xv) capital expenditures, cost targets, reductions and savings, and expense management; (xvi) return on assets (gross or net), return on investment, return on capital or invested capital, or return on stockholder equity; (xvii) cash flow, free cash flow, cash flow return on investment (discounted or otherwise), net cash provided by operations, or cash flow in excess of cost of capital; (xviii) performance warranty and/or guarantee claims; (xix) stock price or total stockholder return; (xx) earnings or book value per share (basic or diluted); (xxi) economic value created; (xxii) pre-tax profit or after-tax profit; (xxiii) strategic business criteria, consisting of one or more objectives based on meeting specified market penetration or market share, completion of strategic agreements such as licenses, funded collaborations, joint ventures, acquisitions, and the like, geographic business expansion, objective customer satisfaction or information technology goals, and/or intellectual property asset metrics; (xxiv) objective goals relating to divestitures, joint ventures, mergers, acquisitions, and similar transactions; (xxv) objective goals relating to staff management, results from staff attitude and/or opinion surveys, staff satisfaction scores, staff safety, staff accident and/or injury rates, compliance headcount, performance management, and completion of critical staff training initiatives; (xxvi) objective goals relating to projects, including project completion timing and/or achievement of milestones, project budget, and technical progress against work plans; and (xxvii) enterprise resource planning. However, awards issued to participants may take into account other factors (including subjective factors). In addition, performance goals may differ from participant to participant, performance period to performance

period, and from award to award. Any criteria used may be measured, as applicable, (i) in absolute terms, (ii) in relative terms (including, but not limited to, any increase (or decrease) over the passage of time and/or any measurement against other companies or financial or business or stock index metrics particular to us), (iii) on a per share and/or share per capita basis, (iv) against our performance as a whole or against any of our affiliate(s), or a particular segment(s), a business unit(s) or a product(s) of ours or individual project company, (v) on a pre-tax or after-tax basis, and/or (vi) using an actual foreign exchange rate or on a foreign exchange neutral basis. After the grant of a performance unit or performance share, the administrator, in its sole discretion, may reduce or waive any performance objectives or other vesting provisions for such performance units or performance shares. Performance units shall have an initial dollar value established by the administrator prior to the grant date. Performance shares shall have an initial value equal to the fair market value of our common stock on the grant date. The administrator, in its sole discretion, may pay earned performance units or performance shares in the form of cash, in shares, or in some combination thereof.

Non-transferability of awards. Unless the administrator provides otherwise, our 2018 Plan generally does not allow for the transfer of awards and only the recipient of an option or stock appreciation right may exercise such an award during his or her lifetime.

Certain adjustments. In the event of certain corporate events or changes in our capitalization, to prevent diminution or enlargement of the benefits or potential benefits available under the 2018 Plan, the administrator will make adjustments to one or more of the number, kind and class of securities that may be delivered under the 2018 Plan and/or the number, kind, class and price of securities covered by each outstanding award.

Liquidation or dissolution. In the event of our proposed winding up, liquidation or dissolution, the administrator will notify participants as soon as practicable and all awards will terminate immediately prior to the consummation of such proposed transaction.

Corporate transaction. Our 2018 Plan provides that in the event of certain significant corporate transactions, including: (1) a transfer of all or substantially all of our assets, (2) a merger, consolidation or other capital, reorganization or business combination transaction of the company with or into another corporation, entity or person, or (3) the consummation of a transaction, or series of related transactions, in which any person becomes the beneficial owner, directly or indirectly, of more than 50% of the company's then outstanding capital stock, each outstanding award will be treated as the administrator determines. Such determination, without the consent of any Participant, may provide that such awards will be (i) continued if we are the surviving corporation, (ii) assumed by the surviving corporation or its parent, (iii) substituted by the surviving corporation or its parent for a new award, (iv) canceled in exchange for a payment equal to the excess of the fair market value of our shares subject to such award over the exercise price or purchase price paid for such shares, or (v) in the case of options, participants may be given an opportunity to exercise options prior to the transaction and, if not exercised, such options may be terminated upon consummation of the transaction.

Change of control. The administrator may provide, in an individual award agreement or in any other written agreement between a participant and us that the stock award will be subject to additional acceleration of vesting and exercisability in the event of a change of control. Under the 2018 Plan, a "change of control" is generally (1) a merger, consolidation, or any other corporate reorganization in which our stockholders immediately before the transaction do not own, directly or indirectly, more than a majority of the combined voting power of the surviving entity (or the parent of the surviving entity), (2) the consummation of the sale, transfer or other disposition of all or substantially all of our assets, (3) an unapproved change in the majority of the board of directors during any 12-month period, and (4) the acquisition by any person or company of more than 50% of the total voting power of our then outstanding stock.

Clawback/recovery. Stock awards granted under the 2018 Plan will be subject to recoupment in accordance with any clawback policy we may be required to adopt pursuant to applicable law and listing

requirements. In addition, the administrator may impose such other clawback, recovery or recoupment provisions in any stock award agreement as it determines necessary or appropriate.

Amendment or termination. Our board of directors has the authority to amend, suspend or terminate the 2018 Plan provided such action does not impair the existing rights of any participant. Our 2018 Plan will automatically terminate on November 14, 2028 unless we terminate it sooner. We will obtain stockholder approval of any amendment to our 2018 Plan as required by applicable law or listing requirements.

Employee Stock Purchase Plan

General. Our Employee Stock Purchase Plan, or 2018 ESPP, was adopted by our board of directors on November 15, 2018 and approved by our stockholders on November , 2018. The 2018 ESPP will become effective on the day immediately prior to the date that the registration statement of which this prospectus forms a part becomes effective. The 2018 ESPP is intended to qualify as an "employee stock purchase plan" within the meaning of Section 423 of the Code for U.S. employees. In addition, the 2018 ESPP authorizes grants of purchase rights that do not comply with Section 423 of the Code under a separate non-423 component for non-U.S. employees and certain non-U.S. service providers.

Share reserve. We have reserved 1,206,233 shares of our common stock for issuance under the 2018 ESPP. The number of shares reserved for issuance under the 2018 ESPP will be increased automatically on the first day of each fiscal year for a period of up to ten years, starting with the 2020 fiscal year, by a number equal to the least of:

- 804,155 shares;
- 1% of the shares of common stock outstanding on the last day of the prior fiscal year; or
- such lesser number of shares determined by our board of directors.

As of the date hereof, no shares of our common stock have been purchased under the 2018 ESPP.

Plan administration. The 2018 ESPP will be administered by our board of directors or a committee designated by our board of directors. Our board of directors has delegated its authority to administer the 2018 ESPP to our compensation committee.

Eligibility. Generally, all regular employees, including executive officers, employed by us or by any of our designated affiliates and certain non-U.S. service providers may participate in the 2018 ESPP.

Employees may have to satisfy one or more of the following service requirements before participating in the 2018 ESPP, as determined by the administrator, including: (1) being customarily employed for more than 20 hours per week, (2) being customarily employed for more than 5 months per calendar year, or (3) continuous employment with us or one of our affiliates for a period of time (not to exceed 2 years). No employee may purchase shares under the 2018 ESPP at a rate in excess of $25,000 worth of our common stock based on the fair market value per share of our common stock at the beginning of an offering for each year such a purchase right is outstanding. Finally, no employee will be eligible for the grant of any purchase rights under the 2018 ESPP if immediately after such rights are granted, such employee has voting power over 5% or more of our outstanding capital stock measured by vote or value under Section 424(d) of the Code.

Non-U.S. service providers must provide bona fide services to the company and may be subject to additional eligibility criteria as the administrator may determine even if such criteria is not consistent with Section 423 of the Code.

Offerings. The 2018 ESPP is expected to be implemented through a series of offerings under which participants are granted purchase rights to purchase shares of our common stock on specified dates during such offerings. Under the 2018 ESPP, we may specify offerings with durations of not more than 27

months, and we may specify shorter purchase periods within each offering. Each offering will have one or more purchase dates on which shares of our common stock will be purchased for participants in the offering. An offering under the 2018 ESPP may be terminated under certain circumstances. The administrator will have the discretion to structure an offering so that if the fair market value of a share of our common stock on the first trading day of a new purchase period within that offering is less than or equal to the fair market value of a share of our common stock on the offering date for that offering, then that offering will terminate immediately as of that first trading day, and the participants in such terminated offering will be automatically enrolled in a new offering beginning on the first trading day of such new offering period. The administrator has not yet approved an offering under our 2018 ESPP and we are not certain whether or when this will occur.

Payroll deductions. Participants who are employees may contribute, normally through payroll deductions, up to 15% of their earnings (as defined by the board of directors in each offering) for the purchase of our common stock under the ESPP. Participants who are not employees will contribute on an after-tax basis in a manner determined by the administrator.

Unless otherwise determined by the administrator, common stock will be purchased for the accounts of participants in the 2018 ESPP at a price per share that is at least the lesser of (1) 85% of the fair market value of a share of our common stock on the first date of an offering, or (2) 85% of the fair market value of a share of our common stock on the date of purchase.

Certain adjustments. In the event that there occurs a change in our capital structure through such actions as a stock split, reverse stock split, stock dividend, combination, consolidation, recapitalization (including a recapitalization through a large nonrecurring cash dividend) or reclassification of our common stock, subdivision of our common stock, a rights offering, a reorganization, merger, spin-off, split-up, repurchase, or exchange of our common stock or other significant corporate transaction, or other change affecting our common stock, the administrator will make appropriate adjustments to: (1) the class(es) and maximum number of shares reserved under the 2018 ESPP, (2) the class(es) and maximum number of shares by which the share reserve may increase automatically each year, (3) the class(es) and number of shares and purchase price of all outstanding purchase rights, and (4) the class(es) and number of shares that are subject to purchase limits under ongoing offerings.

Dissolution or liquidation. In the event of our proposed winding up, liquidation or dissolution, any offering period then in progress will be shortened by setting a new purchase date and will terminate immediately prior to the consummation of such proposed dissolution or liquidation, unless provided otherwise by the administrator. The administrator will notify each participant that the purchase date has been changed and that the participant's purchase right will be exercised automatically on the new purchase date unless prior to such date the participant has withdrawn from the offering period.

Corporate transactions. The 2018 ESPP provides that in the event of certain significant corporate transactions, including: (1) a transfer of all or substantially all of our assets, (2) a merger, consolidation or other capital, reorganization or business combination transaction of the company with or into another corporation, entity or person, or (3) the consummation of a transaction, or series of related transactions, in which any person becomes the beneficial owner, directly or indirectly, of more than 50% of the company's then outstanding capital stock, a successor corporation may assume or substitute each outstanding purchase right. If the successor corporation refuses to assume or substitute the purchase right, the offering period then in progress will be shortened, and a new purchase date will be set. The administrator will notify each participant that the purchase date has been changed and that the participant's purchase right will be exercised automatically on the new purchase date unless prior to such date the participant has withdrawn from the offering period.

Amendment or termination. The administrator has the authority to amend, suspend or terminate our 2018 ESPP, except that, subject to certain exceptions described in our 2018 ESPP, no such action may adversely affect any outstanding rights to purchase stock under our 2018 ESPP without the holder's

consent. We will obtain stockholder approval of any amendment to our 2018 ESPP as required by applicable law or listing requirements.

Executive Incentive Bonus Plan

Our Executive Incentive Bonus Plan, or the Bonus Plan, allows our compensation committee to provide cash incentive awards to selected officers and key employees, including our named executive officers, based upon performance goals established by our compensation committee.

Under the Bonus Plan, our compensation committee will determine the amount of the target award (which may, but is not required to be, based upon the participant's base salary), the performance period and the performance goals to be applicable to any award. Performance goals that include our financial results may be determined in accordance with U.S. generally accepted accounting principles, or GAAP, or such financial results may consist of non-GAAP financial measures, and any goals or actual results may be adjusted by our compensation committee for any reason, including without limitation, one-time items or unbudgeted or unexpected items, when determining whether the performance goals have been met. The performance goals may be on the basis of any factors our compensation committee determines relevant and may be adjusted on an individual, divisional, business unit or company-wide basis. The performance goals may differ from participant to participant and from award to award.

Our compensation committee, may, in its sole discretion and at any time, increase, reduce or eliminate an award otherwise payable to a participant with respect to any performance period.

Actual awards will be paid in cash only after they are earned, which usually requires continued employment through the date the bonus is paid unless otherwise determined by our compensation committee.

Our board of directors or our compensation committee will have the authority to amend, alter, suspend or terminate the Bonus Plan, provided such action does not impair the existing rights of any participant with respect to any earned bonus.

Health, Welfare and Retirement Benefits

401(k) Plan

We maintain a defined contribution retirement plan for our eligible U.S. employees. Participants may make pre-tax contributions to the plan from their eligible earnings, and we may make matching contributions and profit sharing contributions to eligible participants, in each case, up to the statutorily prescribed annual limits on contributions under the Internal Revenue Code. The 401(k) plan permits us to make matching contributions and profit sharing contributions to eligible participants. Although we have not made any such contributions to date, effective January 1, 2019, we will make matching contributions under the 401(k) plan equal to up to 50% of employee contributions to a maximum of $3,000. Contributions are allocated to each participant's individual account and are then invested in selected investment alternatives according to the participants' directions. The plan is intended to be qualified under Section 401(a) of the Internal Revenue Code, and the plan's trust is intended to be tax exempt under Section 501(a) of the Internal Revenue Code. As a tax-qualified 401(k) plan, contributions to the 401(k) plan and income earned on such contributions, are not taxable to participants until withdrawn or distributed from the 401(k) plan.

Pension Benefits

None of our named executive officers participate in or has an account balance in any qualified or non-qualified defined benefit plan sponsored by us.

Nonqualified Deferred Compensation

We have not offered any nonqualified deferred compensation plans or arrangements or entered into any such arrangements with any of our named executive officers.

No Tax Gross-ups

We do not make gross-up payments to cover our named executive officers' personal income taxes that may pertain to any of the compensation paid by us.

CERTAIN RELATIONSHIPS AND RELATED-PARTY TRANSACTIONS

In addition to the compensation arrangements with our directors and executive officers, including those discussed in the sections titled "Management" and "Executive Compensation," and the registration rights described in the section titled "Description of Capital Stock—Registration Rights," the following is a description of each transaction since January 1, 2015 and each currently proposed transaction in which:

- we have been or are to be a participant;
- the amount involved exceeded or exceeds $120,000; and
- any of our directors, executive officers or holders of more than 5% of our outstanding capital stock, or any immediate family member of, or person sharing the household with, any of these individuals or entities, had or will have a direct or indirect material interest.

Sales of Securities

Series E Convertible Preferred Stock

From October 2, 2015 through January 29, 2016, we issued and sold an aggregate of 7,051,835 shares of our Series E convertible preferred stock, or Series E stock, at a purchase price of $2.4534 per share for aggregate consideration of approximately $17,300,000.

The participants in this convertible preferred stock financing included certain holders of more than 5% of our capital stock, one of our executive officers, certain members of our board of directors and as applicable, their affiliates. The following table sets forth the aggregate number of shares of Series E stock issued to these related parties in this convertible preferred stock financing:

Stockholder	Shares of Preferred Stock		Total Purchase Price
5% Stockholders:			
DNS-BYMT, LLC	1,222,792	$	2,999,997.89
Entities affiliated with Kleiner Perkins Caufield & Byers[1]	611,396		1,499,998.95
Entities affiliated with the Obvious Group[2]	203,798		499,998.01
Directors and Executive Officers:			
Seth Goldman and related entities[3]	66,438	$	162,998.99
Raymond J. Lane and related entities[4]	81,519		199,998.71
Gregory Bohlen and related entities[5]	407,597		999,998.48

(1) Consists of 563,707 shares of Series E stock purchased by Kleiner Perkins Caufield & Byers XIV, LLC and 47,689 shares of Series E stock purchased by KPCB XIV Founders Fund, LLC.
(2) Consists of shares of Series E stock purchased by Obvious Ventures I, L.P.
(3) Consists of 66,438 shares of Series E stock purchased by the Julie D. Farkas Revocable Trust for which Mr. Goldman's wife serves as the trustee.
(4) Consists of 81,519 shares of Series E stock purchased by GreatPoint Ventures Innovation Fund, LP. for which Mr. Lane serves as Managing Partner.
(5) Consists of 407,597 shares of Series E stock purchased by Union Grove Partners Direct Venture Fund, LP, for which Mr. Bohlen serves on the investment committee of the record holder's general partner.

September 2016 Subordinated Convertible Note Financing

From September 9, 2016 through September 12, 2016, we issued and sold subordinated convertible promissory notes with an aggregate principal amount of $4,000,000 bearing interest at a rate of 1% per annum, compounded annually.

The participants in this subordinated convertible note financing included one of the holders of more than 5% of our capital stock, one of our executive officers and members of our board of directors, and their affiliates. The following table sets forth the aggregate principal amount of notes issued to these related parties in this subordinated convertible note financing:

Stockholder	Total Purchase Price
Directors and Executive Officers:	
Seth Goldman and related entities[1]	$ 300,000

(1) Consists of notes in an aggregate principal amount of $300,000 purchased by the Seth Goldman Revocable Trust for which Mr. Goldman serves as the trustee.

Series F Convertible Preferred Stock

From October 7, 2016 through June 26, 2017, we issued and sold an aggregate of 7,299,792 shares of our Series F convertible preferred stock, or Series F stock, at a purchase price of $4.12 per share, for aggregate consideration of approximately $30,100,000.

The participants in this convertible preferred stock financing included certain holders of more than 5% of our capital stock, one of our executive officers, certain members of our board of directors and as applicable, their affiliates. The following table sets forth the aggregate number of shares of Series F stock issued to these related parties in this convertible preferred stock financing:

Stockholder	Shares of Preferred Stock	Total Purchase Price
5% Stockholders:		
DNS-BYMT, LLC	242,518	$ 999,998.72
Tyson New Ventures, LLC	3,649,900	15,049,997.66
Entities affiliated with Cleveland Avenue, LLC[1]	303,147	1,249,996.34
Directors and Executive Officers:		
Seth Goldman and related entities[2]	76,628	$ 315,967.90
Raymond J. Lane and related entities[3]	72,755	299,997.97
Gregory Bohlen and related entities[4]	788,182	3,249,989.66

(1) Consists of 223,331 shares of Series F stock purchased by Cleveland Avenue, LLC and held of record by CA Food I Fund LLC and 79,816 shares of Series F stock purchased by Donald Thompson, one of our directors, and held of record by Cleveland Manor Investments II LLC. Mr. Thompson has voting and dispositive control over the shares held by CA Food I Fund LLC and Cleveland Manor Investments II LLC. See “Principal Stockholders” for more information.
(2) Consists of 76,628 shares of Series F stock purchased by the Seth Goldman Revocable Trust for which Mr. Goldman serves as the trustee.
(3) Consists of 72,755 shares of Series F stock purchased by GreatPoint Ventures Innovation Fund, LP. for which Mr. Lane serves as Managing Partner.
(4) Consists of 727,554 shares of Series F stock purchased by Union Grove Partners Venture Access Fund II-B, LP, 30,314 shares of Series F stock purchased by Union Grove Partners Direct Venture Fund, LP and 30,314 shares of Series F stock purchased by Union Grove Partners Venture Access Fund II, LP for which Mr. Bohlen serves on the investment committees of the general partners of each of the aforementioned record holders.

August 2017 Subordinated Convertible Note Financing

From August 1, 2017 through November 3, 2017, we issued and sold subordinated convertible promissory notes with an aggregate principal amount of $10,000,000 bearing interest at a rate of 5% per annum, compounded annually.

The participants in this subordinated convertible note financing included certain holders of more than 5% of our capital stock, one of our executive officers and certain members of our board of directors and as applicable, their affiliates. The following table sets forth the aggregate principal amount of notes issued to these related parties in this subordinated convertible note financing:

Stockholder	Total Purchase Price
5% Stockholders:	
DNS-BYMT, LLC	$ 1,000,000
Entities affiliated with Cleveland Avenue, LLC[1]	3,600,000
Directors and Executive Officers:	
Seth Goldman and related entities[2]	$ 1,000,000
Bernhard van Lengerich	300,000

(1) Consists of notes in an aggregate principal amount of $1,587,322 purchased by Cleveland Avenue, LLC and held of record by Beyond Meat CA LLC, notes in an aggregate principal amount of $1,587,322 purchased by Beyond Meat CA LLC, and notes in an aggregate principal amount of $425,356 purchased by Donald Thompson. Mr. Thompson has voting and dispositive control over the shares held by Beyond Meat CA LLC. See “Principal Stockholders” for more information.

(2) Consists of notes in an aggregate principal amount of $1,000,000 purchased by the Seth Goldman Revocable Trust for which Mr. Goldman serves as the trustee.

Series G Convertible Preferred Stock

From November 22, 2017 through June 29, 2018, we issued and sold an aggregate of 7,671,837 shares of our Series G convertible preferred stock, or Series G stock, at a purchase price of $7.2933 per share, for aggregate consideration of approximately $55,953,000, including the conversion of the $10,000,000 of subordinated convertible promissory notes described above.

The participants in this convertible preferred stock financing included certain holders of more than 5% of our capital stock, one of our executive officers and certain members of our board of directors and as applicable, their affiliates. The following table sets forth the aggregate number of shares of Series G stock issued to these related parties in this convertible preferred stock financing (amounts shown below are in addition to the convertible promissory notes described in the table above):

Stockholder	Shares of Preferred Stock		Total Purchase Price
5% Stockholders:			
DNS-BYMT, LLC	154,250	$	1,124,991.52
Tyson New Ventures, LLC	1,096,897		7,999,998.89
Entities affiliated with Cleveland Avenue, LLC(1)	2,859,238		20,853,280.51
Directors and Executive Officers:			
Seth Goldman and related entities(2)	154,250	$	1,124,991.52
Bernhard van Lengerich	73,697		537,494.33

(1) Consists of 2,793,627 shares of Series G stock purchased by Beyond Meat CA LLC and 65,611 shares of Series G stock purchased by Don Thompson, in each case held of record by Cleveland Manor Investments II LLC. Mr. Thompson has voting and dispositive control over the shares held by Cleveland Manor Investments II LLC. See “Principal Stockholders” for more information.
(2) Consists of 154,250 shares of Series G stock purchased by the Seth Goldman Revocable Trust for which Mr. Goldman serves as the trustee.

Series H Convertible Preferred Stock

From October 5, 2018 through November 2, 2018 we issued and sold an aggregate of 3,112,696 shares of our Series H convertible preferred stock, or Series H stock, at a purchase price of $16.1540 per share, for aggregate consideration of $50,282,491.19.

The participants in this convertible preferred stock financing included certain holders of more than 5% of our capital stock, one of our executive officers and certain members of our board of directors and as applicable, their affiliates. The following table sets forth the aggregate number of shares of Series H stock issued to these related parties in this convertible preferred stock financing:

Stockholder	Shares of Preferred Stock		Total Purchase Price
5% Stockholders:			
DNS-BYMT, LLC(1)	260,343	$	4,205,580.83
Entities affiliated with Cleveland Avenue, LLC(2)	155,036		2,504,451.56
Directors and Executive Officers:			
Seth Goldman and related entities(3)	61,904	$	999,997.22
Raymond J. Lane and related entities(4)	185,712		2,999,991.65

(1) Consists of 260,343 shares of Series H convertible preferred stock purchased by DNS-BYMT, LLC
(2) Consists of 114,999 shares of Series H convertible preferred stock purchased by Beyond Meat CA LLC, 9,194 shares of Series H convertible preferred stock purchased by CA Food I Fund, LLC and 30,843 shares of Series H convertible preferred stock purchased by Cleveland Manor Investments II LLC, one of our directors, and held of record by Cleveland Manor Investments II LLC. Mr. Thompson has voting and dispositive control over the shares held by CA Food I Fund LLC and Cleveland Manor Investments II LLC. See “Principal Stockholders” for more information.

(3) Consists of 61,904 shares of Series H convertible preferred stock purchased by the Seth Goldman Revocable Trust for which Mr. Goldman serves as the trustee.
(4) Consists of 178,967 shares of Series H convertible preferred stock purchased by GreatPoint Ventures Innovation Fund, LP, for which Mr. Lane serves as Managing Partner, and 6,745 shares of Series H convertible preferred stock purchased by the GreatPoint Ventures Innovation Parallel Fund, LP., for which Mr. Lane serves as Managing Partner. See “Principal Stockholders” for more information.

Directed Share Program

At our request, the underwriters have reserved for sale, at the initial public offering price, up to 5% of the shares offered by this prospectus for sale to some of our directors, officers, employees, distributors, dealers, business associates and related persons. The directed share program will not limit the ability of our directors, officers and their family members, or holders of more than 5% of our common stock, to purchase more than $120,000 in value of our common stock. We do not currently know the extent to which these related persons will participate in our directed share program, if at all, or to the extent they will purchase more than $120,000 in value of our common stock.

Amended and Restated Investors’ Rights Agreement

In October 2018, we entered into an amended and restated investor rights agreement with certain of our stockholders, which included the entities affiliated with Kleiner Perkins Caufield & Byers, the entities affiliated with the Obvious Group, DNS-BYMT, LLC, Tyson New Ventures, LLC and the entities affiliated with Cleveland Avenue LLC as well as our directors, Seth Goldman, Bernhard van Lengerich and Ethan Brown and their affiliates to the extent applicable. The investor rights agreement provides these stockholders with information rights and a right of first offer with regard to certain issuances of our capital stock, which in each case will terminate on the closing of this offering. In addition, after the closing of this offering, these stockholders will be entitled to rights with respect to the registration of their shares of common stock under the Securities Act. For a description of these registration rights, see “Description of Capital Stock—Registration Rights.”

Advisor Agreement

In November 2015, we entered into an advisor agreement with Food System Strategies, LLC. In February 2016, we entered into new advisor agreement with Food System Strategies, LLC, which was subsequently amended in December 2016. Dr. Bernhard van Lengerich, who is a member of our board of directors, is the Chief Executive Officer of Food System Strategies, LLC. As of September 29, 2018, we have paid $533,500 in fees to Food System Strategies, LLC pursuant to the advisor agreement. For more information regarding this advisor agreement, see “Management—Director Compensation Arrangements.”

Consulting Agreement

In November 2018, we amended and restated a consulting agreement with Seth Goldman, our Executive Chair and a member of our board of directors, which we originally entered into in March 2016. As of September 29, 2018, we have paid $452,084 in fees and a $149,625 discretionary bonus to Mr. Goldman pursuant to this consulting agreement. For more information regarding this consulting agreement, see “Management—Director Compensation Arrangements.”

Option Amendment Letter

In March 2017, Mark J. Nelson, our Chief Financial Officer, terminated his employment with us but was re-employed by us in May 2017. In May 2017 we entered into an option amendment letter with Mr. Nelson, pursuant to which his outstanding stock options were amended to provide that his termination of employment from us would not be considered a termination of his “Continuous Service” (as defined by the 2011 Plan) and that his stock options would continue to vest pursuant to their terms. The intrinsic value of his amended options as of the date of the amendment was $389,441, which amount is equal to the fair market value of the options less the exercise price.

Indemnification Agreements

We have entered into indemnification agreements with each of our directors and officers. The indemnification agreements and our certificate of incorporation and bylaws require us to indemnify our directors and officers to the fullest extent permitted by Delaware law. For more information regarding these indemnification agreements, see “Management—Limitation of Liability and Indemnification.”

Promissory Notes

In December 2015, we loaned Donald Thompson, a member of our board of directors and Seth Goldman, $380,498 and $570,747, respectively, pursuant to promissory notes at an annual interest rate of 1.68%, compounded annually, to allow them to purchase restricted shares of our common stock. The promissory notes were repaid in full by each of Mr. Thompson and Mr. Goldman on July 17, 2018 and July 9, 2018, respectively.

Related-Party Transaction Policy

Our audit committee will have the primary responsibility for reviewing and approving or disapproving “related-party transactions,” which are transactions between us and related persons in which the aggregate amount involved exceeds or may be expected to exceed $120,000 and in which a related person has or will have a direct or indirect material interest. The written charter of our audit committee will provide that our audit committee shall review and approve in advance any related-party transaction.

We have adopted a formal written policy providing that we are not permitted to enter into any transaction that exceeds $120,000 and in which any related person has a direct or indirect material interest without the consent of our audit committee. This policy was not in effect when we entered into the related-party transactions above. In approving or rejecting any such transaction, our audit committee is to consider the relevant facts and circumstances available and deemed relevant to our audit committee, including whether the transaction is on terms no less favorable than terms generally available to an unaffiliated third party under the same or similar circumstances and the extent of the related person’s interest in the transaction.

PRINCIPAL STOCKHOLDERS

The following table and footnotes set forth information with respect to the beneficial ownership of our common stock as of November 9, 2018, subject to certain assumptions set forth in the footnotes and as adjusted to reflect the sale of the shares of common stock offered in the public offering under this prospectus for:

- each holder of 5% or more of the outstanding shares of our common stock;
- each of our named executive officers;
- each of our directors; and
- all of our executive officers and directors as a group.

In accordance with SEC rules, each listed person's beneficial ownership includes:

- all shares the stockholder actually owns beneficially or of record;
- all shares over which the stockholder has or shares voting or dispositive control (such as in the capacity as a general partner of an investment fund); and
- all shares the stockholder has the right to acquire beneficial ownership of within 60 days after November 9, 2018.

Our calculation of the percentage of beneficial ownership prior to this offering is based on 72,373,319 shares of common stock outstanding as of November 9, 2018, assuming the conversion of all then-outstanding shares of our convertible preferred stock on a one-for-one basis into 62,340,174 shares of common stock outstanding after closing of this offering. The percentage ownership information assumes no exercise of the underwriters' option to purchase additional shares. Shares of common stock that a person has the right to acquire within 60 days after November 9, 2018 are deemed outstanding for purposes of computing the percentage ownership of the person holding such rights but are not deemed outstanding for purposes of computing the percentage ownership of any other person, except with respect to the percentage ownership of all directors and executive officers as a group. The following table does not reflect any shares of our common stock that may be purchased pursuant to our directed share program described under "Underwriting—Directed Share Program."

Unless otherwise indicated, we believe, based on the information furnished to us, that the persons named in the table below have sole voting and investment power with respect to all securities that they beneficially own, subject to community property laws where applicable. Unless otherwise noted below, the business address of the stockholders listed below is the address of our principal executive office, 1325 E. El Segundo Blvd., El Segundo, CA 90245.

	Shares beneficially owned prior to the offering				Shares beneficially owned after the offering			
Name of beneficial owner	Common stock	Options exercisable within 60 days	Aggregate number of shares beneficially owned	%	Assuming no exercise of option to purchase additional shares	%	Assuming exercise of option to purchase additional shares	%
5% or more stockholders:								
Entities affiliated with Kleiner Perkins Caufield & Byers[1]	11,626,615	—	11,626,615	16.1				
Entities affiliated with Obvious Ventures[2]	7,518,564	—	7,518,564	10.4				
DNS-BYMT, LLC[3]	6,584,801	—	6,584,801	9.1				
Tyson New Ventures, LLC[4]	4,746,797	—	4,746,797	6.6				
Entities affiliated with Cleveland Avenue, LLC[5]	3,921,386	—	3,921,386	5.4				
Named executive officers and directors								
Ethan Brown[6]	2,777,067	2,202,206	4,979,273	6.7				
Donald Thompson[5]	3,921,386	—	3,921,386	5.4				
Seth Goldman[7]	1,468,362	46,618	1,514,980	2.1				
Gregory Bohlen[8]	1,195,779	—	1,195,779	1.7				
Mark J. Nelson[9]	697,258	207,218	904,476	1.3				
Bernhard van Lengerich[10]	672,833	177,522	850,355	1.2				
Raymond J. Lane[11]	339,986	—	339,986	*				
Charles Muth[12]	187,500	109,375	296,875	*				
Diane Carhart[13]	—	145,833	145,833	*				
Christopher Isaac Stone[14]	27,778	—	27,778	*				
Ned Segal[15]	—	25,100	25,100	*				
Kathy N. Waller[16]	—	25,100	25,100	*				
Michael A. Pucker[17]	—	—	—	—				
All directors and executive officers as a group[18] (15 persons)	17,875,875	3,044,578	20,920,453	27.7				

* Represents beneficial ownership of less than one percent of the outstanding shares of our common stock.

(1) Consists of (i) 10,719,738 shares of common stock issuable upon the deemed conversion of shares of the preferred stock held by Kleiner Perkins Caufield & Byers XIV, LLC (“KPCB XIV”) and (ii) 906,877 shares of common stock issuable upon the deemed conversion of shares of the preferred stock held by KPCB XIV Founders Fund, LLC (“KPCB XIV FF”). All shares are held for convenience in the name of “KPCB Holdings, Inc., as nominee” for the accounts of such entities. The managing member of KPCB XIV and KPCB XIV FF is KPCB XIV Associates, LLC (“KPCB XIV Associates”). Brook Byers, L. John Doerr, William Gordon and Theodore Schlein, the managing members of KPCB XIV Associates, may be deemed to have shared voting and dispositive power over the shares held by KPCB XIV and KPCB XIV FF. The address for each of the entities identified above is 2750 Sand Hill Road, Menlo Park, CA 94025.

(2) Consists of (i) 6,635,170 shares of common stock issuable upon the deemed conversion of shares of the preferred stock held by Obvious Group LLC ("Obvious Group") and (ii) 883,394 shares of common stock issuable upon the deemed conversion of shares of the preferred stock held by Obvious Ventures I, L.P. ("OV1"). The sole managing member of Obvious Group is Evan Williams, who may be deemed to have sole voting and dispositive power over the shares held by Obvious Group. The general partner of Obvious Ventures I, L.P. is Obvious Ventures GP I, L.L.C. ("OV1 GP"). Evan Williams and James Joaquin, the managing members of OV1 GP, may be deemed to have shared voting and dispositive power over the shares held by OV1 GP. The address for Obvious Group is PO Box 849 Lafayette, CA 94549-0849. The address for OV1 and OV1 GP is 220 Halleck Street, Suite 120, San Francisco, CA 94129.

(3) Consists of 6,584,801 shares of common stock issuable upon the deemed conversion of shares of the preferred stock held of record by DNS-BYMT, LLC. DNS-BYMT, LLC ("DNS") is a manager-managed Delaware limited liability company. The controlling member of DNS is DNS Venture Partners, LLC ("DNS VP"), a manager-managed Delaware limited liability, and the sole managers of both DNS and DNS VP are P. Daniel Donohue and Edward Rabin who may be deemed to have shared voting and dispositive power over the shares held by DNS. The address for each of the entities identified above is 350 S Main Ave., Suite 402, Sioux Falls, SD 57104.

(4) Consists of 4,746,797 shares of common stock issuable upon the deemed conversion of shares of the preferred stock held by Tyson New Ventures, LLC, which is a wholly owned subsidiary of Tyson Foods, Inc. Tyson Foods, Inc.'s board of directors consist of John Tyson, Gaurdie E. Banister Jr., Dean Banks, Mike Beebe, Mikel A. Durham, Tom Hayes, Kevin M. McNamara, Cheryl S. Miller, Jeffrey K. Schomburger, Robert C. Thurber, and Barbara A. Tyson, and may be deemed to have shared voting and dispositive power over the shares held by Tyson New Ventures, LLC. The address for each of the entities identified above is 229 Don Tyson Parkway, Springdale, AR 72762.

(5) Consists of (i) 603,965 shares of common stock and 176,270 shares of common stock issuable upon the deemed conversion of shares of the preferred stock held by Cleveland Manor Investments II LLC ("Cleveland Manor"), (ii) 2,908,626 shares of common stock issuable upon the deemed conversion of shares of the preferred stock held by Beyond Meat CA LLC ("BM CA"), and (iii) 232,525 shares of common stock issuable upon the deemed conversion of shares of the preferred stock held by CA Food I Fund, LLC ("CA Food"). Cleveland Avenue Food and Beverage Fund Holdings LLC ("CA F & B") is the sole member of BM CA. Cleveland Avenue GP, LLC ("CA GP") is the sole manager of CA F & B. Cleveland Avenue, LLC ("CA LLC") is the sole manager of CA GP. Donald Thompson is the sole manager of CA LLC and may be deemed to have sole voting and dispositive power over the shares held by BM CA. Mr. Thompson is the sole manager of Cleveland Manor and may be deemed to have sole voting and dispositive power over the shares held by Cleveland Manor. CA LLC is the sole manager of CA Food. Mr. Thompson is the sole manager of CA LLC and may be deemed to have sole voting and dispositive power over the shares held by CA Food. The address for each of the entities identified above is 222 N. Canal, St. Chicago, IL 60606.

(6) Consists of (i) 2,777,067 shares of common stock and (ii) 2,202,206 shares subject to stock options issuable upon the exercise of options exercisable within 60 days after November 8, 2018. Mr. Brown has pledged 392,442 of his shares as collateral to secure a personal loan from a lender that is not the company. In addition, pursuant to another personal loan from a lender that is not the company, all of Mr. Brown's shares are subject to a "negative pledge" under which the sale or transfer of his shares would result in such loan becoming due.

(7) Consists of (i) 380,472 shares of common stock issuable upon the deemed conversion of shares of the preferred stock held by the Julie D. Farkas Revocable Trust, (ii) 138,532 shares of common stock issuable upon the deemed conversion of shares of the preferred stock held by the Seth Goldman Revocable Trust, and (iii) (a) 949,358 shares of common stock and (b) 46,618 shares subject to stock options issuable upon the exercise of options exercisable within 60 days after November 8, 2018 held in each case by Seth Goldman. Mr. Goldman's spouse is the trustee of the Julie D. Farkas Revocable Trust and Mr. Goldman is the trustee of the Seth Goldman Revocable Trust. Therefore, Mr. Goldman may be deemed to have voting and dispositive power over the shares held by both trusts.

(8) Consists of (i) 437,911 shares of common stock issuable upon the deemed conversion of shares of the preferred stock held by Union Grove Partners Direct Venture Fund, LP, (ii) 30,314 shares of common stock issuable upon the deemed conversion of shares of the preferred stock held by Union Grove Partners Venture Access Fund II, LP, and (iii) 727,554 shares of common stock issuable upon the deemed conversion of shares of the preferred stock held by Union Grove Partners Venture Access Fund II-B, LP (collectively, the "Union Grove Funds"). Union Grove Venture Partners 2014, LLC is the general partner of Union Grove Partners Direct Venture Fund, LP. Union Grove Venture Partners 2015, LLC is the general partner of Union Grove Partners Venture Access Fund II, LP. Union Grove Venture Partners 2015-B, LLC is the general partner of Union Grove Partners Venture Access Fund II-B, LP. Mr. Bohlen serves on the investment committee of each of Union Grove Venture Partners 2014, LLC, Union Grove Venture Partners 2015, LLC and Union Grove Venture Partners 2015-B, LLC, and may be deemed to share voting and dispositive power over the shares held by the Union Grove Funds with the other

members of the investment committee. The address for each of the entities identified above is 7203 Union Grove Church Rd Chapel Hill, NC 27516.

(9) Consists of (i) 697,258 shares of common stock and (ii) 207,218 shares subject to stock options issuable upon the exercise of options exercisable within 60 days after November 8, 2018.

(10) Consists of (i) 73,697 shares of common stock issuable upon the deemed conversion of shares of the preferred stock held by Mr. van Lengerich, (ii) 177,522 shares of common stock subject to stock options issuable upon the exercise of options exercisable within 60 days after November 8, 2018, and (iii) 599,136 shares of common stock held by Seeding the Future Foundation. Mr. van Lengerich is the founder and president of Seeding the Future Foundation. In addition, Mr. van Lengerich and his wife serve as the only board members of Seeding the Future Foundation. Therefore, Mr. van Lengerich may be deemed to have voting and dispositive power over the shares held by Seeding the Future Foundation. The address for Seeding the Future Foundation is 1855 Troy Lane Plymouth, MN 55447.

(11) Consists of (i) 333,241 shares of common stock issuable upon the deemed conversion of shares of the preferred stock held by GreatPoint Ventures Innovation Fund, LP and (ii) 6,745 shares of common stock issuable upon the deemed conversion of shares of the preferred stock held by GreatPoint Ventures Innovation Parallel Fund, L.P. GreatPoint Investment Partners, LLC is the general partner of GreatPoint Ventures Innovation Fund, L.P. and GreatPoint Ventures Innovation Parallel Fund, L.P. Mr. Lane serves on the investment committee of GreatPoint Investment Partners, LLC and may be deemed to share voting and dispositive power over the shares held by GreatPoint Ventures Innovation Fund, L.P. and GreatPoint Ventures Innovation Parallel Fund, L.P. with the other members of the investment committee. The address for each of the entities identified above is 744 Montgomery Street, 5th Floor San Francisco, CA 94111.

(12) Consists of (i) 187,500 shares of common stock and (ii) 109,375 shares subject to stock options issuable upon the exercise of options exercisable within 60 days after November 8, 2018.

(13) Consists of 145,833 shares subject to stock options issuable upon the exercise of options exercisable within 60 days after November 8, 2018.

(14) Consists of 27,778 shares of common stock are held by the Biz and Livy Stone Family Trust, for which Mr. Stone and his wife serve as co-trustees and for which Mr. Stone may be deemed to have voting and dispositive power over the shares held by the trust.

(15) Consists of 25,100 shares issuable upon the exercise of early-exercisable stock options, 1,046 of which would be vested within 60 days after November 9, 2018. Mr. Segal has the right to vote any early-exercised shares.

(16) Consists of 25,100 shares issuable upon the exercise of early-exercisable stock options, 1,046 of which would be vested within 60 days after November 9, 2018. Ms. Waller has the right to vote any early-exercised shares.

(17) Mr. Pucker will resign as one of our directors immediately prior to the effectiveness of the registration statement on Form S-1, of which this prospectus forms a part.

(18) Consists of (i) 5,845,187 shares of common stock, (ii) 3,044,578 shares of common stock that may be acquired pursuant to the exercise of stock options within 60 days of November 9, 2018, and (iii) 12,030,688 shares of common stock issuable upon conversion of preferred stock.

DESCRIPTION OF CAPITAL STOCK

The following descriptions of our capital stock and certain provisions of our amended and restated certificate of incorporation and amended and restated bylaws are summaries and are qualified by reference to the amended and restated certificate of incorporation and the amended and restated bylaws that will be in effect upon the closing of this offering. Copies of these documents will be filed with the SEC as exhibits to our registration statement, of which this prospectus forms a part. The descriptions of the common stock and preferred stock reflect changes to our capital structure that will occur upon the closing of this offering.

Upon the closing of this offering and the filing of our amended and restated certificate of incorporation to be effective upon closing of this offering, our authorized capital stock will consist of 500,500,000 shares of capital stock, par value $0.0001 per share, of which:

- 500,000,000 shares are designated as common stock; and
- 500,000 shares are designated as preferred stock.

As of September 29, 2018, after giving effect to the conversion of all outstanding shares of our convertible preferred stock into shares of our common stock (including 3,112,696 shares of Series H stock issued after September 29, 2018), which will occur upon the closing of this offering on a one-for-one basis, as if such conversion had occurred on September 29, 2018, there were 72,264,840 shares of our common stock outstanding, and no shares of our preferred stock outstanding. Our board of directors is authorized, without stockholder approval except as required by the listing standards of Nasdaq, to issue additional shares of our capital stock.

Common Stock

As of September 29, 2018, we had 9,924,666 shares of common stock issued and outstanding held by 65 stockholders of record.

Voting Rights

Each holder of common stock is entitled to one vote for each share on all matters submitted to a vote of the stockholders, including the election of directors. Our certificate of incorporation and bylaws to be in effect upon the closing of this offering do not provide for cumulative voting rights. Because of this, the holders of a plurality of the shares of common stock entitled to vote in any election of directors can elect all of the directors standing for election, if they should so choose. With respect to matters other than the election of directors, at any meeting of the stockholders at which a quorum is present or represented, the affirmative vote of a majority of the voting power of the shares present in person or represented by proxy at such meeting and entitled to vote on the subject matter shall be the act of the stockholders, except as otherwise required by law. The holders of a majority of the stock issued and outstanding and entitled to vote, present in person or represented by proxy, shall constitute a quorum for the transaction of business at all meetings of the stockholders.

Dividends

Subject to preferences that may be applicable to any then-outstanding preferred stock, holders of our common stock are entitled to receive dividends, if any, as may be declared from time to time by our board of directors out of legally available funds.

Liquidation

In the event of our liquidation, dissolution or winding up, holders of our common stock will be entitled to share ratably in the net assets legally available for distribution to stockholders after the payment of all of our debts and other liabilities and the satisfaction of any liquidation preference granted to the holders of any then-outstanding shares of preferred stock.

Rights and Preferences

Holders of our common stock have no preemptive, conversion, subscription or other rights, and there are no redemption or sinking fund provisions applicable to our common stock. The rights, preferences and privileges of the holders of our common stock are subject to and may be adversely affected by the rights of the holders of shares of any series of our preferred stock that we may designate in the future.

Fully Paid and Nonassessable

All of our outstanding shares of common stock are, and the shares of common stock to be issued in this offering, upon payment and delivery in accordance with the underwriting agreement, will be fully paid and nonassessable.

Preferred Stock

As of September 29, 2018, there were 59,227,478 shares of convertible preferred stock outstanding, which will automatically convert, upon the closing of this offering, into shares of common stock on a one-for-one basis. Subsequent to September 29, 2018, we issued an additional 3,112,696 shares of convertible preferred stock which are outstanding and will automatically convert upon the closing of this offering into shares of common stock on a one-for-one basis.

Upon the closing of this offering, our board of directors will have the authority, without further action by the stockholders, to issue up to 500,000 shares of preferred stock in one or more series and to fix the rights, preferences, privileges and restrictions thereof. These rights, preferences and privileges could include dividend rights, conversion rights, voting rights, redemption rights, liquidation preferences, sinking fund terms and the number of shares constituting any series or the designation of such series, any or all of which may be greater than the rights of common stock. The issuance of preferred stock could adversely affect the voting power of holders of common stock and the likelihood that such holders will receive dividend payments and payments upon liquidation. In addition, the issuance of preferred stock could have the effect of delaying, deferring or preventing change in our control or other corporate action. Upon the closing of this offering, no shares of preferred stock will be outstanding, and we have no present plan to issue any shares of preferred stock.

Options

As of September 29, 2018, we had outstanding options to purchase up to an aggregate of 7,211,699 shares of common stock, with a weighted average exercise price of $1.00, pursuant to our 2011 Equity Incentive Plan and 685,269 shares remained available for future awards. Subsequent to September 29, 2018, we granted options to purchase an aggregate of 796,834 shares of our common stock at an exercise price of $11.35.

Restricted Stock

As of September 29, 2018, we had outstanding 1,509,913 restricted shares of our common stock which were purchased pursuant to and remain subject to restricted stock purchase agreements. Such restricted shares vest upon the satisfaction of the service condition and provide the holders with certain stockholder rights, such as the right to vote the shares immediately upon grant and prior to their vesting.

Subsequent to September 29, 2018, we granted rights to acquire up to 203,685 restricted shares of our common stock pursuant to restricted stock purchase agreements. Such restricted shares, if issued, will vest upon the satisfaction of the service condition and provide the prospective holders with certain stockholder rights, such as the right to vote the shares immediately upon acquisition and prior to their vesting.

Warrants

As of September 29, 2018, we had warrants outstanding to purchase shares of 90,000 shares of our common stock at $2.00 per share, 182,533 shares of our Series B convertible preferred stock at $0.71 per share and 58,607 shares of our Series E convertible preferred stock at $2.45 per share. Each outstanding warrant contains provisions for the adjustment of the exercise price and the number of shares issuable upon exercise in the event of stock dividends, stock splits, reorganizations and reclassifications, consolidations and the like. The warrants exercisable for our convertible preferred stock will become exercisable for shares of our common stock on a one-for-one basis upon the closing of this offering.

The warrants exercisable for our common stock contain provisions requiring us to purchase, upon request by the holders, such warrants at a specified price in the event of any acquisition, merger, consolidation, or an initial public offering and sale of securities to the public pursuant to an effective registration statement. The holders of these warrants are entitled to make a request of us to purchase these warrants following the issuance of our common stock in this offering.

Registration Rights

We are party to an investor rights agreement that provides that certain holders of our preferred stock, including certain holders of at least 5% of our capital stock and entities affiliated with certain of our directors, have certain registration rights, as set forth below. The investor rights agreement was entered into in April 2011 and has been amended and restated from time to time in connection with our preferred stock financings. The last such amendment and restatement of this agreement occurred in October 2018. The registration of shares of our common stock by the exercise of registration rights described below would enable the holders to sell their shares without restriction under the Securities Act when the applicable registration statement was declared effective.

Generally, in an underwritten offering, the managing underwriter, if any, has the right, subject to specified conditions, to limit the number of shares such holders may include. The demand, piggyback, and Form S-3 registration rights described below will expire four years after the effective date of the registration statement, of which this prospectus is a part, or with respect to any particular stockholder, such time after the effective date of the registration statement that such stockholder can sell all of its shares under Rule 144 of the Securities Act during any three-month period without registration.

Demand Registration Rights

Assuming the automatic conversion of all shares of our preferred stock into common stock upon the closing of this offering into shares of our common stock on a one-for-one basis, the holders of up to 62,340,174 shares of our common stock will be entitled to certain demand registration rights after completion of this offering. Pursuant to our investor rights agreement, the holders of our outstanding common stock issued or issuable upon conversion of our preferred stock will be entitled to certain demand registration rights. At any time beginning 180 days after the closing of this offering, the holders of at least 30% of these shares may, on not more than two occasions, request that we register all or a portion of their shares. Such anticipated aggregate offering price must, net of underwriting discounts and commissions, stock transfer taxes and fees and disbursements of counsel to such holders (except such fees and disbursements borne and paid by us) exceed $5,000,000. We are only obligated to effect two registrations in response to these demand registration rights.

Piggy-Back Registration Rights

Pursuant to our investor rights agreement, after this offering, in the event that we propose to register any of our securities under the Securities Act, the holders of shares of our common stock issued or issuable upon conversion of our convertible preferred stock will be entitled to, either for their own account or for the account of other security holders, certain piggyback registration rights allowing the holder to include their shares in such registration, subject to certain marketing and other limitations. As a result, whenever we propose to file a registration statement under the Securities Act, the holders of these shares

are entitled to notice of the registration and have the right to include their shares in the registration, subject to limitations that the underwriters may impose on the number of shares included in the offering.

In addition, the same “piggyback” registration rights as set forth in our investor rights agreement are contained in a warrant to purchase up to 182,533 shares of our Series B convertible preferred stock that we issued to Triplepoint Capital LLC. These rights may not be amended or waived without Triplepoint Capital LLC’s prior written consent unless such amendment applies equally to all holders of this applicable registration right.

Form S-3 Registration Rights

Following this offering, we may be obligated under our investor rights agreement to effect a registration on Form S-3 under the Securities Act. At any time after we are qualified to file a registration statement on Form S-3, the holders of 15% of such registrable securities then outstanding may request in writing that we effect a registration on Form S-3 if the proposed aggregate offering price of the shares to be registered by the holders requesting registration is at least $1,000,000 net of underwriting discounts and commissions, stock transfer taxes and fees and disbursements of counsel to such holders (except such fees and disbursements borne and paid by us), subject to certain exceptions. We are only obligated to effect two such S-3 registrations in any 12-month period.

Expenses of Registration

We will pay all expenses relating to any demand registrations, Form S-3 registrations and piggyback registrations, subject to specified exceptions.

Anti-Takeover Effects of Certain Provisions of Delaware Law, Our Amended and Restated Certificate of Incorporation and Our Amended and Restated Bylaws

Certain provisions of Delaware law and certain provisions that will be included in our amended and restated certificate of incorporation and amended and restated bylaws summarized below may be deemed to have an anti-takeover effect and may delay, deter, or prevent a tender offer or takeover attempt that a stockholder might consider to be in its best interests, including attempts that might result in a premium being paid over the market price for the shares held by stockholders.

Preferred Stock

Our amended and restated certificate of incorporation will contain provisions that permit our board of directors to issue, without any further vote or action by the stockholders, shares of preferred stock in one or more series and, with respect to each such series, to fix the number of shares constituting the series and the designation of the series, the voting rights (if any) of the shares of the series, and the powers, preferences or relative, participation, optional and other special rights, if any, and any qualifications, limitations or restrictions, of the shares of such series.

Classified Board of Directors

Our amended and restated certificate of incorporation will provide that our board of directors is divided into three classes, designated Class I, Class II, and Class III. Each class will have an equal number of directors, as nearly as possible, consisting of one-third of the total number of directors constituting our entire board of directors. The term of initial Class I directors shall terminate on the date of the 2019 annual meeting, the term of the initial Class II directors shall terminate on the date of the 2020 annual meeting, and the term of the initial Class III directors shall terminate on the date of the 2021 annual meeting. At each annual meeting of stockholders beginning in 2019, successors to the class of directors whose term expires at that annual meeting will be elected for a three-year term.

Removal of Directors

Our amended and restated certificate of incorporation will provide that stockholders may only remove a director for cause by a vote of no less than a majority of the shares present in person or by proxy at the meeting and entitled to vote.

Director Vacancies

Our amended and restated certificate of incorporation will authorize only our board of directors to fill vacant directorships.

No Cumulative Voting

Our amended and restated certificate of incorporation will provide that stockholders do not have the right to cumulate votes in the election of directors.

Special Meetings of Stockholders

Our amended and restated certificate of incorporation and amended and restated bylaws will provide that, except as otherwise required by law, special meetings of the stockholders may be called only by an officer at the request of a majority of our board of directors, by the chairperson of our board of directors, by the lead independent director or by our Chief Executive Officer.

Advance Notice Procedures for Director Nominations

Our bylaws will provide that stockholders seeking to nominate candidates for election as directors at an annual or special meeting of stockholders must provide timely notice thereof in writing. To be timely, a stockholder's notice generally will have to be delivered to and received at our principal executive offices before notice of the meeting is issued by the Secretary of the company, with such notice being served not less than 90 nor more than 120 days before the meeting. Although the amended and restated bylaws will not give our board of directors the power to approve or disapprove stockholder nominations of candidates to be elected at an annual meeting, the amended and restated bylaws may have the effect of precluding the conduct of certain business at a meeting if the proper procedures are not followed or may discourage or deter a potential acquirer from conducting a solicitation of proxies to elect its own slate of directors or otherwise attempting to obtain control of the company.

Action by Written Consent

Our amended and restated certificate of incorporation and amended and restated bylaws will provide that any action to be taken by the stockholders must be effected at a duly called annual or special meeting of stockholders and may not be effected by written consent.

Amending our Certificate of Incorporation and Bylaws

Our amended and restated certificate of incorporation may be amended or altered in any manner provided by the DGCL. Our amended and restated bylaws may be adopted, amended, altered, or repealed by stockholders only upon approval of at least majority of the voting power of all the then outstanding shares of the common stock, except for any amendment of the above provisions, which would require the approval of a two-thirds majority of our then outstanding common stock. Additionally, our amended and restated certificate of incorporation will provide that our bylaws may be amended, altered, or repealed by our board of directors.

Authorized but Unissued Shares

Our authorized but unissued shares of common stock and preferred stock will be available for future issuances without stockholder approval, except as required by the listing standards of Nasdaq, and could be utilized for a variety of corporate purposes, including future offerings to raise additional capital,

acquisitions and employee benefit plans. The existence of authorized but unissued and unreserved common stock and preferred stock could render more difficult or discourage an attempt to obtain control of the company by means of a proxy contest, tender offer, merger or otherwise.

Exclusive Forum

Our amended and restated certificate of incorporation will provide that, unless we consent to the selection of an alternative forum, the Court of Chancery of the State of Delaware shall be the sole and exclusive forum for:

- any derivative action or proceeding brought on our behalf;
- any action asserting a claim of breach of a fiduciary duty owed by, or other wrongdoing by, any of our directors, officers, employees or agents or our stockholders;
- any action asserting a claim against us arising pursuant to the DGCL; and
- any action regarding our amended and restated certificate of incorporation or our amended and restated bylaws or any action asserting a claim against us that is governed by the internal affairs doctrine;

provided, that with respect to any derivative action or proceeding brought on our behalf to enforce any liability or duty created by the Exchange Act or the rules and regulations thereunder, the exclusive forum will be the federal district courts of the United States of America.

Our amended and restated certificate of incorporation further provides that the federal district courts of the United States of America will be the exclusive forum for resolving any complaint asserting a cause of action arising under the Securities Act. These exclusive forum provisions may limit a stockholder's ability to bring a claim in a judicial forum that it finds favorable for disputes with us or our directors, officers, or other employees, which may discourage lawsuits against us and our directors, officers and other employees.

Business Combinations with Interested Stockholders

Subject to certain exceptions, Section 203 of the DGCL prohibits a public Delaware corporation from engaging in a business combination (as defined in such section) with an "interested stockholder" (defined generally as any person who beneficially owns 15% or more of the outstanding voting stock of such corporation or any person affiliated with such person) for a period of three years following the time that such stockholder became an interested stockholder, unless (i) prior to such time the board of directors of such corporation approved either the business combination or the transaction that resulted in the stockholder becoming an interested stockholder; (ii) upon consummation of the transaction that resulted in the stockholder becoming an interested stockholder, the interested stockholder owned at least 85% of the voting stock of such corporation at the time the transaction commenced (excluding for purposes of determining the voting stock of such corporation outstanding (but not the outstanding voting stock owned by the interested stockholder) those shares owned (A) by persons who are directors and also officers of such corporation and (B) by employee stock plans in which employee participants do not have the right to determine confidentially whether shares held subject to the plan will be tendered in a tender or exchange offer); or (iii) at or subsequent to such time the business combination is approved by the board of directors of such corporation and authorized at a meeting of stockholders (and not by written consent) by the affirmative vote of at least 66 2/3% of the outstanding voting stock of such corporation not owned by the interested stockholder.

Limitation of Liability and Indemnification

Our amended and restated certificate of incorporation and amended and restated bylaws, each to be effective upon the completion of this offering, will provide that we will indemnify our directors and officers, and may indemnify our employees and other agents, to the fullest extent permitted by Delaware law.

Delaware law prohibits our amended and restated certificate of incorporation from limiting the liability of our directors for the following:

- any breach of the director's duty of loyalty to us or to our stockholders;
- acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law;
- unlawful payment of dividends or unlawful stock repurchases or redemptions; and
- any transaction from which the director derived an improper personal benefit.

If Delaware law is amended to authorize corporate action further eliminating or limiting the personal liability of a director, then the liability of our directors will be eliminated or limited to the fullest extent permitted by Delaware law, as so amended. Our amended and restated certificate of incorporation does not eliminate a director's duty of care and, in appropriate circumstances, equitable remedies, such as injunctive or other forms of non-monetary relief, remain available under Delaware law. This provision also does not affect a director's responsibilities under any other laws, such as the federal securities laws or other state or federal laws. Under our amended and restated bylaws, we will also be empowered to purchase insurance on behalf of any person whom we are required or permitted to indemnify.

In addition to the indemnification required in our amended and restated certificate of incorporation and amended and restated bylaws, we have entered into an indemnification agreement with each member of our board of directors and each of our officers. These agreements provide for the indemnification of our directors and officers for certain expenses and liabilities incurred in connection with any action, suit, proceeding or alternative dispute resolution mechanism, or hearing, inquiry or investigation that may lead to the foregoing, to which they are a party or other participant, or are threatened to be made a party or other participant, by reason of the fact that they are or were a director, officer, employee, agent or fiduciary of our company, by reason of any action or inaction by them while serving as an officer, director, agent or fiduciary, or by reason of the fact that they were serving at our request as a director, officer, employee, agent or fiduciary of another entity. In the case of an action or proceeding by or in the right of our company or any of our subsidiaries, no indemnification will be provided for any claim where a court determines that the indemnified party is prohibited from receiving indemnification. We believe that these charter and bylaw provisions and indemnification agreements are necessary to attract and retain qualified persons as directors and officers.

The limitation of liability and indemnification provisions in our amended and restated certificate of incorporation and amended and restated bylaws may discourage stockholders from bringing a lawsuit against directors for breach of their fiduciary duties. They may also reduce the likelihood of derivative litigation against directors and officers, even though an action, if successful, might benefit us and our stockholders. Moreover, a stockholder's investment may be harmed to the extent we pay the costs of settlement and damage awards against directors and officers pursuant to these indemnification provisions. Insofar as indemnification for liabilities arising under the Securities Act may be permitted to our directors, officers and controlling persons pursuant to the foregoing provisions, or otherwise, we have been advised that, in the opinion of the SEC, such indemnification is against public policy as expressed in the Securities Act, and is, therefore, unenforceable. There is no pending litigation or proceeding naming any of our directors or officers as to which indemnification is being sought, nor are we aware of any pending or threatened litigation that may result in claims for indemnification by any director or officer.

Listing

We have applied to list our common stock on the Nasdaq Global Market under the symbol "BYND."

Transfer Agent and Registrar

Upon closing of this offering, the transfer agent and registrar for our common stock will be Equiniti Trust Company. The transfer agent and registrar's address is 1110 Centre Point Curve, Suite 101, Mendota Heights, Minnesota 55120-4101.

SHARES ELIGIBLE FOR FUTURE SALE

Prior to this offering, there has been no market for our common stock. Future sales of substantial amounts of our common stock in the public market or the perception that such sales might occur could adversely affect market prices prevailing from time to time. Furthermore, there may be sales of substantial amounts of our common stock in the public market after the existing legal and contractual restrictions lapse. This may adversely affect the prevailing market price and our ability to raise equity capital in the future. See "Risk Factors—Risks Related to this Offering and Ownership of Our Common Stock—Future sales of our common stock in the public market could cause our share price to fall."

Upon the consummation of this offering, we will have shares of common stock outstanding, assuming the conversion of all outstanding shares of our preferred stock into common stock. Of these shares, the shares sold in this offering will be freely transferable without restriction or further registration under the Securities Act, except that any shares purchased by one of our "affiliates," as that term is defined in Rule 144 under the Securities Act may be sold only in compliance with the limitations described below, and any shares purchased by our directors or officers pursuant to our directed share program shall be subject to the lock-up agreements described below. The remaining shares of common stock held by our existing stockholders are "restricted securities" as defined in Rule 144. Restricted shares may be sold in the public market only if registered under the Securities Act or if they qualify for an exemption from registration, including, among others, the exemptions provided by Rules 144 and 701 promulgated by the SEC under the Securities Act. As a result of the contractual 180-day lock-up period described in "Underwriting" and the provisions of Rules 144 and 701, these shares will be available for sale in the public market as follows:

- beginning on the date of this prospectus, the shares of common stock sold in this offering will be immediately available for sale in the public market;
- beginning 181 days after the date of this prospectus, additional shares of common stock may become eligible for sale in the public market upon the satisfaction of certain conditions as set forth in "—Lock-Up Agreements," of which shares would be held by affiliates and subject to the volume and other restrictions of Rule 144, as described below; and
- the remainder of the shares of common stock will be eligible for sale in the public market from time to time thereafter, subject in some cases to the volume and other restrictions of Rule 144, as described below.

Lock-Up Agreements

We, our executive officers, directors and holders of substantially all of our common stock and securities convertible into or exchangeable for our common stock, have agreed or will agree that, subject to certain exceptions, for a period of 180 days from the date of this prospectus, we and they will not, without the prior written consent of Goldman Sachs & Co. LLC and J.P. Morgan Securities LLC, dispose of or hedge any shares or any securities convertible into or exchangeable for shares of our capital stock. Goldman Sachs & Co. LLC and J.P. Morgan Securities LLC may, in their sole discretion, release any of the securities subject to these lock-up agreements at any time. See "Underwriting—Lock-Up."

Rule 144

In general, under Rule 144, as currently in effect, an affiliate who beneficially owns shares that were purchased from us, or any affiliate, at least six months previously, is entitled to sell, upon the expiration of the lock-up agreement described in "Underwriting," within any three-month period beginning 180 days after the date of this prospectus, a number of shares that does not exceed the greater of 1% of our then-outstanding shares of common stock, which will equal approximately shares immediately after this offering, or the average weekly trading volume of our common stock on the Nasdaq Global Market during the four calendar weeks preceding the filing of a notice of the sale with the SEC. Sales under Rule 144 by our affiliates or persons selling shares on behalf of our affiliates are also subject to

certain manner of sale provisions, notice requirements and the availability of current public information about us. The sale of these shares, or the perception that sales will be made, may adversely affect the price of our common stock after this offering because a great supply of shares would be, or world be perceived to be, available for sale in the public market.

Following this offering, a person that is not an affiliate of ours at the time of, or at any time during the three months preceding, a sale and who has beneficially owned restricted securities within the meaning of Rule 144 for at least six months may sell shares subject only to the availability of current public information about us, and any such person who has beneficially owned restricted shares of our common stock for at least one year may sell shares without restriction.

We are unable to estimate the number of shares that will be sold under Rule 144 since this will depend on the market price for our common stock, the personal circumstances of the stockholder and other factors.

Rule 701

In general, under Rule 701, as currently in effect, any of our employees, directors, officers, consultants or advisors who purchased shares from us in connection with a compensatory stock or option plan or other written agreement before the effective date of this offering is entitled to resell such shares 90 days after the effective date of this offering in reliance on Rule 144, without having to comply with the holding period requirements or other restrictions contained in Rule 701.

The SEC has indicated that Rule 701 will apply to typical stock options granted by an issuer before it becomes subject to the reporting requirements of the Exchange Act, along with the shares acquired upon exercise of such options, including exercises after the date of this prospectus. Securities issued in reliance on Rule 701 are restricted securities and, subject to the contractual lock-up restrictions described above, beginning 90 days after the date of this prospectus, may be sold by persons other than “affiliates,” as defined in Rule 144, subject only to the manner of sale provisions of Rule 144 and by “affiliates” under Rule 144 without compliance with its one-year minimum holding period requirement.

Registration Statements on Form S-8

We intend to file a registration statement on Form S-8 under the Securities Act to register all of the shares of common stock subject to outstanding stock options under our 2011 Plan and certain non-plan stock options or reserved for future issuance under our 2018 Plan and 2018 ESPP, which will be effective upon the consummation of this offering. This registration statement would cover approximately shares. Shares registered under the registration statement will generally be available for sale in the open market after the 180-day lock-up period immediately following the date of this prospectus (as such period may be extended in certain circumstances). See “Certain Relationships and Related-Party Transactions—Amended and Restated Investors’ Rights Agreement.”

Registration Rights

Beginning 180 days after the date of this prospectus, subject to certain exceptions and automatic extensions in certain circumstances, certain holders of shares of our common stock will be entitled to the rights described under “Description of Capital Stock—Registration Rights.” Registration of these shares under the Securities Act would result in these shares becoming freely tradeable without restriction under the Securities Act immediately upon effectiveness of the registration.

MATERIAL U.S. FEDERAL INCOME TAX CONSIDERATIONS FOR NON-U.S. HOLDERS OF COMMON STOCK

This section discusses certain material U.S. federal income tax consequences of the ownership and sale, exchange or other taxable disposition of our common stock sold pursuant to this offering to a "non-U.S. holder" (as defined below). This discussion does not provide a complete analysis of all potential tax considerations. The information provided below is based upon provisions of the Internal Revenue Code of 1986, as amended, or Code, Treasury regulations promulgated thereunder, administrative rulings and judicial decisions, in each case, as currently in effect. These authorities may change at any time, possibly on a retroactive basis, or the Internal Revenue Service, or IRS, might interpret the existing authorities differently. In either case, the U.S. federal income tax considerations of owning or disposing of our common stock could differ from those described below. As a result, we cannot assure you that the U.S. federal income tax considerations described in this discussion will not be challenged by the IRS or will be sustained by a court if challenged by the IRS.

This discussion does not address the tax considerations arising under the alternative minimum tax, the net investment income tax, the laws of any state, local or non-U.S. jurisdiction, or under U.S. federal gift and estate tax laws. In addition, this discussion does not address tax considerations applicable to an investor's particular circumstances or to investors that may be subject to special tax rules, including, without limitation:

- banks, insurance companies or other financial institutions;
- partnerships or entities or arrangements treated as partnerships or other pass-through entities for U.S. federal income tax purposes (or investors in such entities);
- corporations that accumulate earnings to avoid U.S. federal income tax;
- tax-exempt or governmental organizations or tax-qualified retirement plans;
- real estate investment trusts or regulated investment companies;
- controlled foreign corporations or passive foreign investment companies;
- persons who acquired our common stock pursuant to the exercise of an employee stock option or otherwise as compensation for services;
- dealers in securities or currencies;
- traders in securities that elect to use a mark-to-market method of accounting for their securities holdings;
- persons that own, or are deemed to own, more than 5% of our common stock (except to the extent specifically set forth below);
- certain former citizens or long-term residents of the United States;
- persons who hold our common stock as a position in a hedging transaction, "straddle," "conversion transaction" or other risk reduction transaction;
- qualified foreign pension funds as defined in Section 897(l)(2) of the Code and entities all of the interests of which are held by qualified foreign pension funds;
- persons who do not hold our common stock as a capital asset within the meaning of Section 1221 of the Code (generally, for investment purposes); or
- persons deemed to sell our common stock under the constructive sale provisions of the Code.

If a partnership or entity classified as a partnership for U.S. federal income tax purposes is a beneficial owner of our common stock, the tax treatment of a partner in the partnership or an owner of the entity will depend upon the status of the partner or other owner and the activities of the partnership or other entity. Accordingly, this discussion does not address U.S. federal income tax considerations applicable to partnerships that hold our common stock, and partners in such partnerships should consult their tax advisors.

Investors considering the purchase of our common stock should consult their own tax advisors regarding the application of the U.S. federal income, gift and estate tax laws to their particular situations and the consequences of non-U.S., state or local laws, and tax treaties.

Non-U.S. Holder Defined

For purposes of this section, a “non-U.S. holder” is any holder of our common stock, other than an entity taxable as a partnership for U.S. federal income tax purposes, that is not:

- an individual who is a citizen or resident of the United States for U.S. federal income tax purposes;
- a corporation, or other entity taxable as a corporation for U.S. federal income tax purposes, created or organized under the laws of the United States, any state therein or the District of Columbia or otherwise treated as such for U.S. federal income tax purposes;
- a trust that (1) is subject to the primary supervision of a U.S. court and one or more ”United States persons” (within the meaning of Section 7701(a)(30) of the Code) have authority to control all substantial decisions of the trust or (2) has a valid election in effect under applicable Treasury regulations to be treated as a United States person; or
- an estate whose income is subject to U.S. federal income tax regardless of source.

If you are a non-U.S. citizen who is an individual, you may, in many cases, be deemed to be a resident alien, as opposed to a nonresident alien, by virtue of being present in the United States for at least 31 days in the calendar year and for an aggregate of at least 183 days during a three-year period ending in the current calendar year. For these purposes, all the days present in the current year, one-third of the days present in the immediately preceding year, and one-sixth of the days present in the second preceding year are counted. Resident aliens are subject to U.S. federal income tax as if they were U.S. citizens. Such an individual is urged to consult his or her own tax advisor regarding the U.S. federal income tax consequences of the ownership and sale, exchange or other taxable disposition of our common stock.

Distributions

We do not anticipate paying any distributions in the foreseeable future. If we do make any distributions on shares of our common stock, however, such distributions will constitute dividends for U.S. federal income tax purposes to the extent paid from our current or accumulated earnings and profits, as determined under U.S. federal income tax principles. Distributions in excess of our current and accumulated earnings and profits will constitute a return of capital that is applied against and reduces, but not below zero, a non-U.S. holder’s adjusted tax basis in shares of our common stock. Any remaining excess will be treated as gain realized on the sale, exchange or other taxable disposition of our common stock. See “—Sale of Common Stock.”

Subject to the discussion below regarding the Foreign Account Tax Compliance Act, or FATCA, and backup withholding, any distribution made to a non-U.S. holder on our common stock that is not effectively connected with a non-U.S. holder’s conduct of a trade or business in the United States will generally be subject to U.S. withholding tax at a 30% rate. The withholding tax might not apply, however, or might apply at a reduced rate, under the terms of an applicable income tax treaty between the United

States and the non-U.S. holder's country of residence. You should consult your tax advisors regarding your entitlement to benefits under a relevant income tax treaty. Generally, in order for us or our paying agent to withhold tax at a lower treaty rate, a non-U.S. holder must certify its entitlement to treaty benefits. A non-U.S. holder generally can meet this certification requirement by providing an IRS Form W-8BEN or W-8BEN-E (or any successor form to the IRS Form W-8BEN or W-8BEN-E) to us or our paying agent. If the non-U.S. holder holds the stock through a financial institution or other agent acting on the non-U.S. holder's behalf, the non-U.S. holder will be required to provide appropriate documentation to the agent. The non-U.S. holder's agent will then be required to provide certification to us or our paying agent, either directly or through other intermediaries. If you are eligible for a reduced rate of U.S. federal withholding tax under an income tax treaty, you may obtain a refund or credit from the IRS of any excess amounts withheld by filing an appropriate claim for a refund with the IRS in a timely manner.

Distributions received by a non-U.S. holder that are effectively connected with a U.S. trade or business conducted by the non-U.S. holder, and, if required by an applicable income tax treaty between the United States and the non-U.S. holder's country of residence, are attributable to a permanent establishment maintained (or in the case of an individual, a fixed base) by the non-U.S. holder in the United States, are not subject to such withholding tax. To obtain this exemption, a non-U.S. holder generally must provide us or our paying agent with an IRS Form W-8ECI properly certifying such exemption. Such effectively connected distributions or our paying agent, although not subject to U.S. withholding tax, are generally taxed at the same graduated rates applicable to U.S. persons, net of certain deductions and credits. In addition to the graduated tax described above, distributions received by corporate non-U.S. holders that are effectively connected with a U.S. trade or business of the corporate non-U.S. holder may also be subject to a branch profits tax equal to 30% of its effectively connected earnings and profits for the taxable year that are attributable to such dividends, as adjusted for certain items, although an applicable income tax treaty between the United States and the non-U.S. holder's country of residence might provide for a lower rate.

Sale of Common Stock

Subject to the discussion below regarding FATCA and backup withholding, non-U.S. holders will generally not be subject to U.S. federal income tax on any gains realized on the sale, exchange or other taxable disposition of our common stock unless:

- the gain (1) is effectively connected with the conduct by the non-U.S. holder of a U.S. trade or business and (2) if required by an applicable income tax treaty between the United States and the non-U.S. holder's country of residence, is attributable to a permanent establishment (or, in the case of an individual, a fixed base) maintained by the non-U.S. holder in the United States (in which case the special rules described below apply);
- the non-U.S. holder is an individual who is present in the United States for 183 days or more in the taxable year of the sale, exchange or other taxable disposition of our common stock, and certain other requirements are met (in which case the gain would be subject to a flat 30% tax, or such reduced rate as may be specified by an applicable income tax treaty, which may be offset by U.S.-source capital losses, even though the individual is not considered a resident of the United States, provided that the non-U.S. holder has timely filed U.S. federal income tax returns with respect to such losses); or
- the rules of the Foreign Investment in Real Property Tax Act, or FIRPTA, treat the gain as effectively connected with a U.S. trade or business.

The FIRPTA rules may apply to a sale, exchange or other taxable disposition of our common stock if we are at the time of the sale, exchange, or other taxable disposition, or were within the shorter of the five-year period preceding the disposition and the non-U.S. holder's holding period, a "United States real property holding corporation," or USRPHC. In general, we would be a USRPHC if the value of our interests in U.S. real property comprised at least half of the value of our business assets and our U.S. and

non-U.S. real property interests. If we are or become a USRPHC, as long as our common stock is regularly traded on an established securities market, such common stock will be treated as U.S. real property interests subject to the FIRPTA rules only if a non-U.S. holder actually owns or constructively holds more than 5% of our outstanding common stock at any time within the shorter of the five-year period preceding the disposition and the non-U.S. holder's holding period. However, there can be no assurance that our common stock will be treated as regularly traded. Currently, we believe we are not, and do not anticipate becoming, a USRPHC. However, because the determination of whether we are a USRPHC depends on the fair market value of our U.S. real property relative to the fair market value of our other business and real estate assets, there can be no assurance that we will not become a USRPHC in the future.

If any gain from the sale, exchange or other taxable disposition of our common stock, (1) is effectively connected with a U.S. trade or business conducted by a non-U.S. holder and (2) if required by an applicable income tax treaty between the United States and the non-U.S. holder's country of residence, is attributable to a permanent establishment (or, in the case of an individual, a fixed base) maintained by such non-U.S. holder in the United States, then the gain generally will be subject to U.S. federal income tax at the same graduated rates applicable to U.S. persons, net of certain deductions and credits. If the non-U.S. holder is a corporation, under certain circumstances, that portion of its earnings and profits that is effectively connected with its U.S. trade or business, subject to certain adjustments, generally would be subject to a "branch profits tax." The branch profits tax rate is equal to 30% of its effectively connected earnings and profits for the taxable year, as adjusted for certain items, although an applicable income tax treaty between the United States and the non-U.S. holder's country of residence might provide for a lower rate.

Backup Withholding and Information Reporting

Generally, we must report annually to the IRS the amount of dividends paid to you, your name and address, and the amount of tax withheld, if any. A similar report will be sent to you. Pursuant to applicable income tax treaties or other agreements, the IRS may make these reports available to tax authorities in your country of residence.

Payments of dividends on, or proceeds on the disposition of, our common stock made to you may be subject to additional information reporting and backup withholding at a current rate of 24% unless you establish an exemption, for example by properly certifying your non-U.S. status on an IRS Form W-8BEN, IRS Form W-8BEN-E or another appropriate version of IRS Form W-8. Notwithstanding the foregoing, backup withholding and information reporting may apply if either we or our paying agent has actual knowledge, or reason to know, that you are a U.S. person.

Backup withholding is not an additional tax. Any amounts withheld from a payment to a non-U.S. holder of our common stock under the backup withholding rules can be credited against any U.S. federal income tax liability of the non-U.S. holder and may entitle the non-U.S. holder to a refund from the IRS, provided that the required information is furnished to the IRS in a timely manner.

Foreign Account Tax Compliance Act, or FATCA

FATCA imposes U.S. federal withholding tax of 30% on certain types of U.S. source "withholdable payments" (including dividends and the gross proceeds from the sale, exchange or other taxable disposition of U.S. stock) to foreign financial institutions, which are broadly defined for this purpose, and other non-U.S. entities that fail to comply with certain certification and information reporting requirements regarding U.S. account holders or owners of such institutions or entities. The obligation to withhold under FATCA applies to any dividends on our common stock, and will apply to gross proceeds from the sale, exchange or other taxable disposition of our common stock paid after December 31, 2018 and to certain "pass-thru" payments received with respect to instruments held through foreign financial institutions after the later of December 31, 2018 and the date on which applicable final Treasury regulations are issued. An intergovernmental agreement between the United States and an applicable foreign country may modify

the requirements described in this paragraph. Non-U.S. holders should consult their own tax advisors regarding the possible implications of FATCA on their investment in our common stock.

The preceding discussion of U.S. federal income tax considerations is for general information only. It is not tax advice. Each prospective investor should consult its own tax advisor regarding the particular U.S. federal, state, local and non-U.S. tax consequences of the sale, exchange or other taxable disposition of our common stock, including the consequences of any proposed change in applicable laws.

UNDERWRITING

We are offering the shares of common stock described in this prospectus through a number of underwriters. Goldman Sachs & Co. LLC, J.P. Morgan Securities LLC and Credit Suisse Securities (USA) LLC are acting as representatives of the underwriters. We have entered into an underwriting agreement with the underwriters. Subject to the terms and conditions of the underwriting agreement, we have agreed to sell to the underwriters, and each underwriter has severally agreed to purchase, at the public offering price less the underwriting discounts and commissions set forth on the cover page of this prospectus, the number of shares of common stock listed next to its name in the following table:

Name	Number of Shares
Goldman Sachs & Co. LLC	
J.P. Morgan Securities LLC	
Credit Suisse Securities (USA) LLC	
Merrill Lynch, Pierce, Fenner & Smith Incorporated	
Jefferies LLC	
William Blair & Company, L.L.C.	
Total	

The underwriters are committed to purchase all the common shares offered by us if they purchase any shares. The underwriting agreement also provides that if an underwriter defaults, the purchase commitments of non-defaulting underwriters may also be increased or the offering may be terminated.

The underwriters propose to offer the common shares directly to the public at the initial public offering price set forth on the cover page of this prospectus and to certain dealers at that price less a concession not in excess of $ per share. Any such dealers may resell shares to certain other brokers or dealers at a discount of up to $ per share from the initial public offering price. After the initial offering of the shares to the public, if all of the common shares are not sold at the initial public offering price, the underwriters may change the offering price and the other selling terms. Sales of shares made outside of the United States may be made by affiliates of the underwriters. The offering of the shares by the underwriters is subject to receipt and acceptance and subject to the underwriters' right to reject any order in whole or in part.

We have agreed to indemnify the several underwriters against certain liabilities, including liabilities under the Securities Act.

Option to Purchase Additional Shares

The underwriters have an option to buy up to additional shares of common stock from us to cover sales of shares by the underwriters which exceed the number of shares specified in the table above. The underwriters have 30 days from the date of this prospectus to exercise this option to purchase additional shares. If any shares are purchased with this option to purchase additional shares, the underwriters will purchase shares in approximately the same proportion as shown in the table above. If any additional shares of common stock are purchased, the underwriters will offer the additional shares on the same terms as those on which the shares are being offered.

Underwriting Discounts and Expenses

The underwriting fee is equal to the public offering price per share of common stock less the amount paid by the underwriters to us per share of common stock. The underwriting fee is $ per share. The following table shows the per share and total underwriting discounts and commissions to be paid to the

underwriters assuming both no exercise and full exercise of the underwriters' option to purchase additional shares.

	Without option to purchase additional shares exercise	With full option to purchase additional shares exercise
Per Share	$	$
Total	$	$

We estimate that the total expenses of this offering, including registration, filing and listing fees, printing fees and legal and accounting expenses, but excluding the underwriting discounts and commissions, will be approximately $. We have agreed to reimburse the underwriters for expenses relating to any applicable state securities filings and the clearance of this offering with the Financial Industry Regulatory Authority in amount not to exceed $30,000.

Electronic Distribution

A prospectus in electronic format may be made available on the web sites maintained by one or more underwriters, or selling group members, if any, participating in the offering. The underwriters may agree to allocate a number of shares to underwriters and selling group members for sale to their online brokerage account holders. Internet distributions will be allocated by the representatives to underwriters and selling group members that may make Internet distributions on the same basis as other allocations.

Lock-Up

During the period beginning from the date hereof and continuing to and including the date 180 days after the date of the final prospectus (the "Lock-Up Period"), we have agreed not to (i) offer, sell, contract to sell, pledge, grant any option to purchase, make any short sale or otherwise transfer or dispose of, directly or indirectly, or file with or confidentially submit to the SEC a registration statement under the Securities Act relating to, any of our securities that are substantially similar to the shares of our common stock, including but not limited to any options or warrants to purchase shares of our stock or any securities that are convertible into or exchangeable for, or that represent the right to receive, stock or any such substantially similar securities, or publicly disclose the intention to make any offer, sale, pledge, disposition or filing or (ii) enter into any swap or other agreement that transfers, in whole or in part, any of the economic consequences of ownership of our stock or any such other securities, whether any such transaction described in clause (i) or (ii) above is to be settled by delivery of stock or such other securities, in cash or otherwise, other than (a) shares of our common stock to be sold hereunder, (b) any shares of stock issued by us upon the exercise of options granted under our stock-based compensation plans existing on the date of the underwriting agreement ("Company Stock Plans"), or upon the conversion or exchange of convertible or exchangeable securities outstanding as of the date of the underwriting agreement, (c) the grant or issuance by us of employee, consultant, or director stock options or restricted stock in the ordinary course of business under Company Stock Plans described in this prospectus, (d) the issuance of shares registered on Form S-8 relating to Company Stock Plans described in this prospectus, (e) the issuance of securities in connection with the acquisition by us or any subsidiary of the securities, businesses, property or other assets of another person or entity or pursuant to any employee benefit plan assumed by us in connection with any such acquisition, (f) the issuance of securities in connection with joint ventures, commercial relationships, or other strategic transactions; provided that, in the case of clauses (e) and (f), (x) the aggregate number of shares issued in all such acquisitions and transactions does not exceed 5% of our outstanding common stock following the offering of shares offered hereby and (y) each person to whom such shares are issued executes a "lock-up" agreement, unless we obtain the prior written consent of Goldman Sachs & Co. LLC and J.P. Morgan Securities LLC.

Our directors, executive officers, and substantially all of our stockholders (the “Lock-Up Parties”) have entered into lock-up agreements with the underwriters prior to the commencement of this offering pursuant to which each of these persons or entities, with limited exceptions, for the Lock-Up Period, will not, without the prior written consent of Goldman Sachs & Co. LLC and J.P. Morgan Securities LLC, (i) offer, sell, contract to sell, pledge, grant any option to purchase, make any short sale or otherwise transfer or dispose of any shares of our common stock, or any options or warrants to purchase any shares of our common stock or any securities convertible into, exchangeable for or that represent the right to receive shares of our common stock, whether now owned or hereinafter acquired, owned directly by the Lock-Up Parties (including holding as a custodian) or with respect to which the undersigned has beneficial ownership within the rules and regulations of the SEC (collectively, the “Lock-Up Parties’ Shares”), (ii) enter into any swap or other agreement that transfers, in whole or in part, any of the economic consequences of ownership of the Lock-Up Parties’ Shares, or (iii) publicly disclose the intent to do any of the foregoing. In addition, the Lock-Up Parties have agreed that, without prior written consent of Goldman Sachs & Co. LLC and J.P. Morgan Securities LLC on behalf of the underwriters, they will not make any demand for or exercise any right with respect to the registration of the Lock-Up Parties’ Shares. The foregoing restrictions are expressly agreed to preclude the Lock-Up Parties from engaging in any hedging or other transaction which is designed to or which reasonably could be expected to lead to or result in a sale or disposition of the Lock-Up Parties’ Shares even if such shares would be disposed of by someone other than such Lock-Up Party. Such prohibited hedging or other transactions would include without limitation any short sale or any purchase, sale or grant of any right (including without limitation any put or call option) with respect to any of the Lock-Up Parties’ Shares or with respect to any security that includes, relates to, or derives any significant part of its value from such shares. If a Lock-Up Party is one of our officers or directors, the director or officer has further agreed that the foregoing provisions shall be equally applicable to any directed shares the director or officer may purchase in the offering.

Listing

We have applied to have our common stock approved for listing/quotation on the Nasdaq Global Market under the symbol “BYND.”

Price Stabilization and Short Positions

In connection with this offering, the underwriters may engage in stabilizing transactions, which involves making bids for, purchasing and selling shares of common stock in the open market for the purpose of preventing or retarding a decline in the market price of the common stock while this offering is in progress. These stabilizing transactions may include making short sales of the common stock, which involves the sale by the underwriters of a greater number of shares of common stock than they are required to purchase in this offering, and purchasing shares of common stock on the open market to cover positions created by short sales. Short sales may be “covered” shorts, which are short positions in an amount not greater than the underwriters’ option to purchase additional shares referred to above, or may be “naked” shorts, which are short positions in excess of that amount. The underwriters may close out any covered short position either by exercising their option to purchase additional shares, in whole or in part, or by purchasing shares in the open market. In making this determination, the underwriters will consider, among other things, the price of shares available for purchase in the open market compared to the price at which the underwriters may purchase shares through the option to purchase additional shares. A naked short position is more likely to be created if the underwriters are concerned that there may be downward pressure on the price of the common stock in the open market that could adversely affect investors who purchase in this offering. To the extent that the underwriters create a naked short position, they will purchase shares in the open market to cover the position.

The underwriters have advised us that, pursuant to Regulation M of the Securities Act, they may also engage in other activities that stabilize, maintain or otherwise affect the price of the common stock, including the imposition of penalty bids. This means that if the representatives of the underwriters purchase common stock in the open market in stabilizing transactions or to cover short sales, the

representatives can require the underwriters that sold those shares as part of this offering to repay the underwriting discount received by them.

These activities may have the effect of raising or maintaining the market price of the common stock or preventing or retarding a decline in the market price of the common stock, and, as a result, the price of the common stock may be higher than the price that otherwise might exist in the open market. If the underwriters commence these activities, they may discontinue them at any time. The underwriters may carry out these transactions on the Nasdaq Global Market, in the over-the-counter market or otherwise.

New Issue of Securities

Prior to this offering, there has been no public market for our common stock. The initial public offering price will be determined by negotiations between us and the representatives of the underwriters. In determining the initial public offering price, we and the representatives of the underwriters expect to consider a number of factors including:

- the information set forth in this prospectus and otherwise available to the representatives;
- our prospects and the history and prospects for the industry in which we compete;
- an assessment of our management;
- our prospects for future earnings;
- the general condition of the securities markets at the time of this offering;
- the recent market prices of, and demand for, publicly traded common stock of generally comparable companies; and
- other factors deemed relevant by the underwriters and us.

Neither we nor the underwriters can assure investors that an active trading market will develop for our common shares, or that the shares will trade in the public market at or above the initial public offering price.

Other than in the United States, no action has been taken by us or the underwriters that would permit a public offering of the securities offered by this prospectus in any jurisdiction where action for that purpose is required. The securities offered by this prospectus may not be offered or sold, directly or indirectly, nor may this prospectus or any other offering material or advertisements in connection with the offer and sale of any such securities be distributed or published in any jurisdiction, except under circumstances that will result in compliance with the applicable rules and regulations of that jurisdiction. Persons into whose possession this prospectus comes are advised to inform themselves about and to observe any restrictions relating to the offering and the distribution of this prospectus. This prospectus does not constitute an offer to sell or a solicitation of an offer to buy any securities offered by this prospectus in any jurisdiction in which such an offer or a solicitation is unlawful.

Directed Share Program

At our request, the underwriters have reserved for sale, at the initial public offering price, up to 5% of the shares offered by this prospectus for sale to some of our directors, officers, employees, distributors, dealers, business associates and related persons. If these persons purchase reserved shares, it will reduce the number of shares available for sale to the general public. Any reserved shares that are not so purchased will be offered by the underwriters to the general public on the same terms as the other shares offered by this prospectus.

Notice to Prospective Investors in the United Kingdom

In addition, in the United Kingdom, this document is being distributed only to, and is directed only at, and any offer subsequently made may only be directed at persons who are "qualified investors" (as defined in the Prospectus Directive) (i) who have professional experience in matters relating to investments falling within Article 19(5) of the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005, as amended (the "Order") and/or (ii) who are high net worth companies (or persons to whom it may otherwise be lawfully communicated) falling within Article 49(2)(a) to (d) of the Order (all such persons together being referred to as "relevant persons") or otherwise in circumstances which have not resulted and will not result in an offer to the public of the shares in the United Kingdom within the meaning of the Financial Services and Markets Act 2000.

Any person in the United Kingdom that is not a relevant person should not act or rely on the information included in this document or use it as basis for taking any action. In the United Kingdom, any investment or investment activity that this document relates to may be made or taken exclusively by relevant persons.

Notice to Prospective Investors in the European Economic Area

In relation to each Member State of the European Economic Area which has implemented the Prospectus Directive (each, a "Relevant Member State"), with effect from and including the date on which the Prospectus Directive is implemented in that Relevant Member State, no offer of shares may be made to the public in that Relevant Member State other than:

- to any legal entity which is a qualified investor as defined in the Prospectus Directive;
- to fewer than 150 natural or legal persons (other than qualified investors as defined in the Prospectus Directive), subject to obtaining the prior consent of the representatives; or
- in any other circumstances falling within Article 3(2) of the Prospectus Directive, provided that no such offer of shares shall require us or any of our representatives to publish a prospectus pursuant to Article 3 of the Prospectus Directive or supplement a prospectus pursuant to Article 16 of the Prospectus Directive and each person who initially acquires any shares or to whom any offer is made will be deemed to have represented, acknowledged and agreed to and with each of the representatives and us that it is a "qualified investor" within the meaning of the law in that Relevant Member State implementing Article 2(1)(e) of the Prospectus Directive.

In the case of any shares being offered to a financial intermediary as that term is used in Article 3(2) of the Prospectus Directive, each such financial intermediary will be deemed to have represented, acknowledged and agreed that the shares acquired by it in the offer have not been acquired on a non-discretionary basis on behalf of, nor have they been acquired with a view to their offer or resale to, persons in circumstances which may give rise to an offer of any shares to the public other than their offer or resale in a Relevant Member State to qualified investors as so defined or in circumstances in which the prior consent of the representatives has been obtained to each such proposed offer or resale.

For the purposes of this provision, the expression an "offer of shares to the public" in relation to any shares in any Relevant Member State means the communication in any form and by means of sufficient information on the terms of the offer and the shares to be offered so as to enable an investor to decide to purchase shares, as the same may be varied in that Member State by any measure implementing the Prospectus Directive in that Member State, the expression "Prospectus Directive" means Directive 2003/71/EC (as amended, including by Directive 2010/73/EU), and includes any relevant implementing measure in the Relevant Member State.

Notice to Prospective Investors in Canada

The shares may be sold only to purchasers purchasing, or deemed to be purchasing, as principal that are accredited investors, as defined in National Instrument 45-106 Prospectus Exemptions or subsection 73.3(1) of the Securities Act (Ontario), and are permitted clients, as defined in National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations. Any resale of the shares must be made in accordance with an exemption from, or in a transaction not subject to, the prospectus requirements of applicable securities laws.

Securities legislation in certain provinces or territories of Canada may provide a purchaser with remedies for rescission or damages if this prospectus (including any amendment thereto) contains a misrepresentation, provided that the remedies for rescission or damages are exercised by the purchaser within the time limit prescribed by the securities legislation of the purchaser's province or territory. The purchaser should refer to any applicable provisions of the securities legislation of the purchaser's province or territory for particulars of these rights or consult with a legal advisor.

Pursuant to section 3A.3 of National Instrument 33-105 Underwriting Conflicts (NI 33-105), the underwriters are not required to comply with the disclosure requirements of NI 33-105 regarding underwriter conflicts of interest in connection with this offering.

Notice to Prospective Investors in Switzerland

The shares may not be publicly offered in Switzerland and will not be listed on the SIX Swiss Exchange ("SIX") or on any other stock exchange or regulated trading facility in Switzerland. This document does not constitute a prospectus within the meaning of, and has been prepared without regard to the disclosure standards for issuance prospectuses under art. 652a or art. 1156 of the Swiss Code of Obligations or the disclosure standards for listing prospectuses under art. 27 ff. of the SIX Listing Rules or the listing rules of any other stock exchange or regulated trading facility in Switzerland. Neither this document nor any other offering or marketing material relating to the shares or the offering may be publicly distributed or otherwise made publicly available in Switzerland.

Neither this document nor any other offering or marketing material relating to the offering, Beyond Meat or the shares have been or will be filed with or approved by any Swiss regulatory authority. In particular, this document will not be filed with, and the offer of shares will not be supervised by, the Swiss Financial Market Supervisory Authority FINMA (FINMA), and the offer of shares has not been and will not be authorized under the Swiss Federal Act on Collective Investment Schemes ("CISA"). The investor protection afforded to acquirers of interests in collective investment schemes under the CISA does not extend to acquirers of shares.

Notice to Prospective Investors in the Dubai International Financial Centre ("DIFC")

This document relates to an Exempt Offer in accordance with the Markets Rules 2012 of the Dubai Financial Services Authority ("DFSA"). This document is intended for distribution only to persons of a type specified in the Markets Rules 2012 of the DFSA. It must not be delivered to, or relied on by, any other person. The DFSA has no responsibility for reviewing or verifying any documents in connection with Exempt Offers. The DFSA has not approved this prospectus nor taken steps to verify the information set forth herein and has no responsibility for this document. The securities to which this document relates may be illiquid and/or subject to restrictions on their resale. Prospective purchasers of the securities offered should conduct their own due diligence on the securities. If you do not understand the contents of this document you should consult an authorized financial advisor.

In relation to its use in the DIFC, this document is strictly private and confidential and is being distributed to a limited number of investors and must not be provided to any person other than the original recipient, and may not be reproduced or used for any other purpose. The interests in the securities may not be offered or sold directly or indirectly to the public in the DIFC.

Notice to Prospective Investors in the United Arab Emirates

The shares have not been, and are not being, publicly offered, sold, promoted or advertised in the United Arab Emirates (including the Dubai International Financial Centre) other than in compliance with the laws of the United Arab Emirates (and the Dubai International Financial Centre) governing the issue, offering and sale of securities. Further, this prospectus does not constitute a public offer of securities in the United Arab Emirates (including the Dubai International Financial Centre) and is not intended to be a public offer. This prospectus has not been approved by or filed with the Central Bank of the United Arab Emirates, the Securities and Commodities Authority or the Dubai Financial Services Authority.

Notice to Prospective Investors in Australia

This document:

- does not constitute a product disclosure document or a prospectus under Chapter 6D.2 of the Corporations Act 2001 (Cth) (the "Corporations Act");
- has not been, and will not be, lodged with the Australian Securities and Investments Commission ("ASIC"), as a disclosure document for the purposes of the Corporations Act and does not purport to include the information required of a disclosure document under Chapter 6D.2 of the Corporations Act;
- does not constitute or involve a recommendation to acquire, an offer or invitation for issue or sale, an offer or invitation to arrange the issue or sale, or an issue or sale, of interests to a "retail client" (as defined in section 761G of the Corporations Act and applicable regulations) in Australia; and
- may only be provided in Australia to select investors who are able to demonstrate that they fall within one or more of the categories of investors, or Exempt Investors, available under section 708 of the Corporations Act.

The shares may not be directly or indirectly offered for subscription or purchased or sold, and no invitations to subscribe for or buy the shares may be issued, and no draft or definitive offering memorandum, advertisement or other offering material relating to any shares may be distributed in Australia, except where disclosure to investors is not required under Chapter 6D of the Corporations Act or is otherwise in compliance with all applicable Australian laws and regulations. By submitting an application for the shares, you represent and warrant to us that you are an Exempt Investor.

As any offer of shares under this document will be made without disclosure in Australia under Chapter 6D.2 of the Corporations Act, the offer of those securities for resale in Australia within 12 months may, under section 707 of the Corporations Act, require disclosure to investors under Chapter 6D.2 if none of the exemptions in section 708 applies to that resale. By applying for the shares you undertake to us that you will not, for a period of 12 months from the date of issue of the shares, offer, transfer, assign or otherwise alienate those securities to investors in Australia except in circumstances where disclosure to investors is not required under Chapter 6D.2 of the Corporations Act or where a compliant disclosure document is prepared and lodged with ASIC.

Notice to Prospective Investors in Japan

The shares have not been and will not be registered pursuant to Article 4, Paragraph 1 of the Financial Instruments and Exchange Act. Accordingly, none of the shares nor any interest therein may be offered or sold, directly or indirectly, in Japan or to, or for the benefit of, any "resident" of Japan (which term as used herein means any person resident in Japan, including any corporation or other entity organized under the laws of Japan), or to others for re-offering or resale, directly or indirectly, in Japan or to or for the benefit of a resident of Japan, except pursuant to an exemption from the registration

requirements of, and otherwise in compliance with, the Financial Instruments and Exchange Act and any other applicable laws, regulations and ministerial guidelines of Japan in effect at the relevant time.

Notice to Prospective Investors in Hong Kong

The shares have not been offered or sold and will not be offered or sold in Hong Kong, by means of any document, other than (a) to "professional investors" as defined in the Securities and Futures Ordinance (Cap. 571) of Hong Kong and any rules made under that Ordinance; or (b) in other circumstances which do not result in the document being a "prospectus" as defined in the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32) of Hong Kong or which do not constitute an offer to the public within the meaning of that Ordinance. No advertisement, invitation or document relating to the shares has been or may be issued or has been or may be in the possession of any person for the purposes of issue, whether in Hong Kong or elsewhere, which is directed at, or the contents of which are likely to be accessed or read by, the public of Hong Kong (except if permitted to do so under the securities laws of Hong Kong) other than with respect to shares which are or are intended to be disposed of only to persons outside Hong Kong or only to "professional investors" as defined in the Securities and Futures Ordinance and any rules made under that Ordinance.

Notice to Prospective Investors in Singapore

This prospectus has not been registered as a prospectus with the Monetary Authority of Singapore. Accordingly, this prospectus and any other document or material in connection with the offer or sale, or invitation for subscription or purchase, of shares may not be circulated or distributed, nor may the shares be offered or sold, or be made the subject of an invitation for subscription or purchase, whether directly or indirectly, to persons in Singapore other than (i) to an institutional investor under Section 274 of the Securities and Futures Act, Chapter 289 of Singapore (the "SFA"), (ii) to a relevant person pursuant to Section 275(1), or any person pursuant to Section 275(1A), and in accordance with the conditions specified in Section 275 of the SFA, or (iii) otherwise pursuant to, and in accordance with the conditions of, any other applicable provision of the SFA.

Where the shares are subscribed or purchased under Section 275 of the SFA by a relevant person which is:

- a corporation (which is not an accredited investor (as defined in Section 4A of the SFA)) the sole business of which is to hold investments and the entire share capital of which is owned by one or more individuals, each of whom is an accredited investor; or
- a trust (where the trustee is not an accredited investor) whose sole purpose is to hold investments and each beneficiary of the trust is an individual who is an accredited investor, securities (as defined in Section 239(1) of the SFA) of that corporation or the beneficiaries' rights and interest (howsoever described) in that trust shall not be transferred within six months after that corporation or that trust has acquired the shares pursuant to an offer made under Section 275 of the SFA except:
- to an institutional investor or to a relevant person defined in Section 275(2) of the SFA, or to any person arising from an offer referred to in Section 275(1A) or Section 276(4)(i)(B) of the SFA;
- where no consideration is or will be given for the transfer;
- where the transfer is by operation of law;
- as specified in Section 276(7) of the SFA; or
- as specified in Regulation 32 of the Securities and Futures (Offers of Investments) (Shares and Debentures) Regulations 2005 of Singapore.

Notice to Prospective Investors in Bermuda

Shares may be offered or sold in Bermuda only in compliance with the provisions of the Investment Business Act of 2003 of Bermuda which regulates the sale of securities in Bermuda. Additionally, non-Bermudian persons (including companies) may not carry on or engage in any trade or business in Bermuda unless such persons are permitted to do so under applicable Bermuda legislation.

Notice to Prospective Investors in Saudi Arabia

This document may not be distributed in the Kingdom of Saudi Arabia except to such persons as are permitted under the Offers of Securities Regulations as issued by the board of the Saudi Arabian Capital Market Authority ("CMA") pursuant to resolution number 2-11-2004 dated 4 October 2004 as amended by resolution number 1-28-2008, as amended (the "CMA Regulations"). The CMA does not make any representation as to the accuracy or completeness of this document and expressly disclaims any liability whatsoever for any loss arising from, or incurred in reliance upon, any part of this document. Prospective purchasers of the securities offered hereby should conduct their own due diligence on the accuracy of the information relating to the securities. If you do not understand the contents of this document, you should consult an authorised financial adviser.

Notice to Prospective Investors in the British Virgin Islands

The shares are not being, and may not be offered to the public or to any person in the British Virgin Islands for purchase or subscription by or on behalf of the company. The shares may be offered to companies incorporated under the BVI Business Companies Act, 2004 (British Virgin Islands),"BVI Companies"), but only where the offer will be made to, and received by, the relevant BVI Company entirely outside of the British Virgin Islands.

This prospectus has not been, and will not be, registered with the Financial Services Commission of the British Virgin Islands. No registered prospectus has been or will be prepared in respect of the shares for the purposes of the Securities and Investment Business Act, 2010 or the Public Issuers Code of the British Virgin Islands.

Notice to Prospective Investors in China

This prospectus does not constitute a public offer of shares, whether by sale or subscription, in the People's Republic of China (the "PRC"). The shares are not being offered or sold directly or indirectly in the PRC to or for the benefit of, legal or natural persons of the PRC.

Further, no legal or natural persons of the PRC may directly or indirectly purchase any of the shares or any beneficial interest therein without obtaining all prior PRC's governmental approvals that are required, whether statutorily or otherwise. Persons who come into possession of this document are required by the issuer and its representatives to observe these restrictions.

Notice to Prospective Investors in Korea

The shares have not been and will not be registered under the Financial Investments Services and Capital Markets Act of Korea and the decrees and regulations thereunder (the "FSCMA"), and the shares have been and will be offered in Korea as a private placement under the FSCMA. None of the shares may be offered, sold or delivered directly or indirectly, or offered or sold to any person for re-offering or resale, directly or indirectly, in Korea or to any resident of Korea except pursuant to the applicable laws and regulations of Korea, including the FSCMA and the Foreign Exchange Transaction Law of Korea and the decrees and regulations thereunder (the "FETL"). Furthermore, the purchaser of the shares shall comply with all applicable regulatory requirements (including but not limited to requirements under the FETL) in connection with the purchase of the shares. By the purchase of the shares, the relevant holder thereof will be deemed to represent and warrant that if it is in Korea or is a resident of Korea, it purchased the shares pursuant to the applicable laws and regulations of Korea.

Notice to Prospective Investors in Malaysia

No prospectus or other offering material or document in connection with the offer and sale of the shares has been or will be registered with the Securities Commission of Malaysia ("Commission") for the Commission's approval pursuant to the Capital Markets and Services Act 2007. Accordingly, this prospectus and any other document or material in connection with the offer or sale, or invitation for subscription or purchase, of the shares may not be circulated or distributed, nor may the shares be offered or sold, or be made the subject of an invitation for subscription or purchase, whether directly or indirectly, to persons in Malaysia other than (i) a closed end fund approved by the Commission; (ii) a holder of a Capital Markets Services Licence; (iii) a person who acquires the shares, as principal, if the offer is on terms that the shares may only be acquired at a consideration of not less than RM250,000 (or its equivalent in foreign currencies) for each transaction; (iv) an individual whose total net personal assets or total net joint assets with his or her spouse exceeds RM3 million (or its equivalent in foreign currencies), excluding the value of the primary residence of the individual; (v) an individual who has a gross annual income exceeding RM300,000 (or its equivalent in foreign currencies) per annum in the preceding twelve months; (vi) an individual who, jointly with his or her spouse, has a gross annual income of RM400,000 (or its equivalent in foreign currencies), per annum in the preceding twelve months; (vii) a corporation with total net assets exceeding RM10 million (or its equivalent in a foreign currencies) based on the last audited accounts; (viii) a partnership with total net assets exceeding RM10 million (or its equivalent in foreign currencies); (ix) a bank licensee or insurance licensee as defined in the Labuan Financial Services and Securities Act 2010; (x) an Islamic bank licensee or takaful licensee as defined in the Labuan Financial Services and Securities Act 2010; and (xi) any other person as may be specified by the Commission; provided that, in the each of the preceding categories (i) to (xi), the distribution of the shares is made by a holder of a Capital Markets Services Licence who carries on the business of dealing in securities. The distribution in Malaysia of this prospectus is subject to Malaysian laws. This prospectus does not constitute and may not be used for the purpose of public offering or an issue, offer for subscription or purchase, invitation to subscribe for or purchase any securities requiring the registration of a prospectus with the Commission under the Capital Markets and Services Act 2007.

Notice to Prospective Investors in Taiwan

The shares have not been and will not be registered with the Financial Supervisory Commission of Taiwan pursuant to relevant securities laws and regulations and may not be sold, issued or offered within Taiwan through a public offering or in circumstances which constitutes an offer within the meaning of the Securities and Exchange Act of Taiwan that requires a registration or approval of the Financial Supervisory Commission of Taiwan. No person or entity in Taiwan has been authorised to offer, sell, give advice regarding or otherwise intermediate the offering and sale of the shares in Taiwan.

Notice to Prospective Investors in South Africa

Due to restrictions under the securities laws of South Africa, the shares are not offered, and the offer shall not be transferred, sold, renounced or delivered, in South Africa or to a person with an address in South Africa, unless one or other of the following exemptions applies:

- the offer, transfer, sale, renunciation or delivery is to:

  (a) persons whose ordinary business is to deal in securities, as principal or agent;

  (b) the South African Public Investment Corporation;

  (c) persons or entities regulated by the Reserve Bank of South Africa;

  (d) authorised financial service providers under South African law;

  (e) financial institutions recognised as such under South African law;

(f) a wholly-owned subsidiary of any person or entity contemplated in (c), (d) or (e), acting as agent in the capacity of an authorised portfolio manager for a pension fund or collective investment scheme (in each case duly registered as such under South African law); or

(g) any combination of the person in (a) to (f); or

- the total contemplated acquisition cost of the securities, for any single addressee acting as principal is equal to or greater than ZAR1,000,000.

No “offer to the public” (as such term is defined in the South African Companies Act, No. 71 of 2008 (as amended or re-enacted) (the “South African Companies Act”)) in South Africa is being made in connection with the issue of the shares. Accordingly, this document does not, nor is it intended to, constitute a “registered prospectus” (as that term is defined in the South African Companies Act) prepared and registered under the South African Companies Act and has not been approved by, and/or filed with, the South African Companies and Intellectual Property Commission or any other regulatory authority in South Africa. Any issue or offering of the shares in South Africa constitutes an offer of the shares in South Africa for subscription or sale in South Africa only to persons who fall within the exemption from “offers to the public” set out in section 96(1)(a) of the South African Companies Act. Accordingly, this document must not be acted on or relied on by persons in South Africa who do not fall within section 96(1)(a) of the South African Companies Act (such persons being referred to as “SA Relevant Persons”). Any investment or investment activity to which this document relates is available in South Africa only to SA Relevant Persons and will be engaged in South Africa only with SA relevant persons.

Other Relationships

Certain of the underwriters and their affiliates have provided in the past to us and our affiliates and may provide from time to time in the future certain commercial banking, financial advisory, investment banking and other services for us and such affiliates in the ordinary course of their business, for which they have received and may continue to receive customary fees and commissions. In addition, from time to time, certain of the underwriters and their affiliates may effect transactions for their own account or the account of customers, and hold on behalf of themselves or their customers, long or short positions in our debt or equity securities or loans, and may do so in the future.

The underwriters and their respective affiliates are full service financial institutions engaged in various activities, which may include sales and trading, commercial and investment banking, advisory, investment management, investment research, principal investment, hedging, market making, brokerage and other financial and non-financial activities and services. Certain of the underwriters and their respective affiliates have provided, and may in the future provide, a variety of these services to us and to persons and entities with relationships with us, for which they received or will receive customary fees and expenses.

In the ordinary course of their various business activities, the underwriters and their respective affiliates, officers, directors and employees may purchase, sell or hold a broad array of investments and actively trade securities, derivatives, loans, commodities, currencies, credit default swaps and other financial instruments for their own account and for the accounts of their customers, and such investment and trading activities may involve or relate to assets, securities and/or instruments of the issuer (directly, as collateral securing other obligations or otherwise) and/or persons and entities with relationships with us. The underwriters and their respective affiliates may also communicate independent investment recommendations, market color or trading ideas and/or publish or express independent research views in respect of such assets, securities or instruments and may at any time hold, or recommend to clients that they should acquire, long and/or short positions in such assets, securities and instruments.

LEGAL MATTERS

The validity of the shares of common stock offered hereby will be passed upon for us by Orrick, Herrington & Sutcliffe LLP, 1000 Marsh Road, Menlo Park, California 94025. Latham & Watkins LLP, 330 North Wabash Avenue, Suite 2800, Chicago, Illinois 60611, is acting as counsel for the underwriters in connection with offering. Orrick, Herrington & Sutcliffe LLP and certain attorneys and investment funds affiliated with the firm own shares of our preferred stock which will be converted into shares of common stock upon the closing of this offering, which will represent less than 1% of our common stock. In addition, certain attorneys of Latham & Watkins LLP have an indirect interest in shares of our preferred stock which will be converted into shares of our common stock upon the closing of this offering.

EXPERTS

The financial statements as of December 31, 2017 and 2016 and for each of the two years in the period ended December 31, 2017 included in this prospectus have been audited by Deloitte & Touche LLP, an independent registered public accounting firm, as stated in their report appearing herein. Such financial statements are included in reliance upon the report of such firm given upon their authority as experts in accounting and auditing.

WHERE YOU CAN FIND MORE INFORMATION

We have filed with the SEC a registration statement on Form S-1 under the Securities Act with respect to the shares of common stock offered hereby. This prospectus does not contain all of the information set forth in the registration statement and the exhibits and schedules thereto. For further information with respect to the company and its common stock, reference is made to the registration statement and the exhibits and any schedules filed therewith. Statements contained in this prospectus as to the contents of any contract or other document referred to are not necessarily complete and in each instance, if such contract or document is filed as an exhibit, reference is made to the copy of such contract or document filed as an exhibit to the registration statement, each statement being qualified in all respects by such reference. The SEC maintains an Internet website that contains reports, proxy statements and other information about issuers, like us, that file electronically with the SEC. The address of that site is www.sec.gov.

As a result of this offering, we will become subject to the full informational requirements of the Exchange Act. We will fulfill our obligations with respect to such requirements by filing periodic reports and other information with the SEC. We intend to furnish our stockholders with annual reports containing financial statements certified by an independent public accounting firm. We also maintain a website at www.beyondmeat.com. **However, the information contained on or accessible through our website is not part of this prospectus or the registration statement of which this prospectus forms a part, and potential investors should not rely on such information in deciding to purchase our common stock in this offering.**

BEYOND MEAT, INC.

INDEX TO FINANCIAL STATEMENTS

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors and Stockholders of Beyond Meat, Inc.:

Opinion on the Financial Statements

We have audited the accompanying balance sheets of Beyond Meat, Inc. (formerly Savage River, Inc.) (the “Company”) as of December 31, 2017 and 2016, the related statements of operations, convertible preferred stock and stockholders’ deficit, and cash flows, for each of the two years in the period ended December 31, 2017, and the related notes (collectively referred to as the “financial statements”). In our opinion, the financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2017 and 2016, and the results of its operations and its cash flows for each of the two years in the period ended December 31, 2017, in conformity with accounting principles generally accepted in the United States of America.

Basis for Opinion

These financial statements are the responsibility of the Company’s management. Our responsibility is to express an opinion on the Company’s financial statements based on our audits. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) (PCAOB) and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether due to error or fraud. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. As part of our audits, we are required to obtain an understanding of internal control over financial reporting but not for the purpose of expressing an opinion on the effectiveness of the Company’s internal control over financial reporting. Accordingly, we express no such opinion.

Our audits included performing procedures to assess the risks of material misstatement of the financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statements. We believe that our audits provide a reasonable basis for our opinion.

/s/ Deloitte & Touche LLP

Los Angeles, California
September 10, 2018

We have served as the Company’s auditor since 2015.

BEYOND MEAT, INC.
Balance Sheets
(In thousands, except share and per share data)

	December 31,			Pro Forma
	2016	2017	September 29, 2018	September 29, 2018
			(unaudited)	
Assets				
Current assets:				
Cash and cash equivalents	$ 16,998	$ 39,035	$ 49,780	$ 74,781
Accounts receivable	879	3,581	12,079	
Inventory	6,185	8,144	17,771	
Prepaid expenses and other current assets	437	1,209	4,188	
Total current assets	24,499	51,969	83,818	
Property, plant, and equipment, net	10,277	14,118	28,007	
Other non-current assets, net	159	376	397	
Total assets	$ 34,935	$ 66,463	$ 112,222	
Liabilities, Convertible Preferred Stock and Stockholders' Deficit				
Current liabilities:				
Accounts payable	$ 2,540	$ 6,276	$ 14,601	
Wages payable	395	547	883	
Accrued bonus	964	1,152	1,334	
Accrued expenses and other current liabilities	387	505	3,518	
Short-term borrowings under revolving credit line	—	2,500	—	
Current portion of bank term loan and other short-term debt	463	477	—	
Advance deposit on Series H preferred stock issuance	—	—	25,000	—
Short-term capital lease liabilities	220	143	48	
Stock warrant liability	165	550	2,051	826
Total current liabilities	$ 5,134	$ 12,150	47,435	
Long-term liabilities:				
Promissory note	$ 1,450	$ 1,450	—	
Revolving credit line	—	—	6,000	
Long-term portion of bank term loan	965	488	19,767	
Equipment loan	—	—	5,000	
Capital lease obligations and other long-term liabilities	155	94	171	
Total long-term liabilities	$ 2,570	$ 2,032	30,938	
Commitments and Contingencies (Note 9)				

	December 31,			Pro Forma
	2016	2017	September 29, 2018	September 29, 2018
				(unaudited)
Convertible preferred stock :				
Series A convertible preferred stock, par value $0.0001 per share—5,000,000 shares authorized; 5,000,000 shares issued and outstanding as of December 31, 2016, 2017 and September 29, 2018 (unaudited); proforma: no shares issued and outstanding as of September 29, 2018 (unaudited)	$ 2,000	$ 2,000	$ 2,000	$ —
Series B convertible preferred stock, par value $0.0001 per share—7,203,031 shares authorized; 7,020,498 shares issued and outstanding as of December 31, 2016, 2017 and September 29, 2018 (unaudited); proforma: no shares issued and outstanding as of September 29, 2018 (unaudited)	4,999	4,999	4,999	—
Series C convertible preferred stock, par value $0.0001 per share—12,114,359 shares authorized; 12,114,359 shares issued and outstanding as of December 31, 2016, 2017 and September 29, 2018 (unaudited); proforma: no shares issued and outstanding as of September 29, 2018 (unaudited)	14,882	14,882	14,882	—
Series D convertible preferred stock, par value $0.0001 per share—13,069,158 shares authorized; 13,069,157 shares issued and outstanding as of December 31, 2016, 2017 and September 29, 2018 (unaudited); proforma: no shares issued and outstanding as of September 29, 2018 (unaudited)	24,948	24,948	24,948	—
Series E convertible preferred stock, par value $0.0001 per share—7,110,442 shares authorized; 7,051,835 shares issued and outstanding as of December 31, 2016, 2017 and September 29, 2018 (unaudited); proforma: no shares issued and outstanding as of September 29, 2018 (unaudited)	17,214	17,214	17,214	—
Series F convertible preferred stock, par value $0.0001 per share—7,299,800 shares authorized; 7,275,540; 7,299,792 and 7,299,792 shares issued and outstanding as of December 31, 2016, 2017 and September 29, 2018 (unaudited), respectively; proforma: no shares issued and outstanding as of September 29, 2018 (unaudited)	29,761	29,840	29,840	—

	December 31,			Pro Forma
	2016	2017	September 29, 2018	September 29, 2018
			(unaudited)	
Series G convertible preferred stock, par value $0.0001 per share—7,710,000 shares authorized; no shares, 7,483,316 and 7,671,837 shares issued and outstanding as of December 31, 2016, 2017 and September 29, 2018 (unaudited), respectively; proforma: no shares issued and outstanding as of September 29, 2018 (unaudited)	—	54,311	55,658	—
Stockholders' deficit:				
Common stock, par value $0.0001 per share—78,000,000 shares authorized; 7,917,119; 8,586,399 and 9,924,666 shares issued and outstanding at December 31, 2016, 2017 and September 29, 2018 (unaudited), respectively; pro forma: 88,000,000 shares authorized; 72,264,840 shares issued and outstanding as of September 29, 2018 (unaudited)	1	1	1	7
Additional paid-in capital	3,779	4,823	6,527	207,288
Loans to related parties for purchase of stock	(951)	(951)	—	—
Accumulated deficit	(69,402)	(99,786)	(122,220)	(122,220)
Total stockholders' (deficit) equity	(66,573)	(95,913)	(115,692)	85,075
Total liabilities, convertible preferred stock and stockholders' deficit	$ 34,935	$ 66,463	$ 112,222	

The accompanying notes are an integral part of these financial statements.

BEYOND MEAT, INC.
Statements of Operations
(In thousands, except share and per share data)

	Year Ended		Nine Months Ended	
	December 31, 2016	December 31, 2017	September 30, 2017	September 29, 2018
			(unaudited)	
Net revenues	$ 16,182	$ 32,581	$ 21,129	$ 56,420
Cost of goods sold	22,494	34,772	24,250	46,709
Gross (loss) profit	(6,312)	(2,191)	(3,121)	9,711
Research and development expenses	5,782	5,722	4,060	6,267
Selling, general and administrative expenses	12,672	17,143	12,353	23,133
Restructuring expenses	—	3,509	3,078	1,170
Total operating expenses	18,454	26,374	19,491	30,570
Loss from operations	(24,766)	(28,565)	(22,612)	(20,859)
Other expense, net:				
Interest expense	(380)	(1,002)	(484)	(388)
Other, net	—	(812)	(280)	(1,187)
Total other expense, net	(380)	(1,814)	(764)	(1,575)
Loss before taxes	(25,146)	(30,379)	(23,376)	(22,434)
Income tax expense	3	5	3	—
Net loss	$ (25,149)	$ (30,384)	$ (23,379)	$ (22,434)
Net loss per common share—basic and diluted	$ (3.67)	$ (3.71)	$ (2.90)	$ (2.45)
Weighted average common shares outstanding—basic and diluted	6,849,849	8,186,109	8,057,412	9,155,279
Pro forma weighted average shares of common stock outstanding, basic and diluted (unaudited)		67,466,206		68,613,211
Pro forma net loss per share attributable to common stockholders, basic and diluted (unaudited)		$ (0.45)		$ (0.33)

The accompanying notes are an integral part of these financial statements.

BEYOND MEAT, INC.
Statements of Convertible Preferred Stock and Stockholders' Deficit
(In thousands, except share data)

	Preferred Stock		Common Stock					
	Shares	Amount	Shares	Amount	Additional Paid-in Capital	Loans to Related Parties	Accumulated Deficit	Total
Balance at December 31, 2015	44,133,572	$ 63,746	6,726,383	$ 1	$ 2,360	$ (951)	$ (44,253)	$ (42,843)
Net loss	—	—	—	—	—	—	(25,149)	(25,149)
Exercise of common stock options	—	—	1,190,736	—	684	—	—	684
Share-based compensation	—	—	—	—	735	—	—	735
Conversion of convertible notes upon issuance of Series F preferred stock (inclusive of $211 adjustment upon conversion)	1,021,695	4,211	—	—	—	—	—	—
Issuance of Series E preferred stock, net of issuance costs of $3	122,277	297	—	—	—	—	—	—
Issuance of Series F preferred stock, net of issuance costs of $241	6,253,845	25,550	—	—	—	—	—	—
Balance at December 31, 2016	51,531,389	$ 93,804	7,917,119	$ 1	$ 3,779	$ (951)	$ (69,402)	$ (66,573)
Net loss	—	—	—	—	—	—	(30,384)	(30,384)
Exercise of common stock options	—	—	669,280	—	379	—	—	379
Share-based compensation	—	—	—	—	665	—	—	665
Conversion of convertible notes upon issuance of Series G preferred stock (inclusive of $1,123 adjustment upon conversion)	1,539,475	11,123	—	—	—	—	—	—
Issuance of Series F preferred stock, net of issuance costs of $21	24,252	79	—	—	—	—	—	—
Issuance of Series G preferred stock, net of issuance costs of $267	5,943,841	43,188	—	—	—	—	—	—
Balance at December 31, 2017	59,038,957	$ 148,194	8,586,399	$ 1	$ 4,823	$ (951)	$ (99,786)	$ (95,913)
Net loss (unaudited)	—	$ —	—	$ —	$ —	$ —	$ (22,434)	(22,434)
Exercise of common stock options (unaudited)	—	—	1,411,628	—	1,128	—	—	1,128
Share-based compensation (unaudited)	—	—	—	—	1,090	—	—	1,090
Re-purchase of common stock (unaudited)	—	—	(73,361)	$ —	(514)	—	—	(514)
Payoff of promissory note receivable for restricted stock purchase (unaudited)	—	—	—	$ —	—	951	—	951
Issuance of Series G preferred stock, net of issuance costs of $27 (unaudited)	188,521	1,347	—	$ —	—	—	—	—
Balance at September 29, 2018 (unaudited)	59,227,478	$ 149,541	9,924,666	$ 1	$ 6,527	$ —	$ (122,220)	$ (115,692)

The accompanying notes are an integral part of these financial statements.

BEYOND MEAT, INC.
Statements of Cash Flows
(In thousands)

	Year Ended December 31,		Nine Months Ended	
	2016	2017	September 30, 2017	September 29, 2018
			(unaudited)	
Cash flows from operating activities:				
Net loss	$ (25,149)	$ (30,384)	$ (23,379)	$ (22,434)
Adjustments to reconcile net loss to net cash used in operating activities:				
Depreciation and amortization	2,074	3,181	2,363	3,046
Non-cash expenses related to convertible note	211	1,123	373	—
Share-based compensation expense	735	665	519	1,090
Loss on sale of fixed assets	—	—	—	76
Amortization of debt issuance costs	93	37	27	51
Change in preferred and common stock warrant liabilities	—	385	288	1,253
Restructuring loss on write-off of fixed assets	—	2,302	2,302	—
Net change in operating assets and liabilities:				
Accounts receivables	1,071	(2,702)	(2,490)	(8,499)
Inventories	(3,710)	(1,959)	(3,079)	(9,627)
Prepaid expenses and other assets	(205)	(795)	(719)	(615)
Accounts payable	548	2,361	3,947	7,670
Accrued expenses and other current liabilities	899	464	450	3,573
Long-term liabilities	(62)	49	46	39
Net cash used in operating activities	$ (23,495)	$ (25,273)	$ (19,352)	$ (24,377)
Cash flows used in investing activities:				
Purchases of property, plant and equipment	$ (4,955)	$ (7,908)	$ (4,302)	$ (18,250)
Proceeds from sale of fixed assets	—	—	—	104
Payment of security deposits	(83)	(207)	(54)	(59)
Net cash used in investing activities	$ (5,038)	$ (8,115)	$ (4,356)	$ (18,205)
Cash flows from financing activities:				
Proceeds from Series G preferred stock offering, net of offering costs	$ —	$ 43,188	$ —	$ 1,348
Proceeds from Series F preferred stock offering, net of offering costs	25,550	79	79	—
Proceeds from Series E preferred stock offering, net of offering costs	297	—	—	—

(continued on next page)

	Year Ended December 31,		Nine Months Ended	
	2016	2017	September 30, 2017	September 29, 2018
			(unaudited)	
Proceeds from convertible note issuance	4,000	10,000	8,413	—
Proceeds from payoff of notes receivable for common stock	—	—	—	951
Proceeds from advance deposit of Series H preferred stock issuance	—	—	—	25,000
Proceeds from revolving credit line	1,637	2,500	1,250	6,000
Proceeds from bank term loan borrowing	1,500	—	—	20,000
Proceeds from equipment loan borrowing	—	—	—	5,000
Repayments on revolving credit line	(1,637)	—	—	(2,500)
Repayment on term loan	—	(500)	(375)	(1,000)
Repayment of Missouri Note	—	—	—	(1,450)
Payments of capital lease obligations	(117)	(221)	(164)	(143)
Proceeds from exercise of stock options	684	379	365	1,128
Payments of deferred offering costs	$ —	$ —	$ —	$ (493)
Payment for repurchase of common stock	$ —	$ —	$ —	$ (514)
Net cash provided by financing activities	$ 31,914	$ 55,425	$ 9,568	$ 53,327
Net increase (decrease) in cash	$ 3,381	$ 22,037	$ (14,140)	$ 10,745
Cash at the beginning of the period	13,617	16,998	16,998	39,035
Cash and cash equivalents at the end of the period	$ 16,998	$ 39,035	$ 2,858	$ 49,780
Supplemental disclosures of cash flow information:				
Cash paid during the period for:				
Interest	$ 140	$ 269	$ 112	$ 356
Taxes	$ 24	$ 3	$ 3	$ 3
Non-cash investing and financing activities:				
Capital lease obligations for the purchase of property, plant and equipment	$ 442	$ 35	$ —	$ 85
Issuance of convertible preferred stock warrants in connection with debt	$ 165	$ —	$ —	$ —
Issuance of common stock warrants in connection with debt	$ —	$ —	$ —	$ 248
Non-cash additions to property, plant and equipment	$ —	$ 1,376	$ 155	$ 730
Deferred offering costs, accrued not yet paid	$ —	$ —	$ —	$ 1,301
(concluded)				

The accompanying notes are an integral part of these financial statements.

Note 1. Introduction

Beyond Meat, Inc., a Delaware corporation (the "Company"), is one of the fastest growing food companies in the United States, offering a portfolio of revolutionary plant-based meats. The Company builds meat directly from plants, an innovation that enables consumers to experience the taste, texture and other sensory attributes of popular animal-based meat products while enjoying the nutritional benefits of eating the Company's plant-based meat products. The Company's brand commitment, "Eat What You Love," represents a strong belief that by eating the Company's plant-based meats, consumers can enjoy more, not less, of their favorite meals, and by doing so, help address concerns related to human health, climate change, resource conservation and animal welfare.

The Company's primary production facilities are located in Columbia, Missouri, and research and development and administrative offices located in El Segundo, California. In addition to its own production facilities, the Company uses co-manufacturers in various locations in the United States to manufacture its products.

The Company sells to a variety of customers in the retail and foodservice channels throughout the United States and internationally through brokers and distributors.

On September 7, 2018, the Company changed its name from Savage River, Inc. to Beyond Meat, Inc.

Note 2. Summary of Significant Accounting Policies

Basis of Presentation

The financial statements have been prepared by the Company in accordance with accounting principles generally accepted in the United States of America or US GAAP.

Fiscal Year

The Company operates on a fiscal calendar year, and each interim quarter is comprised of one 5-week period and two 4-week periods, with each week ending on a Saturday. The Company's fiscal year always begins on January 1 and ends on December 31. As a result, the Company's first and fourth fiscal quarters may have more or fewer days included than a traditional 91-day fiscal quarter.

Segment Information

The Company has one operating segment and one reportable segment, as the Company's chief operating decision maker, who is the Company's Chief Executive Officer, reviews financial information on an aggregate basis for purposes of allocating resources and evaluating financial performance.

Management's Use of Estimates

The preparation of financial statements in conformity with US GAAP requires management to make estimates and assumptions that affect certain reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates and such differences may be material to the financial statements. Significant accounting estimates made by the Company include trade promotion accruals; useful lives of property, plant and equipment; valuation of deferred taxes; valuation of inventory; and the valuation of the fair value of common stock and preferred stock used to determine stock compensation expense and in the re-measurement of warrants and liabilities.

Unaudited Pro Forma Information

The accompanying unaudited pro forma balance sheet information as of September 29, 2018 assumes conversion of the outstanding shares of our convertible preferred stock including conversion of the Series H convertible preferred stock issued subsequent to September 29, 2018 (see Note 13) and the related proceeds, and the resulting reclassification of the warrant liability to additional paid-in capital with respect to a Series B convertible preferred stock warrant in connection with the Company's initial public offering or IPO. The unaudited pro forma stockholders' equity does not assume any proceeds from the IPO.

Unaudited Interim Financial Information

The accompanying interim balance sheet as of September 29, 2018 and the interim statements of operations, of convertible preferred stock and stockholders' deficit and of cash flows during the nine months ended September 30, 2017 and September 29, 2018 are unaudited. The unaudited interim financial statements have been prepared on a basis consistent with the annual audited financial statements and, in the opinion of management, reflect all adjustments, which include only normal recurring adjustments, necessary to present fairly the Company's financial position as of September 29, 2018 and its results of operations and cash flows for the nine months ended September 30, 2017 and September 29, 2018. The results of operations for the nine months ended September 29, 2018 are not necessarily indicative of the results to be expected for the full fiscal year or for any other future annual or interim periods.

Cash and Cash Equivalents

The Company maintains cash balances at one financial institution in the United States. The cash balances may, at times, exceed federally insured limits. Accounts are guaranteed by the Federal Deposit Insurance Corporation or FDIC up to $250,000. The Company considers all highly liquid investments with original maturity dates of 90 days or less to be cash equivalents. Prior to 2018, the Company did not hold any cash equivalents.

Accounts Receivable

The Company records accounts receivable at net realizable value. This value includes an appropriate allowance for estimated uncollectible accounts to reflect any anticipated losses on the accounts receivable balances and recorded in allowance for doubtful accounts. Allowance for doubtful accounts is calculated based on the Company's history of write-offs, level of past due accounts, and relationships with and economic status of the Company's distributors or customers. The Company had no allowance for doubtful accounts as of December 31, 2016 and 2017, and September 29, 2018 (unaudited).

Inventories and Cost of Goods Sold

Inventories are recorded at lower of cost or net realizable value. The Company accounts for inventory using the weighted average cost method. In addition to product cost, inventory costs include expenditures such as direct labor and certain supply and overhead expenses including in-bound shipping and handling costs incurred in bringing the inventory to its existing condition and location. Inventories are comprised primarily of raw materials, direct labor, and overhead costs. Weighted average cost method is used to absorb raw materials, direct labor, and overhead into inventory. The Company reviews inventory quantities on hand and records a provision for excess and obsolete inventory based primarily on historical demand, and the age of the inventory, among other factors.

Property, Plant and Equipment

Property, plant and equipment are carried at cost less accumulated depreciation and are depreciated using the straight-line method over the following estimated useful lives:

Leasehold improvements	Shorter of lease term or estimated useful life
Furniture and fixtures	3 years
Manufacturing equipment	5 to 10 years
Research and development equipment	5 to 10 years
Software and computer equipment	3 years

Leasehold improvements are depreciated on a straight-line basis over the lesser of the estimated useful life of the asset or the remaining lease term. When assets are sold or retired, the asset and related accumulated depreciation are removed from the respective account balances and any gain or loss on disposal is included in loss from operations. Expenditures for repairs and maintenance are charged directly to expense when incurred. See Note 5.

Impairment of Long-Lived Assets

Long-lived assets, including property and equipment, are reviewed by management for impairment whenever events or changes in circumstances indicate that the carrying amount of the asset may not be fully recoverable. When events or circumstances indicate that impairment may be present, management evaluates the probability that future undiscounted net cash flows received will be less than the carrying amount of the asset. If projected future undiscounted cash flows are less than the carrying value of an asset, then such assets are written down to their fair values. Other than the write off of certain property, plant and equipment in connection with the restructuring efforts disclosed in Note 3, the Company concluded that no long-lived assets were impaired during the fiscal years ended December 31, 2016, 2017 and September 29, 2018 (unaudited).

Deferred Offering Costs

Deferred offering costs, consisting primarily of legal, accounting, printing and filing services, and other direct fees and costs related to the proposed initial public offering, are capitalized. The deferred offering costs will be offset against proceeds from the planned initial public offering upon the closing of the offering. In the event the planned offering is terminated, all deferred offering costs will be expensed. As of September 29, 2018 (unaudited), $1.8 million of deferred offering costs have been recorded in prepaid expenses and other current assets. There were no deferred offering costs prior to 2018.

Stock Warrant Liability

The Company accounts for freestanding warrants to purchase shares of its convertible preferred stock or common stock as a liability, as the underlying shares of convertible preferred stock and common stock are contingently redeemable and, therefore, may obligate the Company to transfer assets at some point in the future. The warrants were recorded at fair value upon issuance and are subject to re-measurement at each balance sheet date. Any change in fair value is recognized in the statements of operations in other expense. The Company will continue to adjust the warrant liability for changes in fair value until the earlier of the exercise of the warrants, the completion of a deemed liquidation event, or the conversion of convertible preferred stock into common stock.

Income Taxes

The Company is subject to federal and state income taxes. The Company uses the asset and liability method of accounting for income taxes as set forth in the authoritative guidance for accounting for income taxes. Under this method, the Company recognizes deferred tax assets and liabilities for the expected

future tax consequences of temporary differences between the respective carrying amounts and tax basis of assets and liabilities. A valuation allowance is established against the portion of deferred tax assets that the Company believes will not be realized on a more likely than not basis.

With respect to uncertain tax positions, the Company recognizes in its financial statements those tax positions determined to be more likely than not of being sustained upon examination, based on the technical merits of the positions. The Company's policy is to recognize, when applicable, interest and penalties on uncertain tax positions as part of income tax expense. See Note 10.

Fair Value of Financial Instruments

The fair value measurement accounting guidance creates a fair value hierarchy to prioritize the inputs used to measure fair value into three categories. A financial instrument's level within the fair value hierarchy is based on the lowest level of input significant to the fair value measurement, where Level 1 is the highest and Level 3 is the lowest.

The three levels are defined as follows:

- *Level 1*—Unadjusted quoted prices in active markets accessible by the reporting entity for identical assets or liabilities. Active markets are those in which transactions for the asset or liability occur with sufficient frequency and volume to provide pricing information on an ongoing basis.
- *Level 2*—Quoted prices for similar instruments in active markets; quoted prices for identical or similar instruments in markets that are not active and model-derived valuations in which significant value drivers are observable.
- *Level 3*—Valuations derived from valuation techniques in which significant value drivers are unobservable.

The Company's financial instruments include cash equivalents, accounts receivable, accounts payable, accrued expenses, and short-term debt for which the carrying amounts approximate fair value due to the short-term maturity of these financial instruments. Based on the borrowing rates currently available to the Company for debt with similar terms, the carrying value of the line of credit and term debt with its bank approximate fair value as well. The fair value of long-term promissory note debt at December 31, 2016 and 2017 was $1.45 million and $1.48 million, respectively, as determined using the estimated net present value of expected future cash flows reflecting the Company's own assumptions (Level 3).

The following table sets forth our financial instruments that were measured at fair value on a recurring basis based on the fair value hierarchy:

	December 31, 2016			
(in thousands)	**Level 1**	**Level 2**	**Level 3**	**Total**
Financial Liabilities:				
Preferred stock warrant liability	$ —	$ —	$ 165	$ 165
Total	$ —	$ —	$ 165	$ 165

	December 31, 2017			
	Level 1	**Level 2**	**Level 3**	**Total**
Financial Liabilities:				
Preferred stock warrant liability	$ —	$ —	$ 550	$ 550
Total	$ —	$ —	$ 550	$ 550

	September 29, 2018 (unaudited)			
	Level 1	**Level 2**	**Level 3**	**Total**
Financial Liabilities:				
Preferred stock warrant liability	$ —	$ —	$ 1,539	$ 1,539
Common stock warrant liability	—	—	512	512
Total	$ —	$ —	$ 2,051	$ 2,051

There were no transfers of financial assets or liabilities into or out of Level 1, Level 2 or Level 3 for 2016 and 2017. The key assumptions used in the Black-Scholes option-pricing model for the valuation of the preferred stock warrant liability upon re-measurement were as follows:

	December 31, 2016	**December 31, 2017**	**September 29, 2018**
			(unaudited)
Expected term (in years)	3.0	3.0	2.0
Fair value of underlying shares	$ 1.41	$ 2.00	$ 11.35
Volatility	55.0%	55.0%	55.0%
Risk-free interest rate	1.47%	1.98%	2.81%
Dividend yield	—	—	—

Generally, increases or decreases in the fair value of the underlying convertible preferred stock would result in a directionally similar impact in the fair value measurement of the associated warrant liability.

The following table sets forth a summary of the changes in the fair value of the preferred and common stock warrant liabilities:

(in thousands)	December 31, 2016	December 31, 2017	September 29, 2018
			(unaudited)
Beginning balance	$ —	$ 165	$ 550
Fair value of warrants issued during the period	165	—	248
Change in fair value of warrant liability	—	385	1,253
Ending balance	$ 165	$ 550	$ 2,051

Leases

The Company leases certain equipment used in the research and development and operations under both capital and operating lease agreements. An asset and a corresponding liability for the capital lease obligations are established for the cost of a capital lease. Capital lease assets are included in property, plant and equipment—net in the Company's balance sheets. Operating lease costs are recognized as rent expense on a straight-line basis over the applicable lease terms. See Note 9.

Contingencies

The Company is subject to a range of claims, lawsuits, and administrative proceedings that arise in the ordinary course of business. The Company accrues a liability (which amount includes litigation costs expected to be incurred) and charges operations for such matters when it is probable that a liability has been incurred and the amount can be reasonably estimated, in accordance with the recognition criteria of the Financial Accounting Standards Board ("FASB") Accounting Standards Codification ("ASC") 450, *Contingencies*. Estimating liabilities and costs associated with these matters require significant judgment based upon the professional knowledge and experience of management and its legal counsel. See Note 9.

Revenue Recognition

The Company recognizes revenues when realized or realizable and earned. Revenue transactions represent sales of inventory. Revenue is recognized upon the transfer of the title to the product, ownership, and risk of loss to the customer, which typically occurs on the date of receipt of the product by the customer. The Company routinely offers sales discounts and promotions through various programs to its customers and consumers. These programs include rebates, temporary on shelf price reductions, off invoice discounts, retailer advertisements, and other trade activities. Provision for discounts and incentives are recorded in the same period in which the related revenues are recognized. At the end of each accounting period, the Company recognizes a liability for estimated sales discounts that have been incurred but not paid. The offsetting charge is recorded as a reduction of revenues in the same period when the expense is incurred.

Our net revenues by platform and channel are included in the tables below:

(In thousands)	For the Year Ended December 31, 2016	2017
Net revenues:		
Fresh	$ 813	$ 18,109
Frozen	18,236	19,588
Less: Discounts	(2,867)	(5,116)
Total net revenues	$ 16,182	$ 32,581

(in thousands)	For the Year Ended December 31, 2016	2017
Net revenues:		
Retail	$ 12,342	$ 25,490
Restaurant and Foodservice	3,840	7,091
Total net revenues	$ 16,182	$ 32,581

Three of our distributors accounted for 10% or more of our revenues during 2016, and four of our distributors or customers accounted for 10% or more of our revenues during 2017. These distributors or customers accounted for approximately 31%, 16% and 12%, respectively, of our revenues for the year ended December 31, 2016, and 38%, 10%, 10%, and 10%, respectively, of our revenues for the year ended December 31, 2017, which were primarily related to sales in the United States. No other distributor or customer accounted for more than 10% of our revenues in the past two years.

Earnings (Loss) Per Share

Earnings (loss) per share ("EPS") represents net income attributable to common stockholders divided by the weighted average number of common shares outstanding for the period. Diluted EPS represents net income attributable to common stockholders divided by the weighted-average number of common shares outstanding, inclusive of the dilutive impact of potential common shares outstanding during the period. Such potential common shares include options, warrants and convertible preferred stock. In periods when the Company records net loss, potential common shares are excluded in the computation of EPS because their inclusion would be anti-dilutive. See Note 11.

Unaudited Pro Forma Earnings Per Share Attributable to Common Stockholders

The unaudited pro forma basic and diluted earnings per share attributable to common stockholders assumes the automatic conversion of the convertible preferred stock and the potential conversion of preferred stock warrants into shares of common stock using the if-converted method upon the completion of the IPO as though the conversion and exercise had occurred as of the beginning of the period, or date of issuance, if later.

Prepaid Expenses

Prepaid expenses primarily include prepaid rent and insurance, which are expensed in the period to which they relate.

Selling, General and Administrative Expenses

Selling, general and administrative or SG&A expenses are primarily comprised of marketing expenses, selling expenses, administrative expenses, depreciation and amortization expense on non-manufacturing assets, and other miscellaneous operating items. Included in SG&A expenses are advertising costs, and out-bound shipping and handling costs which are charged to expense as incurred. Advertising costs in the year ended December 31, 2016 and 2017 were $15,000 and $0.3 million, respectively. Advertising costs in the nine months ended September 30, 2017 (unaudited) and September 29, 2018 (unaudited) were $91,000 and $60,000, respectively. Non-advertising related components of the Company's total marketing expenditures include costs associated with consumer promotions, product sampling, and sales aids, which are also included in SG&A. SG&A expenses in the year ended December 31, 2016 include $2.9 million in costs to transition certain manufacturing and packaging operations from the Company's existing manufacturing facility in Columbia, Missouri to a co-packer.

Shipping and Handling Costs

The Company does not bill its distributors or customers shipping and handling fees. The Company's products are predominantly shipped to its distributors or customers as "FOB Destination," with control of the products transferred to the customer at the destination. In-bound shipping and handling costs incurred in manufacturing a product are included in inventory and reflected in cost of goods sold when the sale of that product is recognized. Outbound shipping and handling costs are considered as fulfillment costs and are recorded in SG&A expenses. Outbound shipping and handling costs in the year ended December 31, 2016 and 2017 were $1.4 million and $3.4 million, respectively. Outbound shipping and handling costs in the year ended December 31, 2017 included $0.8 million related to the termination of the exclusive supply agreement with a co-manufacturer. Outbound shipping and handling costs in the nine months ended September 30, 2017 (unaudited) and September 29, 2018 (unaudited) were $1.8 million and $4.9 million, respectively.

Research and Development

Research and development costs, which includes research for The Beyond Burger, our flagship product that we launched in May 2016, enhancements to existing products and new product development, are expensed in the period incurred. Research and development expenses in the years ended December 31, 2016 and 2017, were $5.8 million and $5.7 million, respectively. Research and development expenses in the nine months ended September 30, 2017 (unaudited) and September 29, 2018 (unaudited), were $4.1 million and $6.3 million, respectively.

Share-Based Compensation

The Company measures all share-based compensation cost at the grant date, based on the fair values of the awards that are ultimately expected to vest, and recognizes that cost as an expense on a straight line-basis in its statements of operations over the requisite service period. The Company estimates the fair value of option awards using the Black-Scholes option valuation model, which requires management to make certain assumptions for estimating the fair value of stock options at the date of grant including the fair value and projected volatility of the underlying common stock and the expected term of the award. The Black-Scholes option valuation model was developed for use in estimating the fair value of traded options that have no vesting restrictions and are fully transferable. Because the Company's stock options have characteristics significantly different from those of traded options, and because changes in the subjective input assumptions can materially affect the fair value estimates, in management's opinion, the existing models may not necessarily provide a reliable single measure of the fair value of the Company's stock options. Although the fair value of stock options is determined using an option valuation model, that value may not be indicative of the fair value observed in a willing buyer/willing seller market transaction.

In addition, the Company estimates the expected impact of forfeited awards and recognizes share-based compensation cost only for those awards ultimately expected to vest. If actual forfeiture rates differ materially from the Company's estimates, share-based compensation expense could differ significantly from the amounts the Company has recorded in the current period. The Company periodically reviews actual forfeiture experience and will revise its estimates, as necessary. The Company will recognize as compensation cost the cumulative effect of the change in estimated forfeiture rates on current and prior periods in earnings of the period of revision. As a result, if the Company revises its assumptions and estimates, the Company's share-based compensation expense could change materially in the future. See Note 8.

Employee Benefit Plan

On January 1, 2017 the Company initiated a 401(k) retirement saving plan for the benefit of eligible employees. Under terms of this plan, eligible employees are able to make contributions of their wages on a tax-deferred basis. The Company is authorized to, but has not made matching contributions.

Restructuring Plan

The Company accounts for exit or disposal of activities in accordance with ASC 420, *Exit or Disposal Cost Obligations*. The Company defines a business restructuring as an exit or disposal activity that includes but is not limited to a program which is planned and controlled by management and materially changes either the scope of a business or the manner in which that business is conducted. Business restructuring charges may include (i) contract termination costs and (ii) other related costs associated with exit or disposal activities.

Contract termination costs include costs to terminate a contract or costs that will continue to be incurred under the contract without benefit to the Company. A liability is recognized and measured at its fair value when the Company either terminates the contract or ceases using the rights conveyed by the contract. See Note 3.

Related-Party Transactions

Seth Goldman

The Company entered into a consulting agreement with Seth Goldman on March 2, 2016. Pursuant to the consulting agreement, the Company will pay Mr. Goldman $14,585.33 per month for services rendered under the consulting agreement. The consulting agreement may be terminated at any time upon 120 business days' written notice. In the event of a default in the performance of the consulting agreement or material breach of any obligations under the consulting agreement, the non-breaching party may terminate the consulting agreement immediately if the breaching party fails to cure the breach within 30 business days after having received written notice by the non-breaching party of the default or breach.

Bernhard van Lengerich

The Company first entered into an advisor agreement with Food System Strategies, LLC in October 2015. Bernhard van Lengerich. Ph.D. is the Chief Executive Officer of Food System Strategies, LLC. Pursuant to this advisor agreement, the Company paid Food System Strategies, LLC $4,000 for each day Dr. van Lengerich provided services, provided the Company paid Food System Strategies, LLC for at least two days of services per month. In February 2016, the Company entered into a new advisor agreement with Food System Strategies, LLC, which superseded the original agreement and provided for a $25,000 monthly retainer and a non-qualified stock option covering 798,848 shares, which vested in equal monthly installments over three years in consideration of Dr. van Lengerich providing services as our interim Chief Technical Officer and head of research and development, and the increased time commitment associated with these roles. In December 2016, the advisor agreement was amended to provide for a $10,000 monthly retainer to reflect the fact that Dr. van Lengerich would only be providing advisory services five to six days a month going forward. The advisor agreement may be terminated at

any time upon written notice to the other party.

Loans to Related Parties

In connection with the issuance of restricted stock and for value received, in December 2015, the nonemployee members of our Board of Directors entered into a promissory note to pay the Company the principal sum of $951,245 with interest at a fixed rate of 1.68% per annum, compounded annually, on the unpaid balance of such principal sum. The promissory notes are secured by a pledge of the common stock issued to the nonemployee board members. The loans are classified as a reduction to stockholders' deficit in the accompanying balance sheets. In determining the accounting for the promissory notes, management evaluated the legal provisions of the promissory notes as well as the Company's intent to fully collect on the outstanding note amounts. The Company collected on the promissory notes in their entirety in 2018. See Note 12.

Recently Adopted Accounting Pronouncements (unaudited)

In March 2016, the FASB issued ASU No. 2016-09, "Compensation—Stock Compensation (Topic 718): Improvements to Employee Share-Based Payment Accounting" or ASU 2016-09. ASU 2016-09 simplifies certain aspects of accounting for share-based payment transactions, including the income tax consequences, classification of awards as either equity or liabilities, and an option to recognize gross stock compensation expense with actual forfeitures recognized as they occur, as well as certain classifications in the statements of cash flows. ASU 2016-09 is effective for all entities other than public business entities for fiscal years beginning after December 15, 2017, and therefore, effective for the Company for the fiscal year ending December 31, 2018. Early adoption is permitted. The Company adopted ASU 2016-09 beginning January 1, 2018. Adoption of ASU 2016-09 did not have a material impact on the Company's financial position, results of operations, or cash flows.

In May 2017, the FASB issued ASU No. 2017-09, "Compensation—Stock Compensation (Topic 718): Scope of Modification Accounting" or ASU 2017-09. ASU 2017-09 amends the scope of modification accounting for share-based payment arrangements and provides guidance on the types of changes to the terms or conditions of share-based payment awards to which an entity would be required to apply modification accounting. Specifically, an entity would not apply modification accounting if the fair value, vesting conditions, and classification of the awards are the same immediately before and after the modification. ASU 2017-09 is effective for all entities for annual periods, and interim periods within those annual periods, beginning after December 15, 2017 with early adoption permitted. The Company adopted ASU 2017-09 beginning January 1, 2018. Adoption of ASU 2017-09 did not have a material impact on the Company's financial position, results of operations, or cash flows.

New Accounting Pronouncements

As an "emerging growth company," the Jumpstart Our Business Startups Act, or the JOBS Act, allows the Company to delay adoption of new or revised accounting pronouncements applicable to public companies until such pronouncements are made applicable to private companies. The Company has elected to use the adoption dates applicable to private companies. As a result, the Company's financial statements may not be comparable to the financial statements of issuers who are required to comply with the effective date for new or revised accounting standards that are applicable to public companies.

In May 2014, the FASB issued Accounting Standards Update (ASU) No. 2014-09, "Revenue from Contracts with Customers" or ASU 2014-09, which, along with subsequent ASUs, amends the existing accounting standards for revenue recognition. This guidance is based on principles that govern the recognition of revenue at an amount an entity expects to be entitled to receive when products are transferred to customers. ASU 2014-09 is effective for annual reporting periods beginning after December 15, 2017, including interim periods within that reporting period for public business entities, and for annual reporting periods beginning after December 15, 2018 for business entities that are not public. ASU 2014-09 is effective for the Company beginning January 1, 2019. ASU 2014-09 may be applied retrospectively to each prior period presented or retrospectively with the cumulative effect recognized as

of the date of adoption. Additionally, ASU 2014-09 requires enhanced disclosures, including revenue recognition policies to identify performance obligations to customers and significant judgments in measurement and recognition. The Company is currently in the process of assessing our adoption methodology for ASU 2014-09 and has not yet selected a method. The Company is also evaluating the impact of the adoption on its financial statements. While the Company believes that adoption of ASU 2014-09 may require capitalization of certain selling costs that are currently expensed, such as sales and partner commissions, it has not yet determined whether the effect of these, or other adjustments will be material to revenue or results of operations. The Company is continuing to assess the impact of adoption of ASU 2014-09, which may identify other impacts on the Company's financial statements. The Company expects to adopt and implement ASU 2014-09 effective January 1, 2019.

In January 2016, the FASB issued ASU No. 2016-01, "Financial Instruments—Overall (Subtopic 825-10): Recognition and Measurement of Financial Assets and Financial Liabilities" or ASU 2016-01, which makes amendments to the guidance in U.S. GAAP on the classification and measurement of financial instruments. ASU 2016-01 significantly revises an entity's accounting related to (1) the classification and measurement of investments in equity securities and (2) the presentation of certain fair value changes for financial liabilities measured at fair value. It also amends certain disclosure requirements associated with the fair value of financial instruments. For all entities other than public entities, ASU 2016-01 is effective for fiscal years beginning after December 15, 2018, including interim periods within fiscal years beginning after December 15, 2019. Early adoption is permitted. The Company expects to adopt and implement ASU 2016-01 for the year ending December 31, 2019 and for interim periods beginning January 1, 2020. The Company does not expect that adoption of ASU 2016-01 will have a material impact on the Company's financial position, results of operations, or cash flows.

In February 2016, the FASB issued ASU No. 2016-02, "Leases" ("ASU 2016-02"). ASU 2016-02 requires lessees to generally recognize most operating leases on the balance sheets but record expenses on the income statements in a manner similar to current accounting. ASU 2016-02 is effective for nonpublic companies for the annual reporting period beginning after December 15, 2019, and, therefore, effective for the Company beginning January 1, 2020. Early application is permitted. The Company is currently evaluating the impact ASU 2016-02 will have on its financial statements and currently expects that most operating lease commitments will be subject to ASU 2016-02 and will be recognized as operating lease liabilities and right-of-use assets upon adoption. While the Company has not yet quantified the impact, adjustments resulting from the adoption of ASU 2016-02 will materially increase total assets and total liabilities relative to such amounts reported prior to adoption.

In August 2016, the FASB issued ASU No. 2016-15, "Statements of Cash Flows (Topic 230) Classification of Certain Cash Receipts and Cash Payments" or ASU 2016-15, which addresses eight specific cash flow issues with the objective of reducing the existing diversity in practice in how certain cash receipts and cash payments are presented and classified in the statements of cash flows. ASU 2016-15 is effective for annual periods (including interim periods) beginning after December 15, 2018 for business entities that are not public, should be applied retrospectively, and early adoption is permitted. The Company is currently evaluating the impact that will result from adopting ASU 2016-15 on its cash flows.

Note 3. Restructuring

In May 2017, management approved a plan to terminate its exclusive supply agreement or Agreement with one of its co-manufacturers, due to non-performance under the Agreement and on May 23, 2017, the Company notified the co-manufacturer of its decision to terminate the Agreement. In accordance with the Company's policy of reviewing long-lived assets for impairment whenever events or changes in circumstances indicate that the carrying amount of such assets may not be recoverable, the Company determined that as of May 23, 2017, the date the Company notified the co-manufacturer of its decision to terminate the Agreement, the assets held in possession of the co-manufacturer were no longer recoverable. The Company recorded restructuring expenses of $3.5 million in 2017, of which $2.3 million were related to the impairment write-off of long-lived assets comprised of certain

unrecoverable equipment located at the co-manufacturer's site and company-paid leasehold improvements to the co-manufacturer's facility pursuant to the Agreement, and $1.2 million was primarily related to legal and other expenses associated with the dispute with the co-manufacturer (see Note 9). In addition, the Company recorded $2.4 million in write-off of unrecoverable inventory held at the co-manufacturer's site which is included in cost of goods sold (see Note 4) and $1.2 million in expenses related to the dispute in SG&A expenses in the Company's statement of operations in the year ended December 31, 2017. In the nine months ended September 29, 2018 (unaudited), the Company recorded $1.2 million in restructuring expenses related to this dispute, which consisted primarily of legal and other expenses. As of December 31, 2017 and September 29, 2018 (unaudited), there were no accrued unpaid liabilities associated with this contract termination.

Note 4. Inventories

Major classes of inventory were as follows:

(in thousands)	December 31, 2016	December 31, 2017	September 29, 2018 (unaudited)
Raw materials and packaging	$ 2,816	$ 2,569	$ 9,194
Work in process	1,700	2,615	1,810
Finished goods	1,669	2,960	6,767
Total	$ 6,185	$ 8,144	$ 17,771

The Company wrote off approximately $1.2 million in discontinued product inventories and recognized that expense in cost of goods sold in its statement of operations for the year ended December 31, 2016. The Company wrote off $2.4 million in unrecoverable inventory related to the termination of an exclusive supply agreement with one of the Company's co-manufacturers which was recorded in cost of goods sold in its statement of operations for the year ended December 31, 2017. There was no write down of inventory to lower of cost or net realizable value at December 31, 2016, 2017 or September 29, 2018 (unaudited).

Note 5. Property, Plant and Equipment

Property, plant, and equipment are stated at cost and capital lease assets are included. A summary of property, plant, and equipment as of December 31, 2016 and 2017, is as follows:

(in thousands)	December 31, 2016	December 31, 2017	September 29, 2018 (unaudited)
Manufacturing equipment	$ 10,632	$ 13,037	$ 20,934
Research and development equipment	818	1,705	4,269
Leasehold improvements	2,659	1,285	6,156
Capital leases	762	797	882
Software	18	27	52
Furniture and fixtures	11	24	47
Assets not yet placed in service	490	5,021	6,469
Total property, plant and equipment	$ 15,390	$ 21,896	$ 38,809
Less: accumulated depreciation and amortization	5,113	7,778	10,802
Property, plant and equipment, net	$ 10,277	$ 14,118	$ 28,007

Depreciation and amortization expense for the years ended December 31, 2016 and 2017, was $2.1 million and $3.2 million, respectively. Of the total depreciation and amortization expense in the years ended December 31, 2016 and 2017, $1.9 million and $2.9 million, respectively, were recorded in cost of goods sold and $0.2 million and $0.3 million, respectively, were recorded in research and development expenses in the Company's statements of operations.

Depreciation and amortization expense for the nine months ended September 30, 2017 (unaudited) and September 29, 2018 (unaudited) was $2.4 million and $3.0 million, respectively. Of the total depreciation and amortization expense in the nine months September 30, 2017 (unaudited) and September 29, 2018 (unaudited), $2.1 million and $2.4 million, respectively, were recorded in cost of goods sold and $0.3 million and $0.6 million, respectively, were recorded in research and development expenses in the Company's statements of operations.

Note 6. Debt

The Company's debt balances are detailed below:

(in thousands)	December 31, 2016	December 31, 2017	September 29, 2018 (unaudited)
2016 Revolving Credit Facility (defined below)	$ —	$ 2,500	$ —
2016 Term Loan Facility (defined below)	1,500	1,000	—
Missouri Note (defined below)	1,450	1,450	—
2018 Revolving Credit Facility (defined below)	—	—	6,000
2018 Term Loan Facility (defined below)	—	—	20,000
Equipment financing loan	—	—	5,000
Loan origination fees	(72)	(35)	(233)
Total debt outstanding	$ 2,878	$ 4,915	$ 30,767
Less: current portion of long-term debt	463	2,977	—
Long-term debt	$ 2,415	$ 1,938	$ 30,767

The Company records loan origination fees as a reduction of carrying value of the debt in the accompanying balance sheets. Loan origination fees, net of amortization, totaled $72,000, $35,000, $0.2 million as of December 31, 2016, 2017 and September 29, 2018 (unaudited), respectively. Loan origination fees are amortized as interest expense over the term of the loan for which amortization of $21,000 and $37,000 was recorded during the years ended December 31, 2016, 2017. Loan origination fees amortized to interest expense in the nine months ended September 29, 2018 (unaudited) was $32,000.

Credit Facilities

In June 2016, the Company entered into a Loan and Security Agreement, referred to as the Original LSA, with Silicon Valley Bank, or SVB, which comprised a $2.5 million revolving line of credit, or the 2016 Revolving Credit Facility, maturing in June 2018, and a $1.5 million growth capital term loan advance, or the 2016 Term Loan Facility, maturing in December 2019. Principal payments on the 2016 Term Loan Facility were due in 36 equal monthly installments beginning January 31, 2017.

The 2016 Revolving Credit Facility and the 2016 Term Loan Facility were secured by an interest in manufacturing equipment, inventory, contract rights or rights to payment of money, leases, license agreements, general intangibles, and cash. The Company paid a facility fee of $30,000 to secure the Original LSA. Both the 2016 Term Loan Facility and borrowings on the 2016 Revolving Credit Facility accrue interest at the annual rate of 1.0% above prime rate, payable monthly. In the event of occurrence

and during the time of continuation of default, loan obligations will bear a default interest rate of additional 5% above the rate that is otherwise applicable. The interest rate on the obligations at December 31, 2016 and 2017 were 4.75% and 5.5%, respectively.

As of December 31, 2016 and 2017, the outstanding principal balance under the 2016 Revolving Credit Facility was $0 and $2.5 million and the outstanding balance in the 2016 Term Loan Facility was $1.5 million and $1.0 million, respectively, of which $0.5 million was included in short-term debt in each of the years and the remainder was included in long-term debt on the Company's balance sheets. The Company recognized interest expense of $0 and $0.1 million in 2016 and 2017, respectively, on the 2016 Revolving Credit Facility and $34,000 and $63,000 in 2016 and 2017, respectively, on the 2016 Term Loan Facility. As of December 31, 2017, there was no availability to borrow under the 2016 Revolving Credit Facility.

Amended and Restated Loan and Security Agreement

In June 2018, the Company refinanced the 2016 Revolving Credit Facility and the 2016 Term Loan Facility under the Original LSA with SVB, or the Amended LSA, such that the 2016 Revolving Credit Facility was expanded from $2.5 million to $6.0 million, and all loans under the 2016 Term Loan Facility were paid in full without a prepayment penalty and the 2016 Term Loan Facility was discontinued. The Amended LSA includes the expanded revolving credit facility or the 2018 Revolving Credit Facility and the 2018 Term Loan Facility. See Note 12.

Borrowings on the 2018 Revolving Credit Facility and 2018 Term Loan Facility (Unaudited)

As of September 29, 2018, the Company had $6.0 million and $20.0 million in borrowings on the 2018 Revolving Credit Facility and 2018 Term Loan Facility, respectively, and had no availability to borrow under either of these loan facilities. For the nine months ended September 29, 2018, the Company incurred $0.4 million in interest expense related to the term loans and revolving credit facilities.

Equipment Loan Facility (unaudited)

In September 2018, the Company entered into an agreement with Structural Capital Investments II, LP, or Structural Capital, wherein Structural Capital agreed to provide an equipment loan facility to the Company in the amount of $5.0 million for the purpose of purchasing equipment. Subject to Structural Capital's approval, the Company may request that they advance an additional $5.0 million or an aggregate of $10.0 million. The equipment loan facility matures on May 1, 2022, carries an interest rate of 6.25% plus the greater of 4.75% or the prime rate and is secured by the financed equipment. Principal repayments begin six months or 18 months after loan draw depending on the Company achieving certain financial milestones, and therefore, are paid over a period of 37 months or 25 months, respectively. The Company is also required to offer Structural Capital the right to purchase up to an aggregate of $1.0 million of the Company's capital stock or any other equity interest in any transaction where the Company receive gross proceeds of at least $10.0 million. The equipment loan facility has a prepayment penalty of 2% during the first two years of the term and 1% thereafter. The Company must also pay a final payment fee of 13% of the facility commitment amount on the maturity date and such other date as the advances become due and such fee will increase by 1% if certain milestones are achieved.

The Company had $5.0 million in borrowings outstanding as of September 29, 2018 under the equipment loan facility.

Promissory Note

The Company entered into a note with the Missouri Department of Economic Development in the amount of $1.45 million on December 20, 2013 or the Missouri Note. The principal was due and payable on December 20, 2021. The Missouri Note carried a fixed interest rate of 2% per year, payable quarterly, commencing on December 31, 2016. The Company recognized interest expense of $26,000 and $29,000, in 2016 and 2017, respectively. As of December 31, 2016 and 2017, the Company was in

compliance with the promissory note covenant to maintain at least 20 full-time employees in Missouri throughout the life of the note. On June 28, 2018, the Missouri Note was paid in full.

Convertible Promissory Notes

In September 2016, the Company issued $4.0 million in Convertible Promissory Notes ("2016 Convertible Notes") to several purchasers of the Series F preferred shares, one of whom was a non-employee Board Member. The 2016 Convertible Notes were due six months after the issuance date. The 2016 Convertible Notes had a fixed interest rate of 1% per year during their term and permitted the holders to convert the notes to Series F preferred shares at 95% of the cash price per share.

The outstanding principal and all accrued but unpaid interest under the 2016 Convertible Notes were converted into Series F Preferred Stock in October 2016. The Company issued 1,021,695 shares of Series F preferred shares upon conversion of the 2016 Convertible Notes. The number of shares issued was calculated based on the quotient obtained by dividing the outstanding principal and all accrued interest by 95% of the cash price per share of the Series F Preferred Stock issuance. In connection with the accounting for the 2016 Convertible Notes, a debt discount of $0.2 million was recognized at issuance, and subsequently, as a component of interest expense through the date of conversion.

From August 2017 through November 2017, the Company issued $10.0 million in Convertible Promissory Notes ("2017 Convertible Notes") to several purchasers of the Series G preferred shares, two of whom were 5% stockholders and two were non-employee members of our Board of Directors. The 2017 Convertible Notes were due six months after the issuance date. The 2017 Convertible Notes had a fixed interest rate of 5% per year during their term and permitted the holders to convert the notes to Series G preferred shares at 90% of the cash price per share.

The outstanding principal and all accrued but unpaid interest under the 2017 Convertible Notes were converted into 1,539,475 shares of Series G Preferred Stock beginning in November 2017. The number of shares issued was calculated based on the quotient obtained by dividing the outstanding principal and all accrued interest by 90% of the cash price per share of the Series G Preferred Stock issuance. In connection with the accounting for the 2017 Convertible Notes, a debt discount of $1.1 million was recognized at issuance, of which $0.7 million was recognized as a component of interest expense through the date of conversion. The remaining unamortized discount of $0.4 million was recorded in other expense at the date of conversion.

Warrant Liabilities

In connection with its financing arrangements, the Company has issued warrants to purchase shares of its convertible preferred stock. For one of the financing arrangements, the Company issued warrants to purchase 182,533 shares of Series B convertible preferred stock at an exercise price of $0.7122 per share. For a separate financing arrangement, the Company issued warrants to purchase 58,607 shares of Series E convertible preferred stock at an exercise price of $2.4534 per share. The Series B and Series E warrants are exercisable and expire seven and ten years from the date of issuance, respectively. In connection with the Company's refinancing of its credit facilities with SVB, the Company issued to SVB and its affiliates warrants to purchase an aggregate 90,000 shares of its common stock at an exercise price of $2.00 per share (see Note 12). The warrants remained outstanding as of December 31, 2016 and 2017 and September 29, 2018 (unaudited). See Note 2 for further information on the warrant liabilities.

Note 7. Stockholders' Deficit and Convertible Preferred Stock

As of December 31, 2016, the Company's shares consisted of 78,000,000 authorized shares of Common Stock, of which 7,917,119 were issued and outstanding, and 51,531,389 authorized shares of Preferred Stock, of which 5,000,000 shares of Series A Preferred Stock, 7,020,498 shares of Series B Preferred Stock, 12,114,359 shares of Series C Preferred Stock, 13,069,157 shares of Series D Preferred Stock, 7,051,835 of Series E Preferred Stock, and 7,275,540 of Series F Preferred Stock, were issued and outstanding, respectively.

As of December 31, 2017, the Company's shares consisted of 78,000,000 authorized shares of common stock, par value $0.0001 per share or Common Stock, of which 8,586,399 were issued and outstanding, and 59,038,957 authorized shares of preferred stock, par value $0.0001 per share or Preferred Stock, of which 5,000,000 shares of Series A Preferred Stock, 7,020,498 shares of Series B Preferred Stock, 12,114,359 shares of Series C Preferred Stock, 13,069,157 shares of Series D Preferred Stock, 7,051,835 of Series E Preferred Stock, 7,299,792 shares of Series F Preferred Stock, and 7,483,316 shares of Series G Preferred Stock were issued and outstanding, respectively.

As of September 29, 2018 (unaudited), the Company's shares consisted of 78,000,000 authorized shares of common stock, par value $0.0001 per share or Common Stock, of which 9,924,666 were issued and outstanding, and 59,227,478 authorized shares of preferred stock, par value $0.0001 per share, or Preferred Stock, of which 5,000,000 shares of Series A Preferred Stock, 7,020,498 shares of Series B Preferred Stock, 12,114,359 shares of Series C Preferred Stock, 13,069,157 shares of Series D Preferred Stock, 7,051,835 of Series E Preferred Stock, 7,299,792 shares of Series F Preferred Stock, and 7,671,837 shares of Series G Preferred Stock were issued and outstanding, respectively. Subsequent to September 29, 2018, the Company issued 2,618,183 of Series H Preferred Stock. See Note 13.

The Company has not declared or paid any dividends, or authorized or made any distribution upon or with respect to any class or series of its capital stock.

Payment to Holders of Series G Preferred Stock

In the event of any voluntary or involuntary liquidation, dissolution, or winding up of the Company, the holders of shares of Series G Preferred Stock then outstanding shall be entitled to be paid, on a pari passu basis, out of the assets of the Corporation available for distribution to its stockholders before any payment shall be made to the holders of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock, Series F Preferred Stock, or Common Stock by reason of their ownership thereof, an amount per share equal to the greater of (i) the Series G Original Issue Price for each outstanding share of Series G Preferred Stock then held by them, plus any dividends declared but unpaid thereon; or (ii) such amount per share, as would have been payable had all shares of such series been converted into Common Stock immediately prior to such liquidation, dissolution, or winding up. If upon any such liquidation, dissolution, or winding up of the Corporation, the assets of the Corporation available for distribution to its stockholders shall be insufficient to pay the holders of shares of Series G Preferred Stock the full amount to which they shall be entitled, the holders of shares of Series G Preferred Stock shall share ratably in any distribution of the assets available for distribution in proportion to the respective amounts, which would otherwise be payable in respect of the shares held by them upon such distribution if all amounts payable on or with respect to such shares were paid in full. The Series G Original Issue Price shall mean $7.2933 per share, subject to appropriate adjustment in the event of any stock dividend, stock split, combination, or other similar recapitalization with respect to the Series G Preferred Stock.

Payment to Holders of Series F Preferred Stock

In the event of any voluntary or involuntary liquidation, dissolution, or winding up of the Corporation, the holders of shares of Series F Preferred Stock then outstanding shall be entitled to be paid, on a pari passu basis, out of the assets of the Corporation available for distribution to its stockholders before any payment shall be made to the holders of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock, or Common Stock by reason of their ownership thereof, an amount per share equal to the greater of (i) the Series F Original Issue Price for each outstanding share of Series F Preferred Stock then held by them, plus any dividends declared but unpaid thereon; or (ii) such amount per share, as would have been payable had all shares of such series been converted into Common Stock immediately prior to such liquidation, dissolution, or winding up. If upon any such liquidation, dissolution, or winding up of the Corporation, the assets of the Corporation available for distribution to its stockholders shall be insufficient to pay the holders of shares of Series F Preferred Stock the full amount to which they shall be entitled, the holders of shares of Series F Preferred

Stock shall share ratably in any distribution of the assets available for distribution in proportion to the respective amounts, which would otherwise be payable in respect of the shares held by them upon such distribution if all amounts payable on or with respect to such shares were paid in full. The Series F Original Issue Price shall mean $4.1234 per share, subject to appropriate adjustment in the event of any stock dividend, stock split, combination, or other similar recapitalization with respect to the Series F Preferred Stock.

Payment to Holders of Series E Preferred Stock

In the event of any voluntary or involuntary liquidation, dissolution, or winding up of the Company, the holders of shares of Series E Preferred Stock then outstanding shall be entitled to be paid, on a pari passu basis, out of the assets of the Company available for distribution to its stockholders before any payment shall be made to the holders of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, or Common Stock by reason of their ownership thereof, an amount per share equal to the greater of (i) the Series E Original Issue Price for each outstanding share of Series E Preferred Stock then held by them, plus any dividends declared but unpaid thereon, or (ii) such amount per share as would have been payable had all shares of such series been converted into Common Stock immediately prior to such liquidation, dissolution, or winding up. If upon any such liquidation, dissolution, or winding up of the Company, the assets of the Company available for distribution to its stockholders shall be insufficient to pay the holders of shares of Series E Preferred Stock the full amount to which they shall be entitled, the holders of shares of Series E Preferred Stock shall share ratably in any distribution of the assets available for distribution in proportion to the respective amounts, which would otherwise be payable in respect of the shares held by them upon such distribution if all amounts payable on or with respect to such shares were paid in full. The Series E Original Issue Price is $2.4534 per share, subject to appropriate adjustment in the event of any stock dividend, stock split, combination, or other similar recapitalization with respect to the Series E Preferred Stock.

Payments to Holders of Series D Preferred Stock

In the event of any voluntary or involuntary liquidation, dissolution, or winding up of the Company, after the payment of all preferential amounts required to be paid to the holders of shares of Series E Preferred Stock, the holders of shares of Series D Preferred Stock then outstanding shall be entitled to be paid, on a pari passu basis, out of the assets of the Company available for distribution to its stockholders before any payment shall be made to the holders of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, or Common Stock by reason of their ownership thereof, an amount per share equal to the greater of (i) the Series D Original Issue Price for each outstanding share of Series D Preferred Stock then held by them, plus any dividends declared but unpaid thereon, or (ii) such amount per share as would have been payable had all shares of such series been converted into Common Stock immediately prior to such liquidation, dissolution, or winding up. If upon any such liquidation, dissolution, or winding up of the Company, the assets of the Company available for distribution to its stockholders shall be insufficient to pay the holders of shares of Series D Preferred Stock the full amount to which they shall be entitled under this, the holders of shares of Series D Preferred Stock shall share ratably in any distribution of the assets available for distribution in proportion to the respective amounts, which would otherwise be payable in respect of the shares held by them upon such distribution if all amounts payable on or with respect to such shares were paid in full. The Series D Original Issue Price shall mean $1.9129 per share, subject to appropriate adjustment in the event of any stock dividend, stock split, combination, or other similar recapitalization with respect to the Series D Preferred Stock.

Payments to Holders of Series C Preferred Stock

In the event of any voluntary or involuntary liquidation, dissolution, or winding up of the Company, after the payment of all preferential amounts required to be paid to the holders of shares of Series E Preferred Stock and to the holders of shares of Series D Preferred Stock, the holders of shares of Series C Preferred Stock then outstanding shall be entitled to be paid, on a pari passu basis, out of the assets of the Company available for distribution to its stockholders before any payment shall be made to

the holders of Series A Preferred Stock, Series B Preferred Stock, or Common Stock by reason of their ownership thereof, an amount per share equal to the greater of (i) the Series C Original Issue Price for each outstanding share of Series C Preferred Stock then held by them, plus any dividends declared but unpaid thereon, or (ii) such amount per share as would have been payable had all shares of such series been converted into Common Stock immediately prior to such liquidation, dissolution, or winding up. If upon any such liquidation, dissolution, or winding up of the Company, the assets of the Company available for distribution to its stockholders shall be insufficient to pay the holders of shares of Series C Preferred Stock the full amount to which they shall be entitled, the holders of shares of Series C Preferred Stock shall share ratably in any distribution of the assets available for distribution in proportion to the respective amounts, which would otherwise be payable in respect of the shares held by them upon such distribution if all amounts payable on or with respect to such shares were paid in full. The Series C Original Issue Price is $1.2382 per share, subject to appropriate adjustment in the event of any stock dividend, stock split, combination, or other similar recapitalization with respect to the Series C Preferred Stock.

Payments to Holders of Series A Preferred Stock and Series B Preferred Stock

In the event of any voluntary or involuntary liquidation, dissolution, or winding up of the Company, after the payment of all preferential amounts required to be paid to the holders of shares of Series E Preferred Stock to the holders of shares of Series D Preferred Stock and to the holders of shares of Series C Preferred Stock, the holders of shares of Series A Preferred Stock then outstanding and Series B Preferred Stock then outstanding shall be entitled to be paid, on a pari passu basis, out of the assets of the Company available for distribution to its stockholders before any payment shall be made to the holders of Common Stock by reason of their ownership thereof, an amount per share equal to the greater of (i) the Series A Original Issue Price for each outstanding share of Series A Preferred Stock then held by them and the Series B Original Issue Price for each outstanding share of Series B Preferred Stock then held by them, in each case, plus any dividends declared but unpaid thereon; or (ii) such amount per share as would have been payable had all shares of such series been converted into Common Stock immediately prior to such liquidation, dissolution, or winding up. If upon any such liquidation, dissolution, or winding up of the Company, the assets of the Corporation available for distribution to its stockholders shall be insufficient to pay the holders of shares of Series A Preferred Stock and Series B Preferred Stock the full amount to which they shall be entitled, the holders of shares of Series A Preferred Stock and Series B Preferred Stock shall share ratably in any distribution of the assets available for distribution in proportion to the respective amounts, which would otherwise be payable in respect of the shares held by them upon such distribution if all amounts payable on or with respect to such shares were paid in full. The Series A Original Issue Price is $0.40 per share, subject to appropriate adjustment in the event of any stock dividend, stock split, combination, or other similar recapitalization with respect to the Series A Preferred Stock. The Series B Original Issue Price is $0.7122 per share, subject to appropriate adjustment in the event of any stock dividend, stock split, combination, or other similar recapitalization with respect to the Series B Preferred Stock.

Other Preferred Stock Significant Provisions

- *Conversion Rights*—Each share of our preferred stock, at the option of the holder, is convertible into shares of common stock on a one-for-one basis, subject to adjustment. Conversion will occur upon the closing of an underwritten initial public offering of our common stock to the public at a price per share implying a valuation equal to at least $350,000 (calculated on a fully-diluted basis) and resulting in at least $50,000,000 of gross proceeds to us. Conversion of the Series A convertible preferred stock and Series B convertible preferred stock may also occur upon the vote of 55% of the outstanding Series A convertible preferred stock and Series B convertible preferred stock voting together as a single class on an as-converted basis. Conversion of the Series C convertible preferred stock may also occur upon the vote of at least 75% of the outstanding Series C convertible preferred stock. Conversion of the Series D convertible preferred stock and Series E convertible preferred stock may also occur upon the vote of at least 60% of the outstanding Series D convertible preferred stock and 60% of the outstanding Series E convertible

preferred stock respectively, each voting as a separate class. Conversion of the Series F convertible preferred stock and Series G convertible preferred stock may also occur upon the vote of at least a majority of the outstanding Series F convertible preferred stock and a majority of the outstanding Series G convertible preferred stock respectively, each voting as a separate class.

- *Dividend Rights*—Holders of preferred stock shall be entitled to receive noncumulative dividends on a pari passu basis and prior and in preference to any declaration or payment of any dividends to holders of common stock at a rate of 8% per annum. After the payment of such dividends to the holders of the Preferred Stock, any additional dividends or distributions shall be distributed among the holders of common stock and the preferred stock in proportion to the number of shares of common stock that would be held by each such holder if all shares of the preferred stock were converted to common stock.
- *Voting Rights*—On any matter presented to the stockholders of the Company for their action or consideration at any meeting of stockholders of the Company (or by written consent of the stockholders in lieu of meeting), each holder of outstanding shares of the preferred stock shall be entitled to cast the number of votes equal to the number of whole shares of common stock into which the preferred stock held by such holder are convertible as of the record date for determining stockholders entitled to vote on such matter. Except as provided by law or by other provisions of our Certificate of Incorporation, holders of preferred stock shall vote together with the holders of common stock as a single class.
- *Liquidation Preferences*—In the event of any voluntary or involuntary liquidation, dissolution or winding up or deemed liquidation event of the corporation, after the payment of all preferential amounts required to be paid to the holders of shares of preferred stock in accordance with the terms of our Certificate of Incorporation, our remaining assets available for distribution to the stockholders of the Company shall be distributed among the holders of shares of common stock, pro rata based on the number of shares of common stock held by each such holder.

Share Activity

In November 2017, the Company issued 7,483,316 Series G preferred shares for $43.2 million, net of issuance costs of $0.3 million. In 2017, the Company also issued 24,252 shares of Series F Preferred Stock for proceeds of $79,000, net of issuance costs of $21,000.

In October 2016, The Company issued 7,275,540 Series F preferred shares for $29.8 million, net of issuance costs of $0.2 million. In 2016, the Company also issued 122,277 shares of Series E Preferred Stock for proceeds of $0.3 million, net of issuance costs of $3,000.

Note 8. Share-Based Compensation

On April 11, 2011, the Company's stockholders approved the 2011 Equity Incentive Plan, or the 2011 Plan, and most recently amended the 2011 Plan on March 8, 2018. The Plan provides for the grant of stock options (including incentive stock options and non-qualified stock options), stock appreciation rights, restricted stock and restricted stock unit awards to eligible participants. Eligible participants are employees, directors and consultants. As of September 29, 2018, the Plan authorized the issuance of 13,897,773 shares of common stock.

The Plan is administered by the Board or another Board committee or subcommittee, as may be determined by the Board from time to time (subject to limitations that may be imposed under Section 409A of the Code). The administrator of the Plan or the Administrator or its delegatee will have the authority to determine which eligible persons receive awards and to set the terms and conditions applicable to awards within the confines of the Plan's terms. The Administrator will have the authority to make all determinations and interpretations under, and adopt rules and guidelines for the administration of, the Plan.

The Plan contains provisions with respect to payment of exercise or purchase prices, vesting and expiration of awards, adjustments and treatment of awards upon certain corporate transactions, including stock splits, recapitalizations and mergers, transferability of awards and tax withholding requirements.

The Plan may be amended or terminated by the Board at any time, subject to certain limitations requiring stockholder consent or the consent of the applicable participant. In addition, the Administrator may not, without the approval of the Company's stockholders, authorize certain re-pricing of any outstanding stock options or stock appreciation rights granted under the Plan. The board of directors may suspend or terminate the Plan at any time. Unless sooner terminated by the board of directors, the Plan shall automatically terminate on April 7, 2021.

Stock Options

For the periods presented, the fair value of options was estimated using the Black-Scholes option-pricing model with the following assumptions:

	Year Ended December 31,		Nine Months Ended	
	2016	2017	September 30, 2017	September 29, 2018
			(unaudited)	
Risk-free interest rate	1.6%	2.0%	2.0%	2.7%
Average expected term (years)	5.6	5.9	5.9	5.9
Expected volatility	55.0%	55.0%	55.0%	55.0%
Dividend yield	—	—	—	—

- *Risk-Free Interest Rate*—The yield on actively traded noninflation indexed US Treasury notes with the same maturity as the expected term of the underlying options was used as the average risk-free interest rate.
- *Expected Term*—The expected term of options granted to employees during the years ended December 31, 2017 and 2016, and the nine months ended September 30, 2017 (unaudited) and September 29, 2018 (unaudited) was determined based on management's expectations of the options granted, which are expected to remain outstanding. The expected term for options granted to nonemployees is equal to the remaining contractual life of the options.
- *Expected Volatility*—As the Company is a private entity, there is not a substantive share price history to calculate volatility and, as such, the Company has elected to use an approximation based on the volatility of other comparable public companies, which compete directly with the Company, over the expected term of the options.
- *Dividend Yield*—The Company has not issued regular dividends on common shares in the past nor does the Company expect to issue dividends in the future.

Forfeiture Rate—The Company estimates the forfeiture rate at the time of grant based on past awards canceled, the number of awards granted, and vesting terms and adjusted, if necessary, in subsequent periods if actual forfeitures differ from those estimates. The cumulative effect on current and prior periods of a change in the estimated number of awards likely to vest is recognized in compensation cost in the period of the change.

As of December 31, 2016 and 2017, there were 7,319,485 and 6,310,312 shares issuable under stock options outstanding, 3,919,897 and 4,589,177 shares issuable under stock options exercised to date, 1,369,000 and 1,919,799 shares authorized for issuance under stock options, respectively, were available for grant.

As of September 29, 2018, there were 7,211,699 shares (unaudited) issuable under stock options outstanding, 6,000,805 shares (unaudited) issuable under stock options exercised to date, and 685,269 shares (unaudited) authorized for issuance under stock options were available for grant. Options granted in the nine months ended September 29, 2018 and prior have a variety of different vesting schedules and have a contractual life of 10 years.

The Plan generally provides that the Board of Directors may set the vesting schedule applicable to grants approved under the 2011 Plan. Grants approved under the 2011 Plan typically vest 25% of the total award on the first anniversary of the grant date, and thereafter ratably monthly vesting over the remaining three years of the award. The Company has not granted equity awards with performance-based vesting conditions.

The following table summarizes the Company's stock option activity during the period from December 31, 2015 through September 29, 2018 (unaudited):

	Number of Stock Options	Weighted Average Exercise Price	Weighted Average Remaining Contractual Life (Years)	Aggregate Intrinsic Value (in thousands)
Outstanding at December 31, 2015	7,671,554	$ 0.54	8.7	$ 679
Granted	2,511,141	$ 0.63	—	$ —
Exercised	(1,190,736)	$ 0.57	—	$ —
Cancelled/Forfeited	(1,672,474)	$ 0.60	—	$ —
Outstanding at December 31, 2016	7,319,485	$ 0.55	8.2	$ 3,557
Granted	573,705	$ 1.04	—	$ —
Exercised	(669,280)	$ 0.57	—	$ —
Cancelled/Forfeited	(913,598)	$ 0.64	—	$ —
Outstanding at December 31, 2017	6,310,312	$ 0.58	7.2	$ 8,936
Granted (unaudited)	2,407,187	$ 2.00	—	$ —
Exercised (unaudited)	(1,411,628)	$ 0.80	—	$ —
Cancelled/Forfeited (unaudited)	(94,172)	$ 1.41	—	$ —
Outstanding at September 29, 2018 (unaudited)	7,211,699	$ 1.00	7.2	$ 74,615
Vested and exercisable at December 31, 2017	4,129,060	$ 0.52	6.6	$ 6,124
Vested and expected to vest at December 31, 2017	5,681,846	$ 0.57	7.1	$ 8,147
Vested and exercisable at September 29, 2018 (unaudited)	4,253,046	$ 0.65	6.1	$ 45,501
Vested and expected to vest at September 29, 2018 (unaudited)	5,825,224	$ 0.83	6.8	$ 61,262

During the fiscal years 2016 and 2017, the Company recorded in aggregate $0.7 million and $0.5 million, respectively, of share-based compensation expense related to options issued to employees and nonemployees. During the nine months ended September 30, 2017 and September 29, 2018, the Company recorded in aggregate $0.4 million (unaudited) and $1.0 million (unaudited), respectively, of share-based compensation expense related to options issued to employees and non-employees. The share-based compensation is included in cost of goods sold and SG&A expenses in the Company's statements of operations.

As of December 31, 2017 and September 29, 2018, there was $0.5 million and $1.0 million (unaudited) in unrecognized compensation expense related to nonvested share-based compensation arrangements, which is expected to be recognized over 1.7 years and 2.4 years (unaudited), respectively.

Restricted Stock and Loans to Related Parties

In December 2015, the Company's Board of Directors approved the issuance of 1,509,913 shares of restricted common stock to nonemployee board members. The Company had the option of repurchasing the shares; however, as shares vest monthly over 36 months, they were being released from the repurchase option (and all such shares will be released from the repurchase option by November 1, 2018). In connection with the issuance and for value received, the nonemployee board members entered into promissory notes to pay the Company the principal sum of $951,245 with interest at a fixed rate of 1.68% per annum, compounded annually, on the unpaid balance of such principal sum. The promissory notes are secured by a pledge of the common stock issued to the nonemployee board members. The loans are classified as a reduction to stockholders' deficit in the accompanying balance sheets. In determining the accounting for the promissory notes, management evaluated the legal provisions of the promissory notes as well as the Company's intent to fully collect on the outstanding note amounts. The Company collected on the promissory notes in their entirety in July 2018. See Note 12.

Common Stock Repurchase

In July 2018, the Company repurchased 73,361 shares of common stock from one of its individual investors at a negotiated price of $7.00 per share.

Note 9. Commitments and Contingencies

Leases

The Company has operating leases for its corporate offices including its research and development center, its manufacturing facility and its warehouses, and capital leases for certain of the Company's equipment.

On October 12, 2017, the Company entered into a lease or the Lease, for its manufacturing facility located in Columbia, Missouri. The Lease is for a period of seven years commencing on October 1, 2017. The future minimum lease payments required under noncancelable lease obligations related to this Lease are $2.5 million due through 2022 (approximately $0.5 million annually) and $1.4 million thereafter.

The following table represents the Company's commitments as of December 31, 2017 including future minimum lease payments required under noncancelable lease obligations:

(in thousands)	Capital Lease Obligations	Operating Lease Obligations
Year Ended December 31,		
2018	$ 151	$ 1,195
2019	25	1,140
2020	15	1,060
2021	9	1,084
2022	—	593
Thereafter	—	1,355
		$ 6,427
Total minimum lease payments	$ 200	
Less: imputed interest (3.9% to 15.9%)	(11)	
Total capital lease obligations	$ 189	
Less: current portion of capital lease obligations	143	
Long-term capital lease obligations	$ 46	

Total rent expense was $0.8 million and $1.0 million for the years ended December 31, 2016 and 2017, respectively. Total rent expense was $0.8 million (unaudited) and $1.2 million (unaudited) for the nine months ended September 30, 2017 and September 29, 2018, respectively. Rent expense is reflected in cost of goods sold, research and development expenses and SG&A expenses in the statements of operations for all the periods presented.

Litigation

On May 25, 2017, one of the Company's co-manufacturer filed a complaint against the Company in the Superior Court of the State of California for the County of Los Angeles asserting claims for (1) breach of contract, (2) misappropriation of trade secrets, (3) unfair competition under California Business & Professions Code Section 17200 Et. Seq., (4) money owed and due, (5) declaratory relief, and (6) injunctive relief, each arising out of the Company's decision to terminate an exclusive agreement dated December 2, 2014 between the Company and the co-manufacturer, pursuant to its terms (see Note 3). The Company denies these claims, filed counter-claims on July 27, 2017, alleging (1) breach of contract, (2) unfair competition under California Business & Professions Code Section 17200 Et. Seq., and (3) conversion, and is in the process of litigating this matter. At this time the Company cannot reasonably estimate the potential liability associated with this litigation, but believes the final resolution of this litigation will not have a material adverse effect on its financial position, results of operations, or cash flows.

The Company is involved in various legal proceedings, claims, and litigation arising in the ordinary course of business. Based on the facts currently available, the Company does not believe that the disposition of matters that are pending or asserted will have a material effect on its financial statements.

Note 10. Income Taxes

On December 22, 2017, the President of the United States signed into law the Tax Cuts and Jobs Act or the Tax Act. The Tax Act includes a number of changes to existing tax laws that impact the Company, most notably it reduces the US federal corporate tax rate from 35% to 21%. At December 31, 2017, the Company made a reasonable estimate of the effects on its existing deferred tax balances. In other cases, the Company has not been able to make a reasonable estimate and continue to account for those items

based on its existing accounting under ASC 740, Income Taxes, and the provisions of the tax laws that were in effect immediately prior to enactment. For the items for which the Company was able to determine a reasonable estimate, the Company recognized a provisional amount which is included as a component of income tax expense from continuing operations. In conjunction with the tax law changes, the SEC staff issued Staff Accounting Bulletin No. 118 or SAB 118 to address the application of U.S. GAAP in situations when a registrant does not have the necessary information available, prepared, or analyzed (including computations) in reasonable detail to complete the accounting for certain income tax effects of the Tax Act. The ultimate impact may differ from these provisional amounts, possibly materially, due to, among other things, additional analysis, changes in interpretations and assumptions the Company has made, additional regulatory guidance that may be issued, and actions the Company may take as a result of the Tax Act.

The provision for income taxes was as follows:

	For the Year Ended December 31,	
(in thousands)	**2016**	**2017**
Current:		
Federal	$ —	$ —
State	3	5
	$ 3	$ 5
Deferred:		
Federal	$ —	$ —
State	—	—
	$ —	$ —
Provision for income tax	$ 3	$ 5

The Company has provided a 100% valuation allowance on its deferred tax assets. Provision for income taxes in 2016 and 2017 are primarily for cash taxes payable to the states.

	Year Ended December 31,	
(in thousands)	**2016**	**2017**
Federal statutory income tax rate	$ (8,474)	$ (10,329)
State income tax, net of federal benefits	(787)	(1,041)
Research & development Credits	(4)	(4)
Stock based compensation	167	81
Other	13	470
Tax law change—revaluing deferreds	—	11,783
Change in valuation allowance	9,088	(955)
Income tax provision	$ 3	$ 5

Significant components of the Company's net deferred income tax assets at December 31, 2016 and 2017, are shown below. A valuation allowance has been recorded to offset the net deferred tax asset as of December 31, 2016 and 2017, as the realization of such assets does not meet the more-likely-than-not threshold.

	Year Ended December 31,	
(in thousands)	**2016**	**2017**
Deferred Income Tax Assets:		
Net operating loss (NOL)	$ 25,478	$ 23,198
Intangibles	13	1,199
Share-based and accrued compensation	599	335
Other	233	183
Total gross deferred tax assets	$ 26,323	$ 24,915
Deferred Tax Liabilities:		
Property, plant and equipment	716	263
Total gross deferred tax liabilities	$ 716	$ 263
Valuation Allowance	25,607	24,652
Net deferred income tax asset (liabilities)	$ —	$ —

The California net operating loss carry forwards will expire as follows:

Year	Amount
(in thousands)	
12/31/2018	$ —
12/31/2019 and beyond	$ 25,059

As of December 31, 2016, the Company has accumulated federal and state net operating loss carryforwards of approximately $67.7 million and $52.5 million, respectively. As of December 31, 2017, the Company has accumulated federal and state net operating loss carryforwards of approximately $90.8 million and $73.3 million, respectively. The federal and state tax loss carryforwards begin to expire in 2032 and 2033, respectively, unless previously utilized. As of December 31, 2016, the Company also has federal and California research tax credit carryforwards of approximately, $0.5 million and $0.3 million, respectively. As of December 31, 2017, the Company also has federal and California research tax credit carryforwards of approximately, $0.8 million and $0.4 million, respectively. The federal research tax credit carryforwards will begin expiring in 2033, unless previously utilized. The California research credit will carry forward indefinitely.

Approximately $0.1 million and $0.2 million, respectively, of the net operating loss carryforwards relate to excess tax deductions for share-based compensation as of December 31, 2016 and 2017, respectively, the income tax benefit of which will be recorded as additional paid-in-capital if and when realized.

Utilization of the net operating loss and research and development credit carryforwards may be subject to a substantial annual limitation due to ownership change limitations that may have occurred or that could occur in the future. These ownership changes may limit the amount of net operating loss and research and development credit carryforwards that can be utilized annually to offset future taxable income and tax, respectively.

The following table summarizes the activity related to the Company's gross unrecognized tax benefits at the beginning and end of the years ended December 31, 2017 and 2016:

	Year Ended December 31,	
(in thousands)	**2016**	**2017**
Gross unrecognized tax benefits at the beginning of the year	$ 381	$ 865
Increases related to current year positions	484	585
Decreases related to prior year positions	—	(249)
Expiration of unrecognized tax benefits	—	—
Gross unrecognized tax benefits at the end of the year	$ 865	$ 1,201

As of December 31, 2016 and 2017, the Company had $0.7 million and $1.1 million, respectively, of unrecognized tax benefits from research and development tax credits that, if recognized and realized, would impact the effective tax rate.

The Company had no accrual for interest and penalties on the Company's balance sheets and has not recognized interest and penalties in the statements of operations for the years ended December 31, 2016 and 2017. The Company does not expect any significant increases or decreases to its unrecognized tax benefits within the next 12 months.

The Company is subject to taxation in the United States and state jurisdictions. The Company's tax years from 2011 (inception) are subject to examination by the United States and state authorities due to the carry forward of unutilized net operating losses and research and development credits.

As of December 31, 2017, approximately $0.2 million of the valuation allowance for deferred tax assets related to benefits of stock option deductions which, when recognized, will be allocated directly to paid-in capital.

For the nine months ended September 30, 2017 and September 29, 2018 (unaudited)

The Company computes its quarterly income tax provision by using a forecasted annual effective tax rate and adjusts for any discrete items arising during the quarter. The primary difference between the effective tax rate and the federal statutory tax rate relates to the valuation allowances on the Company's net operating losses. Income tax expense primarily consists of income taxes for state jurisdictions where the Company has minimum tax requirements. No tax benefit was provided for losses incurred because those losses are offset by a full valuation allowance.

For the nine months ended September 30, 2017 and September 29, 2018, the Company recorded income tax expense of $3,000 and $0, respectively. These amounts primarily consist of income taxes for state jurisdictions where the Company has minimum tax requirements. No tax benefit was provided for losses incurred because those losses are offset by a full valuation allowance.

The gross amount of the Company's unrecognized tax benefits was $1.6 million and $1.2 million as of September 29, 2018 and December 31, 2017, respectively, none of which, if recognized, would affect the Company's effective tax rate.

At September 29, 2018, the Company has not completed its accounting for all of the tax effects of the Act and has not made an adjustment to the provisional tax benefit recorded under SAB 118 at December 31, 2017. The Company has estimated its provision for income taxes in accordance with the Act and guidance available as of the date of this filing. The Company's estimated annual effective tax rate may be adjusted in subsequent interim periods, due to, among other things, additional analysis, changes in interpretations and assumptions we have made, and additional regulatory guidance that may be issued.

Note 11. Net Loss Per Share Attributable to Common Stockholders

The Company calculates basic and diluted net loss per share attributable to common stockholders in conformity with the two-class method required for companies with participating securities. The Company considers all series of convertible preferred stock to be participating securities. Under the two-class method, the net loss attributable to common stockholders is not allocated to the convertible preferred stock as the holders of convertible preferred stock do not have a contractual obligation to share in losses.

The diluted net loss per share attributable to common stockholders is computed by giving effect to all potential dilutive common stock equivalents outstanding for the period. For purposes of this calculation, convertible preferred stock, options to purchase common stock and warrants to purchase preferred stock are considered common stock equivalents but have been excluded from the calculation of diluted net loss per share attributable to common stockholders as their effect is antidilutive. Basic and diluted net loss per common share was the same for each period presented, as the inclusion of all potential common shares outstanding would have been antidilutive.

	Year ended December 31,		Nine Months Ended	
(in thousands, except share and per share amounts)	2016	2017	September 30, 2017	September 29, 2018
			(unaudited)	
Numerator:				
Net loss attributable to common stockholders	$ (25,149)	$ (30,384)	$ (23,379)	$ (22,434)
Denominator:				
Weighted average common shares outstanding-basic	6,849,849	8,186,109	8,057,412	9,155,279
Dilutive effect of stock equivalents resulting from stock options, preferred stock warrants and convertible preferred stock (as converted)	—	—	—	—
Weighted average common shares outstanding-diluted	6,849,849	8,186,109	8,057,412	9,155,279
Net loss per common share—basic and diluted	$ (3.67)	$ (3.71)	$ (2.90)	$ (2.45)

The following weighted-average outstanding shares of common stock equivalents were excluded from the computation of diluted net loss per share attributable to common stockholders for the periods presented because the impact of including them would have been antidilutive:

	Year ended December 31,		Nine Months Ended	
	2016	2017	September 30, 2017	September 29, 2018
			(unaudited)	
Options to purchase common stock	—	—	—	—
Convertible preferred stock (as converted)	51,531,389	59,038,957	51,555,641	59,216,792
Preferred stock warrants	241,140	241,140	241,140	241,140
Total	51,772,529	59,280,097	51,796,781	59,457,932

Unaudited Pro Forma Net Loss per Share Attributable to Common Stockholders

Upon the closing of the Company's Initial Public Offering or IPO, all outstanding shares of convertible preferred stock as of September 29, 2018 will automatically convert into 59,227,478 shares of the

Company's common stock (in addition to shares of common stock converted from shares of convertible preferred stock issued subsequent to September 29, 2018). The Company has calculated unaudited pro forma basic and diluted net loss per share to give effect to the impact of the convertible preferred stock, potentially convertible preferred stock warrants and common stock warrants as though such preferred shares, preferred stock warrants and common stock warrants had been converted to common stock as of the beginning of the period, or date of issuance, if later.

A reconciliation of the numerator and denominator used in the calculation of unaudited pro forma basic and diluted net loss per common share is as follows:

(in thousands, except share and per share data)	**Year Ended December 31, 2017**	**Nine Months Ended September 29, 2018**
	(unaudited)	
Numerator:		
Net loss attributable to common stockholders	$ (30,384)	$ (22,434)
Net loss attributable to common stockholders (pro forma)	$ (30,384)	$ (22,434)
Denominator:		
Weighted average common shares outstanding-basic	8,186,109	9,155,279
Pro forma adjustment for assumed conversion of convertible preferred stock to common stock upon effectiveness of the registration statement for the proposed IPO	59,038,957	59,216,792
Pro forma adjustment for assumed net exercise of preferred stock warrants	241,140	241,140
Dilutive effect of stock equivalents resulting from stock options	—	—
Pro forma weighted average shares outstanding—diluted	67,466,206	68,613,211
Pro forma net loss per common share—basic and diluted	$ (0.45)	$ (0.33)

Note 12. Subsequent Events

Subsequent events have been evaluated through September 10, 2018, which is the date the annual financial statements were available to be issued.

Amended and Restated Loan and Security Agreement

In June 2018, the Company refinanced the 2016 Revolving Credit Facility and the 2016 Term Loan Facility under the Original LSA with SVB, or the Amended LSA, such that the 2016 Revolving Credit Facility was expanded from $2.5 million to $6.0 million, and all loans under the 2016 Term Loan Facility were paid in full without a prepayment penalty and the 2016 Term Loan Facility was discontinued. The 2018 Term Loan Facility is comprised of (i) a $10.0 million term loan advance at closing, (ii) a conditional $5.0 million term loan advance, if no event of default has occurred and is continuing through the borrowing date, and (iii) an additional conditional term loan advance of $5 million if no event of default has occurred and is continuing based upon a minimum level of gross profit for the trailing 12-month period. The last date on which funds can be drawn down from the 2018 Term Loan Facility is February 28, 2019. The 2018 Term Loan Facility has a floating interest rate that is equal to 4% above the prime rate, with interest payable monthly and principal amortizing commencing on January 1, 2020, and will mature in June 2022. Borrowings under the 2018 Revolving Credit Facility carry a variable annual interest rate of prime rate + 0.75% to 1.25% with an additional 5% on the outstanding balances in the event of a default. The 2018 Revolving Credit Facility matures in June 2020. The Company had $15.0 million and $0 in borrowings, respectively, under the 2018 Term Loan Facility and the 2018 Revolving Credit Facility as of September 10, 2018.

The 2018 Revolving Term Loan Facility and the 2018 Revolving Credit Facility, or together the SVB Credit Facilities, contain customary negative covenants that limit the Company's ability to, among other things, incur additional indebtedness, grant liens, make investments, repurchase stock, pay dividends, transfer assets and merge or consolidate. The SVB Credit Facilities are secured by a blanket lien on all of the Company's personal property assets. The SVB Credit Facilities also contain customary affirmative covenants, including delivery of audited financial statements.

The Amended LSA is secured by an interest in the Company's assets including manufacturing equipment, inventory, contract rights or rights to payment of money, leases, license agreements, general intangibles, and cash.

In conjunction with the execution of the Amended LSA, the Company issued two common stock warrants one each to SVB and its affiliate to provide the ability to purchase an aggregate of 90,000 shares of the Company's common stock at an exercise price of $2.00 per share. The common stock warrants were fully exercisable on the date of the grant and have a term of 10 years. The Company also paid a commitment fee of $30,000 to SVB in connection with the execution of the Amended Bank Loan Agreement See Note 6.

Missouri Note

On June 28, 2018, the Company paid off the Missouri Note in full. See Note 6.

Loan to Related Parties

In July 2018, the Company's promissory notes related to restricted stock purchase by two of its nonemployee directors were paid in full. See Note 8.

Note 13. Subsequent Events (Unaudited)

Subsequent events have been evaluated through November 1, 2018, which is the date the interim financial statements were available to be issued.

Series H Financing

On October 5, 2018, the Company authorized an additional 10,000,000 shares of $0.0001 par value common stock and issued and sold an aggregate of 2,618,183 shares of our Series H Preferred Stock at a purchase price of $16.1540 per share, for aggregate consideration of approximately $42,294,000. An advance payment of approximately $25.0 million was received prior to September 29, 2018 and included in the cash and cash equivalents balance. An offsetting advance deposit balance was included in current liabilities as of September 29, 2018. In the event of any voluntary or involuntary liquidation, dissolution, or winding up of the Company, the holders of shares of Series H Preferred Stock then outstanding shall be entitled to be paid, on a pari passu basis, out of the assets of the Company available for distribution to its stockholders before any payment shall be made to the holders of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock, Series F Preferred Stock, Series G Preferred Stock or Common Stock by reason of their ownership thereof, an amount per share equal to the greater of (i) the Series H Original Issue Price of $16.1540 for each outstanding share of Series H Preferred Stock then held by them, plus any dividends declared but unpaid thereon; or (ii) such amount per share, as would have been payable had all shares of such series been converted into Common Stock immediately prior to such liquidation, dissolution, or winding up. If upon any such liquidation, dissolution, or winding up of the Company, the assets of the Company available for distribution to its stockholders shall be insufficient to pay the holders of shares of Series H Preferred Stock the full amount to which they shall be entitled, the holders of shares of Series H Preferred Stock shall share ratably in any distribution of the assets available for distribution in proportion to the respective amounts, which would otherwise be payable in respect of the shares held by them upon such distribution if all amounts payable on or with respect to such shares were paid in full. The Series H Original Issue Price of $16.1540 per share is subject to appropriate adjustment in the event of any stock dividend, stock split, combination, or other similar recapitalization with respect to the Series H Preferred Stock.

Grants Under 2011 Equity Incentive Plan

During October 2018, the Company granted stock options to employees and non-employees to purchase 616,584 shares of common stock at an exercise price of $11.35, and 203,685 shares of restricted stock to non-employees (brand ambassadors) with a fair value of $11.35 per share and a de-minimis exercise price of $0.01 per share. The stock options generally vest over a four-year period, with the first 25% of the grant vesting at the end of the first anniversary of the grant date and the remaining shares vesting 1/48th of the granted shares every month over the next three years. The restricted stock generally vests over a two year period.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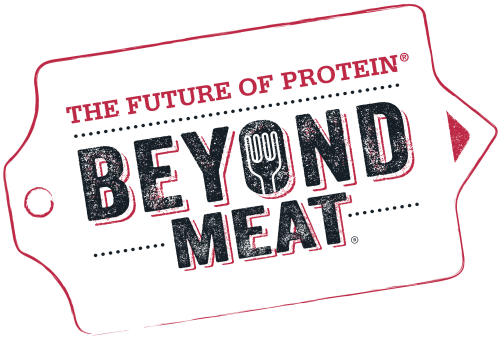
Shares



Common Stock

Prospectus

Goldman Sachs & Co. LLC ***J.P. Morgan*** ***Credit Suisse***

BofA Merrill Lynch ***Jefferies***

William Blair

, 2018

Through and including , (the 25th day after the date of this prospectus), all dealers that buy, sell or trade in our common shares, whether or not participating in this offering, may be required to deliver a prospectus. This is in addition to the dealers' obligation to deliver a prospectus when acting as underwriters and with respect to their unsold allotments or subscriptions.

PART II

INFORMATION NOT REQUIRED IN PROSPECTUS

Item 13. Other Expenses of Issuance and Distribution

The following table sets forth the fees and expenses, other than underwriting discounts and commissions, payable by us in connection with the offering described in this registration statement. All amounts shown are estimates other than the registration fee, the FINRA filing fee and the listing fee.

	Amount To Be Paid
SEC registration fee	$ 12,120
FINRA filing fee	*
Nasdaq listing fee	*
Transfer agent's fees	*
Printing and engraving expenses	*
Legal fees and expenses	*
Accounting fees and expenses	*
Blue Sky fees and expenses	*
Miscellaneous	*
Total	*

* To be provided by amendment

Item 14. Indemnification of Directors and Officers

Prior to the consummation of this offering, we intend to enter into indemnification agreements with each of our current directors and executive officers. These agreements require us to indemnify these individuals to the fullest extent permitted under Delaware law against liabilities that may arise by reason of their service to us, and to advance expenses incurred as a result of any proceeding against them as to which they could be indemnified. We also intend to enter into indemnification agreements with our future directors and executive officers.

Section 145 of the Delaware General Corporation Law provides that a corporation may indemnify directors and officers as well as other employees and individuals against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with any threatened, pending or completed actions, suits or proceedings in which such person is made a party by reason of such person being or having been a director, officer, employee or agent to the registrant. The Delaware General Corporation Law provides that Section 145 is not exclusive of other rights to which those seeking indemnification may be entitled under any bylaw, agreement, vote of stockholders or disinterested directors or otherwise. Our amended and restated bylaws that will be effective upon the closing of this offering provide for indemnification by the registrant of its directors, officers and employees to the fullest extent permitted by the Delaware General Corporation Law.

Section 102(b)(7) of the Delaware General Corporation Law permits a corporation to provide in its certificate of incorporation that a director of the corporation shall not be personally liable to the corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except for liability (i) for any breach of the director's duty of loyalty to the corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) for unlawful payments of dividends or unlawful stock repurchases, redemptions or other distributions, or (iv) for any transaction from which the director derived an improper personal benefit. Our amended and

restated certificate of incorporation that will be effective upon the closing of this offering provides for such limitation of liability.

We maintain standard policies of insurance under which coverage is provided (a) to our directors and officers against loss arising from claims made by reason of breach of duty or other wrongful act, and (b) to us with respect to payments we may make to our officers and directors pursuant to the above indemnification provision or otherwise as a matter of law.

In any underwriting agreement we enter into in connection with the sale of common stock being registered hereby, the underwriters will agree to indemnify, under certain conditions, us, our directors, our officers and persons who control us within the meaning of the Securities Act against certain liabilities.

Item 15. Recent Sales of Unregistered Securities

In the three years preceding the filing of this Registration Statement, we have issued and sold the following unregistered securities:

(1) Since November 1, 2015, we granted 8,451,862 stock options to purchase shares of our common stock to our employees, directors and consultants at a weighted average exercise price of $2.06 per share under our 2011 Equity Incentive Plan. We also issued and sold an aggregate of 4,983,180 shares of our common stock to our employees, directors and consultants at a weighted average exercise price of $0.61 per share pursuant to restricted stock issuances and exercises of options granted under our 2011 Equity Incentive Plan.

(2) From October 2, 2015 through January 29, 2016, we issued and sold an aggregate of 7,051,835 shares of our Series E convertible preferred stock at a purchase price of $2.4534 per share, for aggregate consideration of approximately $17,300,000. Such issuances were deemed to be exempt from registration under the Securities Act in reliance on Rule 506(b) of Regulation D promulgated under Section 4(a)(2) of the Securities Act.

(3) On June 6, 2016 we issued a warrant to purchase up to an aggregate of 58,607 shares of our Series E convertible preferred stock at an exercise price of $2.4534 per share in connection with the extension of a line of credit from Silicon Valley Bank. Such issuance was deemed to be exempt from registration under the Securities Act in reliance on Section 4(a)(2) of the Securities Act as transactions by an issuer not involving a public offering.

(4) From September 9, 2016 through September 12, 2016, we issued and sold subordinated convertible promissory notes in an aggregate principal amount of $4,000,000 at face value. Such issuances were deemed to be exempt from registration under the Securities Act in reliance on Section 4(a)(2) of the Securities Act as transactions by an issuer not involving a public offering.

(5) From October 7, 2016 through June 26, 2017, we issued and sold an aggregate of 7,299,792 shares of our Series F convertible preferred stock at a purchase price of $4.1234 per share, for aggregate consideration of approximately $30,100,000. Such issuances were deemed to be exempt from registration under the Securities Act in reliance on Rule 506(b) of Regulation D promulgated under Section 4(a)(2) of the Securities Act.

(6) From August 1, 2017 through November 3, 2017, we issued and sold subordinated convertible promissory notes in an aggregate principal amount of $10,000,000 at face value. Such issuances were deemed to be exempt from registration under the Securities Act in reliance on Rule 506(b) of Regulation D promulgated under Section 4(a)(2) of the Securities Act.

(7) From November 22, 2017 through June 29, 2018, we issued and sold an aggregate of 7,671,837 shares of our Series G stock at a purchase price of $7.2933 per share, for aggregate consideration of approximately $55,953,000. Such issuances were deemed to be exempt from registration under the Securities Act in reliance on Rule 506(b) of Regulation D promulgated

under Section 4(a)(2) of the Securities Act.

(8) On June 27, 2018, we issued warrants to purchase up to an aggregate of 90,000 shares of our common stock at an exercise price of $2.00 per share in connection with the extension of a line of credit and a term loan from Silicon Valley Bank. Such issuances were deemed to be exempt from registration under the Securities Act in reliance on Section 4(a)(2) of the Securities Act as transactions by an issuer not involving a public offering.

(9) From October 5, 2018 to November 2, 2018, we issued and sold an aggregate of 3,112,696 shares of our Series H stock at a purchase price of $16.1540 per share, for aggregate consideration of approximately $50,282,491. Such issuances were deemed to be exempt under Section 4(a)(2) of the Securities Act as transactions by an issuer not involving a public offering.

The stock options and the common stock issuable upon the exercise of such options described in paragraph (1) of this Item 15 were issued under the 2011 Equity Incentive Plan in reliance on the exemption provided by Rule 701 promulgated under the Securities Act. Each of the recipients of securities in these transactions had adequate access, through employment, business or other relationships, to information about us.

The offer, sale, and issuance of the securities described in paragraphs (2), (3), (4), (5), (6), (7), (8) and (9) of this Item 15 were deemed to be exempt from registration under the Securities Act in reliance on Section 4(a)(2) of the Securities Act as transactions by an issuer not involving a public offering. The recipients of the securities in these transactions acquired the securities for investment only and not with a view to or for sale in connection with any distribution thereof, and appropriate legends were affixed to the securities issued in these transactions. The recipients of the securities in these transactions were accredited investors as defined in Rule 501 of Regulation D promulgated under the Securities Act.

All certificates representing the securities issued in the transactions described in this Item 15 included appropriate legends setting forth that the securities had not been offered or sold pursuant to a registration statement and describing the applicable restrictions on transfer of the securities. There were no underwriters employed in connection with any of the transactions set forth in this Item 15.

Item 16. Exhibits and Financial Statement Schedules

(a) The following exhibits are filed as part of this registration statement:

EXHIBIT INDEX

Exhibit No.	Description of Exhibit
1.1	Form of Underwriting Agreement.
3.1	Amended and Restated Certificate of Incorporation of Registrant, as currently in effect.
3.2	Bylaws of Registrant, as currently in effect.
3.3	Form of Restated Certificate of Incorporation of Registrant, to be in effect upon the closing of this offering.*
3.4	Form of Amended and Restated Bylaws of Registrant, to be in effect upon the closing of this offering.*
4.1	Form of common stock certificate.*
4.2	Amended and Restated Investors' Rights Agreement, dated as of October 5, 2018, by and among the Registrant and the other parties thereto.
4.3	Warrant to Purchase Common Stock, dated June 27, 2018, by and between Registrant and Silicon Valley Bank.
4.4	Warrant to Purchase Common Stock, dated June 27, 2018, by and between Registrant and Westriver Mezzanine Loans - Loan Pool V, LLC.
4.5	Warrant to Purchase Common Stock, dated June 6, 2016, by and between Registrant and Silicon Valley Bank.
5.1	Opinion of Orrick, Herrington & Sutcliffe LLP.*
10.1	Standard Industrial/Commercial Single-Tenant Lease, dated as of January 18, 2017, by and between Smoky Hollow Industries, LLC and Registrant with attachments thereto.
10.2	Lease, dated March 13, 2014, as amended, by and between Sara Maguire LeMone as Trustee of the Sara Maguire LeMone Revocable Trust dated February 6, 2004 and Registrant and amendment thereto dated November 1, 2017.
10.3	Lease, dated October 12, 2017, by and between LeMone Family Limited Partnership, LLLP and Registrant as amended by the Lease Amendment dated April 18, 2018.
10.4	Amended and Restated Loan and Security Agreement (Revolving Line), dated as of June 27, 2018, by and between Silicon Valley Bank and Registrant.
10.5	Loan and Security Agreement (Term Loan), dated June 27, 2018, by and between Silicon Valley Bank and Registrant.
10.6	First Amendment to Loan and Security Agreement (Term Loan), dated September 27, 2018, by and between Silicon Valley Bank and Registrant.
10.7	Intellectual Property Security Agreement, dated June 27, 2018, by and between Silicon Valley Bank and Registrant (Revolving Line).
10.8	Intellectual Property Security Agreement, dated June 27, 2018, by and between Silicon Valley Bank and Registrant (Term Loan).
10.9	Equipment Loan and Security Agreement, dated September 19, 2018, by and between Ocean II PLO, LLC and Registrant.
10.10	Supply Agreement, dated December 17, 2015, by and between Roquette America, Inc. and Registrant.+*
10.11	Form of Indemnification Agreement with directors and executive officers.*
10.12	2011 Equity Incentive Plan, as amended as of November 15, 2018, and related forms of stock award agreements.*
10.13	2018 Equity Incentive Plan, and related forms of stock award agreements.*

10.14	2018 Employee Stock Purchase Plan.*
10.15	Executive Incentive Bonus Plan.
10.16	Form of Executive Change in Control Severance Agreement.
10.17	Option Amendment Letter dated, May 11, 2017, by and between Mark J. Nelson and Registrant.
10.18	Advisor Agreement, dated February 26, 2016, by and between Bernhard van Lengerich and Registrant, as amended on September 5, 2017.
10.19	Amended & Restated Consulting Agreement, dated November 15, 2018, by and between Seth Goldman and Registrant.
10.20	Offer Letter, dated April 29, 2017, by and between Registrant and Mark J. Nelson.
10.21	Offer Letter, dated May 5, 2017, by and between Registrant and Charles Muth.
10.22	Employment Agreement with Ethan Brown.*
23.1	Consent of Deloitte & Touche LLP.
23.2	Consent of Orrick, Herrington & Sutcliffe LLP (included in Exhibit 5.1).*
24.1	Powers of Attorney (included on signature page).

* To be filed by amendment.
\+ Confidential treatment requested.

(b) No financial statement schedules are provided because the information called for is not required or is shown either in the financial statements or the notes thereto.

Item 17. Undertakings

The undersigned registrant hereby undertakes:

(a) To provide to the underwriter at the closing specified in the underwriting agreement certificates in such denominations and registered in such names as required by the underwriter to permit prompt delivery to each purchaser.

(b) Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the registrant pursuant to the provisions referenced in Item 14 of this Registration Statement, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered hereunder, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question of whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

(c) That, for purposes of determining any liability under the Securities Act, the information omitted from the form of prospectus filed as part of this registration statement in reliance upon Rule 430A and contained in a form of prospectus filed by the registrant pursuant to Rule 424(b)(1) or (4) or 497(h) under the Securities Act shall be deemed to be part of this registration statement as of the time it was declared effective.

(d) That, for the purpose of determining any liability under the Securities Act, each post-effective amendment that contains a form of prospectus shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time

shall be deemed to be the initial *bona fide* offering thereof.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, as amended, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized in the City of El Segundo, State of California, on November 16, 2018.

BEYOND MEAT, INC.

By: /s/ Ethan Brown
Name: Ethan Brown
Title: President and Chief Executive Officer

SIGNATURES AND POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints Ethan Brown and Mark J. Nelson, and each of them, his or her true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, for him or her and in his or her name, place and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments) to this registration statement and any and all additional registration statements pursuant to Rule 462(b) of the Securities Act of 1933, as amended, and to file the same, with all exhibits thereto, and all other documents in connection therewith, with the Securities and Exchange Commission, granting unto each said attorney-in-fact and agents full power and authority to do and perform each and every act in person, hereby ratifying and confirming all that said attorneys-in-fact and agents or either of them or their or his or her substitute or substitutes may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, as amended, this registration statement has been signed by the following persons in the capacities and on the dates indicated:

Signature	Title	Date
/s/ Ethan Brown Ethan Brown	President, Chief Executive Officer, and Director (Principal Executive Officer)	November 16, 2018
/s/ Mark J. Nelson Mark J. Nelson	Chief Financial Officer, Treasurer and Secretary (Principal Financial Officer and Principal Accounting Officer)	November 16, 2018
/s/ Seth Goldman Seth Goldman	Executive Chair and Chairman of the Board	November 16, 2018
/s/ Gregory Bohlen Gregory Bohlen	Director	November 16, 2018
/s/ Diane Carhart Diane Carhart	Director	November 16, 2018
/s/ Raymond J. Lane Raymond J. Lane	Director	November 16, 2018

/s/ Bernhard van Lengerich, Ph.D. Bernhard van Lengerich, Ph.D.	Director	November 16, 2018
Michael A. Pucker	Director	
/s/ Ned Segal Ned Segal	Director	November 16, 2018
/s/ Christopher Isaac Stone Christopher Isaac Stone	Director	November 15, 2018
/s/ Donald Thompson Donald Thompson	Director	November 15, 2018
/s/ Kathy N. Waller Kathy N. Waller	Director	November 16, 2018

Beyond Meat, Inc.

Common Stock, Par Value $0.0001 per Share

Underwriting Agreement

[l], 2018

Goldman Sachs & Co. LLC,
J.P. Morgan Securities LLC and
Credit Suisse Securities (USA) LLC
As representatives (the "Representatives") of the several Underwriters
named in Schedule I hereto,

c/o Goldman Sachs & Co. LLC
200 West Street
New York, New York 10282-2198

c/o J.P. Morgan Securities LLC
383 Madison Avenue
New York, New York 10179

and

c/o Credit Suisse Securities (USA) LLC
Eleven Madison Avenue
New York, New York 10010

Ladies and Gentlemen:

Beyond Meat, Inc., a Delaware corporation (the "Company"), proposes, subject to the terms and conditions stated in this agreement (this "Agreement"), to issue and sell to the Underwriters named in Schedule I hereto (the "Underwriters") an aggregate of [l] shares (the "Firm Shares") and, at the election of the Underwriters, up to [l] additional shares (the "Optional Shares") of common stock ("Stock") of the Company (the Firm Shares and the Optional Shares that the Underwriters elect to purchase pursuant to Section 2 hereof being collectively called the "Shares").

1. The Company represents and warrants to, and agrees with, each of the Underwriters that:

(a) A registration statement on Form S-1 (File No. 333-[l]) (the "Initial Registration Statement") in respect of the Shares has been filed with the Securities and Exchange Commission (the "Commission"); the Initial Registration Statement and any post-effective amendment thereto, each in the form heretofore delivered to you, have been declared effective by the Commission in such form; other than a registration statement, if any, increasing the size of the offering (a "Rule 462(b) Registration Statement"), filed pursuant

to Rule 462(b) under the Securities Act of 1933, as amended (the "Act"), which became effective upon filing, no other document with respect to the Initial Registration Statement has been filed with the Commission; and no stop order suspending the effectiveness of the Initial Registration Statement, any post-effective amendment thereto or the Rule 462(b) Registration Statement, if any, has been issued and no proceeding for that purpose or pursuant to Section 8A of the Act has been initiated or threatened by the Commission (any preliminary prospectus included in the Initial Registration Statement or filed with the Commission pursuant to Rule 424(a) of the rules and regulations of the Commission under the Act is hereinafter called a "Preliminary Prospectus"; the various parts of the Initial Registration Statement and the Rule 462(b) Registration Statement, if any, including all exhibits thereto and including the information contained in the form of final prospectus filed with the Commission pursuant to Rule 424(b) under the Act in accordance with Section 5(a) hereof and deemed by virtue of Rule 430A under the Act to be part of the Initial Registration Statement at the time it was declared effective, each as amended at the time such part of the Initial Registration Statement became effective or such part of the Rule 462(b) Registration Statement, if any, became or hereafter becomes effective, are hereinafter collectively called the "Registration Statement"; the Preliminary Prospectus relating to the Shares that was included in the Registration Statement immediately prior to the Applicable Time (as defined in Section 1(c) hereof) is hereinafter called the "Pricing Prospectus"; such final prospectus, in the form first filed pursuant to Rule 424(b) under the Act, is hereinafter called the "Prospectus"; any oral or written communication with potential investors undertaken in reliance on Section 5(d) of the Act is hereinafter called a "Section 5(d) Communication"; any Section 5(d) Communication that is a written communication within the meaning of Rule 405 under the Act is hereinafter called a "Section 5(d) Writing"; and any "issuer free writing prospectus" as defined in Rule 433 under the Act relating to the Shares is hereinafter called an "Issuer Free Writing Prospectus");

(b) (A) No order preventing or suspending the use of any Preliminary Prospectus or any Issuer Free Writing Prospectus has been issued by the Commission, and (B) each Preliminary Prospectus, at the time of filing thereof, conformed in all material respects to the requirements of the Act and the rules and regulations of the Commission thereunder, and did not 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 the light of the circumstances under which they were made, not misleading; provided, however, that this representation and warranty shall not apply to any statements or omissions made in reliance upon and in conformity with the Underwriter Information (as defined in Section 9(b) of this Agreement);

(c) For the purposes of this Agreement, the "Applicable Time" is [l] [a.m./p.m.] (Eastern time) on the date of this Agreement. The Pricing Prospectus, as supplemented by the information listed on Schedule II(c) hereto, taken together (collectively, the "Pricing Disclosure Package"), as of the Applicable Time, did not, and as of each Time of Delivery (as defined in Section 4(a) of this Agreement) will not, include any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; and each Issuer Free Writing Prospectus and each Section 5(d) Writing does not conflict with the information contained in the Registration Statement, the Pricing Prospectus or the

Prospectus, each Issuer Free Writing Prospectus and each Section 5(d) Writing, as supplemented by and taken together with the Pricing Disclosure Package, as of the Applicable Time, did not, and as of each Time of Delivery will not, include any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided, however, that this representation and warranty shall not apply to statements or omissions made in reliance upon and in conformity with the Underwriter Information;

(d) [Reserved]

(e) The Registration Statement conforms, and the Prospectus and any further amendments or supplements to the Registration Statement and the Prospectus will conform, in all material respects to the requirements of the Act and the rules and regulations of the Commission thereunder and do not and will not, as of the applicable effective date as to each part of the Registration Statement, as of the applicable filing date as to the Prospectus and any amendment or supplement thereto, and as of each Time of Delivery, 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 not misleading; provided, however, that this representation and warranty shall not apply to any statements or omissions made in reliance upon and in conformity with the Underwriter Information;

(f) The Company has not, since the date of the latest audited financial statements included in the Pricing Prospectus, (i) sustained any material loss or interference with its business from fire, explosion, flood or other calamity, whether or not covered by insurance, or from any labor dispute or court or governmental action, order or decree or (ii) entered into any transaction or agreement (whether or not in the ordinary course of business) that is material to the Company or incurred any liability or obligation, direct or contingent, that is material to the Company, in each case otherwise than as set forth or contemplated in the Pricing Prospectus; and, since the respective dates as of which information is given in the Registration Statement and the Pricing Prospectus, there has not been (x) any change in the capital stock (other than as a result of (i) the exercise, if any, of stock options or the award, if any, of stock options or restricted stock in the ordinary course of business pursuant to the Company's equity plans that are described in the Pricing Prospectus and the Prospectus or (ii) the issuance, if any, of stock upon conversion of Company securities as described in the Pricing Prospectus and the Prospectus) or long-term debt of the Company or (y) any Material Adverse Effect (as defined below); as used in this Agreement, "Material Adverse Effect" shall mean any material adverse change or effect, or any development involving a prospective material adverse change or effect, in or affecting (i) the business, properties, general affairs, management, financial position, stockholders' equity, results of operations or prospects of the Company, except as set forth or contemplated in the Pricing Prospectus, or (ii) the ability of the Company to perform its obligations under this Agreement, including the issuance and sale of the Shares, or to consummate the transactions contemplated in the Pricing Prospectus and the Prospectus;

(g) The Company does not own any real property; the Company has good and marketable title to all personal property owned by it which is material to the business of the Company, free and clear of all liens, encumbrances and defects except such as are described

in the Pricing Prospectus or such as do not materially affect the value of such property and do not interfere with the use made and proposed to be made of such property; and any real property and buildings held under lease by the Company are held by it under valid, subsisting and enforceable leases with such exceptions as are not material and do not materially interfere with the use made and proposed to be made of such property and buildings by the Company;

(h) The Company does not have any subsidiaries. The Company has been (i) duly organized and is validly existing and in good standing under the laws of its jurisdiction of organization, with power and authority (corporate and other) to own its properties and conduct its business as described in the Pricing Prospectus, and (ii) duly qualified as a foreign corporation for the transaction of business and is in good standing under the laws of each other jurisdiction in which it owns or leases properties or conducts any business so as to require such qualification, except, in the case of this clause (ii), where the failure to be so qualified or in good standing would not, individually or in the aggregate, be reasonably likely to have a Material Adverse Effect;

(i) The Company has an authorized capitalization as set forth in the Pricing Prospectus and all of the issued shares of capital stock of the Company have been duly and validly authorized and issued and are fully paid and non-assessable and conform to the description of the Stock contained in the Pricing Disclosure Package and Prospectus;

(j) The unissued Shares to be issued and sold by the Company to the Underwriters hereunder have been duly and validly authorized and, when issued and delivered against payment therefor as provided herein, will be duly and validly issued and fully paid and non-assessable and will conform to the description of the Stock contained in the Pricing Disclosure Package and the Prospectus; and the issuance of the Shares is not subject to any preemptive or similar rights;

(k) The issue and sale of the Shares and the compliance by the Company with this Agreement and the consummation of the transactions contemplated in this Agreement will not conflict with or result in a breach or violation of any of the terms or provisions of, or constitute a default under, (A) any indenture, mortgage, deed of trust, loan agreement or other agreement or instrument to which the Company is a party or by which the Company is bound or to which any of the property or assets of the Company is subject, except, in the case of this clause (A) for such defaults, breaches, or violations that would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, (B) the certificate of incorporation or by-laws (or other applicable organizational document) of the Company, or (C) any statute or any judgment, order, rule or regulation of any court or governmental agency or body having jurisdiction over the Company or any of its properties; and no consent, approval, authorization, order, registration or qualification of or with any such court or governmental agency or body is required for the issue and sale of the Shares or the consummation by the Company of the transactions contemplated by this Agreement, except such as have been obtained under the Act, the registration of the Stock under the Securities Exchange Act of 1934, as amended (the “Exchange Act”), the approval by FINRA of the underwriting terms and arrangements and such consents, approvals, authorizations, registrations or qualifications as may be required under state securities or Blue Sky laws in connection with the purchase and distribution of the Shares by the Underwriters;

(l) The Company is not (i) in violation of its certificate of incorporation or by-laws (or other applicable organizational document), (ii) in violation of any statute or any judgment, order, rule or regulation of any court or governmental agency or body having jurisdiction over the Company or any of its properties, or (iii) in default in the performance or observance of any obligation, agreement, covenant or condition contained in any indenture, mortgage, deed of trust, loan agreement, lease or other agreement or instrument to which it is a party or by which it or any of its properties may be bound, except, in the case of the foregoing clauses (ii) and (iii), for such violations or defaults as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect;

(m) The statements set forth in the Pricing Prospectus and Prospectus under the caption “Description of Capital Stock”, insofar as they purport to constitute a summary of the terms of the Stock, under the caption “Material U.S. Federal Income Tax Considerations for Non-U.S. Holders of our Common,” and under the caption “Underwriting”, insofar as they purport to describe the provisions of the laws (other than laws, rules and regulations relating to selling restrictions in various foreign jurisdictions) and documents referred to therein, are accurate in all material respects;

(n) Other than as set forth in the Pricing Prospectus, there are no legal or governmental proceedings pending to which the Company or, to the Company’s knowledge, any officer or director of the Company, is a party or of which any property of the Company or, to the Company’s knowledge, any officer or director of the Company, is the subject which, if determined adversely to the Company (or such officer or director), would individually or in the aggregate have a Material Adverse Effect; and, to the Company’s knowledge, other than as set forth in the Pricing Prospectus, no such proceedings are threatened or contemplated by governmental authorities or others;

(o) The Company is not and, after giving effect to the offering and sale of the Shares and the application of the proceeds as described in the Pricing Prospectus, will not be, an “investment company”, as such term is defined in the Investment Company Act of 1940, as amended, and the rules and regulations thereunder (the “Investment Company Act”);

(p) At the time of filing the Initial Registration Statement and any post-effective amendment thereto, at the earliest time thereafter that the Company or any offering participant made a bona fide offer (within the meaning of Rule 164(h)(2) under the Act) of the Shares, and at the date hereof, the Company was not and is not an “ineligible issuer”, as defined under Rule 405 under the Act;

(q) Deloitte & Touche LLP, who have certified certain financial statements of the Company, are independent public accountants as required by the Act and the rules and regulations of the Commission thereunder;

(r) The Company maintains a system of internal control over financial reporting (as such term is defined in Rule 13a-15(f) under the Securities Exchange Act of 1934, as amended (the “Exchange Act”)) that (i) complies with the requirements of the Exchange Act, (ii) has been designed by the Company’s principal executive officer and principal financial officer, or under their supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in

accordance with generally accepted accounting principles and (iii) is sufficient to provide reasonable assurance that (A) transactions are executed in accordance with management's general or specific authorization, (B) transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles and to maintain accountability for assets, (C) access to assets is permitted only in accordance with management's general or specific authorization and (D) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences; and the Company's internal control over financial reporting is effective and the Company is not aware of any material weaknesses in its internal control over financial reporting;

(s) Since the date of the latest audited financial statements included in the Pricing Prospectus, there has been no change in the Company's internal control over financial reporting that has materially affected, or is reasonably likely to materially affect, the Company's internal control over financial reporting;

(t) The Company maintains disclosure controls and procedures (as such term is defined in Rule 13a-15(e) under the Exchange Act) that comply with the requirements of the Exchange Act; such disclosure controls and procedures have been designed to ensure that material information relating to the Company is made known to the Company's principal executive officer and principal financial officer by others within those entities; and such disclosure controls and procedures are effective;

(u) This Agreement has been duly authorized, executed and delivered by the Company;

(v) Neither the Company, nor, to the knowledge of the Company, any director, officer, agent, employee, affiliate or other person associated with or acting on behalf of the Company has (i) made, offered, promised or authorized any unlawful contribution, gift, entertainment or other unlawful expense, (ii) made, offered, promised or authorized any direct or indirect unlawful payment, or (iii) violated or is in violation of any provision of the Foreign Corrupt Practices Act of 1977, the Bribery Act 2010 of the United Kingdom or any other applicable anti-bribery or anti-corruption law. The Company has instituted, maintains and enforces, and will continue to maintain and enforce, policies and procedures designed to promote and achieve compliance with all applicable anti-bribery and anti-corruption laws;

(w) The operations of the Company are and have been conducted at all times in compliance with the requirements of applicable anti-money laundering laws, including, but not limited to, the Bank Secrecy Act of 1970, as amended by the USA PATRIOT ACT of 2001, and the rules and regulations promulgated thereunder, and the anti-money laundering laws of the various jurisdictions in which the Company conducts business (collectively, the "Money Laundering Laws") and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company with respect to the Money Laundering Laws is pending or, to the knowledge of the Company, threatened;

(x) Neither the Company, nor, to the knowledge of the Company, any director, officer, agent, employee or affiliate of the Company is currently the subject or the target of any sanctions administered or enforced by the U.S. Government, including, without limitation, the Office of Foreign Assets Control of the U.S. Department of the Treasury

("OFAC"), or the U.S. Department of State and including, without limitation, the designation as a "specially designated national" or "blocked person", the European Union, Her Majesty's Treasury, the United Nations Security Council, the Swiss Secretariat of Economic Affairs, or other relevant sanctions authority (collectively, "Sanctions") nor is the Company located, organized or a resident in a country or territory that is the subject or target of Sanctions, including without limitation, Crimea, Cuba, Iran, North Korea and Syria, and the Company will not directly or indirectly use the proceeds of the offering of the Shares hereunder, or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or other person or entity (i) to fund or facilitate any activities of or business with any person, or in any country or territory, that, at the time of such funding, is the subject or the target of Sanctions or (ii) in any other manner that will result in a violation by any person (including any person participating in the transaction, whether as underwriter, advisor, investor or otherwise) of Sanctions;

(y) The financial statements included in the Registration Statement, the Pricing Prospectus and the Prospectus, together with the related schedules and notes, present fairly the financial position of the Company at the dates indicated and the statement of operations, stockholders' equity and cash flows of the Company for the periods specified; said financial statements have been prepared in conformity with U.S. generally accepted accounting principles ("GAAP") applied on a consistent basis throughout the periods involved. The supporting schedules, if any, present fairly in accordance with GAAP the information required to be stated therein. The selected financial data and the summary financial information included in the Registration Statement, the Pricing Prospectus and the Prospectus present fairly the information shown therein and have been compiled on a basis consistent with that of the audited financial statements included therein. Except as included therein, no historical or pro forma financial statements or supporting schedules are required to be included in the Registration Statement, the Pricing Prospectus or the Prospectus under the Act or the rules and regulations promulgated thereunder. All disclosures contained in the Registration Statement, the Pricing Prospectus and the Prospectus regarding "non-GAAP financial measures" (as such term is defined by the rules and regulations of the Commission) comply with Regulation G of the Exchange Act and Item 10 of Regulation S-K of the Act, to the extent applicable;

(z) From the time of initial confidential submission of a registration statement relating to the Shares with the Commission (or, if earlier, the first date on which a Section 5(d) Communication was made) through the date hereof, the Company has been and is an "emerging growth company" as defined in Section 2(a)(19) of the Act (an "Emerging Growth Company");

(aa) (i) The Company owns or has the right to use all patents, patent applications, trademarks, service marks, trade names, trademark registrations, service mark registrations, domain names and other source indicators, copyrights and copyrightable works, know-how, trade secrets, systems, procedures, proprietary or confidential information and all other worldwide intellectual property, industrial property and proprietary rights (collectively, "Intellectual Property") used in the conduct of its business in all material respects, (ii) to the Company's knowledge, the Company's conduct of its business does not infringe, misappropriate or otherwise violate any Intellectual Property of any person, (iii) the Company has not received any written notice of any claim relating to Intellectual Property, and (iv) to

the knowledge of the Company, the Intellectual Property of the Company is not being infringed, misappropriated or otherwise violated by any person;

(bb) The Company's information technology assets and equipment, computers, systems, networks, hardware, software, websites, applications, and databases (collectively, "IT Systems") are adequate for, and operate and perform in all material respects as required in connection with the operation of the business of the Company as currently conducted, free and clear, to the knowledge of the Company, of all material bugs, errors, defects, Trojan horses, time bombs, malware and other corruptants. The Company has implemented and maintained commercially reasonable controls, policies, procedures, and safeguards to maintain and protect their material confidential information and the integrity, continuous operation, redundancy and security of all IT Systems and data (including all personal, personally identifiable, sensitive, confidential or regulated data ("Personal Data")) used in connection with their businesses, and, to the knowledge of the Company, there have been no breaches, violations, outages or unauthorized uses of or accesses to same, except for those that have been remedied without material cost or liability or the duty to notify any other person, and there are no incidents under internal review or investigations relating to the same. The Company is presently in material compliance with all applicable laws or statutes and all judgments, orders, rules and regulations of any court or arbitrator or governmental or regulatory authority, internal policies and contractual obligations relating to the privacy and security of IT Systems and Personal Data and to the protection of such IT Systems and Personal Data from unauthorized use, access, misappropriation or modification. The Company has taken all necessary actions to prepare to comply with the European Union General Data Protection Regulation, to the extent applicable;

(cc) The Company possesses all licenses, sub-licenses, certificates, permits and other authorizations issued by, and has made all declarations and filings with, the appropriate federal, state, local or foreign governmental or regulatory authorities that are necessary for the ownership or lease of its properties or the conduct of its business as described in each of the Registration Statement, the Pricing Disclosure Package and the Prospectus, except where the failure to possess or make the same would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect; and the Company has not received notice of any revocation or modification of any such license, sub-license, certificate, permit or authorization or has any reason to believe that any such license, sub-license, certificate, permit or authorization will not be renewed in the ordinary course;

(dd) The Company is (i) in compliance with any and all applicable laws and regulations relating to the protection of human health and safety as affected by exposure to hazardous or toxic substances, the environment or hazardous or toxic substances or wastes, pollutants or contaminants ("Environmental Laws"), (ii) has received and is in compliance with all permits, licenses or other approvals required of it under applicable Environmental Laws to conduct its business as presently conducted, and (iii) has not received written notice of any actual or potential liability under any Environmental Law, except where such non-compliance with Environmental Laws, failure to receive required permits, licenses or other approvals, or liability would not, individually or in the aggregate, have (or reasonably be expected to have) a Material Adverse Effect;

(ee) The statements set forth in the Pricing Prospectus and Prospectus under the captions “Business—Government Regulation,” “Risk Factors—Regulatory Risks,” “Risk Factors—Risks Related to our Business, Our Brand, Our Products and Our Industry—Litigation or legal proceedings could expose us…” and “Business—Legal Proceedings,” insofar as they purport to constitute summaries of the terms of statutes, rules or regulations or legal proceedings, constitute accurate summaries of the terms of such statutes, rules and regulations and legal proceedings in all material respects.

(ff) Nothing has come to the attention of the Company that has caused the Company to believe that the statistical and market-related data included in each of the Registration Statement, the Pricing Prospectus or the Prospectus, each Issuer Free Writing Prospectus and each Section 5(d) Writing, as supplemented by and taken together with the Pricing Disclosure Package, is not based on or derived from sources that are reliable and accurate in all material respects;

(gg) The Company has insurance covering its properties, operations, personnel and businesses, including business interruption insurance, which insurance is in amounts and insures against such losses and risks as are adequate to protect the Company and its business; and the Company (i) has not received notice from any insurer or agent of such insurer that capital improvements or other expenditures are required or necessary to be made in order to continue such insurance or (ii) does not have 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 at reasonable cost from similar insurers as may be necessary to continue its business;

(hh) The Company has paid all federal, state, local and foreign taxes and filed all tax returns required to be paid or filed through the date hereof; and there is no tax deficiency that has been, nor does the Company reasonably expect any tax deficiency to be, asserted by any tax authority against the Company or any of its properties or assets;

(ii) No labor disturbance by or dispute with employees of the Company exists or, to the knowledge of the Company, is contemplated or threatened, and the Company is not aware of any existing or imminent labor disturbance by, or dispute with, the employees of any of its principal suppliers, contractors or customers, except as would not reasonably be expected to have a Material Adverse Effect. The Company has not received any notice of cancellation or termination with respect to any collective bargaining agreement to which it is a party;

(jj) There are no contracts or documents which are required to be described in the Registration Statement, the Pricing Prospectus or the Prospectus or to be filed as exhibits to the Registration Statement under the Act which have not been so described and filed as required;

(kk) With respect to the stock options (the “Stock Options”) granted pursuant to the stock-based compensation plans of the Company (the “Company Stock Plans”), (i) each Stock Option intended to qualify as an “incentive stock option” under Section 422 of the Internal Revenue Code of 1986, as amended, so qualifies, (ii) each grant of a Stock Option was duly authorized no later than the date on which the grant of such Stock Option was by its terms to be effective (the “Grant Date”) by all necessary corporate action, including, as

applicable, approval by the board of directors of the Company (or a duly constituted and authorized committee thereof) and any required stockholder approval by the necessary number of votes or written consents, and the award agreement governing such grant (if any) was duly executed and delivered by each party thereto, (iii) each such grant was made in accordance with the terms of the Company Stock Plans and all applicable laws and regulatory rules or requirements, and (iv) each such grant was properly accounted for in accordance with GAAP in the financial statements (including the related notes) of the Company. The Company has not knowingly granted, and there is no and has been no policy or practice of the Company of granting, Stock Options prior to, or otherwise coordinating the grant of Stock Options with, the release or other public announcement of material information regarding the Company or its results of operations or prospects;

(ll) There is and has been no failure on the part of the Company or any of the Company's directors or officers, in their capacity as such, to comply with any provision of the Sarbanes-Oxley Act of 2002, as amended and the rules and regulations promulgated in connection therewith (the "Sarbanes-Oxley Act") applicable to the company as of the date hereof, including Section 402 related to loans, and the Company has taken all necessary actions to ensure that, upon the effectiveness of the Registration Statement, it will be in material compliance with all other provisions of the Sarbanes-Oxley Act with which the Company is required to comply as of such time; and

(mm) There are no debt securities or preferred stock issued or guaranteed by the Company that are rated by a "nationally recognized statistical rating organization," as such term is defined under Section 3(a)(62) under the Exchange Act.

2. Subject to the terms and conditions herein set forth, (a) the Company agrees to issue and to sell to each of the Underwriters, and each of the Underwriters agrees, severally and not jointly, to purchase from the Company, at a purchase price per share of $[l], the number of Firm Shares set forth opposite the name of such Underwriter in Schedule I hereto and (b) in the event and to the extent that the Underwriters shall exercise the election to purchase Optional Shares as provided below, the Company agrees to issue and sell to each of the Underwriters, and each of the Underwriters agrees, severally and not jointly, to purchase from the Company, at the purchase price per share set forth in clause (a) of this Section 2 (provided that the purchase price per Optional Share shall be reduced by an amount per share equal to any dividends or distributions declared by the Company and payable on the Firm Shares but not payable on the Optional Shares), that portion of the number of Optional Shares as to which such election shall have been exercised (to be adjusted by you so as to eliminate fractional shares) determined by multiplying such number of Optional Shares by a fraction, the numerator of which is the maximum number of Optional Shares which such Underwriter is entitled to purchase as set forth opposite the name of such Underwriter in Schedule I hereto and the denominator of which is the maximum number of Optional Shares that all of the Underwriters are entitled to purchase hereunder.

The Company hereby grants to the Underwriters the right to purchase at their election up to [l] Optional Shares, at the purchase price per share set forth in the paragraph above, for the sole purpose of covering sales of shares in excess of the number of Firm Shares, provided that the purchase price per Optional Share shall be reduced by an amount per share equal to any dividends or distributions declared by the Company and payable on the

Firm Shares but not payable on the Optional Shares. Any such election to purchase Optional Shares may be exercised only by written notice from you to the Company, given within a period of 30 calendar days after the date of this Agreement, setting forth the aggregate number of Optional Shares to be purchased and the date on which such Optional Shares are to be delivered, as determined by you but in no event earlier than the First Time of Delivery (as defined in Section 4 hereof) or, unless you and the Company otherwise agree in writing, earlier than two or later than ten business days after the date of such notice.

3. Upon the authorization by you of the release of the Firm Shares, the several Underwriters propose to offer the Firm Shares for sale upon the terms and conditions set forth in the Pricing Prospectus and the Prospectus.

4. (a) The Shares to be purchased by each Underwriter hereunder, in definitive or book-entry form, and in such authorized denominations and registered in such names as the Representatives may request upon at least forty-eight hours' prior notice to the Company shall be delivered by or on behalf of the Company to the Representatives, through the facilities of The Depository Trust Company ("DTC"), for the account of such Underwriter, against payment by or on behalf of such Underwriter of the purchase price therefor by wire transfer of Federal (same-day) funds to the account specified by the Company to the Representatives at least forty-eight hours in advance. The Company will cause the certificates, if any, representing the Shares to be made available for checking and packaging at least twenty-four hours prior to the Time of Delivery (as defined below) with respect thereto at the office of DTC or its designated custodian (the "Designated Office"). The time and date of such delivery and payment shall be, with respect to the Firm Shares, 9:30 a.m., New York City time, on [l], 2018 or such other time and date as the Representatives and the Company may agree upon in writing, and, with respect to the Optional Shares, 9:30 a.m., New York time, on the date specified by the Representatives in the written notice given by the Representatives of the Underwriters' election to purchase such Optional Shares, or such other time and date as the Representatives and the Company may agree upon in writing. Such time and date for delivery of the Firm Shares is herein called the "First Time of Delivery", such time and date for delivery of the Optional Shares, if not the First Time of Delivery, is herein called the "Second Time of Delivery", and each such time and date for delivery is herein called a "Time of Delivery".

(b) The documents to be delivered at each Time of Delivery by or on behalf of the parties hereto pursuant to Section 8 hereof, including the cross receipt for the Shares and any additional documents requested by the Underwriters pursuant to Section 8(j) hereof, will be delivered at the offices of Latham & Watkins LLP, 330 North Wabash Avenue, Suite 2800, Chicago, Illinois 60611 (the "Closing Location"), and the Shares will be delivered at the Designated Office, all at such Time of Delivery. A meeting will be held at the Closing Location at [l] p.m., New York City time, on the New York Business Day next preceding such Time of Delivery, at which meeting the final drafts of the documents to be delivered pursuant to the preceding sentence will be available for review by the parties hereto. For the purposes of this Section 4, "New York Business Day" shall mean each Monday, Tuesday, Wednesday, Thursday and Friday which is not a day on which banking institutions in New York City are generally authorized or obligated by law or executive order to close.

5. The Company agrees with each of the Underwriters:

(a) To prepare the Prospectus in a form approved by you and to file such Prospectus pursuant to Rule 424(b) under the Act not later than the Commission's close of business on the second business day following the execution and delivery of this Agreement, or, if applicable, such earlier time as may be required by Rule 430A(a)(3) under the Act; to make no further amendment or any supplement to the Registration Statement or the Prospectus prior to the last Time of Delivery that is disapproved by you promptly after reasonable notice thereof; to advise you, promptly after it receives notice thereof, of the time when any amendment to the Registration Statement has been filed or becomes effective or any amendment or supplement to the Prospectus has been filed and to furnish you with copies thereof; to file promptly all material required to be filed by the Company with the Commission pursuant to Rule 433(d) under the Act; to advise you, promptly after it receives notice thereof, of the issuance by the Commission of any stop order or of any order preventing or suspending the use of the Registration Statement, any Preliminary Prospectus or any other prospectus in respect of the Shares, of the suspension of the qualification of the Shares for offering or sale in any jurisdiction, of the initiation or threatening of any proceeding for any such purpose or pursuant to Section 8A of the Act, or of any request by the Commission for the amending or supplementing of the Registration Statement or the Prospectus or for additional information; and, in the event of the issuance of any stop order or of any order preventing or suspending the use of the Registration Statement, any Preliminary Prospectus or any other prospectus or suspending any such qualification, to promptly use its best efforts to obtain the withdrawal of such order;

(b) Promptly from time to time to take such action as you may reasonably request to qualify the Shares for offering and sale under the securities laws of such jurisdictions as you may request and to comply with such laws so as to permit the continuance of sales of Shares and dealings therein in such jurisdictions for as long as may be necessary to complete the distribution of the Shares, provided that in connection therewith the Company shall not be required to qualify as a foreign corporation or to file a general consent to service of process in any jurisdiction or subject itself to taxation for doing business in any jurisdiction in which it is not otherwise subject to taxation on the date hereof.

(c) (i) Prior to 10:00 a.m., New York City time, on the New York Business Day next succeeding the date of this Agreement and from time to time, to furnish the Underwriters with written and electronic copies of the Prospectus in New York City in such quantities as you may reasonably request.

(ii) (x) If the delivery of a prospectus (or in lieu thereof, the notice referred to in Rule 173(a) under the Act) is required at any time prior to the expiration of nine months after the time of issue of the Prospectus in connection with the offering or sale of the Shares and if at such time any event shall have occurred as a result of which the Prospectus as then amended or supplemented would include an untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made when such Prospectus (or in lieu thereof, the notice referred to in Rule 173(a) under the Act) is delivered, not misleading, or, if for any other reason it shall be necessary during such same period to amend or supplement the Prospectus in order to comply with the Act, to notify you and upon your request to prepare

and furnish without charge to each Underwriter and to any dealer in securities as many written and electronic copies as you may from time to time reasonably request of an amended Prospectus or a supplement to the Prospectus which will correct such statement or omission or effect such compliance; and in case any Underwriter is required to deliver a prospectus (or in lieu thereof, the notice referred to in Rule 173(a) under the Act) in connection with sales of any of the Shares at any time nine months or more after the time of issue of the Prospectus, upon your request but at the expense of such Underwriter, to prepare and deliver to such Underwriter as many written and electronic copies as you may request of an amended or supplemented Prospectus complying with Section 10(a)(3) of the Act and (y) if at any time prior to the First Time of Delivery any event shall have occurred as a result of which the Pricing Disclosure Package as then amended or supplemented would include an untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances existing when the Pricing Disclosure Package is delivered to a purchaser, not misleading, or it is necessary to amend or supplement the Pricing Disclosure Package to comply with law, the Company will immediately notify the Underwriters thereof and forthwith prepare and, subject to paragraph (a) above, file with the Commission (to the extent required) and furnish to each Underwriter and to any dealer in securities as the Representatives may designate such amendments or supplements to the Pricing Disclosure Package as may be necessary so that the statements in the Pricing Disclosure Package as so amended or supplemented will not, in the light of the circumstances existing when the Pricing Disclosure Package is delivered to a purchaser, be misleading or so that the Pricing Disclosure Package will comply with applicable law.

(d) To make generally available to its securityholders as soon as practicable, but in any event not later than sixteen months after the effective date of the Registration Statement (as defined in Rule 158(c) under the Act), an earnings statement of the Company and its subsidiaries, if any, (which need not be audited) complying with Section 11(a) of the Act and the rules and regulations of the Commission thereunder (including, at the option of the Company, Rule 158);

(e)(1) During the period beginning from the date hereof and continuing to and including the date 180 days after the date of the Prospectus (the “Lock-Up Period”), not to (i) offer, sell, contract to sell, pledge, grant any option to purchase, make any short sale or otherwise transfer or dispose of, directly or indirectly, or file with or confidentially submit to the Commission a registration statement under the Act relating to, any securities of the Company that are substantially similar to the Shares, including but not limited to any options or warrants to purchase shares of Stock or any securities that are convertible into or exchangeable for, or that represent the right to receive, Stock or any such substantially similar securities, or publicly disclose the intention to do any of the foregoing or (ii) enter into any swap or other agreement that transfers, in whole or in part, any of the economic consequences of ownership of the Stock or any such other securities, whether any such transaction described in clause (i) or (ii) above is to be settled by delivery of Stock or such other securities, in cash or otherwise, other than (a) the Shares to be sold hereunder, (b) any shares of Stock of the Company issued upon the exercise of options granted under Company Stock Plans existing on, or upon the conversion or exchange of convertible or exchangeable securities outstanding as of, the date of this Agreement, (c) the grant or issuance by the Company of employee, consultant, or director stock options or restricted

stock in the ordinary course of business under Company Stock Plans existing on the date of this Agreement and described in the Registration Statement, Pricing Prospectus and Prospectus, (d) the issuance of shares registered on Form S-8 relating to the Company Stock Plans existing on the date of this agreement and described in the Registration Statement, Pricing Prospectus and Prospectus, (e) the issuance of securities in connection with the acquisition by the Company or any subsidiary of the securities, businesses, property or other assets of another person or entity or pursuant to any employee benefit plan assumed by the Company in connection with any such acquisition, (f) the issuance of securities in connection with joint ventures, commercial relationships, or other strategic transactions; provided that, in the case of clauses (e) and (f), (x) the aggregate number of shares issued in all such acquisitions and transactions does not exceed 5% of the Company's outstanding common stock following the offering of Common Stock contemplated by this Agreement and (y) each person to whom such shares are issued executes a "lock-up" agreement in the form of Exhibit A hereto, and (g) any shares of Stock otherwise transferred or disposed of by the Company during the 180-day restricted period with the advance written consent of Goldman Sachs & Co. LLC and J.P. Morgan Securities LLC;

(e)(2) If Goldman Sachs & Co. LLC and J.P. Morgan Securities LLC, in their sole discretion, agrees to release or waive the restrictions set forth in a lock-up letter described in Section 8(i) hereof for an officer or director of the Company and provides the Company with notice of the impending release or waiver at least three business days before the effective date of the release or waiver, the Company agrees to announce the impending release or waiver by a press release substantially in the form of Annex II hereto through a major news service at least two business days before the effective date of the release or waiver;

(f) To furnish to its stockholders as soon as practicable after the end of each fiscal year an annual report (including a balance sheet and statements of income, stockholders' equity and cash flows of the Company and its consolidated subsidiaries, if any, certified by independent public accountants) and, as soon as practicable after the end of each of the first three quarters of each fiscal year (beginning with the fiscal quarter ending after the effective date of the Registration Statement), to make available to its stockholders consolidated summary financial information of the Company and its subsidiaries, if any, for such quarter in reasonable detail;

(g) During a period of two years from the effective date of the Registration Statement, to furnish to you copies of all reports or other communications (financial or other) furnished to stockholders and not available on the Electronic Data Gathering and Analysis ("EDGAR") system or any successor thereto, and to deliver to you (i) as soon as they are available, copies of any reports and financial statements furnished to or filed with the Commission or any national securities exchange on which any class of securities of the Company is listed to the extent they are not available on EDGAR; and (ii) such additional information concerning the business and financial condition of the Company as you may from time to time reasonably request (such financial statements to be on a consolidated basis to the extent the accounts of the Company and its subsidiaries, if any, are consolidated in reports furnished to its stockholders generally or to the Commission) that is already publicly available;

(h) To use the net proceeds received by it from the sale of the Shares pursuant to this Agreement in the manner specified in the Pricing Prospectus under the caption “Use of Proceeds”;

(i) To use its best efforts to list for quotation the Shares on the Nasdaq Global Market (“Nasdaq”);

(j) To file with the Commission such information on Form 10-Q or Form 10-K as may be required by Rule 463 under the Act;

(k) If the Company elects to rely upon Rule 462(b), the Company shall file a Rule 462(b) Registration Statement with the Commission in compliance with Rule 462(b) by 10:00 p.m., Washington, D.C. time, on the date of this Agreement, and the Company shall at the time of filing either pay to the Commission the filing fee for the Rule 462(b) Registration Statement or give irrevocable instructions for the payment of such fee pursuant to Rule 111(b) under the Act;

(l) Upon request of any Underwriter, to furnish, or cause to be furnished, to such Underwriter an electronic version of the Company’s trademarks, servicemarks and corporate logo for use on the website, if any, operated by such Underwriter for the purpose of facilitating the on-line offering of the Shares (the “License”); provided, however, that the License shall be used solely for the purpose described above, is granted without any fee and may not be assigned or transferred; and

(m) To promptly notify you if the Company ceases to be an Emerging Growth Company at any time prior to the later of (i) completion of the distribution of the Shares within the meaning of the Act and (ii) the last Time of Delivery.

6. (a) The Company represents and agrees that, without the prior consent of the Representatives, it has not made and will not make any offer relating to the Shares that would constitute a “free writing prospectus” as defined in Rule 405 under the Act; each Underwriter represents and agrees that, without the prior consent of the Company and the Representatives, it has not made and will not make any offer relating to the Shares that would constitute a free writing prospectus required to be filed with the Commission; any such free writing prospectus the use of which has been consented to by the Company and the Representatives is listed on Schedule II(a) or Schedule II(c) hereto;

(b) The Company has complied and will comply with the requirements of Rule 433 under the Act applicable to any Issuer Free Writing Prospectus, including timely filing with the Commission or retention where required and legending; and the Company represents that it has satisfied and agrees that it will satisfy the conditions under Rule 433 under the Act to avoid a requirement to file with the Commission any electronic road show;

(c) The Company agrees that if at any time following issuance of an Issuer Free Writing Prospectus or Section 5(d) Writing any event occurred or occurs as a result of which such Issuer Free Writing Prospectus or Section 5(d) Writing would conflict with the information in the Registration Statement, the Pricing Prospectus or the Prospectus or would include an untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances then prevailing, not misleading, the Company will give prompt notice thereof to the Representatives and, if

requested by the Representatives, will prepare and furnish without charge to each Underwriter an Issuer Free Writing Prospectus, Section 5(d) Writing or other document which will correct such conflict, statement or omission; provided, however, that this representation and warranty shall not apply to any statements or omissions in an Issuer Free Writing Prospectus made in reliance upon and in conformity with the Underwriter Information; and

(d) The Company represents and agrees that (i) it has not engaged in, or authorized any other person to engage in, any Section 5(d) Communications, other than Section 5(d) Communications with the prior consent of the Representatives with entities that are qualified institutional buyers as defined in Rule 144A under the Act or institutions that are accredited investors as defined in Rule 501(a) under the Act, and (ii) it has not distributed, or authorized any other person to distribute, any Section 5(d) Writings, other than those distributed with the prior consent of the Representatives that are listed on Schedule II(d) hereto; and the Company reconfirms that the Representatives have been authorized to act on its behalf in engaging in Section 5(d) Communications.

7. The Company covenants and agrees with the several Underwriters that the Company will pay or cause to be paid the following: (i) the fees, disbursements and expenses of the Company's counsel and accountants in connection with the registration of the Shares under the Act and all other expenses in connection with the preparation, printing, reproduction and filing of the Registration Statement, any Preliminary Prospectus, any Section 5(d) Writing, any Issuer Free Writing Prospectus and the Prospectus and amendments and supplements thereto and the mailing and delivering of copies thereof to the Underwriters and dealers, (ii) the cost of printing or producing any Agreement among Underwriters, this Agreement, the Blue Sky Memorandum, closing documents (including any compilations thereof) and any other documents in connection with the offering, purchase, sale and delivery of the Shares, (iii) all expenses in connection with the qualification of the Shares for offering and sale under state securities laws as provided in Section 5(b) hereof, including the reasonable fees and disbursements of counsel for the Underwriters in connection with such qualification and in connection with the Blue Sky survey, (iv) all fees and expenses in connection with listing the Shares on Nasdaq, (v) the filing fees incident to, and the reasonable fees and disbursements of counsel for the Underwriters in connection with, any required review by FINRA of the terms of the sale of the Shares, (vi) the cost of preparing stock certificates, (vii) the cost and charges of any transfer agent or registrar, and (viii) all other costs and expenses incident to the performance of its obligations hereunder which are not otherwise specifically provided for in this Section; provided that the aggregate amount payable by the Company pursuant to subsections (iii) and (v) (excluding filing fees and disbursements) shall not exceed $30,000. It is understood, however, that, except as provided in this Section 7, and Sections 9 and 12 hereof, (i) the Underwriters will pay all of their own costs and expenses, including the fees of their counsel, stock transfer taxes on resale of any of the Shares by them, and any advertising expenses connected with any offers they may make, (ii) the Company will bear all of the Company's (but not the Underwriters') travel expenses and the Underwriters will bear all of the Underwriters' (but not the Company's) travel expenses, in each case, in connection with any "roadshow" presentation to investors and (iii) notwithstanding clause (ii), the Company, on the one hand, and the Underwriters, on the other hand, shall each pay 50% of the cost of any chartered

plane, chartered jet or other chartered aircraft used in connection with any “roadshow” presentation to investors.

8. The obligations of the Underwriters hereunder, as to the Shares to be delivered at each Time of Delivery, shall be subject, in their discretion, to the condition that all representations and warranties and other statements of the Company herein are, at and as of the Applicable Time and such Time of Delivery, true and correct, the condition that the Company shall have performed all of its obligations hereunder theretofore to be performed, and the following additional conditions:

(a) The Prospectus shall have been filed with the Commission pursuant to Rule 424(b) under the Act within the applicable time period prescribed for such filing by the rules and regulations under the Act and in accordance with Section 5(a) hereof; all material required to be filed by the Company pursuant to Rule 433(d) under the Act shall have been filed with the Commission within the applicable time period prescribed for such filing by Rule 433; if the Company has elected to rely upon Rule 462(b) under the Act, the Rule 462(b) Registration Statement shall have become effective by 10:00 p.m., Washington, D.C. time, on the date of this Agreement; no stop order suspending the effectiveness of the Registration Statement or any part thereof shall have been issued and no proceeding for that purpose or pursuant to Section 8A of the Act shall have been initiated or threatened by the Commission; no stop order suspending or preventing the use of the Pricing Prospectus, Prospectus or any Issuer Free Writing Prospectus shall have been initiated or threatened by the Commission; and all requests for additional information on the part of the Commission shall have been complied with to your reasonable satisfaction;

(b) Latham & Watkins LLP, counsel for the Underwriters, shall have furnished to you such written opinion and negative assurance letter, dated such Time of Delivery, in form and substance satisfactory to you, and such counsel shall have received such papers and information as they may reasonably request to enable them to pass upon such matters;

(c) (i) Orrick, Herrington & Sutcliffe LLP, counsel for the Company, shall have furnished to you their written opinion and negative assurance letter, dated such Time of Delivery, in form and substance, satisfactory to you; and (ii) Covington & Burling LLP, litigation counsel for the Company, shall have furnished to you their written opinion, in form and substance satisfactory to you;

(d) On the date of the Prospectus at a time prior to the execution of this Agreement, at 9:30 a.m., New York City time, on the effective date of any post-effective amendment to the Registration Statement filed subsequent to the date of this Agreement and also at each Time of Delivery, Deloitte & Touche LLP shall have furnished to you a letter or letters, dated the respective dates of delivery thereof, in form and substance satisfactory to you, to the effect set forth in Annex I hereto (the executed copy of the letter delivered prior to the execution of this Agreement is attached as Annex I(a) hereto and a draft of the form of letter to be delivered on the effective date of any post-effective amendment to the Registration Statement and as of each Time of Delivery is attached as Annex I(b) hereto);

(e) (i) The Company shall not have sustained since the date of the latest audited financial statements included in the Pricing Prospectus any loss or interference with its business from fire, explosion, flood or other calamity, whether or not covered by insurance, or from any labor dispute or court or governmental action, order or decree, otherwise than as set forth or contemplated in the Pricing Prospectus, and (ii) since the respective dates as of which information is given in the Pricing Prospectus there shall not have been any change in the capital stock or long-term debt of the Company or any change or effect, or any development involving a prospective change or effect, in or affecting (x) the business, properties, general affairs, management, financial position, stockholders' equity, results of operations or prospects of the Company, except as set forth or contemplated in the Pricing Prospectus and the Prospectus, or (y) the ability of the Company to perform its obligations under this Agreement, including the issuance and sale of the Shares, or to consummate the transactions contemplated in the Pricing Prospectus and the Prospectus, the effect of which, in any such case described in clause (i) or (ii), is in your judgment so material and adverse as to make it impracticable or inadvisable to proceed with the public offering or the delivery of the Shares being delivered at such Time of Delivery on the terms and in the manner contemplated in the Pricing Prospectus and the Prospectus;

(f) [Reserved]

(g) On or after the Applicable Time there shall not have occurred any of the following: (i) a suspension or material limitation in trading in securities generally on the New York Stock Exchange or on Nasdaq, (ii) a suspension or material limitation in trading in the Company's securities on Nasdaq, (iii) a general moratorium on commercial banking activities declared by either Federal or New York State authorities or a material disruption in commercial banking or securities settlement or clearance services in the United States, (iv) the outbreak or escalation of hostilities involving the United States or the declaration by the United States of a national emergency or war, or (v) the occurrence of any other calamity or crisis or any change in financial, political or economic conditions in the United States or elsewhere, if the effect of any such event specified in clause (iv) or (v) in your judgment makes it impracticable or inadvisable to proceed with the public offering or the delivery of the Shares being delivered at such Time of Delivery on the terms and in the manner contemplated in the Pricing Prospectus and the Prospectus;

(h) The Shares to be sold at such Time of Delivery shall have been duly listed for quotation on Nasdaq;

(i) The Company shall have obtained and delivered to the Underwriters executed copies of an agreement from each officer, director, employee and stockholder of the Company set forth on Schedule III, substantially to the effect set forth in Section 5(e) hereof in form and substance satisfactory to you;

(j) The Company shall have complied with the provisions of Section 5(c) hereof with respect to the furnishing of prospectuses on the New York Business Day next succeeding the date of this Agreement; and

(k) The Company shall have furnished or caused to be furnished to you at such Time of Delivery certificates of officers of the Company satisfactory to you as to the accuracy of the representations and warranties of the Company herein at and as of such Time of Delivery, as to the performance by the Company of all of its obligations hereunder to be performed at or prior to such Time of Delivery, as to the matters set forth in subsections (a) and (e) of this Section and as to such other matters as you may reasonably request.

9. (a) The Company will indemnify and hold harmless each Underwriter against any losses, claims, damages or liabilities, joint or several, to which such Underwriter may become subject, under the Act or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon an untrue statement or alleged untrue statement of a material fact contained in the Registration Statement, any Preliminary Prospectus, the Pricing Prospectus or the Prospectus, or any amendment or supplement thereto, any Issuer Free Writing Prospectus, any "roadshow" as defined in Rule 433(h) under the Act (a "roadshow"), any "issuer information" filed or required to be filed pursuant to Rule 433(d) under the Act or any Section 5(d) Writing, or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, and will reimburse each Underwriter for any legal or other expenses reasonably incurred by such Underwriter in connection with investigating or defending any such action or claim as such expenses are incurred; provided, however, that the Company shall not be liable in any such case to the extent that any such loss, claim, damage or liability arises out of or is based upon an untrue statement or alleged untrue statement or omission or alleged omission made in the Registration Statement, any Preliminary Prospectus, the Pricing Prospectus or the Prospectus, or any amendment or supplement thereto, or any Issuer Free Writing Prospectus or any Section 5(d) Writing, in reliance upon and in conformity with the Underwriter Information.

(b) Each Underwriter, severally and not jointly, will indemnify and hold harmless the Company against any losses, claims, damages or liabilities to which the Company may become subject, under the Act or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon an untrue statement or alleged untrue statement of a material fact contained in the Registration Statement, any Preliminary Prospectus, the Pricing Prospectus or the Prospectus, or any amendment or supplement thereto, or any Issuer Free Writing Prospectus, or any roadshow or any Section 5(d) Writing, or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, in each case to the extent, but only to the extent, that such untrue statement or alleged untrue statement or omission or alleged omission was made in the Registration Statement, any Preliminary Prospectus, the Pricing Prospectus or the Prospectus, or any amendment or supplement thereto, or any Issuer Free Writing Prospectus, or any roadshow or any Section 5(d) Writing, in reliance upon and in conformity with the Underwriter Information; and will reimburse the Company for any legal or other expenses reasonably incurred by the Company in connection with investigating or defending any such action or claim as such expenses are incurred. As used in this Agreement with respect to an Underwriter and an applicable document, "Underwriter Information" shall mean

the written information furnished to the Company by such Underwriter through the Representatives expressly for use therein; it being understood and agreed upon that the only such information furnished by any Underwriter consists of the following information in the Prospectus furnished on behalf of each Underwriter: (i) the concession and reallowance figures appearing in the third paragraph under the caption “Underwriting”, and (ii) the first through third paragraphs under the caption “Underwriting—Price Stabilization and Short Positions”.

(c) Promptly after receipt by an indemnified party under subsection (a) or (b) above of notice of the commencement of any action, such indemnified party shall, if a claim in respect thereof is to be made against the indemnifying party under such subsection, notify the indemnifying party in writing of the commencement thereof; provided that the failure to notify the indemnifying party shall not relieve it from any liability that it may have under the preceding paragraphs of this Section 9 except to the extent that it has been materially prejudiced (through the forfeiture of substantive rights or defenses) by such failure; and provided further that the failure to notify the indemnifying party shall not relieve it from any liability that it may have to an indemnified party otherwise than under the preceding paragraphs of this Section 9. In case any such action shall be brought against any indemnified party and it shall notify the indemnifying party of the commencement thereof, the indemnifying party shall be entitled to participate therein and, to the extent that it shall wish, jointly with any other indemnifying party similarly notified, to assume the defense thereof, with counsel reasonably satisfactory to such indemnified party (who shall not, except with the consent of the indemnified party, be counsel to the indemnifying party), and, after notice from the indemnifying party to such indemnified party of its election so to assume the defense thereof, the indemnifying party shall not be liable to such indemnified party under such subsection for any legal expenses of other counsel or any other expenses, in each case subsequently incurred by such indemnified party, in connection with the defense thereof other than reasonable costs of investigation unless (i) such indemnified party shall have reasonably concluded that there may be legal defenses available to it that are different from or in addition to those available to the indemnifying party, (ii) the indemnifying party has failed within a reasonable time to retain counsel reasonably satisfactory to the indemnified party, or (iii) the named parties in any such proceeding (including any impleaded parties) include both the indemnifying person and the indemnified person and representation of both parties by the same counsel would be inappropriate due to actual or potential differing interest between them. No indemnifying party shall, without the written consent of the indemnified party, effect the settlement or compromise of, or consent to the entry of any judgment with respect to, any pending or threatened action or claim in respect of which indemnification or contribution may be sought hereunder (whether or not the indemnified party is an actual or potential party to such action or claim) unless such settlement, compromise or judgment (i) includes an unconditional release of the indemnified party from all liability arising out of such action or claim and (ii) does not include a statement as to or an admission of fault, culpability or a failure to act, by or on behalf of any indemnified party.

(d) If the indemnification provided for in this Section 9 is unavailable to or insufficient to hold harmless an indemnified party under subsection (a) or (b) above in respect of any losses, claims, damages or liabilities (or actions in respect thereof) referred to therein, then each indemnifying party shall contribute to the amount paid or payable by such indemnified

party as a result of such losses, claims, damages or liabilities (or actions in respect thereof) in such proportion as is appropriate to reflect the relative benefits received by the Company on the one hand and the Underwriters on the other from the offering of the Shares. If, however, the allocation provided by the immediately preceding sentence is not permitted by applicable law, then each indemnifying party shall contribute to such amount paid or payable by such indemnified party in such proportion as is appropriate to reflect not only such relative benefits but also the relative fault of the Company on the one hand and the Underwriters on the other in connection with the statements or omissions which resulted in such losses, claims, damages or liabilities (or actions in respect thereof), as well as any other relevant equitable considerations. The relative benefits received by the Company on the one hand and the Underwriters on the other shall be deemed to be in the same proportion as the total net proceeds from the offering (before deducting expenses) received by the Company bear to the total underwriting discounts and commissions received by the Underwriters, in each case as set forth in the table on the cover page of the Prospectus. The relative fault shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Company on the one hand or the Underwriters on the other and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission. The Company and the Underwriters agree that it would not be just and equitable if contribution pursuant to this subsection (d) were determined by *pro rata* allocation (even if the Underwriters were treated as one entity for such purpose) or by any other method of allocation which does not take account of the equitable considerations referred to above in this subsection (d). The amount paid or payable by an indemnified party as a result of the losses, claims, damages or liabilities (or actions in respect thereof) referred to above in this subsection (d) shall be deemed to include any legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending any such action or claim. Notwithstanding the provisions of this subsection (d), no Underwriter shall be required to contribute any amount in excess of the amount by which the total price at which the Shares underwritten by it and distributed to the public were offered to the public exceeds the amount of any damages which such Underwriter has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. The Underwriters' obligations in this subsection (d) to contribute are several in proportion to their respective underwriting obligations and not joint.

(e) The obligations of the Company under this Section 9 shall be in addition to any liability which the Company may otherwise have and shall extend, upon the same terms and conditions, to each employee, officer and director of each Underwriter and each person, if any, who controls any Underwriter within the meaning of the Act and each broker-dealer or other affiliate of any Underwriter; and the obligations of the Underwriters under this Section 9 shall be in addition to any liability which the respective Underwriters may otherwise have and shall extend, upon the same terms and conditions, to each officer and director of the Company (including any person who, with his or her consent, is named in the Registration Statement as about to become a director of the Company) and to each person, if any, who controls the Company within the meaning of the Act.

10. (a) If any Underwriter shall default in its obligation to purchase the Shares which it has agreed to purchase hereunder at a Time of Delivery, you may in your discretion arrange for you or another party or other parties to purchase such Shares on the terms contained herein. If within thirty-six hours after such default by any Underwriter you do not arrange for the purchase of such Shares, then the Company shall be entitled to a further period of thirty-six hours within which to procure another party or other parties satisfactory to you to purchase such Shares on such terms. In the event that, within the respective prescribed periods, you notify the Company that you have so arranged for the purchase of such Shares, or the Company notifies you that it has so arranged for the purchase of such Shares, you or the Company shall have the right to postpone such Time of Delivery for a period of not more than seven days, in order to effect whatever changes may thereby be made necessary in the Registration Statement or the Prospectus, or in any other documents or arrangements, and the Company agrees to file promptly any amendments or supplements to the Registration Statement or the Prospectus which in your opinion may thereby be made necessary. The term “Underwriter” as used in this Agreement shall include any person substituted under this Section with like effect as if such person had originally been a party to this Agreement with respect to such Shares.

(b) If, after giving effect to any arrangements for the purchase of the Shares of a defaulting Underwriter or Underwriters by you and the Company as provided in subsection (a) above, the aggregate number of such Shares which remains unpurchased does not exceed one-eleventh of the aggregate number of all the Shares to be purchased at such Time of Delivery, then the Company shall have the right to require each non-defaulting Underwriter to purchase the number of shares which such Underwriter agreed to purchase hereunder at such Time of Delivery and, in addition, to require each non-defaulting Underwriter to purchase its pro rata share (based on the number of Shares which such Underwriter agreed to purchase hereunder) of the Shares of such defaulting Underwriter or Underwriters for which such arrangements have not been made; but nothing herein shall relieve a defaulting Underwriter from liability for its default.

(c) If, after giving effect to any arrangements for the purchase of the Shares of a defaulting Underwriter or Underwriters by you and the Company as provided in subsection (a) above, the aggregate number of such Shares which remains unpurchased exceeds one-eleventh of the aggregate number of all the Shares to be purchased at such Time of Delivery, or if the Company shall not exercise the right described in subsection (b) above to require non-defaulting Underwriters to purchase Shares of a defaulting Underwriter or Underwriters, then this Agreement (or, with respect to the Second Time of Delivery, the obligations of the Underwriters to purchase and of the Company to sell the Optional Shares) shall thereupon terminate, without liability on the part of any non-defaulting Underwriter or the Company, except for the expenses to be borne by the Company and the Underwriters as provided in Section 7 hereof and the indemnity and contribution agreements in Section 9 hereof; but nothing herein shall relieve a defaulting Underwriter from liability for its default.

11. The respective indemnities, agreements, representations, warranties and other statements of the Company and the several Underwriters, as set forth in this Agreement or made by or on behalf of them, respectively, pursuant to this Agreement, shall remain in full force and effect, regardless of any investigation (or any statement as to the results thereof) made by or on behalf of any Underwriter or any employee, officer or director of each

Underwriter, any person who controls any Underwriter within the meaning of the Act, or any broker-dealer or other affiliate of any Underwriter, or the Company, any officer or director of the Company (including any person who, with his or her consent, is named in the Registration Statement as about to become a director of the Company), or any controlling person of the Company, and shall survive delivery of and payment for the Shares.

12. If this Agreement shall be terminated pursuant to Section 10 hereof, the Company shall not then be under any liability to any Underwriter except as provided in Sections 7 and 9 hereof; but, if for any other reason, any Shares are not delivered by or on behalf of the Company as provided herein, the Company will reimburse the Underwriters through you for all out-of-pocket expenses approved in writing by you, including reasonable fees and disbursements of counsel, reasonably incurred by the Underwriters in making preparations for the purchase, sale and delivery of the Shares, but the Company shall then be under no further liability to any Underwriter except as provided in Sections 7 and 9 hereof.

13. In all dealings hereunder, you shall act on behalf of each of the Underwriters, and the parties hereto shall be entitled to act and rely upon any statement, request, notice or agreement on behalf of any Underwriter made or given by you jointly or by Goldman Sachs & Co. LLC, J.P. Morgan Securities LLC or Credit Suisse Securities (USA) LLC on behalf of you as the representatives.

All statements, requests, notices and agreements hereunder shall be in writing, and if to the Underwriters shall be delivered or sent by mail or facsimile transmission to you as the representatives in care of Goldman Sachs & Co. LLC, 200 West Street, New York, New York 10282-2198, Attention: Registration Department; J.P. Morgan Securities LLC, 383 Madison Avenue, New York, New York 10179, Attention: Equity Syndicate Desk; and Credit Suisse Securities (USA) LLC, Eleven Madison Avenue, New York, New York 10010, Attention: IBCM-Legal; and if to the Company shall be delivered or sent by mail or facsimile transmission to the address of the Company set forth in the Registration Statement, Attention: Secretary; provided, however, that any notice to an Underwriter pursuant to Section 9(c) hereof shall be delivered or sent by mail or facsimile transmission to such Underwriter at its address set forth in its Underwriters' Questionnaire, which address will be supplied to the Company by you upon request; provided, however, that notices under subsection 5(e) shall be in writing, and if to the Underwriters shall be delivered or sent by mail or facsimile transmission to you as the representatives at Goldman Sachs & Co. LLC, 200 West Street, New York, New York 10282-2198, Attention: Control Room; and J.P. Morgan Securities LLC, 383 Madison Avenue, New York, New York 10179, Attention: Equity Syndicate Desk. Any such statements, requests, notices or agreements shall take effect upon receipt thereof.

In accordance with the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)), the underwriters are required to obtain, verify and record information that identifies their respective clients, including the Company, which information may include the name and address of their respective clients, as well as other information that will allow the underwriters to properly identify their respective clients.

14. This Agreement shall be binding upon, and inure solely to the benefit of, the Underwriters, the Company and, to the extent provided in Sections 9 and 11 hereof, the officers and directors of the Company (including any person who, with his or her consent, is named in the Registration Statement as about to become a director of the Company),

each employee, officer and director of each Underwriter, and each broker-dealer or other affiliate of the Underwriter, and each person who controls the Company or any Underwriter within the meaning of the Act, and their respective heirs, executors, administrators, successors and assigns, and no other person shall acquire or have any right under or by virtue of this Agreement. No purchaser of any of the Shares from any Underwriter shall be deemed a successor or assign by reason merely of such purchase.

15. Time shall be of the essence of this Agreement. As used herein, the term “business day” shall mean any day when the Commission’s office in Washington, D.C. is open for business.

16. The Company acknowledges and agrees that (i) the purchase and sale of the Shares pursuant to this Agreement is an arm’s-length commercial transaction between the Company, on the one hand, and the several Underwriters, on the other, (ii) in connection therewith and with the process leading to such transaction each Underwriter is acting solely as a principal and not the agent or fiduciary of the Company, (iii) no Underwriter has assumed an advisory or fiduciary responsibility in favor of the Company with respect to the offering contemplated hereby or the process leading thereto (irrespective of whether such Underwriter has advised or is currently advising the Company on other matters) or any other obligation to the Company except the obligations expressly set forth in this Agreement and (iv) the Company has consulted its own legal and financial advisors to the extent it deemed appropriate. The Company agrees that it will not claim that the Underwriters, or any of them, has rendered advisory services of any nature or respect, or owes a fiduciary or similar duty to the Company, in connection with such transaction or the process leading thereto.

17. This Agreement supersedes all prior agreements and understandings (whether written or oral) between the Company and the Underwriters, or any of them, with respect to the subject matter hereof.

18. **This Agreement, any claim, controversy or dispute arising under or related to this agreement, and any transaction contemplated by this Agreement shall be governed by and construed in accordance with the laws of the State of New York without regard to principles of conflict of laws that would results in the application of any other law than the laws of the State of New York. The Company agrees that any suit or proceeding arising in respect of this Agreement or any transaction contemplated by this Agreement will be tried exclusively in the U.S. District Court for the Southern District of New York or, if that court does not have subject matter jurisdiction, in any state court located in The City and County of New York and the Company agrees to submit to the jurisdiction of, and to venue in, such courts.**

19. The Company and each of the Underwriters hereby irrevocably waives, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal proceeding arising out of or relating to this Agreement or the transactions contemplated hereby.

20. This Agreement may be executed by any one or more of the parties hereto in any number of counterparts, each of which shall be deemed to be an original, but all such counterparts shall together constitute one and the same instrument.

21. Notwithstanding anything herein to the contrary, the Company is authorized to disclose to any persons the U.S. federal and state income tax treatment and tax structure of the potential transaction and all materials of any kind (including tax opinions and other tax analyses) provided to the Company relating to that treatment and structure, without the Underwriters imposing any limitation of any kind. However, any information relating to the tax treatment and tax structure shall remain confidential (and the foregoing sentence shall not apply) to the extent necessary to enable any person to comply with securities laws. For this purpose, “tax structure” is limited to any facts that may be relevant to that treatment.

If the foregoing is in accordance with your understanding, please sign and return to us six counterparts hereof, and upon the acceptance hereof by you, on behalf of each of the Underwriters, this letter and such acceptance hereof shall constitute a binding agreement between each of the Underwriters and the Company. It is understood that your acceptance of this letter on behalf of each of the Underwriters is pursuant to the authority set forth in a form of Agreement among Underwriters, the form of which shall be submitted to the Company for examination upon request, but without warranty on your part as to the authority of the signers thereof.

Very truly yours,

Beyond Meat, Inc.

By: _____
Name:
Title:

Accepted as of the date hereof:

Goldman Sachs & Co. LLC

By: _____
Name:
Title:

J.P. Morgan Securities LLC

By: _____
Name:
Title:

Credit Suisse Securities (USA) LLC

By: _____
Name:
Title:

On behalf of each of the Underwriters

SCHEDULE I

Underwriter	Total Number of Firm Shares to be Purchased	Number of Optional Shares to be Purchased if Maximum Option Exercised
Goldman Sachs & Co. LLC		
J.P. Morgan Securities LLC		
Credit Suisse Securities (USA) LLC		
Merrill Lynch, Pierce, Fenner & Smith Incorporated		
Jefferies LLC		
William Blair & Company, L.L.C.		
Total		

SCHEDULE II

(a) Issuer Free Writing Prospectuses not included in the Pricing Disclosure Package:

[Electronic roadshow dated [l]]

(b) Additional Documents Incorporated by Reference:

[None]

(c) Information other than the Pricing Prospectus that comprise the Pricing Disclosure Package:

The initial public offering price per share for the Shares is $ [l].
The number of Shares purchased by the Underwriters is [l].
[Add any other pricing disclosure.]

(d) Section 5(d) Writings:

[l]

SCHEDULE III

Beyond Meat, Inc.
1325 E. El Segundo Blvd
Los Angeles, CA 90245

Lock-Up Agreement

DATE:_____

Goldman Sachs & Co. LLC,
J.P. Morgan Securities LLC and
Credit Suisse Securities (USA) LLC

c/o Goldman Sachs & Co. LLC
200 West Street
New York, NY 10282-2198

c/o J.P. Morgan Securities LLC
383 Madison Avenue
New York, NY 10179

and

c/o Credit Suisse Securities (USA) LLC
Eleven Madison Avenue
New York, NY 10010

Re: Beyond Meat, Inc. - Lock-Up Agreement

Ladies and Gentlemen:

The undersigned understands that you, as representatives (the "Representatives"), propose to enter into an Underwriting Agreement on behalf of the several Underwriters named in Schedule I to such agreement (collectively, the "Underwriters"), with Beyond Meat, Inc., a Delaware corporation (the "Company"), providing for a public offering (the "Public Offering") of the Common Stock of the Company (the "Shares") pursuant to a Registration Statement on Form S-1 to be filed with the Securities and Exchange Commission (the "SEC").

In consideration of the agreement by the Underwriters to offer and sell the Shares, and of other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the undersigned agrees that, during the period beginning from the date of this lock-up agreement (the "Lock-Up Agreement") and continuing to and including the date 180 days after the date set forth on the final prospectus used to sell the Shares (the "Lock-Up Period"), the undersigned will not (i) offer, sell, contract to sell, pledge, grant any option to purchase, make any short sale or otherwise transfer or dispose of any shares of Common Stock of the Company, or any options or warrants to purchase any shares of Common Stock of the Company, or any securities convertible into, exchangeable for or that represent the right to receive shares of Common Stock of the Company, whether now owned or hereinafter acquired, owned directly by the undersigned (including holding as a custodian) or with respect to which the undersigned has beneficial ownership within the rules and regulations of the SEC (collectively the "Undersigned's Shares"), (ii) enter into any swap or other

agreement that transfers, in whole or in part, any of the economic consequences of ownership of the Undersigned's Shares, or (iii) publicly disclose the intention to do any of the foregoing.

In addition, the undersigned agrees that, without prior written consent of Goldman Sachs & Co. LLC and J.P. Morgan Securities LLC on behalf of the Underwriters, it will not make any demand for or exercise any right with respect to the registration of the Undersigned's Shares or publicly disclose the intention to do the foregoing.

The foregoing restrictions are expressly agreed to preclude the undersigned from engaging in any hedging or other transaction which is designed to or which reasonably could be expected to lead to or result in a sale or disposition of the Undersigned's Shares even if such Shares would be disposed of by someone other than the undersigned. Such prohibited hedging or other transactions would include without limitation any short sale or any purchase, sale or grant of any right (including without limitation any put or call option) with respect to any of the Undersigned's Shares or with respect to any security that includes, relates to, or derives any significant part of its value from such Shares. If the undersigned is an officer or director of the Company, the undersigned further agrees that the foregoing provisions shall be equally applicable to any Company-directed Shares the undersigned may purchase in the offering.

If the undersigned is an officer or director of the Company, (i) Goldman Sachs & Co. LLC and J.P. Morgan Securities LLC agree that, at least three business days before the effective date of any release or waiver of the foregoing restrictions in connection with a transfer of shares of Common Stock, Goldman Sachs & Co. LLC and J.P. Morgan Securities LLC will notify the Company of the impending release or waiver, and (ii) the Company has agreed in the Underwriting Agreement to announce the impending release or waiver by press release through a major news service at least two business days before the effective date of the release or waiver. Any release or waiver granted by Goldman Sachs & Co. LLC and J.P. Morgan Securities LLC hereunder to any such officer or director shall only be effective two business days after the publication date of such press release. The provisions of this paragraph will not apply if (a) the release or waiver is effected solely to permit a transfer not for consideration and (b) the transferee has agreed in writing to be bound by the same terms described in this letter to the extent and for the duration that such terms remain in effect at the time of the transfer.

Notwithstanding the foregoing, the restrictions in this Lock-Up Agreement shall not apply to:

(a) the sale of Shares pursuant to the terms of the Underwriting Agreement;

(b) transfers of the Undersigned's Shares (i) to the spouse, domestic partner, parent, sibling, child or grandchild (each, an "immediate family member") of the undersigned or to a trust formed for the benefit of the undersigned or of an immediate family member of the undersigned, (ii) by a bona fide gift, will or intestacy, (iii) if the undersigned is a corporation, partnership, limited liability company, investment fund or other business entity (A) to another corporation, partnership, limited liability company or other business entity that controls, is controlled by or is under common control with the undersigned, (B) to investment funds under common management with the undersigned or the limited partners, general partners or other principals of such funds or the undersigned or (C) as part of a disposition, transfer or distribution by the undersigned to its equity holders or (iv) if the undersigned is a trust, to a trustor or beneficiary of the trust; provided that in the case of any transfer or distribution pursuant to this clause, (x) each donee, transferee or distributee shall sign and deliver a lock up letter substantially in the form of this agreement, (y) no filing under the Exchange Act or other public announcement shall be required or shall be voluntarily made during the Lock-

Up Period and (z) any transfer pursuant to (i), (iii) and (iv) of this clause shall not involve a disposition for value;

(c) the transfer of the Undersigned's Shares to the Company upon a vesting event of restricted stock awards or other securities convertible into Shares or upon the exercise of options or warrants to purchase Shares in accordance with their terms pursuant to an employee benefit plan, option or warrant disclosed in the final prospectus for the Public Offering, in each case on a "cashless" or "net exercise" basis or to cover tax withholding obligations of the undersigned in connection with such vesting or exercise; provided that (i) any such Shares issued upon such vesting or upon exercise of such option or warrant shall be the Undersigned's Shares subject to the restrictions set forth herein and (ii) no filing under the Exchange Act or other public announcement shall be required or shall be voluntarily made during the Lock-Up Period;

(d) the establishment of a trading plan pursuant to Rule 10b5-1 under the Exchange Act for the transfer of Shares, provided that (i) no direct or indirect offers, pledges, sales, contracts to sell, sales of any option or contract to purchase, purchases of any option or contract to sell, grants of any option, right or warrant to purchase, loans, or other transfers or disposals of any of the Undersigned's Shares may be effected pursuant to such plan during the Lock-Up Period and (ii) no public disclosure of the entry into such a trading plan shall be required or shall be voluntarily made by any person until after the expiration of the Lock-Up Period;

(e) the transfer of the Undersigned's Shares pursuant to a qualified domestic order or in connection with a divorce settlement; provided that the transferee shall sign and deliver a lock-up letter substantially in the form of this agreement prior to such transfer; provided, further, that if the undersigned is required to file a report under the Exchange Act, the undersigned shall include a statement in such report to the effect that such transfer was made pursuant to a qualified domestic order or divorce settlement; and

(f) the transfer of the Undersigned's Shares pursuant to a change of control (as defined below) of the Company that has been approved by the Company's board of directors, provided that in the event that the change of control is not completed, the Shares owned by the undersigned that are subject to the restrictions contained in this Lock-Up Agreement shall remain so restricted in accordance with this Lock-Up Agreement.

For purposes of subsection (f) above, "change of control" shall mean the consummation of any bona fide third party tender offer, merger, consolidation or other similar transaction the result of which is that any "person" (as defined in Section 13(d)(3) of the Exchange Act), or group of persons, becomes the beneficial owner (as defined in Rules 13d-3 and 13d-5 of the Exchange Act) of more than 50% of the voting capital stock of the Company.

For the duration of this Lock-Up Agreement, the undersigned will have good and marketable title to the Undersigned's Shares, free and clear of all liens, encumbrances and claims whatsoever. The undersigned also agrees and consents to the entry of stop transfer instructions with the Company's transfer agent and registrar against the transfer of the Undersigned's Shares except in compliance with the foregoing restrictions.

The undersigned understands that the Company and the Underwriters are relying upon this Lock-Up Agreement in proceeding toward consummation of the offering. The undersigned further understands that this Lock-Up Agreement is irrevocable and shall be binding upon the undersigned's heirs, legal representatives, successors, and assigns.

This Lock-Up Agreement shall automatically terminate and be of no further force and effect upon the earlier to occur of: (i) the Company advising the Underwriters in writing prior to the execution of the Underwriting Agreement that it does not intend to proceed with the Public Offering; (ii) the termination of the Underwriting Agreement before the closing of the Public Offering; (iii) the registration statement for the Public Offering is withdrawn; or (iv) May 13, 2019, if the Underwriting Agreement has not been executed by that date.

[Signature follows.]

This Lock-Up Agreement and any claim, controversy or dispute arising under or related to this Lock-Up Agreement shall be governed by and construed in accordance with the laws of the State of New York.

Very truly yours,

Exact Name of Shareholder

Authorized Signature

Title

ANNEX I

[Form of Comfort Letter]

ANNEX II

[Form of Press Release]

[Company]
[Date]

("[Company]") announced today that Goldman Sachs & Co. LLC, the lead book-running manager in the Company's recent public sale of shares of common stock, is [waiving] [releasing] a lock-up restriction with respect to shares of the Company's common stock held by [certain officers or directors] [an officer or director] of the Company. The [waiver] [release] will take effect on , 20 , and the shares may be sold on or after such date.

This press release is not an offer for sale of the securities in the United States or in any other jurisdiction where such offer is prohibited, and such securities may not be offered or sold in the United States absent registration or an exemption from registration under the United States Securities Act of 1933, as amended.

AMENDED AND RESTATED CERTIFICATE OF INCORPORATION OF BEYOND MEAT, INC.

(Pursuant to Sections 242 and 245 of the
General Corporation Law of the State of Delaware)

Beyond Meat, Inc., a corporation organized and existing under and by virtue of the provisions of the General Corporation Law of the State of Delaware (the "**General Corporation Law**"),

DOES HEREBY CERTIFY:

1. That the name of this corporation is Beyond Meat, Inc., and that this corporation was originally incorporated pursuant to the General Corporation Law on April 8, 2011 under the name J Green Natural Foods Co.

2. That the Board of Directors duly adopted resolutions proposing to amend and restate the Certificate of Incorporation of this corporation, declaring said amendment and restatement to be advisable and in the best interests of this corporation and its stockholders, and authorizing the appropriate officers of this corporation to solicit the consent of the stockholders therefor, which resolution setting forth the proposed amendment and restatement is as follows:

RESOLVED, that the Certificate of Incorporation of this corporation be amended and restated in its entirety to read as follows:

FIRST: The name of this corporation is Beyond Meat, Inc. (the "**Corporation**").

SECOND: The address of the registered office of the Corporation in the State of Delaware is 874 Walker Road, Suite C, in the city of Dover, county of Kent, 19904. The name of its registered agent at such address is United Corporate Services, Inc.

THIRD: The nature of the business or purposes to be conducted or promoted is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law.

FOURTH: The total number of shares of all classes of stock which the Corporation shall have authority to issue is (i) 88,000,000 shares of Common Stock, $0.000 I par value per share ("**Common Stock**"), and (ii) 65,821,015 shares of Preferred Stock, $0.0001 par value per share ("**Preferred Stock**").

The following is a statement of the designations and the powers, privileges and rights, and the qualifications, limitations or restrictions thereof in respect of each class of capital stock of the Corporation. Unless otherwise indicated, references to "Sections" or "Subsections" in this Article refer to sections and subsections of this Article Fourth.

A. COMMON STOCK

1. General. The voting, dividend and liquidation rights of the holders of the Common Stock are subject to and qualified by the rights, powers and preferences of the holders of the Preferred Stock set forth herein.

2. Voting. The holders of the Common Stock are entitled to one vote for each share of Common Stock held at all meetings of stockholders (and written actions in lieu of meetings). There shall be no cumulative voting. The number of authorized shares of Common Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by (in addition to any vote of the holders of one or more series of Preferred Stock that may be required by the terms of the Certificate of Incorporation) the affirmative vote of the holders of shares of capital stock of the Corporation representing a majority of the votes represented by all outstanding shares of capital stock of the Corporation entitled to vote, irrespective of the provisions of Section242(b)(2) of the General Corporation Law.

B. PREFERRED STOCK

The Preferred Stock authorized by this Amended and Restated Certificate of Incorporation (the "**Restated Certificate**") may be issued from time to time in one or more series. The first series of Preferred Stock shall be designated "**Series A Preferred Stock**" and shall consist of 5,000,000 shares. The second series of Preferred Stock shall be designated "**Series B Preferred Stock**" and shall consist of 7,203,03l shares. The third series of Preferred Stock shall be designated "**Series C Preferred Stock**" and shall consist of 12,114,359 shares. The fourth series of Preferred Stock shall be designated "**Series D Preferred Stock**" and shall consist of 13,069,158 shares. The fifth series of Preferred Stock shall be designated "**Series E Preferred Stock**" and shall consist of 7,110,442 shares. The sixth series of Preferred Stock shall be designated "**Series F Preferred Stock**" and shall consist of 7,299,800 shares. The seventh series of Preferred Stock shall be designated "**Series G Preferred Stock**" and shall consist of 7,710,000 shares. The eighth series of Preferred Stock shall be designated "**Series H Preferred Stock**" and shall consist of 6,314,225 shares. The rights, preferences, privileges, and restrictions granted to and imposed on the Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock, Series F Preferred Stock, Series G Preferred Stock and Series H Preferred Stock are as set forth below in this Part B of this Article Fourth. Unless otherwise indicated, references to "Sections" or "Subsections" in this Part B of this Article Fourth refer to sections and subsections of Part B of this Article Fourth.

1. Dividends. The holders of shares of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock, Series F Preferred Stock, Series G Preferred Stock and Series H Preferred Stock shall be entitled to receive dividends, out of any assets legally available therefore, on a pari passu basis and prior and in preference to any declaration or payment of any dividend (payable other than in Common Stock or other securities and rights convertible into or entitling the holder thereof to receive, directly or indirectly, additional shares of Common Stock of this Corporation) on the Common Stock of this Corporation, at the applicable Dividend Rate (as defined below) for such series, payable when, as and if declared by the Board of Directors of the Corporation (the "**Board of Directors**"). Such dividends shall not be cumulative. The holders of the outstanding Series A Preferred Stock, Series B Preferred Stock and Series C Preferred Stock can waive any dividend preference that such holders shall be entitled to receive under this Section 1 upon the affirmative vote or written consent of the holders of at least 55% of the shares of Series A Preferred Stock, Series B Preferred Stock and Series C Preferred Stock then outstanding (voting together as a single class and not as separate series, and on an as-converted basis), the holders of the outstanding Preferred Stock can waive any dividend preference that the holders of the outstanding Series D Preferred Stock shall be entitled to receive under this Section 1 upon the affirmative

vote or written consent of (i) the holders of at least 55% of the shares of Preferred Stock then outstanding (voting together as a single class and not as separate series, and on an as• converted basis) and the holders of at least 60% of the shares of Series D Preferred Stock (voting as a separate class), the holders of the outstanding Preferred Stock can waive any dividend preference that the holders of the outstanding Series E Preferred Stock shall be entitled to receive under this Section 1 upon the affirmative vote or written consent of (i) the holders of at least 55% of the shares of Preferred Stock then outstanding (voting together as a single class and not as separate series, and on an as-converted basis) and (ii) the holders of at least 60% of the shares of Series E Preferred Stock (voting as a separate class), the holders of the outstanding Preferred Stock can waive any dividend preference that the holders of the outstanding Series F Preferred Stock shall be entitled to receive under this Section l upon the affirmative vote or written consent of (i) the holders of at least 55% of the shares of Preferred Stock then outstanding (voting together as a single class and not as separate series, and on an as-converted basis) and (ii) the holders of a majority of the shares of Series F Preferred Stock (voting as a separate class), the holders of the outstanding Preferred Stock can waive any dividend preference that the holders of the outstanding Series G Preferred Stock shall be entitled to receive under this Section 1 upon the affirmative vote or written consent of (i) the holders of at least 55% of the shares of Preferred Stock then outstanding (voting together as a single class and not as separate series, and on an as converted basis) and (ii) the holders of a majority of the shares of Series G Preferred Stock (voting as a separate class), and the holders of the outstanding Preferred Stock can waive any dividend preference that the holders of the outstanding Series H Preferred Stock shall be entitled to receive under this Section I upon the affirmative vote or written consent of (i) the holders of at least 55% of the shares of Preferred Stock then outstanding (voting together as a single class and not as separate series, and on an as-converted basis) and (ii) the holders of a majority of the shares of Series H Preferred Stock (voting as a separate class). For purposes of this Section 1, **"Dividend Rate"** shall mean $0.032 per annum for each share of Series A Preferred Stock (as adjusted for any stock splits, stock dividends, combinations, subdivisions, recapitalizations or the like), $0.057 per annum for each share of Series B Preferred Stock (as adjusted for any stock splits, stock dividends, combinations, subdivisions, recapitalizations or the like), $0.0991 per annum for each share of Series C Preferred Stock (as adjusted for any stock splits, stock dividends, combinations, subdivisions, recapitalizations or the like), $0.153 per annum for each share of Series D Preferred Stock (as adjusted for any stock splits, stock dividends, combinations, subdivisions, recapitalizations or the like), $0.1963 per annum for each share of Series E Preferred Stock (as adjusted for any stock splits, stock dividends, combinations, subdivisions, recapitalizations or the like), $0.3299 per annum for each share of Series F Preferred Stock (as adjusted for any stock splits, stock dividends, combinations, subdivisions, recapitalizations or the like), $0.5835 per annum for each share of Series G Preferred Stock (as adjusted for any stock splits, stock dividends, combinations, subdivisions, recapitalizations or the like), and $1.2923 per annum for each share of Series H Preferred Stock (as adjusted for any stock splits, stock dividends, combinations, subdivisions, recapitalizations or the like). After payment of such dividends to the holders of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock, Series F Preferred Stock, Series G Preferred Stock and Series H Preferred Stock, any additional dividends or distributions shall be distributed among all holders of Common Stock, Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock, Series F Preferred Stock, Series G Preferred Stock and Series H Preferred Stock in proportion to the number of shares of Common Stock that would be held by each such holder if all shares of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock, Series F Preferred Stock, Series G Preferred Stock and Series H Preferred Stock were converted to Common Stock at the then effective conversion rate.

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

2.1 Payment to Holders of Series H Preferred Stock. In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation, the holders of shares of Series H Preferred Stock then outstanding shall be entitled to be paid, on a pari passu basis, out of the assets of the Corporation available for distribution to its stockholders before any payment shall be made to the holders of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock, Series F Preferred Stock, Series G Preferred Stock or Common Stock by reason of their ownership thereof, an amount per share equal to the greater of (i) the Series H Original Issue Price for each outstanding share of Series H Preferred Stock then held by them, plus any dividends declared but unpaid thereon, or (ii) such amount per share as would have been payable had all shares of such series been converted into Common Stock pursuant to Section 4 immediately prior to such liquidation, dissolution or winding up (the amount payable to the holders of Series H Preferred Stock pursuant to this sentence is hereinafter referred to as the **"Series H Liquidation Amount").** If upon any such liquidation, dissolution or winding up of the Corporation, the assets of the Corporation available for distribution to its stockholders shall be insufficient to pay the holders of shares of Series H Preferred Stock the full amount to which they shall be entitled under this Subsection 2.1, the holders of shares of Series H Preferred Stock shall share ratably in any distribution of the assets available for distribution in proportion to the respective amounts which would otherwise be payable in respect of the shares held by them upon such distribution if all amounts payable on or with respect to such shares were paid in full. The **"Series H Original Issue Price"** shall mean $16.1540 per share, subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the Series H Preferred Stock.

2.2 Payment to Holders of Series G Preferred Stock. In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation, after the payment of all preferential amounts required to be paid to the holders of shares of Series H Preferred Stock pursuant to Subsection 2.1 above, the holders of shares of Series G Preferred Stock then outstanding shall be entitled to be paid, on a pari passu basis, out of the assets of the Corporation available for distribution to its stockholders before any payment shall be made to the holders of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock, Series F Preferred Stock or Common Stock by reason of their ownership thereof, an amount per share equal to the greater of (i) the Series G Original Issue Price for each outstanding share of Series G Preferred Stock then held by them, plus any dividends declared but unpaid thereon, or (ii) such amount per share as would have been payable had all shares of such series been converted into Common Stock pursuant to Section 4 immediately prior to such liquidation, dissolution or winding up (the amount payable to the holders of Series G Preferred Stock pursuant to this sentence is hereinafter referred to as the **"Series G Liquidation Amount"**). If upon any such liquidation, dissolution or winding up of the Corporation, the assets of the Corporation available for distribution to its stockholders shall be insufficient to pay the holders of shares of Series G Preferred Stock the full amount to which they shall be entitled under this Subsection 2.2, the holders of shares of Series G Preferred Stock shall share ratably in any distribution of the assets available for distribution in proportion to the respective amounts which would otherwise be payable in respect of the shares held by them upon such distribution if all amounts payable on or with respect to such shares were paid in full. The **"Series G Original Issue Price"** shall mean $7.2933 per share, subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the Series G Preferred Stock.

2.3 Payment to Holders of Series F Preferred Stock. In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation, after the payment of all preferential amounts required to be paid to the holders of shares of Series H Preferred Stock pursuant to Subsection 2.1 above and to the holders of shares of Series G Preferred Stock pursuant to Subsection 2.2 above, the holders of shares of Series F Preferred Stock then outstanding shall be entitled to be paid, on a pari passu basis, out of the assets of the Corporation available for distribution to its stockholders before any payment shall be made to the holders of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock or Common Stock by reason of their ownership thereof, an amount per share equal to the greater of (i) the Series F Original Issue Price for each outstanding share of Series F Preferred Stock then held by them, plus any dividends declared but unpaid thereon, or (ii) such amount per share as would have been payable bad all shares of such series been converted into Common Stock pursuant to Section 4 immediately prior to such liquidation,

dissolution or winding up (the amount payable to the holders of Series F Preferred Stock pursuant to this sentence is hereinafter referred to as the **"Series F Liquidation Amount**"). If upon any such liquidation, dissolution or winding up of the Corporation, the assets of the Corporation available for distribution to its stockholders shall be insufficient to pay the holders of shares of Series F Preferred Stock the full amount to which they shall be entitled under this Subsection 2.3, the holders of shares of Series F Preferred Stock shall share ratably in any distribution of the assets available for distribution in proportion to the respective amounts which would otherwise be payable in respect of the shares held by them upon such distribution if all amounts payable on or with respect to such shares were paid in full. The **"Series F Original Issue Price**" shall mean $4.1234 per share, subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the Series F Preferred Stock.

2.4 Payment to Holders of Series E Preferred Stock. In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation, after the payment of all preferential amounts required to be paid to the holders of shares of Series H Preferred Stock pursuant to Subsection 2.1 above, to the holders of shares of Series G Preferred Stock pursuant to Subsection 2.2 above and to the holders of shares of Series F Preferred Stock pursuant to Subsection 2.3 above, the holders of shares of Series E Preferred Stock then outstanding shall be entitled to be paid, on a pari passu basis, out of the assets of the Corporation available for distribution to its stockholders before any payment shall be made to the holders of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock or Common Stock by reason of their ownership thereof, an amount per share equal to the greater of (i) the Series E Original Issue Price for each outstanding share of Series E Preferred Stock then held by them, plus any dividends declared but unpaid thereon, or (ii) such amount per share as would have been payable had all shares of such series been converted into Common Stock pursuant to Section 4 immediately prior to such liquidation, dissolution or winding up (the amount payable to the holders of Series E Preferred Stock pursuant to this sentence is hereinafter referred to as the **"Series E Liquidation Amount**"). If upon any such liquidation, dissolution or winding up of the Corporation, the assets of the Corporation available for distribution to its stockholders shall be insufficient to pay the holders of shares of Series E Preferred Stock the full amount to which they shall be entitled under this Subsection 2.4, the holders of shares of Series E Preferred Stock shall share ratably in any distribution of the assets available for distribution in proportion to the respective amounts which would otherwise be payable in respect of the shares held by them upon such distribution if all amounts payable on or with respect to such shares were paid in full. The **"Series E Original Issue Price"** shall mean $2.4534 per share, subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the Series E Preferred Stock.

2.5 Payments to Holders of Series D Preferred Stock. In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation, after the payment of all preferential amounts required to be paid to the holders of shares of Series H Preferred Stock pursuant to Subsection 2.1 above, to the holders of shares of Series G Preferred Stock pursuant to Subsection 2.2 above, to the holders of shares of Series F Preferred Stock pursuant to Subsection 2.3 above and to the holders of shares of Series E Preferred Stock pursuant to Subsection 2.4 above, the holders of shares of Series D Preferred Stock then outstanding shall be entitled to be paid, on a pari passu basis, out of the assets of the Corporation available for distribution to its stockholders before any payment shall be made to the holders of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, or Common Stock by reason of their ownership thereof, an amount per share equal to the greater of (i) the Series D Original Issue Price for each outstanding share of Series D Preferred Stock then held by them, plus any dividends declared but unpaid thereon, or (ii) such amount per share as would have been payable had all shares of such series been converted into Common Stock pursuant to Section 4 immediately prior to such liquidation, dissolution or winding up (the amount payable to the holders of Series D Preferred Stock pursuant to this sentence is hereinafter referred to as the **"Series D Liquidation Amount**"). If upon any such liquidation, dissolution or winding up of the Corporation, the assets of the Corporation available for distribution to its stockholders shall be insufficient to pay the holders of shares of Series D Preferred Stock the full amount to which they shall be entitled under this Subsection 2.5, the holders of shares of Series D Preferred Stock shall share ratably in any distribution of the assets available for distribution in proportion to the respective amounts which would otherwise be payable in respect of the shares held by them upon such distribution if all amounts payable on or with respect to such shares were paid in full. The **"Series D Original Issue Price**" shall mean

$1.9129 per share, subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the Series D Preferred Stock.

2.6 Payments to Holders of Series C Preferred Stock. In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation, after the payment of all preferential amounts required to be paid to the holders of shares of Series H Preferred Stock pursuant to Subsection 2.1 above, to the holders of shares of Series G Preferred Stock pursuant to Subsection 2.2 above, to the holders of shares of Series F Preferred Stock pursuant to Subsection 2.3 above, to the holders of shares of Series E Preferred Stock pursuant to Subsection 2.4 above and to the holders of shares of Series D Preferred Stock pursuant to Subsection 2.5 above, the holders of shares of Series C Preferred Stock then outstanding shall be entitled to be paid, on a pari passu basis, out of the assets of the Corporation available for distribution to its stockholders before any payment shall be made to the holders of Series A Preferred Stock, Series B Preferred Stock or Common Stock by reason of their ownership thereof, an amount per share equal to the greater of (i) the Series C Original Issue Price for each outstanding share of Series C Preferred Stock then held by them, plus any dividends declared but unpaid thereon, or (ii) such amount per share as would have been payable had all shares of such series been converted into Common Stock pursuant to Section 4 immediately prior to such liquidation, dissolution or winding up (the amount payable to the holders of Series C Preferred Stock pursuant to this sentence is hereinafter referred to as the "**Series C Liquidation Amount**"). If upon any such liquidation, dissolution or winding up of the Corporation, the assets of the Corporation available for distribution to its stockholders shall be insufficient to pay the holders of shares of Series C Preferred Stock the full amount to which they shall be entitled under this Subsection 2.6, the holders of shares of Series C Preferred Stock shall share ratably in any distribution of the assets available for distribution in proportion to the respective amounts which would otherwise be payable in respect of the shares held by them upon such distribution if all amounts payable on or with respect to such shares were paid in full. The "**Series C Original Issue Price**" shall mean $1.2382 per share, subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the Series C Preferred Stock.

2.7 Payments to Holders of Series A Preferred Stock and Series B Preferred Stock. In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation, after the payment of all preferential amounts required to be paid to the holders of shares of Series H Preferred Stock pursuant to Subsection 2.1 above, to the holders of shares of Series G Preferred Stock pursuant to Subsection 2.2 above, to the holders of shares of Series F Preferred Stock pursuant to Subsection 2.3 above, to the holders of shares of Series E Preferred Stock pursuant to Subsection 2.4 above, to the holders of shares of Series D Preferred Stock pursuant to Subsection 2.5 above and to the holders of shares of Series C Preferred Stock pursuant to Subsection 2.6 above, the holders of shares of Series A Preferred Stock then outstanding and Series B Preferred Stock then outstanding shall be entitled to be paid, on a pari passu basis, out of the assets of the Corporation available for distribution to its stockholders before any payment shall be made to the holders of Common Stock by reason of their ownership thereof, an amount per share equal to the greater of (i) the Series A Original Issue Price for each outstanding share of Series A Preferred Stock then held by them, and the Series B Original Issue Price for each outstanding share of Series B Preferred Stock then held by them, in each case, plus any dividends declared but unpaid thereon, or (ii) such amount per share as would have been payable had all shares of such series been converted into Common Stock pursuant to Section 4 immediately prior to such liquidation, dissolution or winding up (the amount payable to the holders of Series A Preferred Stock pursuant to this sentence is hereinafter referred to as the **"Series A Liquidation Amount,"** and the amount payable to the holders of Series B Preferred Stock pursuant to this sentence is hereinafter referred to as the **"Series B Liquidation Amount"**). If upon any such liquidation, dissolution or winding up of the Corporation, the assets of the Corporation available for distribution to its stockholders shall be insufficient to pay the holders of shares of Series A Preferred Stock and Series B Preferred Stock the full amount to which they shall be entitled under this Subsection 2.7, the holders of shares of Series A Preferred Stock and Series B Preferred Stock shall share ratably in any distribution of the assets available for distribution in proportion to the respective amounts which would otherwise be payable in respect of the shares held by them upon such distribution if all amounts payable on or with respect to such shares were paid in full. The "**Series A Original Issue Price**" shall mean $0.40 per share, subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the Series A Preferred Stock. The **"Series B Original Issue Price"** shall mean $0. 7122 per share, subject to appropriate

adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the Series B Preferred Stock.

2.8 Remaining Assets. In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation, after the payment of all preferential amounts required to be paid pursuant to Subsections 2.1, 2.2, 2.3, 2.4, 2.5, 2.6 and 2.7 above, the remaining assets of the Corporation available for distribution to its stockholders shall be distributed among the holders of shares of Common Stock, pro rata based on the number of shares held by each such holder.

2.9 Deemed Liquidation Events.

2.9.1. Definition. The following events shall be deemed to be a liquidation of the Corporation for purposes of this Section 2, unless the holders of at least 55% of the outstanding shares of Series A Preferred Stock, Series B Preferred Stock and Series C Preferred Stock (voting together as a single class on an as converted to Common Stock basis), the holders of at least 75% of the then outstanding shares of Series C Preferred Stock (voting together as a single class on an as converted to Common Stock basis), the holders of at least 60% of the then outstanding shares of Series D Preferred Stock (voting together as a single class on an as converted to Common Stock basis), and the holders of at least 60% of the then outstanding shares of Series E Preferred Stock (voting together as a single class on an as converted to Common Stock basis), the holders of a majority of the then outstanding shares of Series F Preferred Stock (voting together as a single class on an as converted to Common Stock basis), the holders of a majority of the then outstanding shares of Series G Preferred Stock (voting together as a single class on an as converted to Common Stock basis), and the holders of a majority of the then outstanding shares of Series H Preferred Stock (voting together as a single class on an as converted to Common Stock basis) elect otherwise by written notice given to the Corporation prior to the effective date of any such event (any such event, unless such an election is made, is referred to herein as a "**Deemed Liquidation Event**"):

(a) a merger or consolidation in which

(i) the Corporation is a constituent party or

(ii) a subsidiary of the Corporation is a constituent party and the Corporation issues shares of its capital stock pursuant to such merger or consolidation,

except any such merger or consolidation involving the Corporation or a subsidiary in which the shares of capital stock of the Corporation outstanding immediately prior to such merger or consolidation continue to represent, or are converted into or exchanged for shares of capital stock that represent, immediately following such merger or consolidation, at least a majority, by voting power, of the capital stock of (1) the surviving or resulting corporation or (2) if the surviving or resulting corporation is a wholly owned subsidiary of another corporation immediately following such merger or consolidation, the parent corporation of such surviving or resulting corporation (provided that, for the purpose of this Subsection 2.9.1, all shares of Common Stock issuable upon exercise of Options (as defined below) outstanding immediately prior to such merger or consolidation or upon conversion of Convertible Securities (as defined below) outstanding immediately prior to such merger or consolidation shall be deemed to be outstanding immediately prior to such merger or consolidation and, if applicable, converted or exchanged in such merger or consolidation on the same terms as the actual outstanding shares of Common Stock are converted or exchanged);

(b) the sale, conveyance, lease, transfer, exclusive license or other disposition, in a single transaction or series of related transactions, by the Corporation or any subsidiary of the Corporation of all or substantially all of the assets (including, without limitation, intellectual property) of the Corporation and its subsidiaries taken as a whole, or the sale or disposition (whether by merger or otherwise) of one or more subsidiaries of the Corporation if substantially all of the assets of the Corporation and its subsidiaries

taken as a whole are held by such subsidiary or subsidiaries, except where such sale, conveyance, lease, transfer, exclusive license or other disposition is to a wholly owned subsidiary of the Corporation;

(c) the transfer (whether by merger, consolidation, share exchange or otherwise) in one transaction or series of related transactions to a person or group of affiliated persons (other than an underwriter of the Corporation's securities) of the Corporation's securities if, after such closing, such person or group of affiliated persons would hold fifty percent (50%) or more of the then outstanding voting stock of the Corporation (or the surviving or acquiring entity); or

(d) any transaction in which any shares of Preferred Stock are converted into any other property or security, other than Common Stock.

Notwithstanding the foregoing, a Deemed Liquidation Event shall not include (i) a consolidation with a wholly-owned subsidiary of the Corporation, (ii) a merger effected exclusively to change the domicile of the Corporation, or (iii) an equity financing consummated solely for capital-raising purposes in which the Corporation is the surviving corporation and which is approved by the Board of Directors (including a majority of the Preferred Directors (as defined below)), the holders of at least 75% of the then outstanding shares of Series C Preferred Stock, the holders of at least 60% of the then outstanding shares of Series D Preferred Stock, the holders of at least 60% of the then outstanding shares of Series E Preferred Stock, the holders of at least a majority of the then outstanding shares of Series F Preferred Stock, the holders of at least a majority of the then outstanding shares of Series G Preferred Stock and the holders of at least a majority of the then outstanding shares of Series H Preferred Stock.

2.9.2. Effecting a Deemed Liquidation Event.

(a) The Corporation shall not have the power to effect a Deemed Liquidation Event referred to in Subsection 2.9. l(a) unless the agreement or plan of merger or consolidation for such transaction provides that the consideration payable to the stockholders of the Corporation shall be allocated among the holders of capital stock of the Corporation in accordance with Subsections 2.1. 2.2. 2.3. 2.4. 2.5. 2.6. 2.7 and 2.8 above.

(b) In the event of a Deemed Liquidation Event referred to in Subsection 2.9.l(a) or 2.9.l(b), if the Corporation does not effect a dissolution of the Corporation under the General Corporation Law within 90 days after such Deemed Liquidation Event, then (i) the Corporation shall send a written notice to each holder of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock, Series F Preferred Stock, Series G Preferred Stock and Series H Preferred Stock no later than the 90th day after the Deemed Liquidation Event advising such holders of their right (and the requirements to be met to secure such right) pursuant to the terms of the following clause (ii) to require the redemption of such shares of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock, Series F Preferred Stock, Series G Preferred Stock and Series H Preferred Stock and (ii) if the holders of at least 55% of the then outstanding shares of Series A Preferred Stock, Series B Preferred Stock and Series C Preferred Stock (voting together as a single class and on an as• converted to Common Stock basis), the holders of at least 60% of the then outstanding shares of Series D Preferred Stock (voting together as a single class on an as-converted to Common Stock basis), the holders of at least 60% of the then outstanding shares of Series E Preferred Stock (voting together as a single class on an as-converted to Common Stock basis), the holders of at least a majority of the then outstanding shares of Series F Preferred Stock (voting together as a single class on an as converted to Common Stock basis), the holders of at least a majority of the then outstanding shares of Series G Preferred Stock (voting together as a single class on an as converted to Common Stock basis) and the holders of at least a majority of the then outstanding shares of Series H Preferred Stock (voting together as a single class on an as-converted to Common Stock basis) so request in a written instrument delivered to the Corporation not later than 120 days after such Deemed Liquidation Event, the Corporation shall use the consideration received by the Corporation for such Deemed Liquidation Event (net of any retained liabilities associated with the assets sold or technology licensed, as determined in good faith by the Board of Directors), together with any other assets of the Corporation available for distribution to its stockholders (the "**Available Proceeds**"), to the extent legally available therefor, on the **l** 50th day after such Deemed

Liquidation Event, to redeem all outstanding shares of Series A Preferred Stock at a price per share equal to the Series A Liquidation Amount, all outstanding shares of Series B Preferred Stock at a price per share equal to the Series B Liquidation Amount, all outstanding shares of Series C Preferred Stock at a price per share equal to the Series C Liquidation Amount, all outstanding shares of Series D Preferred Stock at a price per share equal to the Series D Liquidation Amount, all outstanding shares of Series E Preferred Stock at a price per share equal to the Series E Liquidation Amount, all outstanding shares of Series F Preferred Stock at a price per share equal to the Series F Liquidation Amount, all outstanding shares of Series G Preferred Stock at a price per share equal to the Series G Liquidation Amount and all outstanding shares of Series H Preferred Stock at a price per share equal to the Series H Liquidation Amount. Notwithstanding the foregoing, in the event of a redemption pursuant to the preceding sentence, if the Available Proceeds are not sufficient to redeem all outstanding shares of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock, Series F Preferred Stock, Series G Preferred Stock and Series H Preferred Stock, the Corporation shall first redeem a pro rata portion of each holder's share of Series H Preferred Stock to the fullest extent of such Available Proceeds, based on the respective amounts which would otherwise be payable in respect of the shares to be redeemed if the Available Proceeds were sufficient to redeem all such shares, and shall redeem the remaining shares of Series H Preferred Stock to have been redeemed as soon as practicable after the Corporation has funds legally available therefor. After all of the shares of Series H Preferred Stock have been redeemed, the Corporation shall next redeem a pro rata portion of each holder's shares of Series G Preferred Stock to the fullest extent of such Available Proceeds, based on the respective amounts which would otherwise be payable in respect of the shares to be redeemed if the Available Proceeds were sufficient to redeem all such shares, and shall redeem the remaining shares of Series G Preferred Stock to have been redeemed as soon as practicable after the Corporation has funds legally available therefor. After all of the shares of Series H Preferred Stock and Series G Preferred Stock have been redeemed, the Corporation shall next redeem a pro rata portion of each holder's shares of Series F Preferred Stock to the fullest extent of such Available Proceeds, based on the respective amounts which would otherwise be payable in respect of the shares to be redeemed if the Available Proceeds were sufficient to redeem all such shares, and shall redeem the remaining shares of Series F Preferred Stock to have been redeemed as soon as practicable after the Corporation has funds legally available therefor. After all of the shares of Series H Preferred Stock, Series G Preferred Stock and Series F Preferred Stock have been redeemed, the Corporation shall next redeem a pro rata portion of each holder's shares of Series E Preferred Stock to the fullest extent of such Available Proceeds, based on the respective amounts which would otherwise be payable in respect of the shares to be redeemed if the Available Proceeds were sufficient to redeem all such shares, and shall redeem the remaining shares of Series E Preferred Stock to have been redeemed as soon as practicable after the Corporation has funds legally available therefor. After all of the shares of Series H Preferred Stock, Series G Preferred Stock, Series F Preferred Stock and Series E Preferred Stock have been redeemed, the Corporation shall next redeem a pro rata portion of each holder's shares of Series D Preferred Stock to the fullest extent of such Available Proceeds, based on the respective amounts which would otherwise be payable in respect of the shares to be redeemed if the Available Proceeds were sufficient to redeem all such shares, and shall redeem the remaining shares of Series D Preferred Stock to have been redeemed as soon as practicable after the Corporation has funds legally available therefor. After all of the shares of Series H Preferred Stock, Series G Preferred Stock, Series F Preferred Stock, Series E Preferred Stock and Series D Preferred Stock have been redeemed, the Corporation shall next redeem a pro rata portion of each holder's shares of Series C Preferred Stock to the fullest extent of such Available Proceeds, based on the respective amounts which would otherwise be payable in respect of the shares to be redeemed if the Available Proceeds were sufficient to redeem all such shares, and shall redeem the remaining shares of Series C Preferred Stock to have been redeemed as soon as practicable after the Corporation has funds legally available therefor. After all of the shares of Series H Preferred Stock, Series G Preferred Stock, Series F Preferred Stock, Series E Preferred Stock, Series D Preferred Stock and Series C Preferred Stock have been redeemed, the Corporation shall next redeem a pro rata portion of each holder's shares of Series A Preferred Stock and Series B Preferred Stock to the fullest extent of such Available Proceeds, based on the respective amounts which would otherwise be payable in respect of the shares to be redeemed if the Available Proceeds were sufficient to redeem all such shares, and shall redeem the remaining shares to have been redeemed as soon as practicable after the Corporation has funds legally available therefor. Prior to the distribution or redemption provided for in this Subsection 2.9.2(b), the Corporation shall not expend or dissipate the consideration received for such Deemed

Liquidation Event, except to discharge expenses incurred in connection with such Deemed Liquidation Event or in the ordinary course of business.

(c) In the event of a Deemed Liquidation Event referred to in Subsection 2.9.l(c) or 2.9.l(d), (i) the Corporation shall send a written notice to each holder of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock, Series F Preferred Stock, Series G Preferred Stock and Series H Preferred Stock no later than the 30th day after such Deemed Liquidation Event advising such holders of their right (and the requirements to be met to secure such right) pursuant to the terms of the following clause (ii) to require the redemption of such shares of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock, Series F Preferred Stock, Series G Preferred Stock and Series H Preferred Stock (the **"Special Redemption Notice"**), and (ii) if the holders of at least 55% of the then outstanding shares of Series A Preferred Stock, Series B Preferred Stock and Series C Preferred Stock (voting together as a single class and on an as-converted to Common Stock basis), the holders of at least 60% of the then outstanding shares of Series D Preferred Stock (voting together as a single class on an as-converted to Common Stock basis), the holders of at least 60% of the then outstanding shares of Series E Preferred Stock (voting together as a single class on an as• converted to Common Stock basis), the holders of at least a majority of the then outstanding shares of Series F Preferred Stock (voting together as a single class on an as-converted to Common Stock basis), the holders of at least a majority of the then outstanding shares of Series G Preferred Stock (voting together as a single class on an as-converted to Common Stock basis) and the holders of at least a majority of the then outstanding shares of Series H Preferred Stock (voting together as a single class on an as-converted to Common Stock basis) so request in a written instrument delivered to the Corporation not later than 20 days after the delivery of the Special Redemption Notice, the Corporation shall use the Available Proceeds, to the extent legally available therefor, on the date of such request for redemption, to redeem all outstanding shares of Series A Preferred Stock at a price per share equal to the Series A Liquidation Amount, all outstanding shares of Series B Preferred Stock at a price per share equal to the Series B Liquidation Amount, all outstanding shares of Series C Preferred Stock at a price per share equal to the Series C Liquidation Amount, all outstanding shares of Series D Preferred Stock at a price per share equal to the Series D Liquidation Amount, all outstanding shares of Series E Preferred Stock at a price per share equal to the Series E Liquidation Amount, all outstanding shares of Series F Preferred Stock at a price per share equal to the Series F Liquidation Amount, all outstanding shares of Series G Preferred Stock at a price per share equal to the Series G Liquidation Amount and all outstanding shares of Series H Preferred Stock at a price per share equal to the Series H Liquidation Amount. Notwithstanding the foregoing, in the event of a redemption pursuant to the preceding sentence, if the Available Proceeds are not sufficient to redeem all outstanding shares of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock, Series F Preferred Stock, Series G Preferred Stock and Series H Preferred Stock, the Corporation shall first redeem a pro rata portion of each holder's shares of Series H Preferred Stock to the fullest extent of such Available Proceeds, based on the respective amounts which would otherwise be payable in respect of the shares to be redeemed if the Available Proceeds were sufficient to redeem all such shares, and shall redeem the remaining shares of Series H Preferred Stock to have been redeemed as soon as practicable after the Corporation has funds legally available therefor. After all of the shares of Series H Preferred Stock have been redeemed, the Corporation shall next redeem a pro rata portion of each holder's shares of Series G Preferred Stock to the fullest extent of such Available Proceeds, based on the respective amounts which would otherwise be payable in respect of the shares to be redeemed if the Available Proceeds were sufficient to redeem all such shares, and shall redeem the remaining shares of Series G Preferred Stock to have been redeemed as soon as practicable after the Corporation has funds legally available therefor. After all of the shares of Series H Preferred Stock and Series G Preferred Stock have been redeemed, the Corporation shall next redeem a pro rata portion of each holder's shares of Series F Preferred Stock to the fullest extent of such Available Proceeds, based on the respective amounts which would otherwise be payable in respect of the shares to be redeemed if the Available Proceeds were sufficient to redeem all such shares, and shall redeem the remaining shares of Series F Preferred Stock to have been redeemed as soon as practicable after the Corporation has funds legally available therefor. After all of the shares of Series H Preferred Stock, Series G Preferred Stock and Series F Preferred Stock have been redeemed, the Corporation shall next redeem a pro rata portion of each holder's shares of Series E Preferred Stock to the fullest extent of such Available Proceeds, based on the respective amounts which would otherwise be payable in respect of the shares to be

redeemed if the Available Proceeds were sufficient to redeem all such shares, and shall redeem the remaining shares of Series E Preferred Stock to have been redeemed as soon as practicable after the Corporation has funds legally available therefor. After all of the shares of Series H Preferred Stock, Series G Preferred Stock, Series F Preferred Stock and Series E Preferred Stock have been redeemed, the Corporation shall next redeem a pro rata portion of each holder's shares of Series D Preferred Stock to the fullest extent of such Available Proceeds, based on the respective amounts which would otherwise be payable in respect of the shares to be redeemed if the Available Proceeds were sufficient to redeem all such shares, and shall redeem the remaining shares of Series D Preferred Stock to have been redeemed as soon as practicable after the Corporation has funds legally available therefor. After all of the shares of Series H Preferred Stock, Series G Preferred Stock, Series F Preferred Stock, Series E Preferred Stock and Series D Preferred Stock have been redeemed, the Corporation shall next redeem a pro rata portion of each holder's shares of Series C Preferred Stock to the fullest extent of such Available Proceeds, based on the respective amounts which would otherwise be payable in respect of the shares to be redeemed if the Available Proceeds were sufficient to redeem all such shares, and shall redeem the remaining shares of Series C Preferred Stock to have been redeemed as soon as practicable after the Corporation has funds legally available therefor. After all of the shares of Series H Preferred Stock, Series G Preferred Stock, Series F Preferred Stock, Series E Preferred Stock, Series D Preferred Stock and Series C Preferred Stock have been redeemed, the Corporation shall next redeem a pro rata portion of each holder's shares of Series A Preferred Stock and Series B Preferred Stock to the fullest extent of such Available Proceeds, based on the respective amounts which would otherwise be payable in respect of the shares to be redeemed if the Available Proceeds were sufficient to redeem all such shares, and shall redeem the remaining shares to have been redeemed as soon as practicable after the Corporation has funds legally available therefor. Prior to the distribution or redemption provided for in this Subsection 2.9.2(c), the Corporation shall not expend or dissipate the consideration received for such Deemed Liquidation Event, except to discharge expenses incurred in connection with such Deemed Liquidation Event or in the ordinary course of business.

2.9.3. Amount Deemed Paid or Distributed. The amount deemed paid or distributed to the holders of capital stock of the Corporation upon any such Deemed Liquidation Event shall be the cash or the value of the property, rights or securities paid or distributed to such holders by the Corporation or the acquiring person, firm or other entity. The value of such property, rights or securities shall be determined in good faith by the Board of Directors, including at least a majority of the Preferred Directors.

2.9.4. Allocation of Escrow and Contingent Consideration. In the event of a Deemed Liquidation Event, if any portion of the consideration payable to the stockholders of the Corporation is payable only upon satisfaction of contingencies (the "**Additional Consideration**"), the merger agreement with respect to such transaction shall provide that (a) the portion of such consideration that is not Additional Consideration (such portion, the "**Initial Consideration**") shall be allocated among the holders of capital stock of the Corporation in accordance with Subsections 2.1, 2.2, 2.3, 2.4, 2.5, 2.6, 2.7 and 2.8 as if the Initial Consideration were the only consideration payable in connection with such Deemed Liquidation Event and (b) any Additional Consideration which becomes payable to the stockholders of the Corporation upon satisfaction of such contingencies shall be allocated among the holders of capital stock of the Corporation in accordance with Subsections 2.1, 2.2, 2.3, 2.4, 2.5, 2.6, 2.7 and 2.8 after taking into account the previous payment of the Initial Consideration as part of the same transaction. For the purposes of this Subsection 2.9.4, consideration placed into escrow or retained as holdback to be available for satisfaction of indemnification or similar obligations in connection with such Deemed Liquidation Event shall be deemed to be Additional Consideration.

3. Voting.

3.1 General. On any matter presented to the stockholders of the Corporation for their action or consideration at any meeting of stockholders of the Corporation (or by written consent of stockholders in lieu of meeting), each holder of outstanding shares of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock, Series F Preferred Stock, Series G Preferred Stock and Series H Preferred Stock shall be entitled to cast the number of votes equal to the number of whole shares of Common Stock into which the shares of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock,

Series F Preferred Stock, Series G Preferred Stock and Series H Preferred Stock held by such holder are convertible as of the record date for determining stockholders entitled to vote on such matter. Except as provided by law or by the other provisions of the Certificate of Incorporation, holders of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock, Series F Preferred Stock, Series G Preferred Stock and Series H Preferred Stock shall vote together with the holders of Common Stock as a single class.

3.2 Election of Directors.

3.2.1. The holders of record of the shares of Series A Preferred Stock, exclusively and voting as a separate class, shall be entitled to elect one (1) director of the Corporation (the "**Series A Director**"); the holders of record of the shares of Series B Preferred Stock, exclusively and voting as a separate class, shall be entitled to elect one (1) director of the Corporation (the "**Series B Director**"); the holders of record of the shares of Series C Preferred Stock, exclusively and voting as a separate class, shall be entitled to elect one (1) director of the Corporation (the "**Series C Director**"); the holders of record of the shares of Series D Preferred Stock, exclusively and voting as a separate class, shall be entitled to elect one (1) director of the Corporation (the "**Series D Director**"); the holders of record of the shares of Series G Preferred Stock, exclusively and voting as a separate class, shall be entitled to elect one (1) director of the Corporation (the "**Series G Director**" and together with the Series A Director, the Series B Director, the Series C Director and the Series D Director, the "**Preferred Directors**" and each, a "**Preferred Director**"); and the holders of record of the shares of Common Stock, exclusively and voting as a separate class, shall be entitled to elect two (2) directors of the Corporation. Any director elected as provided in the preceding sentence may be removed without cause by, and only by, the affirmative vote of the holders of the shares of the class or series of capital stock entitled to elect such director or directors, given either at a special meeting of such stockholders duly called for that purpose or pursuant to a written consent of stockholders. If the holders of shares of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series G Preferred Stock or Common Stock, as the case may be, fail to elect a sufficient number of directors to fill all directorships for which they are entitled to elect directors, voting exclusively and as a separate class, pursuant to the first sentence of this Subsection 3.2.l, then any directorship not so filled shall remain vacant until such time as the holders of the Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series G Preferred Stock or Common Stock, as the case may be, elect a person to fill such directorship by vote or written consent in lieu of a meeting; and no such directorship may be filled by stockholders of the Corporation other than by the stockholders of the Corporation that are entitled to elect a person to fill such directorship, voting exclusively and as a separate class. The holders of record of the shares of Common Stock and of any other class or series of voting stock (including the Series A Preferred Stock, the Series B Preferred Stock, the Series C Preferred Stock, the Series D Preferred Stock, the Series E Preferred Stock, the Series F Preferred Stock, the Series G Preferred Stock and the Series H Preferred Stock), exclusively and voting together as a single class on an as converted basis, shall be entitled to elect the balance of the total number of directors of the Corporation. At any meeting held for the purpose of electing a director, the presence in person or by proxy of the holders of a majority of the outstanding shares of the class or series entitled to elect such director shall constitute a quorum for the purpose of electing such director. Except as otherwise provided in this Subsection 3.2.1, a vacancy in any directorship filled by the holders of any class or series shall be filled only by vote or written consent in lieu of a meeting of the holders of such class or series or by any remaining director or directors elected by the holders of such class or series pursuant to this Subsection 3.2.1. The rights of the holders of the Series A Preferred Stock under the first sentence of this Subsection 3.2.1 shall terminate on the first date following the Original Issue Date (as defined below) on which there are issued and outstanding less than 600,000 shares of Series A Preferred Stock (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the Series A Preferred Stock). The rights of the holders of

the Series B Preferred Stock under the first sentence of this Subsection 3.2.1 shall terminate on the first date following the Original Issue Date on which there are issued and outstanding less than 1,200,000 shares of Series B Preferred Stock (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the Series B Preferred Stock). The rights of the holders of the Series C Preferred Stock under the first sentence of this Subsection 3.2.1 shall terminate on the first date following the Original Issue Date on which there are issued and outstanding less than 1,500,000 shares of Series C Preferred Stock (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the Series C Preferred Stock). The rights of the holders of the Series D Preferred Stock under the first sentence of this Subsection 3.2.l shall terminate on the first date following the Original Issue Date on which there are issued and outstanding less than 1,500,000 shares of Series D Preferred Stock (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the Series D Preferred Stock). The rights of the holders of the Series G Preferred Stock under the first sentence of this Subsection 3.2.l shall terminate on the first date following the Original Issue Date on which there are issued and outstanding less than 1,000,000 shares of Series G Preferred Stock (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the Series G Preferred Stock). The rights of the holders of the Common Stock under the first sentence of this Subsection 3.2.1 shall terminate on the first date following the Original Issue Date on which there are issued and outstanding less than 600,000 shares of Series A Preferred Stock, less than 1,200,000 shares of Series B Preferred Stock, less than 1,500,000 shares of Series C Preferred Stock, less than 1,500,000 shares of Series D Preferred Stock and less than 1,000,000 shares of Series G Preferred Stock (all subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the Series A Preferred Stock, the Series B Preferred Stock, the Series C Preferred Stock, the Series D Preferred Stock and the Series G Preferred Stock).

3.2.2. Notwithstanding the provisions of Section 223(a)(l) and 223(a)(2) of the Delaware General Corporation Law, any vacancy, including newly created directorships resulting from any increase in the authorized number of directors or amendment of this Restated Certificate, and vacancies created by removal or resignation of a director, may be filled by a majority of the directors then in office, though less than a quorum, or by a sole remaining director, and the directors so chosen shall hold office until the next annual election and until their successors are duly elected and shall qualify, unless sooner displaced; provided, however, that where such vacancy occurs among the directors elected by the holders of a class or series of stock, such vacancy may only be filled by the holders of such class or series entitled to elect such director as provided in Subsection 3.2.1.

3.3 Protective Provisions.

3.3.1. Preferred Stock Protective Provisions. At any time when at least 4,000,000 shares of Preferred Stock (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the Preferred Stock) are outstanding, the Corporation shall not, and will cause its subsidiaries not to, either directly or indirectly by amendment, merger, consolidation or otherwise, do any of the following without (in addition to any other vote required by law or the Restated Certificate) the written consent or affirmative vote of the holders of at least a majority of the then outstanding shares of Preferred Stock, given in writing or by vote at a meeting, consenting or voting (as the case may be) as a single class and on an as-converted to Common Stock basis, and any such act or transaction entered into without such consent or vote shall be null and void *ab initio*, and of no force and effect:

(a) liquidate, dissolve or wind-up its business and affairs, effect any Deemed Liquidation Event, or consent to any of the foregoing;

(b) alter, waive or change the rights, preferences or privileges of the Preferred Stock (whether by merger, consolidation or otherwise);

(c) increase or decrease the number of authorized shares of Preferred Stock or Common Stock;

(d) create or authorize the creation of or issue or obligate itself to issue shares of any additional class or series of shares of stock unless the same ranks junior to the Preferred Stock with respect to the distribution of assets on the liquidation, dissolution or winding up of the Corporation and with respect to the payment of dividends, redemption rights and voting rights;

(e) purchase or redeem or pay or declare any dividend or make any distribution on, any shares of capital stock other than: (i) redemptions of or dividends or distributions on the Preferred Stock as expressly authorized herein; (ii) repurchases of stock from former employees, officers, directors, consultants or other persons who performed services for the Corporation or any subsidiary in connection with the cessation of such employment or service pursuant to the terms of a restricted stock purchase agreement or other similar agreement or arrangement at the lower of the original purchase price or the then-current fair market value thereof as approved by the Board of Directors, including at least a majority of the Preferred Directors; and (iii) redemptions of or dividends or distributions on the capital stock of directly or indirectly wholly-owned subsidiaries;

(f) amend, alter, repeal or waive any provision of the Restated Certificate or Bylaws of the Corporation;

(g) increase or decrease the authorized number of directors constituting the Board of Directors;

(h) encumber any of the property (tangible or intangible) or business of the Corporation or subsidiary, unless otherwise approved by the Board of Directors, including at least a majority of the Preferred Directors;

(i) grant an exclusive license for, or create a negative pledge for, all or substantially all of the intellectual property assets of the Corporation or any subsidiary, unless otherwise approved by the Board of Directors, including at least a majority of the Preferred Directors;

(j) incur any indebtedness (of the Corporation and its subsidiaries on a consolidated basis) in excess of $100,000 individually or in excess of $250,000 in the aggregate in any 12-month period, unless otherwise approved by the Board of Directors, including at least a majority of the Preferred Directors;

(k) enter into or engage in any transaction between (i) the Corporation or any of its subsidiaries on one hand and (ii) (x) any members of the Board of Directors or similar governing bodies of the subsidiaries, (y) any senior executive officers of the Corporation or any of its subsidiaries, or (z) any holder of 1 % or more of the Corporation's then issued and outstanding Common Stock (assuming full conversion and exercise of all convertible or exercisable securities and including shares of Common Stock issuable to employees, consultants or directors pursuant to a stock option plan, restricted stock plan or other stock plan approved by the Board of Directors), or any immediate family members or affiliates of any person set forth in clauses (x), (y) and (z), on the other hand, other than (I) offer letters, consulting agreements, agreements which provide employee benefits, and ordinary course employee, consultant and director compensation (including, without limitation, equity grants), (II) indemnification agreements, (III) other customary agreements, in each case approved by the Board of Directors, including at least a majority of the Preferred Directors and (IV) a Series H Preferred Stock Purchase Agreement among the Corporation and investors on or about the date hereof and any related agreements (the **"Series H Purchase Agreement**");

(l) effect any underwritten public offering by the Corporation of shares of its Common Stock under the Securities Act of 1933, as amended, other than a Qualified Public Offering (as defined below);

(m) create any subsidiary; or

(n) take any action which would otherwise require the vote of the holders of Preferred Stock as a separate class under applicable law.

3.3.2. Series B Protective Provisions. For so long as any shares of Series B Preferred Stock (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the Series B Preferred Stock) remain outstanding, the Corporation shall not, either directly or indirectly by amendment, merger, consolidation or otherwise, do any of the following without (in addition to any other vote required by law or the Restated Certificate) the written consent or affirmative vote of the holders of at least 60% of the then outstanding shares of Series B Preferred Stock, given in writing or by vote at a meeting, consenting or voting (as the case may be) separately as a class on an as-converted to Common Stock basis:

(a) amend, alter, repeal or waive any provision of the Restated Certificate or Bylaws of the Corporation so as to adversely affect the rights, powers, preferences or privileges of the Series B Preferred Stock but not so affect all of the Preferred Stock generally; or Preferred Stock.

(b) increase the number of authorized shares of Series B Preferred Stock.

3.3.3. Series C Protective Provisions. For so long as any shares of Series C Preferred Stock (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the Series C Preferred Stock) remain outstanding, the Corporation shall not, either directly or indirectly by amendment, merger, consolidation or otherwise, do any of the following without (in addition to any other vote required by law or the Restated Certificate) the written consent or affirmative vote of the holders of at least 75% of the then outstanding shares of Series C

Preferred Stock, given in writing or by vote at a meeting, consenting or voting (as the case may be) separately as a class on an as-converted to Common Stock basis:

(a) amend, alter, repeal or waive any provision of the Restated Certificate or Bylaws of the Corporation so as to adversely affect the rights, powers, preferences or privileges of the Series C Preferred Stock but not so affect all of the Preferred Stock generally; or Preferred Stock.

(b) increase the number of authorized shares of Series C Preferred Stock.

3.3.4. Series D Protective Provisions. For so long as any shares of Series D Preferred Stock (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the Series D Preferred Stock) remain outstanding, the Corporation shall not, either directly or indirectly by amendment, merger, consolidation or otherwise, do any of the following without (in addition to any other vote required by law or the Restated Certificate) the written consent or affirmative vote of the holders of at least 60% of the then outstanding shares of Series D Preferred Stock, given in writing or by vote at a meeting, consenting or voting (as the case may be) separately as a class on an as-converted to Common Stock basis:

(a) amend, alter, repeal or waive any provision of the Restated Certificate or Bylaws of the Corporation so as to adversely affect the rights, powers, preferences or privileges of the Series D Preferred Stock but not so affect all of the Preferred Stock generally; or

(b) increase the number of authorized shares of Series D Preferred Stock or issue shares of Series D Preferred Stock.

3.3.5. Series E Protective Provisions. For so long as any shares of Series E Preferred Stock (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the Series E Preferred Stock) remain outstanding, the Corporation shall not, either directly or indirectly by amendment, merger, consolidation or otherwise, do any of the following without (in addition to any other vote required by law or the Restated Certificate) the written consent or affirmative vote of the holders of at least 60% of the then outstanding shares of Series E Preferred Stock, given in writing or by vote at a meeting, consenting or voting (as the case may be) separately as a class on an as-converted to Common Stock basis:

(a) amend, alter, repeal or waive any provision of the Restated Certificate or Bylaws of the Corporation so as to adversely affect the rights, powers, preferences or privileges of the Series E Preferred Stock but not so affect all of the Preferred Stock generally; or

(b) increase the number of authorized shares of Series E Preferred Stock or issue shares of Series E Preferred Stock.

3.3.6. Series F Protective Provisions. For so long as any shares of Series F Preferred Stock (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the Series F Preferred Stock) remain outstanding, the Corporation shall not, either directly or indirectly by amendment, merger, consolidation or otherwise, do any of the following without (in addition to any other vote required by law or the Restated Certificate) the written consent or affirmative vote of the holders of at least a majority of the then outstanding shares of Series F Preferred Stock, given in writing or by vote at a meeting, consenting or voting (as the case may be) separately as a class on an as-converted to Common Stock basis:

(a) amend, alter, repeal or waive any provision of the Restated Certificate or Bylaws of the Corporation so as to adversely affect the rights, powers, preferences or privileges of the Series F Preferred Stock but not so affect all of the Preferred Stock generally; or

(b) increase the number of authorized shares of Series F Preferred Stock or issue shares of Series F Preferred Stock.

3.3.7. Series G Protective Provisions. For so long as any shares of Series G Preferred Stock (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the Series G Preferred Stock) remain outstanding, the Corporation shall not, either directly or indirectly by amendment, merger, consolidation or otherwise, do any of the following without (in addition to any other vote required by law or the Restated Certificate) the written consent or affirmative vote of the holders of at least a majority of the then outstanding shares of Series G Preferred Stock, given in writing or by vote at a meeting, consenting or voting (as the case may be) separately as a class on an as-converted to Common Stock basis:

(a) amend, alter, repeal or waive any provision of the Restated Certificate or Bylaws of the Corporation so as to adversely affect the rights, powers, preferences or privileges of the Series G Preferred Stock but not so affect all of the Preferred Stock generally; or

(b) increase the number of authorized shares of Series G Preferred Stock or issue shares of Series G Preferred Stock.

3.3.8. Series H Protective Provisions. For so long as any shares of Series H Preferred Stock (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the Series H Preferred Stock) remain outstanding, the Corporation shall not, either directly or indirectly by amendment, merger, consolidation or otherwise, amend, alter, repeal or waive any provision of the Restated Certificate or Bylaws of the Corporation so as to adversely affect the rights, powers, preferences or privileges of the Series H Preferred Stock but not so affect all of the Preferred Stock generally without (in addition to any other vote required by law or the Restated Certificate) the written consent or affirmative vote of the holders of at least a majority of the then outstanding shares of Series H Preferred Stock, given in writing or by vote at a meeting, consenting or voting (as the case may be) separately as a class on an as-converted to Common Stock basis.

4. Optional Conversion. The holders of the Series A Preferred Stock, the Series B Preferred Stock, the Series C Preferred Stock, the Series D Preferred Stock, the Series E Preferred Stock, the Series F Preferred Stock, the Series G Preferred Stock and the Series H Preferred Stock shall have conversion rights as follows (the "**Conversion Rights**"):

4.1 Right to Convert.

4.1.1. Conversion Ratio. Each share of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock, Series F Preferred Stock, Series G Preferred Stock and Series H Preferred Stock shall be convertible, at the option of the holder thereof, at any time and from time to time, and without the payment of additional consideration by the holder thereof, into such number of fully paid and nonassessable shares of Common Stock as is determined by dividing (i) the Series A Original Issue Price in the case of the Series A Preferred Stock, (ii) the Series B Original Issue Price in the case of the Series B Preferred Stock, (iii) the Series C Original Issue Price in the case of the Series C Preferred Stock, (iv) the Series D Original Issue Price in the case of the Series D Preferred Stock, (v) the Series E Original Issue Price in the case of the Series E Preferred Stock, (vi) the Series F Original Issue Price in the case of the Series F Preferred Stock, (vii) the Series G Original Issue Price in the case of the Series G Preferred Stock and (viii) the Series H Original Issue Price in the case of the Series H Preferred Stock, by the then effective Conversion Price (as defined below) for such series of Preferred Stock (the conversion rate for a particular series of Preferred Stock into Common Stock is referred to herein as the **"Conversion Rate"**). The initial **"Conversion Price"** (i) for the Series A Preferred Stock shall be equal to the Series A Original Issue Price, (ii) for the Series B Preferred Stock shall be equal to the Series B Original Issue Price, (iii) for the Series C Preferred Stock shall be equal to the Series C Original Issue Price, (iv) for the Series D Preferred Stock shall be equal to the Series D Original Issue Price, (v) for the Series E Preferred Stock shall be equal to the Series E Original Issue Price, (vi) for the Series F Preferred Stock shall be equal to the Series F Original Issue Price, (vii) for the Series G Preferred Stock shall be equal to the Series G Original Issue Price and (vii) for the Series H Preferred Stock shall be equal to the Series H Original Issue Price. Each such initial Conversion Price, and the rate at which shares of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock, Series F Preferred Stock, Series G Preferred Stock and Series H Preferred Stock may be converted into shares of Common Stock, shall be subject to adjustment as provided below.

4.1.2. Termination of Conversion Rights. In the event of a liquidation, dissolution or winding up of the Corporation or a Deemed Liquidation Event, the Conversion Rights shall terminate at the close of business on the last full day preceding the date fixed for the payment of any such amounts distributable on such event to the holders of Preferred Stock.

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

4.3 Mechanics of Conversion.

4.3.1. Notice of Conversion. In order for a holder of Preferred Stock to voluntarily convert shares of Preferred Stock into shares of Common Stock, such holder shall surrender the certificate or certificates for such shares of Preferred Stock (or, if such registered holder alleges that such certificate has been lost, stolen or destroyed, a lost certificate affidavit and agreement reasonably acceptable to the Corporation to indemnify the Corporation against any claim that may be made against the Corporation on account of the alleged loss, theft or destruction of such certificate) at the office of the transfer agent for the Preferred Stock (or at the principal office of the Corporation if the Corporation serves as its own transfer agent), together with written notice that such holder elects to convert all or any number of the shares of the Preferred Stock represented by such

certificate or certificates and, if applicable, any event on which such conversion is contingent. Such notice shall state such holder's name or the names of the nominees in which such holder wishes the certificate or certificates for shares of Common Stock to be issued. If required by the Corporation, certificates surrendered for conversion shall be endorsed or accompanied by a written instrument or instruments of transfer, in form satisfactory to the Corporation, duly executed by the registered holder or his, her or its attorney duly authorized in writing. The close of business on the date of receipt by the transfer agent (or by the Corporation if the Corporation serves as its own transfer agent) of such certificates (or lost certificate affidavit and agreement) and notice, or, if applicable, the occurrence of the event on which conversion is contingent under the notice, shall be the time of conversion (the **"Conversion Time"**), and the shares of Common Stock issuable upon conversion of the shares represented by such certificate shall be deemed to be outstanding of record as of such date. The Corporation shall, as soon as practicable after the Conversion Time, (i) issue and deliver to such holder of Preferred Stock, or to his, her or its nominees, a certificate or certificates for the number of full shares of Common Stock issuable upon such conversion in accordance with the provisions hereof and a certificate for the number (if any) of the shares of Preferred Stock represented by the surrendered certificate that were not converted into Common Stock, (ii) pay in cash such amount as provided in Subsection 4.2 in lieu of any fraction of a share of Common Stock otherwise issuable upon such conversion and (iii) pay all declared but unpaid dividends on the shares of Preferred Stock converted.

4.3.2. Reservation of Shares. The Corporation shall at all times when the Preferred Stock shall be outstanding, reserve and keep available out of its authorized but unissued capital stock, for the purpose of effecting the conversion of the Preferred Stock, such number of its duly authorized shares of Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding Preferred Stock; and if at any time the number of authorized but unissued shares of Common Stock shall not be sufficient to effect the conversion of all then outstanding shares of the Preferred Stock, the Corporation shall take such corporate action as may be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purposes, including, without limitation, engaging in best efforts to obtain the requisite stockholder approval of any necessary amendment to the Restated Certificate. Before taking any action which would cause an adjustment reducing the Conversion Price of any series of Preferred Stock below the then par value of the shares of Common Stock issuable upon conversion of the Preferred Stock, the Corporation will take any corporate action which may, in the opinion of its counsel, be necessary in order that the Corporation may validly and legally issue fully paid and nonassessable shares of Common Stock at such adjusted Conversion Price.

4.3.3. Effect of Conversion. All shares of Preferred Stock which shall have been surrendered for conversion as herein provided shall no longer be deemed to be outstanding and all rights with respect to such shares shall immediately cease and terminate at the Conversion Time, except only the right of the holders thereof to receive shares of Common Stock in exchange therefor, to receive payment in lieu of any fraction of a share otherwise issuable upon such conversion as provided in Subsection 4.2 and to receive payment of any dividends declared but unpaid thereon. Any shares of Preferred Stock so converted shall be retired and cancelled and may not be reissued as shares of such series, and the Corporation shall thereafter take such appropriate action (without the need for stockholder action) as may be necessary to reduce the authorized number of shares of Preferred Stock accordingly.

4.3.4. No Further Adjustment. Upon any such conversion, no adjustment to the Conversion Price for any series of Preferred Stock shall be made for any declared but unpaid dividends on the Preferred Stock surrendered for conversion or on the Common Stock delivered upon conversion.

4.3.5. Taxes. The Corporation shall pay any and all issue and other similar taxes that may be payable in respect of any issuance or delivery of shares of Common Stock upon conversion of shares of Preferred Stock pursuant to this Section 4. The Corporation shall not, however, be required to pay any tax which may be payable in respect of any transfer involved in the issuance and delivery of shares of Common Stock in a name other than that in which the shares of Preferred Stock so converted were registered, and no such issuance or delivery shall be made unless and until the person or entity requesting such issuance has paid to the Corporation the amount of any such tax or has established, to the satisfaction of the Corporation, that such tax has been paid.

4.4 Adjustments to Conversion Price for Diluting Issues.

4.4.1. Special Definitions. For purposes of this Article Fourth, the following definitions shall apply:

(a) **"Option"** shall mean rights, options or warrants to subscribe for, purchase or otherwise acquire Common Stock or Convertible Securities.

(b) **"Original Issue Date"** shall mean the date on which the first share of Series H Preferred Stock was issued.

(c) **"Convertible Securities"** shall mean any evidences of indebtedness, shares or other securities directly or indirectly convertible into or exchangeable for Common Stock, but excluding Options.

(d) **"Additional Shares of Common Stock"** shall mean all shares of Common Stock issued (or, pursuant to Subsection 4.4.3 below, deemed to be issued) by the Corporation after the Original Issue Date, other than (1) the following shares of Common Stock and (2) shares of Common Stock deemed issued pursuant to the following Options and Convertible Securities (clauses (l) and (2), collectively, **"Exempted Securities"**):

(i) shares of Common Stock, Options or Convertible Securities issued or deemed issued upon conversion of or as a dividend or distribution on Preferred Stock; or

(ii) shares of Common Stock, Options or Convertible Securities issued by reason of a dividend, stock split, split-up or other distribution on shares of Common Stock that is covered by Subsection 4.5, 4.6, 4. 7 or 4.8; or

(iii) shares of Common Stock or Options issued to officers, employees or directors of, or consultants or advisors to, the Corporation or any of its subsidiaries pursuant to a plan, agreement or arrangement approved by the Board of Directors, including at least a majority of the Preferred Directors; or

(iv) shares of Common Stock or Convertible Securities actually issued upon the exercise of Options or shares of Common Stock actually issued upon the conversion or exchange of Convertible Securities, in each case provided such issuance is pursuant to the terms of the Option or Convertible Security outstanding as of the Original Issue Date; or

(v) any shares of Common Stock, Options or Convertible Securities issuable or issued to parties that are (i) actual or potential suppliers or customers, or strategic partners investing in connection with a commercial relationship with the Corporation or (ii) providing the Corporation with equipment leases, real property leases, loans, credit lines, guaranties of indebtedness, cash price reductions or similar transactions, under arrangements, in each case approved by the Board of Directors, including at least a majority of the Preferred Directors; or

(vi) shares of Common Stock, Options or Convertible Securities issued pursuant to the acquisition of another corporation or entity pursuant to a consolidation, merger, purchase of all or substantially all the assets of such entity, or other reorganization in which the Corporation acquires, in a single transaction or series of related transactions, all or substantially all of the assets of such entity or 50% or more of the equity ownership in such entity, provided that such transaction or series of transactions has been approved by the Board of Directors, including at least a majority of the Preferred Directors; or

(vii) shares of Common Stock or Preferred Stock issuable upon exercise of warrants outstanding as of the date of the Original Issue Date; or

(viii) shares of Common Stock issued or issuable in a Qualified Public Offering or a public offering in connection with which all outstanding shares of Preferred Stock will be converted to Common Stock.

4.4.2. No Adjustment of Conversion Price. No adjustment in the Conversion Price of any series of Preferred Stock shall be made as the result of the issuance or deemed issuance of Additional Shares of Common Stock if the Corporation receives written notice from: (i) the holders of at least 55% of the shares of the then outstanding Series A Preferred Stock, Series B Preferred Stock, and Series C Preferred Stock (voting together as a single class and on an as-converted to Common Stock basis); (ii) the holders of at least 60% of the shares of Series D Preferred Stock (voting as a separate class and on an as-converted to Common Stock basis); (iii) the holders of at least 60% of the shares of Series E Preferred Stock (voting as a separate class and on an as-converted to Common Stock basis), (iv) the holders of at least a majority of the shares of Series F Preferred Stock (voting as a separate class and on an as converted to Common Stock basis), (v) the holders of at least a majority of the shares of Series G Preferred Stock (voting as a separate class and on an as-converted to Common Stock basis) and (vi) the holders of at least a majority of the shares of Series H Preferred Stock (voting as a separate class and on an as-converted to Common Stock basis), agreeing that no such adjustment shall be made as the result of the issuance or deemed issuance of such Additional Shares of Common Stock.

4.4.3. Deemed Issue of Additional Shares of Common Stock.

(a) If the Corporation at any time or from time to time after the Original Issue Date shall issue any Options or Convertible Securities (excluding Options or Convertible Securities which are themselves Exempted Securities) or shall fix a record date for the determination of holders of any class of securities entitled to receive any such Options or Convertible Securities, then the maximum number of shares of Common Stock (as set forth in the instrument relating thereto, assuming the satisfaction of any conditions to exercisability, convertibility or exchangeability but without regard to any provision contained therein for a subsequent adjustment of such number) issuable upon the exercise of such Options or, in the case of Convertible Securities and Options therefor, the conversion or exchange of such Convertible Securities, shall be deemed to be Additional Shares of Common Stock issued as of the time of such issue or, in case such a record date shall have been fixed, as of the close of business on such record date.

(b) If the terms of any Option or Convertible Security, the issuance of which resulted in an adjustment to the Conversion Price of any series of Preferred Stock pursuant to the terms of Subsection 4.4.4, are revised as a result of an amendment to such terms or any other adjustment pursuant to the provisions of such Option or Convertible Security (but excluding automatic adjustments to such terms pursuant to anti-dilution or similar provisions of such Option or Convertible Security) to provide for either (1) any increase or decrease in the number of shares of Common Stock issuable upon the exercise, conversion and/or exchange of any such Option or Convertible Security or (2) any increase or decrease in the consideration payable to the

Corporation upon such exercise, conversion and/or exchange, then, effective upon such increase or decrease becoming effective, the Conversion Price of such series of Preferred Stock computed upon the original issue of such Option or Convertible Security (or upon the occurrence of a record date with respect thereto) shall be readjusted to such Conversion Price as would have been obtained had such revised terms been in effect upon the original date of issuance of such Option or Convertible Security. Notwithstanding the foregoing, no readjustment pursuant to this clause (b) shall have the effect of increasing the Conversion Price to an amount which exceeds the lower of (i) the Conversion Price in effect immediately prior to the original adjustment made as a result of the issuance of such Option or Convertible Security, or (ii) the Conversion Price that would have resulted from any issuances of Additional Shares of Common Stock (other than deemed issuances of Additional Shares of Common Stock as a result of the issuance of such Option or Convertible Security) between the original adjustment date and such readjustment date.

(c) If the terms of any Option or Convertible Security (excluding Options or Convertible Securities which are themselves Exempted Securities), the issuance of which did not result in an adjustment to the Conversion Price of any series of Preferred Stock pursuant to the terms of Subsection 4.4.4 (either because the consideration per share (determined pursuant to Subsection 4.4.5) of the Additional Shares of Common Stock subject thereto was equal to or greater than such Conversion Price then in effect, or because such Option or Convertible Security was issued before the Original Issue Date), are revised after the Original Issue Date as a result of an amendment to such terms or any other adjustment pursuant to the provisions of such Option or Convertible Security (but excluding automatic adjustments to such terms pursuant to anti-dilution or similar provisions of such Option or Convertible Security) to provide for either (1) any increase in the number of shares of Common Stock issuable upon the exercise, conversion or exchange of any such Option or Convertible Security or (2) any decrease in the consideration payable to the Corporation upon such exercise, conversion or exchange, then such Option or Convertible Security, as so amended or adjusted, and the Additional Shares of Common Stock subject thereto (determined in the manner provided in Subsection 4.4.3(a)) shall be deemed to have been issued effective upon such increase or decrease becoming effective.

(d) Upon the expiration or termination of any unexercised Option or unconverted or unexchanged Convertible Security (or portion thereof) which resulted (either upon its original issuance or upon a revision of its terms) in an adjustment to the Conversion Price of any series of Preferred Stock pursuant to the terms of Subsection 4.4.4, the Conversion Price of such series of Preferred Stock shall be readjusted to such Conversion Price as would have obtained had such Option or Convertible Security (or portion thereof) never been issued.

(e) If the number of shares of Common Stock issuable upon the exercise, conversion and/or exchange of any Option or Convertible Security, or the consideration payable to the Corporation upon such exercise, conversion and/or exchange, is calculable at the time such Option or Convertible Security is issued or amended but is subject to adjustment based upon subsequent events, any adjustment to the Conversion Price of any series of Preferred Stock provided for in this Subsection 4.4.3 shall be effected at the time of such issuance or amendment based on such number of shares or amount of consideration without regard to any provisions for subsequent adjustments (and any subsequent adjustments shall be treated as provided in clauses (b) and (c) of this Subsection 4.4.3). If the number of shares of Common Stock issuable upon the exercise, conversion and/or exchange of any Option or Convertible Security, or the consideration payable to the Corporation upon such exercise, conversion and/or exchange, cannot be calculated at all at the time such Option or Convertible Security is issued or amended, any adjustment to the Conversion Price of any series of Preferred Stock that would result under the terms of this Subsection 4.4.3 at the time of such issuance or amendment shall instead be effected at the time such number of shares and/or amount of consideration is first calculable (even if subject to subsequent adjustments), assuming for purposes of calculating such adjustment to the Conversion Price of such series of Preferred Stock that such issuance or amendment took place at the time such calculation can first be made.

4.4.4. Adjustment of Conversion Price Upon Issuance of Additional Shares of Common Stock. In the event the Corporation shall at any time after the Original Issue Date issue Additional Shares of Common Stock (including Additional Shares of Common Stock deemed to be issued pursuant to Subsection 4.4.3), without consideration or for a consideration per share less than the Conversion Price of a series of Preferred

Stock in effect immediately prior to such issue, then the Conversion Price for such series in effect shall be reduced, concurrently with such issue, to a price (calculated to the nearest one-hundredth of a cent) determined in accordance with the following formula:

$$CP2 = CPI^* (A + B) + (A + C).$$

For purposes of the foregoing formula, the following definitions shall apply:

(a) "CP2" shall mean the Conversion Price m effect immediately after such issue of Additional Shares of Common Stock

(b) "CP1" shall mean the Conversion Price m effect immediately prior to such issue of Additional Shares of Common Stock;

(c) "A" shall mean the number of shares of Common Stock outstanding immediately prior to such issue of Additional Shares of Common Stock (treating for this purpose as outstanding all shares of Common Stock issuable upon exercise of Options outstanding immediately prior to such issue or upon conversion or exchange of Convertible Securities (including the Series A Preferred Stock, the Series B Preferred Stock, the Series C Preferred Stock, the Series D Preferred Stock, the Series E Preferred Stock, the Series F Preferred Stock, the Series G Preferred Stock and the Series H Preferred Stock) outstanding (assuming exercise of any outstanding Options therefor) immediately prior to such issue);

(d) "B" shall mean the number of shares of Common Stock that would have been issued if such Additional Shares of Common Stock had been issued at a price per share equal to CP1 (determined by dividing the aggregate consideration received by the Corporation in respect of such issue by CPl); and

(e) "C" shall mean the number of such Additional Shares of Common Stock issued in such transaction.

4.4.5. Determination of Consideration. For purposes of this Subsection 4.4, the consideration received by the Corporation for the issue of any Additional Shares of Common Stock shall be computed as follows:

(a) Cash and Property: Such consideration shall:

(i) insofar as it consists of cash, be computed at the aggregate amount of cash received by the Corporation, excluding amounts paid or payable for accrued interest;

(ii) insofar as it consists of property other than cash, be computed at the fair market value thereof at the time of such issue, as determined in good faith by the Board of Directors, including at least a majority of the Preferred Directors; and

(iii) in the event Additional Shares of Common Stock are issued together with other shares or securities or other assets of the Corporation for consideration which covers both, be the proportion of such consideration so received, computed as provided in clauses (i) and (ii) above, as determined in good faith by the Board of Directors, including at least a majority of the Preferred Directors.

(b) Options and Convertible Securities. The consideration per share received by the Corporation for Additional Shares of Common Stock deemed to have been issued pursuant to Subsection 4.4.3, relating to Options and Convertible Securities, shall be determined by dividing:

(i) the total amount, if any, received or receivable by the Corporation as consideration for the issue of such Options or Convertible Securities, plus the minimum aggregate amount of additional consideration (as set forth in the instruments relating thereto, without regard to any provision contained therein for a subsequent adjustment of such consideration) payable to the Corporation upon the exercise of such Options or the conversion or exchange of such Convertible Securities, or in the case of Options for Convertible Securities, the exercise of such Options for Convertible Securities and the conversion or exchange of such Convertible Securities, by

(ii) the maximum number of shares of Common Stock (as set forth in the instruments relating thereto, without regard to any provision contained therein for a subsequent adjustment of such number) issuable upon the exercise of such Options or the conversion or exchange of such Convertible Securities, or in the case of Options for Convertible Securities, the exercise of such Options for Convertible Securities and the conversion or exchange of such Convertible Securities.

4.4.6. Multiple Closing Dates. In the event the Corporation shall issue on more than one date Additional Shares of Common Stock that are a part of one transaction or a series of related transactions and that would result in an adjustment to the Conversion Price of any series of Preferred Stock pursuant to the terms of Subsection 4.4.4, and such issuance dates occur within a period of no more than 90 days from the first such issuance to the final such issuance, then, upon the final such issuance, the Conversion Price of any such series of Preferred Stock shall be readjusted to give effect to all such issuances as if they occurred on the date of the first such issuance (and without giving effect to any additional adjustments as a result of any such subsequent issuances within such period).

4.5 Adjustment for Stock Splits and Combinations. If the Corporation shall at any time or from time to time after the Original Issue Date effect a subdivision of the outstanding Common Stock, the Conversion Price for each series of Preferred Stock that is convertible into Common Stock in effect immediately before that subdivision shall be proportionately decreased so that the number of shares of Common Stock issuable on conversion of each share of such series shall be increased in proportion to such increase in the aggregate number of shares of Common Stock outstanding. If the Corporation shall at any time or from time to time after the Original Issue Date combine the outstanding shares of Common Stock, the Conversion Price for each series of Preferred Stock that is convertible into Common Stock in effect immediately before the combination shall be proportionately increased so that the number of shares of Common Stock issuable on conversion of each share of such series shall be decreased in proportion to such decrease in the aggregate number of shares of Common Stock outstanding. Any adjustment under this Subsection 4.5 shall become effective at the close of business on the date the subdivision or combination becomes effective. If the Corporation shall at any time or from time to time after the Original Issue Date (i) effect a subdivision or combination of the outstanding Common Stock with a comparable subdivision or combination, as applicable, of the Preferred Stock or (ii) effect a subdivision or combination of the outstanding shares of Preferred Stock with a comparable subdivision or combination, as applicable, of the Common Stock, then in each case, no adjustment shall be made to the Conversion Price of any series of Preferred Stock.

4.6 Adjustment for Certain Dividends and Distributions. In the event the Corporation at any time or from time to time after the Original Issue Date shall make or issue, or fix a record date for the determination

of holders of Common Stock entitled to receive, a dividend or other distribution payable on the Common Stock in additional shares of Common Stock, then and in each such event the Conversion Price of each series of Preferred Stock that is convertible into Common Stock in effect immediately before such event shall be decreased as of the time of such issuance or, in the event such a record date shall have been fixed, as of the close of business on such record date, by multiplying the Conversion Price for any such series of Preferred Stock then in effect by a fraction:

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

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

Notwithstanding the foregoing, (a) if such record date shall have been fixed and such dividend is not fully paid or if such distribution is not fully made on the date fixed therefor, the Conversion Price for any such series of Preferred Stock shall be recomputed accordingly as of the close of business on such record date and thereafter the Conversion Price for any such series of Preferred Stock shall be adjusted pursuant to this Subsection 4.6 as of the time of actual payment of such dividends or distributions; and (b) that no such adjustment shall be made if the holders of Preferred Stock simultaneously receive (i) a dividend or other distribution of shares of Common Stock in a number equal to the number of shares of Common Stock as they would have received if all outstanding shares of Preferred Stock had been converted into Common Stock on the date of such event or (ii) a dividend or other distribution of shares of Preferred Stock which are each convertible, as of the date of such event, into such number of shares of Common Stock as is equal to the number of additional shares of Common Stock being issued with respect to each share of Common Stock in such dividend or distribution.

4.7 Adjustments for Other Dividends and Distributions. In the event the Corporation at any time or from time to time after the Original Issue Date shall make or issue, or fix a record date for the determination of holders of Common Stock entitled to receive, a dividend or other distribution payable in securities of the Corporation (other than a distribution of shares of Common Stock in respect of outstanding shares of Common Stock) or in other property and the provisions of Section 1 do not apply to such dividend or distribution, then and in each such event the holders of Preferred Stock shall receive, simultaneously with the distribution to the holders of Common Stock, a dividend or other distribution of such securities or other property in an amount equal to the amount of such securities or other property as they would have received if all outstanding shares of Preferred Stock had been converted into Common Stock on the date of such event.

4.8 Adjustment for Merger or Reorganization, etc. Subject to the provisions of Subsection 2.9, if there shall occur any reorganization, recapitalization, reclassification, consolidation or merger involving the Corporation in which the Common Stock (but not the Preferred Stock) is converted into or exchanged for securities, cash or other property (other than a transaction covered by Subsections 4.4, 4.6 or 4.7), then, following any such reorganization, recapitalization, reclassification, consolidation or merger, each share of Preferred Stock shall thereafter be convertible in lieu of the Common Stock into which it was convertible prior to such event into the kind and amount of securities, cash or other property which a holder of the number of shares of Common Stock of the Corporation issuable upon conversion of one share of Preferred Stock immediately prior to such reorganization, recapitalization, reclassification, consolidation or merger would have been entitled to receive pursuant to such transaction; and, in such case, appropriate adjustment (as determined in good faith by the Board of Directors) shall be made in the application of the provisions in this Section 4 with respect to the rights and interests thereafter of the holders of the Preferred Stock, to the end that the provisions set forth in this Section 4 (including provisions with respect to changes in and other adjustments of the Conversion Price of any series of Preferred Stock) shall thereafter be applicable, as nearly as reasonably may be, in relation to any securities or other property thereafter deliverable upon the conversion of the Preferred Stock. For the avoidance of doubt, nothing in this Subsection 4.8 shall be construed as preventing the holders of Preferred Stock from seeking any appraisal rights to which they are otherwise entitled under the General Corporation Law in connection with a

merger triggering an adjustment hereunder, nor shall this Subsection 4.8 be deemed conclusive evidence of the fair value of the shares of Preferred Stock in any such appraisal proceeding.

4.9 Certificate as to Adjustments. Upon the occurrence of each adjustment or readjustment of the Conversion Price of any series of Preferred Stock pursuant to this Section 4, the Corporation at its expense shall, as promptly as reasonably practicable but in any event not later than 10 days thereafter, compute such adjustment or readjustment in accordance with the terms hereof and furnish to each holder of Preferred Stock a certificate setting forth such adjustment or readjustment (including the kind and amount of securities, cash or other property into which the Preferred Stock is convertible) and showing in detail the facts upon which such adjustment or readjustment is based. The Corporation shall, as promptly as reasonably practicable after the written request at any time of any holder of Preferred Stock (but in any event not later than 10 days thereafter), furnish or cause to be furnished to such holder a certificate setting forth (i) the Conversion Price for such series of Preferred Stock then in effect, and (ii) the number of shares of Common Stock and the amount, if any, of other securities, cash or property which then would be received upon the conversion of Preferred Stock.

4.10 Notice of Record Date. In the event:

(a) the Corporation shall take a record of the holders of its Common Stock (or other capital stock or securities at the time issuable upon conversion of the Preferred Stock) for the purpose of entitling or enabling them to receive any dividend or other distribution, or to receive any right to subscribe for or purchase any shares of capital stock of any class or any other securities, or to receive any other security; or

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

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

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

5. Mandatory Conversion.

5.1 Trigger Events.

5.1.l. Qualified Public Offering. Upon the closing of the sale of shares of Common Stock to the public at a price per share implying a valuation of the Corporation equal to at least $350,000,000 (calculated on a fully diluted basis) and resulting in at least $50,000,000 of gross proceeds to the Corporation, in an underwritten public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended (a **"Qualified Public Offering"**) (the time of such closing is referred to herein as the **"QPO Mandatory Conversion Time"**), (i) all outstanding shares of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock, Series F Preferred Stock, Series G Preferred Stock and Series H Preferred Stock shall automatically be converted into shares of Common Stock, at the then effective Conversion Rate for such series of Preferred Stock and (ii) such shares may not be reissued by the Corporation.

5.1.2. Series A Preferred Stock and Series B Preferred Stock. Upon the date and time, or the occurrence of an event, specified by vote or written consent of the holders of at least 55% of the then outstanding shares of Series A Preferred Stock and Series B Preferred Stock, voting together as a single class on an as converted to Common Stock basis (the date and time specified or the time of the event specified in such vote or written consent is referred to herein as the **"Series A and Series B Mandatory Conversion Time**"), (i) all outstanding shares of Series A Preferred Stock and Series B Preferred Stock shall automatically be converted into shares of Common Stock, at the then effective Conversion Rate for such series of Preferred Stock and (ii) such shares may not be reissued by the Corporation.

5.1.3. Series C Preferred Stock. Upon the date and time, or the occurrence of an event, specified by vote or written consent of the holders of at least 75% of the then outstanding shares of Series C Preferred Stock, voting as a single class on an as converted to Common Stock basis (the date and time specified or the time of the event specified in such vote or written consent is referred to herein as the **"Series C Mandatory Conversion Time**"), (i) all outstanding shares of Series C Preferred Stock shall automatically be converted into shares of Common Stock, at the then effective Conversion Rate for Series C Preferred Stock and (ii) such shares may not be reissued by the Corporation.

5.1.4. Series D Preferred Stock. Upon the date and time, or the occurrence often event, specified by vote or written consent of the holders of at least 60% of the then outstanding shares of Series D Preferred Stock, voting as a single class on an as converted to Common Stock basis (the date and time specified or the time of the event specified in such vote or written consent is referred to herein as the **"Series D Mandatory Conversion Time"**), (i) all outstanding shares of Series D Preferred Stock shall automatically be converted into shares of Common Stock, at the then effective Conversion Rate for Series D Preferred Stock and (ii) such shares may not be reissued by the Corporation.

5.1.5. Series E Preferred Stock. Upon the date and time, or the occurrence of an event, specified by vote or written consent of the holders of at least 60% of the then outstanding shares of Series E Preferred Stock, voting as a single class on an as converted to Common Stock basis (the date and time specified or the time of the event specified in such vote or written consent is referred to herein as the **"Series E Mandatory Conversion Time"**), (i) all outstanding shares of Series E Preferred Stock shall automatically be converted into shares of Common Stock, at the then effective Conversion Rate for Series E Preferred Stock and (ii) such shares may not be reissued by the Corporation.

5.1.6. Series F Preferred Stock. Upon the date and time, or the occurrence of an event, specified by vote or written consent of the holders of at least a majority of the then outstanding shares of Series F Preferred Stock, voting as a single class on an as converted to Common Stock basis (the date and time specified or the time of the event specified in such vote or written consent is referred to herein as the **"Series F Mandatory Conversion Time**"), (i) all outstanding shares of Series F Preferred Stock shall automatically be converted into shares of Common Stock, at the then effective Conversion Rate for Series F Preferred Stock and (ii) such shares may not be reissued by the Corporation.

5.1.7. Series G Preferred Stock. Upon the date and time, or the occurrence of an event, specified by vote or written consent of the holders of at least a majority of the then outstanding shares of Series G Preferred Stock, voting as a single class on an as converted to Common Stock basis (the date and time specified or the time of the event specified in such vote or written consent is referred to herein as the **"Series G Mandatory Conversion Time"**), (i) all outstanding shares of Series G Preferred Stock shall automatically be converted into shares of Common Stock, at the then effective Conversion Rate for Series G Preferred Stock and (ii) such shares may not be reissued by the Corporation.

5.1.8. Series H Preferred Stock. Upon the date and time, or the occurrence of an event, specified by vote or written consent of the holders of at least a majority of the then outstanding shares of Series H Preferred Stock, voting as a single class on an as converted to Common Stock basis (the date and time specified or the time of the event specified in such vote or written consent is referred to herein as the **"Series H Mandatory Conversion Time"**), (i) all outstanding shares of Series H Preferred Stock shall automatically be converted into shares of Common Stock, at the then effective Conversion Rate for Series H Preferred Stock and (ii) such shares may not be reissued by the Corporation.

5.2 Procedural Requirements. All holders of record of shares of Preferred Stock which are being converted shall be sent prior written notice of the QPO Mandatory Conversion Time, Series A and Series B Mandatory Conversion Time, Series C Mandatory Conversion Time, Series D Mandatory Conversion Time, Series E Mandatory Conversion Time, Series F Mandatory Conversion Time, Series G Mandatory Conversion Time or the Series H Mandatory Conversion Time as applicable, and the place designated for mandatory conversion of all such shares of Preferred Stock pursuant to this Section 5. Upon receipt of such notice, each holder of shares of Preferred Stock which are being converted shall surrender his, her or its certificate or certificates for all such shares (or, if such holder alleges that such certificate has been lost, stolen or destroyed, a lost certificate affidavit and agreement reasonably acceptable to the Corporation to indemnify the Corporation against any claim that may be made against the Corporation on account of the alleged loss, theft or destruction of such certificate) to the Corporation at the place designated in such notice. If so required by the Corporation, certificates surrendered for conversion shall be endorsed or accompanied by written instrument or instruments of transfer, in form satisfactory to the Corporation, duly executed by the registered holder or by his, her or its attorney duly authorized in writing. All rights with respect to the Preferred Stock converted pursuant to Subsection 5.1, including the rights, if any, to receive notices and vote (other than as a holder of Common Stock), will terminate at the QPO Mandatory Conversion Time, Series A and Series B Mandatory Conversion Time, Series C Mandatory Conversion Time, Series D Mandatory Conversion Time, Series E Mandatory Conversion Time, Series F Mandatory Conversion Time, Series G Mandatory Conversion Time or the Series H Mandatory Conversion Time, as applicable (notwithstanding the failure of the holder or holders thereof to surrender the certificates at or prior to such time), except only the rights of the holders thereof, upon surrender of their certificate or certificates (or lost certificate affidavit and agreement) therefor, to receive the items provided for in the next sentence of this Subsection 5.2. As soon as practicable after the QPO Mandatory Conversion Time, Series A and Series B Mandatory Conversion Time, Series C Mandatory Conversion Time, Series D Mandatory Conversion Time, Series E Mandatory Conversion Time, Series F Mandatory Conversion Time, Series G Mandatory Conversion Time or Series H Mandatory Conversion Time, as applicable, and the surrender of the certificate or certificates (or lost certificate affidavit and agreement) for Preferred Stock being converted, the Corporation shall issue and deliver to such holder, or to his, her or its nominees, a certificate or certificates for the number of full shares of Common Stock issuable on such conversion in accordance with the provisions hereof, together with cash as provided in Subsection 4.2 in lieu of any fraction of a share of Common Stock otherwise issuable upon such conversion and the payment of any declared but unpaid dividends on the shares of Preferred Stock converted. Such converted Preferred Stock shall be retired and cancelled and may not be reissued as shares of such series, and the Corporation may thereafter take such appropriate action (without the need for stockholder action) as may be necessary to reduce the authorized number of shares of Preferred Stock accordingly.

6. Special Mandatory Reclassification.

6.1 Trigger Event. In the event that (i) the Corporation consummates the Additional Closing (as such term is defined in the Series H Purchase Agreement) and (ii) a holder of Series H Preferred Stock is a Non-Participating Investor (as such term is defined in the Series H Purchase Agreement), then

effective as of 11:59 p.m. Pacific time on the date of the Additional Closing, the Applicable Portion (as such term is defined in the Series H Purchase Agreement) of the Initial Closing Shares (as such term is defined in the Series H Purchase Agreement) originally purchased by such Non-Participating Investor (the "**Non-Participating Series H Preferred**") shall automatically, and without any further action on the part of such holder or any other party, be reclassified as and changed into shares of Series H Preferred Stock on a one-to-one-half (1.0:0.5) basis (i.e., each one (1) such share of the Applicable Portion of Series H Preferred Stock shall be reclassified as and changed into one-half (0.5) of a share of Series H Preferred Stock) (the "**Reclassified Series H Preferred Stock**"). Such reclassification is referred to as a "**Special Mandatory Reclassification.**"

6.2 Procedural Requirements. Upon a Special Mandatory Reclassification, all shares of Non-Participating Series H Preferred subject to the Special Mandatory Reclassification shall be reclassified into Reclassified Series H Preferred Stock automatically as provided in Subsection 6.1 without any further action by any holder of such shares and whether or not the certificate or certificates representing such shares are surrendered to the Corporation. Any stock certificate that immediately prior to the Special Mandatory Reclassification represented shares of Non-Participating Series H Preferred shall, immediately following the Special Mandatory Reclassification represent the number of whole shares of Reclassified Series H Preferred Stock determined as provided in Subsection 6.1. No fractional shares of Series H Preferred Stock shall be issued in connection with the Special Mandatory Reclassification. All shares of Reclassified Series H Preferred Stock that are held by a Non-Participating Investor shall be aggregated subsequent to the Special Mandatory Reclassification. In lieu of any interest in a fractional share of Reclassified Series H Preferred Stock that may remain following such aggregation, the Corporation shall pay a cash amount to such stockholder equal to the fair value of such fractional share (as determined in good faith by the Board of Directors), rounded up to the nearest whole $0.01. Upon a Special Mandatory Reclassification, each holder of shares of Non-Participating Series H Preferred Stock reclassified pursuant to Subsection 6.1 shall be sent written notice of such Special Mandatory Reclassification and the place designated for mandatory reclassification of all such shares of Non-Participating Series H Preferred Stock pursuant to this Section 6. Upon receipt of such notice, each holder of such shares of Non-Participating Series H Preferred Stock in certificated form shall surrender his, her or its certificate or certificates for all such shares (or, if such holder alleges that any such certificate has been lost, stolen or destroyed, a lost certificate affidavit and agreement reasonably acceptable to the Corporation to indemnify the Corporation against any claim that may be made against the Corporation on account of the alleged loss, theft or destruction of such certificate) to the Corporation at the place designated in such notice. If so required by the Corporation, any certificates surrendered for conversion shall be endorsed or accompanied by written instrument or instruments of transfer, in form satisfactory to the Corporation, duly executed by the registered holder or by his, her or its attorney duly authorized in writing. As soon as practicable after the Special Mandatory Reclassification and, if applicable, the surrender of any certificate or certificates (or lost certificate affidavit and agreement) for the Non-Participating Series H Preferred Stock so reclassified, the Corporation shall issue and deliver to such holder, or to his, her or its nominees, a certificate or certificates for the number of full shares of Reclassified Series H Preferred Stock issuable on such reclassification in accordance with the provisions hereof. Those shares of Series H Preferred Stock no longer outstanding as a result of the Special Mandatory Reclassification shall be retired and cancelled and may not be reissued as shares of such series, and the Corporation may thereafter take such appropriate action (without the need for stockholder action) as may be necessary to reduce the authorized number of shares of Series H Preferred Stock accordingly.

7. Redemption. The Preferred Stock is not mandatorily redeemable. Any shares of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock, Series F Preferred Stock, Series G Preferred Stock and Series H Preferred Stock that are redeemed or otherwise acquired by the Corporation or any of its subsidiaries shall be automatically and

immediately cancelled and retired and shall not be reissued, sold or transferred. Neither the Corporation nor any of its subsidiaries may exercise any voting or other rights granted to the holders of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock, Series F Preferred Stock, Series G Preferred Stock or Series H Preferred Stock following redemption.

8. Waiver. Any of the rights, powers, preferences and other terms of the Series A Preferred Stock set forth herein may be waived on behalf of all holders of Series A Preferred Stock by the affirmative written consent or vote of the holders of at least a majority of the shares of Series A Preferred Stock then outstanding. Any of the rights, powers, preferences and other terms of the Series B Preferred Stock set forth herein may be waived on behalf of all holders of Series B Preferred Stock by the affirmative written consent or vote of the holders of at least 60% of the shares of Series B Preferred Stock then outstanding. Any of the rights, powers, preferences and other terms of the Series C Preferred Stock set forth herein may be waived on behalf of all holders of Series C Preferred Stock by the affirmative written consent or vote of the holders of at least 75% of the shares of Series C Preferred Stock then outstanding. Any of the rights, powers, preferences and other terms of the Series D Preferred Stock set forth herein may be waived on behalf of all holders of Series D Preferred Stock by the affirmative written consent or vote of the holders of at least 60% of the shares of Series D Preferred Stock then outstanding. Any of the rights, powers, preferences and other terms of the Series E Preferred Stock set forth herein may be waived on behalf of all holders of Series E Preferred Stock by the affirmative written consent or vote of the holders of at least 60% of the shares of Series E Preferred Stock then outstanding. Any of the rights, powers, preferences and other terms of the Series F Preferred Stock set forth herein may be waived on behalf of all holders of Series F Preferred Stock by the affirmative written consent or vote of the holders of at least a majority of the shares of Series F Preferred Stock then outstanding. Any of the rights, powers, preferences and other terms of the Series G Preferred Stock set forth herein may be waived on behalf of all holders of Series G Preferred Stock by the affirmative written consent or vote of the holders of at least a majority of the shares of Series G Preferred Stock then outstanding. Any of the rights, powers, preferences and other terms of the Series H Preferred Stock set forth herein may be waived on behalf of all holders of Series H Preferred Stock by the affirmative written consent or vote of the holders of at least a majority of the shares of Series H Preferred Stock then outstanding.

9. Notices. Any notice required or permitted by the provisions of this Article Fourth to be given to a holder of shares of Preferred Stock shall be mailed, postage prepaid, to the post office address last shown on the records of the Corporation, or given by electronic communication in compliance with the provisions of the General Corporation Law, and shall be deemed sent upon such mailing or electronic transmission.

FIFTH. Subject to any additional vote required by the Restated Certificate or Bylaws, in furtherance and not in limitation of the powers conferred by statute, the Board of Directors is expressly authorized to make, repeal, alter, amend and rescind any or all of the Bylaws of the Corporation.

SIXTH. Subject to any additional vote required by the Restated Certificate, the number of directors of the Corporation shall be determined in the manner set forth in the Bylaws of the Corporation.

SEVENTH. Elections of directors need not be by written ballot unless the Bylaws of the Corporation shall so provide.

EIGHTH. Meetings of stockholders may be held within or without the State of Delaware, as the Bylaws of the Corporation may provide. The books of the Corporation may be kept outside the State of Delaware at such place or places as may be designated from time to time by the Board of Directors or in the Bylaws of the Corporation.

NINTH. To the fullest extent permitted by law, a director of the Corporation shall not be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director. If the General Corporation Law or any other law of the State of Delaware is amended after approval by the stockholders of this Article Ninth to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of the Corporation shall be eliminated or limited to the fullest extent permitted by the General Corporation Law as so amended.

Any repeal or modification of the foregoing provisions of this Article Ninth by the stockholders of the Corporation shall not adversely affect any right or protection of a director of the Corporation existing at the time of, or increase the liability of any director of the Corporation with respect to any acts or omissions of such director occurring prior to, such repeal or modification.

TENTH. To the fullest extent permitted by applicable law, the Corporation shall provide indemnification of (and advancement of expenses to) directors of the Corporation through Bylaw provisions, agreements with such agents or other persons, vote of stockholders or disinterested directors or otherwise, in excess of the indemnification and advancement otherwise permitted by Section 145 of the General Corporation Law. To the fullest extent permitted by applicable law, the Corporation is authorized to provide indemnification of (and advancement of expenses to) officers and agents of the Corporation (and any other persons to which General Corporation Law permits the Corporation to provide indemnification) through Bylaw provisions, agreements with such agents or other persons, vote of stockholders or disinterested directors or otherwise, in excess of the indemnification and advancement otherwise permitted by Section 145 of the General Corporation Law.

ELEVENTH. The Corporation renounces any interest or expectancy of the Corporation in, or in being offered an opportunity to participate in, any Excluded Opportunity. An **"Excluded Opportunity"** is any matter, transaction or interest that is presented to, or acquired, created or developed by, or which otherwise comes into the possession of, (i) any director of the Corporation who is not an employee or advisor of the Corporation or any of its subsidiaries, or (ii) any holder of Preferred Stock or any partner, member, director, stockholder, affiliate, employee or agent of any such holder, other than someone who is an employee of the Corporation or any of its subsidiaries (collectively, **"Covered Persons"**), unless such matter, transaction or interest is presented to, or acquired, created or developed by, or otherwise comes into the possession of, a Covered Person expressly and solely in such Covered Person's capacity as a director of the Corporation.

Any amendment, repeal or modification of the foregoing provisions of this Article Eleventh shall not adversely affect any right or protection of any director, officer or other agent of the Corporation existing at the time of such amendment, repeal or modification.

TWELFTH. Distributions by the Corporation may be made without regard to "preferential dividends arrears amount" or any "preferential rights," as such terms may be used in Section 500 of the California Corporations Code.

THIRTEENTH. Unless the Corporation consents in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware shall be the sole and exclusive forum for (A) any derivative action or proceeding asserting a claim on behalf of the Corporation, (B) any action or proceeding asserting a claim of breach of a fiduciary duty owed by any current or former director, officer, employee or agent of the Corporation to the Corporation or the Corporation's stockholders, (C) any action or proceeding asserting a claim against the Corporation arising pursuant to any provision of the General Corporation Law or the Restated Certificate or Bylaws, (D) any action or proceeding asserting a claim as to which the General Corporation Law confers jurisdiction upon the Court of Chancery of the State of Delaware, or (E) any action

or proceeding asserting a claim governed by the internal affairs doctrine, in each case subject to said Court of Chancery having personal jurisdiction over the indispensable parties named as defendants therein.

* * *

3. That the foregoing amendment and restatement was approved by the holders of the requisite number of shares of this corporation in accordance with Section 228 of the General Corporation Law.

4. That this Restated Certificate, which restates and integrates and further amends the provisions of this corporation's Certificate of Incorporation, has been duly adopted m accordance with Sections 242 and 245 of the General Corporation Law.

[*Signature Page Follows*]

IN WITNESS WHEREOF, this Amended and Restated Certificate of Incorporation has been executed by a duly authorized officer of this corporation on this 4th day of October, 2018.

By: /s/ Ethan Brown
Ethan Brown
President

SIGNATURE PAGE TO AMENDED AND RESTATED CERTIFICATE OF INCORPORATION
BEYOND MEAT, INC.

BYLAWS

OF

J GREEN NATURAL FOODS CO.
(A DELAWARE CORPORATION)
(ADOPTED APRIL 8, 2011)

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BYLAWS

OF

J GREEN NATURAL FOODS CO.
(A DELAWARE CORPORATION)

ARTICLE I

OFFICES

Section 1. **Registered Office.** The registered office of the corporation in the State of Delaware shall be in the City of Dover, County of Kent.

Section 2. Other Offices. The corporation shall also have and maintain an office or principal place of business at such place as may be fixed by the Board of Directors, and may also have offices at such other places, both within and without the State of Delaware, as the Board of Directors may from time to time determine or the business of the corporation may require.

ARTICLE II

CORPORATE SEAL

Section 3. Corporate Seal. The Board of Directors may adopt a corporate seal. The corporate seal shall consist of a die bearing the name of the corporation and the inscription, "Corporate Seal-Delaware." Said seal may be used by causing it or a facsimile thereof to be impressed or affixed or reproduced or otherwise.

ARTICLE III

STOCKHOLDERS' MEETINGS

Section 4. Place of Meetings. Meetings of the stockholders of the corporation may be held at such place, either within or without the State of Delaware, as may be determined from time to time by the Board of Directors. The Board of Directors may, in its sole discretion, determine that the meeting shall not be held at any place, but may instead be held solely by means of remote communication as provided under the Delaware General Corporation Law *("**DGCL**").*

Section 5. Annual Meeting.

(a) The annual meeting of the stockholders of the corporation, for the purpose of election of directors and for such other business as may lawfully come before it, shall be held on such date and at such time as may be designated from time to time by the Board of Directors. Nominations of persons for election to the Board of Directors of the corporation and the proposal of business to be considered by the stockholders may be made at an annual meeting of stockholders: (i) pursuant to the corporation's notice of meeting of stockholders; (ii) by or at the direction of the Board of Directors; or (iii) by any stockholder of the corporation who was a stockholder of record at the time of giving of notice provided for in the following paragraph, who is entitled to vote at the meeting and who complied with the notice procedures set forth in Section 5.

(b) At an annual meeting of the stockholders, only such business shall be conducted as shall have been properly brought before the meeting. For nominations or other business to be properly brought before an annual meeting by a stockholder pursuant to clause (iii) of Section 5(a) of these Bylaws, (i) the stockholder must have given timely notice thereof in writing to the Secretary of the corporation, (ii) such other business must be a proper matter for stockholder action under the DGCL, (iii) if the stockholder, or the beneficial owner on whose behalf any such proposal or nomination is made, has provided the corporation with a Solicitation Notice (as defined in this Section 5(b)), such stockholder or beneficial owner must, in the case of a proposal, have delivered a proxy statement and form of proxy to holders of at least the percentage of the corporation's voting shares required under applicable law to carry any such proposal, or, in the case of a nomination or nominations, have delivered a proxy statement and form of proxy to holders of a percentage of the corporation's voting shares reasonably believed by such stockholder or beneficial owner to be sufficient to elect the nominee or nominees proposed to be nominated by such stockholder, and must, in either case, .have included in such materials the Solicitation Notice, and (iv) if no Solicitation Notice relating thereto has been timely provided pursuant to this section, the stockholder or beneficial owner proposing such business or nomination must not have solicited a number of proxies sufficient to have required the delivery of such a Solicitation Notice under this Section 5. To be timely, a stockholder's notice shall be delivered to the Secretary at the principal executive offices of the Corporation not later than the close of business on the ninetieth (90^{th}) day nor earlier than the close of business on the one hundred twentieth (120^{th}) day prior to the first anniversary of the preceding year's annual meeting; provided, however, that in the event that the date of the annual meeting is advanced more than thirty (30) days prior to or delayed by more than thirty (30) days after the anniversary of the preceding year's annual meeting, notice by the stockholder to be timely, must be so delivered not earlier than the close of business on the one hundred twentieth (120^{th}) day prior to such annual meeting and not later than the close of business on the later of the ninetieth (90^{th}) day prior to such annual meeting or the tenth (10^{th}) day following the day on which public announcement of the date of such meeting is first made. In no event shall the public announcement of an adjournment of an annual meeting commence a new time period for the giving of a stockholder's notice as described above. Such stockholder's notice shall set forth: (A) as to each person whom the stockholder proposed to nominate for election or reelection as a director all information relating to such person that is required to be disclosed in solicitations of proxies for election of directors in an election contest, or is otherwise required, in each case pursuant to Regulation 14A under the Securities Exchange Act of 1934, as amended (the ***"1934 Act')*** and Rule 14a-4(d) thereunder (including such person's written consent to being named in the proxy statement as a nominee and to serving as a director if elected); (B) as to any other business that the stockholder proposes to bring before the meeting, a brief description of the business desired to be brought before the meeting, the reasons for conducting such business at the meeting and any material interest in such business of such stockholder and the beneficial owner, if any, on whose behalf the proposal is made; and (C) as to the stockholder giving the notice and the beneficial owner, if any, on whose behalf the nomination or proposal is made (i) the name and address of such stockholder, as they appear on the corporation's books, and of such beneficial owner, (ii) the class and number of shares of the corporation which are owned beneficially and of record by such stockholder and such beneficial owner, and (iii) whether either such stockholder or beneficial owner intends to deliver a proxy statement and form of proxy to holders of, in the case of the proposal, at least the percentage of the corporation's voting shares required under applicable law to carry the proposal or, in the case of a nomination or nominations, a sufficient number of holders of the corporation's voting shares to elect such nominee or nominees (an affirmative statement of such intent, a ***"Solicitation Notice")***.

(c) Notwithstanding anything in the second sentence of Section 5(b) of these Bylaws to the contrary, in the event that the number of directors to be elected to the Board of Directors of the Corporation is increased and there is no public announcement naming all of the nominees for director or specifying the size of the increased Board of Directors made by the corporation at least one hundred (100) days prior to the first anniversary of the preceding year's annual meeting, a stockholder's notice required

by this Section 5 shall also be considered timely, but only with respect to nominees for any new positions created by such increase, if it shall be delivered to the Secretary at the principal executive offices of the corporation not later than the close of business on the tenth (10th) day following the day on which such public announcement is first made by the corporation.

(d) Only such persons who are nominated in accordance with the procedures set forth in this Section 5 shall be eligible to serve as directors and only such business shall be conducted at a meeting of stockholders as shall have been brought before the meeting in accordance with the procedures set forth in this Section 5. Except as otherwise provided by law, the Chairman of the meeting shall have the power and duty to determine whether a nomination or any business proposed to be brought before the meeting was made, or proposed, as the case may be, in accordance with the procedures set forth in these Bylaws and, if any proposed nomination or business is not in compliance with these Bylaws, to declare that such defective proposal or nomination shall not be presented for stockholder action at the meeting and shall be disregarded.

(e) Notwithstanding the foregoing provisions of this Section 5, in order to include information with respect to a stockholder proposal in the proxy statement and form of proxy for a stockholders' meeting, stockholders must provide notice as required by the regulations promulgated under the 1934 Act. Nothing in these Bylaws shall be deemed to affect any rights of stockholders to request inclusion of proposals in the corporation proxy statement pursuant to Rule 14a-8 under the 1934 Act.

(f) For purposes of this Section 5, "public announcement" shall mean disclosure in a press release reported by the Dow Jones News Service, Associated Press or comparable national news service or in a document publicly filed by the corporation with the Securities and Exchange Commission pursuant to Section 13, 14 or 15(d) of the 1934 Act.

Section 6. Special Meetings.

(a) Special meetings of the stockholders of the corporation may be called, for any purpose or purposes, by (i) the Chairman of the Board of Directors, (ii) the Chief Executive Officer; (iii) the Board of Directors pursuant to a resolution adopted by a majority of the total number of authorized directors (whether or not there exist any vacancies in previously authorized directorships at the time any such resolution is presented to the Board of Directors for adoption) or (iv) by the holders of shares entitled to cast not less than twenty percent (20%) of the votes at the meeting,' and shall be held at such place, on such date, and at such time as the Board of Directors shall fix.

(b) If a special meeting is properly called by any person or persons other than the Board of Directors, the request shall be in writing, specifying the general nature of the business proposed to be· transacted, and shall be delivered personally or. sent by certified or registered mail, return receipt requested, or by telegraphic or other facsimile transmission to the Chairman of the Board of Directors, the Chief Executive Officer, or the Secretary of the corporation. No business may be transacted at such special meeting otherwise than specified in such notice. The Board of Directors shall determine the time and place of such special meeting, which shall be held not less than thirty-five (35) nor more than one hundred twenty (120) days after the date of the receipt of the request. Upon determination of the time and place of the meeting, the officer receiving the request shall cause notice to be given to the stockholders entitled to vote, in accordance with the provisions of Section 7 of these Bylaws. Nothing contained in this paragraph (b) shall be construed as limiting, fixing, or affecting the time when a meeting of stockholders called by action of the Board of Directors may be held.

Section 7. Notice of Meetings. Except as otherwise provided by law, notice, given in writing or by electronic transmission, of each meeting of stockholders shall be given not less than ten (10) nor more

than sixty (60) days before the date of the meeting to each stockholder entitled to vote at such meeting, such notice to specify the place, if any, date and hour, in the case of special meetings, the purpose or purposes of the meeting, and the means of remote -.) communications, if any, by which stockholders and proxyholders may be deemed to be present in person and vote at any such meeting. If mailed, notice is given when deposited in the United States mail, postage prepaid, directed to the stockholder at such stockholder's address as it appears on the records of the corporation. Notice of the time, place, if any, and purpose of any meeting of stockholders may be waived in writing, signed by the person entitled to notice thereof or by electronic transmission by such person, either before or after such meeting, and will be waived by any stockholder by his attendance thereat in person, by remote communication, if applicable, or by proxy, except when the stockholder attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Any stockholder so waiving notice of such meeting shall be bound by the proceedings of any such meeting in all respects as if due notice thereof had been given.

Section 8. Quorum. At all meetings of stockholders, except where otherwise provided by statute or by the Certificate of Incorporation, or by these Bylaws, the presence, in person, by remote communication, if applicable, or by proxy duly authorized, of the holders of a majority of the outstanding shares of stock entitled to vote shall constitute a quorum for the transaction of business. In the absence of a quorum, any meeting of stockholders may be adjourned, from time to time, either by the chairman of the meeting or by vote of the holders of a majority of the shares represented thereat, but no other business shall be transacted at such meeting. The stockholders present at a duly called or convened meeting, at which a quorum is present, may continue to transact business until adjournment, notwithstanding the withdrawal of enough stockholders to leave less than a quorum; Except as otherwise provided by statute, or by\, } the Certificate of Incorporation or these Bylaws, in all matters other than the election of directors, the affirmative vote of a majority of shares present in person, by remote communication, if applicable, or represented by proxy duly authorized at the meeting and entitled to vote generally on the subject matter shall be the act of the stockholders. Except as otherwise provided by statute, the Certificate of Incorporation or these Bylaws, directors shall be elected by a plurality of the votes of the shares present in person, by remote communication, if applicable, or represented by proxy duly authorized at the meeting and entitled to vote generally on the election of directors. Where a separate vote by a class or classes or series is required, except where otherwise provided by the statute or by the Certificate of Incorporation or these Bylaws, a majority of the outstanding shares of such class or classes or series, present in person, by remote communication, if applicable, or represented by proxy duly authorized, shall constitute a quorum entitled to take action with respect to that vote on that matter. Except where otherwise provided by statute or by the Certificate of Incorporation or these Bylaws, the affirmative vote of the majority (plurality, in the case of the election of directors) of shares of such class or classes or series present in person, by remote communication, if applicable, or represented by proxy at the meeting shall be the act of such class or classes or series.

Section 9. Adjournment and Notice of Adjourned Meetings. Any meeting of stockholders, whether annual or special, may be adjourned from time to time either by the chairman of the meeting or by the vote of a majority of the shares present in person, by remote communication, if applicable, or represented by proxy. When a meeting is adjourned to another time or place, if any, notice need not be given of the adjourned meeting if the time and place, if any, thereof are announced at the meeting at which the adjournment is taken. At the adjourned, meeting, the corporation may transact any business which might have been transacted at the original meeting. If the adjournment is for more than thirty (30) days or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting.

Section 10. Voting Rights. For the purpose of determining those stockholders entitled to vote at any meeting of the stockholders, except as otherwise provided by law, only persons in whose names shares stand on the stock records of the corporation on the record date, as provided in Section 12 of these Bylaws, shall be entitled to vote at any meeting of stockholders. Every person entitled to vote or execute consents shall have the right to do so either in person, by remote communication, if applicable, or by an agent or agents authorized by a proxy granted in accordance with Delaware law. An agent so appointed need not be a stockholder. No proxy shall be voted after three (3) years from its date of creation unless the proxy provides for a longer period.

Section 11. Joint Owners of Stock. If shares or other securities having voting power stand of record in the names of two (2) or more persons, whether fiduciaries, members of a partnership, joint tenants, tenants in common, tenants by the entirety, or otherwise, or if two (2) or more persons have the same fiduciary relationship respecting the same shares, unless the Secretary is given written notice to the contrary and is furnished with a copy of the instrument or order appointing them or creating the relationship wherein it is so provided, their acts with respect to voting shall have the following effect: (a) if only one (1) votes, his act binds all; (b) if more than one (1) votes, the act of the majority so voting binds all; (c) if more than one (1) votes, but the vote is evenly split on any particular matter, each faction may vote the securities in question proportionally, or may apply to the Delaware Court of Chancery for relief as provided in the DGCL, Section 217(b). If the instrument filed with the Secretary shows that any such tenancy is held in unequal interests, a majority or even-split for the purpose of subsection (c) shall be a majority or even-split in interest. ·

Section 12. List of Stockholders. The Secretary shall prepare and make, at least ten (10) days before every meeting of stockholders, a complete list of the stockholders entitled to vote at said meeting, arranged in alphabetical order, showing the address of each stockholder and the number of shares registered in the name of each stockholder. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting, on a reasonably accessible electronic network, provided that the information required to gain access to such list is provided with the notice of the meeting, or during ordinary business hours, at the principal place of business of the corporation. In the event that the corporation determines to make the list available on an electronic network, the corporation may take reasonable steps to ensure that such information is available only to stockholders of the corporation. The list shall be open to examination of any stockholder during the time of the meeting as provided by law.

Section 13. Action Without Meeting.

(a) Unless otherwise provided in the Certificate of Incorporation, any action required by statute to be taken at any annual or special meeting of the stockholders, or any action which may be taken at any annual or special meeting of the stockholders, may be taken without a meeting, without prior notice and without a vote, if a consent in writing, or by electronic transmission setting forth the action so taken, shall be signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted.

(b) Every written consent or electronic transmission shall bear the date of signature of each stockholder who signs the consent, and no written consent or electronic transmission shall be effective to take the corporate action referred to therein unless, within sixty (60) days of the earliest dated consent delivered to the corporation in the manner herein required, written consents or electronic transmissions signed by a sufficient number of stockholders to take action are delivered to the corporation by delivery to its registered office in the State of Delaware, its principal place of business or an officer or agent of the corporation

having custody of the book in which proceedings of meetings of stockholders are recorded. Delivery made to a corporation's registered office shall be by hand or by certified or registered mail, return receipt requested.

(c) Prompt notice of the taking of the corporate action without a meeting by less than unanimous written consent shall be given to those stockholders who have not consented in writing or by electronic transmission and who, if the action had been taken at a meeting, would have been entitled to notice of the meeting if the record date for such meeting had been the date that written consents signed by a sufficient number of stockholders to take action were delivered to the corporation as provided in Section 228(c) of the DGCL. If the action which is consented to is such as would have required the filing of a certificate under any section of the DGCL if such action had been voted on by stockholders at a meeting thereof, then the certificate filed under such section shall state, in lieu of any statement required by such section concerning any vote of stockholders, that written consent has been given in accordance with Section 228 of the DGCL.

(d) A telegram, cablegram or other electronic transmission consenting to an action to be taken and transmitted by a stockholder or proxyholder, shall be deemed to be written, signed and dated for the purposes of this section, provided that any such telegram, cablegram or other electronic transmission *sets* forth or is delivered with information from which the corporation can determine (i) that the telegram, cablegram or other electronic transmission was transmitted by the stockholder or proxyholder or by a person or persons authorized to act for the stockholder and (ii) the date on which such stockholder or proxyholder or authorized person or persons transmitted such telegram, cablegram or electronic transmission. The date on which such telegram, cablegram or electronic transmission is transmitted shall be deemed to be the date on which such consent was signed. No consent given by telegram, cablegram or other electronic transmission shall be deemed to have been delivered until such consent is reproduced in paper form and until· such paper form shall be delivered to the corporation by delivery to its registered office in the state of. Delaware, its principal place of business or an officer or agent of the corporation having custody of the book in which proceedings of meetings of stockholders are . recorded. Delivery made to a corporation's registered office shall be made by hand or by certified or registered mail, return receipt requested. Notwithstanding the foregoing limitations on delivery, consents given by telegram, cablegram or other electronic transmission may be otherwise delivered to the principal place of business of the corporation or to an officer or agent of the corporation having custody of the book in which proceedings of meetings of stockholders are recorded if, to the extent and in the manner provided by resolution of the board of directors of the corporation. Any copy, facsimile or other reliable reproduction of a consent iri writing may be substituted or used in lieu of *the* original writing for any and all purposes for which the original writing could be used, provided that such copy, facsimile or other reproduction shall be a complete reproduction of the entire original writing.

Section 14. Organization.

(a) At every meeting of stockholders, the Chairman of the Board of Directors, or, if a Chairman has not been appointed or is absent, the Chief Executive Officer, or, if the Chief Executive Officer is absent, a chairman of the meeting chosen by a majority in interest of the stockholders entitled to vote, present in person or by proxy, shall act as chairman. The Secretary, or, in his absence, an Assistant Secretary directed to do so by the Chief Executive Officer, shall act as secretary of the meeting.

(b) The Board of Directors of the corporation shall be entitled to make such rules or regulations for the conduct of meetings of stockholders as it shall deem necessary, appropriate or convenient. Subject to such rules and regulations of the Board of Directors, if any, the chairman of the meeting shall have the right and authority to prescribe such rules, regulations and procedures and to do all such acts as, in the judgment of such chairman, are necessary, appropriate or convenient for the proper conduct of the meeting, including, without limitation, establishing an agenda or order of business for the meeting, rules and procedures

for maintaining order at the meeting and the safety of those present, limitations on participation in such meeting to stockholders of record of the corporation and their duly authorized and constituted proxies and such other persons as the chairman shall permit, restrictions on entry to the meeting after the time fixed for the commencement thereof, limitations on the time allotted to questions or comments by participants and regulation of the opening and closing of the polls for balloting on matters which are to be voted on by ballot. The date and time of the opening and closing of the polls for each matter upon which the stockholders will vote at the meeting shall be announced at the meeting. Unless and to the extent determined by the Board of Directors or the chairman of the meeting, meetings of stockholders shall not be required to be held in accordance with rules of parliamentary procedure.

ARTICLE IV

DIRECTORS

Section 15. Number and Term of Office. The authorized number of directors of the corporation shall be fixed by the Board of Directors from time to time. Directors need not be stockholders unless so required by the Certificate of Incorporation. If for any cause, the directors shall not have been elected at an annual meeting, they may be elected as soon thereafter as convenient.

Section 16. Powers. The powers of the corporation shall be exercised, its business conducted and its property controlled by the Board of Directors, except as may be otherwise provided by statute or by the Certificate of Incorporation.

Section 17. Term of Directors. Subject to the rights of the holders of any series of Preferred Stock to elect additional directors under specified circumstances, directors shall be elected at each annual meeting of stockholders for a term of one year, provided that each director shall serve thereafter until his successor is duly elected and qualified or until his death, resignation or removal. No decrease in the number of directors constituting the Board of Directors shall shorten the term of any incumbent director.

Section 18. Vacancies. Unless otherwise provided in the Certificate of Incorporation, and subject to the rights of the holders of any series of Preferred Stock, any vacancies on the Board of Directors resulting from death, resignation, disqualification, removal or other causes and any newly created directorships resulting from any increase in the number of directors shall, unless the Board of Directors determines by resolution that any such vacancies or newly created directorships shall be filled by stockholders, be filled only by the affirmative vote of a majority of the directors then in office, even though less than a quorum of the Board of Directors, or by a sole remaining director, *provided, however,* that whenever. the holders of any class or classes of stock or series thereof are entitled to elect one or more directors by the provisions of the Certificate of Incorporation, vacancies and newly created directorships of such class or classes or series shall, unless the Board of Directors determines by resolution that any such vacancies or newly created directorships shall be filled by stockholders, be filled by a majority of the directors elected by such class or classes or series thereof then in office, or by a sole remaining director so elected. Any director elected in accordance with the preceding sentence shall hold office for the remainder of the full term of the director for which the vacancy was created or occurred and until such director's successor shall have been elected and qualified. A vacancy in the Board of Directors shall be deemed to exist under this Bylaw in the case of the death, removal or resignation of any director.

Section 19. Resignation. Any director may resign at any time by delivering his or her notice in writing or by electronic transmission to the Secretary, such resignation to specify whether it will be effective at a particular time, upon receipt by the Secretary or at the pleasure of the Board of Directors. If no such specification is made, it shall be deemed effective at the pleasure of the Board of Directors. When one or

more directors shall resign from the Board of Directors, effective at a future date, a majority of the directors then in office, including those who have so resigned, shall have power to fill such vacancy or vacancies, the vote thereon to take effect when such resignation or resignations shall become effective, and each Director so chosen shall hold office for the unexpired portion of the term of the Director whose place shall be vacated and until his successor shall have been duly elected and qualified.

Section 20. Removal.

(a) Subject to any limitations imposed by applicable law, the Board of Directors or any director may be removed from office at any time (i) with cause by the affirmative vote of the holders of a majority of the voting power of all then-outstanding shares of capital stock of the corporation entitled to vote generally at an election of directors or (ii) without cause by the affirmative vote of the holders of a majority of the voting power of all then outstanding shares of capital stock of the corporation, entitled to vote generally at an election of directors. Notwithstanding the foregoing, and subject to any limitations imposed by law, any director may be removed from office at any time by the affirmative vote of the majority of the Board.

Section 21. Meetings

(a) Regular Meetings. Unless otherwise restricted by the Certificate of Incorporation, regular meetings of the Board of Directors may be held at any time or date and at any place within or without the State of Delaware which has been designated by the Board of Directors and publicized among all directors, either orally or in writing, including a voice messaging system or other system designated to record and communicate messages, facsimile, telegraph or telex, or by electronic mail or other electronic means. No further notice shall be required for a regular meeting of the Board of Directors.

(b) Special Meetings. Unless otherwise restricted by the Certificate of Incorporation, special meetings of the Board of Directors may be held at any time and place within or without the State of Delaware whenever called by the Chairman of the Board, the Chief Executive Officer (if a director), the President (if a director) or any two directors.

(c) Meetings by Electronic Communications Equipment. Any member of the Board of Directors, or of any committee thereof, may participate in a meeting by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting by such means shall constitute presence in person at such meeting.

(d) Notice of Special Meetings. Notice of the time and place of all special meetings of the Board of Directors shall be orally or in writing, by telephone, including a voice messaging system or other system or technology designed to record and communicate messages, facsimile, telegraph or telex, or by electronic mail or other electronic means, during normal business hours, at least twenty-four (24) hours before the date and time of the meeting. If notice is sent by US mail, it shall be sent by first class mail, postage prepaid at least three (3) days before the date of the meeting. Notice of any meeting may be waived in writing or by electronic transmission at any time before or after the meeting and will be waived by any director by attendance thereat, except when the director attends the meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened.

(e) Waiver of Notice. The transaction of all business at any meeting of the Board of Directors, or any committee thereof, however called or noticed, or wherever held, shall be as valid as though had at a meeting duly held after regular call and notice, if a quorum be present and if, either before or after

the meeting, each of the directors not present who did not receive notice shall sign a written waiver of notice or shall waive notice by electronic transmission'.. All such waivers shall be filed with the corporate records or made a part of the minutes of the meeting.

Section 22. Quorum and Voting.

(a) Unless the Certificate of Incorporation requires a greater number, a quorum of the Board of Directors shall consist of a majority of the directors then in office; *provided, however,* at any meeting, whether a quorum be present or otherwise, a majority of the directors present may adjourn from time to time until the time fixed for the next regular meeting of the Board of Directors, without notice other than by announcement at the meeting.

(b) At each meeting of the Board of Directors at which a quorum is present, all questions and business shall be determined by the affirmative vote of a majority of the directors present, unless a different vote be required by law, the Certificate of Incorporation or these Bylaws.

Section 23. Action Without Meeting. Unless otherwise restricted by the Certificate of Incorporation or these Bylaws, any action required or permitted to be taken at any meeting of the Board of Directors or of any committee thereof may be taken without a meeting, if all members of the Board of Directors or committee, as the case may be, consent thereto in writing or by electronic transmission, and such writing or writings or transmission or transmissions are filed with the minutes of proceedings of the Board of Directors or committee. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

Section 24. Fees and Compensation. Directors shall be entitled to such compensation for their services as may be approved by the Board of Directors, including, if so approved, by resolution of the Board of Directors, a fixed sum and expenses of attendance, if any, for attendance at each regular or special meeting of the Board of Directors and at any meeting of a committee of the Board of Directors. Nothing herein contained shall be construed to preclude any director from serving the corporation in any other capacity as an officer, agent, employee, or otherwise and receiving compensation therefor.

Section 25. Committees.

(a) Executive Committee. The Board of Directors may appoint an Executive Committee to consist of one (1) or more members of the Board of Directors. The Executive Committee, to the extent permitted by law and provided in the resolution of the Board of Directors shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the corporation, and may authorize the seal of the corporation to be affixed to all papers which may require it; but no such committee shall have the power or authority in reference to (i) approving or adopting, or recommending to the stockholders, any action or matter expressly required by the DGCL to be submitted to stockholders for approval, or (ii) adopting, amending or repealing any bylaw of the corporation.

(b) Other Committees. The Board of Directors may, from time to time, appoint such other committees as may be permitted by law. Such other committees appointed by the Board of Directors shall consist of one (1) or more members of the Board of Directors and shall have such powers and perform such duties as may be prescribed by the resolution or resolutions creating such committees, but in no event shall any such committee have the powers denied to the Executive Committee in these Bylaws.

(c) Term. The Board of Directors, subject to any requirements of any outstanding series of Preferred Stock and the provisions of subsections (a) or (b) of this Bylaw may at any time increase or

decrease the number of members of a committee or terminate the existence of a committee. The membership of a committee member shall terminate on the date of his death or voluntary resignation from the committee or from the Board of Directors. The Board of Directors may at any time for any reason remove any individual committee member and the Board of Directors may fill any committee vacancy created by death, resignation, removal or increase in the number of members of the committee. The Board of Directors may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee, and, in addition, in the absence or disqualification of any member of a committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not he or they constitute a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in the place of any such absent or disqualified member.

(d) Meetings. Unless the Board of Directors shall otherwise provide, regular meetings of the Executive Committee or any other committee appointed pursuant to this Section 25 shall be held at such times and places as are determined by the Board of Directors, or by any such committee, and when notice thereof has been given to each member of such committee, no further notice of such regular meetings need be given thereafter. Special meetings of any such committee may be held at any place which has been determined from time to time by such committee, and may be called by any director who is a member of such committee, upon notice to the members of such committee of the time and place of such special meeting given in the manner provided for the giving of notice to members of the Board of Directors of the time and place of special meetings of the Board of Directors. Notice of any special meeting of any committee may be waived in writing at any time before or after the meeting and will be waived by any director by attendance thereat, except when the director attends such special meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Unless otherwise provided by the Board of Directors in the resolutions authorizing the creation of the committee, a majority of the authorized number of members of any such committee shall constitute a quorum for the transaction of business, and the act of a majority of those present at any meeting at which a quorum is present shall be the act of such committee.

Section 26. Organization. At every meeting of the directors, the Chairman of the Board of Directors, or, if a Chairman has not been appointed or is absent, the Chief Executive Officer (if a director), or if the Chief Executive Officer is not a director or is absent the President (if a director) or if the President is not a director or is absent, the most senior Vice President (if a director) or, in the absence of any such person, a chairman of the meeting chosen by a majority of the directors present, shall preside over the meeting. The Secretary, or in his absence, any Assistant Secretary directed to do so by the Chief Executive Officer or President, shall act as secretary of the meeting.

ARTICLE V

OFFICERS

Section 27. Officers Designated. The officers of the corporation shall include, if and when designated by the Board of Directors, the Chief Executive Officer, the President, one or more Vice Presidents, the Secretary, the Chief Financial Officer, the Treasurer and the Controller, all of whom shall be elected at the annual organizational meeting of the Board of Directors. The Board of Directors may also appoint one or more Assistant Secretaries, Assistant Treasurers, Assistant Controllers and such other officers and agents with such powers and duties as it shall 'deem necessary. The Board of Directors may assign such additional titles to one or more of the officers as it shall deem appropriate. Any one person may hold any number of offices of the corporation at any one time unless specifically prohibited therefrom by law. The salaries and

other compensation of the officers of the corporation shall be fixed by or in the manner designated by the Board of Directors.

Section 28. Tenure and Duties of Officers.

(a) General. All officers shall hold office at the pleasure of the Board of Directors and until their successors shall have been duly elected and qualified, unless sooner removed. Any officer elected or appointed by the Board of Directors may be removed at any time by the Board of Directors. If the office of any officer becomes vacant for any reason, the vacancy may be filled by the Board of Directors.

(b) Duties of Chairman of the Board of Directors. The Chairman of the Board of Directors, when present, shall preside at all meetings of the stockholders and the Board of Directors, The Chairman of the Board of Directors shall perform other duties commonly incident to the office and shall also perform such other duties and have such other powers as the Board of Directors shall designate from time to time. If there is no President and no Chief Executive Officer, then the Chairman of the Board of Directors shall also serve as the Chief Executive Officer of the corporation and shall have the powers and duties prescribed in paragraph (c) of this Section 28.

(c) Duties of Chief Executive Officer. The Chief Executive Officer shall preside at all meetings of the stockholders and at all meetings of the Board of Directors (if a director), unless the Chairman of the Board of Directors has been appointed and is present. The Chief Executive Officer shall be the chief executive officer of the corporation and shall, subject to the control of the Board of Directors, have general supervision, direction and control of the business and officers of the corporation. The Chief Executive Officer shall perform other duties commonly incident. to the office and shall also perform such other duties and have such other powers as the Board of Directors shall designate from time to time.

(d) Duties of President. In case of the absence or disability of the Chief Executive Officer or if the office of Chief Executive Officer is vacant, the President shall preside at all meetings of the stockholders and at all meetings of the Board of Directors (if a director), unless the Chairman of the Board of Directors has been appointed and is present. If the office of the Chief Executive Officer is vacant, the President shall be the chief executive officer of the corporation and shall, subject to the control of the Board of Directors, have general supervision, direction and control of the business and officers of the corporation. The President shall perform other duties commonly incident to the office and shall also perform such other duties and have such other powers as the Board of Directors shall designate from time to time.

(e) Duties of Vice Presidents. The Vice Presidents may assume and perform the duties of the President in the absence or disability of the President or whenever the office of President is vacant. The Vice Presidents shall perform other duties commonly incident to their office and shall also perform such other duties and have such other powers as the Board of Directors or the President shall designate from time to time.

(f) Duties of Secretary. The Secretary shall attend all meetings of the stockholders and of the Board of Directors and shall record all acts and proceedings thereof in the minute book of the corporation. The Secretary shall give notice in conformity with these Bylaws of all meetings of the stockholders and of all meetings of the Board of Directors and any committee thereof requiring notice. The Secretary shall perform all other duties provided for in these Bylaws and other duties commonly incident to the office and shall also perform such other duties and have such other powers as the Board of Directors shall designate from time to time. The Chief Executive Officer may direct any Assistant Secretary to assume and perform the duties of the Secretary in the absence or disability of the Secretary, and each Assistant Secretary shall perform other duties commonly incident to the office and shall also perform such other duties

and have such other powers as the Board of Directors or the. Chief Executive Officer shall designate from time to time.

(g) Duties of Chief Financial Officer. The Chief Financial Officer shall keep or cause to be kept the books of account of the corporation in a thorough and proper manner and shall render statements of the financial affairs of the corporation in such form and as often as required by the Board of Directors or the Chief Executive Officer. The Chief Financial Officer, subject to the order of the Board of Directors, shall have the custody of all funds and securities of the corporation. The Chief Financial Officer shall perform other duties commonly incident to his office and shall also perform such other duties and have such other powers as the Board of Directors or the Chief Executive Officer shall designate from time to time. The Chief Executive Officer may direct the Treasurer· or any Assistant Treasurer, or the Controller or any Assistant Controller to assume and perform the duties of the Chief Financial Officer in the absence or disability of the Chief Financial Officer, and each Treasurer and Assistant Treasurer and each Controller and Assistant Controller shall perform other duties commonly incident to the office and shall also perform such other duties and have such other powers as the Board of Directors or the Chief Executive Officer shall designate from time to time.

Section 29. Delegation of Authority. The Board of Directors may from time to time delegate the powers or duties of any officer to any other officer or agent, notwithstanding any provision hereof.

Section 30. Resignations. Any officer may resign at any time by giving notice in writing or by electronic transmission notice to the Board of Directors or to the Chief Executive Officer or to the President or to the Secretary. Any such resignation shall be effective when received by the person or persons to whom such notice is given, unless a later time is specified therein, in which event the resignation shall become effective· at such later time. Unless otherwise specified in such notice, the acceptance of any such resignation shall not be necessary to make it effective. Any resignation shall be without prejudice to the rights, if any, of the corporation under any contract with the resigning officer.

Section 31. Removal. Any officer may be removed from office at any time, either with or without cause, by the affirmative vote of a majority of the directors in office at the time, or by the unanimous written consent of the directors in office at the time, or by any committee or superior officers upon whom such power of removal may have been conferred by the Board of Directors.

ARTICLE VI

EXECUTION OF CORPORATE INSTRUMENTS AND VOTING OF SECURITIES OWNED BY THE CORPORATION

Section 32. Execution of Corporate Instruments. The Board of Directors may, in its discretion, determine the method and designate the signatory officer or officers, or other person or persons, to execute on behalf of the corporation any corporate instrument or document, or to sign on behalf of the corporation the corporate name without limitation, or to enter into contracts on behalf of the corporation, except where otherwise provided by law or these Bylaws, and such execution or signature shall be binding upon the corporation.

All checks and drafts drawn on banks or other depositaries on funds to the credit of the corporation or in special accounts of the corporation shall be signed by such person or persons as the Board of Directors shall authorize so to do.

Unless authorized or ratified by the Board of Directors or within the agency power of an officer, no officer, agent or employee shall have any power or authority to bind the corporation by any contract or engagement or to pledge its credit or to render it liable for any purpose or for any amount.

Section 33. Voting of Securities Owned by the Corporation. All stock and other securities of other corporations owned or held by the corporation for itself, or for other parties in any capacity, shall be voted, and all proxies with respect thereto shall be executed, by the person authorized so to do by resolution of the Board of Directors, or, in the absence of such authorization, by the Chairman of the Board of Directors, the Chief Executive Officer, the President, or any Vice President.

ARTICLE VII

SHARES OF STOCK

Section 34. Form and Execution of Certificates. Certificates for the shares of stock of the corporation shall be in such form as is consistent with the Certificate of Incorporation and applicable law. Every holder of stock in the corporation shall be entitled to have a certificate signed by or in the name of the corporation by the Chairman of the Board of Directors, or the Chief Executive Officer, the President or any Vice President and by the Treasurer or Assistant Treasurer or the Secretary or Assistant Secretary, certifying the number of shares owned by him in the corporation. Any or all of the signatures on the certificate may be facsimiles. In case any officer, transfer agent, or registrar who has signed or whose facsimile signature has been placed upon a certificate shall have ceased to be such officer, transfer agent, or registrar before such certificate is issued, it may be issued with the same effect as if he were such officer, transfer agent, or registrar at the date of issue.

Section 35. Lost Certificates. A new certificate or certificates shall be issued in place of any certificate or certificates theretofore issued by the corporation alleged to have been lost, stolen, or destroyed, upon the making of an affidavit of that fact by the person claiming the certificate of stock to be lost, stolen, or destroyed. The corporation may require, as a condition precedent to the issuance of a new certificate or certificates, the owner of such lost, stolen, or destroyed certificate or certificates, or the owner's legal representative, to agree to indemnify the corporation in such manner as it shall require or to give the corporation a surety bond in such form and amount as it may direct as indemnity against any claim that may be made against the corporation with respect to the certificate alleged to have been lost, stolen, or destroyed.

Section 36. Transfers.

(a) Transfers of record of shares of stock of the corporation shall be made only upon its books by the holders thereof, in person or by attorney duly authorized, and upon the surrender of a properly endorsed certificate or certificates for a like number of shares.

(b) The corporation shall have power to enter into and perform any agreement with any number of stockholders of any one or more classes of stock of the corporation to restrict the transfer of shares of stock of the corporation of any one or more classes owned by such stockholders in any manner not prohibited by the DGCL.

Section 37. Fixing Record Dates.

(a) In order that the corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, the Board of Directors may fix, in advance, a record date, which record date shall not precede the date upon which the resolution fixing the

record date is adopted by the Board of Directors, and which record date shall, subject to applicable law, not be more than sixty (60) nor less than ten (10) days before the date of such meeting. If no record date is fixed by the Board of Directors, the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given, or if notice is waived, at the close of business on the day next preceding the day on which the meeting is held. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; *provided, however,* that the Board of Directors may fix a new record date for the adjourned meeting.

(b) In order that the corporation may determine the stockholders entitled to consent to corporate action in writing without a meeting, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors, and which date shall not be more than ten (10) days after the date upon which the resolution fixing the record date is adopted by the Board of Directors. Any stockholder of record seeking to have the stockholders authorize or take corporate action by written consent shall, by written notice to the Secretary, request the Board of Directors to fix a record date. The Board of Directors shall promptly, but in all events within ten. (10) days after the date on which such a request is received, adopt a resolution fixing the record date. If no record date has been fixed by the Board of Directors within ten (10) days of the date on which such a request is received, the record date for determining stockholders entitled to consent to corporate action in writing without a meeting, when no prior action by the Board of Directors is required by applicable law, shall be the first date on which a signed written consent setting forth the action taken or proposed to be taken is delivered to the corporation by delivery to its registered office in the State of Delaware, its principal place of business or an officer or agent of the corporation having custody of the book in which proceedings of meetings of stockholders are recorded. Delivery made to the corporation's registered office shall be by hand or by certified or registered mail, return receipt requested. If no record date has been fixed by the Board of Directors and prior action by the Board of Directors is required by law, the record date for determining stockholders entitled to consent to corporate action in writing without a meeting shall be at the close of business on the day on which the Board of Directors adopts the resolution taking such prior action.

(c) In order that the corporation may determine the stockholders entitled to receive payment of any dividend or other distribution or allotment of any rights or the stockholders entitled to exercise any rights in respect of any change, conversion or exchange of stock, or for the purpose of any other lawful action, the Board of Directors may fix, in advance, a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted, and which record date shall be not more than sixty (60) days prior to such action. If no record date is fixed, the record date for determining stockholders for any such purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating thereto.

Section 38. Registered Stockholders. The corporation shall be entitled to recognize the exclusive right of a person registered on its books as the owner of shares to receive dividends, and to vote as such owner, and shall not be bound to recognize any equitable or other claim to or interest in such share or shares on the part of any other person whether or not it shall have express or other notice thereof, except as otherwise provided by the laws of Delaware.

ARTICLE VIII

OTHER SECURITIES OF THE CORPORATION

Section 39. Execution of Other Securities. All bonds, debentures and other corporate securities of the corporation, other than stock certificates (covered in Section 34), may be signed by the Chairman of the Board of Directors, the Chief Executive Officer, the President or any Vice President, or such other person as may be authorized by the Board of Directors, and the corporate seal impressed thereon or a facsimile of such seal imprinted thereon and attested by the signature of the Secretary or an Assistant Secretary, or the Chief Financial Officer or Treasurer or an Assistant Treasurer; *provided, however,* that where any such bond, debenture or other corporate security shall be authenticated by the manual signature, or where permissible facsimile signature, of a trustee under an indenture pursuant to which such bond, debenture or other corporate security shall be issued, the signatures of the persons signing and attesting the corporate seal on such bond, debenture or other corporate security may be the imprinted facsimile of the signatures of such persons. Interest coupons appertaining to any such bond, debenture or other corporate security, authenticated by a trustee as aforesaid, shall be signed by the Treasurer or an Assistant Treasurer of the corporation or such other person as may be authorized by the Board of Directors, or bear imprinted thereon the facsimile signature of such person. In case any officer who shall have signed or attested any bond, debenture or other corporate security, or whose facsimile signature shall appear thereon or on any such interest coupon, shall have ceased to be such officer before the bond, debenture or other corporate security so signed or attested shall have been delivered, such bond, debenture or other corporate security nevertheless may be adopted by the corporation and issued and delivered as though the person who signed the same or whose facsimile signature shall have been used thereon had not ceased to be such officer of the corporation.

ARTICLE IX

DIVIDENDS

Section 40. Declaration of Dividends. Dividends upon the capital stock of the corporation, subject to the provisions of the Certificate of Incorporation and applicable law, if any, may be declared by the Board of Directors pursuant to law at any regular or special meeting. Dividends may be paid in cash, in property, or in shares of the capital stock, subject to the provisions of the Certificate of Incorporation and applicable law.

Section 41. Dividend Reserve. Before payment of any dividend, there may be set aside out of any funds of the corporation available for dividends such sum or sums as the Board of Directors from time to time, in their absolute discretion, think proper as a reserve or reserves to meet contingencies, or for equalizing dividends, or for repairing or maintaining any property of the corporation, or for such other purpose as the Board of Directors shall think conducive to the interests of the corporation, and the Board of Directors may modify or abolish any such reserve in the manner in which it was created.

ARTICLE X

FISCAL YEAR

Section 42. Fiscal Year. The fiscal year of the corporation shall be fixed by resolution of the Board of Directors.

ARTICLE XI

INDEMNIFICATION

Section 43. Indemnification of Directors, Executive Officers, Other Officers, Employees and Other Agents.

(a) Directors and Executive Officers. The corporation shall indemnify its directors and executive officers (for the purposes of this Article XI, "executive officers" shall have the meaning defined in Rule 3b-7 promulgated under the 1934 Act) to the fullest extent not prohibited by the DGCL or any other applicable law; *provided, however,* that the corporation may modify the extent of such indemnification by individual contracts with its directors and executive officers; and, *provided, further,* that the corporation shall not be required to indemnify any director or executive officer in connection with any proceeding (or part thereof) initiated by such person unless (i) such indemnification is expressly required to be made by law, (ii) the proceeding was authorized by the Board of Directors of the corporation, (iii) such indemnification is provided by the corporation, in its sole discretion, pursuant to the powers vested in the corporation under the DGCL or any other applicable law or (iv) such indemnification is required to be made under subsection (d).

(b) Other Officers, Employees and Other Agents. The corporation shall have power to indemnify its other officers, employees and other agents set forth in the DGCL or any other applicable law. The Board of Directors shall have the power to delegate the determination of whether indemnification shall be given to any such person except executive officers to such officers or other persons as the Board of Directors shall determine.

(c) Expenses. The corporation shall advance to any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that he is or was a director or executive officer of the corporation, or is or was serving at the request of the corporation as a director or executive officer of another corporation, partnership, joint venture, trust or other enterprise, prior to the final disposition of the proceeding, promptly following request therefor, all expenses incurred by any director or executive officer in connection with such proceeding; *provided, however,* that, if the DGCL requires, an advancement of expenses incurred by a director or officer in his or her capacity as a director or officer and not in any other capacity in which service was or is rendered by such indemnitee, including, without limitation, service to an employee benefit plan) shall be made only upon delivery to the corporation of an undertaking, by or on behalf of such indemnitee, to repay all amounts so advanced if it shall ultimately be determined by final judicial decision from which there is no further right to appeal that such indemnitee is not entitled to be indemnified for such expenses under this Section 43 or otherwise,

Notwithstanding the foregoing, unless otherwise determined pursuant to paragraph (e) of this Bylaw, no advance shall be made by the corporation to an executive officer of the corporation (except by reason of the fact that such executive officer is or was a director of the corporation, in which event this paragraph shall not apply) in any action, suit or proceeding, whether civil, criminal, administrative or investigative, if a determination is reasonably and promptly made (i) by a majority vote of a quorum consisting of directors who were not parties to the proceeding, even if not a quorum, or (ii) by a committee of such directors designated by a majority of such directors, even though less than a quorum, or (iii) if there are no such directors, or such directors so direct, by independent legal counsel in a written opinion, that the facts known to the decision making party at the time such determination is made demonstrate clearly and convincingly

that such person acted in bad faith or in a manner that such person did not believe to be in or not opposed to the best interests of the corporation.

(d) Enforcement. Without the necessity of entering into an express contract, all rights to indemnification and advances to directors and executive officers under this Bylaw shall be deemed to be contractual rights and be effective to the same extent and as if provided for in a contract between the corporation and the director or executive officer. Any right to indemnification or .advances granted by this Bylaw to a director or executive officer shall be enforceable by or on behalf of the. person holding such right in any court of competent jurisdiction if (i) the claim for indemnification or advances is denied, in whole or in part, or (ii) no disposition of such claim is made within ninety (90) days of request therefor. The claimant in such enforcement action, if successful in whole or in part, shall be entitled to be paid also the expense of prosecuting the claim. In connection with any claim for indemnification, the corporation shall be entitled to raise as a defense to any such action that the claimant has not met the standards of conduct that make it permissible under the DGCL or any other applicable law for the corporation to indemnify the claimant for the amount claimed. In connection with any claim by an executive officer of the corporation (except in any action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that such executive officer is or was a director of the corporation) for advances, the corporation shall be entitled to raise as a defense as to any such action clear and convincing evidence that such person acted in bad faith or in a manner that such person did not believe to be in or not opposed to the best interests of the corporation, or with respect to any criminal action or proceeding that such person acted without reasonable cause to believe that his conduct was lawful. Neither the failure of the corporation (including its Board of Directors, independent legal counsel or its stockholders) to have made a determination prior to the commencement of such action that indemnification of the claimant is proper in the circumstances because he has met the applicable standard of conduct set forth in the DGCL or any other applicable law, nor an actual determination by the corporation (including its Board of Directors, independent legal counsel or its stockholders) that the claimant has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that claimant has not met the applicable standard of conduct.

(e) Non-Exclusivity of Rights. The rights conferred on any person by this Bylaw shall not be exclusive of any other right which such person may have or hereafter acquire under any applicable statute, provision of the Certificate of Incorporation, Bylaws, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding office. The corporation is specifically authorized to enter into individual contracts with any or all of its directors, officers, employees or agents respecting indemnification and advances, to the fullest extent not prohibited by the DGCL or any other applicable law.

(f) Survival of Rights. The rights conferred on any person by this Bylaw shall continue as to a person who has ceased to be a director or executive officer and shall inure to the benefit of the heirs, executors and administrators of such a person.

(g) Insurance. To the fullest extent permitted by the DGCL, or any other applicable law, the corporation, upon approval by the Board of Directors, may purchase insurance on behalf of any person required or permitted to be indemnified pursuant to this Bylaw.

(h) Amendments. Any repeal or modification of this Bylaw shall only be prospective and shall not affect the rights under this Bylaw in effect at the time of the alleged occurrence of any action or omission to act that is the cause of any proceeding against any agent of the corporation.

(i) Saving Clause. If this Bylaw or any portion hereof shall be invalidated on any ground by any court of competent jurisdiction, then the corporation shall nevertheless indemnify each director and executive officer to the full extent not prohibited by any applicable portion of this Bylaw that shall not have been invalidated, or by any other applicable law. If this Section 43 shall be invalid due to the application of the indemnification provisions of another jurisdiction, then the corporation shall indemnify each director and executive officer to the full extent under applicable law.

(j) Certain Definitions. For the purposes of this Bylaw, the following definitions shall apply:

(1) The term "proceeding" shall be broadly construed and shall include, without limitation, the investigation, preparation, prosecution, defense, settlement, arbitration and appeal of, and the giving of testimony in, any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative.

(2) The term "expenses" shall be broadly construed and shall include, without limitation, court costs, attorneys' fees, witness fees, fines, amounts paid in settlement or judgment and any other costs and expenses of any nature or kind incurred in connection with any proceeding.

(3) The term the "corporation" shall include, in addition to the resulting corporation, any constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its directors, officers, and employees. or agents, so that any person who is or was a director, officer, employee or agent of such constituent corporation, or is or was serving at the request of such constituent corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, shall stand in the same position under the provisions of this Bylaw with respect to the resulting or surviving corporation as he would have with respect to such constituent corporation if its separate existence had continued.

(4) References to a "director," "executive officer," "officer," "employee," or "agent" of the corporation shall include, without limitation, situations where such person is serving at the request of the corporation as, respectively, a director, executive officer, officer, employee, trustee or agent of another corporation, partnership, joint venture, trust or other enterprise.

(5) References to "other enterprises" shall include employee benefit plans; references to "fines" shall include any excise taxes assessed on a person with respect to an employee benefit plan; and references to "serving at the request of the corporation" shall include any service as a director, officer, employee or agent of the corporation which imposes duties on, or involves services by, such director, officer, employee, or agent with respect to an employee benefit plan, its participants, or beneficiaries; and a person who acted in good faith and in a manner he reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner "not opposed to the best interests of the corporation" as referred to in this Bylaw.

ARTICLE XII

NOTICES

Section 44. Notices.

(a) Notice to Stockholders. Written notice to stockholders of stockholder meetings shall be given as provided in Section 7 herein. Without limiting the manner by which notice may otherwise be given effectively to stockholders under any agreement or contract with such stockholder, and except as otherwise required by law, written notice to stockholders for purposes other than stockholder meetings may be sent by United States mail or nationally recognized overnight courier, or by facsimile, telegraph or telex or by electronic mail or other electronic means.

(b) Notice to Directors. Any notice required to be given to any director may be given by the method stated in subsection (a), or as provided for in Section 21 of these Bylaws. If such notice is not delivered personally, it shall be sent to such address as such director shall have filed in writing with the Secretary, or, in the absence of such filing, to the last known post office address of such director.

(c) Affidavit of Mailing. An affidavit of mailing, executed by a duly authorized and competent employee of the corporation or its transfer agent appointed with respect to the class of stock affected or other agent, specifying the name and address or the names and addresses of the stockholder or stockholders, or director or directors, to whom any such notice or notices was or were given, and the time and method of giving the same, shall in the absence of fraud, be prima facie evidence of the facts therein contained.

(d) Methods of Notice. It shall not be necessary that the same method of giving notice be employed in respect of all recipients of notice, but one permissible method may be employed in respect of any one or more, and any other permissible method or methods may be employed in respect of any other or others.

(e) Notice to Person with Whom Communication Is Unlawful. Whenever notice is required to be given, under any provision of law or of the Certificate of lncorporation or Bylaws of the corporation, to any person with whom communication is unlawful, the giving of such notice to such person shall not be required and there shall be no duty to apply to any governmental authority or agency for a license or permit to give such notice to such person. Any action or meeting which shall be taken or held without notice to any such person with whom communication is unlawful shall have the same force and effect as if such notice had been duly given. In the event that the action taken by the corporation is such as to require the filing of a certificate under any provision of the DGCL, the certificate shall state, if such is the fact and if notice is required, that notice was given to all persons entitled to receive notice except such persons with whom communication is unlawful.

(f) Notice to Stockholders Sharing an Address. Except as otherwise prohibited under DGCL, any notice given under the provisions of DGCL, the Certificate of Incorporation or the Bylaws shall be effective if given by a single written notice to stockholders who share an address if consented to by the stockholders at that address to whom such notice is given. Such consent shall have been deemed to have been given if such stockholder fails to object in writing to the corporation within 60 days of having been given notice by the corporation of its intention to send the single notice. Any consent shall be revocable by the stockholder by written notice to the corporation.

ARTICLE XIII

AMENDMENTS

Section 45. Amendments. The Board of Directors is expressly empowered to adopt, amend or repeal Bylaws of the corporation. The stockholders shall also have power to adopt, amend or repeal the Bylaws of the corporation; *provided, however,* that, in addition to any vote of the holders of any class or series of stock of the corporation required by law or by the Certificate of Incorporation, such action by stockholders shall require the affirmative vote of the holders of at least a majority of the voting power of all of the then-outstanding shares of the capital stock of the corporation entitled to vote generally in the election of directors, voting together as a single class.

ARTICLE XIV

RIGHT OF FIRST REFUSAL

Section 46. Right of First Refusal. No stockholder shall sell, assign, pledge, or. in any manner transfer any of the shares of common stock of the corporation (excluding any shares of common stock issued upon conversion of preferred stock of the corporation) or any right or interest therein, whether voluntarily or by operation of law, or by gift or otherwise, except by a transfer which meets the requirements hereinafter set forth in this bylaw:

(a) If the stockholder desires to sell or otherwise transfer any of his shares of common stock, then the stockholder shall first give written notice thereof to the corporation. The notice shall name the proposed transferee and state the number of shares to be transferred, the proposed consideration, and all other terms and conditions of the proposed transfer.

(b) For thirty (30) days following receipt of such notice, the corporation shall have the option to purchase all (but not less than all) of the shares specified in the notice at the price and upon the terms set forth in such notice; *provided, however,* that, with the consent of the stockholder, the corporation shall have the option to purchase a lesser portion of the shares specified in said notice at the price and upon the terms set forth therein. In the event of a gift, property settlement or other transfer in which the proposed transferee is not paying the full price for the shares, and that is not otherwise exempted from the provisions of this Section 46 the price shall be deemed to be the fair market value of the stock at such time as determined in good faith by the Board of Directors. In the event the corporation elects to purchase all of the shares or, with the consent of the stockholder, a lesser portion of the shares, it shall give written notice to the transferring stockholder of its election and settlement for said shares shall be made as provided below in paragraph (d).

(c) The corporation may assign its rights hereunder.

(d) In the event the corporation and/or its assignee(s) elect to acquire any of the shares of the transferring stockholder as specified in said transferring stockholder's notice, the Secretary of the corporation shall so notify the transferring stockholder and settlement thereof shall be made in cash within thirty (30) days after the Secretary of the corporation receives said transferring stockholder's notice; provided that if the terms of payment set forth in said transferring stockholder's notice were other than cash against delivery, the corporation and/or its assignee(s) shall pay for said shares on the same terms and conditions set forth in said transferring stockholder's notice.

(e) In the event the corporation and/or its assignees(s) do not elect to acquire all of the shares specified in the transferring stockholder's notice, said transferring stockholder may, within the sixty-

day period following the expiration of the option rights granted to the corporation and/or its assignees(s) herein, transfer the shares specified in said transferring stockholder's notice which were not acquired by the corporation and/or its assignees(s) as specified in said transferring stockholder's notice. All shares so sold by said transferring stockholder shall continue to be subject to the provisions of this bylaw in the same manner as before said transfer.

(f) Anything to the contrary contained herein notwithstanding, the following transactions shall be exempt from the provisions of this bylaw:

(1) A stockholder's transfer of any or all shares held either during such stockholder's lifetime or on death by will or intestacy to such stockholder's immediate family or to any custodian or trustee for the account of such stockholder or such stockholder's immediate family or to any limited partnership of which the stockholder, members of such stockholder's immediate family or any trust for the account of such stockholder or such stockholder's immediate family will be the general of limited partner(s) of such partnership. "Immediate family" as used herein shall mean spouse, lineal descendant, father, mother, brother, or sister of the stockholder making such transfer.

(2) A stockholder's bona fide pledge or mortgage of any shares with a commercial lending institution, provided that any subsequent transfer of said shares by said institution shall be conducted in the manner set forth in this bylaw.

(3) A stockholder's transfer of any or all of such stockholder's shares to the corporation or to any other stockholder of the corporation.

(4) A stockholder's transfer of any or all of such stockholder's shares to a person who, at the time of such transfer, is an officer or director of the corporation.

(5) A corporate stockholder's transfer of any or all of its shares pursuant to and in accordance with the terms of any merger, consolidation, reclassification of shares or capital reorganization of the corporate stockholder, or pursuant to a sale of all or substantially all of the stock or assets of a corporate stockholder.

(6) A corporate stockholder's transfer of any or all of its shares to any or all of its stockholders.

(7) A transfer by a stockholder which is a limited or general partnership to any or all of its partners or former partners in accordance with partnership interests.

In any such case, the transferee, assignee, or other recipient shall receive and hold such stock subject to the provisions of this bylaw, and there shall be no further transfer of such stock except in accord with this bylaw.

(g) The provisions of this bylaw may be waived with respect to any transfer either by the corporation, upon duly authorized action of its Board of Directors, or by the stockholders, upon the express written consent of the owners of a majority of the voting power of the corporation (excluding the votes represented by those shares to be transferred by the transferring stockholder). This bylaw may be amended or repealed either by a duly authorized action of the Board of Directors or by the stockholders, upon the express written consent of the owners of a majority of the voting power of the corporation.

(h) Any sale or transfer, or purported sale or transfer, of securities of the corporation shall be null and void unless the terms, conditions, and provisions of this bylaw are strictly observed and followed.

(i) The foregoing right of first refusal shall terminate upon the date securities of the corporation are first offered to the public pursuant to a registration statement filed with, and declared effective by, the United States Securities and Exchange Commission under the Securities Act of 1933, as amended.

(j) The certificates representing shares of stock of the corporation shall bear on their face the following legend so long as the foregoing right of first refusal remains in effect:

"THE SHARES REPRESENTED BY THIS CERTIFICATE ARE
SUBJECT TO A RIGHT OF FIRST REFUSAL OPTION IN
FAVOR OF THE CORPORATION AND/OR ITS ASSIGNEE(S),
AS PROVIDED IN THE BYLAWS OF THE CORPORATION."

Notwithstanding the foregoing provisions of this Article XIV, to the extent that the right of first refusal set forth herein conflicts with a right of first refusal in any written agreement between the corporation and any stockholder of the corporation, then the right of first refusal set forth in such written agreement shall supersede the right of first refusal set forth herein, but only with respect to the specific stockholder(s), share(s) of stock and proposed transfer(s) to which the conflict relates.

ARTICLE XV

LOANS TO OFFICERS

Section 47. Loans to Officers. Except as otherwise prohibited under applicable law, the corporation may lend money to, or guarantee any obligation of, or otherwise assist any officer or other employee of the corporation or of its subsidiaries, including any officer or employee who is a Director of the corporation or its subsidiaries, whenever, in the judgment of the Board of Directors, such loan, guarantee or assistance may reasonably be expected to benefit the corporation. The loan, guarantee or other assistance may be with or without interest and may be unsecured, or secured in such manner as the Board of Directors shall approve, including, without limitation, a pledge of shares of stock of the corporation. Nothing in these Bylaws shall be deemed to deny, limit or restrict the powers of guaranty or warranty of the corporation at common law or under any statute.

BEYOND MEAT, INC.

AMENDED AND RESTATED
INVESTORS' RIGHTS AGREEMENT

THIS AMENDED AND RESTATED INVESTORS' RIGHTS AGREEMENT (this "**Agreement**") is made as of October 5, 2018 by and among Beyond Meat, Inc. (f/k/a Savage River, Inc.), a Delaware corporation (the "**Company**"), each of the investors listed on Schedule A hereto (the "**New Investors**"), each of the investors listed on Schedule B hereto (the "**Existing Investors**" and, together with the New Investors, the "**Investors**"), and each of the stockholders or holders of options listed on Schedule C hereto (the "**Key Holders**").

RECITALS

WHEREAS, the Company, the Existing Investors and the Key Holders are parties to an Amended and Restated Investors' Rights Agreement dated as of November 22, 2017 (the "**Prior Agreement**"); and

WHEREAS, the Company, certain of the Existing Investors and the New Investors have entered into a Series H Preferred Stock Purchase Agreement (the "**Purchase Agreement**") dated as of the date hereof, pursuant to which the Company desires to sell to such Investors and such Investors desire to purchase from the Company shares of the Company's Series H Preferred Stock. In order to induce the Company to enter into the Purchase Agreement and to induce the Investors to invest funds in the Company pursuant to the Purchase Agreement, the Investors and the Company hereby agree that this Agreement shall govern the rights of the Investors to cause the Company to register shares of Common Stock issuable to the Investors, to receive certain information from the Company, and to participate in future equity offerings by the Company, and shall govern certain other matters as set forth in this Agreement;

WHEREAS, the Company, the Existing Investors and the Key Holders desire to amend and restate the Prior Agreement in its entirety as set forth herein;

NOW, THEREFORE, the parties hereby agree as follows:

A. Amendment of Prior Agreement; Waiver of Right of First Offer.

Pursuant to Section 6.6 of the Prior Agreement, effective and contingent upon execution of this Agreement by the Company and the holders of at least 55% of the Registrable Securities (as defined in the Prior Agreement) then outstanding, voting together as a single class on an as- converted to Common Stock basis, the Prior Agreement is hereby amended and restated in its entirety to read as set forth in this Agreement, and the Company, the Key Holders, the Existing Investors and the New Investors shall be bound by the provisions hereof as the sole agreement of the Company, the Key Holders, the Existing Investors and the New Investors with respect to the subject matter hereof. The Existing Investors that are Major Investors (as that term is defined in the Prior Agreement) hereby waive the right of first offer, including the notice requirements, set

forth in Section 4.1 of the Prior Agreement with respect to the issuance of Series H Preferred Stock (and the shares of Common Stock issuable upon conversion thereof)

1. Definitions. For purposes of this Agreement:

1.1 "**Affiliate**" means, (i) with respect to any specified Person (other than DNS-BYMT, LLC ("**DNS**"), S2G Ventures Fund I, L.P. ("**S2G**") and Primerose Development Group Limited and Total Formation Inc. (collectively, "**Tsai**")), any other Person who, directly or indirectly, controls, is controlled by, or is under common control with such Person, including without limitation any general partner, managing member, officer or director of such Person or any venture capital fund now or hereafter existing that is controlled by one or more general partners or managing members of, or shares the same management company with, such Person; (ii) with respect to DNS, (A) Gigi Pritzker Pucker and Thomas J. Pritzker and each of their lineal ancestors, lineal descendants, siblings and the lineal descendants of such siblings, and the current or former spouse(s) of any of the aforementioned individuals and the trustee(s) or any trust(s) for the benefit of any one or more of the aforementioned individuals, and (B) any Person directly or indirectly owned by, controlled by or under common control with a Person described in clause (A); (iii) with respect to S2G, (W) Lukas Walton and each of his lineal ancestors, lineal descendants, siblings and the lineal descendants of such siblings, and the current or former spouse(s) of any of the aforementioned individuals and the trustee(s) or any trust(s) for the benefit of any one or more of the aforementioned individuals, and (X) any Person directly or indirectly owned by, controlled by or under common control with a Person described in clause (W); (iv) with respect to Tsai, (Y) Ming-Chung Tsai and Ming-Hsing Tsai and each of their lineal ancestors, lineal descendants, siblings and the lineal descendants of such siblings, and the current or former spouse(s) of any of the aforementioned individuals and the trustee(s) or any trust(s) for the benefit of any one or more of the aforementioned individuals, and (Z) any Person directly or indirectly owned by, controlled by or under common control with a Person described in clause (Y); and (v) with respect to Union Grove Partners Direct Fund, LP ("**Union Grove**"), an Affiliate of Union Grove shall include Morgan Creek Partners Venture Access Fund, L.P. Further, solely for the purpose of determining whether Strategic Partners VII Investments, L.P. (Series D) ("**Blackstone**") or GreatPoint Ventures Innovation Fund, LP ("**GPV Innovation Fund**"), or GreatPoint Ventures Innovation Parallel Fund, L.P. (together with GPV Innovation Fund, "**GPV**") is considered a "Major Investor" hereunder, (a) PROOF I, LLC, BM1 P, LLC and BM2 P, LLC shall each be deemed to be an Affiliate of Blackstone and (b) DNS shall be deemed to be an Affiliate of GPV; provided that, for purposes of clarification, neither PROOF I, LLC, BM1 P, LLC nor BM2 P, LLC shall be deemed to be an Affiliate of Blackstone and DNS shall not be deemed to be an Affiliate of GPV for purposes of Subsections 1.2 and 1.3 of the Purchase Agreement.

1.2 "**Common Stock**" means shares of the Company's common stock, par value $0.0001 per share.

1.3 "**Damages**" means any loss, damage, or liability (joint or several) to which a party hereto may become subject under the Securities Act, the Exchange Act, or other federal or state law, insofar as such loss, damage, or liability (or any action in respect thereof) arises out of or is based upon (i) any untrue statement or alleged untrue statement of a material

fact contained in any registration statement of the Company, including any preliminary prospectus or final prospectus contained therein or any amendments or supplements thereto; (ii) an omission or alleged omission to state therein a material fact required to be stated therein, or necessary to make the statements therein not misleading; or (iii) any violation or alleged violation by the indemnifying party (or any of its agents or Affiliates) of the Securities Act, the Exchange Act, any state securities law, or any rule or regulation promulgated under the Securities Act, the Exchange Act, or any state securities law.

1.4 "**Derivative Securities**" means any securities or rights convertible into, or exercisable or exchangeable for (in each case, directly or indirectly)**,** Common Stock, including options and warrants.

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

1.6 "**Excluded Registration**" means (i) a registration relating to the sale of securities to employees of the Company or a subsidiary pursuant to a stock option, stock purchase, or similar plan; (ii) a registration relating to an SEC Rule 145 transaction; (iii) a registration on any form that does not include substantially the same information as would be required to be included in a registration statement covering the sale of the Registrable Securities; or (iv) a registration in which the only Common Stock being registered is Common Stock issuable upon conversion of debt securities that are also being registered.

1.7 "**Form S-1**" means such form under the Securities Act as in effect on the date hereof or any successor registration form under the Securities Act subsequently adopted by the SEC.

1.8 "**Form S-3**" means such form under the Securities Act as in effect on the date hereof or any registration form under the Securities Act subsequently adopted by the SEC that permits incorporation of substantial information by reference to other documents filed by the Company with the SEC.

1.9 "**GAAP**" means generally accepted accounting principles in the United States.

1.10 "**Holder**" means any holder of Registrable Securities who is a party to this Agreement.

1.11 "**Immediate Family Member**" means a child, stepchild, grandchild, parent, stepparent, grandparent, spouse, sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law, including adoptive relationships, of a natural person referred to herein.

1.12 "**Initiating Holders**" means, collectively, Holders who properly initiate a registration request under this Agreement.

1.13 "**IPO**" means the Company's first underwritten public offering of its Common Stock under the Securities Act.

1.14 "**Key Holder Registrable Securities**" means (i) the shares of Common Stock held by the Key Holders, and (ii) any Common Stock issued as (or issuable upon the conversion or exercise of any warrant, right, or other security that is issued as) a dividend or other distribution with respect to, or in exchange for or in replacement of such shares.

1.15 "**Major Investor**" means any Investor that, individually or together with such Investor's Affiliates, holds at least 1,000,000 shares of Registrable Securities (as adjusted for any stock split, stock dividend, combination, or other recapitalization or reclassification effected after the date hereof).

1.16 "**New Securities**" means, collectively, equity securities of the Company, whether or not currently authorized, as well as rights, options, or warrants to purchase such equity securities, or securities of any type whatsoever that are, or may become, convertible or exchangeable into or exercisable for such equity securities.

1.17 "**Person**" means any individual, corporation, partnership, firm, trust, trustee, limited liability company, association, joint stock company, foundation, joint venture, unincorporated organization, governmental entity, any department, agency or political subdivision thereof or other entity.

1.18 "**Preferred Directors**" shall have the meaning set forth in the Restated Certificate.

1.19 "**Preferred Stock**" means the Series A Preferred Stock, the Series B Preferred Stock, the Series C Preferred Stock, the Series D Preferred Stock, the Series E Preferred Stock, the Series F Preferred Stock, the Series G Preferred Stock and the Series H Preferred Stock.

1.20 "**Pro Rata**" shall have the meaning set forth in Section 4.1(b) hereof.

1.21 "**Registrable Securities**" means (i) the Common Stock issuable or issued upon conversion of the Preferred Stock; (ii) any Common Stock, or any Common Stock issued or issuable (directly or indirectly) upon conversion and/or exercise of any other securities of the Company, acquired by the Investors after the date hereof; (iii) the Key Holder Registrable Securities, provided, however, that such Key Holder Registrable Securities shall not be deemed Registrable Securities and the Key Holders shall not be deemed Holders for the purposes of Subsections 2.1, 2.10, 3.1, 3.2, 4.1 and 6.6; and (iv) any Common Stock issued as (or issuable upon the conversion or exercise of any warrant, right, or other security that is issued as) a dividend or other distribution with respect to, or in exchange for or in replacement of, the shares referenced in clauses (i) and (ii) above; excluding in all cases, however, any Registrable Securities sold by a Person in a transaction in which the applicable rights under this Agreement are not assigned pursuant to Subsection 6.1, and excluding for purposes of Section 2 any shares for which registration rights have terminated pursuant to Subsection 2.13 of this Agreement.

1.22 "**Registrable Securities then outstanding**" means the number of shares determined by adding the number of shares of outstanding Common Stock that are Registrable Securities and the number of shares of Common Stock issuable (directly or indirectly) pursuant to then exercisable and/or convertible securities that are Registrable Securities.

1.23 "**Restricted Securities**" means the securities of the Company required to bear the legend set forth in Subsection 2.12(b) hereof.

1.24 "**Restated Certificate**" means the Company's Amended and Restated Certificate of Incorporation, as may be amended or restated from time to time.

1.25 "**SEC**" means the Securities and Exchange Commission. Securities Act.

1.26 "**SEC Rule 144**" means Rule 144 promulgated by the SEC under the Securities Act.

1.27 "**SEC Rule 145**" means Rule 145 promulgated by the SEC under the

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

1.29 "**Selling Expenses**" means all underwriting discounts, selling commissions, and stock transfer taxes applicable to the sale of Registrable Securities, and fees and disbursements of counsel for any Holder, except for the fees and disbursements of the Selling Holder Counsel borne and paid by the Company as provided in Subsection 2.6.

1.30 "**Series A Preferred Stock**" means shares of the Company's Series A Preferred Stock, par value $0.0001 per share.

1.31 "**Series B Preferred Stock**" means shares of the Company's Series B Preferred Stock, par value $0.0001 per share.

1.32 **Series C Preferred Stock**" means shares of the Company's Series C Preferred Stock, par value $0.0001 per share.

1.33 **"Series D Preferred Stock**" means shares of the Company's Series D Preferred Stock, par value $0.0001 per share.

1.34 "**Series E Preferred Stock**" means shares of the Company's Series E Preferred Stock, par value $0.0001 per share.

1.35 "**Series F Preferred Stock**" means shares of the Company's Series F Preferred Stock, par value $0.0001 per share.

1.36 "**Series G Preferred Stock**" means shares of the Company's Series G Preferred Stock, par value $0.0001 per share.

1.37 "**Series H Preferred Stock**" means shares of the Company's Series H Preferred Stock, par value $0.0001 per share.

2. Registration Rights. The Company covenants and agrees as follows:

2.1 Demand Registration.

(a) Form S-1 Demand. If at any time after the earlier of (i) October 31, 2022 or (ii) one hundred eighty (180) days after the effective date of the registration statement for the IPO, the Company receives a request from Holders of thirty percent (30%) of the Registrable Securities then outstanding that the Company file a Form S-1 registration statement, if the anticipated aggregate offering price, net of Selling Expenses, would equal or exceed $5 million, then the Company shall (i) within ten (10) days after the date such request is given, give notice thereof (the "**Demand Notice**") to all Holders other than the Initiating Holders; and (ii) as soon as practicable, and in any event within sixty (60) days after the date such request is given by the Initiating Holders, file a Form S-1 registration statement under the Securities Act covering all Registrable Securities that the Initiating Holders requested to be registered and any additional Registrable Securities requested to be included in such registration by any other Holders, as specified by notice given by each such Holder to the Company within twenty (20) days of the date the Demand Notice is given, and in each case, subject to the limitations of Subsection 2.1(c) and Subsection 2.3.

(b) Form S-3 Demand. If at any time when it is eligible to use a Form S-3 registration statement, the Company receives a request from Holders of at least fifteen percent (15%) of the Registrable Securities then outstanding that the Company file a Form S-3 registration statement with respect to outstanding Registrable Securities of such Holders having an anticipated aggregate offering price, net of Selling Expenses, of at least $1 million, then the Company shall (i) within ten (10) days after the date such request is given, give a Demand Notice to all Holders other than the Initiating Holders; and (ii) as soon as practicable, and in any event within forty-five (45) days after the date such request is given by the Initiating Holders, file a Form S-3 registration statement under the Securities Act covering all Registrable Securities requested to be included in such registration by any other Holders, as specified by notice given by each such Holder to the Company within twenty (20) days of the date the Demand Notice is given, and in each case, subject to the limitations of Subsection 2.1(c) and Subsection 2.3.

(c) Notwithstanding the foregoing obligations, if the Company furnishes to Holders requesting a registration pursuant to this Subsection 2.1 a certificate signed by the Company's chief executive officer stating that in the good faith judgment of the Company's Board of Directors (the "**Board**") it would be materially detrimental to the Company and its stockholders for such registration statement to either become effective or remain effective for as long as such registration statement otherwise would be required to remain effective, because such action would (i) materially interfere with a significant acquisition, corporate reorganization, or other similar transaction involving the Company; (ii) require premature disclosure of material information that the Company has a bona fide business purpose for preserving as confidential; or (iii) render the Company unable to comply with requirements under the Securities Act or Exchange Act, then the Company shall have the right to defer taking action with respect to such filing, and any time periods with respect to filing or effectiveness thereof shall be tolled correspondingly, for a period

of not more than one hundred twenty (120) days after the request of the Initiating Holders is given; provided, however, that (x) in the case of any registration of Registrable Securities on Form S-3 that are intended to be offered on a continuous or delayed basis, the Company may not invoke this right more than twice in any twelve (12) month period and (y) in the case of any registration other than in (x), the Company may not invoke this right more than once in any twelve (12) month period; and provided further that the Company shall not register any securities for its own account or that of any other stockholder during such one hundred twenty (120) day period other than an Excluded Registration.

(d) The Company shall not be obligated to effect, or to take any action to effect, any registration pursuant to Subsection 2.1(a) (i) during the period that is sixty (60) days before the Company's good faith estimate of the date of filing of, and ending on a date that is one hundred eighty (180) days after the effective date of, a Company-initiated registration, provided, that the Company is actively employing in good faith commercially reasonable efforts to cause such registration statement to become effective; (ii) after the Company has effected two registrations pursuant to Subsection 2.1(a); or (iii) if the Initiating Holders propose to dispose of shares of Registrable Securities that may be immediately registered on Form S-3 pursuant to a request made pursuant to Subsection 2.1(b). The Company shall not be obligated to effect, or to take any action to effect, any registration pursuant to Subsection 2.1(b) (i) during the period that is thirty (30) days before the Company's good faith estimate of the date of filing of, and ending on a date that is ninety (90) days after the effective date of, a Company-initiated registration, provided, that the Company is actively employing in good faith commercially reasonable efforts to cause such registration statement to become effective; or (ii) if the Company has effected two registrations pursuant to Subsection 2.1(b) within the twelve (12) month period immediately preceding the date of such request. A registration shall not be counted as "effected" for purposes of this Subsection 2.1(d) until such time as the applicable registration statement has been declared effective by the SEC, unless the Initiating Holders withdraw their request for such registration, elect not to pay the registration expenses therefor, and forfeit their right to one demand registration statement pursuant to Subsection 2.6, in which case such withdrawn registration statement shall be counted as "effected" for purposes of this Subsection 2.1(d).

2.2 Company Registration. If the Company proposes to register (including, for this purpose, a registration effected by the Company for stockholders other than the Holders) any of its Common Stock under the Securities Act in connection with the public offering of such securities solely for cash (other than in an Excluded Registration), the Company shall, at such time, promptly give each Holder notice of such registration. Upon the request of each Holder given within twenty (20) days after such notice is given by the Company, the Company shall, subject to the provisions of Subsection 2.3, cause to be registered all of the Registrable Securities that each such Holder has requested to be included in such registration. The Company shall have the right to terminate or withdraw any registration initiated by it under this Subsection 2.2 before the effective date of such registration, whether or not any Holder has elected to include Registrable Securities in such registration. The expenses (other than Selling Expenses) of such withdrawn registration shall be borne by the Company in accordance with Subsection 2.6.

2.3 Underwriting Requirements.

(a) If, pursuant to Subsection 2.1, the Initiating Holders intend to distribute the Registrable Securities covered by their request by means of an underwriting, they shall so advise the Company as a part of their request made pursuant to Subsection 2.1, and the Company shall include such information in the Demand Notice. The underwriter(s) will be selected by the Company and shall be reasonably acceptable to a majority in interest of the Initiating Holders. In such event, the right of any Holder to include such Holder's Registrable Securities in such registration shall be conditioned upon such Holder's participation in such underwriting and the inclusion of such Holder's Registrable Securities in the underwriting to the extent provided herein. All Holders proposing to distribute their securities through such underwriting shall (together with the Company as provided in Subsection 2.4(e)) enter into an underwriting agreement in customary form with the underwriter(s) selected for such underwriting. Notwithstanding any other provision of this Subsection 2.3, if the managing underwriter(s) advise(s) the Initiating Holders in writing that marketing factors require a limitation on the number of shares to be underwritten, then the Initiating Holders shall so advise all Holders of Registrable Securities that otherwise would be underwritten pursuant hereto, and the number of Registrable Securities that may be included in the underwriting shall be allocated among such Holders of Registrable Securities, including the Initiating Holders, in proportion (as nearly as practicable) to the number of Registrable Securities owned by each Holder or in such other proportion as shall mutually be agreed to by all such selling Holders; provided, however, that the number of Registrable Securities held by the Holders to be included in such underwriting shall not be reduced unless all other securities are first entirely excluded from the underwriting. To facilitate the allocation of shares in accordance with the above provisions, the Company or the underwriters may round the number of shares allocated to any Holder to the nearest 100 shares.

(b) In connection with any offering involving an underwriting of shares of the Company's capital stock pursuant to Subsection 2.2, the Company shall not be required to include any of the Holders' Registrable Securities in such underwriting unless the Holders accept the terms of the underwriting as agreed upon between the Company and its underwriters, and then only in such quantity as the underwriters in their sole discretion determine will not jeopardize the success of the offering by the Company. If the total number of securities, including Registrable Securities, requested by stockholders to be included in such offering exceeds the number of securities to be sold (other than by the Company) that the underwriters in their reasonable discretion determine is compatible with the success of the offering, then the Company shall be required to include in the offering only that number of such securities, including Registrable Securities, which the underwriters and the Company in their sole discretion determine will not jeopardize the success of the offering. If the underwriters determine that less than all of the Registrable Securities requested to be registered can be included in such offering, then the Registrable Securities that are included in such offering shall be allocated among the selling Holders in proportion (as nearly as practicable to) the number of Registrable Securities owned by each selling Holder or in such other proportions as shall mutually be agreed to by all such selling Holders. To facilitate the allocation of shares in accordance with the above provisions, the Company or the underwriters may round the number of shares allocated to any Holder to the nearest 100 shares. Notwithstanding the foregoing, in no event shall (i) the number of Registrable Securities included in the offering be reduced unless

all other securities (other than securities to be sold by the Company) are first entirely excluded from the offering, (ii) the number of Registrable Securities included in the offering be reduced below thirty-five percent (35%) of the total number of securities included in such offering, unless such offering is the IPO, in which case the selling Holders may be excluded further if the underwriters make the determination described above and no other stockholder's securities are included in such offering, or (iii) notwithstanding (ii) above, any Registrable Securities which are not Key Holder Registrable Securities be excluded from such underwriting unless all Key Holder Registrable Securities are first excluded from such offering. For purposes of the provision in this Subsection 2.3(b) concerning apportionment, for any selling Holder that is a partnership, limited liability company, or corporation, the partners, members, retired partners, retired members, stockholders, and Affiliates of such Holder, or the estates and Immediate Family Members of any such partners, retired partners, members, and retired members and any trusts for the benefit of any of the foregoing Persons, shall be deemed to be a single "selling Holder," and any pro rata reduction with respect to such "selling Holder" shall be based upon the aggregate number of Registrable Securities owned by all Persons included in such "selling Holder," as defined in this sentence.

(c) For purposes of Subsection 2.1, a registration shall not be counted as "effected" if, as a result of an exercise of the underwriter's cutback provisions in Subsection 2.3(a), fewer than fifty percent (50%) of the total number of Registrable Securities that Holders have requested to be included in such registration statement are actually included.

2.4 Obligations of the Company. Whenever required under this Section 2 to effect the registration of any Registrable Securities, the Company shall, as expeditiously as reasonably possible:

(a) prepare and file with the SEC a registration statement with respect to such Registrable Securities and use its commercially reasonable efforts to cause such registration statement to become effective and, upon the request of the Holders of at least 55% of the Registrable Securities registered thereunder, voting together as a single class on an as- converted to Common Stock basis, keep such registration statement effective for a period of up to one hundred twenty (120) days or, if earlier, until the distribution contemplated in the registration statement has been completed; provided, however, that (i) such one hundred twenty (120) day period shall be extended for a period of time equal to the period the Holder refrains, at the request of an underwriter of Common Stock (or other securities) of the Company, from selling any securities included in such registration, and (ii) in the case of any registration of Registrable Securities on Form S-3 that are intended to be offered on a continuous or delayed basis, subject to compliance with applicable SEC rules, the Company shall use its commercially reasonable efforts to extend such one hundred twenty (120) day period until the earlier of (x) the first date as of which all such Registrable Securities are sold and (y) three (3) years from the date of filing of such Form S-3 registration statement;

(b) prepare and file with the SEC such amendments and supplements to such registration statement, and the prospectus used in connection with such registration statement, as may be necessary to comply with the Securities Act in order to enable the disposition of all securities covered by such registration statement;

(c) furnish to the selling Holders such numbers of copies of a prospectus, including a preliminary prospectus, as required by the Securities Act, and such other documents as the Holders may reasonably request in order to facilitate their disposition of their Registrable Securities;

(d) use its commercially reasonable efforts to register and qualify the securities covered by such registration statement under such other securities or blue-sky laws of such jurisdictions as shall be reasonably requested by the selling Holders; provided that the Company shall not be required to qualify to do business or to file a general consent to service of process in any such states or jurisdictions, unless the Company is already subject to service in such jurisdiction and except as may be required by the Securities Act;

(e) in the event of any underwritten public offering, enter into and perform its obligations under an underwriting agreement, in usual and customary form, with the underwriter(s) of such offering;

(f) use its commercially reasonable efforts to cause all such Registrable Securities covered by such registration statement to be listed on a national securities exchange or trading system and each securities exchange and trading system (if any) on which similar securities issued by the Company are then listed;

(g) provide a transfer agent and registrar for all Registrable Securities registered pursuant to this Agreement and provide a CUSIP number for all such Registrable Securities, in each case not later than the effective date of such registration;

(h) promptly make available for inspection by the selling Holders, any underwriter(s) participating in any disposition pursuant to such registration statement, and any attorney or accountant or other agent retained by any such underwriter or selected by the selling Holders, all financial and other records, pertinent corporate documents, and properties of the Company, and cause the Company's officers, directors, employees, and independent accountants to supply all information reasonably requested by any such seller, underwriter, attorney, accountant, or agent, in each case, as necessary or advisable to verify the accuracy of the information in such registration statement and to conduct appropriate due diligence in connection therewith;

(i) notify each selling Holder, promptly after the Company receives notice thereof, of the time when such registration statement has been declared effective or a supplement to any prospectus forming a part of such registration statement has been filed; and

(j) after such registration statement becomes effective, notify each selling Holder of any request by the SEC that the Company amend or supplement such registration statement or prospectus.

2.5 Furnish Information. It shall be a condition precedent to the obligations of the Company to take any action pursuant to this Section 2 with respect to the Registrable Securities of any selling Holder that such Holder shall furnish to the Company such information regarding

itself, the Registrable Securities held by it, and the intended method of disposition of such securities as is reasonably required to effect the registration of such Holder's Registrable Securities.

2.6 Expenses of Registration. All expenses (other than Selling Expenses) incurred in connection with registrations, filings, or qualifications pursuant to Section 2, including, but not limited to, all registration, filing, and qualification fees; printers' and accounting fees; fees and disbursements of counsel for the Company; and the reasonable fees and disbursements, not to exceed $75,000, of one counsel for the selling Holders ("**Selling Holder Counsel**"), shall be borne and paid by the Company; provided, however, that the Company shall not be required to pay for any expenses of any registration proceeding begun pursuant to Subsection 2.1 if the registration request is subsequently withdrawn at the request of the Holders of a majority of the Registrable Securities to be registered (in which case all selling Holders shall bear such expenses pro rata based upon the number of Registrable Securities that were to be included in the withdrawn registration), unless the Holders of at least 55% of the Registrable Securities, voting together as a single class on an as-converted to Common Stock basis, agree to forfeit their right to one registration pursuant to Subsection 2.1(a) or Subsection 2.1(b), as the case may be. All Selling Expenses relating to Registrable Securities registered pursuant to this Section 2 shall be borne and paid by the Holders pro rata on the basis of the number of Registrable Securities registered on their behalf.

2.7 Delay of Registration. No Holder shall have any right to obtain or seek an injunction restraining or otherwise delaying any registration pursuant to this Agreement as the result of any controversy that might arise with respect to the interpretation or implementation of this Section 2.

2.8 Indemnification. If any Registrable Securities are included in a registration statement under this Section 2:

(a) To the extent permitted by law, the Company will indemnify and hold harmless each selling Holder, and the partners, members, officers, directors, and stockholders of each such Holder; legal counsel and accountants for each such Holder; any underwriter (as defined in the Securities Act) for each such Holder; and each Person, if any, who controls such Holder or underwriter within the meaning of the Securities Act or the Exchange Act, against any Damages, and the Company will pay to each such Holder, underwriter, controlling Person, or other aforementioned Person any legal or other expenses reasonably incurred thereby in connection with investigating or defending any claim or proceeding from which Damages may result, as such expenses are incurred; provided, however, that the indemnity agreement contained in this Subsection 2.8(a) shall not apply to amounts paid in settlement of any such claim or proceeding if such settlement is effected without the consent of the Company, which consent shall not be unreasonably withheld, nor shall the Company be liable for any Damages to the extent that they arise out of or are based upon actions or omissions made in reliance upon and in conformity with written information furnished by or on behalf of any such Holder, underwriter, controlling Person, or other aforementioned Person expressly for use in connection with such registration.

(b) To the extent permitted by law, each selling Holder, severally and not jointly, will indemnify and hold harmless the Company, and each of its directors, each of its

officers who has signed the registration statement, each Person (if any), who controls the Company within the meaning of the Securities Act, legal counsel and accountants for the Company, any underwriter (as defined in the Securities Act), any other Holder selling securities in such registration statement, and any controlling Person of any such underwriter or other Holder, against any Damages, in each case only to the extent that such Damages arise out of or are based upon actions or omissions made in reliance upon and in conformity with written information furnished by or on behalf of such selling Holder expressly for use in connection with such registration; and each such selling Holder will pay to the Company and each other aforementioned Person any legal or other expenses reasonably incurred thereby in connection with investigating or defending any claim or proceeding from which Damages may result, as such expenses are incurred; provided, however, that the indemnity agreement contained in this Subsection 2.8(b) shall not apply to amounts paid in settlement of any such claim or proceeding if such settlement is effected without the consent of the Holder, which consent shall not be unreasonably withheld; and provided further that in no event shall the aggregate amounts payable by any Holder by way of indemnity or contribution under Subsections 2.8(b) and 2.8(d) exceed the proceeds from the offering received by such Holder (net of any Selling Expenses paid by such Holder), except in the case of fraud or willful misconduct by such Holder.

(c) Promptly after receipt by an indemnified party under this Subsection 2.8 of notice of the commencement of any action (including any governmental action) for which a party may be entitled to indemnification hereunder, such indemnified party will, if a claim in respect thereof is to be made against any indemnifying party under this Subsection 2.8, give the indemnifying party notice of the commencement thereof. The indemnifying party shall have the right to participate in such action and, to the extent the indemnifying party so desires, participate jointly with any other indemnifying party to which notice has been given, and to assume the defense thereof with counsel mutually satisfactory to the parties; provided, however, that an indemnified party (together with all other indemnified parties that may be represented without conflict by one counsel) shall have the right to retain one separate counsel, with the fees and expenses to be paid by the indemnifying party, if representation of such indemnified party by the counsel retained by the indemnifying party would be inappropriate due to actual or potential differing interests between such indemnified party and any other party represented by such counsel in such action. The failure to give notice to the indemnifying party within a reasonable time of the commencement of any such action shall relieve such indemnifying party of any liability to the indemnified party under this Subsection 2.8, to the extent that such failure materially prejudices the indemnifying party's ability to defend such action. The failure to give notice to the indemnifying party will not relieve it of any liability that it may have to any indemnified party otherwise than under this Subsection 2.8.

(d) To provide for just and equitable contribution to joint liability under the Securities Act in any case in which either (i) any party otherwise entitled to indemnification hereunder makes a claim for indemnification pursuant to this Subsection 2.8 but it is judicially determined (by the entry of a final judgment or decree by a court of competent jurisdiction and the expiration of time to appeal or the denial of the last right of appeal) that such indemnification may not be enforced in such case, notwithstanding the fact that this Subsection 2.8 provides for indemnification in such case, or (ii) contribution under the Securities Act may be

required on the part of any party hereto for which indemnification is provided under this Subsection 2.8, then, and in each such case, such parties will contribute to the aggregate losses, claims, damages, liabilities, or expenses to which they may be subject (after contribution from others) in such proportion as is appropriate to reflect the relative fault of each of the indemnifying party and the indemnified party in connection with the statements, omissions, or other actions that resulted in such loss, claim, damage, liability, or expense, as well as to reflect any other relevant equitable considerations. The relative fault of the indemnifying party and of the indemnified party shall be determined by reference to, among other things, whether the untrue or allegedly untrue statement of a material fact, or the omission or alleged omission of a material fact, relates to information supplied by the indemnifying party or by the indemnified party and the parties' relative intent, knowledge, access to information, and opportunity to correct or prevent such statement or omission; provided, however, that, in any such case, (x) no Holder will be required to contribute any amount in excess of the public offering price of all such Registrable Securities offered and sold by such Holder pursuant to such registration statement, and (y) no Person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) will be entitled to contribution from any Person who was not guilty of such fraudulent misrepresentation; and provided further that in no event shall a Holder's liability pursuant to this Subsection 2.8(d), when combined with the amounts paid or payable by such Holder pursuant to Subsection 2.8(b), exceed the proceeds from the offering received by such Holder (net of any Selling Expenses paid by such Holder**)**, except in the case of willful misconduct or fraud by such Holder.

(e) Notwithstanding the foregoing, to the extent that the provisions on indemnification and contribution contained in the underwriting agreement entered into in connection with the underwritten public offering are in conflict with the foregoing provisions, the provisions in the underwriting agreement shall control.

(f) Unless otherwise superseded by an underwriting agreement entered into in connection with the underwritten public offering, the obligations of the Company and Holders under this Subsection 2.8 shall survive the completion of any offering of Registrable Securities in a registration under this Section 2, and otherwise shall survive the termination of this Agreement.

2.9 Reports Under Exchange Act. With a view to making available to the Holders the benefits of SEC Rule 144 and any other rule or regulation of the SEC that may at any time permit a Holder to sell securities of the Company to the public without registration or pursuant to a registration on Form S-3, the Company shall:

(a) make and keep available adequate current public information, as those terms are understood and defined in SEC Rule 144, at all times after the effective date of the registration statement filed by the Company for the IPO;

(b) use commercially reasonable efforts to file with the SEC in a timely manner all reports and other documents required of the Company under the Securities Act and the Exchange Act (at any time after the Company has become subject to such reporting requirements); and

(c) furnish to any Holder, so long as the Holder owns any Registrable Securities, forthwith upon request (i) to the extent accurate, a written statement by the Company that it has complied with the reporting requirements of SEC Rule 144 (at any time after ninety (90) days after the effective date of the registration statement filed by the Company for the IPO), the Securities Act, and the Exchange Act (at any time after the Company has become subject to such reporting requirements), or that it qualifies as a registrant whose securities may be resold pursuant to Form S-3 (at any time after the Company so qualifies); (ii) a copy of the most recent annual or quarterly report of the Company and such other reports and documents so filed by the Company; and (iii) such other information as may be reasonably requested in availing any Holder of any rule or regulation of the SEC that permits the selling of any such securities without registration (at any time after the Company has become subject to the reporting requirements under the Exchange Act) or pursuant to Form S-3 (at any time after the Company so qualifies to use such form).

2.10 Limitations on Subsequent Registration Rights. From and after the date of this Agreement, the Company shall not, without the prior written consent of the Holders of at least 55% of the Registrable Securities then outstanding, voting together as a single class on an as-converted to Common Stock basis, enter into any agreement with any holder or prospective holder of any securities of the Company that would provide to such holder the right to include securities in any registration on other than either a pro rata basis with respect to the Registrable Securities or on a subordinate basis after all Holders have had the opportunity to include in the registration and offering all shares of Registrable Securities that they wish to so include; provided that this limitation shall not apply to any additional Investor who becomes a party to this Agreement in accordance with Subsection 6.9.

2.11 "Market Stand-off" Agreement. Each Holder hereby agrees that it will not, without the prior written consent of the managing underwriter, during the period commencing on the date of the final prospectus relating to the IPO, and ending on the date specified by the Company and the managing underwriter (such period not to exceed one hundred eighty (180) days), (i) lend; offer; pledge; sell; contract to sell; sell any option or contract to purchase; purchase any option or contract to sell; grant any option, right, or warrant to purchase; or otherwise transfer or dispose of, directly or indirectly, any shares of Common Stock or any securities convertible into or exercisable or exchangeable (directly or indirectly) for Common Stock held immediately before the effective date of the registration statement for such offering or (ii) enter into any swap or other arrangement that transfers to another, in whole or in part, any of the economic consequences of ownership of such securities, whether any such transaction described in clause (i) or (ii) above is to be settled by delivery of Common Stock or other securities, in cash, or otherwise. The foregoing provisions of this Subsection 2.11 shall apply only to the IPO, shall not apply to the sale of any shares to an underwriter pursuant to an underwriting agreement, and shall be applicable to the Holders only if all officers and directors are subject to the same restrictions and the Company uses commercially reasonable efforts to obtain a similar agreement from all stockholders individually owning more than one percent (1%) of the Company's outstanding Common Stock (after giving effect to conversion into Common Stock of all outstanding Preferred Stock). The underwriters in connection with such registration are intended third-party beneficiaries of this Subsection 2.11 and shall have the right, power, and authority to enforce the provisions hereof as though they were a party hereto. Each Holder further agrees to execute such agreements as may be reasonably

requested by the underwriters in connection with such registration that are consistent with this Subsection 2.11 or that are necessary to give further effect thereto. Any discretionary waiver or termination of the restrictions of any or all of such agreements by the Company or the underwriters shall apply pro rata to all Holders subject to such agreements, based on the number of shares subject to such agreements.

2.12 Restrictions on Transfer.

(a) The Preferred Stock and the Registrable Securities shall not be sold, pledged, or otherwise transferred, and the Company shall not recognize and shall issue stop-transfer instructions to its transfer agent with respect to any such sale, pledge, or transfer, except upon the conditions specified in this Agreement, which conditions are intended to ensure compliance with the provisions of the Securities Act. A transferring Holder will cause any proposed purchaser, pledgee, or transferee of the Preferred Stock and the Registrable Securities held by such Holder to agree to take and hold such securities subject to the provisions and upon the conditions specified in this Agreement.

(b) Each certificate or instrument representing (i) the Preferred Stock, (ii) the Registrable Securities, and (iii) any other securities issued in respect of the securities referenced in clauses (i) and (ii), upon any stock split, stock dividend, recapitalization, merger, consolidation, or similar event, shall (unless otherwise permitted by the provisions of Subsection 2.12(c)) be stamped or otherwise imprinted with a legend substantially in the following form:

> THE SECURITIES REPRESENTED HEREBY HAVE BEEN ACQUIRED FOR INVESTMENT AND HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933. SUCH SHARES MAY NOT BE SOLD, PLEDGED, OR TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR A VALID EXEMPTION FROM THE REGISTRATION AND PROSPECTUS DELIVERY REQUIREMENTS OF SAID ACT.
>
> THE SECURITIES REPRESENTED HEREBY MAY BE TRANSFERRED ONLY IN ACCORDANCE WITH THE TERMS OF AN AGREEMENT BETWEEN THE COMPANY AND THE STOCKHOLDER, A COPY OF WHICH IS ON FILE WITH THE SECRETARY OF THE COMPANY.

The Holders consent to the Company making a notation in its records and giving instructions to any transfer agent of the Restricted Securities in order to implement the restrictions on transfer set forth in this Subsection 2.12.

(c) The holder of each certificate representing Restricted Securities, by acceptance thereof, agrees to comply in all respects with the provisions of this Section 2. Before any proposed sale, pledge, or transfer of any Restricted Securities, unless there is in effect a registration statement under the Securities Act covering the proposed transaction, the Holder thereof

shall give notice to the Company of such Holder's intention to effect such sale, pledge, or transfer. Each such notice shall describe the manner and circumstances of the proposed sale, pledge, or transfer in sufficient detail and, if reasonably requested by the Company, shall be accompanied at such Holder's expense by either (i) a written opinion of legal counsel who shall, and whose legal opinion shall, be reasonably satisfactory to the Company, addressed to the Company, to the effect that the proposed transaction may be effected without registration under the Securities Act; (ii) a "no action" letter from the SEC to the effect that the proposed sale, pledge, or transfer of such Restricted Securities without registration will not result in a recommendation by the staff of the SEC that action be taken with respect thereto; or (iii) any other evidence reasonably satisfactory to counsel to the Company to the effect that the proposed sale, pledge, or transfer of the Restricted Securities may be effected without registration under the Securities Act, whereupon the Holder of such Restricted Securities shall be entitled, subject to any other contractual restriction on the sale, pledge or transfer of such Restricted Securities, to sell, pledge, or transfer such Restricted Securities in accordance with the terms of the notice given by the Holder to the Company. The Company will not require such a legal opinion or "no action" letter (x) in any transaction in compliance with SEC Rule 144 or (y) in any transaction in which such Holder distributes or otherwise transfers Restricted Securities to an Affiliate of such Holder for no consideration; provided that each transferee agrees in writing to be subject to the terms of this Subsection 2.12. Each certificate or instrument evidencing the Restricted Securities transferred as above provided shall bear, except if such transfer is made pursuant to SEC Rule 144, the appropriate restrictive legend set forth in Subsection 2.12(b), except that such certificate shall not bear such restrictive legend if, in the opinion of counsel for such Holder and the Company, such legend is not required in order to establish compliance with any provisions of the Securities Act.

2.13 Termination of Registration Rights. The right of any Holder to request registration or inclusion of Registrable Securities in any registration pursuant to Subsection 2.1 or Subsection 2.2 shall terminate upon the earliest to occur of:

(a) the closing of a Deemed Liquidation Event, as such term is defined in the Company's Amended and Restated Certificate of Incorporation, as may be amended or restated from time to time;

(b) such time following the IPO as Rule 144 or another similar exemption under the Securities Act is available for the sale of all of such Holder's Restricted Securities without limitation during a three-month period without registration; and

(c) the fourth (4^{th}) anniversary of the closing of an IPO.

3. Information Rights.

3.1 Delivery of Financial Statements. The Company shall deliver to each Major Investor, provided that the Board has not reasonably determined that such Major Investor is a competitor of the Company (provided further that any Major Investor shall not be deemed a competitor of the Company as a result of its investment in other companies and SRI Holding, LLC ("**Tyson**") and its Affiliates shall not be considered a competitor under any circumstances):

(a) as soon as practicable, but in any event within one hundred twenty (120) days after the end of each fiscal year of the Company, (i) a balance sheet as of the end of such year, (ii) statements of income and of cash flows for such year, and (iii) a statement of stockholders' equity as of the end of such year, all such financial statements audited and certified by independent public accountants selected by the Board, including at least one Preferred Director (unless the Board, including at least one Preferred Director, determines that such financial statements need not be audited and certified by independent public accountants).

(b) as soon as practicable, but in any event within forty-five (45) days after the end of each of the first three (3) quarters of each fiscal year of the Company, unaudited statements of income and of cash flows for such fiscal quarter, and an unaudited balance sheet and a statement of stockholders' equity as of the end of such fiscal quarter, all prepared in accordance with GAAP (except that such financial statements may (i) be subject to normal year-end audit adjustments and (ii) not contain all notes thereto that may be required in accordance with GAAP);

(c) as soon as practicable, but in any event within thirty (30) days of the end of each month, an unaudited income statement and statement of cash flows for such month, and an unaudited balance sheet and statement of stockholders' equity as of the end of such month, all prepared in accordance with GAAP (except that such financial statements may (i) be subject to normal year-end audit adjustments and (ii) not contain all notes thereto that may be required in accordance with GAAP);

(d) as soon as practicable, but in any event thirty (30) days before the end of each fiscal year, a budget and business plan for the next fiscal year (collectively, the "**Budget**"), prepared on a monthly basis, including balance sheets, income statements, and statements of cash flow for such months and, promptly after prepared, any other budgets or revised budgets prepared by the Company;

(e) such other information relating to the financial condition, business, prospects, or corporate affairs of the Company as any Major Investor may from time to time reasonably request; provided, however, that the Company shall not be obligated under this Subsection 3.1 to provide information (i) that the Company reasonably determines in good faith to be a trade secret or similar highly confidential information (unless covered by an enforceable confidentiality agreement, in form acceptable to the Company), (ii) the disclosure of which would adversely affect the attorney-client privilege between the Company and its counsel or (iii) if the recipient has a conflict of interest as reasonably determined by the Board of the Company in good faith.

If, for any period, the Company has any subsidiary whose accounts are consolidated with those of the Company, then in respect of such period the financial statements delivered pursuant to the foregoing sections shall be the consolidated and consolidating financial statements of the Company and all such consolidated subsidiaries.

Notwithstanding anything else in this Subsection 3.1 to the contrary, the Company may cease providing the information set forth in this Subsection 3.1 during the period starting with the date sixty (60) days before the Company's good-faith estimate of the date of filing of a registration

statement if it reasonably concludes it must do so to comply with the SEC rules applicable to such registration statement and related offering; provided that the Company's covenants under this Subsection 3.1 shall be reinstated at such time as the Company is no longer actively employing its commercially reasonable efforts to cause such registration statement to become effective.

3.2 Inspection. The Company shall permit each Major Investor (provided that the Board has not reasonably determined that such Major Investor is a competitor of the Company), at such Major Investor's expense, to visit and inspect the Company's properties; examine its books of account and records; and discuss the Company's affairs, finances, and accounts with its officers, during normal business hours of the Company as may be reasonably requested by the Major Investor; provided, however, that the Company shall not be obligated pursuant to this Subsection 3.2 to provide access to any information (i) that it reasonably and in good faith considers to be a trade secret or similarly highly confidential information (unless covered by an enforceable confidentiality agreement, in form acceptable to the Company), (ii) the disclosure of which would adversely affect the attorney-client privilege between the Company and its counsel or (iii) if the Major Investor has a conflict of interest as reasonably determined by the Board in good faith.

3.3 Observer Rights.

(a) As long as KPCB Holdings, Inc., as nominee ("**KPCB**") owns not less than 1,000,000 shares of the Series A Preferred Stock (or an equivalent amount of Common Stock issued upon conversion thereof), the Company shall invite a representative of KPCB to attend all meetings of its Board in a nonvoting observer capacity and, in this respect, shall give such representative copies of all notices, minutes, consents, and other materials that it provides to its directors; provided, however, that such representative shall agree to hold in confidence and trust and to act in a fiduciary manner with respect to all information so provided; and provided further, that the Company reserves the right to withhold any information and to exclude such representative from any meeting or portion thereof if access to such information or attendance at such meeting could adversely affect the attorney-client privilege between the Company and its counsel or result in disclosure of trade secrets or a conflict of interest, or if such Investor or its representative is a competitor of the Company.

(b) As long as Obvious Group LLC ("**Obvious**") owns not less than 1,400,000 shares of the Series B Preferred Stock (or an equivalent amount of Common Stock issued upon conversion thereof), the Company shall invite a representative of The Obvious Corporation or its Affiliates to attend all meetings of its Board in a nonvoting observer capacity and, in this respect, shall give such representative copies of all notices, minutes, consents, and other materials that it provides to its directors; provided, however, that such representative shall agree to hold in confidence and trust and to act in a fiduciary manner with respect to all information so provided; and provided further, that the Company reserves the right to withhold any information and to exclude such representative from any meeting or portion thereof if access to such information or attendance at such meeting could adversely affect the attorney-client privilege between the Company and its counsel or result in disclosure of trade secrets or a conflict of interest, or if such Investor or its representative is a competitor of the Company.

(c) As long as Gates Ventures, LLC ("**GV**") owns not less than 650,000 shares of the Series C Preferred Stock (or an equivalent amount of Common Stock issued upon conversion thereof), the Company shall invite a representative of GV or its Affiliates to attend all meetings of its Board in a nonvoting observer capacity and, in this respect, shall give such representative copies of all notices, minutes, consents, and other materials that it provides to its directors; provided, however, that such representative shall agree to hold in confidence and trust and to act in a fiduciary manner with respect to all information so provided; and provided further, that the Company reserves the right to withhold any information and to exclude such representative from any meeting or portion thereof if access to such information or attendance at such meeting could adversely affect the attorney-client privilege between the Company and its counsel or result in disclosure of trade secrets or a conflict of interest, or if such Investor or its representative is a competitor of the Company.

(d) As long as Tsai or its Affiliates own not less than 1,200,000 shares of the Series D Preferred Stock (or an equivalent amount of Common Stock issued upon conversion thereof), the Company shall invite a representative of Tsai to attend all meetings of its Board in a nonvoting observer capacity and, in this respect, shall give such representative copies of all notices, minutes, consents, and other materials that it provides to its directors; provided, however, that such representative shall agree to hold in confidence and trust and to act in a fiduciary manner with respect to all information so provided; and provided further, that the Company reserves the right to withhold any information and to exclude such representative from any meeting or portion thereof if access to such information or attendance at such meeting could adversely affect the attorney-client privilege between the Company and its counsel or result in disclosure of trade secrets or a conflict of interest, or if such Investor or its representative is a competitor of the Company.

(e) As long as S2G or its Affiliates own not less than 860,000 shares of the Series D Preferred Stock (or an equivalent amount of Common Stock issued upon conversion thereof), the Company shall invite a representative of S2G to attend all meetings of its Board in a nonvoting observer capacity and, in this respect, shall give such representative copies of all notices, minutes, consents, and other materials that it provides to its directors; provided, however, that such representative shall agree to hold in confidence and trust and to act in a fiduciary manner with respect to all information so provided; and provided further, that the Company reserves the right to withhold any information and to exclude such representative from any meeting or portion thereof if access to such information or attendance at such meeting could adversely affect the attorney-client privilege between the Company and its counsel or result in disclosure of trade secrets or a conflict of interest, or if such Investor or its representative is a competitor of the Company.

(f) As long as Union Grove and its Affiliates own not less than 500,000 shares of Preferred Stock (or an equivalent amount of Common Stock issued upon conversion thereof), if a representative of Union Grove is not then serving on the Board, then the Company shall invite a representative of Union Grove to attend all meetings of its Board in a nonvoting observer capacity and, in this respect, shall give such representative copies of all notices, minutes, consents, and other materials that it provides to its directors; provided, however, that such representative shall agree to hold in confidence and trust and to act in a fiduciary manner with respect to all information so provided; and provided further, that the Company reserves the

right to withhold any information and to exclude such representative from any meeting or portion thereof if access to such information or attendance at such meeting could adversely affect the attorney-client privilege between the Company and its counsel or result in disclosure of trade secrets or a conflict of interest, or if such Investor or its representative is a competitor of the Company.

(g) As long as Tyson owns not less than 1,800,000 shares of the Series F Preferred Stock (or an equivalent amount of Common Stock issued upon conversion thereof), the Company shall invite a representative of Tyson to attend all meetings of its Board in a nonvoting observer capacity and, in this respect, shall give such representative copies of all notices, minutes, consents, and other materials that it provides to its directors; provided, however, that such representative shall agree to hold in confidence and trust and to act in a fiduciary manner with respect to all information so provided; and provided further, that the Company reserves the right to withhold any information and to exclude such representative from any meeting or portion thereof if access to such information or attendance at such meeting could adversely affect the attorney-client privilege between the Company and its counsel or result in disclosure of trade secrets or a conflict of interest.

(h) As long as Innovative Fund, LLC ("**Future Foods**") and its Affiliates own not less than 800,000 shares of Preferred Stock (or an equivalent amount of Common Stock issued upon conversion thereof), the Company shall invite a representative of Future Foods to attend all meetings of its Board in a nonvoting observer capacity and, in this respect, shall give such representative copies of all notices, minutes, consents, and other materials that it provides to its directors; provided, however, that such representative shall agree to hold in confidence and trust and to act in a fiduciary manner with respect to all information so provided; and provided further, that the Company reserves the right to withhold any information and to exclude such representative from any meeting or portion thereof if access to such information or attendance at such meeting could adversely affect the attorney-client privilege between the Company and its counsel or result in disclosure of trade secrets or a conflict of interest.

(i) As long as Mitsui & Co. (U.S.A.), Inc. ("**Mitsui**") and its Affiliates own not less than 400,000 shares of the Series F Preferred Stock (or an equivalent amount of Common Stock issued upon conversion thereof), the Company shall invite a representative of Mitsui to attend all meetings of its Board in a nonvoting observer capacity and, in this respect, shall give such representative copies of all notices, minutes, consents, and other materials that it provides to its directors; provided, however, that such representative shall agree to hold in confidence and trust and to act in a fiduciary manner with respect to all information so provided; and provided further, that the Company reserves the right to withhold any information and to exclude such representative from any meeting or portion thereof if access to such information or attendance at such meeting could adversely affect the attorney-client privilege between the Company and its counsel or result in disclosure of trade secrets or a conflict of interest.

(j) As long as Cleveland Avenue, LLC ("**Cleveland Avenue**") and its Affiliates own not less than 800,000 shares of Preferred Stock (or an equivalent amount of Common Stock issued upon conversion thereof), the Company shall invite a representative of Cleveland

Avenue to attend all meetings of its Board in a nonvoting observer capacity and, in this respect, shall give such representative copies of all notices, minutes, consents, and other materials that it provides to its directors; provided, however, that such representative shall agree to hold in confidence and trust and to act in a fiduciary manner with respect to all information so provided; and provided further, that the Company reserves the right to withhold any information and to exclude such representative from any meeting or portion thereof if access to such information or attendance at such meeting could adversely affect the attorney-client privilege between the Company and its counsel or result in disclosure of trade secrets or a conflict of interest.

3.4 Termination of Information Rights. The covenants set forth in Subsection 3.1 and Subsection 3.2 shall terminate and be of no further force or effect (i) immediately before the consummation of an IPO, (ii) when the Company first becomes subject to the periodic reporting requirements of Section 12(g) or 15(d) of the Exchange Act, or (iii) upon a Deemed Liquidation Event, as such term is defined in the Restated Certificate, whichever event occurs first. The covenants set forth in Subsection 3.3 shall terminate and be of no further force or effect (i) immediately before the consummation of an IPO, or (ii) upon a Deemed Liquidation Event, as such term is defined in the Company's Restated Certificate, whichever event occurs first.

3.5 Confidentiality. Each Investor agrees that such Investor will keep confidential and will not disclose, divulge, or use for any purpose (other than to monitor its investment in the Company) any confidential information obtained from the Company pursuant to the terms of this Agreement (including notice of the Company's intention to file a registration statement), unless such confidential information (a) is known or becomes known to the public in general (other than as a result of a breach of this Subsection 3.5 by such Investor), (b) is or has been independently developed or conceived by the Investor without use of the Company's confidential information, or (c) is or has been made known or disclosed to the Investor by a third party without a breach of any obligation of confidentiality such third party may have to the Company; provided, however, that an Investor may disclose confidential information (i) to its attorneys, accountants, consultants, and other professionals to the extent necessary to obtain their services in connection with monitoring its investment in the Company; (ii) to any prospective purchaser of any Registrable Securities from such Investor, if such prospective purchaser agrees to be bound by the provisions of this Subsection 3.5; (iii) to any Affiliate, partner, member, stockholder, or wholly owned subsidiary of such Investor in the ordinary course of business, provided that such Investor informs such Person that such information is confidential and directs such Person to maintain the confidentiality of such information; or (iv) as may otherwise be required by law, provided that the Investor promptly notifies the Company of such disclosure and takes reasonable steps to minimize the extent of any such required disclosure. Furthermore, nothing contained herein shall prevent any Investor from (x) entering into any business, entering into any agreement with a third party, or investing in or engaging in investment discussions with any other company (whether or not competitive with the Company), provided that such Investor does not, except as permitted in accordance with this Subsection 3.5, disclose or otherwise make use of any proprietary or confidential information of the Company in connection with such activities, or (y) making any disclosures required by law, rule, regulation or court or other governmental order.

4. Rights to Future Stock Issuances.

4.1 Right of First Offer. Subject to the terms and conditions of this Subsection 4.1 and applicable securities laws, if the Company proposes to offer or sell any New Securities, the Company shall first offer such New Securities to each Major Investor. A Major Investor shall be entitled to apportion the right of first offer hereby granted to it among itself and its Affiliates in such proportions as it deems appropriate.

(a) The Company shall give notice (the "**Offer Notice**") to each Major Investor, stating (i) its bona fide intention to offer such New Securities, (ii) the number of such New Securities to be offered, and (iii) the price and terms, if any, upon which it proposes to offer such New Securities.

(b) By notification to the Company within fifteen (15) days after the Offer Notice is given, each Major Investor may elect to purchase or otherwise acquire, at the price and on the terms specified in the Offer Notice, up to that portion of such New Securities which equals the proportion that the Common Stock issued and held, or issuable (directly or indirectly) upon conversion and/or exercise, as applicable, of the Preferred Stock and any other Derivative Securities then held, by such Major Investor bears to the total Common Stock of the Company then outstanding (assuming full conversion and/or exercise, as applicable, of all Preferred Stock and other Derivative Securities) (such proportion, the "**Pro Rata**"). At the expiration of such fifteen (15) day period, the Company shall promptly notify each Major Investor that elects to purchase or acquire all the shares available to it (each, a "**Fully Exercising Investor**") of any other Major Investor's failure to do likewise. During the ten (10) day period commencing after the Company has given such notice, each Fully Exercising Investor may, by giving notice to the Company, elect to purchase or acquire, in addition to the number of shares specified above, up to that portion of the New Securities for which Major Investors were entitled to subscribe but that were not subscribed for by the Major Investors which is equal to the proportion that the Common Stock issued and held, or issuable (directly or indirectly) upon conversion and/or exercise, as applicable, of Preferred Stock and any other Derivative Securities then held, by such Fully Exercising Investor bears to the Common Stock issued and held, or issuable (directly or indirectly) upon conversion and/or exercise, as applicable, of the Preferred Stock and any other Derivative Securities then held, by all Fully Exercising Investors who wish to purchase such unsubscribed shares. The closing of any sale pursuant to this Subsection 4.1(b) shall occur within the later of one hundred and twenty (120) days of the date that the Offer Notice is given and the date of initial sale of New Securities pursuant to Subsection 4.1(c).

(c) If all New Securities referred to in the Offer Notice are not elected to be purchased or acquired as provided in Subsection 4.1(b), the Company may, during the ninety (90) day period following the expiration of the periods provided in Subsection 4.1(b), offer and sell the remaining unsubscribed portion of such New Securities to any Person or Persons at a price not less than, and upon terms no more favorable to the offeree than, those specified in the Offer Notice. If the Company does not enter into an agreement for the sale of the New Securities within such period, or if such agreement is not consummated within thirty (30) days of the execution

thereof, the right provided hereunder shall be deemed to be revived and such New Securities shall not be offered unless first reoffered to the Major Investors in accordance with this Subsection 4.1.

(d) The right of first offer in this Subsection 4.1 shall not be applicable to (i) Exempted Securities (as defined in the Restated Certificate); and (ii) the issuance of shares of Series H Preferred Stock pursuant to the Purchase Agreement.

(e) Notwithstanding any provision hereof to the contrary, in lieu of complying with the provisions of this Subsection 4.1, the Company may elect to give notice to the Major Investors within thirty (30) days after the issuance of New Securities. Such notice shall describe the type, price, and terms of the New Securities. Each Major Investor shall have twenty (20) days from the date notice is given to elect to purchase up to the number of New Securities that would, if purchased by such Major Investor, maintain such Major Investor's percentage-ownership position, calculated as set forth in Subsection 4.1(b) before giving effect to the issuance of such New Securities. The closing of such sale shall occur within sixty (60) days of the date notice is given to the Major Investors.

4.2 Termination. The covenants set forth in Subsection 4.1 shall terminate and be of no further force or effect (i) immediately before the consummation of the IPO or (ii) upon a Deemed Liquidation Event, as such term is defined in the Company's Amended and Restated Certificate of Incorporation, as may be amended or restated from time to time, whichever event occurs first.

5. Additional Covenants.

5.1 Insurance. The Company shall use commercially reasonable efforts to maintain its Directors and Officers liability insurance policy with a coverage limit that is customary for similarly-situated companies, until such time as the Board, including the directors appointed by Union Grove, Obvious and DNS, determines that such insurance may have a lower minimum coverage or should be discontinued.

5.2 Employee Agreements. The Company will cause each person now or hereafter employed by it or by any subsidiary (or engaged by the Company or any subsidiary as a consultant/independent contractor) to enter into a nondisclosure and intellectual property and confidentiality assignment agreement and to assign all necessary intellectual property to the Company.

5.3 Employee Stock. Unless otherwise approved by the Board, including a majority of the Preferred Directors (as defined in the Restated Certificate), all future employees and consultants of the Company who purchase, receive options to purchase, or receive awards of shares of the Company's capital stock after the date hereof shall be required to execute restricted stock or option agreements, as applicable, providing for (i) vesting of shares over a four (4) year period, with the first twenty-five percent (25%) of such shares vesting following twelve (12) months of continued employment or service, and the remaining shares vesting in equal monthly installments over the following thirty-six (36) months, and (ii) a market stand-off provision substantially similar to that in Subsection 2.11. In addition, unless otherwise approved by the Board, including a majority

of the Preferred Directors, the Company shall retain a "right of first refusal" on employee transfers until the Company's IPO and shall have the right to repurchase unvested shares at cost upon termination of employment of a holder of restricted stock. No stock option, restricted stock or similar equity grant issued to employees and consultants shall be transferable until such time as such stock option, restricted stock or similar equity grant is fully vested.

5.4 Board Matters. Unless otherwise determined by the vote of a majority of the directors then in office, the Board shall meet at least quarterly in accordance with an agreed- upon schedule. The Company shall reimburse the nonemployee directors for all reasonable out- of-pocket expenses incurred (consistent with the Company's travel and other applicable policies) in connection with attending meetings of the Board (and any committee thereof) and with handling any other Board matters.

5.5 Successor Indemnification. If the Company or any of its successors or assignees consolidates with or merges into any other Person and is not the continuing or surviving corporation or entity of such consolidation or merger, then to the extent necessary, proper provision shall be made so that the successors and assignees of the Company assume the obligations of the Company with respect to indemnification of members of the Board as in effect immediately before such transaction, whether such obligations are contained in the Company's Bylaws, its Amended and Restated Certificate of Incorporation, as may be amended or restated from time to time, or elsewhere, as the case may be.

5.6 Use of Name of Gates Ventures. None of the parties to this Agreement (except GV) shall use GV's name (or the name of any affiliate of GV) in any press release, published notice or other publication relating to GV's investment in the Company without the prior written consent of GV. For the avoidance of doubt, the Company may advise (i) other stockholders and (ii) subject to a confidentiality agreement, prospective investors or acquirers of the fact of GV's investment in the Company and may make any other disclosure regarding GV's investment in the Company as required by law or legal process, provided that the Company provides GV reasonable advance notice of such disclosure.

5.7 Termination of Covenants. The covenants set forth in this Section 5, except for this Subsection 5.7, shall terminate and be of no further force or effect (i) immediately before the consummation of the IPO (ii) when the Company first becomes subject to the periodic reporting requirements of Section 12(g) or 15(d) of the Exchange Act, or (iii) upon a Deemed Liquidation Event, as such term is defined in the Company's Amended and Restated Certificate of Incorporation, as may be amended or restated from time to time, whichever event occurs first.

6. Miscellaneous.

6.1 Successors and Assigns. The rights under this Agreement may be assigned (but only with all related obligations) by a Holder to a transferee of Registrable Securities that (i) is an Affiliate of a Holder; (ii) is a Holder's Immediate Family Member or trust for the benefit of an individual Holder or one or more of such Holder's Immediate Family Members or (iii) after such transfer, holds at least 500,000 shares of Registrable Securities (or all of Holder's shares, if Holder held less than 500,000 shares subsequent to such transfer) (subject to appropriate

adjustment for stock splits, stock dividends, combinations, and other recapitalizations); provided, however, that (x) the Company is, within a reasonable time after such transfer, furnished with written notice of the name and address of such transferee and the Registrable Securities with respect to which such rights are being transferred; and (y) such transferee agrees in a written instrument delivered to the Company to be bound by and subject to the terms and conditions of this Agreement, including the provisions of Subsection 2.11, and that certain Voting Agreement of even date herewith by and among the Company and the Investors and Key Holders named therein. For the purposes of determining the number of shares of Registrable Securities held by a transferee, the holdings of a transferee (1) that is an Affiliate or stockholder of a Holder; (2) who is a Holder's Immediate Family Member; or (3) that is a trust for the benefit of an individual Holder or such Holder's Immediate Family Member shall be aggregated together and with those of the transferring Holder; provided further that all transferees who would not qualify individually for assignment of rights shall have a single attorney-in-fact for the purpose of exercising any rights, receiving notices, or taking any action under this Agreement. The terms and conditions of this Agreement inure to the benefit of and are binding upon the respective successors and permitted assignees 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 permitted assignees any rights, remedies, obligations or liabilities under or by reason of this Agreement, except as expressly provided herein.

6.2 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, without regard to its principles of conflicts of laws.

6.3 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. Counterparts may be delivered via facsimile, electronic mail (including pdf) or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes.

6.4 Titles and Subtitles. The titles and subtitles used in this Agreement are for convenience only and are not to be considered in construing or interpreting this Agreement.

6.5 Notices. All notices and other communications given or made pursuant to this Agreement shall be in writing and shall be deemed effectively given upon the earlier of actual receipt or: (i) personal delivery to the party to be notified; (ii) when sent, if sent by electronic mail or facsimile during the recipient's normal business hours, and if not sent during normal business hours, then on the recipient's 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) business day after the business day of deposit with a nationally recognized overnight courier, freight prepaid, specifying next-day delivery, with written verification of receipt. All communications shall be sent to the respective parties at their addresses as set forth on Schedule A, Schedule B or Schedule C (as applicable) hereto, or to such email address, facsimile number, or address as subsequently modified by written notice given in accordance with this Subsection 6.5. If notice is given to the Company, it shall be sent to Beyond Meat, Inc., 1325 El Segundo Blvd, El Segundo, CA 90245, Attention:

Chief Executive Officer; and a copy (which shall not constitute notice) shall also be sent to Orrick, Herrington & Sutcliffe LLP, 1000 Marsh Road, Menlo Park, CA 94025, Attention: Harold Yu, Esq.

6.6 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 holders of at least 55% of the Registrable Securities then outstanding, voting together as a single class on an as-converted to Common Stock basis; provided that (i) the Company may in its sole discretion waive compliance with Subsection 2.12(c) (and the Company's failure to object promptly in writing after notification of a proposed assignment allegedly in violation of Subsection 2.12(c) shall be deemed to be a waiver) and (ii) Subsection 5.6 may not be amended or waived without the consent of GV; and provided further that any provision hereof may be waived by any waiving party on such party's own behalf, without the consent of any other party. Notwithstanding the foregoing, this Agreement may not be amended or terminated and the observance of any term hereof may not be waived with respect to any Investor without the written consent of such Investor, unless such amendment, termination, or waiver applies to all Investors in the same fashion (it being agreed that a waiver of the provisions of Section 4 with respect to a particular transaction shall be deemed to apply to all Investors in the same fashion if such waiver does so by its terms, notwithstanding the fact that certain Investors may nonetheless, by agreement with the Company, purchase securities in such transaction; provided, however, that if any Investor who waives the provisions of Section 4 on behalf of other Investors with respect to a particular transaction does purchase securities in such transaction, then such waiver shall not be effective with respect to all Investors unless the holders of (a) at least 75% of the then outstanding shares of Series C Preferred Stock, (b) at least 60% of the then outstanding shares of Series D Preferred Stock, (c) at least 60% of the then outstanding shares of Series E Preferred Stock, (d) at least a majority of the then outstanding shares of Series F Preferred Stock and (e) at least a majority of the then outstanding shares of Series G Preferred Stock consent in writing to such waiver ("**Supermajority Approval**"); provided, further, that in the event of a Supermajority Approval, such waiver shall not be effective with respect to any Investor that, together with its Affiliates, holds at least 1,000,000 shares of Series H Preferred Stock (as adjusted for any stock split, stock dividend, combination, or other recapitalization or reclassification effected after the date hereof) unless the holders of at least a majority of the then outstanding shares of Series H Preferred Stock consent in writing to such waiver. Further, this Agreement may not be amended, and no provision hereof may be waived, in each case, in any way which would adversely affect the rights of the Key Holders hereunder in a manner disproportionate to any adverse effect such amendment or waiver would have on the rights of the Investors hereunder, without also the written consent of the holders of at least a majority of the Registrable Securities held by the Key Holders who are then providing services to the Company as a director, employee, officer or consultant. Notwithstanding the foregoing, this Agreement may not be amended or terminated and the observance of any term hereof may not be waived with respect to any Key Holder without the written consent of such Key Holder, unless such amendment, termination, or waiver applies to all Key Holders in the same fashion. The Company shall give prompt notice of any amendment or termination hereof or waiver hereunder to any party hereto that did not consent in writing to such amendment, termination, or waiver. Any amendment, termination, or waiver effected in accordance with this Subsection 6.6 shall be binding on all parties hereto, regardless of whether any such party has consented thereto. No waivers of or exceptions

to any term, condition, or provision of this Agreement, in any one or more instances, shall be deemed to be or construed as a further or continuing waiver of any such term, condition, or provision.

6.7 Severability. In case any one or more of the provisions contained in this Agreement is for any reason held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement, and such invalid, illegal, or unenforceable provision shall be reformed and construed so that it will be valid, legal, and enforceable to the maximum extent permitted by law.

6.8 Aggregation of Stock. All shares of Registrable Securities held or acquired by Affiliates shall be aggregated together for the purpose of determining the availability of any rights under this Agreement and such Affiliated persons may apportion such rights as among themselves in any manner they deem appropriate.

6.9 Additional Investors. Notwithstanding anything to the contrary contained herein, if the Company issues additional shares of the Company's Series H Preferred Stock after the date hereof, whether pursuant to the Purchase Agreement or otherwise, any purchaser of such shares of Series H Preferred Stock may become a party to this Agreement by executing and delivering an additional counterpart signature page to this Agreement, and thereafter shall be deemed an "Investor" for all purposes hereunder. No action or consent by the Investors shall be required for such joinder to this Agreement by such additional Investor, so long as such additional Investor has agreed in writing to be bound by all of the obligations as an "Investor" hereunder.

6.10 Entire Agreement. This Agreement (including any Schedules and Exhibits hereto) constitutes the full and entire understanding and agreement among the parties with respect to the subject matter hereof, and any other written or oral agreement relating to the subject matter hereof existing between the parties is expressly canceled.

6.11 Delays or Omissions. No delay or omission to exercise any right, power, or remedy accruing to any party under this Agreement, upon any breach or default of any other party under this Agreement, shall impair any such right, power, or remedy of such nonbreaching or nondefaulting party, nor shall it be construed to be a waiver of or acquiescence to any such breach or default, or to any similar breach or default thereafter occurring, nor shall any waiver of any single breach or default be deemed a waiver of any other breach or default theretofore or thereafter occurring. All remedies, whether under this Agreement or by law or otherwise afforded to any party, shall be cumulative and not alternative.

[*Signature Pages Follow*]

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

COMPANY:

BEYOND MEAT, INC.

By: /s/ Ethan Brown
Ethan Brown
Chief Executive Officer

Address:

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

INVESTOR:

KPCB HOLDINGS, INC., AS NOMINEE

By: /s/ Scott Ryles

Name: Scott Ryles

Title: President and chairman

Address:

Email:

IN WITNESS WHEREOF. the parties have executed this Amended and Restated Investors" Rights Agreement as of the date first written above.

INVESTOR:

ANIMAL LIBERATION PRIVATE FOUNDATION

By: /s/ Marino Di Pietro
Name: Marino Di Pietro
Title: Authorized Signor

Address:

Email:

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

INVESTOR:

AVONDALE AGENTS LIMITED

By: /s/ John Wang

Name: John Wang

Title: Director

Address:

Email:

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

INVESTOR:

BERNHARD VAN LENGERICH

By: /s/ Bernhard Van Lengerich
(Signature)

Address:

Email:

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

INVESTOR:

DNS-BYMT,LLC

By: /s/ Derek Arend

Derek Arend
President

Address:

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

INVESTOR:

BEYOND MEAT CA LLC
By: Cleveland Avenue Food and Beverage Funds Holdings LLC, its Sole Member

By: /s/ Donald Thompson
Donald Thompson
Authorized Representative

Address:

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

INVESTOR:

CA FOOD I FUND, LLC
By: Cleveland Avenue, LLC its manager

By: /s/ Donald Thompson
Donald Thompson
Chief Executive Officer

Address:

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

INVESTOR:

OBVIOUS GROUP LLC

By: /s/ Ev Williams

Name: Ev Williams

Title: Partner

Address:

Email:

IN WITNESS WHEREOF, the patties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

INVESTOR:

CLEVELAND MANOR INVESTMENTS IILLC

By: /s/ Donald Thompson

Donald Thompson
Manager

Address:

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

INVESTOR:

OBVIOUS VENTURES I, L.P.
By: Obvious Ventures Management, L.L.C.
Its: General Partner

By: /s/ James Joaquin
Name: James Joaquin
Title: Managing Director

Address:

Email:

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

INVESTOR:

CLOSED LOOP CAPITAL
INVESTMENTS, L.P.

By: /s/ Jason Ingle

Name: Jason Ingle

Title: Managing Partner

Address:

Email:

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

KEY HOLDER

/s/ Ethan Brown

Ethan Brown

Address:

Email:

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

INVESTOR:

SETH GOLDMAN REVOCABLE TRUST

By: /s/ Seth Goldman
Seth Goldman
Trustee

Address:

Email:

IN WITNESS WHEREOF, the patties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

INVESTOR:

GATES FRONTIER, LLC

By: /s/ Alan Heuberger

Name: Alan Heuberger

Title: Authorized Signature

Address:

Email:

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

INVESTOR:

BUNGE VENTURES LTD.

By: /s/ Nanda Kumar Puthucode
Name: Nanda Kumar Puthucode
Title: Managing Director

Address:

Email:

By: /s/ Alanna Weifenbach
Name: Alanna Weifenbach
Title: Senior Director

Address:

Email:

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

INVESTOR:

THE GOLDMAN FARKAS 2017 DESCENDANTS TRUST

By: /s/ Ethan Goldman

Name: Ethan Goldman

Title: trustee

Address:

Email:

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

INVESTOR:

GREATPOINT VENTURES INNOVATION FUND, L.P.

BY: GREATPOINT INVESTMENT PARTNERS, LLC,
ITS GENERAL PARTNER

By: /s/ Ray Lane
Name: Ray Lane
Title: Managing Partner

GREATPOINT VENTURES INNOVATION PARALLEL FUND, L.P.

BY: GREATPOINT INVESTMENT PARTNERS, LLC,
ITS GENERAL PARTNER

By: /s/ Ray Lane
Name: Ray Lane
Title: Managing Partner

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

INVESTOR:

INNOVATIVE FUND, LLLC
By: Innovative Fund GP, LLC
Its: Manager

By:	/s/ Craig Shapiro
Name:	Craig Shapiro
Title:	Managing Director

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

INVESTOR:

THE JULIE D. FARKAS REVOCABLE TRUST

By: /s/ Julie Farkas

Name: Julie Farkas

Title: Self

Address:

Email:

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

INVESTOR:

MORGAN CREEK PARTNERS VENTURE ACCESS FUNDS, L.P.
By: Morgan Creek Partners Venture, LLC
Its: General Partner

By: /s/ Mark W. Yusko
Name: Mark W. Yusko
Title: Managing Member

Address:

Email:

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

INVESTOR:

PRIMEROSE DEVELOPMENT GROUP LIMITED

By:	/s/ Tsai Ming-Chung
Name:	Tsai Ming-Chung
Title:	Director

Address:

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

INVESTOR:

Proof I, LLC

By: /s/ John Backus

Name: John Backus
Title: Managing Member

Address:

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

INVESTOR:

BM1 P, LLC

By: /s/ John Backus
Name: John Backus
Title: Managing Member

Address:

INVESTOR:

BM2 P, LLC

By: /s/ John Backus
Name: John Backus
Title: Managing Member

Address:

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

INVESTOR:

STRATEGIC PARTNERS VII INVESTMENTS, L.P. (SERIES D)

By:
Its:

By: /s/ Michael Petryczenko
Name: Michael Petryczenko
Title: Senior Vice President

Address:

Email:

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

INVESTOR:

SUGAR BEAR INVESTMENTS, LLC

By: /s/ Brian Valentine

Name: Brian Valentine

Title: Manager

Address:

Email:

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

INVESTOR:

TOTAL FORMATION INC.

By: /s/ John Wang
Name: John Wang
Title: Director

Address:

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

INVESTOR:

ULTIMATE EPOCH LIMITED

By: /s/ John Wang

Name: John Wang

Title: Director

Address:

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

INVESTOR:

UNION GROVE PARTNERS VENTURE ACCESS FUND II, LP
By: Union Grove Venture Partners 2014, LLC Its: General Partner

By: /s/ Greg Bohlen
Name: Greg Bohlen
Title: MD

Address:

Email:

INVESTOR:

UNION GROVE PARTNERS VENTURE ACCESS FUND II-B, LP
By: Union Grove Venture Partners 2014, LLC
Its: General Partner

By: /s/ Greg Bohlen
Name: Greg Bohlen
Title: MD

Address:

Email:

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

INVESTOR:

UNION GROVE PARTNERS DIRECT VENTURE FUND, LP
By: Union Grove Venture Partners 2014, LLC
Its: General Partner

By: /s/ Greg Bohlen
Name: Greg Bohlen
Title: MD

Address:

Email:

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

INVESTOR:

UNICORN LINK INTERNATIONAL, LTD

By: /s/ Yeung Chun Ip David

Name: Yeung Chun Ip David
Title: Director

Address:

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

INVESTOR:

HUMANE SOCIETY OF THE UNITED STATES

By:	/s/ G. Thomas Waite
Name:	G. Thomas Waite
Title:	CFO
Email:	

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

INVESTOR:

TYSON NEW VENTURES, LLC
(f/k/a SRI Holding, LLC

By: /s/ Tom Mastrobuoni
Name: Tom Mastrobuoni for Justin Whitmore
Title: CFO - Tyson Ventures

Address:

Email:

SCHEDULE A

NEW INVESTORS

Name and Address

PROOF I, LLC

BM2 P, LLC

Strategic Partners VII Investments, L.P. (Series D)

GreatPoint Ventures Innovation Parallel Fund, L.P.

SCHEDULE B

EXISTING INVESTORS

Name and Address

Obvious Group LLC

KPCB Holdings, Inc., as nominee

Morgan Creek Partners Venture Access Funds, L.P.

Gates Ventures, LLC

Sugar Bear Investments, LLC

Julie D. Farkas Revocable Trust

Calvert Social Investment Foundation

Little Harbour SAZ, LLC

Humane Society of the United States

Closed Loop Capital Investments, L.P.

Animal Liberation Private Foundation

General Mills, Inc.

DNS-BYMT, LLC

Primerose Development Group Limited

Total Formation Inc.

S2G Ventures Fund I, L.P.

Evan Williams

Union Grove Partners Direct Venture Fund, LP

Innovative Fund, LLC

Obvious Ventures I, L.P.

Eminent Harmony Limited

MLC50 LP INC.

David Zarfes

Stray Dog Capital, LLC

Greatpoint Ventures Innovation Fund, LP

New Crop Capital

Foundry Square Investors XV, LLC

Alice and Harold Yu Family Trust established July 16, 2009, Harold M. Yu and Alice C. Yu, as trustees

SRI Holding, LLC

Unicorn Link International, Ltd.

Seth Goldman Revocable Trust

Avondale Agents Limited

Beyond Meat CA LLC

Cleveland Manor Investments II LLC

CA Food I Fund, LLC

Eichner Investments LLC

Felicia J. Levin 1995 Family Trust UAD 12/15/1995

H. Barton Co-Invest Fund III, LLC

Thomas Middleditch

The Gary M. Lauder Revocable Trust

Bernhard Van Lengerich

Suzy Welch Revocable Trust

John F. Welch, Jr. 2004 Revocable Trust

Yak Kapital LLP

Ambrosia SPV 1

Broad Street Principal Investments, L.L.C.

PROOF I, LLC

BM1 P, LLC

Ismene, Ltd.

Steve Cohen

MMBL Enterprises WA, LLC

Ultimate Epoch Limited

Blue Horizon Corporation Inc.

Sidney W. Swartz 1982 Family Trust A for Jeffrey Swartz

Judith H. Swartz

Sidney W. Swartz 1982 Family Trust C for the Issue of Jeffrey Swartz

The C. Malle 1996. Trust

Arieh Mimran

Shaun Roger White Family Trust

Ambrosia SPV 1

Y Capital Management Inc.

Tommaso Chiabra

Anadan, LLC

The Right Hand Left Hand Trust

Anthony D. Gonzalez

Demming International Ltd

Big Loud Capital, LLC

Dog Staff, LLC

Polycomp Trust Company, Custodian FBO Beth Moskowitz

Isabella Brewster Davis

Diana T. O’Bryan

Robiskie Holdings LLC

Lisa Koshy

Spanky’s Clothing, Inc.

Nick Adler

Eight24 Ventures, LLC

StevenBelieving Trust

SCHEDULE C

KEY HOLDERS

Name and Address

Ethan Brown

Plinio J. Garcia, Jr.

D.J. Kim

Ken Lisse

Laura Maslon

Shaun Fanning

Wren Maloney

Roderick McDonald

Arthur McCay

Brent Taylor

Sidney W. Swartz 1982 Trust B for Jeffrey Swartz

PowerPlant Ventures, L.P.

THIS WARRANT AND THE SHARES ISSUABLE HEREUNDER HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "**ACT**"), OR THE SECURITIES LAWS OF ANY STATE AND, EXCEPT AS SET FORTH IN SECTIONS 5.3 AND 5.4 BELOW, MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED UNLESS AND UNTIL REGISTERED UNDER SAID ACT AND LAWS OR IN FORM AND SUBSTANCE SATISFACTORY TO THE COMPANY, SUCH OFFER, SALE, PLEDGE OR OTHER TRANSFER IS EXEMPT FROM SUCH REGISTRATION.

WARRANT TO PURCHASE COMMON STOCK

Company:	SAVAGE RIVER, INC., a Delaware corporation
Number of Shares of Common Stock:	45,000
Warrant Price:	$2.00 per share
Issue Date:	June 27, 2018
Expiration Date:	June 27, 2028 See also Section 5.1(b).
Credit Facility:	This Warrant to Purchase Common Stock (as the same may from time to time be amended, modified, supplemented or restated, this "Warrant") is issued in connection with that certain Loan and Security Agreement (Term Loan) of even date herewith between Silicon Valley Bank and the Company (as the same may from time to time be amended, modified, supplemented or restated, the "Loan Agreement").

THIS WARRANT CERTIFIES THAT, for good and valuable consideration, SILICON VALLEY BANK (together with any successor or permitted assignee or transferee of this Warrant or of any shares issued upon exercise hereof, "**Holder**") is entitled to purchase the number of fully paid and non-assessable shares (the "**Shares**") of the above-stated common stock (the "**Common Stock**") of the above-named company (the "**Company**") at the above-stated Warrant Price, all as set forth above and as adjusted pursuant to Section 2 of this Warrant, subject to the provisions and upon the terms and conditions set forth in this Warrant. Reference is made to Section 5.4 of this Warrant whereby Silicon Valley Bank shall transfer this Warrant to its parent company, SVB Financial Group.

SECTION 1. EXERCISE.

1.1 Method of Exercise. Holder may at any time and from time to time exercise this Warrant, in whole or in part, by delivering to the Company the original of this Warrant together with a duly executed Notice of Exercise in substantially the form attached hereto as Appendix 1 and, unless Holder is exercising this Warrant pursuant to a cashless exercise set forth in Section 1.2, a check, wire transfer of same-day funds (to an account designated by the Company), or other form of payment acceptable to the Company for the aggregate Warrant Price for the Shares being purchased.

1.2 Cashless Exercise. On any exercise of this Warrant, in lieu of payment of the aggregate Warrant Price in the manner as specified in Section 1.1 above, but otherwise in accordance with the requirements of Section 1.1, Holder may elect to receive Shares equal to the value of this Warrant, or portion hereof as to which this Warrant is being exercised. Thereupon, the Company shall issue to the Holder such number of fully paid and non-assessable Shares as are computed using the following formula:

$$X = Y(A-B)/A$$

where:

X = the number of Shares to be issued to the Holder;

Y = the number of Shares with respect to which this Warrant is being exercised (inclusive of the Shares surrendered to the Company in payment of the aggregate Warrant Price);

A = the Fair Market Value (as determined pursuant to Section 1.3 below) of one Share; and

B = the Warrant Price.

1.3 Fair Market Value. If the Company's Common Stock is then traded or quoted on a nationally recognized securities exchange, inter-dealer quotation system or over-the-counter market (a "**Trading Market**"), the fair market value of a Share shall be the closing price or last sale price of a share of Common Stock reported for the Business Day immediately before the date on which Holder delivers this Warrant together with its Notice of Exercise to the Company. If the Company's Common Stock is not traded in a Trading Market, the Board of Directors of the Company shall determine the fair market value of a Share in its reasonable good faith judgment.

1.4 Delivery of Certificate and New Warrant. Within a reasonable time after Holder exercises this Warrant in the manner set forth in Section 1.1 or 1.2 above, the Company shall deliver to Holder a certificate representing the Shares issued to Holder upon such exercise and, if this Warrant has not been fully exercised and has not expired, a new warrant of like tenor representing the Shares not so acquired.

1.5 Replacement of Warrant. On receipt of evidence reasonably satisfactory to the Company of the loss, theft, destruction or mutilation of this Warrant and, in the case of loss, theft or destruction, on delivery of an indemnity agreement reasonably satisfactory in form, substance and amount to the Company or, in the case of mutilation, on surrender of this Warrant to the Company for cancellation, the Company shall, within a reasonable time, execute and deliver to Holder, in lieu of this Warrant, a new warrant of like tenor and amount.

1.6 Treatment of Warrant Upon Acquisition of Company or other Liquidity Event.

(a) Acquisition. For the purpose of this Warrant, "**Acquisition**" means any transaction or series of related transactions involving: (i) the sale, lease, exclusive license, or other

disposition of all or substantially all of the assets of the Company (ii) any merger or consolidation of the Company into or with another person or entity (other than a merger or consolidation effected exclusively to change the Company's domicile), or any other corporate reorganization, in which the stockholders of the Company in their capacity as such immediately prior to such merger, consolidation or reorganization, own less than a majority of the Company's (or the surviving or successor entity's) outstanding voting power immediately after such merger, consolidation or reorganization; or (iii) any sale or other transfer by the stockholders of the Company of shares representing at least a majority of the Company's then-total outstanding combined voting power. Notwithstanding the foregoing, an "Acquisition" shall not include a bona fide equity financing consummated solely for capital raising purposes.

(b) Treatment of Warrant at Acquisition. In the event of an Acquisition in which the consideration to be received by the Company's stockholders consists solely of cash, solely of Marketable Securities or a combination of cash and Marketable Securities (a "**Cash/Public Acquisition**"), and the fair market value of one Share as determined in accordance with Section 1.3 above would be greater than the Warrant Price in effect on such date immediately prior to such Cash/Public Acquisition, and Holder has not exercised this Warrant pursuant to Section 1.1 above as to all Shares, then this Warrant shall automatically be deemed to be Cashless Exercised pursuant to Section 1.2 above as to all Shares effective immediately prior to and contingent upon the consummation of a Cash/Public Acquisition. In connection with such Cashless Exercise, Holder shall be deemed to have restated each of the representations and warranties in Section 4 of the Warrant as of the date thereof and the Company shall promptly notify the Holder of the number of Shares (or such other securities) issued upon exercise. In the event of a Cash/Public Acquisition where the fair market value of one Share as determined in accordance with Section 1.3 above would be less than the Warrant Price in effect immediately prior to such Cash/Public Acquisition, then this Warrant will expire immediately prior to the consummation of such Cash/Public Acquisition.

(c) Upon the closing of any Acquisition other than a Cash/Public Acquisition defined above, the acquiring, surviving or successor entity shall assume the obligations of this Warrant, and this Warrant shall thereafter be exercisable for the same securities and/or other property as would have been paid for the Shares issuable upon exercise of the unexercised portion of this Warrant as if such Shares were outstanding on and as of the closing of such Acquisition, subject to further adjustment from time to time in accordance with the provisions of this Warrant

(d) Upon the closing of any Liquidity Event, the Holder may require the Company to purchase the Warrant (the "**Put**") for the applicable amount set forth below (the "**Put Price**"):

Date of Liquidity Event	Warrant Repurchase Price
Between the Issue Date and June 27, 2019	$700,000
Between June 28, 2019 and December 27, 2019	$900,000
Between December 28, 2019 and June 27, 2020	$1,300,000
Between June 28, 2020 and June 27, 2021	$2,100,000
After June 27, 2021	$3,100,000

In the event the Company fails to purchase the Warrant pursuant to the Put, then the Company shall pay Holder interest on the unpaid balance of the Put Price at the rate of fifteen percent (15%) per annum, payable monthly in advance on the first (1st) day of each calendar month following Holder's election to exercise the Put until the unpaid balance of the Put Price is paid in full. In the event the Company is obligated to purchase this Warrant hereunder and the Company does not have sufficient funds legally available therefor, the Company shall take any and all commercially reasonable action permitted by applicable law necessary to increase its legally available funds to an amount sufficient therefore. At any time thereafter when additional funds of the Company become legally available to purchase the Warrant pursuant to the terms hereof, such funds will immediately be used to pay the balance of the Put Price which the Company has become obligated to pay but which it has not as yet paid. For purposes hereof, "**Liquidity Event**" means the earliest to occur of the following: (a) any Acquisition; (b) any merger or consolidation of Borrower, or any other corporate reorganization of or involving Borrower, in which Borrower's stockholders own a majority of the surviving or successor entity's outstanding voting power immediately after such merger, consolidation or reorganization but such surviving or successor entity is not Borrower; or (c) Borrower's initial, underwritten offering and sale of its securities to the public pursuant to an effective registration statement under the Act (the "**IPO**").

(e) As used in this Warrant, "**Marketable Securities**" means securities meeting all of the following requirements: (i) the issuer thereof is then subject to the reporting requirements of Section 13 or Section 15(d) of the Securities Exchange Act of 1934, as amended (the "**Exchange Act**"), and is then current in its filing of all required reports and other information under the Act and the Exchange Act; (ii) the class and series of shares or other security of the issuer that would be received by Holder in connection with the Acquisition were Holder to exercise this Warrant on or prior to the closing thereof is then traded in Trading Market, and (iii) following the closing of such Acquisition, Holder would not be restricted from publicly re-selling all of the issuer's shares and/or other securities that would be received by Holder in such Acquisition were Holder to exercise or convert this Warrant in full on or prior to the closing of such Acquisition, except to the extent that any such restriction (x) arises solely under federal or state securities laws, rules or regulations, and (y) does not extend beyond six (6) months from the closing of such Acquisition.

(f) Promptly following any exercise of this Warrant and solely with respect to the Shares issued thereupon, Holder shall become party to, by execution and delivery to the Company of, a counterpart signature page, joinder agreement, instrument of accession or similar instrument, the Amended & Restated Voting Agreement by and among the Company and the parties named therein dated November 22, 2017, as may be amended from time to time, so long as any such amendment treats all holders of the same class and Series as Holder in the same manner (the "**Voting Agreement**"), and the Amended & Restated Right of First Refusal and Co-Sale Agreement by and among the Company and the parties listed therein dated November 22, 2017, as may be amended from time to time, so long as any such amendment treats all holders of the same class and series as Holder in the same manner (the "**Co-Sale Agreement**"), provided that such agreements are each by their terms in force and effect at the time of such Warrant exercise.

SECTION 2. ADJUSTMENTS TO THE SHARES AND WARRANT PRICE.

2.1 Stock Dividends, Splits, Etc. If the Company declares or pays a dividend or distribution on the outstanding shares of the Common Stock payable in securities or property (other than cash), then upon exercise of this Warrant, for each Share acquired, Holder shall receive, without additional cost to Holder, the total number and kind of securities and property which Holder would have received had Holder owned the Shares of record as of the date the dividend or distribution occurred. If the Company subdivides the outstanding shares of the Common Stock by reclassification or otherwise into a greater number of shares, the number of Shares purchasable hereunder shall be proportionately increased and the Warrant Price shall be proportionately decreased. If the outstanding shares of the Common Stock are combined or consolidated, by reclassification or otherwise, into a lesser number of shares, the Warrant Price shall be proportionately increased and the number of Shares shall be proportionately decreased.

2.2 Reclassification, Exchange, Combinations or Substitution. Upon any event whereby all of the outstanding shares of the Common Stock are reclassified, exchanged, combined, substituted, or replaced for, into, with or by Company securities of a different class and/or series, then from and after the consummation of such event, this Warrant will be exercisable for the number, class and series of Company securities that Holder would have received had the Shares been outstanding on and as of the consummation of such event, and subject to further adjustment thereafter from time to time in accordance with the provisions of this Warrant. The provisions of this Section 2.2 shall similarly apply to successive reclassifications, exchanges, combinations substitutions, replacements or other similar events.

2.3 Intentionally Omitted.

2.4 Intentionally Omitted.

2.5 No Fractional Share. No fractional Share shall be issuable upon exercise of this Warrant and the number of Shares to be issued shall be rounded down to the nearest whole Share. If a fractional Share interest arises upon any exercise of the Warrant, the Company shall eliminate such fractional Share interest by paying Holder in cash the amount computed by multiplying the fractional interest by (i) the fair market value (as determined in accordance with Section 1.3 above) of a full Share, less (ii) the then-effective Warrant Price.

2.6 Notice/Certificate as to Adjustments. Upon each adjustment of the Warrant Price, Common Stock and/or number of Shares, the Company, at the Company's expense, shall notify Holder in writing within a reasonable time setting forth the adjustments to the Warrant Price, class and/or number of Shares and facts upon which such adjustment is based. The Company shall, upon written request from Holder, furnish Holder with a certificate of its Chief Financial Officer, including computations of such adjustment and the Warrant Price, class and number of Shares in effect upon the date of such adjustment.

SECTION 3. REPRESENTATIONS AND COVENANTS OF THE COMPANY.

3.1 Representations and Warranties. The Company represents and warrants to, and agrees with, the Holder as follows:

(a) The initial Warrant Price referenced on the first page of this Warrant is not greater than the price per share at which shares of Company Common Stock or options to purchase shares of Company Common Stock were issued immediately prior to the Issue Date hereof.

(b) All Shares which may be issued upon the exercise of this Warrant shall, upon issuance, be duly authorized, validly issued, fully paid and non-assessable, and free of any liens and encumbrances except for restrictions on transfer provided for herein or under applicable federal and state securities laws. The Company covenants that it shall at all times cause to be reserved and kept available out of its authorized and unissued capital stock such number of securities as will be sufficient to permit the exercise in full of this Warrant.

(c) The Company's capitalization table attached hereto as Schedule 1 is true and complete, in all material respects, as of the Issue Date.

3.2 Notice of Certain Events. If the Company proposes at any time to:

(a) declare any dividend or distribution upon the outstanding shares of the Company's stock, whether in cash, property, stock, or other securities and whether or not a regular cash dividend;

(b) offer for subscription or sale pro rata to the holders of the outstanding shares any additional shares of any class or series of the Company's stock (other than pursuant to contractual pre-emptive rights);

(c) effect any reclassification, exchange, combination, substitution, reorganization or recapitalization of the outstanding shares of the Common Stock;

(d) effect an Acquisition or to liquidate, dissolve or wind up; or

(e) effect an IPO;

then, in connection with each such event, the Company shall give Holder:

(1) in the case of the matters referred to in (a) and (b) above, at least seven (7) Business Days prior written notice of the earlier to occur of the effective date thereof or the date on which a record will be taken for such dividend, distribution, or subscription rights (and specifying the date on which the holders of outstanding shares of the Common Stock will be entitled thereto) or for determining rights to vote, if any;

(2) in the case of the matters referred to in (c) and (d) above at least seven (7) Business Days prior written notice of the date when the same will take place (and specifying the date on which the holders of outstanding shares of the Common Stock will be entitled to exchange their shares for the securities or other property deliverable upon the occurrence of such event and such reasonable information as Holder may reasonably require regarding the treatment of this Warrant in connection with such event giving rise to the notice); and

(3) with respect to the IPO, at least seven (7) Business Days prior written notice of the date on which the Company proposes to file its final non-confidential registration statement in connection therewith.

Company will also provide information requested by Holder that is reasonably necessary to enable Holder to comply with Holder's accounting or reporting requirements. Holder acknowledges that any information provided to Holder by the Company pursuant to this Warrant (including, without limitation, pursuant to this Section 3.2) may be confidential, and Holder agrees that, with respect to any such confidential information received by Holder pursuant to this Warrant, Holder will be bound by the confidentiality provisions of Section 12.9 of the Loan Agreement, which provisions are hereby incorporated by reference.

SECTION 4. REPRESENTATIONS, WARRANTIES OF THE HOLDER.

The Holder represents and warrants to the Company as follows:

4.1 Purchase for Own Account. This Warrant and the Shares to be acquired upon exercise of this Warrant by Holder are being acquired for investment for Holder's account, not as a nominee or agent, and not with a view to the public resale or distribution within the meaning of the Act. Holder also represents that it has not been formed for the specific purpose of acquiring this Warrant or the Shares.

4.2 Disclosure of Information. Holder is aware of the Company's business affairs and financial condition and has received or has had full access to all the information it considers necessary or appropriate to make an informed investment decision with respect to the acquisition of this Warrant and its underlying securities. Holder further has had an opportunity to ask questions and receive answers from the Company regarding the terms and conditions of the offering of this Warrant and its underlying securities and to obtain additional information (to the extent the Company possessed such information or could acquire it without unreasonable effort or expense) necessary to verify any information furnished to Holder or to which Holder has access.

4.3 Investment Experience. Holder understands that the purchase of this Warrant and its underlying securities involves substantial risk. Holder has experience as an investor in securities of companies in the development stage and acknowledges that Holder can bear the economic risk of such Holder's investment in this Warrant and its underlying securities and has such knowledge and experience in financial or business matters that Holder is capable of evaluating the merits and risks of its investment in this Warrant and its underlying securities and/or has a preexisting personal or business relationship with the Company and certain of its officers, directors or controlling persons of a nature and duration that enables Holder to be aware of the character, business acumen and financial circumstances of such persons.

4.4 Accredited Investor Status. Holder is an "accredited investor" within the meaning of Regulation D promulgated under the Act.

4.5 The Act. Holder understands that this Warrant and the Shares issuable upon exercise hereof have not been registered under the Act in reliance upon a specific exemption therefrom, which exemption depends upon, among other things, the bona fide nature of the Holder's investment intent as expressed herein. Holder understands that this Warrant and the Shares issued upon any exercise hereof must be held indefinitely unless subsequently registered under the Act and qualified under applicable state securities laws, or unless exemption from such registration and qualification are otherwise available. Holder is aware of the provisions of Rule 144 promulgated under the Act.

4.6 Market Stand-off Agreement. The Holder agrees that the Shares shall be subject to the Market Standoff provisions in Section 2.11 of the Amended & Restated Investors' Rights Agreement by and among the Company and the parties named therein dated November 22, 2017, as amended from time to time (such provision the "**Lock-Up**" and such agreement, the "**Investors Rights Agreement**") and together with the Voting Agreement and the Co-Sale Agreement, the "**Stockholders Agreements**") of the Investor Rights Agreement or similar agreement.

4.7 No Voting or Other Stockholder Rights. Holder, as a Holder of this Warrant, will not have any voting rights or other stockholder rights until the exercise of this Warrant and, except as set expressly forth in this Warrant, will not be considered a stockholder of the Company for any purpose until the exercise of this Warrant.

SECTION 5. MISCELLANEOUS.

5.1 Term and Automatic Conversion Upon Expiration.

(a) Term. Subject to the provisions of Section 1.6 above, this Warrant is exercisable in whole or in part at any time and from time to time on or before 6:00 PM, Pacific time, on the Expiration Date and shall be void thereafter.

(b) Automatic Cashless Exercise upon Expiration. In the event that, upon the Expiration Date, the fair market value of one Share (or other security issuable upon the exercise hereof) as determined in accordance with Section 1.3 above is greater than the Warrant Price in effect on such date, then this Warrant shall automatically be deemed on and as of such date to be exercised pursuant to Section 1.2 above as to all Shares (or such other securities) for which it shall

not previously have been exercised, and the Company shall, within a reasonable time, deliver a certificate representing the Shares (or such other securities) issued upon such exercise to Holder.

5.2 Legends. In addition to any legend required by state or federal securities laws and the Stockholders' Agreements, the Shares (and the securities issuable, directly or indirectly, upon conversion of the Shares, if any) shall be imprinted with a legend in substantially the following form:

> THE SHARES EVIDENCED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "**ACT**"), OR THE SECURITIES LAWS OF ANY STATE AND, EXCEPT AS SET FORTH IN THAT CERTAIN WARRANT TO PURCHASE COMMON STOCK ISSUED BY THE ISSUER TO SILICON VALLEY BANK DATED JUNE 27, 2018 MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED UNLESS AND UNTIL REGISTERED UNDER SAID ACT AND LAWS OR IN FORM AND SUBSTANCE SATISFACTORY TO THE ISSUER, SUCH OFFER, SALE, PLEDGE OR OTHER TRANSFER IS EXEMPT FROM SUCH REGISTRATION.

5.3 Compliance with Securities Laws on Transfer. This Warrant and the Shares issuable upon exercise of this Warrant (and the securities issuable, directly or indirectly, upon conversion of the Shares, if any) may not be transferred or assigned in whole or in part except in compliance with applicable federal and state securities laws by the transferor and the transferee (including, without limitation, the delivery of investment representation letters and legal opinions reasonably satisfactory to the Company, as reasonably requested by the Company). The Company shall not require Holder to provide an opinion of counsel if the transfer is to SVB Financial Group (Silicon Valley Bank's parent company) or any other Affiliate (as defined in the Loan Agreement) of Holder, provided that any such transferee is an "accredited investor" as defined in Regulation D promulgated under the Act. Additionally, the Company shall also not require an opinion of counsel if there is no material question as to the availability of Rule 144 promulgated under the Act.

5.4 Transfer Procedure. After receipt by Silicon Valley Bank of the executed Warrant, Silicon Valley Bank will transfer all of this Warrant to its parent company, SVB Financial Group. By its acceptance of this Warrant, SVB Financial Group hereby makes to the Company each of the representations and warranties set forth in Section 4 hereof and agrees to be bound by all of the terms and conditions of this Warrant as if the original Holder hereof, including, without limitation, the Lock-Up. Subject to the provisions of Section 5.3 and upon providing the Company with written notice, SVB Financial Group and any subsequent Holder may transfer all or part of this Warrant or the Shares issuable upon exercise of this Warrant (or the securities issuable directly or indirectly, upon conversion of the Shares, if any) to any transferee, provided, however, that in connection with any such transfer, SVB Financial Group or any subsequent Holder will give the Company notice of the portion of the Warrant being transferred with the name, address and taxpayer identification number of the transferee and Holder will surrender this Warrant to the Company for reissuance to the transferee(s) (and Holder if applicable); and provided further, that any subsequent transferee other than SVB Financial Group shall agree in writing with the Company to be bound by all of the

terms and conditions of this Warrant, including, without limitation, the Lock-Up. Notwithstanding any contrary provision herein, at all times prior to the IPO, Holder may not, without the Company's prior written consent, transfer this Warrant or any portion hereof, or any Shares issued upon any exercise hereof, or any shares or other securities issued upon any conversion of any Shares issued upon any exercise hereof, to any person or entity who directly competes with the Company, except in connection with an Acquisition of the Company by such a direct competitor.

5.5 Notices. All notices and other communications hereunder from the Company to the Holder, or vice versa, shall be deemed delivered and effective (i) when given personally, (ii) on the third (3rd) Business Day after being mailed by first-class registered or certified mail, postage prepaid, (iii) upon actual receipt if given by facsimile or electronic mail and such receipt is confirmed in writing by the recipient, or (iv) on the first Business Day following delivery to a reliable overnight courier service, courier fee prepaid, in any case at such address as may have been furnished to the Company or Holder, as the case may be, in writing by the Company or such Holder from time to time in accordance with the provisions of this Section 5.5. All notices to Holder shall be addressed as follows until the Company receives notice of a change of address in connection with a transfer or otherwise:

SVB Financial Group
Attn: Treasury Department
3003 Tasman Drive, HC 215
Santa Clara, California 95054
Telephone: (408) 654-7400
Facsimile: (408) 988-8317
Email address: derivatives@svb.com

Notice to the Company shall be addressed as follows until Holder receives notice of a change in address:

Savage River, Inc.
Attn: Mark Nelson, CFO
1325 E. El Segundo Blvd.
El Segundo, California 90245
Telephone: (949) 510-1760
Email: mnelson@beyondmeat.com

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

Orrick, Herrington & Sutcliffe, LLP
Attn: Harold M. Yu
1000 Marsh Road
Menlo Park, CA 94025
Telephone: (650) 614-7696
Email: hyu@orrick.com

5.6 Waiver. This Warrant and any term hereof may be changed, waived, discharged or terminated (either generally or in a particular instance and either retroactively or prospectively) only by an instrument in writing signed by the party against which enforcement of such change, waiver, discharge or termination is sought.

5.7 Attorneys' Fees. In the event of any dispute between the parties concerning the terms and provisions of this Warrant, the party prevailing in such dispute shall be entitled to collect from the other party all costs incurred in such dispute, including reasonable attorneys' fees.

5.8 Counterparts; Facsimile/Electronic Signatures. This Warrant may be executed in counterparts, all of which together shall constitute one and the same agreement. Company, Holder and any other party hereto may execute this Warrant by electronic means and each party hereto recognizes and accepts the use of electronic signatures and records by any other party hereto in connection with the execution and storage hereof. To the extent that this Warrant or any agreement subject to the terms hereof or any amendment hereto is executed, recorded or delivered electronically, it shall be binding to the same extent as though it had been executed on paper with an original ink signature. The fact that this Warrant is executed, signed, stored or delivered electronically shall not prevent the transfer by any Holder of this Warrant pursuant to Section 5.4 or the enforcement of the terms hereof.

5.9 Governing Law. This Warrant shall be governed by and construed in accordance with the laws of the State of California, without giving effect to its principles regarding conflicts of law.

5.10 Headings. The headings in this Warrant are for purposes of reference only and shall not limit or otherwise affect the meaning of any provision of this Warrant.

5.11 Business Days. "**Business Day**" is any day that is not a Saturday, Sunday or a day on which Silicon Valley Bank is closed.

[Remainder of page left blank intentionally]
[Signature page follows]

IN WITNESS WHEREOF, the parties have caused this Warrant to Purchase Common Stock to be executed by their duly authorized representatives effective as of the Issue Date written above.

“COMPANY"

SAVAGE RIVER, INC.

By: /s/ Mark Nelson

Name: Mark Nelson

Title: Chief Financial Officer

“HOLDER”

SILICON VALLEY BANK

By: /s/ Derek Hofmeister

Name: Derek Hofmeister

Title: Vice President

APPENDIX 1

NOTICE OF EXERCISE

1. The undersigned Holder hereby exercises its right purchase _____ shares of the Common Stock of SAVAGE RIVER, INC., a Delaware corporation (the "**Company**") in accordance with the attached Warrant To Purchase Common Stock, and tenders payment of the aggregate Warrant Price for such shares as follows:

[ ] check in the amount of $_____ payable to order of the Company enclosed herewith

[ ] Wire transfer of immediately available funds to the Company's account

[ ] Cashless Exercise pursuant to Section 1.2 of the Warrant

[ ] Other [Describe] _____

2. Please issue a certificate or certificates representing the Shares in the name specified below:

_____
Holder's Name

_____

_____
(Address)

3. By its execution below and for the benefit of the Company, Holder hereby restates each of the representations and warranties in Section 4 of the Warrant to Purchase Common Stock as of the date hereof.

HOLDER:

_____

By: _____
Name: _____
Title: _____
(Date): _____

SCHEDULE 1

Company Capitalization Table

THIS WARRANT AND THE SHARES ISSUABLE HEREUNDER HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "**ACT**"), OR THE SECURITIES LAWS OF ANY STATE AND, EXCEPT AS SET FORTH IN SECTIONS 5.3 AND 5.4 BELOW, MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED UNLESS AND UNTIL REGISTERED UNDER SAID ACT AND LAWS OR IN FORM AND SUBSTANCE SATISFACTORY TO THE COMPANY, SUCH OFFER, SALE, PLEDGE OR OTHER TRANSFER IS EXEMPT FROM SUCH REGISTRATION.

WARRANT TO PURCHASE COMMON STOCK

Company:	SAVAGE RIVER, INC., a Delaware corporation
Number of Shares of Common Stock:	45,000
Warrant Price:	$2.00 per share
Issue Date:	June 27, 2018
Expiration Date:	June 27, 2028 See also Section 5.1(b).
Credit Facility:	This Warrant to Purchase Common Stock (as the same may from time to time be amended, modified, supplemented or restated, this "**Warrant**") is issued in connection with that certain Loan and Security Agreement (Term Loan) of even date herewith between Silicon Valley Bank and the Company (as the same may from time to time be amended, modified, supplemented or restated, the "**Loan Agreement**") and the participation therein of WestRiver Mezzanine Loans – Loan Pool V, LLC pursuant to an arrangement between Silicon Valley Bank and WestRiver Mezzanine Loans – Loan Pool V, LLC.

THIS WARRANT CERTIFIES THAT, for good and valuable consideration, WESTRIVER MEZZANINE LOANS – LOAN POOL V, LLC ("**WestRiver**"; together with any successor or permitted assignee or transferee of this Warrant or of any shares issued upon exercise hereof, "**Holder**") is entitled to purchase the number of fully paid and non-assessable shares (the "**Shares**") of the above-stated common stock (the "**Common Stock**") of the above-named company (the "**Company**") at the above-stated Warrant Price, all as set forth above and as adjusted pursuant to Section 2 of this Warrant, subject to the provisions and upon the terms and conditions set forth in this Warrant.

SECTION 1. EXERCISE.

1.1 Method of Exercise. Holder may at any time and from time to time exercise this Warrant, in whole or in part, by delivering to the Company the original of this Warrant together with a duly executed Notice of Exercise in substantially the form attached hereto as Appendix 1 and, unless Holder is exercising this Warrant pursuant to a cashless exercise set forth in Section 1.2, a check, wire transfer of same-day funds (to an account designated by the Company), or other

form of payment acceptable to the Company for the aggregate Warrant Price for the Shares being purchased.

1.2 Cashless Exercise. On any exercise of this Warrant, in lieu of payment of the aggregate Warrant Price in the manner as specified in Section 1.1 above, but otherwise in accordance with the requirements of Section 1.1, Holder may elect to receive Shares equal to the value of this Warrant, or portion hereof as to which this Warrant is being exercised. Thereupon, the Company shall issue to the Holder such number of fully paid and non-assessable Shares as are computed using the following formula:

$$X = Y(A-B)/A$$

where:

X = the number of Shares to be issued to the Holder;

Y = the number of Shares with respect to which this Warrant is being exercised (inclusive of the Shares surrendered to the Company in payment of the aggregate Warrant Price);

A = the Fair Market Value (as determined pursuant to Section 1.3 below) of one Share; and

B = the Warrant Price.

1.3 Fair Market Value. If the Company's Common Stock is then traded or quoted on a nationally recognized securities exchange, inter-dealer quotation system or over-the-counter market (a "**Trading Market**"), the fair market value of a Share shall be the closing price or last sale price of a share of Common Stock reported for the Business Day immediately before the date on which Holder delivers this Warrant together with its Notice of Exercise to the Company. If the Company's Common Stock is not traded in a Trading Market, the Board of Directors of the Company shall determine the fair market value of a Share in its reasonable good faith judgment.

1.4 Delivery of Certificate and New Warrant. Within a reasonable time after Holder exercises this Warrant in the manner set forth in Section 1.1 or 1.2 above, the Company shall deliver to Holder a certificate representing the Shares issued to Holder upon such exercise and, if this Warrant has not been fully exercised and has not expired, a new warrant of like tenor representing the Shares not so acquired.

1.5 Replacement of Warrant. On receipt of evidence reasonably satisfactory to the Company of the loss, theft, destruction or mutilation of this Warrant and, in the case of loss, theft or destruction, on delivery of an indemnity agreement reasonably satisfactory in form, substance and amount to the Company or, in the case of mutilation, on surrender of this Warrant to the Company for cancellation, the Company shall, within a reasonable time, execute and deliver to Holder, in lieu of this Warrant, a new warrant of like tenor and amount.

1.6 Treatment of Warrant Upon Acquisition of Company or other Liquidity Event.

(a) Acquisition. For the purpose of this Warrant, "**Acquisition**" means any transaction or series of related transactions involving: (i) the sale, lease, exclusive license, or other disposition of all or substantially all of the assets of the Company (ii) any merger or consolidation of the Company into or with another person or entity (other than a merger or consolidation effected exclusively to change the Company's domicile), or any other corporate reorganization, in which the stockholders of the Company in their capacity as such immediately prior to such merger, consolidation or reorganization, own less than a majority of the Company's (or the surviving or successor entity's) outstanding voting power immediately after such merger, consolidation or reorganization; or (iii) any sale or other transfer by the stockholders of the Company of shares representing at least a majority of the Company's then-total outstanding combined voting power. Notwithstanding the foregoing, an "Acquisition" shall not include a bona fide equity financing consummated solely for capital raising purposes.

(b) Treatment of Warrant at Acquisition. In the event of an Acquisition in which the consideration to be received by the Company's stockholders consists solely of cash, solely of Marketable Securities or a combination of cash and Marketable Securities (a "**Cash/Public Acquisition**"), and the fair market value of one Share as determined in accordance with Section 1.3 above would be greater than the Warrant Price in effect on such date immediately prior to such Cash/Public Acquisition, and Holder has not exercised this Warrant pursuant to Section 1.1 above as to all Shares, then this Warrant shall automatically be deemed to be Cashless Exercised pursuant to Section 1.2 above as to all Shares effective immediately prior to and contingent upon the consummation of a Cash/Public Acquisition. In connection with such Cashless Exercise, Holder shall be deemed to have restated each of the representations and warranties in Section 4 of the Warrant as of the date thereof and the Company shall promptly notify the Holder of the number of Shares (or such other securities) issued upon exercise. In the event of a Cash/Public Acquisition where the fair market value of one Share as determined in accordance with Section 1.3 above would be less than the Warrant Price in effect immediately prior to such Cash/Public Acquisition, then this Warrant will expire immediately prior to the consummation of such Cash/Public Acquisition.

(c) Upon the closing of any Acquisition other than a Cash/Public Acquisition defined above, the acquiring, surviving or successor entity shall assume the obligations of this Warrant, and this Warrant shall thereafter be exercisable for the same securities and/or other property as would have been paid for the Shares issuable upon exercise of the unexercised portion of this Warrant as if such Shares were outstanding on and as of the closing of such Acquisition, subject to further adjustment from time to time in accordance with the provisions of this Warrant

(d) Upon the closing of any Liquidity Event, the Holder may require the Company to purchase the Warrant (the "**Put**") for the applicable amount set forth below (the "**Put Price**"):

Date of Liquidity Event	Warrant Repurchase Price
Between the Issue Date and June 27, 2019	$700,000
Between June 28, 2019 and December 27, 2019	$900,000
Between December 28, 2019 and June 27, 2020	$1,300,000
Between June 28, 2020 and June 27, 2021	$2,100,000
After June 27, 2021	$3,100,000

In the event the Company fails to purchase the Warrant pursuant to the Put, then the Company shall pay Holder interest on the unpaid balance of the Put Price at the rate of fifteen percent (15%) per annum, payable monthly in advance on the first (1st) day of each calendar month following Holder's election to exercise the Put until the unpaid balance of the Put Price is paid in full. In the event the Company is obligated to purchase this Warrant hereunder and the Company does not have sufficient funds legally available therefor, the Company shall take any and all commercially reasonable action permitted by applicable law necessary to increase its legally available funds to an amount sufficient therefore. At any time thereafter when additional funds of the Company become legally available to purchase the Warrant pursuant to the terms hereof, such funds will immediately be used to pay the balance of the Put Price which the Company has become obligated to pay but which it has not as yet paid. For purposes hereof, "**Liquidity Event**" means the earliest to occur of the following: (a) any Acquisition; (b) any merger or consolidation of Borrower, or any other corporate reorganization of or involving Borrower, in which Borrower's stockholders own a majority of the surviving or successor entity's outstanding voting power immediately after such merger, consolidation or reorganization but such surviving or successor entity is not Borrower; or (c) Borrower's initial, underwritten offering and sale of its securities to the public pursuant to an effective registration statement under the Act (the "**IPO**").

(e) As used in this Warrant, "**Marketable Securities**" means securities meeting all of the following requirements: (i) the issuer thereof is then subject to the reporting requirements of Section 13 or Section 15(d) of the Securities Exchange Act of 1934, as amended (the "**Exchange Act**"), and is then current in its filing of all required reports and other information under the Act and the Exchange Act; (ii) the class and series of shares or other security of the issuer that would be received by Holder in connection with the Acquisition were Holder to exercise this Warrant on or prior to the closing thereof is then traded in Trading Market, and (iii) following the closing of such Acquisition, Holder would not be restricted from publicly re-selling all of the issuer's shares and/or other securities that would be received by Holder in such Acquisition were Holder to exercise or convert this Warrant in full on or prior to the closing of such Acquisition, except to the extent that any such restriction (x) arises solely under federal or state securities laws, rules or regulations, and (y) does not extend beyond six (6) months from the closing of such Acquisition.

(f) Promptly following any exercise of this Warrant and solely with respect to the Shares issued thereupon, Holder shall become party to, by execution and delivery to the Company of, a counterpart signature page, joinder agreement, instrument of accession or similar instrument, the Amended & Restated Voting Agreement by and among the Company and the parties named therein dated November 22, 2017, as may be amended from time to time, so long as any such amendment treats all holders of the same class and Series as Holder in the same manner (the "**Voting Agreement**"), and the Amended & Restated Right of First Refusal and Co-Sale Agreement by and among the Company and the parties listed therein dated November 22, 2017, as may be amended from time to time, so long as any such amendment treats all holders of the same class and series as Holder in the same manner (the "**Co-Sale Agreement**"), provided that such agreements are each by their terms in force and effect at the time of such Warrant exercise.

SECTION 2. ADJUSTMENTS TO THE SHARES AND WARRANT PRICE.

2.1 Stock Dividends, Splits, Etc. If the Company declares or pays a dividend or distribution on the outstanding shares of the Common Stock payable in securities or property (other than cash), then upon exercise of this Warrant, for each Share acquired, Holder shall receive, without additional cost to Holder, the total number and kind of securities and property which Holder would have received had Holder owned the Shares of record as of the date the dividend or distribution occurred. If the Company subdivides the outstanding shares of the Common Stock by reclassification or otherwise into a greater number of shares, the number of Shares purchasable hereunder shall be proportionately increased and the Warrant Price shall be proportionately decreased. If the outstanding shares of the Common Stock are combined or consolidated, by reclassification or otherwise, into a lesser number of shares, the Warrant Price shall be proportionately increased and the number of Shares shall be proportionately decreased.

2.2 Reclassification, Exchange, Combinations or Substitution. Upon any event whereby all of the outstanding shares of the Common Stock are reclassified, exchanged, combined, substituted, or replaced for, into, with or by Company securities of a different class and/or series, then from and after the consummation of such event, this Warrant will be exercisable for the number, class and series of Company securities that Holder would have received had the Shares been outstanding on and as of the consummation of such event, and subject to further adjustment thereafter from time to time in accordance with the provisions of this Warrant. The provisions of this Section 2.2 shall similarly apply to successive reclassifications, exchanges, combinations substitutions, replacements or other similar events.

2.3 Intentionally Omitted.

2.4 Intentionally Omitted.

2.5 No Fractional Share. No fractional Share shall be issuable upon exercise of this Warrant and the number of Shares to be issued shall be rounded down to the nearest whole Share. If a fractional Share interest arises upon any exercise of the Warrant, the Company shall eliminate such fractional Share interest by paying Holder in cash the amount computed by multiplying the fractional interest by (i) the fair market value (as determined in accordance with Section 1.3 above) of a full Share, less (ii) the then-effective Warrant Price.

2.6 Notice/Certificate as to Adjustments. Upon each adjustment of the Warrant Price, Common Stock and/or number of Shares, the Company, at the Company's expense, shall notify Holder in writing within a reasonable time setting forth the adjustments to the Warrant Price, class and/or number of Shares and facts upon which such adjustment is based. The Company shall, upon written request from Holder, furnish Holder with a certificate of its Chief Financial Officer, including computations of such adjustment and the Warrant Price, class and number of Shares in effect upon the date of such adjustment.

SECTION 3. REPRESENTATIONS AND COVENANTS OF THE COMPANY.

3.1 Representations and Warranties. The Company represents and warrants to, and agrees with, the Holder as follows:

(a) The initial Warrant Price referenced on the first page of this Warrant is not greater than the price per share at which shares of Company Common Stock or options to purchase shares of Company Common Stock were issued immediately prior to the Issue Date hereof.

(b) All Shares which may be issued upon the exercise of this Warrant shall, upon issuance, be duly authorized, validly issued, fully paid and non-assessable, and free of any liens and encumbrances except for restrictions on transfer provided for herein or under applicable federal and state securities laws. The Company covenants that it shall at all times cause to be reserved and kept available out of its authorized and unissued capital stock such number of securities as will be sufficient to permit the exercise in full of this Warrant.

(c) The Company's capitalization table attached hereto as Schedule 1 is true and complete, in all material respects, as of the Issue Date.

3.2 Notice of Certain Events. If the Company proposes at any time to:

(a) declare any dividend or distribution upon the outstanding shares of the Company's stock, whether in cash, property, stock, or other securities and whether or not a regular cash dividend;

(b) offer for subscription or sale pro rata to the holders of the outstanding shares any additional shares of any class or series of the Company's stock (other than pursuant to contractual pre-emptive rights);

(c) effect any reclassification, exchange, combination, substitution, reorganization or recapitalization of the outstanding shares of the Common Stock;

(d) effect an Acquisition or to liquidate, dissolve or wind up; or

(e) effect an IPO;

then, in connection with each such event, the Company shall give Holder:

(1) in the case of the matters referred to in (a) and (b) above, at least seven (7) Business Days prior written notice of the earlier to occur of the effective date thereof or the date on which a record will be taken for such dividend, distribution, or subscription rights (and specifying the date on which the holders of outstanding shares of the Common Stock will be entitled thereto) or for determining rights to vote, if any;

(2) in the case of the matters referred to in (c) and (d) above at least seven (7) Business Days prior written notice of the date when the same will take place (and specifying the date on which the holders of outstanding shares of the Common Stock will be entitled to exchange their shares for the securities or other property deliverable upon the occurrence of such event and such reasonable information as Holder may reasonably require regarding the treatment of this Warrant in connection with such event giving rise to the notice); and

(3) with respect to the IPO, at least seven (7) Business Days prior written notice of the date on which the Company proposes to file its final non-confidential registration statement in connection therewith.

Company will also provide information requested by Holder that is reasonably necessary to enable Holder to comply with Holder's accounting or reporting requirements. Holder acknowledges that any information provided to Holder by the Company pursuant to this Warrant (including, without limitation, pursuant to this Section 3.2) may be confidential, and Holder agrees that, with respect to any such confidential information received by Holder pursuant to this Warrant, Holder will be bound by the confidentiality provisions of Section 12.9 of the Loan Agreement, which provisions are hereby incorporated by reference.

SECTION 4. REPRESENTATIONS, WARRANTIES OF THE HOLDER.

The Holder represents and warrants to the Company as follows:

4.1 Purchase for Own Account. This Warrant and the Shares to be acquired upon exercise of this Warrant by Holder are being acquired for investment for Holder's account, not as a nominee or agent, and not with a view to the public resale or distribution within the meaning of the Act. Holder also represents that it has not been formed for the specific purpose of acquiring this Warrant or the Shares.

4.2 Disclosure of Information. Holder is aware of the Company's business affairs and financial condition and has received or has had full access to all the information it considers necessary or appropriate to make an informed investment decision with respect to the acquisition of this Warrant and its underlying securities. Holder further has had an opportunity to ask questions and receive answers from the Company regarding the terms and conditions of the offering of this Warrant and its underlying securities and to obtain additional information (to the extent the Company possessed such information or could acquire it without unreasonable effort or expense) necessary to verify any information furnished to Holder or to which Holder has access.

4.3 Investment Experience. Holder understands that the purchase of this Warrant and its underlying securities involves substantial risk. Holder has experience as an investor in securities of companies in the development stage and acknowledges that Holder can bear the economic risk of such Holder's investment in this Warrant and its underlying securities and has such knowledge and experience in financial or business matters that Holder is capable of evaluating the merits and risks of its investment in this Warrant and its underlying securities and/or has a preexisting personal or business relationship with the Company and certain of its officers, directors or controlling persons of a nature and duration that enables Holder to be aware of the character, business acumen and financial circumstances of such persons.

4.4 Accredited Investor Status. Holder is an "accredited investor" within the meaning of Regulation D promulgated under the Act.

4.5 The Act. Holder understands that this Warrant and the Shares issuable upon exercise hereof have not been registered under the Act in reliance upon a specific exemption therefrom, which exemption depends upon, among other things, the bona fide nature of the Holder's investment intent as expressed herein. Holder understands that this Warrant and the Shares issued upon any exercise hereof must be held indefinitely unless subsequently registered under the Act and qualified under applicable state securities laws, or unless exemption from such registration and qualification are otherwise available. Holder is aware of the provisions of Rule 144 promulgated under the Act.

4.6 Market Stand-off Agreement. The Holder agrees that the Shares shall be subject to the Market Standoff provisions in Section 2.11 of the Amended & Restated Investors' Rights Agreement by and among the Company and the parties named therein dated November 22, 2017, as amended from time to time (such provision the "**Lock-Up**" and such agreement, the "**Investors Rights Agreement**") and together with the Voting Agreement and the Co-Sale Agreement, the "**Stockholders Agreements**") of the Investor Rights Agreement or similar agreement.

4.7 No Voting or Other Stockholder Rights. Holder, as a Holder of this Warrant, will not have any voting rights or other stockholder rights until the exercise of this Warrant and, except as set expressly forth in this Warrant, will not be considered a stockholder of the Company for any purpose until the exercise of this Warrant.

SECTION 5. MISCELLANEOUS.

5.1 Term and Automatic Conversion Upon Expiration.

(a) Term. Subject to the provisions of Section 1.6 above, this Warrant is exercisable in whole or in part at any time and from time to time on or before 6:00 PM, Pacific time, on the Expiration Date and shall be void thereafter.

(b) Automatic Cashless Exercise upon Expiration. In the event that, upon the Expiration Date, the fair market value of one Share (or other security issuable upon the exercise hereof) as determined in accordance with Section 1.3 above is greater than the Warrant Price in effect on such date, then this Warrant shall automatically be deemed on and as of such date to be exercised pursuant to Section 1.2 above as to all Shares (or such other securities) for which it shall

not previously have been exercised, and the Company shall, within a reasonable time, deliver a certificate representing the Shares (or such other securities) issued upon such exercise to Holder.

5.2 Legends. In addition to any legend required by state or federal securities laws and the Stockholders' Agreements, the Shares (and the securities issuable, directly or indirectly, upon conversion of the Shares, if any) shall be imprinted with a legend in substantially the following form:

> THE SHARES EVIDENCED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "**ACT**"), OR THE SECURITIES LAWS OF ANY STATE AND, EXCEPT AS SET FORTH IN THAT CERTAIN WARRANT TO PURCHASE COMMON STOCK ISSUED BY THE ISSUER TO WESTRIVER MEZZANINE LOANS – LOAN POOL V, LLC DATED JUNE 27, 2018 MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED UNLESS AND UNTIL REGISTERED UNDER SAID ACT AND LAWS OR IN FORM AND SUBSTANCE SATISFACTORY TO THE ISSUER, SUCH OFFER, SALE, PLEDGE OR OTHER TRANSFER IS EXEMPT FROM SUCH REGISTRATION.

5.3 Compliance with Securities Laws on Transfer. This Warrant and the Shares issuable upon exercise of this Warrant (and the securities issuable, directly or indirectly, upon conversion of the Shares, if any) may not be transferred or assigned in whole or in part except in compliance with applicable federal and state securities laws by the transferor and the transferee (including, without limitation, the delivery of investment representation letters and legal opinions reasonably satisfactory to the Company, as reasonably requested by the Company). The Company shall not require Holder to provide an opinion of counsel if the transfer is to any Affiliate (as defined in the Loan Agreement) of Holder, provided that any such transferee is an "accredited investor" as defined in Regulation D promulgated under the Act. Additionally, the Company shall also not require an opinion of counsel if there is no material question as to the availability of Rule 144 promulgated under the Act.

5.4 Transfer Procedure. Subject to the provisions of Section 5.3 and upon providing the Company with written notice, WestRiver and any subsequent Holder may transfer all or part of this Warrant or the Shares issuable upon exercise of this Warrant (or the securities issuable directly or indirectly, upon conversion of the Shares, if any) to any transferee, provided, however, that in connection with any such transfer, WestRiver or any subsequent Holder will give the Company notice of the portion of the Warrant being transferred with the name, address and taxpayer identification number of the transferee and Holder will surrender this Warrant to the Company for reissuance to the transferee(s) (and Holder if applicable); and provided further, that any subsequent transferee shall agree in writing with the Company to be bound by all of the terms and conditions of this Warrant, including, without limitation, the Lock-Up. Notwithstanding any contrary provision herein, at all times prior to the IPO, Holder may not, without the Company's prior written consent, transfer this Warrant or any portion hereof, or any Shares issued upon any exercise hereof, or any shares or other securities issued upon any conversion of any Shares issued upon any exercise

hereof, to any person or entity who directly competes with the Company, except in connection with an Acquisition of the Company by such a direct competitor.

5.5 Notices. All notices and other communications hereunder from the Company to the Holder, or vice versa, shall be deemed delivered and effective (i) when given personally, (ii) on the third (3rd) Business Day after being mailed by first-class registered or certified mail, postage prepaid, (iii) upon actual receipt if given by facsimile or electronic mail and such receipt is confirmed in writing by the recipient, or (iv) on the first Business Day following delivery to a reliable overnight courier service, courier fee prepaid, in any case at such address as may have been furnished to the Company or Holder, as the case may be, in writing by the Company or such Holder from time to time in accordance with the provisions of this Section 5.5. All notices to Holder shall be addressed as follows until the Company receives notice of a change of address in connection with a transfer or otherwise:

WestRiver Mezzanine Loans, LLC
c/o Chief Financial Officer
3720 Carillon Point
Kirkland, Washington 98033-7455
Attn: Trent Dawson
Telephone: (425) 952-3951
Email address: tdawson@westrivermgmt.com

Notice to the Company shall be addressed as follows until Holder receives notice of a change in address:

Savage River, Inc.
Attn: Mark Nelson, CFO
1325 E. El Segundo Blvd.
El Segundo, California 90245
Telephone: (949) 510-1760
Email: mnelson@beyondmeat.com

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

Orrick, Herrington & Sutcliffe, LLP Attn: Harold M. Yu
1000 Marsh Road
Menlo Park, CA 94025
Telephone: (650) 614-7696
Email: hyu@orrick.com

5.6 Waiver. This Warrant and any term hereof may be changed, waived, discharged or terminated (either generally or in a particular instance and either retroactively or prospectively) only by an instrument in writing signed by the party against which enforcement of such change, waiver, discharge or termination is sought.

5.7 Attorneys' Fees. In the event of any dispute between the parties concerning the terms and provisions of this Warrant, the party prevailing in such dispute shall be entitled to collect from the other party all costs incurred in such dispute, including reasonable attorneys' fees.

5.8 Counterparts; Facsimile/Electronic Signatures. This Warrant may be executed in counterparts, all of which together shall constitute one and the same agreement. Company, Holder and any other party hereto may execute this Warrant by electronic means and each party hereto recognizes and accepts the use of electronic signatures and records by any other party hereto in connection with the execution and storage hereof. To the extent that this Warrant or any agreement subject to the terms hereof or any amendment hereto is executed, recorded or delivered electronically, it shall be binding to the same extent as though it had been executed on paper with an original ink signature. The fact that this Warrant is executed, signed, stored or delivered electronically shall not prevent the transfer by any Holder of this Warrant pursuant to Section 5.4 or the enforcement of the terms hereof.

5.9 Governing Law. This Warrant shall be governed by and construed in accordance with the laws of the State of California, without giving effect to its principles regarding conflicts of law.

5.10 Headings. The headings in this Warrant are for purposes of reference only and shall not limit or otherwise affect the meaning of any provision of this Warrant.

5.11 Business Days. "**Business Day**" is any day that is not a Saturday, Sunday or a day on which WestRiver is closed.

[Remainder of page left blank intentionally]
[Signature page follows]

IN WITNESS WHEREOF, the parties have caused this Warrant to Purchase Common Stock to be executed by their duly authorized representatives effective as of the Issue Date written above.

"COMPANY"

SAVAGE RIVER, INC.

By: /s/ Mark Nelson

Name: Mark Nelson

Title: Chief Financial Officer

"HOLDER"

WESTRIVER MEZZANINE LOANS – LOAN POOL V, LLC
By: Loan Manager, LLC, its Managing Member

By: /s/ Trent Dawson
Trent Dawson, Chief Financial Officer

APPENDIX 1

NOTICE OF EXERCISE

1. The undersigned Holder hereby exercises its right purchase _____ shares of the Common Stock of SAVAGE RIVER, INC., a Delaware corporation (the "**Company**") in accordance with the attached Warrant To Purchase Common Stock, and tenders payment of the aggregate Warrant Price for such shares as follows:

[ ] check in the amount of $_____ payable to order of the Company enclosed herewith

[ ] Wire transfer of immediately available funds to the Company's account

[ ] Cashless Exercise pursuant to Section 1.2 of the Warrant

[ ] Other [Describe] _____

2. Please issue a certificate or certificates representing the Shares in the name specified below:

_____
Holder's Name

_____

_____
(Address)

3. By its execution below and for the benefit of the Company, Holder hereby restates each of the representations and warranties in Section 4 of the Warrant to Purchase Common Stock as of the date hereof.

HOLDER:

_____

By: _____
Name: _____
Title: _____
(Date): _____

SCHEDULE 1

Company Capitalization Table

THIS WARRANT AND THE SHARES ISSUABLE HEREUNDER HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "**ACT**"), OR THE SECURITIES LAWS OF ANY STATE AND, EXCEPT AS SET FORTH IN SECTIONS 5.3 AND 5.4 BELOW, MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED UNLESS AND UNTIL REGISTERED UNDER SAID ACT AND LAWS OR IN FORM AND SUBSTANCE SATISFACTORY TO THE COMPANY, SUCH OFFER, SALE, PLEDGE OR OTHER TRANSFER IS EXEMPT FROM SUCH REGISTRATION.

WARRANT TO PURCHASE STOCK

Company:	SAVAGE RIVER, INC.
Number of Shares:	58,607
Type/Series of Stock:	Series E Preferred
Warrant Price:	$2.4534 per share
Issue Date:	June 6, 2016
Expiration Date:	June 6, 2026 See also Section 5.1(b).
Credit Facility:	This Warrant to Purchase Stock ("**Warrant**") is issued in connection with that certain Loan and Security Agreement of even date herewith between Silicon Valley Bank and the Company (the "**Loan Agreement**").

THIS WARRANT CERTIFIES THAT, for good and valuable consideration, SILICON VALLEY BANK (together with any successor or permitted assignee or transferee of this Warrant or of any shares issued upon exercise hereof, "**Holder**") is entitled to purchase the number of fully paid and non-assessable shares (the "**Shares**") of the above-stated Type/Series of Stock (the "**Class**") of the above-named company (the "**Company**") at the above-stated Warrant Price, all as set forth above and as adjusted pursuant to Section 2 of this Warrant, subject to the provisions and upon the terms and conditions set forth in this Warrant. Reference is made to Section 5.4 of this Warrant whereby Silicon Valley Bank shall transfer this Warrant to its parent company, SVB Financial Group.

SECTION 1. EXERCISE.

1.1 Method of Exercise. Holder may at any time and from time to time exercise this Warrant, in whole or in part, by delivering to the Company the original of this Warrant together with a duly executed Notice of Exercise in substantially the form attached hereto as Appendix 1 and, unless Holder is exercising this Warrant pursuant to a cashless exercise set forth in Section 1.2, a check, wire transfer of same-day funds (to an account designated by the Company), or other form of payment acceptable to the Company for the aggregate Warrant Price for the Shares being purchased.

1.2 Cashless Exercise. On any exercise of this Warrant, in lieu of payment of the aggregate Warrant Price in the manner as specified in Section 1.1 above, but otherwise in accordance with the requirements of Section 1.1, Holder may elect to receive Shares equal to the value of this Warrant, or portion hereof as to which this Warrant is being exercised. Thereupon, the Company shall issue to the Holder such number of fully paid and non-assessable Shares as are computed using the following formula:

X = Y(A-B)/A

where:

X = the number of Shares to be issued to the Holder;

Y = the number of Shares with respect to which this Warrant is being exercised (inclusive of the Shares surrendered to the Company in payment of the aggregate Warrant Price);

A = the Fair Market Value (as determined pursuant to Section 1.3 below) of one Share; and

B = the Warrant Price.

1.3 Fair Market Value. If the Company's common stock is then traded or quoted on a nationally recognized securities exchange, inter-dealer quotation system or over-the-counter market (a "**Trading Market**") and the Class is common stock, the fair market value of a Share shall be the closing price or last sale price of a share of common stock reported for the Business Day immediately before the date on which Holder delivers this Warrant together with its Notice of Exercise to the Company. If the Company's common stock is then traded in a Trading Market and the Class is a series of the Company's convertible preferred stock, the fair market value of a Share shall be the closing price or last sale price of a share of the Company's common stock reported for the Business Day immediately before the date on which Holder delivers this Warrant together with its Notice of Exercise to the Company multiplied by the number of shares of the Company's common stock into which a Share is then convertible. If the Company's common stock is not traded in a Trading Market, the Board of Directors of the Company shall determine the fair market value of a Share in its reasonable good faith judgment.

1.4 Delivery of Certificate and New Warrant. Within a reasonable time after Holder exercises this Warrant in the manner set forth in Section 1.1 or 1.2 above, the Company shall deliver to Holder a certificate representing the Shares issued to Holder upon such exercise and, if this Warrant has not been fully exercised and has not expired, a new warrant of like tenor representing the Shares not so acquired.

1.5 Replacement of Warrant. On receipt of evidence reasonably satisfactory to the Company of the loss, theft, destruction or mutilation of this Warrant and, in the case of loss, theft or destruction, on delivery of an indemnity agreement reasonably satisfactory in form, substance and amount to the Company or, in the case of mutilation, on surrender of this Warrant to the Company

for cancellation, the Company shall, within a reasonable time, execute and deliver to Holder, in lieu of this Warrant, a new warrant of like tenor and amount.

1.6 Treatment of Warrant Upon Acquisition of Company.

(a) Acquisition. For the purpose of this Warrant, "**Acquisition**" means any transaction or series of related transactions involving: (i) the sale, lease, exclusive license, or other disposition of all or substantially all of the assets of the Company (ii) any merger or consolidation of the Company into or with another person or entity (other than a merger or consolidation effected exclusively to change the Company's domicile), or any other corporate reorganization, in which the stockholders of the Company in their capacity as such immediately prior to such merger, consolidation or reorganization, own less than a majority of the Company's (or the surviving or successor entity's) outstanding voting power immediately after such merger, consolidation or reorganization; or (iii) any sale or other transfer by the stockholders of the Company of shares representing at least a majority of the Company's then-total outstanding combined voting power. Notwithstanding the foregoing, an"Acquisition" shall not include a bona fide equity financing consummated solely for capital-raising purposes.

(b) Treatment of Warrant at Acquisition. In the event of an Acquisition in which the consideration to be received by the Company's stockholders consists solely of cash, solely of Marketable Securities or a combination of cash and Marketable Securities (a "**Cash/Public Acquisition**"), and the fair market value of one Share as determined in accordance with Section 1.3 above would be greater than the Warrant Price in effect on such date immediately prior to such Cash/Public Acquisition, and Holder has not exercised this Warrant pursuant to Section 1.1 above as to all Shares, then this Warrant shall automatically be deemed to be Cashless Exercised pursuant to Section 1.2 above as to all Shares effective immediately prior to and contingent upon the consummation of a Cash/Public Acquisition. In connection with such Cashless Exercise, Holder shall be deemed to have restated each of the representations and warranties in Section 4 of the Warrant as of the date thereof and the Company shall promptly notify the Holder of the number of Shares (or such other securities) issued upon exercise. In the event of a Cash/Public Acquisition where the fair market value of one Share as determined in accordance with Section 1.3 above would be less than the Warrant Price in effect immediately prior to such Cash/Public Acquisition, then this Warrant will expire immediately prior to the consummation of such Cash/Public Acquisition.

(c) Upon the closing of any Acquisition other than a Cash/Public Acquisition defined above, either (i) the acquiring, surviving or successor entity shall assume the obligations of this Warrant, and this Warrant shall thereafter be exercisable for the same securities and/or other property as would have been paid for the Shares issuable upon exercise of the unexercised portion of this Warrant as if such Shares were outstanding on and as of the closing of such Acquisition, subject to further adjustment from time to time in accordance with the provisions of this Warrant or (ii) if the acquiring, successor or surviving entity shall not have assumed this Warrant, then the aggregate Warrant Price shall be reduced to the greater of (x) One Dollar ($1.00) or (y) the aggregate par value of the Shares and this Warrant shall be deemed to have been cashless exercised in full pursuant to Section 1.2 above as of immediately prior to the consummation of such Acquisition.

(d) As used in this Warrant, "**Marketable Securities**" means securities meeting all of the following requirements: (i) the issuer thereof is then subject to the reporting requirements of Section 13 or Section 15(d) of the Securities Exchange Act of 1934, as amended (the "**Exchange Act**"), and is then current in its filing of all required reports and other information under the Act and the Exchange Act; (ii) the class and series of shares or other security of the issuer that would be received by Holder in connection with the Acquisition were Holder to exercise this Warrant on or prior to the closing thereof is then traded in Trading Market, and (iii) following the closing of such Acquisition, Holder would not be restricted from publicly re-selling all of the issuer's shares and/or other securities that would be received by Holder in such Acquisition were Holder to exercise or convert this Warrant in full on or prior to the closing of such Acquisition, except to the extent that any such restriction (x) arises solely under federal or state securities laws, rules or regulations, and (y) does not extend beyond six (6) months from the closing of such Acquisition.

SECTION 2. ADJUSTMENTS TO THE SHARES AND WARRANT PRICE.

2.1 Stock Dividends, Splits, Etc. If the Company declares or pays a dividend or distribution on the outstanding shares of the Class payable in common stock or other securities or property (other than cash), then upon exercise of this Warrant, for each Share acquired, Holder shall receive, without additional cost to Holder, the total number and kind of securities and property whichHolder would have received had Holder owned the Shares of record as of the date the dividend or distribution occurred. If the Company subdivides the outstanding shares of the Class by reclassification or otherwise into a greater number of shares, the number of Shares purchasable hereunder shall be proportionately increased and the Warrant Price shall be proportionately decreased. If the outstanding shares of the Class are combined or consolidated, by reclassification or otherwise, into a lesser number of shares, the Warrant Price shall be proportionately increased and the number of Shares shall be proportionately decreased.

2.2 Reclassification, Exchange, Combinations or Substitution. Upon any event whereby all of the outstanding shares of the Class are reclassified, exchanged, combined, substituted, or replaced for, into, with or by Company securities of a different class and/or series, then from and after the consummation of such event, this Warrant will be exercisable for the number, class and series of Company securities that Holder would have received had the Shares been outstanding on and as of the consummation of such event, and subject to further adjustment thereafter from time to time in accordance with the provisions of this Warrant. The provisions of this Section 2.2 shall similarly apply to successive reclassifications, exchanges, combinations, substitutions, replacements or other similar events.

2.3 Conversion of Preferred Stock. If the Class is a class and series of the Company's convertible preferred stock, in the event that all outstanding shares of the Class are converted, automatically or by action of the holders thereof, into common stock pursuant to the provisions of the Company's Amended and Restated Certificate of Incorporation (as amended from time to time, the "**Restated Certificate**"), including, without limitation, in connection with the Company's initial, underwritten public offering and sale of its common stock pursuant to an effective registration statement under the Act (the "**IPO**"), then from and after the date on which all outstanding shares of the Class have been so converted, this Warrant shall be exercisable for such number of shares of

common stock into which the Shares would have been converted had the Shares been outstanding on the date of such conversion, and the Warrant Price shall equal the Warrant Price in effect as of immediately prior to such conversion divided by the number of shares of common stock into which one Share would have been converted, all subject to further adjustment thereafter from time to time in accordance with the provisions of this Warrant.

2.4 Adjustments for Diluting Issuances. Without duplication of any adjustment otherwise provided for in this Section 2, the number of shares of common stock issuable upon conversion of the Shares shall be subject to anti-dilution adjustment from time to time in the manner set forth in the Restated Certificate as if the Shares were issued and outstanding on and as of the date of any such required adjustment; provided that if the requisite number of holders of the capital stock of the Company, as set forth in the Restated Certificate, act by vote or written consent to waive the anti- dilution adjustment set forth in the Restated Certificate with respect to all shares of the Class, then such waiver shall also apply to Holder, and there shall be no adjustment for diluting issuances pursuant to this Section 2.4.

2.5 No Fractional Share. No fractional Share shall be issuable upon exercise of this Warrant and the number of Shares to be issued shall be rounded down to the nearest whole Share. If a fractional Share interest arises upon any exercise of the Warrant, the Company shall eliminate such fractional Share interest by paying Holder in cash the amount computed by multiplying the fractional interest by (i) the fair market value (as determined in accordance with Section 1.3 above) of a full Share, less (ii) the then-effective Warrant Price.

2.6 Notice/Certificate as to Adjustments. Upon each adjustment of the Warrant Price, Class and/or number of Shares, the Company, at the Company's expense, shall notify Holder in writing within a reasonable time setting forth the adjustments to the Warrant Price, Class and/or number of Shares and facts upon which such adjustment is based. The Company shall, upon written request from Holder, furnish Holder with a certificate of its Chief Financial Officer, including computations of such adjustment and the Warrant Price, Class and number of Shares in effect upon the date of such adjustment.

SECTION 3. REPRESENTATIONS AND COVENANTS OF THE COMPANY.

3.1 Representations and Warranties. The Company represents and warrants to, and agrees with, the Holder as follows:

(a) The initial Warrant Price referenced on the first page of this Warrant is not greater than the price per share at which shares of the Class were last sold and issued prior to the Issue Date hereof in an arms-length transaction in which at least $500,000 of such shares were sold.

(b) All Shares which may be issued upon the exercise of this Warrant, and all securities, if any, issuable upon conversion of the Shares, shall, upon issuance, be duly authorized, validly issued, fully paid and non-assessable, and free of any liens and encumbrances except for restrictions on transfer provided for herein or under applicable federal and state securities laws. The Company covenants that it shall at all times cause to be reserved and kept available out of its authorized and unissued capital stock such number of shares of the Class, common stock and other

securities as will be sufficient to permit the exercise in full of this Warrant and the conversion of the Shares into common stock or such other securities.

(c) The Company's capitalization table attached hereto as Schedule 1 is true and complete, in all material respects, as of the Issue Date.

3.2 Notice of Certain Events. If the Company proposes at any time to:

(a) declare any dividend or distribution upon the outstanding shares of the Class or common stock, whether in cash, property, stock, or other securities and whether or not a regular cash dividend;

(b) offer for subscription or sale pro rata to the holders of the outstanding shares of the Class any additional shares of any class or series of the Company's stock (other than pursuant to contractual pre-emptive rights);

(c) effect any reclassification, exchange, combination, substitution, reorganization or recapitalization of the outstanding shares of the Class;

(d) effect an Acquisition or to liquidate, dissolve or wind up; or

(e) effect an IPO;

then, in connection with each such event, the Company shall give Holder:

(1) at least seven (7) Business Days prior written notice of the date on which a record will be taken for such dividend, distribution, or subscription rights (and specifyingthe date on which the holders of outstanding shares of the Class will be entitled thereto) or for determining rights to vote, if any, in respect of the matters referred to in (a) and (b) above;

(2) in the case of the matters referred to in (c) and (d) above at least seven (7) Business Days prior written notice of the date when the same will take place (and specifying the date on which the holders of outstanding shares of the Class will be entitled to exchange their shares for the securities or other property deliverable upon the occurrence of such event and such reasonable information as Holder may reasonably require regarding the treatment of this Warrant in connection with such event giving rise to the notice); and

(3) with respect to the IPO, at least seven (7) Business Days prior written notice of the date on which the Company proposes to file its registration statement in connection therewith.

Company will also provide information requested by Holder that is reasonably necessary to enable Holder to comply with Holder's accounting or reporting requirements. Holder agrees that any information provided to Holder by the Company pursuant to this Warrant may be confidential and Holder agrees that, in handling any such confidential information, Holder will exercise the same degree of care that it exercises for its own proprietary information, but disclosure of information may be made: (i) to Holder's subsidiaries or affiliates; (ii) to prospective transferees or purchasers

of any interest in this Warrant (provided, however, that Holder shall use its best efforts to obtain any prospective transferee's or purchaser's agreement to the terms of this paragraph); (iii) as required by law, regulation, subpoena, or other order; (iv) to Holder's regulators or as otherwise required in connection with Holder's examinations or audits; or (v) to third-party service providers of Holder so long as such service providers have executed a confidentiality agreement with Holder with terms no less restrictive than those contained herein. Confidential information does not include information that is: (a) either in the public domain other than as a result of Holder's breach of this section or is in Holder's possession when disclosed to Holder; or (b) disclosed to Holder by a third party on a non-confidential basis if Holder does not know that the third party is prohibited from disclosing the information.

SECTION 4. REPRESENTATIONS, WARRANTIES OF THE HOLDER.

The Holder represents and warrants to the Company as follows:

4.1 Purchase for Own Account. This Warrant and the securities to be acquired upon exercise of this Warrant by Holder are being acquired for investment for Holder's account, not as a nominee or agent, and not with a view to the public resale or distribution within the meaning of the Act. Holder also represents that it has not been formed for the specific purpose of acquiring this Warrant or the Shares.

4.2 Disclosure of Information. Holder is aware of the Company's business affairs and financial condition and has received or has had full access to all the information it considers necessary or appropriate to make an informed investment decision with respect to the acquisition of this Warrant and its underlying securities. Holder further has had an opportunity to ask questions and receive answers from the Company regarding the terms and conditions of the offering of this Warrant and its underlying securities and to obtain additional information (to the extent the Company possessed such information or could acquire it without unreasonable effort or expense) necessary to verify any information furnished to Holder or to which Holder has access.

4.3 Investment Experience. Holder understands that the purchase of this Warrant and its underlying securities involves substantial risk. Holder has experience as an investor in securities of companies in the development stage and acknowledges that Holder can bear the economic risk of such Holder's investment in this Warrant and its underlying securities and has such knowledge and experience in financial or business matters that Holder is capable of evaluating the merits and risks of its investment in this Warrant and its underlying securities and/or has a preexisting personal or business relationship with the Company and certain of its officers, directors or controlling persons of a nature and duration that enables Holder to be aware of the character, business acumen and financial circumstances of such persons.

4.4 Accredited Investor Status. Holder is an "accredited investor" within the meaning of Regulation D promulgated under the Act.

4.5 The Act. Holder understands that this Warrant and the Shares issuable upon exercise hereof have not been registered under the Act in reliance upon a specific exemption therefrom,

which exemption depends upon, among other things, the bona fide nature of the Holder's investment intent as expressed herein. Holder understands that this Warrant and the Shares issued upon any exercise hereof must be held indefinitely unless subsequently registered under the Act and qualified under applicable state securities laws, or unless exemption from such registration and qualification are otherwise available. Holder is aware of the provisions of Rule 144 promulgated under the Act.

4.6 Market Stand-off Agreement. The Holder agrees that the Shares shall be subject to the Market Standoff provisions (the "**Lock-Up**") in Section 2.11 of the Amended and Restated Investors' Rights Agreement dated October 2, 2015 by and among the Company and the parties listed therein, as may be amended from time to time (the "**Investors' Rights Agreement**").

4.7 No Voting or Other Stockholder Rights. Holder, as a Holder of this Warrant, will not have any voting rights or other stockholder rights until the exercise of this Warrant and, except as set expressly set forth in this Warrant, will not be considered a stockholder of the Company for any purpose until the exercise of this Warrant.

SECTION 5. MISCELLANEOUS.

5.1 Term and Automatic Conversion Upon Expiration.

(a) Term. Subject to the provisions of Section 1.6 above, this Warrant is exercisable in whole or in part at any time and from time to time on or before 6:00 PM, Pacific time, on the Expiration Date and shall be void thereafter.

(b) Automatic Cashless Exercise upon Expiration. In the event that, upon the Expiration Date, the fair market value of one Share (or other security issuable upon the exercise hereof) as determined in accordance with Section 1.3 above is greater than the Warrant Price in effect on such date, then this Warrant shall automatically be deemed on and as of such date to be exercised pursuant to Section 1.2 above as to all Shares (or such other securities) for which it shall not previously have been exercised, and the Company shall, within a reasonable time, deliver a certificate representing the Shares (or such other securities) issued upon such exercise to Holder.

5.2 Legends. In addition to any legend required by state or federal securities laws and the Investors' Rights Agreement, the Shares (and the securities issuable, directly or indirectly, upon conversion of the Shares, if any) shall be imprinted with a legend in substantially the following form:

THE SHARES EVIDENCED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "**ACT**"), OR THE SECURITIES LAWS OF ANY STATE AND, EXCEPT AS SET FORTH IN THAT CERTAIN WARRANT TO PURCHASE STOCK ISSUED BY THE ISSUER TO SILICON VALLEY BANK DATED JUNE 6, 2016, MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED UNLESS AND UNTIL REGISTERED UNDER SAID ACT AND LAWS OR IN FORM AND SUBSTANCE SATISFACTORY TO THE ISSUER, SUCH OFFER, SALE, PLEDGE OR OTHER TRANSFER IS EXEMPT FROM SUCH REGISTRATION.

5.3 Compliance with Securities Laws on Transfer. This Warrant and the Shares issuable upon exercise of this Warrant (and the securities issuable, directly or indirectly, upon conversion of the Shares, if any) may not be transferred or assigned in whole or in part except in compliance with applicable federal and state securities laws by the transferor and the transferee (including, without limitation, the delivery of investment representation letters and legal opinions reasonably satisfactory to the Company, as reasonably requested by the Company). The Company shall not require Holder to provide an opinion of counsel if the transfer is to SVB Financial Group (Silicon Valley Bank's parent company) or any other Affiliate of Holder, provided that any such transferee is an "accredited investor" as defined in Regulation D promulgated under the Act. Additionally, the Company shall also not require an opinion of counsel if there is no material question as to the availability of Rule 144 promulgated under the Act. As used herein, (i) an "Affiliate" means, with respect to any Person, a Person that owns or controls directly or indirectly the Person, any Person that controls or is controlled by or is under common control with the Person, and each of that Person's senior executive officers, directors, partners, and, for any Person that is a limited liability company, that Person's managers and members, and (ii) a "Person" means any individual, sole proprietorship, partnership, limited liability company, joint venture, company, trust, unincorporated organization, association, corporation, institution, public benefit corporation, firm, joint stock company, estate, entity or government agency.

5.4 Transfer Procedure. After receipt by Silicon Valley Bank of the executed Warrant, Silicon Valley Bank will transfer all of this Warrant to its parent company, SVB Financial Group. By its acceptance of this Warrant, SVB Financial Group hereby makes to the Company each of the representations and warranties set forth in Section 4 hereof and agrees to be bound by all of the terms and conditions of this Warrant as if the original Holder hereof, including, without limitation, the Lock- Up. Subject to the provisions of Section 5.3 and upon providing the Company with written notice, SVB Financial Group and any subsequent Holder may transfer all or part of this Warrant or the Shares issuable upon exercise of this Warrant (or the securities issuable directly or indirectly, upon conversion of the Shares, if any) to any transferee, provided, however, that in connection with any such transfer, SVB Financial Group or any subsequent Holder will give the Company notice of the portion of the Warrant being transferred with the name, address and taxpayer identification number of the transferee and Holder will surrender this Warrant to the Company for reissuance to the transferee(s) (and Holder if applicable); and provided further, that any subsequent transferee other than SVB Financial Group shall agree in writing with the Company to be bound by all of the terms and conditions of this Warrant, including, without limitation, the Lock-Up. Notwithstanding any contrary provision herein, at all times prior to the IPO, Holder may not, without the Company's prior written consent, transfer this Warrant or any portion hereof, or any Shares issued upon any exercise hereof, or any shares or other securities issued upon any conversion of any Shares issued upon any exercise hereof, to any person or entity who directly competes with the Company, except in connection with an Acquisition of the Company by such a direct competitor.

5.5 Notices. All notices and other communications hereunder from the Company to the Holder, or vice versa, shall be deemed delivered and effective (i) when given personally, (ii) on the third (3rd) Business Day after being mailed by first-class registered or certified mail, postage prepaid, (iii) upon actual receipt if given by facsimile or electronic mail and such receipt is confirmed in writing by the recipient, or (iv) on the first Business Day following delivery to a reliable overnight

courier service, courier fee prepaid, in any case at such address as may have been furnished to the Company or Holder, as the case may be, in writing by the Company or such Holder from time to time in accordance with the provisions of this Section 5.5. All notices to Holder shall be addressed as follows until the Company receives notice of a change of address in connection with a transfer or otherwise:

SVB Financial Group
Attn: Treasury Department
3003 Tasman Drive, HC 215
Santa Clara, CA 95054
Telephone: (408) 654-7400
Facsimile: (408) 988-8317
Email address: derivatives@svb.com

Notice to the Company shall be addressed as follows until Holder receives notice of a change in address:

Savage River, Inc.
Attn: Mark Nelson
111 Main Street
El Segundo, CA 90245
Telephone: _____
Facsimile: _____
Email: mnelson@beyondmeat.com

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

Orrick, Herrington & Sutcliffe, LLP
Attn: Harold M. Yu
1000 Marsh Road
Menlo Park, CA 94025
Telephone: (650) 614-7696
Email: hyu@orrick.com

5.6 Waiver. This Warrant and any term hereof may be changed, waived, discharged or terminated (either generally or in a particular instance and either retroactively or prospectively) only by an instrument in writing signed by the party against which enforcement of such change, waiver, discharge or termination is sought.

5.7 Attorneys' Fees. In the event of any dispute between the parties concerning the terms and provisions of this Warrant, the party prevailing in such dispute shall be entitled to collect from the other party all costs incurred in such dispute, including reasonable attorneys' fees.

5.8 Counterparts; Facsimile/Electronic Signatures. This Warrant may be executed in counterparts, all of which together shall constitute one and the same agreement. Any signature

page delivered electronically or by facsimile shall be binding to the same extent as an original signature page with regards to any agreement subject to the terms hereof or any amendment thereto.

5.9 Governing Law. This Warrant shall be governed by and construed in accordance with the laws of the State of California, without giving effect to its principles regarding conflicts of law.

5.10 Headings. The headings in this Warrant are for purposes of reference only and shall not limit or otherwise affect the meaning of any provision of this Warrant.

5.11 Business Days. "**Business Day**" is any day that is not a Saturday, Sunday or a day on which Silicon Valley Bank is closed.

[Remainder of page left blank intentionally]

[Signature page follows]

IN WITNESS WHEREOF, the parties have caused this Warrant to Purchase Stock to be executed by their duly authorized representatives effective as of the Issue Date written above.

"COMPANY"

SAVAGE RIVER, INC.

By:	/s/ Ethan Brown
Name:	Ethan Brown
	(Print)
Title:	CEO

"HOLDER"

SILICON VALLEY BANK

By:	/s/ Jordan Kanis
Name:	Jordan Kanis
	(Print)
Title:	Vice President

APPENDIX 1

NOTICE OF EXERCISE

1. The undersigned Holder hereby exercises its right to purchase _____ shares of the Common/Series _____ Preferred [circle one] Stock of SAVAGE RIVER, INC. (the "**Company**") in accordance with the attached Warrant To Purchase Stock, and tenders payment of the aggregate Warrant Price for such shares as follows:

[ ] Check in the amount of $_____ payable to the order of the Company enclosed herewith
[ ] Wire transfer of immediately available funds to the Company's account
[ ] Cashless Exercise pursuant to Section 1.2 of the Warrant
[ ] Other [Describe] _____

2. Please issue a certificate or certificates representing the Shares in the name specified below:

_____
Holder's Name

_____

_____
(Address)

3. By its execution below and for the benefit of the Company, Holder hereby restates each of the representations and warranties in Section 4 of the Warrant to Purchase Stock as of the date hereof.

HOLDER:

_____

By: _____
Name: _____
Title: _____
(Date): _____

SCHEDULE 1

Company Capitalization Table

See attached

AIR COMMERCIAL REAL ESTATE ASSOCIATION

STANDARD INDUSTRIAL/COMMERCIAL SINGLE-TENANT LEASE -- NET

(DO NOT USE THIS FORM FOR MULTI-TENANT BUILDINGS)

1. Basic Provisions ("Basic Provisions").

1.1 Parties: This Lease ("**Lease**"), dated for reference purposes only January 18, 2017 is made by and between Smoky Hollow Industries, LLC ("**Lessor**") and Savage River, Inc. a Delaware corporation dba Beyond Meat ("**Lessee**"), (collectively the **"Parties"**, or individually a **"Party"**).

1.2 Premises: That certain real property, including all improvements therein or to be provided by Lessor under the terms of this Lease, and commonly known as 1325 E. El Segundo Blvd. El Segundo (APN: 4139 002024, located in the County of Los Angeles, State of California, is depicted by the shaded area on Exhibit A attached hereto and made a part hereof and is generally described as (describe briefly the nature of the property and, if applicable, the **"Project",** if the property is located within a Project) an approximately 30,000 rentable square foot industrial building, with all appurtenances thereto. ("**Premises**"). (See also Paragraph 2)

1.3 Term: Five years and zero months (**"Original Term"**) commencing on the later to occur of February 1, 2017 and the date Lessor delivers exclusive possession of the Premises to Lessee, free and clear of any occupants, in broom clean condition, with all personal property removed, and with, all of Lessor's Work (as defined in Addendum Section 5B) at the Premises having been performed (**"Commencement Date"**) and ending January 31, 2022 (**"Expiration Date"**). (See also Paragraph 3)

1.4 Early Possession: ~~If the Premises are avaliable~~ Lessee shall ~~may~~ have non-exclusive possession of the Premises commencing the date Lessor and Lessee sign this Lease (**"Early Possession Date"**). (See also Paragraphs 3.2 and 3.3)

1.5 Base Rent: $37,500.00 per month (**"Base Rent"**), payable on the first (1st) day of each month commencing the Commencement Date. (See also Paragraph 4)

☑ If this box is checked, there are provisions in this Lease for the Base Rent to be adjusted. See Paragraph 57

1.6 Base Rent and Other Monies Paid Upon Execution:

(a) Base Rent: $37,500.00 for the period first (1st) month of the Lease Term.
(b) Security Deposit: $75,000.00 (**"Security Deposit"**). (See also Paragraph 5)
(c) Association Fees: $N/A for the period .
(d) Other: $N/A for .

(e) Total Due Upon Execution of this Lease: $112,500.00.

1.7 Agreed Use: general office, warehouse, Lessee's R&D food operations, and other uses related to Lessee's current business operations (See also Paragraph 6)

1.8 Insuring Party: lessor is the **"Insuring Party"** unless otherwise stated herein. (See also Paragraph 8)

1.9 Real Estate Brokers: (See also Paragraph 15 and 25)

(a) Representation: The following real estate brokers (the **"Brokers"**) and brokerage relationships exist in this transaction (check applicable boxes):

☑ Segal Commercial Properties/RE/MAX Estate Properties represents Lessor exclusively (**"Lessor's Broker"**);
☑ CBRE represents Lessee exclusively (**"Lessee's Broker"**); or
☐ represents both Lessor and Lessee (**"Dual Agency"**).

(b) Payment to Brokers: Upon execution and delivery of this Lease by both Parties, Lessor shall pay to the Brokers the brokerage fee agreed to in a separate written agreement ~~(or if there is no such agreement, the sum of _____ or _____% of the total Base Rent)~~ for the brokerage services rendered by the Brokers.

1.10 Guarantor. The obligations of the Lessee under this Lease are to be guaranteed by N/A (**"Guarantor"**). (See also Paragraph 37)

1.11 Attachments. Attached hereto are the following, all of which constitute a part of this Lease:

☑ an Addendum consisting of Paragraphs 50 through 65;
☑ a plot plan depicting the Premises set forth on Exhibit A attached hereto and made a part hereof;
☐ a current set of the Rules and Regulations;
☐ a Work Letter;
☐ an energy disclosure addendum is attached;
☑ other (specify): Option to Extend Addendum (Par. 66); Arbitration Agreement (Par. 67); and Rent Adjustment Addendum (Par. 68).

2. **Premises.**

2.1 **Letting.** Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the Premises, for the term, at the rental, and upon all of the terms, covenants and conditions set forth in this Lease. While the approximate square footage of the Premises may have been used in the marketing of the Premises for purposes of comparison, the Base Rent stated herein is NOT tied to square footage and is not subject to adjustment should the actual size be determined to be different. **Note: Lessee is advised to verify the actual size prior to executing this Lease.**

2.2 **Condition.** Lessor shall deliver the Premises to Lessee broom clean and free of debris on the Commencement Date or the Early Possession Date, whichever first occurs (**"Start Date"**), and, ~~so long as the required service contracts described in Paragraph 7.1(b) below are obtained by Lessee and in effect within thirty days following the Start Date,~~ warrants that the existing electrical, plumbing, fire sprinkler and fire/life safety systems (if any), lighting, heating, and air conditioning systems (**"HVAC"**), loading doors, sump pumps, if any, roof membrane, roof drainage systems, parking areas, and all other non-structural elements in the Premises, other than those constructed by Lessee in connection with this Lease, shall be in good working order, operating condition, and repair on said date, that the structural elements of the Building *(as defined below)*, including, without limitation, the roof, bearing walls, floor slabs, ~~and~~ foundation, and all other structural elements of any buildings on the Premises (the "Building"), together with the roof membrane and parking areas of the Building. shall be free of material defects, and that the Premises do not contain hazardous levels of any mold or fungi defined as toxic under applicable state or federal law. If a non-compliance with said warranty exists as of the Start Date, or if one of such systems or elements should malfunction or fail within the appropriate warranty period, Lessor shall, as lessor's sole obligation with respect to such matter, except as otherwise provided in this Lease, promptly after receipt of written notice from Lessee setting forth with specificity the nature and extent of such non-compliance, malfunction or failure, rectify same at Lessor's expense. The warranty periods shall be as follows: 12 months as to the HVAC systems, and as to the remaining systems and other structural and non-structural elements of the Building. If Lessee does not give Lessor the required notice within the appropriate warranty period, correction of any such non-compliance, malfunction or failure shall be the obligation of lessee at Lessee's sole cost and expense. Lessor also warrants, that unless otherwise specified in writing, lessor is unaware of (i) any recorded Notices of Default affecting the Premise; (ii) any delinquent amounts due under any loan secured by the Premises; and (iii) any bankruptcy proceeding affecting the Premises. *See* Addendum Paragraph 58.

2.3 **Compliance.** Lessor warrants that to the best of its knowledge the improvements on the Premises comply with the building codes, applicable laws, covenants or restrictions of record, regulations, and ordinances (**"Applicable Requirements"**) applicable to general office/industrial/warehouse use, but only to the extent Lessor's failure or violation to comply therewith would prohibit lessee from obtaining or maintaining a certificate of occupancy (or its equivalent) for the Premises or otherwise subject Lessee to penalties or fines as a result of such non -compliance; except, that Lessor shall not be liable for a breach of such warranty solely

arising from Tenant's specific manner of use of the Premises *(*as opposed to general office/industrial/warehouse use*).* ~~that were in effect at the time that each improvement, or portion thereof, was constructed.~~ Said warranty does not apply to the use to which lessee will put the Premises (other than general office/industrial/warehouse use), modifications which are ~~may be~~ required by the Americans with Disabilities Act or any similar laws solely as a result of Lessee's specific and unique use *(*as opposed to general/industrial/warehouse use) (see Paragraph 50), or to any Alterations or Utility Installations (as defined in Paragraph 7.3(a)) made or to be made by Lessee. **NOTE: Lessee is responsible for determining whether or not the Applicable Requirements, and especially the zoning, are appropriate for Lessee's intended use, and acknowledges that past uses of the Premises may no longer be allowed.** If the Premises do not comply with said warranty, Lessor shall, except as otherwise provided, promptly after receipt of written notice from Lessee setting forth with specificity the nature and extent of such non-compliance, rectify the same at Lessor's expense. If Lessee does not give Lessor written notice of a non-compliance with this warranty within 6 months following the Start Date, correction of that non-compliance shall be the obligation of Lessee at Lessee's sale cost and expense. If the Applicable Requirements are hereafter changed so as to require during the term of this Lease the construction of an addition to or an alteration of the Premises and/or Building, ~~the remediation of any Hazardous Substance,~~ or the reinforcement or other physical modification of the Unit, Premises and/or Building ("**Capital Expenditure**"), Lessor and Lessee shall allocate the cost of such work as follows:

(a) Subject to Paragraph 2.3(c) below, if such Capital Expenditures are required solely as a result of the specific and unique use of the Premises by Lessee as compared with uses by tenants in general, Lessee shall be fully responsible for the cost thereof, provided, however that if such Capital Expenditure is required during the last 2 years of this Lease and the cost thereof exceeds 3~~6~~ months' Base Rent, Lessee may instead terminate this Lease unless Lessor notifies Lessee, in writing, within 10 days after receipt of Lessee's termination notice that Lessor has elected to pay the difference between the actual cost thereof and an amount equal to 3~~6~~ months' Base Rent. If Lessee elects termination, Lessee shall deliver to Lessor written notice specifying a termination date at least 90 days after such election and Lessee shall cease the use of the Premises requiring such Capital Expenditure on the earlier to occur of the date Lessee is required by applicable law to cease such use and the date of termination specified in such notice ~~immediately cease the use of the Premises which requires such Capital Expenditure and deliver to Lessor written notice specifying a termination date at least 90 days thereafter.~~ Such termination date shall, however, in no event be earlier than the last day that Lessee could legally utilize the Premises without commencing such Capital Expenditure.

(b) If such Capital Expenditure is not the sole result of (i) the specific and unique use of the Premises by Lessee (such as, governmentally mandated seismic modifications), (ii) an Alteration or Utility Installation that is the sole cause: triggering the Capital Expenditure, or (iii) the Premises or the Building not being in compliance with Applicable Requirements prior to the Start Date, then Lessor shall pay for such Capital Expenditure and Lessee shall only be obligated to pay, each month during the remainder of the term of this Lease or any extension thereof, on the date that on which the Base Rent is due, an amount equal to 1/144th of the portion of such costs reasonably attributable to the Premises. ~~Lessee shall pay interest on the balance but may prepay its obligation at any time.~~ If, however, such Capital Expenditure is required during the last 2 years of this Lease ~~or if Lessor reasonably determines that it is not economically feasible to pay its share thereof,~~ Lessor shall have the option to terminate this Lease upon 180 days prior written notice to Lessee unless Lessee notifies Lessor, in writing, within 10 days after receipt of Lessor's termination notice that Lessee will pay for such Capital Expenditure. If Lessor does not elect to terminate, and fails to tender its share of any such Capital Expenditure, Lessee may advance such funds and deduct same, with Interest, from Rent until Lessor' share of such costs have been fully paid. If Lessee is unable to finance Lessor's share, or if the balance of the Rent due and payable for the remainder of this Lease is not sufficient to fully reimburse Lessee on an offset basis, Lessee shall have the right to terminate this Lease upon 30 days 'written notice to Lessor.

(c) Notwithstanding the above set forth in this Paragraph 2.3, the provisions concerning Capital Expenditures are intended to apply only to non-voluntary, unexpected, and new Applicable Requirements. If the Capital Expenditures are instead triggered by Lessee as a sole result of an actual or proposed change in Lessee's use, change in Lessee's intensity of use, or Lessee's modification to the Premises then, and in that event, Lessee shall either: (i) immediately cease such changed use or intensity of use and/or take such other steps as may be necessary to eliminate the requirement for such Capital Expenditure, or (ii) complete such Capital Expenditure at its own expense. Lessee shall not, however, have any right to terminate this Lease. Notwithstanding the foregoing, if the Premises or Building are not in compliance with Applicable Requirements as of the Start Date and Capital Expenditures are triggered as a result of the occupancy of the Premises for general office/industrial/warehouse use*,* then Lessor shall complete such Capital Expenditures at its own expense and Lessor shall not have any right to terminate this Lease.

2.4 **Acknowledgments.** Lessee acknowledges that: (a) it has been given an opportunity to inspect and measure the Premises, (b) it has been advised by Lessor and/or Brokers to satisfy itself with respect to the size and condition of the Premises (including but not limited to the electrical, HVAC and fire sprinkler systems, security, environmental aspects, and compliance with Applicable Requirements and the Americans with Disabilities Act), and their suitability for Lessee's intended use, (c) Lessee has made such investigation as it deems necessary with reference to such matters, except for latent defects*,* and assumes all responsibility therefor as the same relate to its occupancy of the Premises (without waiver of any express obligation of Lessor set forth in this Lease*),* (d) except as otherwise expressly set forth in this Lease*,* it is not relying on any representation as to the size of the Premises made by Brokers or Lessor. (e) the square footage of the Premises was not material to Lessee' decision to lease the Premises and pay the Rent stated herein, and (f) neither Lessor, Lessor's agents, nor Brokers have made any oral or written representations or warranties with respect to said matters other than as set forth in this Lease. In addition, Lessor acknowledges that: (i) Brokers have made no representations, promises or warranties concerning Lessee's ability to honor the Lease or suitability to occupy the Premises, and (ii) it is Lessor's sole responsibility to investigate the financial capability and/or suitability of all proposed tenants.

2.5 **Lessee as Prior Owner/Occupant.** The warranties made by Lessor in Paragraph 2 shall be of no force or effect if immediately prior to the Start Date lessee was the owner or occupant of the Premises. In such event, lessee shall be responsible for any necessary corrective work.

3. **Term.**

3.1 **Term.** The Commencement Date, Expiration Date and Original Term of this Lease are as specified in Paragraph 1.3.

3.2 **Early Possession.** ~~Any provision herein granting Lessee Early Possession of the Premises is subject to and conditioned upon the Premises being available for such possession prior to the Commencement Date.~~ Any grant of Early Possession only conveys an ~~non~~ exclusive right to occupy the Premises. If Lessee totally or partially occupies the Premises prior to the Commencement Date, the obligation to pay ~~Base~~ Rent shall be abated for the period of such Early Possession. All other terms of this Lease (including but not limited to the obligations to pay Real Property Taxes and insurance premiums and to maintain the Premises) shall be in effect during such period. Any such Early Possession shall not affect the Expiration Date.

3.3 **Delay In Possession.** Lessor agrees to use its best commercially reasonable efforts to deliver possession of the Premises to Lessee by the Commencement Date. If, despite said efforts, Lessor is unable to deliver possession by such date, Lessor shall not be subject to any liability therefor, nor shall such failure affect the validity of this Lease or change the Expiration Date. Lessee shall not, however, be obligated to pay Rent or perform its other obligations until Lessor delivers possession of the Premises and any period of rent abatement that Lessee would otherwise have enjoyed shall run from the date of delivery of possession and continue for a period equal to what Lessee would otherwise have enjoyed under the terms hereof, but minus any days of delay caused by the acts or omissions of Lessee. Notwithstanding the forgoing, if Lessor has failed to deliver the Premises (or any portion thereof) within 30 days after the Commencement Date set forth in Paragraph 1.3 above and such failure is not caused by a Lessee Delay (as defined below), then Lessee shall receive from Lessor a per diem rent credit equal to one (1) calendar day for each one (1) day of delay that is not caused by a Lessee Delay until the Premises (or the applicable portion thereof) is delivered to Lessee. ~~If possession is not delivered within 60 days after the Commencement Date, as the same may be extended under the terms of any Work Letter executed by Parties, Lessee may, at its option, by notice writing within 10 days after the end of such 60 day period, cancel this Lease, in which event the Parties shall be discharged from all obligations hereunder. If such written notice is not received by Lessor within said 10 day period, Lessee's right to cancel shall terminate. If possession of the Premises is not delivered within 120 days after the Commencement Date, this Lease shall terminate unless other agreements are reached between Lessor and Lessee, in writing.~~ A "Lessee Delay" is an actual delay caused by the acts of omissions of Lessee or Lessee's employees, contractors or agents. Notwithstanding the foregoing and in addition to the per diem rent credit described above in this Paragraph 3.3, if Lessor fails to deliver the Premises to Lessee by the Outside Delivery Date (as defined below), then Lessee shall have the right, at Lessee's sole option, to terminate this Lease by giving written notice thereof to Lessor within five (5) business days after the Outside Delivery Date, in which event the parties hereto shall be discharged from all further obligations under this Lease and Lessor shall return all prepaid monies and the Security Deposit to lessee. If Lessee fails to timely exercise such termination right, then Lessee shall be deemed to have waived its termination right and this Lease shall continue in full force and effect. As used herein, "**Outside Delivery Date**" means the date this is 60 days after the Commencement Date set forth in Paragraph 1.3 above, which Outside Delivery Date shall be extended day-for-day due to any Lessee Delays.

3.4 **Lessee Compliance.** Lessor shall not be required to deliver possession of the Premises to Lessee until Lessee complies with its obligation to provide evidence of insurance (Paragraph 8.5). Pending delivery of such evidence, Lessee shall be required to perform all of its obligations under this Lease from and after the Start Date, including the payment of Rent, notwithstanding Lessor's election to withhold possession pending receipt of such evidence of insurance. Further, If Lessee is required to perform any other conditions prior to or concurrent with the Start Date, the Start Date shall occur but Lessor may elect to withhold possession until such conditions are satisfied.

4. **Rent**

4.1 **Rent Defined.** All monetary obligations of Lessee to Lessor under the terms of this Lease (except for the Security Deposit) are deemed to be rent ("**Rent**")

4.2 **Payment.** Lessee shall cause payment of Rent to be received by Lessor in lawful money of the United States, without offset or deduction (except as specifically permitted in this Lease), on or before the day on which it is due. All monetary amounts shall be rounded to the nearest whole dollar. In the event that any invoice prepared by Lessor is inaccurate such inaccuracy shall not constitute a waiver and Lessee shall be obligated to pay the amount set forth in this Lease. Rent for any period during the term hereof which is for less than one full calendar month shall be prorated based upon the actual number of days of said month. Payment of Rent shall be made to Lessor at its address stated herein or to such other persons or place as Lessor may from time to time designate in writing. Acceptance of a payment which is less than the amount then due shall not be a waiver of Lessor's rights to the balance of such Rent, regardless of Lessor's endorsement of any check so stating. In the event that any check, draft, or other instrument of payment given by Lessee to Lessor is dishonored for any reason, Lessee agrees to pay to Lessor the sum of $25 in addition to any Late Charge and Lessor, at its option, may require all future Rent be paid by cashier's check. Payments will be applied first to accrued late charges and attorney's fees, second to accrued interest, then to Base Rent, Insurance and Real Property Taxes, and any remaining amount to any other outstanding charges or costs.

4.3 **Association Fees.** Not Applicable. ~~In addition to the Base Rent, Lessee shall pay to Lessor each month an amount equal to any owner's association or condominium fees levied or assessed against the Premises. Said monies shall be paid at the same time and in the same manner as the Base Rent.~~

5. **Security Deposit.** Lessee shall deposit with Lessor upon execution hereof the Security Deposit as security for Lessee's faithful performance of its obligations under this Lease. If Lessee is in Breach of any of its obligations ~~fails to pay Rent, or otherwise Defaults~~ under this Lease. Lessor may use, apply or retain all or any portion of said Security Deposit for the payment of any amount already due Lessor, for Rents which will be due in the future, and/ or to reimburse or compensate Lessor for any liability, expense, loss or damage which Lessor may suffer or incur by reason thereof. If Lessor uses or applies all or any portion of the Security Deposit, Lessee shall within 10 days after written request therefor deposit monies with Lessor sufficient to restore said Security Deposit to the full amount required by this lease. ~~If the Base Rent increase during the term of this Lease, Lessee shall, upon written request from~~

~~Lessor, deposit additional monies with Lessor so that the total amount of the Security Deposit shall at all times bear the same proportion to the increased Base Rent as the initial Security Deposit bore to the initial Base Rent. Should the Agreed Use be amended to accommodate a material change in the business of Lessee or to accommodate a sublessee or assignee, Lessor shall have the right to increase the Security Deposit to the extent necessary, in Lessor's reasonable judgment, to account for any increased wear and tear that the Premises may suffer as a result thereof. If a change in control of Lessee occurs during the Lease and following such change the financial condition of Lessee is, in Lessor's reasonable judgment, significantly reduced, Lessee shall deposit such additional monies with Lessor as shall be sufficient to cause the Security Deposit to be at a commercially reasonable level based on such change in financial condition.~~ Lessor shall not be required to keep the Security Deposit separate from its general accounts. Within 90 days after the expiration or termination of this Lease or such lesser period if required by applicable law, Lessor shall return that portion of the Security Deposit not used or applied by Lessor. No part of the Security Deposit shall be considered to be held in trust, to bear interest or to be prepayment for any monies to be paid by Lessee under this Lease.

6. **Use.**

6.1 **Use.** Lessee shall use and occupy the Premises only for the Agreed Use, or any other legal use which is reasonably comparable thereto, and for no other purpose. Lessee shall not use or permit the use of the Premises in a manner that is unlawful, creates damage, waste or a nuisance, or that disturbs occupants of or causes damage to neighboring premises or properties. Other than guide, signal and seeing eye dogs, Lessee shall not keep or allow in the Premises any pets, animals, birds, fish, or reptiles. Lessor shall not unreasonably withhold or delay its consent to any written request for a modification of the Agreed Use, so long as the same will not impair the structural integrity of the improvements on the Premises or the mechanical or electrical systems therein, and/or is not significantly more burdensome to the Premises. If Lessor elects to withhold consent, Lessor shall within 7 days after such request give written notification of same, which notice shall include an explanation of lessor's objections to the change in the Agreed Use.

6.2 **Hazardous Substances.** (See Also Addendum - Paragraph 56)

(a) **Reportable Uses Require Consent.** The term "**Hazardous Substance**" as used in this Lease shall mean any product, substance, or waste whose presence, use, manufacture, disposal, transportation, or release, either by itself or in combination with other materials expected to be on the Premises, is either: (i) potentially injurious to the public health, safety or welfare, the environment or the Premises, (ii) regulated or monitored by any governmental authority because of its dangerous; or deleterious properties, or (iii) a basis for potential liability of Lessor to any governmental agency or third party under any applicable statute or common law theory. Hazardous Substances shall include, but not be limited to, hydrocarbons, petroleum, gasoline, and/or crude oil or any products, by-products or fractions thereof. Lessee shall not engage in any activity in or on the Premises which constitutes a Reportable Use of Hazardous Substances without the express prior written consent of Lessor and timely compliance (at lessee's expense) with all Applicable Requirements. "**Reportable Use**" shall mean (i) the installation or use of any above or below ground storage tank, (ii) the generation, possession, storage, use, transportation, or disposal of a Hazardous Substance that requires a permit from, or with respect to which a report, notice, registration or business plan is required to be filed with, any governmental authority, and/or (iii) the presence at the Premises of a Hazardous Substance with respect to which any Applicable Requirements requires that a notice be given to persons entering or occupying the Premises or neighboring properties. Notwithstanding the foregoing, Lessee may use any ordinary and customary materials reasonably required to be used in the normal course of the Agreed Use, ordinary office supplies (copier toner, liquid paper, glue, etc.) and common household cleaning materials, so long as such use, in all material respects, is in compliance with all Applicable Requirements~~,~~ is not a Reportable Use, and does not expose the Premises or neighboring property to any meaningful risk of contamination or damage or expose Lessor to any liability therefor. In addition, Lessor may condition its consent to any Reportable Use upon receiving such additional assurances as Lessor reasonably deems necessary to protect itself, the public, the Premises and/or the environment against damage, contamination, injury and/or liability, including, but not limited to, the installation (and removal on or before Lease expiration or termination) of protective modifications (such as concrete encasements) and/or increasing the Security Deposit.

(b) **Duty to Inform.** If a Party ~~Lessee~~ knows, or has reasonable cause to believe, that a Hazardous Substance has come to-be located ~~been spilled or released~~ in, on, under or about the Premises, other than as (i) previously consented to by Lessor, (ii) previously disclosed by Lessor pursuant to paragraph 56 below, or (iii) as permitted pursuant to the terms of this Lease, ~~Lessee~~ such party shall immediately give written notice of such fact to the other Party ~~Lessor~~, and provide the other Party ~~Lessor~~ with a copy of any report, notice, claim or other documentation which it has concerning the presence of such Hazardous Substance.

(c) **Lessee Remediation.** Lessee shall not cause or permit any Hazardous Substance to be spilled or released in, on, under, or about the Premises (including through the plumbing or sanitary sewer system) except with compliance with Applicable Requirements, and shall promptly, at Lessee's expense, comply with all Applicable Requirements and take all investigatory and/or remedial action as and when reasonably recommended by qualified unaffiliated third- party environmental engineers and/or consultants, whether or not formally ordered or required by Applicable Requirements, for the cleanup of any contamination of, and for the maintenance, security and/or monitoring of the Premises or neighboring properties, that was caused or to the extent materially contributed to by Lessee during the term of this Lease, or pertaining to or involving any Hazardous Substance brought onto the Premises during the term of this Lease, by or for Lessee, or any third party.

(d) **Lessee Indemnification.** Lessee shall indemnify, defend and hold Lessor, its agents, employees, ~~lenders~~ and ground lessor, if any (collectively, the "Lessor Parties"), harmless from and against any and all loss of rents and/or damages, liabilities, judgments, claims, expenses, penalties, and attorneys' and consultants' fees arising out of or involving any Hazardous Substance brought onto the Premises by or for Lessee, or any third party during the Lease Term other than any of the Lessor Parties (for which Lessee have no liability) (provided, however, that Lessee shall have no liability under this Lease with respect to any ~~underground~~ migration of any Hazardous Substance over, on, or under the Premises from adjacent properties not caused or contributed to by Lessee). Lessee's obligations shall include, but not be limited to, the effects of any contamination or injury to person, property or the environment created or suffered by Lessee, and the cost of investigation, removal, remediation, restoration and/or abatement, and shall survive the expiration or termination of this Lease. **No termination, cancellation or release agreement entered into by Lessor**

and Lessee shall release Lessee from its obligations under this Lease with respect to Hazardous Substances, unless specifically so agreed by Lessor in writing at the time of such agreement.

(e) **Lessor Indemnification.** Except as otherwise provided in paragraph 8.7, Lessor and its successors and assigns shall indemnify, defend, reimburse and hold Lessee, its employees and lenders, harmless from and against any and all damages, including, without limitation, the cost of remediation, which result from Hazardous Substances that (i) are or were installed prior to the time Lessee accepts possession of the Premises, (ii) migrated onto the Premises from adjoining real property and was not caused by Lessee, (iii) was introduced by Lessor or any of the Lessor Parties, which existed on the Premises prior to Lessee's occupancy or which are caused by the gross negligence or willful misconduct of Lessor, or any of the Lessor Parties ~~employees~~, or (iv) existed on the Premises prior to Lessee's occupancy or that are brought onto the Premises by or for Lessor or any of the Lessor parties. Lessor obligations, ~~as and when required by the Applicable Requirements,~~ shall include, but not be limited to, the cost of investigation, removal, remediation, restoration and/or abatement, and shall survive the expiration or termination of this Lease. No termination, cancellation or release agreement is entered into by Lessor and Lessee shall release Lessor from its obligation under this Lease with respect to Hazardous Substances, unless specifically so agreed by Lessee in writing at the time of such agreement.

(f) **Investigations and Remediations.** Lessor shall retain the responsibility and pay for any investigations or remediation measures required by governmental entities having jurisdiction with respect to the existence of Hazardous Substances on the Premises prior to Lessee's occupancy, unless such remediation measure is required as a result of Lessee's use (including "Alterations", as defined in paragraph 7.3(a) below) of the Premises, in which event Lessee shall be responsible for such payment. Lessee shall cooperate fully in any such commercially reasonable activities at the request of Lessor, including allowing Lessor and Lessor's agents to have reasonable access to the Premises at reasonable times in order to carry out Lessor's investigative and remedial responsibilities.

(g) **Lessor Termination Option.** If a Hazardous Substance Condition (see Paragraph 9.1(e)) other than a Hazardous Substance Condition Lessor has disclosed to Lessee pursuant to Paragraph 56 occurs during the term of this Lease, unless Lessee is legally responsible therefor (in which case Lessee shall make the investigation and remediation thereof required by the Applicable Requirements and this Lease shall continue in full force and effect, but subject to Lessor's rights under Paragraph 6,2(d) and Paragraph 13), Lessor may, at Lessor's option, either (i) investigate and remediate such Hazardous Substance Condition, if required, as soon as reasonably possible at Lessor's expense, in which event this Lease shall continue in full force and effect, or (ii) if the estimated cost to remediate such condition exceeds 12 times the then monthly Base Kent or $100,000, whichever is greater, give written notice to Lessee, within 30 days after receipt by Lessor of knowledge of the occurrence of such Hazardous Substance Condition, of Lessor's desire to terminate this Lease as of the date 180 ~~60~~ days following the date of such notice. In the event Lessor elects to give a termination notice, Lessee may, within 10 days thereafter, give written notice to Lessor of Lessee's commitment to pay the amount by which the cost of the remediation of such Hazardous Substance Condition exceeds an amount equal to 12 times the then monthly Base Rent or $100,000, whichever is greater. Lessee shall provide Lessor with said funds or satisfactory assurance thereof within 30 days following such commitment. In such event, this Lease shall continue in full force and effect, and Lessor shall proceed to make such remediation as soon as reasonably possible after the required funds are available. If Lessee does not give such notice and provide the required funds or assurance thereof within the time provided, this Lease shall terminate as of the date specified in Lessor's notice of termination.

6.3 **Lessee's Compliance with Applicable Requirements.** Except as otherwise provided in this lease, Lessee shall, at Lessee's sole expense, fully, diligently and in a timely manner, materially comply with all Applicable Requirements, the requirements of any applicable fire insurance underwriter or rating bureau, and the commercially reasonable recommendations of Lessor's qualified unaffiliated third-party engineers and/or consultants which relate in any manner to the such Requirements, without regard to whether such Requirements are now in effect or become effective after the Start Date; except, that, under no circumstance shall Lessee be obligated to remove, remediate, or encapsulate any Hazardous Substances released in, on, or under the Premises prior to the Start Date (including, without limitation, the Hazardous Substance Condition disclosed in Paragraph 56 hereof). Lessee shall, within 10 days after receipt of Lessor's written request, provide Lessor with copies of all permits and other documents, and other information evidencing Lessee's ~~such~~ compliance with any Applicable Requirements specified by Lessor, and shall as soon as reasonably practicable ~~immediately~~ upon receipt, notify Lessor in writing (with copies of any documents involved) of any threatened or actual claim, notice, citation, warning, complaint or report pertaining to or involving the failure of Lessee or the Premises to comply with any Applicable Requirements. Likewise, Lessee shall immediately give written notice to Lessor of: (i) any water damage to the Premises and any suspected seepage, pooling, dampness or other condition conducive to the production of mold; or (ii) any mustiness or other odors that might indicate the presence of mold in the Premises. In addition, Lessee shall provide copies of all relevant material safety data sheets (**MSDS**) to Lessor within 10 days of the receipt of a written request therefor. In addition, Lessee shall provide lessor with copies of its business license, certificate of occupancy and/or any similar document within 10 days of the receipt of a written request therefor.

6.4 **Inspection; Compliance.** Lessor and Lessor's "**Lender**" (as defined in Paragraph 30) and consultants shall have the right to enter into Premises at any time, in the case of an emergency, and otherwise at reasonable times after reasonable written notice, for the purpose of inspecting the condition of the Premises and for verifying compliance by Lessee with this Lease. The cost of any such inspections shall be paid by Lessor, unless a violation by Lessee of Applicable Requirements or a Hazardous Substance Condition (see paragraph 9.1) for which Lessee is responsible pursuant to the applicable terms of this Lease, is found to exist or be imminent, or the inspection is requested or ordered by a governmental authority primarily be the reason of Lessee's use of the Premises. In such case, Lessee shall upon request reimburse Lessor for the reasonable out-of-pocket cost of such inspection, ~~so long as~~ to the extent such inspection is reasonably related to the violation or contamination. In addition, Lessee shall provide copies of all relevant material safety data sheets (**MSDS**) to Lessor within 10 days of the receipt of a written request therefor.

7. **Maintenance; Repairs, Utility Installations; Trade Fixtures and Alterations.**

7.1 **Lessee's Obligations.**

(a) **In General**. Subject to the provisions of Paragraph 2.2 (Condition), 2.3 (Compliance), 6.3 (Lessee's Compliance with Applicable Requirements), 7.2 (Lessor's Obligations), 9 (Damage or Destruction), and 14 (Condemnation), Lessee shall, at Lessee's

sale expense, keep the Premises, Utility Installations (intended for Lessee's exclusive use, no matter where located), and Alterations in good order, condition and repair (whether or not the portion of the Premises requiring repairs, or the means of repairing the same, are reasonably or readily accessible to Lessee. and whether or not the need for such repairs occurs as a result of Lessee's use, any prior use, the elements or the age of such portion of the Premises), including, but not limited to, all equipment or facilities, such as plumbing, HVAC equipment, electrical, lighting facilities, boilers, pressure vessels, fire protection system, fixtures, non-structural demising walls ~~(interior and exterior), foundations, ceilings, roofs, roof drainage systems,~~ non-structural floors, windows, doors, plate glass, skylights, landscaping, driveways, parking lots, fences, ~~retaining walls,~~ signs, ~~sidewalks~~ and parkways located in, on, or adjacent to the Premises, in each case, subject to ordinary wear and tear (as hereafter defined), casualties, condemnation, obsolescence, and repair, maintenance and replacement obligations that are specifically made the responsibility of Lessor. Lessee, in keeping the Premises in good order, condition and repair, shall exercise and perform good maintenance practices, specifically including the procurement and maintenance of the service contracts required by Paragraph 7.1 (b) below. Lessee's obligations shall include restorations, replacements or renewals subject, in each case, to Paragraph 7.1(d) below, when necessary to keep the Premises and all improvements thereon or a part thereof in good order, condition and state of repair. Lessee shall, during the term of this Lease, keep the exterior appearance of the Building in a ~~first class~~ condition (including, e.g. graffiti removal) consistent with the exterior appearance of other similar facilities of comparable age and size in the vicinity, including, when necessary, the exterior repainting of the Building.

(b) **Service Contracts**. Lessee shall, at Lessee's sole expense, procure and maintain contracts, with copies to Lessor, in customary form and substance for, and with contractors specializing and experienced in the maintenance of the following equipment and improvements, If any, if and when installed on the Premises: (i) HVAC equipment, (ii) boiler, and pressure vessels, (iii) fire extinguishing systems, including fire alarm and/or smoke detection, (iv) landscaping and irrigation systems, (v) roof covering and drains, and (vi) clarifies. However, Lessor reserves the right, upon not less than 30 days' prior written notice to Lessee, to procure and maintain any or all of such service contracts, and Lessee shall reimburse Lessor, within 30 days of written demand therefor, ~~upon demand,~~ for the cost thereof; except, that, the vendors under such service contracts shall be unaffiliated third-party vendors and Lessor shall not charge any mark-up on any amounts owing thereunder (with Lessor hereby acknowledging that Lessee shall only be obligated to pay the actual cost incurred under such service contracts.

(c) **Failure to Perform**. If Lessee fails to perform Lessee's obligations under this Paragraph 7.1 and such failure continues after written notice and the passing of the applicable cure period, then Lessor may enter upon the Premises after 10 days' prior written notice to Lessee (except in the case of an emergency, in which case no notice shall be required), perform such obligations on Lessee's behalf, and put the Premises in good order, condition and repair, and Lessee shall promptly pay to Lessor a sum equal to 115% of the cost thereof.

(d) **Replacement**. Subject to Lessee's indemnification of Lessor as set forth in Paragraph 8.7 below, and without relieving Lessee of liability resulting from Lessee's failure to exercise and perform good maintenance practices, if an item described in Paragraph 7.1 (b) cannot be repaired other than at a cost which is in excess of 50% of the cost of replacing such item, then such item shall be replaced by Lessor, and the cost thereof shall be prorated between the Parties and Lessee shall only be obligated to pay, each month during the remainder of the term of this Lease, on the date on which Base Rent is due, an amount equal to the product of multiplying the cost of such replacement by a fraction, the numerator of which is one, and the denominator of which is 144 (i.e. 1/144th of the cost per month). ~~Lessee shall pay interest on the unamortized balance but may prepay its obligation at any time.~~

7.2 **Lessor's Obligations**. Subject to the provisions of Paragraphs 2.2 (Condition), 2.3 (Compliance), 9 (Damage or Destruction) ~~and~~ 14 (Condemnation), other than the structural or load-bearing walls, foundation, roofs, roof membrane, roof drainage system, parking areas, sidewalks, other structural components of the building and acts or omissions of Lessor or any of the Lessor Parties, it is intended by the Parties hereto that Lessor have no obligation, in any manner whatsoever, to repair and maintain the Premises, or the equipment therein, all of which obligations are intended to be that of the Lessee. It is the intention of the Parties that the terms of this Lease govern the respective obligations of the Parties as to maintenance and repair of the Premises, and they expressly waive the benefit of any statute now or hereafter in effect to the extent it is inconsistent with the terms of this Lease. Notwithstanding anything to the contrary set forth in this Paragraph 7.2, Lessor at its expense shall be responsible for any repairs and replacements to the Building's structural or load-bearing walls, foundation, roofs, roof membrane, roof drainage systems, parking areas, retaining walls, sidewalks, and other structural components of the Building, unless the need for any such repair or replacement is due to the acts or omissions of Lessee or Lessee's employees, agents, invitees, successors or assigns, in which event Lessee shall be responsible for the cost thereof. Further not withstanding anything to that contrary set forth in this Lease. Lessee's obligations under this Lease shall not include making (i) any repair, replacement, or improvement to the extent necessitated by the negligence or willful misconduct of Lessor or any of the Lessor Parties, (ii) any repair, replacement, or improvement to the extent caused by any alterations, additions, or improvements to the Premises or any abutting realty made by Lessor or any of the Lessor Parties.

7.3 **Utility Installations; Trade Fixtures; Alterations**.

(a) **Definitions**. The term "**Utility Installations**" refers to all floor and window coverings, air and/or vacuum lines, power panels, electrical distribution, security and fire protection systems, communication cabling, lighting fixtures, HVAC equipment, plumbing, and fencing in or on the Premises. The term "Trade Fixtures" shall mean Lessee's machinery and equipment that can be removed without doing material damage to the Premises. The term "Alterations" shall mean any modification of the improvements, other than Utility Installations or Trade Fixtures, whether by addition or deletion. "Lessee Owned Alterations and/or Utility Installations" are defined as Alterations and/or Utility Installations made by lessee that are not yet owned by Lessor pursuant to Paragraph 7.4(a).

(b) **Consent**. Lessee shall not make any Alterations or Utility Installations to the Premises without Lessor's prior written consent (which shall not be unreasonably withheld so long as the proposed Alterations or Utility Installations (i) will not affect the Building structure and/or systems and equipment, (ii) will not affect any area outside the Premises and are not visible from outside the Premises, (iii) will comply with Applicable Requirements, (iv) will not interfere with the normal and customary business operations of other tenants of the Building or Project, (v) will not cause damage or injury to any portion of the Project, and (vi) will not cause or create any dangerous or hazardous condition). Lessee may, however, make non-structural Alterations or Utility Installations to the interior of the Premises (excluding the roof) without such consent but upon notice to Lessor, as long as they are not visible from the

outside, do not involve puncturing, relocating or removing the roof or any existing walls, will not affect the electrical, plumbing, HVAC, and/or life safety systems, and the cumulative cost thereof during this Lease as extended does not exceed $50,000 per project or $200,000 aggregate for each calendar year during the Lease Term (such non-structural Alterations or Utility Installations not requiring consent are sometimes referred to as "Minor Alterations") ~~a sum equal to 3 month's Base Rent in the aggregate or a sum equal to one month's Base Rent in any one year.~~ Notwithstanding the foregoing, Lessee shall not make or permit any roof penetrations and/or install anything on the roof without the prior written approval of Lessor. Lessor may, as a precondition to granting such approval, require Lessee to utilize a contractor chosen and/or approved by Lessor. Any Alterations or Utility Installations that Lessee shall desire to make and which require the consent of the Lessor shall be presented to Lessor in written form with detailed plans. Consent shall be deemed conditioned upon Lessee's: (i) acquiring all applicable governmental permits, (ii) furnishing Lessor with copies of both the permits and the plans and specifications prior to commencement of the work, and (iii) compliance with all conditions of said permits and other Applicable Requirements in a prompt and expeditious manner. Any Alterations or Utility Installations shall be performed in a workmanlike manner with good and sufficient materials. Lessee shall promptly upon completion furnish Lessor with as-built plans and specifications. For work which costs an amount in excess of $1,000,000 ~~one month's Base Rent~~, Lessor may condition its consent upon Lessee providing a lien and completion bond in an amount equal to ~~150%~~ 125% of the estimated cost of such Alteration or Utility Installations and/or upon Lessee's posting an additional Security Deposit with Lessor.

(c) **Liens**; **Bonds**. Lessee shall pay, when due, all claims for labor or materials furnished or alleged to have been furnished to or for Lessee at or for use on the Premises, which claims are or may be secured by any mechanic's or materialmen's lien against the Premises or any interest therein. Lessee shall give Lessor not less than 10 days notice prior to the commencement of any work in, on or about the Premises, and Lessor shall have the right to post notices of non-responsibility. If Lessee shall contest the validity of any such lien, claim or demand, then Lessee shall, at its sale expense defend and protect itself, Lessor and the Premises against the same and shall pay and satisfy any such adverse judgment that may be rendered thereon before the enforcement thereof. If Lessor shall require, Lessee shall furnish a surety bond in an amount equal to 125% of the amount of such contested lien, claim or demand, indemnifying Lessor against liability for the same. If Lessor elects to participate in any such action, Lessee shall pay Lessor's attorneys' fees and costs.

7.4 **Ownership; Removal; Surrender; and Restoration**.

(a) **Ownership**. Subject to Lessor's right to require removal or elect ownership as hereinafter provided, all Alterations and Utility Installations made by Lessee shall be the property of Lessee, but considered a part of the Premises. Lessor may, at any time, elect in writing to be the owner of all or any specified part of the Lessee Owned Alterations and Utility Installations. Unless otherwise instructed per paragraph 7.4(b) hereof, all Lessee Owned Alterations and Utility Installations shall, at the expiration or termination of this Lease, become the property of Lessor and be surrendered by Lessee with the Premises.

(b) **Removal**. By delivery to Lessee of written notice from Lessor not earlier than 90 and not later than 30 days prior to the end of the term of this Lease, Lessor may require that any or all Lessee Owned Alterations or Utility Installations be removed by the expiration or termination of this Lease. Lessor may require the removal at any time of all or any part of any Lessee Owned Alterations or Utility installations made without the required consent. See also Paragraph 64.

(c) **Surrender**; **Restoration**. Lessee shall surrender the Premises by the Expiration Date or any earlier termination date, with all of the improvements, parts and surfaces thereof broom clean and free of debris, and in the condition received ~~good operating order, condition and state of repair~~, ordinary wear and tear, casualty, condemnation, and repair that are the express responsibility of Lessor under this Lease excepted. "Ordinary wear and tear" shall not include any damage or deterioration that would have been prevented by good maintenance practice. Notwithstanding the foregoing, if this Lease is for 12 months or less, then Lessee shall surrender the Premises in the same condition as delivered to Lessee on the Start Date with NO allowance for ordinary wear and tear. Lessee shall repair any damage occasioned by the installation, maintenance or removal of Trade Fixtures, Lessee owned Alterations and/or Utility Installations, furnishings, and equipment as well as the removal of any storage tank installed by or for lessee. Lessee shall remove from the Premises any and all Hazardous Substances brought onto the Premises by ~~or for~~ Lessee or Lessee's employees or agents, at Lessee's request or any third party (except Hazardous Substances which were deposited via underground migration from areas outside of the Premises) other than Lessor or any of the Lessor Parties to the level specified in Applicable Requirements: except, that, under no circumstance shall Lessee be obligated to remove, remediate, or encapsulate any Hazardous Substances released in, on, or under the Premises prior to the Start Date (including, without limitation, the Hazardous Substance Condition disclosed in Paragraph 56 hereof). Trade Fixtures shall remain the property of Lessee and shall be removed by Lessee. Any personal property of Lessee not removed on or before the Expiration Date or any earlier termination date shall be deemed to have been abandoned by Lessee and may be disposed of or retained by Lessor as Lessor may desire. The failure by Lessee to timely vacate the Premises pursuant to this Paragraph 7.4(c) without the express written consent of Lessor shall constitute a holdover under the provisions of Paragraph 26 below.

8. **Insurance; Indemnity**.

8.1 **Payment For Insurance**. Lessee shall pay for all insurance required under Paragraph 8 except to the extent of the cost attributable to liability insurance carried by Lessor under Paragraph 8.2(b) in excess of $2,000,000 per occurrence. Premiums for policy periods commencing prior to or extending beyond the Lease term shall be prorated to correspond to the Lease term. Payment shall be made by Lessee to Lessor within 30 ~~10~~ days following receipt of an Invoice.

8.2 **Liability Insurance**.

(a) **Carried by Lessee**. Lessee shall obtain and keep in force a Commercial General Liability policy of insurance protecting Lessee and Lessor as an additional insured against claims for bodily injury, personal injury and property damage based upon or arising out of the ownership, use, occupancy or maintenance of the Premises and all areas appurtenant thereto. Such insurance shall be on an occurrence basis providing single limit coverage in an amount not less than $1,000,000 per occurrence with an annual aggregate of not less than $2,000,000. Lessee shall add Lessor as an additional insured by means of an endorsement at least as broad as the Insurance Service Organization's "Additional Insured-Managers or Lessors of Premises" Endorsement. The policy shall not contain any intra-insured exclusions as between insured persons or organizations, but shall include coverage for liability assumed

under this Lease as an "**insured contract**" for the performance of Lessee's indemnity obligations under this Lease. The limits of said insurance shall not, however, limit the liability of Lessee nor relieve Lessee of any obligation hereunder. Lessee shall provide an endorsement on its liability policy(ies) which provides that its insurance shall be primary to and not contributory with any similar insurance carried by Lessor, whose insurance shall be considered excess insurance only.

(b) **Carried by Lessor**. Lessor shall maintain liability insurance as described in Paragraph 8.2(a), in addition to, and not in lieu of, the insurance required to be maintained by Lessee. Lessee shall not be named as an additional insured therein.

8.3 **Property Insurance - Building, Improvements and Rental Value**.

(a) **Building and Improvements**. The Insuring Party shall obtain and keep in force a policy or policies in the name of Lessor, with loss payable to Lessor, any ground-lessor, and to any Lender insuring loss or damage to the Premises. The amount of such insurance shall be equal to the full insurable replacement cost of the Premises, as the same shall exist from time to time, or the amount required by any Lender, but in no event more than the commercially reasonable and available insurable value thereof. Lessee Owned Alterations and Utility Installations, Trade Fixtures, and Lessee's personal property shall be insured by Lessee not by Lessor. If the coverage is available and commercially appropriate, such policy or policies shall insure against all risks of direct physical loss or damage (except the perils of flood and/or earthquake ~~unless required by a Lender~~ but Lessee shall procure and maintain during the Lease $1,000,000 in earthquake sprinkler leakage coverage), including coverage for debris removal and the enforcement of any Applicable Requirements requiring the upgrading, demolition, reconstruction or replacement of any portion of the Premises as the result of a covered loss. Said policy or policies shall also contain an agreed valuation provision in lieu of any coinsurance clause, waiver of subrogation, and inflation guard protection causing an increase in the annual properly insurance coverage amount by a factor of not less than the adjusted U.S. Department of Labor Consumer Price Index for All Urban Consumers for the city nearest to where the Premises are located. If such insurance coverage has a deductible clause, the deductible amount shall not exceed $5,000 per occurrence, and Lessee shall be liable for such deductible amount in the event of an Insured Loss.

(b) **Rental Value**. The Insuring Party shall obtain and keep in force a policy or policies in the name of Lessor with loss payable to Lessor and any Lender, insuring the loss of the full Rent for one year with an extended period of indemnity for an additional 180 days ("Rental Value insurance"). Said insurance shall contain an agreed valuation provision in lieu of any coinsurance clause, and the amount of coverage shall be adjusted annually to reflect the projected Rent otherwise payable by Lessee, for the next 12 month period. Lessee shall be liable for any deductible amount in the event of such loss.

(c) **Adjacent Premises**. If the Premises are part of a larger building, or of a group of buildings owned by Lessor which are adjacent to the Premises, the Lessee shall pay for any increase in the premiums for the property insurance of such building or buildings if said increase is caused by Lessee's acts, omissions, use or occupancy of the Premises.

8.4 **Lessee's Property; Business Interruption Insurance; Worker's Compensation Insurance.**

(a) **Property Damage**. Lessee shall obtain and maintain insurance coverage on all of Lessee's personal property, Trade Fixtures, and Lessee Owned Alterations and Utility Installations. Such insurance shall be full replacement cost coverage with a deductible of not to exceed $~~5~~1,000 per occurrence. The proceeds from any such insurance shall be used by Lessee for the replacement of personal property, Trade Fixtures and Lessee Owned Alterations and Utility Installations.

(b) **Business Interruption**. Lessee shall obtain and maintain loss of income and extra expense insurance in amounts as will reimburse Lessee for direct or indirect loss of earnings attributable to all perils commonly insured against by prudent lessees in the business of Lessee or attributable to prevention of access to the Premises as a result of such perils.

(c) **Worker's Compensation Insurance**. Lessee shall obtain and maintain Worker's Compensation Insurance in such amount as may be required by Applicable Requirements. Such policy shall include a 'Waiver of Subrogation' endorsement. Lessee shall provide lessor with a copy of such endorsement along with the certificate of insurance or copy of the policy required by paragraph 8.5.

(d) **No Representation of Adequate Coverage**. Lessor makes no representation that the limits or forms of coverage of insurance specified herein are adequate to cover Lessee's property, business operations or obligations under this Lease.

8.5 **Insurance Policies**. Insurance required herein shall be by companies maintaining during the policy term a "General Policyholders Rating" of at least A-, VII, as set forth in the most current issue of "Best's Insurance Guide", or such other rating as may be required by a Lender. Lessee shall not do or permit to be done anything which invalidates the required insurance policies. Lessee shall, prior to the Start Date, deliver to Lessor ~~certified copies of policies of such~~ insurance ~~or~~ certificates with copies of the required endorsements evidencing the existence and amounts of the required insurance. No such policy shall be cancelable or subject to modification except after 30 days prior written notice to Lessor or such lesser period with respect to non-payment of premiums if it is the insurer's policy to provide a lesser period. Lessee shall, at least 10 days prior to the expiration of such policies, furnish Lessor with evidence of renewals or "insurance binders" evidencing renewal thereof, or Lessor after written notice and the passing of the applicable cure period may order such insurance and charge the cost thereof to Lessee, which amount shall be payable by Lessee to Lessor upon demand. Such policies shall be for a term of at least one year, or the length of the remaining term of this Lease, whichever is less. If either Party shall fail to procure and maintain the insurance required to be carried by it, then upon not less than 10 business days prior written notice to the other Party, the other Party may, but shall not be required to, procure and maintain the same.

8.6 **Waiver of Subrogation**. Without affecting any other rights or remedies, Lessee and Lessor each hereby release and relieve the other, and waive their entire right to recover damages against the other, for loss of or damage to its property arising out of or incident to the perils required to be insured against herein. The effect of such releases and waivers is not limited by the amount of insurance carried or required, or by any deductibles applicable hereto. The Parties agree to have their respective property damage insurance carriers waive any right to subrogation that such companies may have against Lessor or Lessee, as the case may be, so long as the insurance is not invalidated thereby.

8.7 **Indemnity**. Except for Lessor's and any of the Lessor Parties' negligence or willful misconduct, and subject to the mutual waiver of of subrogation set forth in this Lease. Lessee shall indemnify, protect, defend and hold harmless the Premises. Lessor

and any of the Lessor Parties ~~and its agents, Lessor's master or ground lessor, partners and Lenders,~~ from and against any and all claims, loss of rents and/or damages, liens, judgments, penalties, attorneys' and consultants' fees, expenses and/or liabilities arising out of, involving, or in connection with, the use and/or occupancy of the Premises by Lessee. If any action or proceeding is brought against Lessor by reason of any of the foregoing matters, Lessee shall upon notice defend the same at Lessee's expense by counsel reasonably satisfactory to lessor and Lessor shall cooperate with Lessee in such defense. Lessor need not have first paid any such Claim in order to be defended or indemnified.

8.8 **Exemption of Lessor and its Agents from Liability**. Notwithstanding the negligence or breach of this Lease by Lessor or any of the Lessor Parties ~~its agents~~, neither lessor nor any of the lessor parties ~~its agents~~ shall be liable under any circumstances for: (i) injury or damage to the person or goods, wares, merchandise or other property of Lessee, Lessee's employees, contractors, invitees, customers, or any other person in or about the Premises, whether such damage or injury is caused by or results from fire, steam, electricity, gas, water or rain, indoor air quality, the presence of mold or from the breakage, leakage, obstruction or other defects of pipes, fire sprinklers, wires, appliances, plumbing, HVAC or lighting fixtures, or from any other cause, whether the said injury or damage results from conditions arising upon the Premises or upon other portions of the building of which the Premises are a part, or from other sources or places, (ii) any damages arising from any act or neglect of any other tenant of Lessor or from the failure of Lessor Parties ~~or its agents~~ to enforce the provisions of any other lease in the Project, or (iii) injury to Lessee's business or for any loss of income or profit therefrom. Instead, it is intended that Lessee's sole recourse in the event of such damages or injury be to file a claim on the insurance policy(ies) that Lessee is required to maintain pursuant to the provisions of paragraph 8; except, that the exemption from liability described in this Paragraph 8.8 shall not; apply if Lessor fails to maintain the insurance it is otherwise required to maintain pursuant to the provisions of paragraph 8.

8.9 **Failure to Provide Insurance**. Lessee acknowledges that any failure on its part to obtain or maintain the insurance required herein will expose Lessor to risks and potentially cause Lessor to incur costs not contemplated by this Lease, the extent of which will be extremely difficult to ascertain. Accordingly, for any month or portion thereof that lessee does not maintain the required insurance and/or does not provide lessor with the required binders or certificates evidencing the existence of the required insurance, and any such failure remains uncured after written notice and the passing of all applicable cure periods, then the Base Rent shall be automatically increased, without any requirement for notice to Lessee, by an amount equal to 5% of the then existing Base Rent or $100, whichever is greater. The parties agree that such increase in Base Rent represents fair and reasonable compensation for the additional risk/costs that Lessor will incur by reason of Lessee's failure to maintain the required insurance. Such increase in Base Rent shall in no event constitute a waiver of Lessee's Default or Breach with respect to the failure to maintain such insurance, prevent the exercise of any of the other rights and remedies granted hereunder, nor relieve Lessee of its obligation to maintain the insurance specified in this Lease.

9. **Damage or Destruction**,

9.1 **Definitions**.

(a) **"Premises Partial Damage"** shall mean damage or destruction to the improvements on the Premises, other than Lessee Owned Alterations and Utility Installations, which can reasonably be repaired in 6 months or less from the date of the damage or destruction. Lessor shall notify Lessee in writing within 30 days from the date of the damage or destruction as to whether or not the damage is Partial or Total.

(b) **"Premises Total Destruction"** shall mean damage or destruction to the Premises, other than Lessee Owned Alterations and Utility Installations and Trade Fixtures, which cannot reasonably be repaired in 6 months or less from the date of the damage or destruction. Lessor shall notify Lessee in writing within 30 days from the date of the damage or destruction as to whether or not the damage is Partial or Total.

(c) **"Insured Loss"** shall mean damage or destruction to improvements on the Premises, other than Lessee Owned Alterations and Utility Installations and Trade Fixtures, which was caused by an event required to be covered by the insurance described in Paragraph 8.3(a), irrespective of any deductible amounts or coverage limits involved.

(d) **"Replacement Cost"** shall mean the cost to repair or rebuild the improvements owned by Lessor at the time of the occurrence to their condition existing immediately prior thereto, including demolition, debris removal and upgrading required by the operation of Applicable Requirements, and without deduction for depreciation.

(e) **"Hazardous Substance Condition"** shall mean the occurrence or discovery of a condition involving the presence of, or a contamination by, a Hazardous Substance, in, on, or under the Premises which requires remediation under Applicable Requirements.

9.2 **Partial Damage - Insured Loss**. If a Premises Partial Damage that is an Insured Loss occurs, then Lessor shall, at Lessor's expense, repair such damage (but not Lessee's Trade Fixtures or Lessee Owned Alterations and Utility Installations) as soon as reasonably possible and this Lease shall continue in full force and effect; provided, however, that Lessee shall, at Lessor's election, make the repair of any damage or destruction the total cost to repair of which is $10,000 or less, and, in such event, Lessor shall make any applicable insurance proceeds available to Lessee on a reasonable basis for that purpose. Notwithstanding the foregoing, if the required insurance was not in force or the insurance proceeds are not sufficient to effect such repair, the Insuring Party shall promptly contribute the shortage in proceeds (except as to the deductible which is Lessee's responsibility) as and when required to complete said repairs. In the event, however, such shortage was due to the fact that, by reason of the unique nature of the improvements constructed for Lessee's specific use, full replacement cost insurance coverage was not commercially reasonable and available, Lessor shall have no obligation to pay for the shortage in insurance proceeds or to fully restore the unique aspects of the Premises unless Lessee provides Lessor with the funds to cover same, or adequate assurance thereof, within 30~~10~~ days following receipt of written notice of such shortage and request therefor. If Lessor receives said funds or adequate assurance thereof within said 30~~10~~ day period, the party responsible for making the repairs shall complete them as soon as reasonable possible and this Lease shall remain in full force and effect. If such funds or assurance are not received, Lessor may nevertheless elect by written notice to Lessee within 10 days thereafter to: (i) make such restoration and repair as is commercially reasonable with Lessor paying any shortage in proceeds, in which

case this Lease shall remain in full force and effect, or (ii) have this Lease terminate 30 days thereafter. Lessee shall not be entitled to reimbursement of any funds contributed by Lessee to repair any such damage or destruction. Premises Partial Damage due to flood or earthquake shall be subject to Paragraph 9.3, notwithstanding that there may be some insurance coverage, but the net proceeds of any such insurance shall be made available for the repairs if made by either Party.

9.3 **Partial Damage - Uninsured Loss**. If a Premises Partial Damage that is not an Insured Loss occurs, unless caused by a the sole negligence ~~negligent~~ or a willful act of Lessee (in which event Lessee shall make the repairs at Lessee's expense), Lessor may either: (i) repair such damage as soon as reasonably possible at Lessor s expense, in which event this lease shall continue in full force and effect, or (ii) terminate this Lease by giving written notice to Lessee within 30 days after receipt by Lessor of knowledge of the occurrence of such damage. Such termination shall be effective 60 days following the date of such notice. In the event lessor elects to terminate this Lease, Lessee shall have the right within 10 days after receipt of the termination notice to give written notice to Lessor of Lessee's commitment to pay for the repair of such damage without reimbursement from Lessor. Lessee shall provide Lessor with said funds or satisfactory assurance thereof within 30 days after making such commitment. In such event this lease shall continue in full force and effect, and lessor shall proceed to make such repairs as soon as reasonably possible after the required funds are available. If Lessee does not make the required commitment, this Lease shall terminate as of the date specified in the termination notice.

9.4 **Total Destruction**. Notwithstanding any other provision hereof, if a Premises Total Destruction occurs, this Lease shall terminate days following such Destruction. If the damage or destruction was caused by the gross negligence or willful misconduct of Lessee, Lessor shall have the right to recover Lessor's damages from Lessee, except as provided in Paragraph 8.6.

9.5 **Damage Near End of Term**. If at any time during the last ~~6~~12 months of this Lease there is damage for which the cost to repair exceeds one month's Base Rent, whether or not an Insured Loss, ~~Lessor~~ either Party may terminate this Lease effective 60 days following the date of occurrence of such damage by giving a written termination notice to ~~Lessee~~ the other Party within 30 days after the date of occurrence of such damage. Notwithstanding the foregoing, if Lessee at that time has an exercisable option to extend this Lease or to purchase the Premises, then Lessee may preserve this lease by, (a) exercising such option and (b) providing Lessor with any shortage in insurance proceeds (or adequate assurance thereof) needed to make the repairs on or before the earlier of (i) the date which is ~~10~~ 30 days after Lessee's receipt of Lessor's written notice purporting to terminate this Lease, or (ii) the day prior to the date upon which such option expires. If Lessee duly exercises such option during such period and provides Lessor with funds (or adequate assurance thereof) to cover any shortage in insurance proceeds, Lessor shall, at Lessor's commercially reasonable expense, repair such damage as soon as reasonably possible and this Lease shall continue in full force and effect. If Lessee fails to exercise such option and provide such funds or assurance during such period, then this lease shall terminate on the date specified in the termination notice and Lessee's option shall be extinguished.

9.6 **Abatement of Rent; lessee's Remedies**.

(a) **Abatement**. In the event of Premises Partial Damage or Premises Total Destruction or a Hazardous Substance Condition for which Lessee is not responsible under this Lease, the Rent payable by Lessee for the period required for the repair, remediation or restoration of such damage shall be abated in proportion to the degree to which Lessee's use of the Premises is impaired (provided that if such damage prevents Lessee from operating its business in the Premises and Lessee does not operate its business in the Premises, then the Rent payable by the Lessee for the period required for the repair, remediation or restoration of such damage shall be abated with regard to the entire Premises, commencing as of the date that such damage occurred and continuing during the period that Lessee is so prevented from operating, and does not operate, its business in the Premises due to the such damage) ~~but not to exceed the proceeds received from the Rental Value insurance.~~ All other obligations of Lessee hereunder shall be performed by Lessee, and Lessor shall have no liability for any such damage, destruction, remediation, repair or restoration except as provided herein.

(b) **Remedies**. If Lessor is obligated to repair or restore the Premises and does not commence, in a substantial and meaningful way, such repair or restoration within 90 days after such obligation shall accrue, Lessee may, at any time prior to the commencement of such repair or restoration, give written notice to Lessor and to any Lenders of which Lessee has actual notice, of Lessee's election to terminate this Lease on a date not less than 60 days following the giving of such notice. If Lessee gives such notice and such repair or restoration is not commenced within 30 days thereafter, this Lease shall terminate as of the date specified in said notice. If the repair or restoration is commenced within such 30 days, this Lease shall continue in full force and effect. "Commence" shall mean either the unconditional authorization of the preparation of the required plans, or the beginning of the actual work on the Premises, whichever first occurs.

9.7 **Termination; Advance Payments**. Upon termination of this Lease pursuant to Paragraph 6.2(g) or Paragraph 9, an equitable adjustment shall be made concerning advance Base Rent and any other advance payments made by Lessee to Lessor. Lessor shall, in addition, return to Lessee so much of Lessee's Security Deposit as has not been, or is not then required to be, used by Lessor.

10. **Real Property Taxes**.

10.1 **Definition**. As used herein, the term "**Real Property Taxes**" shall include any form of assessment; real estate, general, special, ordinary or extraordinary. or rental levy or tax (other than inheritance, personal income or estate taxes); improvement bond; and/or license fee imposed upon or levied against any legal or equitable interest of Lessor in the Premises or the Project, Lessor's right to other income therefrom, and/or Lessor's business of leasing, by any authority having the direct or indirect power to tax and where the funds are generated with reference to the Building address and where the proceeds so generated are to be applied by the city, county or other local taxing authority of a jurisdiction within which the Premises are located. Real Property Taxes shall also include any tax, fee, levy, assessment or charge, or any increase therein: (i) imposed by reason of events occurring during the term of this Lease, including but not limited to, a change in the ownership of the Premises, and (ii) levied or assessed on machinery or equipment provided by Lessor to Lessee pursuant to this Lease. Notwithstanding anything to the contrary set forth in this Lease, the amount of

Real Property Taxes shall be calculated by taking into account any decreases in such taxes obtained in connection with Section 51 of the California Revenue and Taxation Code.

10.2 **Payment of Taxes**. In addition to Base Rent, Lessee shall pay to Lessor an amount equal to the Real Property Tax installment due at least 20 days prior to the applicable delinquency date. If any such installment shall cover any period of time prior to or after the expiration or termination of this Lease. Lessee's share of such installment shall be prorated. In the event Lessee incurs a late charge on any Rent payment, Lessor may estimate the current Real Property Taxes, and require that such taxes be paid in advance to Lessor by lessee monthly in advance with the payment of the Base Rent. Such monthly payments shall be an amount equal to the amount of the estimated installment of taxes divided by the number of months remaining before the month in which said installment becomes delinquent. When the actual amount of the applicable tax bill is known, the amount of such equal monthly advance payments shall be adjusted as required to provide the funds needed to pay the applicable taxes. If the amount collected by Lessor is insufficient to pay such Real Property Taxes when due, Lessee shall pay Lessor, upon demand, such additional sum as is necessary. Advance payments may be intermingled with other moneys of lessor and shall not bear interest. In the event of a Breach by lessee in the performance of its obligations under this Lease, then any such advance payments may be treated by lessor as an additional Security Deposit.

(a) "**Proposition 13 Protection**". Lessee shall not be responsible for the payment of any Increase of Real Property Tax resulting from the sale or other reassessment of the Premises or Building that occurs during the first thirty-six (36) months of the Lease Term.

10.3 **Joint Assessment**. If the Premises are not separately assessed, Lessee's liability shall be an equitable proportion of the Real Property Taxes for all of the land and improvements included within the tax parcel assessed, such proportion to be conclusively determined by Lessor from the respective valuations assigned in the assessor's work sheets or such other information as may be reasonably available.

10.4 **Personal Property Taxes**. Lessee shall pay, prior to delinquency, all taxes assessed against and levied upon Lessee Owned Alterations, Utility Installations, Trade Fixtures, furnishings, equipment and all personal property of Lessee. When possible, Lessee shall cause its Lessee Owned Alterations and Utility Installations, Trade Fixtures, furnishings, equipment and all other personal property to be assessed and billed separately from the real property of Lessor. If any of Lessee's said property shall be assessed with Lessor's real property, Lessee shall pay Lessor the taxes attributable to Lessee' property within 15 days after receipt of a written statement setting forth the taxes applicable to Lessee's property.

11. **Utilities and Services**. Lessee shall pay for all water, gas, heat, light, power, telephone, trash disposal and other utilities and services supplied to the Premises, together with any taxes thereon. If any such services are not separately metered or billed to Lessee, Lessee shall pay a reasonable proportion, to be determined by Lessor, of all charges jointly metered or billed. There shall be no abatement of rent and Lessor shall not be liable in any respect whatsoever for the inadequacy, stoppage, interruption or discontinuance of any utility or service due to riot, strike, labor dispute, breakdown, accident, repair or other cause beyond Lessor's reasonable control or in cooperation with governmental request or directions.

12. **Assignment and Subletting**.

12.1 **Lessor's Consent Required**.

(a) Except as otherwise expressly provided in this Lease, Lessee shall not voluntarily or by operation of law assign, transfer, mortgage or encumber (collectively, "**assign or assignment**") or sublet all or any part of Lessee's interest in this Lease or in the Premises without Lessor's prior written consent.

(b) Unless Lessee is a corporation and its stock is publicly traded on a national stock exchange, a change in the control of Lessee shall constitute an assignment requiring consent. The transfer, on a cumulative basis, of more than 50% of the voting control of Lessee shall constitute a change in control for this purpose.

(c) Intentionally Omitted. ~~The involvement of Lessee or its assets in any transaction, or series of transactions (by way of merger, sale, acquisition, financing, transfer, leveraged buy out or otherwise), whether or not a formal assignment or hypothecation of this Lease or Lessee's assets occurs, which results or will result in a reduction of the Net Worth of Lessee by an amount greater than 25% of such Net Worth as it was represented at the time of the execution of this Lease or at the time of the most recent assignment to which Lessor has consented, or as it exists immediately prior to said transactions constituting such reduction, whichever was or is greater, shall be considered an assignment of this Lease to which Lessor may withhold its consent. "**Net Worth of Lessee**" shall mean the net worth of Lessee (excluding any guarantors) established under generally accepted accounting principles.~~

(d) An assignment or subletting without consent shall, ~~at Lessor's option,~~ be a Default curable after notice per Paragraph 13.1(c)~~. or a noncurable Breach without the necessity of any notice and grace period. If Lessor elects to treat such unapproved assignment or subletting as a noncurable Breach, Lessor may either: (i) terminate this Lease, or (ii) upon 30 days written notice, increase the monthly Base Rent to 110% of the Base Rent then in effect. Further, in the event of such Breach and rental adjustment, (i) the purchase price of any option to purchase the Premises held by Lessee shall be subject to similar adjustment to 110% of the price previously in effect, and (ii) all fixed and non fixed rental adjustments scheduled during the remainder of the Lease term shall be increased to 110% if the scheduled adjusted rent.~~

(e) Lessee's remedy for any breach of Paragraph 12.1 by Lessor shall be limited to compensatory damages and/or injunctive relief.

(f) Lessor may reasonably withhold consent to a proposed assignment or subletting if Lessee is in Default at the time consent is requested.

(g) Notwithstanding the foregoing, allowing a de minimis portion of the Premises, ~~ie. 20 square feet or less~~ to be used by a third party vendor in connection with the Installation of a vending machine or payphone shall not constitute a subletting.

12.2 **Terms and Conditions Applicable to Assignment and Subletting**.

(a) Regardless of Lessor's consent, no assignment or subletting shall: (i) be effective without the express written assumption by such assignee or sublessee of the obligations of Lessee under this Lease, (ii) release Lessee of any obligations hereunder, or (iii) alter the primary liability of Lessee for the payment of Rent or for the performance of any other obligations to be performed by Lessee.

(b) Lessor may accept Rent or performance of Lessee's obligations from any person other than Lessee pending approval or disapproval of an assignment. Neither a delay in the approval or disapproval of such assignment nor the acceptance of Rent or performance shall constitute a waiver or estoppel of Lessor's right to exercise its remedies for Lessee's Default or Breach.

(c) Lessor's consent to any assignment or subletting shall not constitute a consent to any subsequent assignment or subletting.

(d) In the event of any Default or Breach by Lessee, Lessor may proceed directly against Lessee, any Guarantors or anyone else responsible for the performance of Lessee's obligations under this lease, including any assignee or sublessee, without first exhausting lessor's remedies against any other person or entity responsible therefor to Lessor, or any security held by Lessor.

(e) Each request for consent to an assignment or subletting shall be in writing, accompanied by information relevant to Lessor's determination as to the financial and operational responsibility and appropriateness of the proposed assignee or sublessee, including but not limited to the intended use and/or required modification of the Premises, if any, together with a fee of $500 as consideration for Lessor's considering and processing said request Lessee agrees to provide Lessor with such other or additional information and/or documentation as may be reasonably requested. (See also Paragraph 36)

(f) Any assignee of, or sublessee under, this Lease shall, by reason of accepting such assignment, entering into such sublease, or entering into possession of the Premises or any portion thereof, be deemed to have assumed and agreed to conform and comply with each and every term, covenant, condition and obligation herein to be observed or performed by lessee during the term of said assignment or sublease, other than such obligations as are contrary to or inconsistent with provisions of an assignment or sublease to which Lessor has specifically consented to in writing.

(g) Lessor's consent to any assignment or subletting shall not transfer to the assignee or sublessee any Option granted to the original Lessee by this Lease unless such transfer is specifically consented to by Lessor in writing. (See Paragraph 39.2)

12.3 **Additional Terms and Conditions Applicable to Subletting**. The following terms and conditions shall apply to any subletting by Lessee of all or any part of the Premises and shall be deemed included in all subleases under this Lease whether or not expressly incorporated therein:

(a) Lessee hereby assigns and transfers to Lessor all of Lessee's interest in all Rent payable on any sublease, and Lessor may collect such Rent and apply same toward Lessee's obligations under this Lease; provided, however, that until a Breach shall occur in the performance of Lessee's obligations, Lessee may collect said Rent. In the event that the amount collected by Lessor exceeds Lessee's then outstanding obligations any such excess shall be refunded to Lessee. Lessor shall not, by reason of the foregoing or any assignment of such sublease, nor by reason of the collection of Rent, be deemed liable to the sublessee for any failure of Lessee to perform and comply with any of Lessee's obligations to such sublessee. Lessee hereby irrevocably authorizes and directs any such sublessee, upon receipt of a written notice from Lessor stating that a Breach exists in the performance of Lessee's obligations under this Lease, to pay to Lessor all Rent due and to become due under the sublease. Sublessee shall rely upon any such notice from Lessor and shall pay all Rents to Lessor without any obligation or right to inquire as to whether such Breach exists, notwithstanding any claim from Lessee to the contrary.

(b) In the event of a Breach by Lessee, Lessor may, at its option, require sublessee to attorn to Lessor, in which event Lessor shall undertake the obligations of the sublessor under such sublease from the time of the exercise of said option to the expiration of such sublease: provided, however, Lessor shall not be liable for any prepaid rents or security deposit paid by such sublessee to such sublessor or for any prior Defaults or Breaches of such sublessor.

(c) Any matter requiring the consent of the sublessor under a sublease shall also require the consent of Lessor.

(d) No sublessee shall further assign or sublet all or any part of the Premises without Lessor's prior written consent.

~~(e) Lessor shall deliver a copy of any notice of Default or Breach by Lessee to the sublessee, who shall have the right to cure the Default of Lessee within the grace period, if any, specified in such notice. The sublessee shall have a right of reimbursement and offset from and against Lessee for any such Defaults cured by the sublessee.~~

13. Default; Breach; Remedies.

13.1 **Default**; **Breach**. A "Default" is defined as a failure by the Lessee to comply with or perform any of the terms, covenants, conditions or Rules and Regulations under this Lease. A "**Breach**" is defined as the occurrence of one or more of the following Defaults, and the failure of Lessee to cure such Default within any applicable ~~grace~~ notice and cure period:

(a) The abandonment (as defined in California Civil Code Sect ion 1951.3(b)) of the Premises; or the vacating of the Premises without providing a commercially reasonable level of security, or where the coverage of the property insurance described in Paragraph 8.3 is jeopardized, as evidenced by a writing from the insurance company, as a result thereof, or without providing reasonable assurances to minimize potential vandalism.

(b) The failure of Lessee to make any payment of Rent or any security Deposit required to be made by Lessee hereunder, whether to Lessor or to a third party, when due, to provide reasonable evidence of insurance or surety bond, or to fulfill any obligation under this Lease which endangers or threatens life or property, where such failure continues for a period of ~~3~~ 5 business days following written notice to Lessee. THE ACCEPTANCE BY LESSOR OF A PARTIAL PAYMENT OF RENT OR SECURITY DEPOSIT SHALL NOT CONSTITUTE A WAIVER OF ANY OF LESSOR' RIGHTS. INCLUDING LESSOR'SRIGHT TO RECOVER POSSESSION OF THE PREMISES.

(c) The failure of Lessee to allow Lessor and/or its agents access to the Premises or the commission of waste, act or acts constituting public or private nuisance, and/or an illegal activity on the Premises by Lessee, where such actions continue for a period of 3 business days following written notice to Lessee.

(d) The failure by Lessee to provide (i) reasonable written evidence of compliance with Applicable Requirements, (ii) the service contracts, (iii) the rescission of an unauthorized assignment or subletting, (iv) an Estoppel Certificate or financial statements, (v) a requested subordination, (vi) evidence concerning any guaranty and/or Guarantor, or (vii) any document requested under Paragraph 42, (viii) material safety data sheets (MSDS), or (ix) any other documentation or Information which Lessor may reasonably require of Lessee under the terms of this Lease, where any such failure continues for a period of 15~~10~~ days following written notice to Lessee.

(e) A Default by Lessee as to the terms, covenants, conditions or provisions of this Lease, or of the rules adopted under Paragraph 40 thereof, other than those described in subparagraphs 13.1(a), (b), (c) or (d), above, where such Default continues for a period of 30 days after written notice; provided, however, that if the nature of Lessee's Default is such that more than 30 days are reasonably required for its cure, then it shall not be deemed to be a Breach if Lessee commences such cure within said 30 day period and thereafter diligently prosecutes such cure to completion.

(f) The occurrence of any of the following events: (i) the making of any general arrangement or assignment for the benefit of creditors; (ii) becoming a "**debtor**" as defined in 11 U.S.C. §101 or any successor statute thereto (unless, in the case of a petition filed against lessee, the same is dismissed within 60 days); (iii) the appointment of a trustee or receiver to take possession of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this Lease, where possession is not restored to Lessee within 30 days; or (iv) the attachment, execution or other judicial seizure of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this Lease, where such seizure is not discharged within 30 days; provided, however, in the event that any provision of this subparagraph is contrary to any applicable law, such provision shall be of no force or effect, and not affect the validity of the remaining provisions.

(g) The discovery that any financial statement of Lessee or of any Guarantor given to Lessor was materiality false.

(h) If the performance of Lessee's obligations under this Lease is guaranteed: (i) the death of a Guarantor, (ii) the termination of a Guarantor's liability with respect to this Lease other than in accordance with the terms of such guaranty, (iii) a Guarantor's becoming insolvent or the subject of a bankruptcy filing, (iv) a Guarantor's refusal to honor the guaranty, or (v) a Guarantor's breach of its guaranty obligation on an anticipatory basis, and Lessee's failure, within 60 days following written notice of any such event, to provide written alternative assurance or security, which, when coupled with the then existing resources of Lessee, equals or exceeds the combined financial resources of Lessee and the Guarantors that existed at the time of execution of this Lease.

13.2 **Remedies.** If Lessee fails to perform any of its affirmative duties or obligations, within 10 days after written notice (or in case of an emergency, without notice), Lessor may, at its option, perform such duty or obligation on Lessee's behalf, including but not limited to the obtaining of reasonably required bonds, insurance policies, or governmental licenses, permits or approvals. Lessee shall pay to Lessor an amount equal to 115% of the costs and expenses incurred by Lessor in such performance upon receipt of an invoice therefor. In the event of a Breach, lessor may, with or without further notice or demand, and without limiting lessor in the exercise of any right or remedy which Lessor may have by reason of such Breach:

(a) Terminate Lessee's right to possession of the Premises by any lawful means, in which case this Lease shall terminate and Lessee shall immediately surrender possession to Lessor. In such event Lessor shall be entitled to recover from Lessee: (i) the unpaid Rent which had been earned at the time of termination; (ii) the worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that the Lessee proves could have been reasonably avoided; (iii) the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss that the Lessee proves could be reasonably avoided; and (iv) any other amount necessary to compensate Lessor for all the detriment proximately caused by the Lessee's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom, including but not limited to the cost of recovering possession of the Premises, expenses of reletting, including necessary renovation and alteration of the Premises, reasonable attorneys' fees, and that portion of any leasing commission paid by Lessor in connection with this Lease applicable to the unexpired term of this Lease. The worth at the time of award of the amount referred to in provision (iii) of the immediately preceding sentence shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of the District within which the Premises are located at the time of award plus one percent. Efforts by Lessor to mitigate damages caused by Lessee's Breach of this Lease shall not waive Lessor's right to recover any damages to which lessor is otherwise entitled. If termination of this Lease is obtained through the provisional remedy of unlawful detainer, Lessor shall have the right to recover in such proceeding any unpaid Rent and damages as are recoverable therein, or Lessor may reserve the right to recover all or any part thereof in a separate suit. If a notice and grace period required under Paragraph 13.1 was not previously given, a notice to pay rent or quit, or to perform or quit given to Lessee under the unlawful detainer statute shall also constitute the notice required by Paragraph 13.1. In such case, the applicable grace period required by Paragraph 13.1 and the unlawful detainer statute shall run concurrently, and the failure of Lessee to cure the Default within the greater of the two such grace periods shall constitute both an unlawful detainer and a Breach of this Lease entitling Lessor to the remedies provided for in this Lease and/or by said statute.

(b) Continue the Lease and Lessee's right to possession and recover the Rent as it becomes due, in which event Lessee may sublet or assign, subject only to reasonable limitations. Acts of maintenance, efforts to relet, and/or the appointment of a receiver to protect the Lessor's interests, shall not constitute a termination of the Lessee's right to possession.

(c) Pursue any other remedy now or hereafter available under the laws or judicial decisions of the state wherein the Premises are located; except, that, notwithstanding anything to the contrary, set forth in this Lease, Lessee shall not be liable to Lessor for any consequential damages other than those damages arising from or relating to (i) Lessee's failure to vacate the premises by the Expiration Date or earlier termination of this Lease, (ii) Lessee's failure to remove Lessee Owner Alterations or Utility Installations in accordance with Paragraph 7.4(b) by the Expiration Date or earlier termination of this Lease, and (iii) Lessee's failure to remediate,

encapsulate or otherwise clean up any Hazardous Substance Lessee is required to remediate, encapsulate or otherwise clean up by Applicable Requirements and that Lessee spilled or released in, on, under, or about the Premises or Lessee's employees, contractors or agents spilled or released in, Lease and/or the termination of Lessee's right to possession shall not relieve Lessee from liability under any indemnity provisions of this Lease as to matters occurring or accruing during the term hereof or by reason of Lessee's occupancy of the Premises.

13.3 Intentionally Omitted. ~~**Inducement Recapture.** Any agreement for free or abated rent or other charges, or for the giving or paying by Lessor to or for Lessee of any cash or other bonus, inducement or consideration for Lessee's entering into this Lease, all of which concessions are hereinafter referred to as "**Inducement Provisions**," shall be deemed conditioned upon Lessee's full and faithful performance of all of the terms, covenants and conditions of this Lease. Upon Breach of this Lease by Lessee, any such Inducement Provision shall automatically be deemed deleted from this Lease and of no further force or effect, and any rent, other charge, bonus, inducement or consideration theretofore abated, given or paid by Lessor under such an inducement Provision shall be immediately due and payable by Lessee to Lessor, notwithstanding any subsequent cure of said Breach by Lessee. The acceptance by Lessor of rent of the cure of the Breach which initiated the operation of this paragraph shall not be deemed a waiver by Lessor of the provisions of this paragraph unless specifically so stated in writing by Lessor at the time of such acceptance.~~

13.4 **Late Charges**. Lessee hereby acknowledges that late payment by Lessee of Rent will cause Lessor to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges, and late charges which may be imposed upon Lessor by any Lender. Accordingly, if any Rent shall not be received by Lessor within days after such amount shall be due, then, without any requirement for notice to Lessee, Lessee shall immediately pay to Lessor a one-time late charge equal to ~~10~~5% of each such overdue amount or $100, whichever is greater. The Parties hereby agree that such late charge represents a fair and reasonable estimate of the costs Lessor will incur by reason of such late payment. Acceptance of such late charge by lessor shall in no event constitute a waiver of Lessee's Default or Breach with respect to such overdue amount, nor prevent the exercise of any of the other rights and remedies granted hereunder. In the event that a late charge is payable hereunder, whether or not collected, for 3 consecutive installments of Base Rent, then notwithstanding any provision of this lease to the contrary, Base Rent shall, at Lessor's option, become due and payable quarterly in advance.

13.5 **Interest**. Any monetary payment due Lessor hereunder, other than late charges, not received by Lessor, when due shall bear interest from the 31st day after It was due. The Interest ("**Interest**") charged shall be computed at the rate of 10% per annum but shall not exceed the maximum rate allowed by law. Interest is payable in addition to the potential late charge provided for in Paragraph 13.4.

13.6 **Breach by Lessor**,

(a) **Notice of Breach.** Lessor shall not be deemed in breach of this Lease unless Lessor fails within reasonable time to perform an obligation required to be performed by Lessor. For purposes of this Paragraph, a reasonable time shall in no event be less than 30 days after receipt by Lessor, and any Lender whose name and address shall have been furnished Lessee in writing for such purpose, of written notice specifying wherein such obligation of Lessor has not been performed; provided, however, that If the nature of Lessor's obligation is such that more than 30 days are reasonably required for its performance, then Lessor shall not be in breach if performance is commenced within such 30 day period and thereafter diligently pursued to completion.

(b) **Performance by Lessee on Behalf of Lessor.** In the event that neither Lessor nor Lender cures said breach within 30 days after receipt of said notice, or if having commenced said cure they do not diligently pursue it to completion, then Lessee may elect to cure said breach at Lessee's expense and offset from Rent the actual and reasonable cost to perform such cure, provided, however, that such offset shall not exceed an amount equal to the greater of three ~~one~~ month's Base Rent or the Security Deposit, reserving Lessee's right to seek reimbursement from Lessor for any such expense in excess of such offset. Lessee shall document the cost of said cure and supply said documentation to Lessor.

14. **Condemnation.** If the Premises or a majority ~~any portion~~ thereof are taken under the power of eminent domain or sold under the threat of the exercise of said power (collectively "**Condemnation**"), this Lease shall terminate as to the part taken as of the date

the condemning authority takes title or possession, whichever first occurs. If more than 10% of the Building, or more than 25% of that portion of the Premises not occupied by any building, is taken by Condemnation, Lessee may, at Lessee's option, to be exercised in writing within 10 days after Lessor shall have given Lessee written notice of such taking (or in the absence of such notice, within 10 days after the condemning authority shall have taken possession) terminate this Lease as of the date the condemning authority takes such possession. If Lessee does not terminate this Lease in accordance with the foregoing, this Lease shall remain in full force and effect as to the portion of the Premises remaining, except that the Base Rent shall be reduced in proportion to the reduction in utility of the Premises caused by such Condemnation. Condemnation awards and/or payments shall be the property of Lessor, whether such award shall be made as compensation for diminution in value of the leasehold, the value of the part taken, or for severance damages; provided, however, that Lessee shall be entitled to any compensation paid by the condemnor for Lessee's relocation expenses, loss of business goodwill and/or Trade Fixtures, without regard to whether or not this Lease is terminated pursuant to the provisions of this Paragraph. All Alterations and Utility Installations made to the Premises by Lessee, for purposes of Condemnation only, shall be considered the property of the Lessee and Lessee shall be entitled to any and all compensation which is payable therefor. In the event that this Lease is not terminated by reason of the Condemnation, Lessor shall repair any damage to the Premises caused by such Condemnation.

15. **Brokerage Fees.**

15.1 **Additional Commission.** In addition to the payments owed pursuant to Paragraph 1.9 above, and unless Lessor and the Brokers otherwise agree in writing, Lessor agrees that (a) if Lessee exercises any Option, (b) if Lessee or anyone affiliated with Lessee acquires any rights to the Premises or other premises owned by lessor and located within the same Project, if any, within which the Premises is located, (c) if lessee remains in possession of the Premises, with the consent of lessor, after the expiration of this Lease, or (d) if Base Rent is increased, whether by agreement or operation of an escalation clause herein, then, Lessor shall pay Brokers a fee in accordance with the fee schedule of the Brokers in effect at the time the Lease was executed.

15.2 **Assumption of Obligations.** Any buyer or transferee of Lessor's interest in this Lease shall be deemed to have assumed lessor's obligation hereunder. ~~Brokers shall be third party beneficiaries of the provisions of Paragraphs 1.9, 15, 22 and 31.~~ If Lessor fails to pay to Brokers any amounts due as and for brokerage fees pertaining to this Lease when due, then such amounts shall accrue Interest. In addition, if Lessor fails to pay any amounts to Lessee's Broker when due, Lessee's Broker may send written notice to Lessor and Lessee of such failure and if Lessor fails to pay such amounts within 10 days after said notice, Lessee shall pay said monies to its Broker and offset such amounts against Rent. In addition, Lessee's Broker shall be deemed to be a third party beneficiary of any commission agreement entered into by and/or between Lessor and Lessor's Broker for the limited purpose of collecting any brokerage fee owed.

15.3 **Representations and Indemnities of Broker Relationships.** Lessee and Lessor each represent and warrant to the other that it has had no dealings with any person, firm, broker or finder (other than the Brokers, if any) in connection with this Lease, and that no one other than said named Brokers is entitled to any commission or finder's fee in connection herewith. Lessee and Lessor do each hereby agree to indemnify, protect, defend and hold the other harmless from and against liability for compensation or charges which may be claimed by any such unnamed broker, finder or other similar party by reason of any dealings or actions of the indemnifying Party, including any costs, expenses, attorneys' fees reasonably incurred with respect thereto.

16. **Estoppel Certificates.**

(a) Each Party (as **"Responding Party"**) shall within 10 business days after written notice from the other Party (the **"Requesting Party"**) execute, acknowledge and deliver to the Requesting Party a statement in writing in form similar to the then most current "**Estoppel Certificate**" form published by the AIR Commercial Real Estate Association, plus such additional information, confirmation and/or statements as may be reasonably requested by the Requesting Party; provided, however, a Requesting Party shall request the Responding Party to execute, acknowledge and deliver and Estoppel Certificate more than two (2) times in any 12-consecutive calendar month period.

(b) If the Responding Party shall fail to execute or deliver the Estoppel Certificate within such 10 business day period, the Requesting Party may execute an Estoppel Certificate stating that (i) the Lease is in full force and effect without modification except as may be represented by the Requesting Party, (ii) there are no uncured defaults in the Requesting Party's performance, and (iii) if lessor is the Requesting Party, not more than one month's rent has been paid in advance. Prospective purchasers and encumbrancers may rely upon the Requesting Party's Estoppel Certificate, and the Responding Party shall be stopped from denying the truth of the facts contained in said Certificate. In addition, Lessee acknowledges that any failure on its part to provide such an Estoppel Certificate will expose Lessor to risks and potentially cause Lessor to incur costs not contemplated by this Lease, the extent of which will be extremely difficult to ascertain. Accordingly, should the Lessee fail to execute and/or deliver a requested Estoppel Certificate in a timely fashion the monthly Base Rent shall be automatically increased, without any requirement for notice to Lessee, by an amount equal to 10% of the then existing Base Rent or $100, whichever is greater for remainder of the Lease. The Parties agree that such increase in Base Rent represents fair and reasonable compensation for the additional risk/costs that Lessor will incur by reason of Lessee's failure to provide the Estoppel Certificate. Such increase in Base Rent shall in no event constitute a waiver of lessee's Default or Breach with respect to the failure to provide the Estoppel Certificate nor prevent the exercise of any of the other rights and remedies granted hereunder.

(c) If Lessor desires to finance, refinance, or sell the Premises, or any part thereof, Lessee and all Guarantors shall within 10 days after written notice from Lessor deliver to any potential lender or purchaser designated by Lessor such financial statements as may be reasonably required by such lender or purchaser, including but not limited to Lessee's financial statements for the past 3 years. All such financial statements shall be received by lessor and such lender or purchaser in confidence and shall be used only for the purposes herein set forth.

17. **Definition of Lessor.** ~~The term **"Lessor"** as used herein shall mean the owner or owners at the time in question of the fee title to the Premises, or, if this is a sublease, of the Lessee's interest in the prior lease.~~ In the event of a transfer of Lessor's title or interest in the Premises or this Lease, Lessor shall deliver to the transferee or assignee (in cash or by credit) any unused Security

Deposit held by Lessor. Upon such transfer or assignment and delivery of the Security Deposit, as aforesaid any such transferee or assignee's assumption of Lessor's obligations hereunder, the prior Lessor shall be relieved of all liability with respect to the obligations and/or covenants under this Lease thereafter to be performed by the Lessor. Subject to the foregoing, the obligations and/or covenants in this Lease to be performed by the Lessor shall be binding only upon the Lessor as herein above defined.

18. **Severability**. The invalidity of any provision of this lease, as determined by a court of competent jurisdiction, shall in no way affect the validity of any other provision hereof.

19. **Days.** Unless otherwise specifically indicated to the contrary, the word "days" as used in this lease shall mean and refer to calendar days.

20. **Limitation on Liability.** The obligations of Lessor under this lease shall not constitute personal obligations of Lessor or its partners, members, directors, officers or shareholders, and Lessee shall look to the Premises, and to no other assets of Lessor, for the satisfaction of any liability of Lessor with respect to this Lease, and shall not seek recourse against Lessor's partners, members, directors, officers or shareholders, or any of their personal assets for such satisfaction. In no event shall Lessor be liable to Lessee for any consequential damages except to the extent arising from a default by Lessor of any provision in this Lease concerning Hazardous Substances.

21. **Time of Essence.** Time is of the essence with respect to the performance of all obligations to the performed or observed by the Parties under this Lease.

22. **No Prior or Other Agreements; Broker Disclaimer.** This Lease contains all agreements between the Parties with respect to any matter mentioned herein, and no other prior or contemporaneous agreement or understanding shall be effective. Lessor and Lessee each represents and warrants to the Brokers that it has made, and is relying solely upon, its own investigation as to the nature, quality, character and financial responsibility of the other Party to this Lease and as to the use, nature, quality and character of the Premises. Brokers have no responsibility with respect thereto or with respect to any default or breach hereof by either Party.

23. **Notices.**

23.1 **Notice Requirements.** All notices required or permitted by this Lease or applicable law shall be in writing and may be delivered in person (by hand or by courier) or may be sent by regular, certified or registered mail or U.S. Postal Service Express Mail or other reputable overnight courier (e.g., Federal Express or UPS), with postage prepaid, or by facsimile transmission, or by email, and shall be deemed sufficiently given if served in a manner specified in this Paragraph 23; except, that, any (i) notice alleging a Default, Breach, or other breach under this Lease, or (ii) statutory notice to pay rent or quit, in each case, shall only be delivered using certified or registered mail or U.S. Postal Service Express Mail or other reputable overnight courier, with postage prepaid, unless applicable law requires other means of providing such notice, in which case, the means required under applicable law shall govern. The addresses noted adjacent to a Party's Signature on this lease shall be that Party's address for delivery or mailing of notices. Either Party may by written notice to the other specify a different address for notice, except that upon Lessee's taking possession of the Premises, the Premises shall constitute Lessee's address for notice. A copy of all notices to Lessor shall be concurrently transmitted to such party or parties at such addresses as lessor may from time to time hereafter designate in writing.

23.2 **Date of Notice.** Any notice sent by registered or certified mail, return receipt requested, shall be deemed given on the date actually received (unless rejected, in which case the same shall be deemed given on the date rejected). ~~of delivery shown on the receipt card, or it no delivery date is shown, the postmark thereon.~~ If sent by regular mail the notice shall be deemed given 72 hours after the same is addressed as required herein and mailed with postage prepaid. Notices delivered by United States Express Mail or overnight courier that guarantees next day delivery shall be deemed given on the earlier of the date actually received or 24 hours after delivery of the same to the Postal Service or courier. Notices transmitted by facsimile transmission or by email shall be deemed delivered upon telephone confirmation of receipt (if by fax, a confirmation report from fax machine is sufficient), provided a copy is also delivered via delivery or mail. If notice is received on a Saturday, Sunday or legal holiday, it shall be deemed received on the next business day.

24. **Waivers.**

(a) No waiver by Lessor or Lessee of the Default or Breach of any term, covenant or condition hereof by the other party hereto ~~Lessee,~~ shall be deemed a waiver of any other term, covenant or condition hereof, or of any subsequent Default or Breach by lessee of the same or of any other term, covenant or condition hereof. Lessor's or Lessee's consent to, or approval of, any act shall not be deemed to render unnecessary the obtaining of Lessor's consent to, or approval of, any subsequent or similar act by the other party hereto ~~Lessee~~, or be construed as the basis of an estoppel to enforce the provision or provisions of this Lease requiring such consent.

(b) The acceptance of Rent by Lessor shall not be a waiver of any Default or Breach by Lessee. Any payment by Lessee may be accepted by Lessor on account of moneys or damages due Lessor, notwithstanding any qualifying statements or conditions made by Lessee in connection therewith, which such statements and/or conditions shall be of no force or effect whatsoever unless specifically agreed to in writing by lessor at or before the time of deposit of such payment.

(c) THE PARTIES AGREE THAT THE TERMS OF THIS LEASE SHALL GOVERN WITH REGARD TO ALL MATTERS RELATED THERETO AND HEREBY WAIVE THE PROVISIONS OF ANY PRESENT OR FUTURE STATUTE TO THE EXTENT THAT SUCH STATUTE IS INCONSISTENT WITH THIS LEASE.

25. **Disclosures Regarding the Nature of a Real Estate Agency Relationship.**

(a) When entering into a discussion with a real estate agent regarding a real estate transaction, a Lessor or Lessee should from the outset understand what type of agency relationship or representation it has with the agent or agents in the transaction. Lessor and Lessee acknowledge being advised by the Brokers in this transaction, as follows:

(i) **Lessor's Agent.** A lessor's agent under a listing agreement with the Lessor acts as the agent for the lessor only. A Lessor's agent or subagent has the following affirmative obligations: To the lessor: A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Lessor. To the Lessee and the lessor: a. Diligent exercise of reasonable skills and care in performance of the agent's duties. b. A duty of honest and fair dealing and good faith. c. A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation

of, the Parties. An agent is not obligated to reveal to either Party any confidential information obtained from the other Party which does not involve the affirmative duties set forth above.

(ii) **Lessee's Agent.** An agent can agree to act as agent for the Lessee only. In these situations, the agent is not the Lessor's agent, even if by agreement the agent may receive compensation for services rendered, either in full or in part from the Lessor. An agent acting only for a Lessee has the following affirmative obligations. To the Lessee: A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Lessee. To the Lessee and the Lessor: a. Diligent exercise of reasonable skills and care in performance of the agent's duties. b. A duty of honest and fair dealing and good faith. c. A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the Parties. An agent is not obligated to reveal to either Party any confidential information obtained from the other Party which does not involve the affirmative duties set forth above.

(iii) **Agent Representing Both Lessor and Lessee.** A real estate agent, either acting directly or through one or more associate licenses, can legally be the agent of both the Lessor and the Lessee in a transaction, but only with the knowledge and consent of both the Lessor and the Lessee. In a dual agency situation, the agent has the following affirmative obligations to both the Lessor and the Lessee: a. A fiduciary duty of utmost care, integrity, honesty and loyalty in the dealings with either Lessor or the Lessee. b. Other duties to the Lessor and the Lessee as stated above in subparagraphs (i) or (ii). In representing both Lessor and Lessee, the agent may not without the express permission of the respective Party, disclose to the other Party that the Lessor will accept rent in an amount less than that indicated in the listing or that the Lessee is willing to pay a higher rent than that offered. The above duties of the agent in a real estate transaction do not relieve a Lessor or Lessee from the responsibility to protect their own interests. Lessor and Lessee should carefully read all agreements to assure that they adequately express their understanding of the transaction. A real estate agent is a person qualified to advise about real estate. If legal or tax advice is desired, consult a competent professional.

(b) Brokers have no responsibility with respect to any default or breach hereof by either Party. The Parties agree that no lawsuit or other legal proceeding involving any breach of duty, error or omission relating to this Lease may be brought against Broker more than one year after the Start Date and that the liability (including court costs and attorneys' fees), of any Broker with respect to any such lawsuit and/or legal proceeding shall not exceed the fee received by such Broker pursuant to this Lease; provided, however, that the foregoing limitation on each Broker's liability shall not be applicable to any gross negligence or willful misconduct of such Broker.

(c) Lessor and lessee agree to identify to Brokers as "Confidential" any communication or information given Brokers that is considered by such Party to be confidential.

26. **No Right To Holdover.** Lessee has no right to retain possession of the Premises or any part thereof beyond the expiration or termination of this Lease. In the event that Lessee holds over, then the Base Rent shall be increased to 150% of the Base Rent applicable immediately preceding the expiration or termination. Holdover Base Rent shall be calculated on monthly basis. Nothing contained herein shall be construed as consent by Lessor to any holding over by Lessee.

27. **Cumulative Remedies.** No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

28. **Covenants and Conditions; Construction of Agreement.** All provisions of this lease to be observed or performed by lessee are both covenants and conditions. In construing this lease, all headings and titles are for the convenience of the Parties only and shall not be considered a part of this Lease. Whenever required by the context, the singular shall include the plural and vice versa. This Lease shall not be construed as if prepared by one of the Parties, but rather according to its fair meaning as a whole, as if both Parties had prepared it.

29. **Binding Effect; Choice of law.** This Lease shall be binding upon the Parties, their personal representatives, successors and assigns and be governed by the law of the State in which the Premises are located. Any litigation between the Parties hereto concerning this Lease shall be initiated in the county in which the Premises are located.

30. **Subordination; Attornment; Non-Disturbance.**

30.1 **Subordination.** This Lease and any Option granted hereby shall be subject and subordinate to any ground lease, mortgage, deed of trust, or other hypothecation or security device (collectively, "**Security Device**"), now or hereafter placed upon the Premises, to any and all advances made on the security thereof, and to all renewals, modifications, and extensions thereof on condition that Lessee first receives a signed Non-Disturbance Agreement from Lender (as defined below). Lessee agrees that the holders of any such Security Devices (in this lease together referred to as "Lender") shall have no liability or obligation to perform any of the obligations of Lessor under this Lease. Any Lender may elect to have this Lease and/or any Option granted hereby superior to the lien of its Security Device by giving written notice thereof to lessee, whereupon this lease and such Options shall be deemed prior to such Security Device, notwithstanding the relative dates of the documentation or recondition thereof.

30.2 **Attornment** In the event that lessor transfers title to the Premises, or the Premises are acquired by another upon the foreclosure or termination of a Security Device to which this Lease is subordinated (i) Lessee shall, subject Lessee's receipt; of the signed Non-Disturbance Agreement from Lender as described in ~~the non-disturbance provisions of~~ Paragraph 30.3 below, attorn to such new owner, and upon request, enter into a new lease, containing all of the terms and provisions of this Lease, with such new owner for the remainder of the term hereof, or, at the election of the new owner, this Lease will automatically become a new lease between Lessee and such new owner, and (ii) Lessor shall thereafter be relieved of any further obligations hereunder and such new owner shall assume all of Lessor's obligations, except that such new owner shall not: (a) be liable for any act or omission of any prior lessor or with respect to events occurring prior to acquisition of ownership; (b) be subject to any offsets or defenses which Lessee might have against any prior lessor, (c) be bound by prepayment of more than one month's rent, or (d) be liable for the return of any security deposit paid to any prior lessor which was not paid or credited to such new owner.

30.3 **Non-Disturbance.** With respect to Security Devices entered into by Lessor after the execution of this Lease, Lessee's subordination of this Lease shall be subject to receiving a commercially reasonable form of Subordination Non-Disturbance

Agreement in form and, substance reasonably acceptable to Lessee ~~non-disturbance agreement~~ (a "**Non-Disturbance Agreement"**) from the Lender which Non-Disturbance Agreement provides that Lessee's possession of the Premises, and this Lease, including any options to extend the term hereof, will not be disturbed so long as Lessee is not in Breach hereof and attorns to the record owner of the Premises. Further, within 60 days after the execution of this Lease, Lessor shall, if requested by Lessee, use its commercially reasonable efforts to obtain a Non-Disturbance Agreement from the holder of any pre-existing Security Device which is secured by the Premises. In the event that Lessor is unable to provide the Non-Disturbance Agreement within said 60 days, then Lessee may, at Lessee's option, directly contact Lender and attempt to negotiate for the execution and delivery of a Non-Disturbance Agreement.

30.4 **Self-Executing.** The agreements contained in this Paragraph 30 shall be effective without the execution of any further documents; provided, however, that, upon written request from Lessor or a Lender in connection with a sale, financing or refinancing of the Premises, Lessee and Lessor shall execute such further writings as may be reasonably required to separately document any subordination, adornment and/or Non-Disturbance Agreement provided for herein.

31. **Attorneys' Fees.** If any Party or Broker brings an action or proceeding involving the Premises whether founded in tort, contract or equity, or to declare rights hereunder, the Prevailing Party (as hereafter defined) in any such proceeding, action, or appeal thereon, shall be entitled to reasonable attorneys' fees. Such fees may be awarded in the same suit or recovered in a separate suit, whether or not such action or proceeding is pursued to decision or judgment. The term, "**Prevailing Party**" shall include, without limitation, a Party or Broker who substantially obtains or defeats the relief sought, as the case may be, whether by compromise, settlement, judgment, or the abandonment by the other Party or Broker of its claim or defense. The attorneys' fees award shall not be computed in accordance with any court fee schedule, but shall be such as to fully reimburse all attorneys' fees reasonably incurred. In addition, Lessor shall be entitled to attorneys' fees, costs and expenses incurred in the preparation and service of notices of Default and consultations in connection therewith, whether or not a legal action is subsequently commenced in connection with such Default or resulting Breach ($200 is a reasonable minimum per occurrence for such services and consultation).

32. **Lessor's Access; Showing Premises; Repairs.** Lessor and Lessor's agents shall have the right to enter the Premises at any time, in the case of an emergency, and otherwise at reasonable times after reasonable prior notice for the purpose of showing the same to prospective purchasers, lenders, or tenants, and making such alterations, repairs, improvements or additions to the Premises as Lessor may deem necessary or desirable and the erecting, using and maintaining of utilities, services, pipes and conduits through the Premises and/or other premises as long as there is no material adverse effect to Lessee's use of the Premises. All such activities shall be without abatement of rent or liability to Lessee. When entering or performing any repair or other work in the premises, Lessor or Lessor's perspective purchases, lenders or tenants (including each of their respective agents) (a) shall identify themselves to Lessee's personal upon entering the Premises, and (b) shall conduct themselves in a manner so as to reasonably minimize the disruption of Lessee's use, business and operations on the premises. Notwithstanding anything to the contrary set forth in this Lease, if Lessor materially and adversely interferes with Lessee's use, business and operations in the Premises, and such interference continues for more than forty-eight (48) hours after receipt of Lessee's written notice thereof, then the Rent shall be abated at the rate of one hundred (100%) of the daily amount of Rent for each day beyond such forty-eight (48) hours period.

33. **Auctions.** Lessee shall not conduct, nor permit to be conducted, any auction upon the Premises without Lessor's prior written consent. Lessor shall not be obligated to exercise any standard of reasonableness in determining whether to permit an auction.

34. **Signs.** Lessor may place on the Premises ordinary "**For Sale**" signs at any time and ordinary "**For Lease**" signs during the last 6 months of the term hereof. Except for ordinary "for sublease- signs, Lessee shall not place any sign upon the Premises without Lessors prior written consent. All signs must comply with all Applicable Requirements.

35. Termination; Merger. Unless specifically stated otherwise in writing by Lessor, the voluntary or other surrender of this Lease by Lessee, the mutual termination or cancellation hereof, or a termination hereof by Lessor for Breach by Lessee, shall automatically terminate any sublease or lesser estate in the Premises; provided, however, that Lessor may elect to continue any one or all existing subtenancies. Lessor's failure within 10 days following any such event to elect to the contrary by written notice to the holder of any such lesser interest, shall constitute Lessor's election to have such event constitute the termination of such interest.

36. Consents. Except as otherwise provided herein, wherever in this Lease the consent of a Party is required to an act by or for the other Party, such consent shall not be unreasonably withheld or delayed. Lessor's actual reasonable costs and expenses (including but not limited to architects', attorneys', engineers' and other consultants' fees) incurred in the consideration of, or response to, a request by Lessee for any lessor consent, including but not limited to consents to an assignment, a subletting or the presence Of use of a Hazardous Substance, shall be paid by Lessee upon receipt of an invoice and supporting documentation therefor. Lessor's consent to any act, assignment or subletting shall not constitute an acknowledgment that no Default or Breach by Lessee of this Lease exists, nor shall such consent be deemed a waiver of any then existing Default or Breach, except as may be otherwise specifically stated in writing by Lessor at the time of such consent. The failure to specify herein any particular condition to Lessor's consent shall not preclude the imposition by Lessor at the time of consent of such further or other conditions as are then reasonable with reference to the particular matter for which consent is being given. In the event that either Party disagrees with any determination made by the other hereunder and reasonably requests the reasons for such determination, the determining party shall furnish its reasons in writing and in reasonable detail within 10 business days following such request.

37. **Guarantor.**

37.1 **Execution**. The Guarantors, if any, shall each execute a guaranty in the form most recently published by the AIR Commercial Real Estate Association, and each such Guarantor shall have the same obligations as Lessee under this Lease.

37.2 **Default.** It shall constitute a Default of the Lessee if any Guarantor fails or refuses, upon request to provide: (a) evidence of the execution of the guaranty, including the authority of the party signing on Guarantor's behalf to obligate Guarantor, and in the case of a corporate Guarantor, a certified copy of a resolution of its board of directors authorizing the making of such guaranty, (b) current financial statements, (c) an Estoppel Certificate, or (d) written confirmation that the guaranty is still in effect.

38. **Quiet Possession.** Subject to payment by lessee of the Rent and so long as Lessee is not in Breach ~~performance of all of the covenants, conditions, and provisions on Lessee's part to be observed and performed~~ under the Lease, Lessee shall have quiet possession and quiet enjoyment of the Premises during the term hereof.

39. **Options.** If Lessee is granted any Option, as defined below, then the following provisions shall apply:

39.1 **Definition. "Option"** shall mean: (a) the right to extend or reduce the term of or renew this Lease or to extend or reduce the term of or renew any lease that Lessee has on other property of Lessor; (b) the right of first refusal or first offer to lease either the Premises or other property of Lessor; (c) the right to purchase, the right of first offer to purchase or the right of first refusal to purchase the Premises or other property of Lessor.

39.2 **Options Personal To Original Lessee.** Any Option granted to Lessee in this Lease is personal to the original Lessee and its Affiliates, and cannot be assigned or exercised by anyone other than said original lessee or its Affiliates and only while the original Lessee or its Affiliates is in ~~full~~ possession of 75%, or more ~~a majority~~ of the Premises and, if requested by Lessor, with Lessee certifying that Lessee has no intention of thereafter assigning or subleasing.

39.3 **Multiple Options.** In the event that Lessee has any multiple Options to extend or renew this Lease, a later Option cannot be exercised unless the prior Options have been validly exercised.

39.4 **Effect of Default on Options.**

(a) Lessee shall have no right to exercise an Option: (i) during the period commencing with the giving of any notice of Default and continuing until said Default is cured, (ii) during the period of time any Rent is unpaid (without regard to whether notice thereof is given Lessee), (iii) during the time Lessee is in Breach of this Lease, or (iv) in the event that Lessee has been given 3 or more notices of separate Default, whether or not the Defaults are cured, during the 12 month period immediately preceding the exercise of the Option.

(b) The period of time within which an Option may be exercised shall not be extended or enlarged by reason of Lessee's inability to exercise an Option because of the provisions of Paragraph 39.4(a).

(c) An Option shall terminate and be of no further force or effect, notwithstanding Lessee's due and timely exercise of the Option, if, after such exercise and prior to the commencement of the extended term or completion of the purchase, ~~(i) Lessee fails to pay Rent for a period of 30 days after such Rent becomes due (without any necessity of Lessor to give notice thereof), or (ii)~~ if Lessee commits a Breach of this Lease.

40. **Multiple Buildings.** If the Premises are a part of a group of buildings controlled by Lessor, Lessee agrees that it will abide by and conform to all reasonable rules and regulations which Lessor may make from time to time for the management, safety, and care of said properties, including the care and cleanliness of the grounds and including the parking, loading and unloading of vehicles, and to cause its employees, suppliers, shippers, customers, contractors and invitees to so abide and conform; except, that, such rules shall not adversely effect Lessee's right hereunder or enlarge Lessee's obligations hereunder. ~~Lessee also agrees to pay its fair share of common expense incurred in connection with such rules and regulations.~~ Lessor covenants that Lessee and its employees, contractor's, agreement, licenses, invitees, and customers shall at all times, and as an appurtenant right hereunder, have access over and through the parking areas and drive aisles of the realty abutting the Premises that is controlled by Lessors or any of the Lessor Parties for the purpose of Lessee (and its employees, contractors, agents, licensees, invitees, and customers), accessing the northerly portion of the Premises, including, without limitation, the loading dock and parking areas therein

41. **Security Measures.** Lessee hereby acknowledges that the Rent payable to Lessor hereunder does not include the cost of guard service or other security measures, and that Lessor shall have no obligation whatsoever to provide same. Lessee assumes all responsibility for the protection of the Premises, Lessee, its agents and invitees and their property from the acts of third parties.

42. **Reservations**. Lessor reserves to itself the right, from time to time, to grant, without the consent or joiner of Lessee, such easements, rights and dedications that Lessor deems necessary, and to cause the recordation of parcel maps and restrictions, so long as the exercise of such reservations (including, without limitation, such easements, rights, dedications, maps and restrictions) do not unreasonably interfere with the use of the Premises by Lessee, materially increase obligations hereunder or materially decrease Lessee's rights hereunder, or adversely affect (other than to a de minimis extent) Lessee agree, to or quiet enjoyment of the premises. Lessee agrees to sign any documents reasonably requested by Lessor to effectuate any such easement rights, dedication, map or restrictions.

43. **Performance Under Protest.** If at any time a dispute shall arise as to any amount or sum of money to be paid by one Party to the other under the provisions hereof, the Party against whom the obligation to pay the money is asserted shall have the right to make payment "under protest" and such payment shall not be regarded as a voluntary payment and there shall survive the right on the part of said Party to institute suit for recovery of such sum. If it shall be adjudged that there was no legal obligation on the part of said Party to pay such sum or any part thereof, said Party shall be entitled to recover such sum or so much thereof as it was not legally required to pay. A Party who does not initiate suit for the recovery of sums paid "under protest" with 6 months shall be deemed to have waived its right to protest such payment.

44. **Authority; Multiple Parties; Execution.**

(a) If either Party hereto is a corporation, trust, limited liability company, partnership, or similar entity, each individual executing this Lease on behalf of such entity represents and warrants that he or she is duly authorized to execute and deliver this Lease on its behalf. Each Party shall, within 30 days after request, deliver to the other Party satisfactory evidence of such authority.

(b) If this Lease is executed by more than one person or entity as "Lessee", each such person or entity shall be jointly and severally liable hereunder. It is agreed that anyone of the named Lessees shall be empowered to execute any amendment to this Lease, or other document ancillary thereto and bind all of the named Lessees, and Lessor may rely on the same as if all of the named Lessees had executed such document.

(c) This Lease may be executed by the Parties in counterparts, including facsimile or PDF copies, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

45. **Conflict.** Any conflict between the printed provisions of this Lease and typewritten or handwritten provisions shall be controlled by the typewritten or handwritten provisions.

46. **Offer.** Preparation of this Lease by either Party or their agent and submission of same to the other Party shall not be deemed an offer to lease to the other Party. This Lease is not intended to be binding until executed and delivered by all Parties hereto.

47. **Amendments.** This Lease may be modified only in writing, signed by the Parties in interest at the time of the modification. As long as they do not materially change Lessee's obligations hereunder, lessee agrees to make such reasonable non-monetary modifications to this Lease as may be reasonably required by a Lender in connection with the obtaining of normal financing or refinancing of the Premises.

48. **Waiver of July Trial. THE PARTIES HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING INVOLVING THE PROPERTY OR ARISING OUT OF THIS AGREEMENT.**

49. **Arbitration of Disputes** An Addendum requiring the Arbitration of all disputes between the Parties and/or Brokers arising out of this Lease ☑ **is** o **is not** attached to this Lease.

50. **Accessibility; Americans with Disabilities Act.**

(a) The Premises: ☑ have not undergone an inspection by a Certified Access Specialist (CASp). o have undergone an inspection by a Certified Access Specialist (CASp) and it was determined that the Premises met all applicable construction-related accessibility standards pursuant to California Civil Code §55.51 et seq. o have undergone an inspection by a Certified Access Specialist (CASp) and it was determined that the Premises did not meet all applicable construction-related accessibility standards pursuant to California Civil Code §55.51 et seq.

(b) Since compliance with the Americans with Disabilities Act (ADA) is dependent upon Lessee's specific use of the Premises, Lessor makes no warranty or representation as to whether or not the Premises comply with ADA or any similar legislation *as it relates to Lessee's specific use*. In the event that Lessee' specific use of the Premises requires modifications or additions to the Premises in order to be in ADA compliance, Lessee agrees to make any such necessary modifications and/or additions at Lessee's expense.

LESSOR AND LESSEE HAVE CAREFULLY READ AND REVIEWED THIS LEASE AND EACH TERM ANO PROVISION CONTAINED HEREIN. AND BY THE EXECUTION OF THIS LEASE SHOW THEIR INFORMED AND VOLUNTARY CONSENT THERETO. THE PARTIES HEREBY AGREE THAT. AT THE TIME THIS LEASE IS EXECUTED. THE TERMS OF THIS LEASE ARE COMMERCIALLY REASONABLE AND EFFECTUATE THE INTENT AND PURPOSE OF LESSOR AND LESSEE WITH RESPECT TO THE PREMISES.

ATTENTION: NO REPRESENTATION OR RECOMMENDATION IS MADE BY THE AIR COMMERCIAL REAL ESTATE ASSOCIATION OR BY ANY BROKER AS TO THE LEGAL SUFFICIENCY, LEGAL EFFECT, OR TAX CONSEQUENCES OF THIS LEASE OR THE TRANSACTION TO WHICH IT RELATES. THE PARTIES ARE URGED TO:

1. SEEK ADVICE OF COUNSEL AS TO THE LEGAL AND TAX CONSEQUENCES OF THIS LEASE.

2. RETAIN APPROPRIATE CONSULTANTS TO REVIEW AND INVESTIGATE THE CONDITION OF THE PREMISES. SAID INVESTIGATION SHOULD INCLUDE BUT NOT BE LIMITED TO: THE POSSIBLE PRESENCE OF HA2ARDOUS SUBSTANCES, THE ZONING OF THE PREMISES, THE STRUCTURAIL INTEGRITY, THE CONDITION OF THE ROOF AND OPERATING SYSTEMS, AND THE SUITABILITY OF THE PREMISES FOR LESSEE'SINTENDED USE.

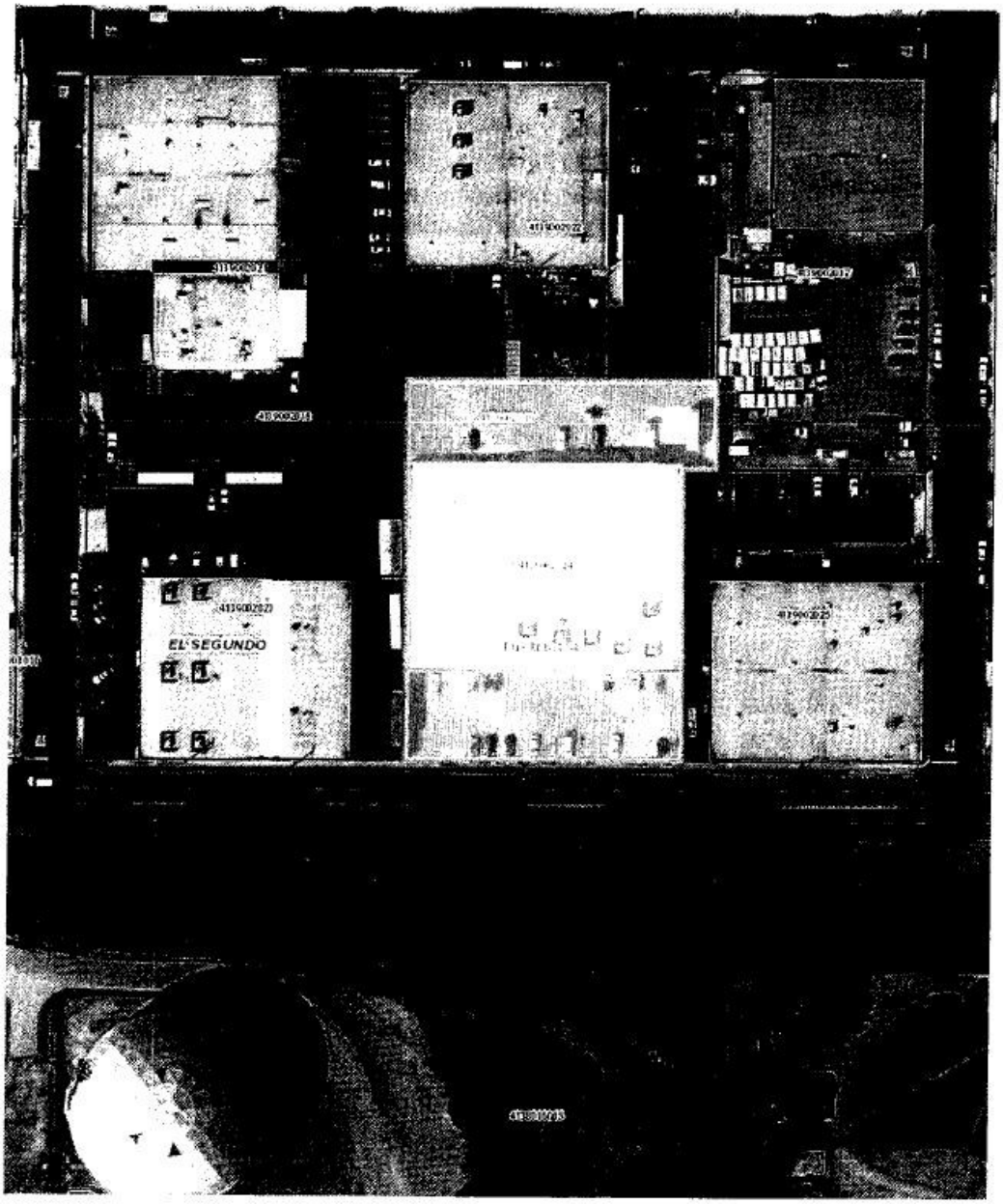
WARNING: IF THE PREMISES IS LOCATED IN A STATE OTHER THAN CALIFORNIA, CERTAIN PROVISIONS OF THE LEASE MAY NEED TO BE REVISED TO COMPLY WITH THE LAWS OF THE STATE IN WHICH THE PREMISES IS LOCATED.

The parties hereto have executed this Lease at the place and on the dates specified above their respective signatures.

Executed at:	EL SEGUNDO	Executed at:	
On:	01.18.17	On:	
By LESSOR:		By LESSEE:	
SMOKY HOLLOW INDUSTRIES, LLC		Savage River, Inc. dba Beyond Meat	
By:	/s/ Mark Telese	By:	/s/ Ethan Brown
Name Printed:	MARK TELESE	Name Printed:	
Title:	PRINCIPAL	Title:	
By:		By:	
Name Printed:		Name Printed:	
Title:		Title:	
Address:	1601 N. SEPULVEDA #629	Address:	
	MANHATTAN BEACH, CA 90266		
Telephone:	310 616 5040	Telephone:	( )
Facsimile:	( )	Facsimile:	( )
Email:	MTESMOKYHOLLOWINDUSRIES.COM	Email:	
Email:		Email:	
Federal ID No.		Federal ID No.	
Broker:		**Broker:**	
Segal Commercial Properties, Inc.		CBRE	
RE/MAX Estate Properties			
Attn:	Lee S. Segal/Matt Crabbs	Attn:	Robert E. Healey
Title:		Title:	Senior Vice President
Address:	2221 S. Barry Ave. Suite 200 L.A. 90064	Address:	2221 Rosecrans, Suite 100
455 Main St. El Segundo, CA 90245		El Segundo, CA 902545	
Telephone:	(310) 748-5777	Telephone:	(310) 363-4970
Facsimile:	( )	Facsimile:	( )
Email:	Lee@segalcommercial.com	Email:	Bob.Healey@cbre.com
Federal ID No.		Federal ID No.	
Broker/Agent BRE License #:	01332624/01879720	Broker/Agent BRE License #:	00409987

EXHIBIT A TO LEASE

Depiction of Premises



ADDENDUM TO STANDARD MULTI-TENANT
LEASE-NET

This Addendum ("**Addendum**") is made and entered into by and between SMOKY HOLLOW INDUSTRIES, LLC, a California limited liability company ("**Lessor**"), on one hand, and SAVAGE RJVER, INC., a Delaware corporation dba Beyond Meat ("**Lessee**"), on the other hand, and is dated as of the date set forth on Paragraph 1.1 of the Standard Multi-Tenant Lease - Net between Lessor and Lessee ("**Lease**") to which this Addendum is attached. The promises, covenants, agreements and declarations made and set forth herein are intended to and shall have the same force and effect as if set forth at length in the body of the Lease. To the extent that the provisions of this Addendum are inconsistent or conflict with the terms and conditions of the Lease, the terms and conditions of this Addendum shall control.

PARAGRAPH 56. ENVIRONMENTAL DISCLOSURE

(a) In January 2015, Aaron & Wright performed a Phase I Environmental Site Assessment for the Premises. No recognized environmental conditions, as defined by ASTM 1527-13, were found as part of that investigation. Aaron & Wright did observe certain materials which, because of the age of the Building, must be presumed to be asbestos containing unless tested, for the purposes of certain OSHA regulations. Lessor has not tested these materials. Aaron & Wright noted that these materials all appeared to be in good condition as of the date of its inspection. Lessee acknowledges receipt of a copy of the Aaron & Wright report.

(b) In addition, by this disclosure, Lessor notifies Lessee that there has been a release of hazardous substances at 1320 East Franklin Street, a property which is also owned by Lessor and that is located approximately 500 feet from the Premises. That release was caused by a previous tenant of 1320 East Franklin Street who vacated in 1990. Lessor is currently in the process of remediating that release. Lessee acknowledges receipt of a copy of a document entitled "Supplemental Site Assessment" dated July 25, 2016, that summarizes the information currently known about the extent of the release from 1320 East Franklin and the steps being undertaken to remediate that release. You will note that soil vapor samples have been taken at depths of between 5 and 20 feet in nine locations just outside of the Premises. Appendix I to the Supplemental Site Assessment contains a report entitled "Health Risk Assessment of Vapor Intrusion to Indoor Air" dated June 21, 2016 by Environmental Health Decisions. That risk assessment concluded that, based on the available data, the contaminants that were released from 1320 East Franklin do not pose an unacceptable risk to commercial workers at the Premises, based on guidelines published by CalEPA.

(c) Lessor shall promptly provide Lessee with copies of any reports, correspondence, or documentation not already provided to Lessee, which relates to the release of Hazardous Substances at 1320 East Franklin Street, El Segundo, California.

PARAGRAPH 57. RENT ABATEMENT

Rent for months two (2) and thirteen (13) of the Lease Term shall be fully abated on condition that no Breach has occurred under this Lease on or prior to such times.

PARAGRAPH 58. LESSOR'S WORK; LESSOR'S FAILURE TO TIMELY CONSENT TO ALTERATIONS.

(a) Prior to, and as a condition to the occurrence of the Commencement Date, Lessor at Lessor's sole cost shall provide or undertake, as applicable, the following (collectively, "**Lessor's Work**"): (i)

replacement of any burned out lights; (ii) the Premises having been broom swept and free of all tenancies, debris, and personal property; (iii) service HYAC units no. 2, 2-1, 4-1 and 4-2 below; (iv) a building that is in "water tight" condition; and (v) all friable asbestos and asbestos containing materials (if any) having been removed from the Premises. As long as a service contract has been obtained by Lessee pursuant to Lease Paragraph 7.3, Lessor shall be responsible for and pay for any costs relating to the repair and maintenance of the HVAC units for the first twelve (12) months of the Lease Term. Thereafter, Lessee shall be responsible to repair and maintain the HY AC equipment in accordance with, and subject to, the applicable provisions of the Lease. Notwithstanding anything to the contrary set forth in this Lease, Lessor shall be solely responsible for any seismic work that may be required at the Premises to cause the Building to be in compliance with Applicable Requirements in effect as of the date of this Lease. Compliance with future Applicable Requirements shall be governed by Paragraph 2.3 of the Lease.

(b) After completion of Lessor's Work, Lessor shall replace HVAC unit nos. I and 3, at Lessor's sole cost and expense, as soon as reasonably practical after the Commencement Date and in no event later than the date that is ninety (90) days after the Commencement Date.

(c) Lessor shall repair and maintain the roof at its sole cost and expense.

(d) The defined term "Lessor's Work" shall not include painting the office areas and instead Lessor shall pay to Lessee $16,000 within 3 business days of mutual execution of the Lease for Lessee to paint its office areas within the Premises. In lieu of Lessor placing carpet on the floor within the Premises or any other preparation of the floor within the Premises, the defined term "Lessor's Work" shall not include any work on the floor area within the Premises and instead Lessor shall pay to Lessee $15,000 within 3 business days of mutual execution of the Lease to prepare the floors within the Premises for Lessee's intended use. The parties hereto acknowledge that the work Lessee will undertake pursuant to this Paragraph 58(d), Paragraphs 58(e)-(f) below, together with any fire/life safety work that Lessee may be required by Applicable Requirements to undertake during the Lease Term, all shall remain in the Premises at the expiration or earlier termination of the Lease Term and Lessee shall have no obligation to remove any of such improvements. If Lessor fails to pay any of the sums set forth in this Paragraph, Lessee may offset such amounts from the rent due pursuant to the terms of this Lease.

(e) In lieu of Lessor replacing all toilets, sinks, faucets, mirrors, and countertops in both restrooms of the Premises, and replacing the sink, faucet and countertop in the kitchenette in the Premises, the defined term "Lessor's Work" shall not include any such work and instead Lessor shall pay to Lessee an amount equal to the sum it would otherwise pay to an unaffiliated third party contractor (taking into account Lessee's specifications and timing requirements) to perform such work; such payment to Lessee shall be paid by Lessor within 3 business days of mutual execution of the Lease. Further, Lessor hereby consents to Lessee replacing all of the existing light fixtures at the Premises with LED fixtures of Lessee's choice.

(f) Lessee shall be permitted to upgrade the Premises amperage if needed, at Lessee's expense, subject to obtaining necessary permits and authorizations from applicable government agencies, Southern California Edison and Lessor hereby consents to the same. Lessee, at Lessee's expense, subject to obtaining necessary permits and authorizations from applicable government agencies and Lessor (which shall not be unreasonably withheld, delayed, or conditioned), shall be allowed to install equipment and infrastructure necessary to Lessee's standard R&D food operations, including, but not limited to, fume hood, kitchen stove exhaust and floor drain. Notwithstanding anything to the contrary contained in the Lease, Lessee shall obtain Lessor's approval of any plans and specifications, which involve the roof of the Premises or puncturing the roof of the Premises. Lessee shall, at Lessee's sole cost and expense, restore the roof of the Premises to its original condition at the expiration or earlier termination of the Lease.

Below is the HVAC unit summary as reference.

Existing HVAC RTU #	**Notes**	**Action**
I	Carrier 3 ton 3 phase	Replace
2	Rheem 4 ton 460 V 3 phase	Service
2-1	2 ton	Service
3	Carrier 5 ton I phase 230 V	Replace
4-1	Carrier 3 phase	Service
4-2	3 phase 460 V	Service

(g) Notwithstanding anything to the contrary set forth in this Lease, if Lessor fails to provide Lessor's written approval or disapproval (with reasonably detailed comments) to any Alterations and/or Utility Installations within ten (10) business days after Lessor's receipt of such request and reasonably detailed plans, Lessee may provide a second notice to Lessor requesting consent therefor, and if Lessor thereafter fails to provide Lessor's written approval or disapproval (with reasonably detailed comments) of such request within five (5) business days after receipt of such second request, such request and/or plans shall be deemed approved by Lessor, unless the Alteration and/or Utility Installations are on the portion of the Premises encumbered by a deed of trust and Lessor informs Lessee that the reason for delay is because Lessor has not yet received approval from the holder of such Security Device with a lien on the Premises on which the proposed Alterations or Utility Installations are located, together with evidence reasonably acceptable to Lessee evidencing that the request from the holder of such Security Device was timely sent.

PARAGRAPH 59. SIGNAGE

Subject to Lessee's receipt of all applicable governmental permits and approvals, Lessee shall be entitled to install, at Lessee's sole cost and expense, one (1) sign identifying Lessee at the top of the Premises, top of building signage over Lessee's exclusive entry into their Premises and a freestanding monument sign at a location to be determined. All specifications for such signage shall be subject to the prior written approval of Lessor. Lessor shall not unreasonably withhold, condition or delay Lessee's signage as to the size, design, type, color, location, copy, nature, and display qualities of such signage.

PARAGRAPH 60. ROOF ACCESS AND LESSEE INSTALLATIONS

If Lessee desires to use space on the rooftop of the Premises to install and maintain one(1) satellite dish ("**Satellite Dish**") required in connection with Lessee's communications and data transmission network to be used from the Premises, Lessee shall so notify Lessor in writing for approval, which approval shall not be unreasonably withheld, conditioned or delayed. Lessee shall have the right to install, at Lessee's sole cost, the Satellite Dish, size subject to Lessor approval (which approval shall not be unreasonably withheld, conditioned or delayed), and related telecommunications equipment (collectively, the "**Telecommunications Equipment**") upon the roof of the Premises. The proposed construction and installation and general appearance of the Satellite Dish and Telecommunications Equipment shall be acceptable to Lessor in its reasonable discretion. Lessee shall have secured the approval of all governmental authorities and all permits required by governmental authorities having jurisdiction over such approvals and permits for the Satellite Dish and Telecommunications Equipment prior to installation and shall provide copies of such approvals and permits to Lessor prior to commencing any installation, repair or removal. Lessor shall have no responsibility, obligation, or liability of any nature whatsoever with respect to the Satellite Dish or Telecommunications Equipment. Prior to any installation, Lessor shall approve Lessee's written plans, which approval shall not be unreasonably withheld, conditioned or delayed. Lessor shall designate the location on the roof where Lessee shall install the Satellite and Telecommunications Equipment. Lessee shall maintain such equipment at

Lessee's sole cost. Lessee shall not lease or otherwise make available the Satellite Dish or Telecommunications Equipment to any third party. The Satellite Dish and Telecommunications Equipment shall be only for Lessee's use in connection with the conduct of business in the Premises. Lessee, at Lessee's sole cost, shall remove all of the Telecommunications Equipment upon the expiration or earlier termination of this Lease. Lessee shall restore the roof of the Premises to its original condition, reasonable wear and tear and casualty excepted and excepting therefrom any of Lessor's obligations thereto. Lessee will also have right to add air conditioning units, fume/exhaust hood in line with standard R&D food operations at Lessee's sole cost and expense but subject to the same terms and conditions as applicable to the Satellite Dish and Telecommunications Equipment set forth herein.

PARAGRAPH 61. PARKING

Lessee shall have the exclusive right to use the 56 surface parking stalls located on the legal parcel on which the Premises are located (and the entire parking field on which the 56 surface parking stalls are located) at no additional charge. Lessee understands Lessor may build a common parking structure or area on an abutting legal parcel that is north of the Premises. Lessor may move Lessee's parking spaces in the north lot to this structure/area on condition that Lessee has at least as many parking spaces as in the north lot, and such spaces are not materially greater in distance than the existing parking spaces in the north lot. Parking spaces in the south lot will not be affected. In any event, Lessor shall ensure that Lessee has controlled access at all times to the loading dock in north-rear of Building.

PARAGRAPH 62. ADDITIONAL TERMS AND CONDITIONS APPLICABLE TO ASSIGNMENTS AND SUBLETTING

Notwithstanding the terms of Paragraph 12 of the Lease to the contrary, Lessee may, without Lessor's approval or consent (but with the requirement of delivering notice to Lessor either prior to the assignment or sublease or as soon as reasonably possible if Lessee is bound by confidentiality by law or agreement) (i) assign this Lease in its entirety (or sublease all or any portion of the Premises) to any Affiliate (as defined below) of Lessee, and/or (ii) enter into any of the transactions deemed an "assignment" pursuant to the provisions of Paragraph 12 with any such Affiliate, on condition that the following are first satisfied: (A) Lessee is not in Breach under this Lease at the time the noticed required in this Section is delivered to Lessor and at the time such transaction is consummated or is in Breach and Lessor does not receive assurances reasonably satisfactory to it in its sole but reasonable discretion such Breach will be cured as part of the transfer process; (B) such assignment or sublease is not a subterfuge by Lessee to (1) avoid its obligations under this Lease or Paragraph 12, or (2) adversely affect the ability of Lessee to satisfy its obligations under this Lease or Paragraph 12; (C) the Affiliate shall have assets sufficient to meet (or provide Lessor with credit enhancements sufficient to secure) the Affiliate's obligations under the applicable assignment or sublease immediately after the effective date of the assignment or sublease, and shall continue to use the Premises for the permitted use set forth in this Lease; (D) Lessee gives Lessor not less than thirty (30) days' prior written notice of any such assignment, sublease, or other transaction unless Lessee is bound by a confidentiality agreement prohibiting such notice, in which case Lessee shall provide Lessor with written notice as soon as permissible pursuant to the terms of such confidentiality agreement; (E) any such assignment or sublease shall be subject and subordinate to all of the terms and provisions of this Lease, and any assignee under an assignment of this Lease (which for purposes hereof excludes any entity in a transaction involving only the transfer of Lessee's ownership interests so long as Lessee remains in existence after such transfer) shall assume, in a written document reasonably satisfactory to Lessor and delivered to Lessor prior to the effective date of such assignment, all the obligations of Lessee under this Lease; (F) Lessee provides Lessor with reasonable evidence that such Affiliate maintains a net worth, calculated in according with generally accepted accounting principles, consistently applied ("**Net Worth**"), equal to the greater than the Net Worth of Lessee immediately prior to the time of such assignment or sublease, or at the time this Lease is

executed; and (G) such assignment shall not relieve Lessee from any of its obligations under this Lease. As used herein, an **"Affiliate"** shall mean: (1) any entity resulting from a merger or consolidation of or with Lessee; (2) any subsidiary or affiliate of Lessee that controls, is controlled by, or is under common control with Lessee; (3) a transferee of all or substantially all of the assets or equity securities of Lessee; or (4) a legal change in the name of Lessee. For purposes of this Paragraph, the phrase **"controls, is controlled** by, **or is under common control with"** means the ownership of any interest which, in the aggregate, more than fifty percent (50%) of the voting power of such entity, or possession of the right to vote, in the ordinary direction of its affairs, of more than fifty percent (50%) of the voting interest in, any person or entity. Notice to Lessor of the foregoing shall be accompanied by reasonable evidence of Lessee's compliance with the terms and provisions of Paragraph 12 of the Lease, as amended by this Addendum. Further notwithstanding anything to the contrary set forth in the Lease, a public offering of Lessee's or Lessee's parent's securities on a nationally recognized stock exchange will not require Lessor's consent and shall not be deemed an assignment requiring Lessor consent in accordance with Paragraph 12 of the Lease.

An assignment or subletting without consent shall, at Lessor's sole option, be a Default curable after notice per Paragraph 13. l(c), or a noncurable Breach if it remains uncured after notice and the passing of a two business day grace period. If Lessor elects to treat such unapproved assignment or subletting as a noncurable Breach, Lessor may either: (i) terminate this Lease, or (ii) upon 30 days written notice, increase the monthly Base Rent to 110% of the Base Rent then in effect and if Lessor elects this sub-clause (ii), then the Breach shall be deemed cured notwithstanding anything to the contrary set forth in this Paragraph.

PARAGRAPH 63. LESSEE TERMINATION RIGHT

(a) Events During Term. Notwithstanding anything in either Paragraphs 9 or 14 of the Lease to the contrary, and except as expressly set forth in Addendum Paragraph 63(b) immediately below, in the event that, within nine (9) months, plus one additional day for each day of delay caused by acts or omissions of Lessee or Lessee's employees, agents or invitees, and events of force majeure (including any delays in the issuance of necessary building permits), of any of the following: (i) damage or destruction of Premises or any part thereof so as to substantially interfere with Lessee's use of the Premises; or (ii) any discovery of Hazardous Substances in, on or around the Premises not placed in, on or around the Premises by Lessee or an employee, agent or invitee of Lessee, that does, considering the nature and amount of the substances involved, substantially interfere with Lessee's use of the Premises (or, in the reasonable business judgment of Lessee and its licensed and qualified environmental consultants and taking into account tbe standards, guidances and recommendations included in the definition of "Applicable Requirements" with respect to Hazardous Substances, pose a material health risk to occupants of the Premises), and, as a result of any of such causes Lessor cannot substantially complete its repair/restoration requirements under the Lease (except for minor "punch-list" items) by the expiration of the nine (9) month period (plus possible extension as provided above), then Lessee may elect to terminate the Lease upon ten (10) days written notice sent to Lessor at any time within a period of fifteen (15) days following the expiration of the nine (9) month period (plus possible extension as provided above).

(b) Events During Last Year of Term. In the event of any discovery of Hazardous Substances in, on or around the Premises not placed in, on or around the Premises by Lessee or an employee, agent or invitee of Lessee that is likely to, considering the nature and amount of the Hazardous Substances involved, substantially interfere with Lessee's continued use of the Premises (or, in the reasonable business judgment of Lessee and its licensed and qualified environmental consultants and taking into account the standards, guidances and recommendations included in the definition of "Applicable Requirements" with respect to Hazardous Substances, will pose a material health risk to occupants of the Premises), then should Lessee be prevented from using, and does not use, the Premises for thirty (30)

consecutive days due to such occurrence, Lessee may elect to terminate the Lease upon ten (I 0) days' written notice sent to Lessor within a period of thirty (30) days following such occurrence.

PARAGRAPH 64. REMOVAL OF TENANT IMPROVEMENTS.

Except as otherwise expressly set forth in this Lease, Lessor requires the removal of all of Lessee's initial improvements, Alterations and Utility Installations at the expiration or earlier termination of the Lease. Lessee shall be required to repair and patch the wall and floor and remove cables, wiring or conduits installed by or on behalf of Lessee. Notwithstanding the foregoing, Lessee shall not be required to remove any improvements that existed in the Premises or at the Building on the date the Premises and the Building were delivered to Lessee or that existed within the Premises or at the Building as of the date this Lease was executed. In addition, Lessee will not be required to remove any Alterations which are an improvement to the offices within the Premises or any restrooms. Lessee shall be required to remove any specialized and unique improvements (including, without limitation, any machinery installations or food processing rooms). Notwithstanding the foregoing, Lessor may deliver notice to Lessee prior to the end of the term of this Lease designating Alterations or Utility Installations to remain in the Premises at the expiration or earlier termination of the Lease.

PARAGRAPH 65. MASTER LEASE

(a) Notwithstanding anything to the contrary set forth in that certain AIR Commercial Real Estate Association Standard Industrial/Commercial Single-Tenant Lease - Net, dated (for reference purposes only) November 2016 **("Master Lease"),** by and between LIMO COMPANY, a California limited partnership **("LIMO"),** as lessor, and Lessee, Lessee shall not be responsible for the payment of any rent thereunder (and Lessor shall not pass through any rent thereunder to Lessee), including, without limitation, any supervisory fees, payments for the cleanup of Hazard Substances (except as expressly provided in this Lease), payments for any seismic retrofit, and payments of any fees relating to any Transfer thereunder. To the extent the prior written consent of LIMO is necessary pursuant to the terms of the Master Lease for the effectiveness of this Lease, this Lease shall be void, and of no force or effect, unless and until LIMO provides its consent in writing in a form approved in writing by Lessee. If LIMO fails to provide such written consent by January 21, 2016, then Lessee shall have the option (but not the obligation) to terminate this Lease by providing written notice thereof to Lessor.

(b) If Lessor shall receive an abatement of rent under the Master Lease with respect to the Premises, Lessee shall receive a corresponding abatement hereunder. Notwithstanding anything to the contrary set forth in this Lease, Lessee does not waive any claim against Lessor (and shall be permitted pursue all damages, including consequential damages, against Lessor) related to or arising from any default by Lessor under the Master Lease that causes this Lease to be terminated. If LIMO's failure or refusal to comply with any such provisions of the Master Lease gives Lessor any right of election to terminate the Master Lease, then Lessee shall also have a corresponding right of election (but not any obligation) to terminate this Lease. If Lessor fails, after using its commercially reasonable efforts, to cause LIMO under the Master Lease to observe and/or perform its obligations under the Master Lease, upon prior written notice to Lessor, Lessor shall non-exclusively assign to Lessee Lessor's right with respect to the Premises under the Master Lease to enforce such provisions and Lessor, upon Lessee's reasonable prior written request, shall reasonably cooperate with Lessee in this regard. If (and only if) Lessor cannot assign to Lessee Lessor's right with respect to the Premises as described in the immediately preceding sentence, then Lessor agrees to initiate an action (if necessary in Lessor's reasonable discretion) to enforce such rights, which action shall be at Lessee's sole cost and expense by attorneys reasonably acceptable to Lessor and Lessee. If an action is instituted against LIMO in accordance with the immediately preceding sentence, Lessor and Lessee agree to reasonably cooperate with each other regarding such action.

(c) The parties hereto agree that Lessor is not released of, and shall continue to remain primarily liable for, its duties and obligations contained in the terms, covenants, and conditions of the Master Lease to be performed by Lessor, all of which shall remain unmodified. Lessor represents and warrants to Lessee that, as of the date hereof, the Master Lease is in full force and effect, there are no defaults by Lessor thereunder and there are no defaults thereunder by any other party thereto. As of the date hereof, neither Lessor nor any other person acting on Lessor's behalf has given or received any written notice of default under the Master Lease that remains outstanding or in dispute. Lessor hereby agrees to indemnify, protect, defend and hold Lessee harmless from and against any and all claims, demands, liabilities, liens, losses and damages, of any kind or nature, including, without limitation, attorneys' fees and disbursements that may be asserted, at any time, against Lessee by reason of Lessor's failure to perform its obligations under the Master Lease. The indemnity set forth in the immediately preceding sentence shall survive the expiration or earlier termination of the Master Lease and this Lease. Lessor covenants not to take any action or do or perform any act or fail to perform any act during the Lease Term that would result in the failure or breach of any of the covenants, agreements, terms, provisions, or conditions of the Master Lease on the part of the "Lessee" thereunder. Whenever the consent of LIMO is required by, or LIMO fails to perform its obligations under, the Master Lease, Lessor agrees, upon the written request of Lessee, to use its commercially reasonable efforts to obtain such consent or performance on behalf of Lessee. Lessor covenants as follows during the Lease Term: (i) not to voluntarily terminate the Master Lease unless and until LIMO has agreed in writing to continue this Lease in full force and effect as a direct lease between LIMO and Lessee upon and subject to the terms, covenants and conditions of this Lease, or Lessee and Lessor agree to voluntarily terminate this Lease concurrently with the Master Lease; (ii) not to modify the Master Lease so as to adversely affect Lessee's rights or obligations hereunder; (iii) to take all commercially reasonable actions necessary to preserve the Master Lease, including, without limitation, the payment of rent payable by Lessor thereunder; and (iv) to perform the covenants, agreements, terms, provisions or conditions contained in the Master Lease (except to the extent they are the obligation of Lessee hereunder) and to comply with the terms of this Lease. To the extent LIMO requires Lessee to remove any Alterations or Utility Installations Lessee is not otherwise obligated to remove under the Lease, Lessor shall indemnify and reimburse Lessee for any costs, expenses and damages it suffers in connection with removing such Alterations or Utility Installations. This indemnity shall survive expiration or earlier termination of this Lease.

(d) Lessor represents and warrants to Lessee, as of the date hereof, that: (i) Lessor is the holder of the interest of the lessee under the Master Lease; (ii) Lessor has not received any notice from LIMO claiming that the Master Lease is not in full force and effect; (iii) to Lessor's actual knowledge, all obligations of both LIMO and Lessor thereunder have been satisfied; (iv) Lessor has neither given nor received a notice of default pursuant to the Master Lease; (v) Lessor has not received any notice from LIMO or any third party under the Master Lease as of the date hereof alleging any amounts are past due and, to Lessor's actual knowledge, after having reviewed its accounting records, all rent due and payable to LIMO or any third party under Master Lease has been paid-in-full to and through January 31, 2017; (vi) any and all alterations and other work performed by or on behalf of Lessor in the Premises were consented to in writing by LIMO (to the extent such consent is required under the Master Lease); (vii) LIMO has consented Lessor entering to this Lease with Lessee; and (viii) the Master Lease provided to Lessee is a true, correct, and complete copy of the Master Lease and has not been amended, modified or restated since the date of delivery to Lessee.

[remainder of page intentionally left blank; signature page follows]

IN WITNESS WHEREOF, the parties hereto have executed this Addendum as of the date of the Lease.

	SMOKY HOLLOW INDUSTRIES, LLC, a California limited liability company		SAVAGE RIVER, INC., a Delaware corporation dba Beyond Meat
By:	/s/ Mark Telesz	By:	/s/ Ethan Brown
Name:	Mark Telesz	Name:	Ethan Brown
Title:	Managing Member	Title:	CEO, Savage River, Inc. dba Beyond Meat

RENT ADJUSTMENT(S)
STANDARD LEASE ADDENDUM

Dated January 18, 2017

By and Between (Lessor) Smoky Hollow Industries, LLC, a California limited liability company

(Lessee) Savage River, Inc., a Delaware corporation dba Beyond Meat

Address of Premises: 1325 E. El Segundo Blvd. El Segundo, CA 90245

Paragraph 68

A. **RENT ADJUSTMENTS:**

The monthly rent for each month of the adjustment period(s) specified below shall be increased using the method(s) indicated below: (Check Method(s) to be Used and Fill in Appropriately)

☐ ~~**I. Cost of Living Adjustment(s) (COLA)**~~

~~a. On (Fill in COLA Date(s):~~ _____

~~the Base Rent shall be adjusted by the change, if any, from the Base Month specified below, in the Consumer Price Index of the Bureau of Labor Statistics of the U.S. Department of Labor for (select one) ☑ CPI W (Urban Wage Earners and Clerical Workers) or o CPI U (All Urban Consumers), for (Fill in Urban Area):~~

_____ ~~All items~~

~~(1982-1984=100), herein referred to as "CPI".~~

~~b. The monthly Base Rent payable in accordance with paragraph A.I.a. of this Addendum shall be calculated as follows: the Base Rent set forth in paragraph 1.5 of the attached Lease, shall be multiplied by a fraction the numerator of which shall be the CPI of the calendar month 2 months prior to the month(s) specified in paragraph A.I.a above during which the adjustment is to take effect, and the denominator of which shall be the CPI of the calendar month which is 2 months prior to (select one): the o first month of the term of this Lease as set forth in paragraph 1.3 ("Base Month") or~~

~~o (Fill in Other "Base Month"):~~ _____ ~~. The sum so calculated shall constitute the new monthly Base Rent hereunder, but in no event, shall any such new monthly Base Rent be less than the Base Rent payable for the month immediately preceding the Base Rent adjustment.~~

~~c. In the even the compilation and/or publication of the CPI shall be transferred to any other governmental department or bureau or agency or shall be discontinued, then the index most nearly the same as the CPI shall be used to make such calculation. In the even that the Parties cannot agree on such alternative index, then the matter shall be submitted for decision to the American Arbitration Association in accordance with the then rules of said Association and the decision of the arbitrators shall be binding upon the parties. The cost of said Arbitration shall be paid equally by the Parties.~~

☐ **II. Market Rental Value Adjustment(s) (MRV)**

a. On (Fill in MRV Date(s)): _____

_____

the Base Rent shall be adjusted to the "Market Rental Value" of the property as follows:

1) Four months prior to each Market Rental Value Adjustment Date described above, the Parties shall attempt to agree upon what the new MVR will be on the adjustment date. If agreement cannot be reached within thirty days, then:

(a) Lessor and Lessee shall immediately appoint a mutually acceptable appraiser or broker to establish the new MRV within the next 30 days. Any associated costs will be split equally between Parties, or

(b) Both Lessor and Lessee shall each immediately make a reasonable determination of the MRV and submit such determination, in writing, to arbitration in accordance with the following provisions:

(i) Within 15 days thereafter, Lessor and Lessee shall each select an ☐ appraiser or ☐ broker ("Consultant" check one) of their choice to act as an arbitrator. The two arbitrators so appointed shall immediately select a third mutually acceptable Consultant to act as a third arbitrator.

(ii) The 3 arbitrators shall within 30 days of the appointment of the third arbitrator reach a decision as to what the actual MRV for the Premises is, and whether Lessor's or Lessee's submitted MRV is the closest thereto. The decision of a majority of the arbitrators shall be binding on the Parties. The submitted MRV which is determined to be the closest to the actual MRV shall thereafter be used by the Parties.

(iii) If either of the Parties fails to appoint an arbitrator within the specified 15 days, the arbitrator timely appointed by one of them shall reach a decision on his or her own, and said decision shall be binding on the Parties.

(iv) The entire cost of such arbitration shall be paid by the party whose submitted MVR is not selected, i.e., the one that is NOT the closest to the actual MRV.

2) When determining MRV, the Lessor, Lessee and Consultants shall consider the terms of comparable market transactions which shall include, but no limited to, rent, rental adjustments, abated rent, lease term and financial condition of tenants.

3) Notwithstanding the foregoing, the new Base Rent shall not be less than the rent payable for the month immediately preceding the rent adjustment.

(b) Upon the establishment of each New Market Rental Value:
1) the new MRV will become the new "Base Rent" for the purpose of calculating any further Adjustments, and
2) the first month of each Market Rental Value term shall become the new 'Base Month' for the purpose of calculating any further Adjustments.

☑ **III. Fixed Rental Adjustment(s) (FRA)**

The Base Rent shall be increased to the following amounts on the dates set forth below:

On (Fill in FRA Adjustment Date(s)):	The New Base Rent shall be:
1st Anniversary of	$38,625.00
Commencement Date	
2nd Anniversary of	$39,785.00
Commencement Date	
3rd Anniversary of	$40,975.00
Commencement Date	
4th Anniversary of	$42,205.00
Commencement Date	

~~☐ **IV. Initial Term Adjustments**~~

~~**The formula used to calculate adjustments to the Base Rate during the original Term of the Lease shall continue to be used during the extended term.**~~

B. **NOTICE:**

Unless specified otherwise herein, notice of any such adjustments, other than Fixed Rental Adjustments, shall be made as specified in paragraph 23 of the Lease.

~~C.~~ ~~**BROKER'S FEE:**~~

~~The Brokers shall be paid a Brokerage Fee for each adjustment specified above in accordance with paragraph 15 of the Lease or if applicable, paragraph 9 of the Sublease.~~

NOTICE: These forms are often modified to meet changing requirements of law and industry needs. Always write or call to make sure you are utilizing the most current form: AIR Commercial Real Estate Association, 500 N Brand Blvd, Suite 900, Glendale, CA 91203.

LESSOR:	LESSEE:
SMOKY HOLLOW INDUSTRIES, LLC, a California limited liability company	SAVAGE RIVER., INC., a Delaware corporation dba Beyond Meat
By: /s/ Mark Telesz	By: /s/ Ethan Brown
Name: Mark Telesz	Name: Ethan Brown
Title: Managing Member	Title: CEO, Savage River, Inc.

ARBITRATION AGREEMENT
Standard Lease Addendum

Dated January 18, 2017

By and Between (Lessor) Smoky Hollow Industries, LLC, a California limited liability company

(Lessee) Savage River, Inc., a Delaware corporation dba Beyond Meat

Address of Premises: 1325 E. El Segundo Blvd. El Segundo, CA 90245

Paragraph 67

A. **ARBITRATION OF DISPUTES:**
Except as provided in Paragraph B below, the Parties agree to resolve any and all claims, disputes or disagreements arising under this Lease, including, but not limited to any matter relating to Lessor's failure to approve an assignment, sublease or other transfer of Lessee's interest in the Lease under Paragraph 12 of this Lease, any other defaults by Lessor, or any defaults by Lessee by and through arbitration as provided below and irrevocably waive any and all rights to the contrary. The Parties agree to at all times conduct themselves in strict, full, complete and timely accordance with the terms hereof and that any attempt to circumvent the terms of this Arbitration Agreement shall be absolutely null and void and of no force or effect whatsoever.

B. **DISPUTES EXCLUDED FROM ARBITRATION:**
The following claims, disputes or disagreements under this Lease are expressly excluded from the arbitration procedures set forth herein: 1. Disputes for which a different resolution determination is specifically set forth in this Lease, 2. All claims by either party which (a) seek anything other than enforcement or determination of rights under this Lease, or (b) are primarily founded upon matters of fraud, willful misconduct, bad faith or any other allegations of tortious action, and seek the award of punitive or exemplary damages, 3. Claims relating to (a) Lessor's exercise of any unlawful detainer rights pursuant to applicable law or (b) rights or remedies used by Lessor to gain possession of the Premises or terminate Lessee's right of possession to the Premises, all of which disputes shall be resolved by suit filed in the applicable court of jurisdiction, the decision of which court shall be subject to appeal pursuant to applicable law 4. Any claim or dispute that is within the jurisdiction of the Small Claims Court and 5. All claims arising under Paragraph 39 of this Lease.

C. APPOINTMENT OF AN ARBITRATOR:
All disputes subject to this Arbitration Agreement, shall be determined by binding arbitration before: ☐ a retired judge of the applicable court of jurisdiction (e.g., the Superior Court of the State of California) affiliated with Judicial Arbitration & Mediation Services, Inc. ("JAMS"), ☐ the American Arbitration Association ("AAA") under its commercial arbitration rules, ☑ ADR Services, Inc.

or as may be otherwise mutually agreed by Lessor and Lessee (the "Arbitrator"). Such arbitration shall be initiated by the Parties, or either of them, within ten (10) days after either party sends written notice (the "Arbitration Notice") of a demand to arbitrate by registered or certified mail to the other party and to the Arbitrator. The Arbitration Notice shall contain a description of the subject matter of the arbitration, the dispute with respect thereto, the amount involved, if any, and the remedy or determination sought. If the Parties have agreed to use JAMS they may agree on a retired judge from the JAMS panel. If they are unable to agree within ten days, JAMS will provide a list of three available

judges and each party may strike one. The remaining judge (or if there are two, the one selected by JAMS) will serve as the Arbitrator. If the Parties have elected to utilize AAA or some other organization, the Arbitrator shall be selected in accordance with said organization's rules. In the event the Arbitrator is not selected as provided for above for any reason, the party initiating arbitration shall apply to the appropriate Court for the appointment of a qualified retired judge to act as the Arbitrator.

D. **ARBITRATION PROCEDURE:**

1. **PRE-HEARING ACTIONS.** The Arbitrator shall schedule a pre-hearing conference to resolve procedural matters, arrange for the exchange of information, obtain stipulations, and narrow the issues. The Parties will submit proposed discovery schedules to the Arbitrator at the pre-hearing conference. The scope and duration of discovery will be within the sole discretion of the Arbitrator. The Arbitrator shall have the discretion to order a pre-hearing exchange of information by the Parties, including, without limitation, production of requested documents, exchange of summaries of testimony of proposed witnesses, and examination by deposition of parties and third-party witnesses. This discretion shall be exercised in favor of discovery reasonable under the circumstances. The Arbitrator shall issue subpoenas and subpoenas duces tecum as provided for in the applicable statutory or case law (e.g., in California Code of Civil Procedure Section 1282.6).

2. **THE DECISION.** The arbitration shall be conducted in the city or county within which the Premises are located at a reasonably convenient site. Any Party may be represented by counsel or other authorized representative. In rendering a decision(s), the Arbitrator shall determine the rights and obligations of the Parties according to the substantive laws and the terms and provisions of this Lease. The Arbitrator's decision shall be based on the evidence introduced at the hearing, including all logical and reasonable inferences therefrom. The Arbitrator may make any determination and/or grant any remedy or relief that is just and equitable. The decision must be based on, and accompanied by, a written statement of decision explaining the factual and legal basis for the decision as to each of the principal controverted issues. The decision shall be conclusive and binding, and it may thereafter be confirmed as a judgment by the court of applicable jurisdiction, subject only to challenge on the grounds set forth in the applicable statutory or case Jaw (e.g., in California Code of Civil Procedure Section 1286.2). The validity and enforceability of the Arbitrator's decision is to be determined exclusively by the court of appropriate jurisdiction pursuant to the provisions of this Lease. The Arbitrator may award costs, including without limitation, Arbitrator's fees and costs, attorneys' fees, and expert and witness costs, to the prevailing party, if any, as determined by the Arbitrator in his discretion.

Whenever a matter which has been submitted to arbitration involves a dispute as to whether or not a particular act or omission (other than a failure to pay money) constitutes a Default, the time to commence or cease such action shall be tolled from the date that the Notice of Arbitration is served through and until the date the Arbitrator renders his or her decision. Provided, however, that this provision shall NOT apply in the event that the Arbitrator determines that the Arbitration Notice was prepared in bad faith.

Whenever a dispute arises between the Parties concerning whether or not the failure to make a payment of money constitutes a default, the service of an Arbitration Notice shall NOT toll the time period in which to pay the money. The Party allegedly obligated to pay the money may, however, elect to pay the money "under protest" by accompanying said payment with a written statement setting forth the reasons for such protest. If thereafter, the Arbitrator determines that the Party who received said money was not entitled to such payment, said money shall be promptly returned to the Party who paid such money under protest together with Interest thereon as defined in Paragraph 13.5. If a Party makes a payment "under protest" but no Notice of Arbitration is filed within thirty days, then such protest shall be deemed waived. (See also Paragraph 42 or 43)

LESSOR:	LESSEE:
SMOKY HOLLOW INDUSTRIES, LLC, a California limited liability company	SAVAGE RIVER., INC., a Delaware corporation dba Beyond Meat
By: /s/ Mark Telesz	By: /s/ Ethan Brown
Name: Mark Telesz	Name: Ethan Brown
Title: Managing Member	Title: CEO, Savage River, Inc.

_____ **INITIALS**

EB **INITIALS**

OPTION(S) TO EXTEND
STANDARD LEASE ADDENDUM

Dated January 18, 2017

By and Between (Lessor) Smoky Hollow Industries, LLC, a California limited liability company

By and Between (Lessee) Savage River, Inc., a Delaware corporation dba Beyond Meat

Address of Premises: 1325 E. El Segundo Blvd., El Segundo, CA 90245

Paragraph 66

A. OPTION(S) TO EXTEND:
Lessor hereby grants to Lessee the option to extend the term of this Lease for one additional twenty-four month period(s) commencing when the prior term expires upon each and all of the following terms and conditions:

(i) In order to exercise an option to extend, Lessee must give written notice of such election to Lessor and Lessor must receive the same at least 6 but not more than 12 months prior to the date that the option period would commence, time being of the essence. If proper notification of the exercise of an option is not given and/or received, such option shall automatically expire. Options (of there are more than one) may only be exercise consecutively.

(ii) The provisions of paragraph 39, including those relating to Lessee' Default set forth in paragraph 39.4 of this Lease, are conditions of this Option.

(iii) Except for the provisions of this Lease granting an option or options to extend the term, all of the terms and conditions of this Lease except where specifically modified by this option shall apply.

(iv) This option is personal to the original Lessee and its Affiliates, and cannot be assigned or exercised by anyone other than said original Lessee and its Affiliates and only while the original Lessee or Affiliates is in ~~full~~ possession of a majority of the Premises and without the intention of thereafter assigning or subletting.

(v) The monthly rent for each month of the option period shall be calculated as follows, using the method(s) indicated below: (Check Method(s) to be Used and Fill in Appropriately)

☐ ~~**I. Cost of Living Adjustment(s) (COLA)**~~

~~a. On (Fill in COLA Dates):~~

~~the Base Rent shall be adjusted by the change, if any, from the Base Month specified below, in the Consumer Price Index of the Bureau of Labor Statistics of the U.S. Department of Labor for (select one): ☐ CPI W (Urban Wage Earners and Clerical Workers) or ☐ CPI U (All Urban Consumers), for (Fill in Urban Area):~~

~~All Items (1982-1984=100), herein referred to as "CPI".~~

~~b. The monthly Base Rent payable in accordance with paragraph A.I.a. of this Addendum shall be calculated as follows: the Base Rent set forth in paragraph 1.5 of the attached Lease, shall be multiplied by a fraction the numerator of which shall be the CPI of the calendar month 2 months prior to the month(s) specified in paragraph A.I.a. above during which the adjustment is to take effect, and the denominator of which shall be the CPI of the calendar month which is 2 months prior to (select one): ☐ the first month of the term of this Lease as set forth in paragraph 1.3 ("Base Month") or ☐ (Fill in Other "Base Month"):~~

~~The sum so calculated shall constitute the new monthly Base Rent hereunder, but in no event, shall any such new monthly Base Rent be less than the Base Rent payable for the month immediately preceding the rent adjustment.~~

~~c. In the event the compilation and/or publication of the CPI shall be transferred to any other governmental department or bureau or agency or shall be discontinued, then the index most nearly the same as the CPI shall be used to make such calculation. In the event that the Parties cannot agree on such alternative index, then the matter shall be submitted for decision to the American Arbitration Association in accordance with the then rules of said Association and the decision of the arbitrators shall be binding upon the parties. The cost of said Arbitration shall be paid equally by the Parties~~

☐ ~~II.~~ **~~Market Rental Value Adjustment(s) (MRV)~~**

~~a. On (Fill in MRV Adjustment Date(s))~~ _____

_____

_____

~~the Base Rent shall be adjusted to the "Market Rental Value" of the property as follows:~~

~~1) Four months prior to each Market Rental Value Adjustment Date described above, the Parties shall attempt to agree upon what the new MRV will be on the adjustment date. If agreement cannot be reached, within thirty days, then:~~

~~(a) Lessor and Lessee shall immediately appoint a mutually acceptable appraiser or broker to establish the new MRV within the next 30 days. Any associated costs will be split equally between the Parties, or~~

~~(b) Both Lessor and Lessee shall each immediately make a reasonable determination of the MRV and submit such determination, in writing, to arbitration in accordance with the following provisions:~~

~~(i) Within 15 days thereafter, Lessor and Lessee shall each select an ☐ appraiser or ☐ broker ("**Consultant**" check one) of their choice to act as an arbitrator. The two arbitrators so appointed shall immediately select a third mutually acceptable Consultant to act as a third arbitrator.~~

~~(ii) The 3 arbitrators shall within 30 days of the appointment of the third arbitrator reach a decision as to what the actual MRV for the Premises is, and whether Lessor's or Lessee's submitted MRV is the closest thereto. The decision of a majority of the arbitrators shall be binding on the Parties. The submitted MRV which is determined to be the closest to the actual MRV shall thereafter be used by the Parties.~~

~~(iii) If either of the Parties fails to appoint an arbitrator within the specified 15 days, the arbitrator timely appointed by one of them shall reach a decision on his or her own, and said decision shall be binding on the Parties.~~

~~(iv) The entire cost of such arbitration shall be paid by the party whose submitted MRV is not selected, i.e. the one that is NOT the closest to the actual MRV.~~

~~2) When determining MRV, the Lessor, Lessee and Consultants shall consider the terms of comparable market transactions which shall include, but not limited to, rent, rental adjustments, abated rent, lease term and financial condition of tenants.~~

~~3) Notwithstanding the foregoing, the new Base Rent shall not be less than the rent payable for the month immediately preceding the rent adjustment.~~

~~b. Upon the establishment of each New Market Rental Value:~~

~~1) the new MRV will become the new "Base Rent" for the purpose of calculating any further Adjustments, and~~

~~2) the first month of each Market Rental Value term shall become the new "Base Month" for the purpose of calculating any further Adjustments.~~

☑ **III. Fixed Rental Adjustments(s) (FRA)**

The Base Rent shall be increased to the following amounts on the dates set forth below:

On (Fill in FRA Adjustment Date(s)):	The New Base Rent shall be:
5th Anniversary of the Commencement Date	$43,475.00
6th Anniversary of the Commencement Date	$44,775.00

~~☐ **IV. Initial Term Adjustments.**~~

~~The formula used to calculate adjustments to the Base Rate during the original Term of the Lease shall continue to be used during the extended term.~~

B. NOTICE:

Unless specified otherwise herein, notice of any rental adjustments, other than Fixed Rental Adjustments, shall be made as specified in paragraph 23 of the Lease.

~~**C. BROKER'S FEE:**~~

~~The Brokers shall be paid a Brokerage Fee for each adjustment specified above in accordance with paragraph 15 of the Lease or if applicable, paragraph 9 of the Sublease.~~

NOTICE: These forms are often modified to meet changing requirements of law and industry needs. Always write or call to make sure you are utilizing the most current form: AIR Commercial Real Estate Association, 500 N. Brand Blvd, Suite 900, Glendale, CA 91203.
Telephone No. (213) 687-8777. Fax No. (213) 687-8616.

LESSOR:	LEESEE:
SMOKY HOLLOW INDUSTRIES, LLC, a California limited liability company	SAVAGE RIVER, INC., a Delaware corporation dba Beyond Meat
By: /s/ Mark Telesz	By: /s/ Ethan Brown
Name: Mark Telesz	Name: Ethan Brown
Title: Managing Member	Title: CEO, Savage River, Inc., dba Beyond Meat

LEASE

THIS LEASE made and entered into as of the 13th day of March, 2014, by and between the Sara Maguire LeMone as Trustee of the Sara Maguire LeMone Revocable Trust dated February 6, 2004, hereinafter referred to as "Landlord," and Savage River, Inc., a Delaware corporation, hereinafter referred to as "Tenant,"

WITNESSETH THAT:

WHEREAS, Landlord is the owner of certain real estate and improvements located in Columbia, Boone County, Missouri, known as 1714 Commerce Court, Columbia, Missouri (the "Building"); and

WHEREAS, Tenant has previously been occupying that portion of the Premises commonly known as Suite B (the "Prior Premises"), and desires to occupy in addition to the Prior Premises, Suite A of the Building (the "Additional Premises") upon completion of the Landlord Improvements defined hereinafter; and

WHEREAS, Landlord and Tenant desire to enter into a Lease whereunder Tenant will continue to use the Prior Premises, the lease for which will be null and void as of the Commencement Date, and will use, occupy, and enjoy the Premises, which Lease the parties desire to set forth in writing;

NOW THEREFORE, in consideration of the mutual agreements and covenants herein contained, the parties hereby agree as follows:

1. **Lease.** Subject to the terms and provisions hereof and conditioned on full and prompt performance by Tenant of all of Tenant's obligations set forth herein, Landlord does hereby demise, lease, and let 26,000 square feet of interior space in the Building, located within the Building and shown and depicted on Exhibit A hereto, which exhibit is incorporated herein by reference for all purposes (the "Premises") unto Tenant, and Tenant does hereby hire, lease, and take the Premises from Landlord, as Tenant, hereunder. During the term of this Lease as hereinafter described, Tenant shall be entitled to use and enjoy, on a non-exclusive basis, the parking areas and drives serving the Building, provided, however, Tenant shall not use the same in any manner or fashion which would block or impede the unrestricted flow of traffic through the drives and parking areas, and Tenant shall agree to abide by all reasonable rules and regulations imposed by Landlord from time to time regarding the use of any such shared parking areas and drives, provided such rules and regulations do not unreasonably interfere with Tenant's use of the Premises or operations therein.

2. **Construction.** Upon execution of this Lease, Landlord shall commence construction of the improvements listed on Exhibit B, attached hereto and incorporated herein by this reference (the "Landlord Improvements"), and shall substantially complete construction using reasonable diligence. All such construction shall be designed to accommodate installation of Tenant's furniture, fixtures, and equipment, a plan for which is attached hereto as Exhibit C (the "Tenant Improvements"). For purposes ofthis Lease, the Building, Improvements, and Premises shall be deemed to be substantially complete when Landlord has obtained a Certificate of Occupancy for the Premises (temporary or permanent) and completed the Landlord Improvements to the extent Tenant may lawfully use and occupy the Premises and Improvements for Tenant's intended purpose, subject to minor items of construction which must be completed or corrected and which will not materially interfere with Tenant's ability to then complete the Tenant Improvements (the "Punch List Items"). Landlord shall notify Tenant upon substantial completion, whereupon the Premises shall be delivered to and accepted by Tenant provided Landlord shall complete all Punch List Items as soon thereafter as reasonably practicable. The "Commencement Date" shall be the first day of the calendar month following the calendar month thirty days after Substantial Completion occurs.

3. **Term.** The term of this Lease shall be for an initial term commencing on the Commencement Date and ending at 12 midnight on fifth anniversary after the Commencement Date (the "Lease Term").

4. **Rent.**

a. Landlord shall permit Tenant to have access to the Premises immediately upon substantial completion of the Landlord Improvements, which is prior to the Commencement Date, for the purpose of making the Tenant Improvements, including installation, etc., of equipment for the operation of Tenant's business. If Tenant elects to exercise such right to early access, all of the terms and conditions of the Lease except those specified herein shall apply to such prior period, including, but not limited to, the requirement in paragraph 8 regarding Tenant obtaining and maintaining insurance on leasehold improvements, personal property, and trade fixtures protecting Tenant and any other occupant against loss or damage to such leasehold improvements, personal property, or other contents. Tenant shall further be responsible for payment of all utilities for the Premises beginning on and retroactive to January 1, 2014, and shall pay per diem rent for the Additional Premises beginning thirty (30) days following substantial completion at a rate of $329 per day prior to the Commencement Date, which per diem rent shall be due and payable on the Commencement Date along with rent for the first month of the Lease Term.

b. During the Lease term, Tenant shall pay monthly rent to Landlord, payable in advance on the first day of each month during the Lease term. Beginning on the Commencement Date, and continuing through October 31, 2017, Tenant shall pay to Landlord monthly rent in the amount of Twenty-One Thousand Five Hundred Thirty-Eight Dollars ($21,538) per month. Thereafter, from November 1, 2017, through the remainder of the term of the Lease, Tenant shall pay to Landlord monthly rent in the amount of Seventeen Thousand Two Hundred Three Dollars ($17,203) per month.

5. **Security Deposit.** On execution of this Lease, Tenant shall deposit with Landlord the sum of Twenty-One Thousand Five Hundred Thirty-Eight Dollars ($21,538) as security for performance of all the obligations of Tenant hereunder including, but not limited to, the payment of all rent and other charges due Landlord hereunder. In addition to the rights and remedies of Landlord set forth elsewhere in this Lease or otherwise available to Landlord under applicable law, in the event of any default by Tenant hereunder, Landlord shall be entitled to apply said deposit to the obligations of Tenant hereunder or shall be entitled to expend said security deposit toward the costs and expenses incurred by Landlord in connection with remedying any default by Tenant capable of being remedied by the expenditure of money. Should Landlord so pay or apply said deposit, Tenant shall, on Landlord's demand, immediately deposit such additional sums with Landlord as may be necessary to restore said deposit to the original amount thereof. At the end of the term of this Lease, should Tenant have complied with and performed in accordance with all the terms and provisions of this Lease, Landlord shall, within thirty (30) days after the end of the Lease Term, upon written demand from Tenant, refund said deposit to Tenant, or any portion thereof which remains after use of said deposit by Landlord in accordance with the foregoing provisions of this paragraph, without interest.

6. **Assignment and Subletting.** Tenant shall not, without the prior written consent of Landlord and the prior written consent of any lender holding indebtedness secured by the lien of a deed of trust on the Premises, assign this Lease or sublet the Premises or any part thereof. In the event of any assignment of Tenant's rights under this Lease, the assignee shall accept such assignment in writing, and agree, for the benefit of Landlord and Tenant, to assume all of the covenants and obligations of the Tenant hereunder, and Tenant shall, nonetheless, remain fully liable for performance of all of Tenant's obligations under this Lease, said liability to be joint and several with the Assignee. In the event that Landlord's consent or such Lender's consent is required to any voluntary assignment or subletting by Tenant, such consent to any particular assignment or subletting shall not constitute Landlord's consent or Lender's

consent as to any subsequent voluntary assignment or subletting. Tenant's interest in this Lease and the Premises shall not be assigned or transferred involuntarily or by operation or process of law.

7. **Use.** Tenant shall be entitled to use the Premises for manufacture, storage, and distribution of vegetable protein based food products, so long as such use is in compliance with all present and future applicable laws, ordinances, and regulations of duly constituted public authorities now or hereafter in any manner affecting the Premises or the use thereof. Tenant shall not permit any unlawful occupation, business, or trade to be conducted on the Premises. Tenant may place or install on the exterior of the Building such signs and lights as are deemed necessary for identification so long as the same comply with all zoning and other applicable ordinances of all governmental authorities having jurisdiction over the Premises, and provided Landlord consents in writing.

8. **Real Estate Taxes/Insurance Charges.** For purposes of this lease, "Tenant's pro rata share" shall mean Eighty-Six and Two Thirds Percent (86.67%). In addition to the rent and other charges payable hereunder by Tenant, Tenant shall annually pay to Landlord Tenant's pro rata share of the amount by which all ad valorem real estate taxes and assessments levied or assessed against the Premises exceed the amount of such taxes levied against the Premises during calendar year 2012 (the "Base Year"). In addition, Tenant shall pay Tenant's pro rata share of the amount by which all insurance premiums paid by Landlord to keep and maintain in full force and effect, a policy of casualty and liability insurance on the Facility during each Lease year exceed the amounts paid during the Base Year. Tenant's pro rata share of the real estate taxes and insurance premiums shall be prorated for calendar year 2014 and for the calendar year in which the term of this Lease comes to an end to reflect that portion of such calendar year included within the Lease term. The amounts payable by Tenant under this paragraph shall be payable to Landlord annually upon billing by Landlord. Landlord's annual billing shall be accompanied by a copy of the real estate tax bill and insurance premium invoice for the calendar year which is the subject of any such annual billing. All such annual billings shall be payable by Tenant within ten (10) days. Tenant acknowledges, and Landlord hereby covenants and agrees, that the policy of casualty and liability insurance referred to above shall insure the improvements constituting part of the Facility for the full replacement cost thereof, with so-called extended coverage endorsements and business interruption or loss of rents insurance and shall protect Landlord against claims for personal injuries or property damages suffered or sustained in, on, or about the Facility during the Lease term or arising out of the use or occupancy of the Facility up to a liability limit of Two Million Dollars ($2,000,000). Landlord shall be the sole named insured for said policy of casualty and liability insurance.

9. **Tenant's Insurance.** During the Lease term, Tenant shall, at Tenant's sole cost and expense, procure and maintain a policy of commercial general public liability insurance insuring Tenant against claims for personal injuries or property damage occurring in, on, or about the Premises during the Lease term or arising out of Tenant's use or occupancy thereof. Tenant's policy of liability insurance shall have a combined single limit of liability of not less than Two Million Dollars ($2,000,000) and shall name Landlord as an additional insured. On or before the commencement of the term of this Lease, Tenant shall provide to Landlord a certificate of insurance evidencing that such policy is in force and effect. Tenant shall also procure and maintain during the Lease term a policy of property and casualty insurance on all personal property kept or maintained by Tenant at or in the Premises against loss by fire or other casualty, for the full insurable value thereof.

10. **Mutual Waiver.** Each of the parties hereby releases the other party from any claims for loss of or damage to the property of the releasing party, however arising, including the negligence of the

released party, to the extent such loss or damage is required to be covered by the policies of property insurance to be maintained by the parties as called for under the foregoing provisions of this Lease.

11. **Tenant's Alterations.** Tenant, at its own expense, may, from time to time, make alterations and improvements in the Building constituting part of the Premises, but shall make no additions or alterations to the Building without the prior written consent of Landlord, which consent shall not be unreasonably withheld or delayed; provided, however, that Landlord shall not have any obligation to consent to any alterations or improvements which affect the structural aspect of the Building. Any alterations or improvements shall be conducted by Tenant in accordance with all applicable building codes, in a good and workmanlike manner, and at Tenant's sole cost and expense, and Tenant shall and hereby agrees to indemnify Landlord and to hold Landlord harmless from and against any claims arising out of any failure on the part of Tenant to construct any such alterations and improvements in such fashion and any mechanics' liens arising out of the construction of any such alterations or improvements.

12. **Maintenance.**

a. During the Lease term, Landlord shall keep and maintain the roof, exterior walls, structural frame, and floor slab and underground plumbing and utility systems of the Building in good and serviceable condition, all at Landlord's cost without contribution from Tenant, provided any defect is not the result of any negligence, abuse, or fault of Tenant or Tenant's agents, customers, or invitees.

b. Except as otherwise provided in subparagraph a. above, Tenant shall, at Tenant's expense, keep and maintain the Premises and all components thereof, including the heating, ventilating, and air conditioning, mechanical, above ground plumbing, and electrical lines, systems, and equipment in good working order and condition. Tenant shall keep the interior of the Premises in a clean, sanitary, and safe condition, free of accumulations of trash and debris. Tenant shall obtain annual inspections and routine maintenance necessary to keep all such systems in good working order. In addition, Tenant shall keep and maintain the fire sprinkler system serving the Premises in good operable condition and shall repair or replace the fire sprinkler system if necessary in order to keep the same in said condition. Landlord warrants that at the commencement of the Lease term, said fire sprinkler system and the compressor therefor shall be in good working order. Tenant shall at all times keep adequate heat in the Premises to keep the fire sprinkler system from being damaged by freezing.

c. During the Lease term, Landlord shall keep and maintain the sidewalks, curbs, parking areas, sewer and water mains, and all common areas of the Facility serving the Building in a good condition and state of repair. Landlord's responsibility under this subparagraph c. shall include, but not be limited to, mowing and maintenance of all landscaped areas, snow removal, and cosmetic repairs to the exterior walls of the Building, and sealing, striping, and maintaining the parking areas and drives serving the Building. Annually, upon billing by Landlord, Tenant shall reimburse Landlord for Tenant's pro rata share of all reasonable cost and expense incurred by Landlord in connection with performing Landlord's responsibilities as set forth in this subparagraph c, which billing shall be accompanied by a written itemization of all such cost and expense incurred by Landlord for the one (1) year period referred to in such billing. Tenant shall have the right to review and inspect Landlord's books and records relating to such expenses and Landlord agrees to keep and maintain the same for no Jess than 2 years and to allow Tenant to inspect the same at reasonable times upon reasonable advance notice to Landlord. All such amounts shall be payable by Tenant to Landlord within ten (10) days after billing.

13. **Utilities - Services.** Commencing on the date Tenant first occupies the Premises, Tenant shall pay for all utilities separately metered or charged to the Premises, as well as Tenant's pro rata share of the cost of all utilities and services used at the Premises which serve the entire Building, including, without limitation, air-conditioning, heat, gas, water, garbage disposal, and electricity. Tenant shall pay its prorated share no more frequently than monthly and immediately upon receipt of Landlord's invoice

therefor. To the extent practical, reasonable, and effective, such utilities, including but not limited to gas, electricity, and water, shall be separately metered, and in such event, Tenant shall bear responsibility for and the full cost of such separately metered utilities.

14. **Damage or Destruction.** In the event a portion of the Building constituting the Premises is destroyed or damaged to the extent that the same cannot be occupied by Tenant and Landlord reasonably determines that the Premises cannot be repaired within ninety (90) days after the occurrence of any such damage, then either party shall be entitled to terminate this Lease effective as of the date of any such damage or destruction by so notifying the other party within ten (10) days after the occurrence thereof. If damage occurs to the Facility but the same is not to such extent or should neither party elect to so terminate this Lease by giving notice within said ten (10) day period, then Landlord shall proceed to repair and restore the Premises to as good a condition as the same were in prior to the occurrence of any such damage, with all reasonable speed, taking into consideration sound construction practices and delays caused by circumstances beyond Landlord's reasonable ability to control, and during the period of repairs, the rent due hereunder shall be equitably abated to the extent that any portion of the Premises is unusable by Tenant during the period of any such repairs. Should Landlord fail to proceed with reasonable diligence in making such repairs and restorations and such failure continues for 20 days after written notice thereof making specific reference to this paragraph 12 is given by Tenant to Landlord then Tenant shall have the right to terminate this Lease

15. **Condemnation.** If the whole or any substantial part of the Premises or access thereto should be taken for any public or quasi-public use under any governmental law, ordinance, or regulation or by right of eminent domain, or sold to the condemning authority under threat of condemnation, this Lease shall terminate and the rent shall be abated during the unexpired portion of the Lease term, effective upon the actual physical taking.

If less than a substantial part of the Premises or access thereto is taken for a public or quasi-public use under any governmental law, ordinance or regulation, or by right of eminent domain, or be sold to the condemning authority under threat of condemnation, the Lease shall not terminate; however, the rental shall be adjusted as to the area not taken as is fair and reasonable. Landlord shall restore the remaining portion of the Premises as necessary to render the Premises suitable for Tenant's use and occupancy.

That portion of the Premises taken for public or quasi-public use shall be deemed "substantial" if Tenant, at its sole discretion, determines that as a result of such taking, Tenant is unable to conduct business thereon substantially in the manner and to the extent conducted immediately prior to such taking, and, if such taking is "substantial," Tenant may elect to terminate this Lease as of the date of such taking by so notifying Landlord in writing.

Landlord and Tenant, after first paying all costs and expenses of litigation and/or negotiation including but not limited to reasonable attorneys' fees, shall each be entitled to receive and retain such separate awards and portions of lump-sum awards as may be allocated to their respective interests in the Premises; provided that no settlement shall be made by either party until the parties have first agreed upon allocation of the settlement amount. Termination of this Lease in accordance with the first paragraph of this section shall not affect the respective rights of the parties to such awards.

16. **Surrender.** Upon the expiration of the term of this Lease or at any earlier termination in accordance with the provisions hereof, Tenant shall deliver the Premises, together with any alterations or improvements installed in the Premises by Landlord, in as good a condition as the same were in at the commencement of the Lease term, ordinary wear and tear and loss by fire or other insured casualty excepted, and Tenant shall surrender the Premises to Landlord at the end of the Lease term in broom-clean condition. At the end of the Lease term Tenant shall be entitled to remove any trade fixtures and

signage installed in or on the Premises by Tenant, provided, however, Tenant repairs all damage to the Premises occasioned by removal by the end of the Lease term.

17. **Default.** It is agreed that (i) if Tenant fails to pay rent or any other charge due Landlord from Tenant when due and said failure continues for ten (10) days after written notice from Landlord, or (ii) if default shall be made in the prompt and full performance of any other covenant, condition or agreement of this Lease to be kept or performed by Tenant and such default continues uncured for thirty (30) days after written notice thereof to Tenant, or (iii) if Tenant shall suffer this Lease to be taken under any writ of execution or other process, or (iv) if any proceeding shall be commenced to declare Tenant bankrupt, or insolvent, or to obtain relief under any chapter or provision of any bankruptcy or debtor relief law or act (and such proceeding is not dismissed within 60 days of the commencement thereof) or to reduce or modify Tenant's debts or obligations or to delay or extend the payment therefor, or if any assignment of Tenant's property be made for the benefit of creditors, or if a receiver or trustee be appointed for Tenant or Tenant's property or business, then and in any of such events, Tenant shall be deemed to be in default hereunder. Notwithstanding the foregoing, if, during the Lease term Landlord has given one (2) notices during any calendar year to Tenant under (i) above, any subsequent failure of Tenant to pay any amount due Landlord hereunder when due during such Lease term shall immediately constitute a Monetary Default without further notice from Landlord to Tenant. Landlord, besides any other rights or remedies Landlord may have hereunder or under applicable law, shall have the immediate right to terminate this Lease or the immediate right of re-entry with or without termination, in which event, Landlord may remove all persons and property from the leased Premises and such property may be removed and stored in a public warehouse or elsewhere at the cost of and for the account of Tenant, all without Landlord being deemed guilty of trespass, or becoming liable for any Joss or damage which may be occasioned thereby provided Landlord complies with applicable law.

Should Landlord elect to re-enter, as herein provided, or should it take possession pursuant to legal proceedings or pursuant to any notice provided for by law, it may either (a) terminate this Lease, or (b) it may from time to time without terminating this Lease, make such alterations and repairs as may be necessary in order to relet the Premises and relet said Premises or any part thereof for such term or terms (which may be for a term extending beyond the term of this Lease) and at such rental or rentals and upon such other terms and conditions as are reasonable. Upon such reletting, all rentals received by Landlord from such reletting shall be applied, first to the payment of any indebtedness other than rent due hereunder from Tenant to Landlord; second, to the payment of any costs and expenses of such reletting, including brokerage fees and attorneys' fees and costs of repairs; third, to the payment of rent due and payable hereunder, and the residue, if any, shall be held by Landlord and applied to the payment of future rents as the same may become due and payable hereunder. If such rentals received from reletting during any month be less than that payable during the month by Tenant hereunder, Tenant shall pay any deficiency to Landlord from time to time, upon Landlord's demand. No such re-entry or taking possession of said Premises by Landlord shall be construed as an election on its part to terminate this Lease unless a written notice of such intention be given to Tenant or unless the termination thereof be decreed by a court of competent jurisdiction. Notwithstanding any such reletting without termination, Landlord may at any time thereafter elect to terminate this Lease for such previous default by Tenant. Should Landlord at any time terminate this

Lease for any default by Tenant, in addition to any other remedies Landlord may have hereunder or under applicable law, Landlord may recover from Tenant all rents and other charges due Landlord from Tenant according to the terms of this Lease and which are in arrears at the time of termination plus an additional amount as liquidated damages for the loss of future rents in an amount equal to the difference between the fair market rental of the Premises for the remainder of the Lease term and the rent and other amounts provided for in this Lease to be paid over the remainder of the Lease term as determined by an MAI appraiser with his or her principal offices located in Boone County, Missouri, of Landlord's

choosing, it being agreed that Landlord's damages for future loss of rents would be difficult if not impossible to ascertain, and in addition, Landlord shall be entitled to receive from Tenant all costs and expenses incurred in connection with the collection of Landlord's damages, including reasonable attorneys' fees.

If a failure by Tenant to perform in accordance with the terms of this Lease (other than a failure to make timely payment of rent or other charges required to be paid by Tenant hereunder) is ofa nature that is not reasonably capable of being cured within thirty (30) days, Tenant shall not be in default of this Lease if Tenant commences to cure the failure within the thirty-day period and diligently prosecutes to cure the same with all reasonable speed.

No waiver by either party of any breach by the other party of any such other party's obligations, agreements, or covenants hereunder shall be deemed to be a waiver of any prior or subsequent breach of the same or of any other obligations, no shall any forbearance by either party to seek remedy for any breach by the other party be deemed a waiver of any rights and remedies with respect to such breach or any prior or subsequent breach.

Landlord may recover from Tenant all reasonable damages directly incurred by reason of breach or default by Tenant, including, but not limited to, the costs of recovering the Leased Premises and reasonable attorneys' fees.

18. **Environmental Provisions.** Tenant shall keep and maintain the Premises in compliance with and shall not cause or permit the Premises to be in violation of any federal, state, or local laws, ordinances or regulations relating to environmental conditions on, under, or about the Premises, including but not limited to, soil and groundwater conditions. Tenant shall not use, generate, manufacture, store, or dispose of on, under, or about the Premises or transport to or from the Premises any Hazardous Materials in violation of applicable laws. Hazardous Materials are any flammable, explosive, radioactive, toxic, or other related materials, including, but not limited to, "hazardous substances" as defined in the Comprehensive Environmental Response and Liability Act of 1980, 42 U.S.C. 9601, et seq. Tenant hereby agrees to indemnify Landlord, its officers, directors, agents, and employees and hold Landlord, its officers, directors, agents, and employees harmless from and against any and all claims, losses, damages, liabilities, fines, penalties, charges, administrative, and judicial proceedings and orders, judgments, remedial action requirements, enforcement actions of any kind, and all costs and expenses incurred in connection therewith (including, but not limited to, attorney's fees and expenses), arising directly or indirectly, in whole or in part, out of any activity carried on or undertaken on or off the Premises, during the term of the Lease and whether by Tenant or any employees, agents, contractors, or subcontractors of Tenant, or by any third persons at any time occupying or present on the Premises during the term of the Lease (or as to the Prior Premises, during the term of the prior Lease dated June 27, 2012), in connection with the handling, treatment, removal, storage, decontamination, cleanup, transport, or disposal of any Hazardous Materials at any time located or present on, under, or about the Premises. Tenant shall not be liable or responsible for any environmental conditions existing on the Premises prior to Tenant's occupancy of the Premises. Tenant shall immediately advise Landlord in writing of (i) any and all enforcement, cleanup, remedial, removal or other governmental or regulatory actions instituted, completed, or threatened pursuant to any Hazardous Materials Laws; (ii) all claims made or threatened by any third party against Tenant or the Premises relating to damage, contribution, cost recovery compensation, loss, or injury resulting from any Hazardous Materials; and (iii) Tenant's discovery of any occurrence or condition on any real property adjoining or in the vicinity of the premises that could cause the Premises to be subject to any restrictions on the ownership, occupancy, transferability, or use of the Premises under any applicable laws.

19. **Subordination and Quiet Enjoyment.** Landlord reserves the right to subject and subordinate this Lease at all times to the lien of any deed of trust now or hereafter placed upon the

Facility and the Premises, or upon any buildings hereafter placed upon the land parcel upon which the demised Premises are located, and Tenant agrees upon request to execute an agreement subordinating its interest and/or attornment agreement to such deed of trust; provided, however, that no default by Landlord under any such deed of trust shall affect Tenant's rights hereunder so long as Tenant shall not be in default, and Tenant's right to quiet enjoyment and rights and options under this Lease shall not be disturbed if Tenant is not in default. So long as Tenant is not in default as to this Lease, Landlord covenants and agrees that Tenant shall lawfully and quietly hold, occupy, and enjoy the Premises during the term of this Lease, without hindrance or molestation by or from anyone claiming by, through, or under Landlord. Tenant shall and hereby agrees to execute an estoppel letter or certificate from time to time, promptly upon request by Landlord, whereunder Tenant acknowledges that this Lease is then in effect, verifying that Landlord is not in default under the Lease, or if there be such default, stating the nature of such default, stating the Commencement Date of the Lease, the amount of the monthly rent installments then due and payable under the Lease and verifying if Tenant has not prepaid the rent more than one (1) month in advance and providing such other information regarding this Lease as Landlord may request.

20. **Attornment.** In the event any proceedings are brought for the foreclosure of, or in the event of exercise of the power of sale under, any deed of trust made by Landlord covering the leased Premises, Tenant hereby attorns to and covenants and agrees to execute an instrument in writing reasonably satisfactory to the new owner whereby Tenant attorns to such successor in interest and recognizes such successor as the Landlord under this Lease, and Tenant's rights and options shall continue under this Lease so long as Tenant is not in default hereunder.

21. **Right of First Refusal.** Landlord hereby grants to Tenant a first right of refusal on Suite C in the Building (the "ROFR Space"), which is adjacent to the Premises, should the current tenant vacate the ROFR Space during the Lease term. In the event that the current tenant moves out of the ROFR Space, or Landlord is notified that said tenant in the ROFR Space intends to vacate the ROFR Space, Landlord shall notify Tenant of same. Tenant shall have thirty days thereafter within which to notify Landlord whether Tenant desires to lease the ROFR Space and negotiate terms acceptable to Landlord and Tenant for such lease. Upon expiration of said 30-day period, Landlord may proceed to lease the ROFR Space to another tenant without regard to the right of first refusal set forth herein.

22. **Holding Over.** If Tenant shall hold over after expiration of the term of this Lease for any cause, Tenant shall be liable for double the rent payable hereunder for any such holdover period and shall otherwise be upon the terms and conditions herein specified as may be applicable.

23. **Miscellaneous.** Each provision of this Lease shall be deemed to be both a covenant and a condition. All rights and remedies of Landlord and Tenant herein created or otherwise existing at law or equity are cumulative and the exercise of one or more rights or remedies shall not be taken to exclude or waive the rights to the exercise of any other. All such rights and remedies may be exercised and enforced concurrently and whenever and as often as Landlord and Tenant shall deem desirable.

The failure of one party to insist upon strict performance by the other party of any of the covenants, conditions, and agreements of this Lease shall not be deemed a waiver of any rights or remedies concerning any prior, subsequent or continuing breach or default of any of the covenants, conditions, and agreements of this Lease. No surrender of the demised Premises shall be effected by Landlord's acceptance of rental or by any other means whatsoever unless the same be evidenced by Landlord's written acceptance of such a surrender.

All covenants, promises, conditions, representations, and agreements herein contained shall be binding upon and inure to the parties hereto and their respective successors and permitted assigns; provided that no assignment of this Lease or any interest therein shall be made except as expressly

permitted herein. As used in this Lease the word "Tenant" shall include, where appropriate, any party or parties having or making claim to the leasehold interest herein.

The words "Landlord" and "Tenant" as used herein shall include the plural as well as the singular. Words used in the masculine gender include the feminine and neuter.

The captions or titles to paragraphs and articles of this Lease are not a part of it, are for convenience in locating provisions only, and shall have no effect upon the construction or interpretation of this Lease.

Tenant shall pay before the same becomes delinquent, all taxes on the Tenant's personal property located on the Premises, and all taxes, licenses, and other impositions levied by any governmental jurisdiction having authority on the Tenant's business operated on the Premises.

Landlord acknowledges that Tenant intends to operate a normal LTL freight business on the Premises. In the event that the City of Columbia will not issue to Tenant a certificate of occupancy to conduct this type of business, this Lease will be null and void.

The sole legal relationship between the parties hereto by reason of this Lease shall be that of Landlord and Tenant. Neither party, in any way or for any purpose, becomes a partner of the other party in the conduct of its business or otherwise, or joint venturer or a member of a joint enterprise with the other party.

If any term, covenant, or condition of this Lease or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Lease, or the application of such term, covenant, or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term, covenant, or condition of this Lease shall be valid and be enforced to the fullest extent permitted by law.

All exhibits referred to herein and attached to this Lease are incorporated herein by reference.

This Lease shall be construed and interpreted in accordance with the laws of the state in which the Premises are located.

24. **Notices.** Notices and demands required or permitted to be given hereunder may be given in writing by personal delivery to either party or any officer or other representative of the party to be notified, or may be sent by certified mail, or via overnight delivery service, addressed, postage prepaid, to the addresses as set out below, or such other addresses, notice of which is given pursuant hereto:

IF TO LANDLORD:	c/o Sara Maguire LeMone 3316 LeMone Industrial Boulevard Columbia, MO 65201 Attn: Jay Burchfield and Tracy Stock Facsimile: (573) 449-7300
and to:	Phebe La Mar P.O. Box 918 Columbia, MO 65205 Facsimile: (573) 442-6686
IF TO TENANT:	Beyond Meat® 1714 Commerce Court, Suite B Columbia, MO 65202 Attn: Bob Prusha Facsimile: _____

25. **Amendments.** No amendments, modifications of, or supplements to this Lease shall be effective unless in writing and executed by both parties.

26. **Time of Essence.** Time is of the essence of this Lease and each and every provision hereunder.

IN WITNESS WHEREOF, this Lease has been executed on the day and year set forth above.

Landlord:

/s/ Sara Maguire

Sara Maguire LeMone as Trustee of the Sara Maguire LeMone Revocable Trust dated February 6, 2004

Tenant:

Savage River, Inc.

By /s/ Robert Prusha 3/13/14

Robert Prusha Vice-President of Operations

Exhibit A

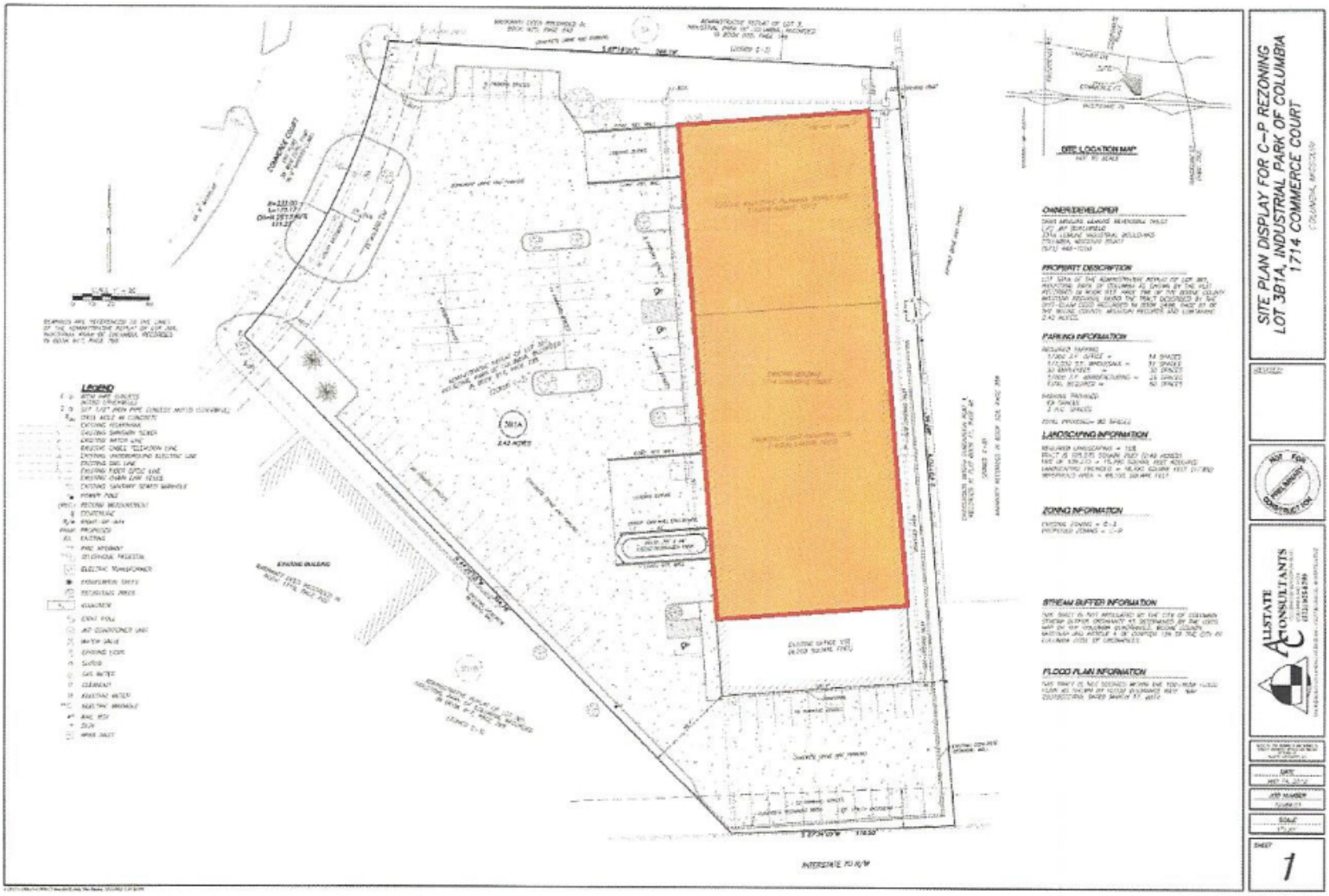

SITE PLAN DISPLAY FOR C-P REZONING
LOT 3B1A, INDUSTRIAL PARK OF COLUMBIA
1714 COMMERCE COURT
LEGEND
SITE LOCATION MAP
OWNER/DEVELOPER
PROPERTY DESCRIPTION
PARKING INFORMATION
LANDSCAPING INFORMATION
ZONING INFORMATION
STREAM BUFFER INFORMATION
FLOOD PLAIN INFORMATION
COMMERCE COURT
3B1A
2.42 ACRES
EXISTING BUILDING
EXISTING OFFICE 1ST
INTERSTATE 95 N/B
Not For PRELIMINARY CONSTRUCTION
ALLSTATE CONSULTANTS
SHEET
1

Exhibit B

Project: **Beyond Meat Addition** **$ 21.70 per SF**

Bid Date: **2/12/2014** **10,000 sf**

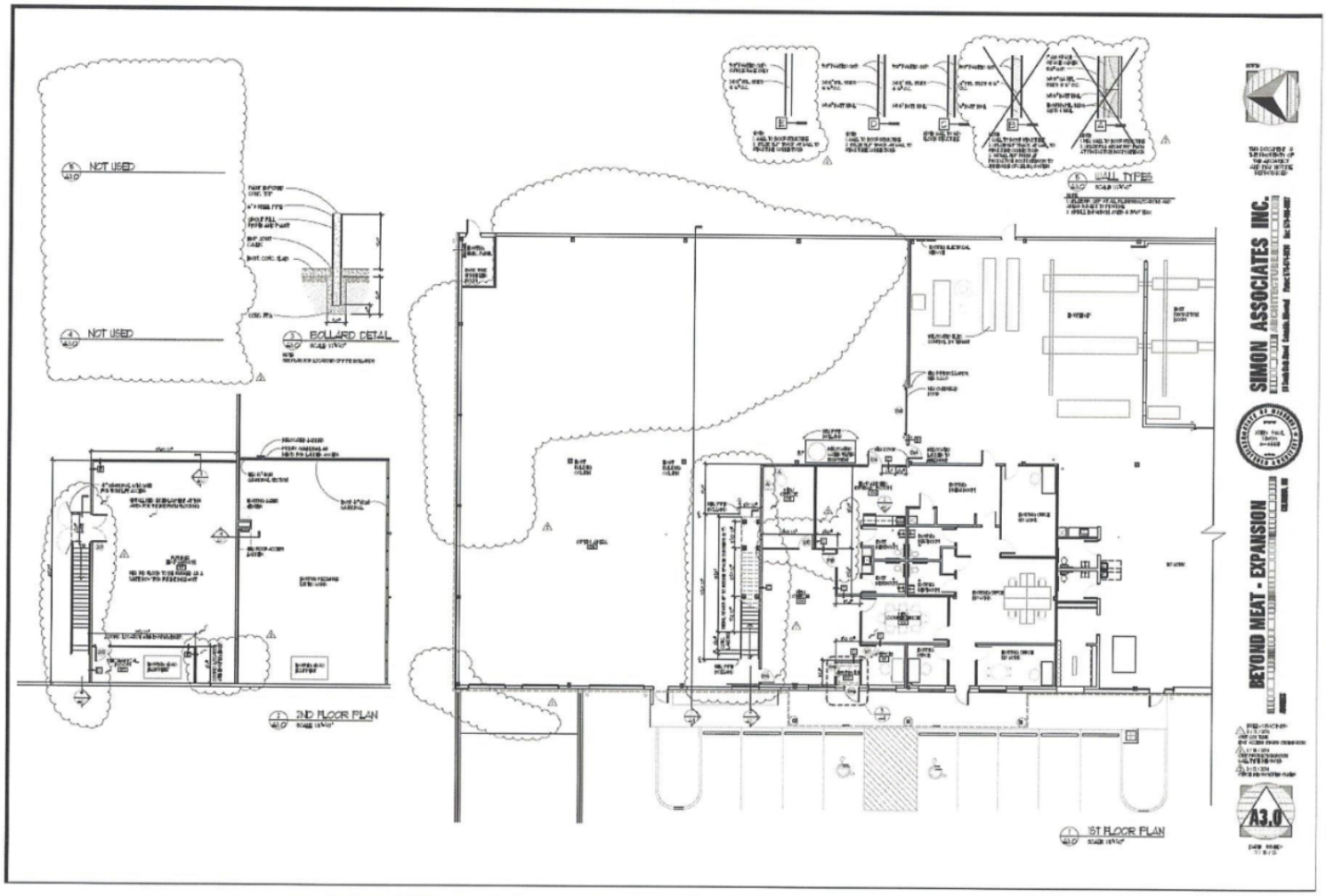
Compl: **duration**

Div-Sec	Description	Bidder	Sub/Material
1	**General Requirements**		
01 31 13	Project Coordination (Job PM)	LDC	$ 3,500
01 32 00	Construction Documents (prints)	LDC	$ 600
01 51 00	Temporary Utilities	N/A	N/A
01 52 19	Sanitary Facilities	N/A	N/A
01 74 13	Process Cleaning	LDC	$ 3,500
01 74 14	Final Clean	LDC	$ 3,000
01 74 19	Construction Waste Disposal	LDC	$ 3,000
2	**Existing Conditions**		
02 41 00	Demolition (office, Tile on breakroom floor)	LDC	$ 4,578
02 41 01	Demolition (Warehouse/saw cut)	LDC	$ 2,500
3	**Concrete**		
03 30 00	Cast-In-Place Concrete (stair footing)	LDC	$ 1,400
03 81 00	Pour Back Saw Cuts	LDC	$ 1,800
03 90 00	Concrete Curb	LDC	N/A
03 91 00	Exterior Pad	N/A	N/A
5	**Metals**		
05 10 00	Structural Steel (Stairs up, roof hatch work)	LDC	$ 5,150
05 12 00	Relocate Ladder	LDC	$ 500
05 52 13	Bollards (8)	LDC	$ 6,400
6	**Wood and Plastics**		
06 10 00	Rough Carpentry	Quality	w/Quality
06 30 00	Backing	LDC	$ 1,500
06 40 23	Interior Architectural Woodworking	Seville	$ 1,563
7	**Thermal & Moisture Protection**		
07 21 00	Thermal Insulation	Quality	w/Quality
07 70 00	Roof and Wall Specialties & Acc. (Hatch/ Flashing)	LDC	$ 4,100
07 92 00	Joint Sealants	LDC	$ 2,000
8	**Openings**		
08 10 00	Doors and Frames	Comarco	$ 7,082
	Door Labor (Install dooors and frames)	LDC	$ 1,750
08 71 00	Door Hardware	Comarco	w/Comarco
08 33 00	Overhead Door (1 now)	Smarr	$ 1,200
08 80 00	Glazing	CGM	$ 1,200

9	**Finishes**		
09 21 16	Gypsum Board Assemblies	Quality	$ 30,750
09 50 00	Ceilings	Quality	w/Quality
09 60 00	Flooring	Marathon	$ 7,782
09 28 00	Underlayment	LDC	$ 850
09 50 00	Floor Sealer in Production Room (1,890 sq/ft.)	N/A	N/A
09 67 23	Epoxy Floor	N/A	N/A
09 90 00	Painting & Coating	S/B	$ 5,430
21	**Fire Suppression**		
21 00 00	Water-Based Fire-Suppression Systems	Summit	$ 5,180
22	**Plumbing**		
22 00 00	Plumbing	Summit	$ 13,500
23	**Heating, Ventilating & Air Conditioning**		
23 00 00	HVAC	Star	$ 8,035
26	**Electrical**		
26 00 00	Electrical	Meyer	$ 25,479
	Job Superintendent	LDC	$ 12,300
	Building Permit	LDC	$ 2,200
	A/E Drawings	Simon	$ 21,900
	Sub-Total - Base Bid		$ 189,729
	General Conditions	4.00%	$ 7,589
	Subtotal		$ 197,318
	Contractor's Mark Up	10.00%	$ 19,732
	Total		$ 217,050
	Grand Total - Base Bid		$ 217,050

Exclusions:
All new Service for future equipment

Exhibit C


NOT USED
NOT USED
BOLLARD DETAIL
WALL TYPES
2ND FLOOR PLAN
1ST FLOOR PLAN
SIMON ASSOCIATES INC.
BEYOND MEAT - EXPANSION
A3.0

Sara Maguire LeMone Revocable Trust

3316 LeMone Industrial Blvd
Columbia, MO 65201
573-449-7200 office 573-449-7300 fax

June 10, 2014
Savage River, Inc.
Mr. Bob Prusha, V.P. Operations
1714 Commerce Ct. , Ste. B
Columbia, MO 65202

RE: 1714 Commerce Ct., Suites A&B, Columbia, MO 65202
Lease Dated March 13, 2014 ("Lease") by and between Sara Maguire LeMone Revocable Trust ("Landlord") and Savage River, Inc., a Delaware Corporation ("Tenant")

Dear Mr. Prusha,

This letter is to advise you that, pursuant to Section 2 of the Lease, the Tenant Improvements were substantially completed on May 28, 2014. As such, the Commencement Date shall be July 1, 2014 with a termination date of June 30, 2019. Pursuant to Section 4a of the Lease, on the Commencement Date, Tenant shall pay accumulated per diem rent in the amount of $987.00 in addition to the regular rent of $21,538.00.

By signing below, you are confirming acknowledgment of these dates. Upon execution by both parties, these dates will be incorporated into and made part of the lease.

Sincerely,

/s/ Jay Burchfield
Jay Burchfield
Manager

Landlord:		**Tenant:**	
Sara Maguire LeMone Revocable Trust		Savage River, Inc.	
By:	/s/ Sara M LeMone	By:	/s/ Robert Prusha
Title:	Trustee	Title:	EVP
Date:	June 11, 2014	Date:	June 11, 2014

LEASE AMENDMENT

THIS LEASE AMENDMENT is entered into on this 1st day of November, 2017, by and between Sara Maguire LeMone as Trustee of the Sara Maguire LeMone Revocable Trust dated February 6, 2004, hereinafter referred to as "Landlord," and Savage River, Inc., a Delaware corporation, hereinafter referred to as "Tenant."

WHEREAS, on or about March 13, 2014, Landlord and Tenant entered into a Lease (the "Lease") for 26,000 interior square feet of the building located at 1714 Commerce Court, Columbia, Boone County, Missouri (the "Building"), and certain other improvements consisting of parking areas and drives serving the Building (the "Premises"); and

WHEREAS, the Lease commenced on July 1, 2014, and terminates on June 30, 2019 (the "Term"); and

WHEREAS, Tenant has entered into a new lease (the "New Lease") for additional space in a larger building with possible room to expand, and with space that must be finished out prior to Tenant occupying same; and

WHEREAS, Tenant and Landlord have agreed to terms pursuant to which Tenant will vacate the Premises without terminating the lease or Tenant's obligations thereunder, following written notice to Landlord of the specific date on which same shall occur, and following receipt of this notice, Landlord will actively market the Premises for lease; and

WHEREAS, the parties desire to enter into this Lease Amendment in order to modify the terms of the Lease as herein set forth.

NOW THREFORE, for and in consideration of the mutual agreements and covenants herein, the parties hereby agree as follows:

1. **Vacation of Premises.** Tenant shall provide to Landlord written notice of the date on which Tenant will vacate the Premises. Following receipt of such notice, Landlord shall, without terminating the Lease, actively market the Premises to seek another tenant to occupy the Premises for the remainder of the Term.

2. **Rent.** Tenant shall remain liable for the rent due under the Lease for the remainder of the Term. In the event, however, that Landlord enters into a new lease with a new tenant ("New Tenant") for the Premises, Landlord shall credit to Tenant, which credit shall operate as a credit against rent due from Tenant to Landlord under the Lease, the rent received from New Tenant. Notwithstanding the foregoing, in the event that Landlord must expend funds to remove Tenant's improvements that were specialized to accommodate Tenant's trade fixtures including but not limited to internal curbing, epoxy flooring, carbon dioxide, nitrogen, water and steam distribution piping, floor sinks, drains, freezer sub-floor and panels, in order to relet same, or incur any expenses such as broker fees or attorney fees to relet the Premises to New Tenant (the "Finish Allowance"), Landlord shall be reimbursed for any Finish Allowance before Tenant receives any credit against rents due hereunder, and the credit to Tenant for rent paid by New Tenant shall be reduced by the amount of any Finish Allowance paid by Landlord for the Premises.

3. **Governing Provisions.** Except as provided for above, all other terms and provisions of the Lease shall remain in full force and effect. Any inconsistency between the Lease and the provisions of this Lease Amendment shall be governed by the provisions of this Lease Amendment.

4. **Binding Effect.** This Lease Amendment, and the Lease as amended hereby, shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

IN WITNESS WHEREOF, this Lease Amendment has been executed on the date first written above.

Landlord:

/s/ Sara Maguire

Sara Maguire LeMone as Trustee of the Sara Maguire LeMone Revocable Trust dated February 6, 2004

Tenant:

Savage River, Inc.

By /s/ Mark J. Nelson

Mark J. Nelson, COO & CFO

LEASE

THIS LEASE made and entered into as of the 12th day of, October 2017, by and between LeMone Family Limited Partnership, LLLP, a Missouri limited liability limited partnership, hereinafter referred to as "Landlord," and Savage River, Inc., a Delaware corporation, hereinafter referred to as "Tenant,"

WITNESSETH THAT:

WHEREAS, Landlord is the owner of certain real estate and improvements located in Columbia, Boone County, Missouri, known as 2400 Maguire Boulevard, Columbia, Boone County, Missouri (the "Property"); and

WHEREAS, Landlord and Tenant desire to enter into a Lease whereunder Tenant will lease the Premises, as hereinafter described, which Lease the parties desire to set forth in writing;

NOW THEREFORE, in consideration of the mutual agreements and covenants herein contained, the parties hereby agree as follows:

1. **Lease.** Subject to the terms and provisions hereof, and conditioned on full and prompt performance by Tenant of Tenant's obligations set forth herein (including, without limitation, the completion of the Landlord Improvements on or before the Commencement Date), Landlord does hereby demise, lease, and let the unto Tenant, and Tenant does hereby hire, lease, and take from Landlord, as Tenant, hereunder the building ("Building") and improvements located on the Property (the "Improvements"), including, but not limited to, the parking areas and drives serving the Building (collectively, the "Premises"). A site plan of the Premises is attached hereto as Exhibit A and incorporated herein by this reference.

2. **Construction.** Upon execution of this Lease, Landlord shall commence construction of the improvements listed on Exhibit B, attached hereto and incorporated herein by this reference (the "Landlord Improvements"), and shall substantially complete construction using reasonable diligence. All such construction shall be designed to accommodate installation of Tenant's furniture, fixtures, and equipment, a plan for which is attached hereto as Exhibit C (the "Tenant Improvements"). For purposes of this Lease, the Premises shall be deemed to be "substantially complete" when Landlord has (a) obtained a Certificate of Occupancy for the Premises (temporary or permanent) and (b) completed the Landlord Improvements (i) such that Tenant may lawfully use and occupy the Premises for Tenant's intended purpose, and (ii) in a manner to accommodate the installation of Tenant's

Improvements, subject to Punch List Items. As used herein "Punch List Items" are those minor items of construction which must be completed or corrected and which will not materially interfere with Tenant's ability to then complete the Tenant Improvements. Landlord shall notify Tenant upon substantial completion, whereupon the Premises shall be delivered to and accepted by Tenant provided Landlord shall complete all Punch List Items as soon thereafter as reasonably practicable. The "Commencement Date" shall be the first day of the calendar inonth following the calendar month thirty (30) days after Substantial Completion occurs. [Landlord agrees that Landlord is providing an allowance of One Million Dollars ($1,000,000) (the "Construction Allowance"), the proceeds of which shall be used initially for the Landlord Improvements. To the extent there may be any funds remaining from the Construction Allowance upon completion of the Landlord Improvements, any portion remaining of the Construction Allowance shall be applied to the Tenant's Improvements

3. **Term.** The term of this Lease shall be for an initial term commencing on the Commencement Date and ending at 12 midnight on the seventh (7th) anniversary after the Commencement Date (the "Initial Term"). The term of this Lease shall be automatically renewed for two (2) consecutive three (3)-year option periods, to commence on the seventh (7th) (the "First Option Term") and tenth (10th) (the "Second Option Term") anniversaries of the Commencement Date, respectively (hereinafter the First Option Term and the Second Option Term are sometimes referred to collectively as the "Option Terms"). If Tenant does not desire for the term to be automatically extended for an upcoming Option Term, Tenant shall so notify Landlord no later than one (1) year prior to the beginning of the upcoming Option Term and the term shall end at the end of the then current term. If Tenant fails to so notify Landlord within said time, Tenant's right to avoid said automatic renewal for the upcoming Option Term shall expire and the term shall be automatically extended for the upcoming Option Term. If the term is extended for any of the Option Terms, the same shall be upon the same terms and conditions set forth herein, subject, however, to increases in rent as hereinafter provided. For purposes of this Lease, each "Lease year" shall begin on the Commencement Date or each anniversary thereof, as applicable, and shall end on the day prior to the anniversary of the Commencement Date in the following calendar year. Wherever in this Lease the phrases "Lease term" or "term of this Lease" are used, the same shall refer to the Initial Term of this Lease, together with any extension thereof pursuant to Tenant's option as provided for above. Landlord shall deliver the Premises to Tenant in broom-clean

condition (i) with all Building structural components and Building systems (i.e., mechanical, electrical, and plumbing systems) serving the Premises in good working order; (ii) in compliance with all applicable laws; and (iii) free of any Hazardous Materials that are required by applicable laws to be removed, encapsulated, or otherwise treated.

4. **Rent**. During the Lease term, Tenant shall pay monthly rent to Landlord, payable in advance on the first day of each month. Beginning on October 1, 2017 (the "Rent Commencement Date"), and continuing through the Commencement Date, Tenant shall pay to Landlord monthly rent in the amount of Fourteen Thousand Six Hundred Seventy-Three Dollars ($14,673) per month. Thereafter, from the Commencement Date through the remainder of the term of the Lease, Tenant shall pay to Landlord monthly rent in the following amounts:

a. During the First and Second Lease Years, Tenant shall pay to Landlord monthly rent in the amount of Forty-Two Thousand Five Hundred Fifteen Dollars ($42,515) per month.

b. From the beginning of the third Lease Year through the end of the Initial Term, Tenant shall pay to Landlord monthly rent in the amount of Forty-Five Thousand One Hundred Eighty-Three Dollars ($45,183) per month.

c. During the First Option Term, Tenant shall pay to Landlord monthly rent in the amount of Thirty-Two Thousand Two Hundred Eighty-One Dollars ($32,281) per month.

d. During the Second Option Term, Tenant shall pay to Landlord monthly rent in the amount of Thirty-Three Thousand Eight Hundred Ninety-Six Dollars ($33,896) per month.

5. **Security Deposit**. On execution of this Lease, Tenant shall deposit with Landlord the sum of Fifty Thousand Dollars ($50,000) as security for performance of all the obligations of Tenant hereunder including, but not limited to, the payment of all rent and other charges due Landlord hereunder. In addition to the rights and remedies of Landlord set forth elsewhere in this Lease or otherwise available to Landlord under applicable law, in the event of any default by Tenant hereunder, Landlord shall be entitled to apply said deposit to the obligations of Tenant hereunder or shall be entitled to expend said security deposit toward the costs and expenses incurred by Landlord in connection with remedying any default by Tenant capable of being remedied by the expenditure of money. Should Landlord so pay or apply said deposit, Tenant shall, on Landlord's demand, immediately deposit such additional sums with Landlord as may be necessary to restore said deposit to the original amount thereof. At the end of the term of this

Lease, provided Tenant is not then in default according to the terms and provisions of this Lease, Landlord shall, within thirty (30) days after the end of the Lease Term, upon written demand from Tenant, refund said deposit to Tenant, or any portion thereof which remains after use of said deposit by Landlord in accordance with the foregoing provisions of this paragraph, without interest.

6. **Assignment and Subletting**. Except as otherwise set forth herein, Tenant shall not, without the prior written consent of Landlord, which shall not be unreasonably withheld, conditioned, or delayed, assign this Lease or sublet the Premises or any part thereof. In the event of any assignment of Tenant's rights under this Lease, the assignee shall accept such assignment in writing, and agree, for the benefit of Landlord and Tenant, to assume all of the covenants and obligations of the Tenant hereunder, and Tenant shall, nonetheless, remain fully liable for performance of all of Tenant's obligations under this Lease, said liability to be joint and several with the assignee. In the event that Landlord's consent is required to any voluntary assignment or subletting by Tenant, such consent to any particular assignment or subletting shall not constitute Landlord's consent as to any subsequent voluntary assignment or subletting. Except as otherwise expressly permitted hereunder, Tenant's interest in this Lease and the Premises shall not be assigned or transferred involuntarily or by operation or process oflaw. Notwithstanding anything to the contrary contained in this Lease, (A) an assignment or subletting of all or a portion of the Premises to an affiliate of Tenant (i.e., an entity which is controlled by, controls, or is under common control with, Tenant as of the date of this Lease) (an "Affiliate"), (B) a sale of corporate shares of equity securities in Tenant in connection with an initial public offering of Tenant's equity securities on a nationally-recognized stock exchange or pursuant to Regulation D of the Securities Exchange Act of 1933, as amended, or other offering that is exempt from registration, (C) an assignment of the Lease to an entity that acquires all or substantially all of the equity securities or assets of Tenant, (D) an assignment of the Lease to an entity that is the resulting entity of a merger or consolidation of Tenant during the Lease Term, or (E) a sale by an existing owner of Tenant of Tenant's equity securities to another existing owner of Tenant or to Tenant, in each case, shall not be deemed a transfer requiring Landlord's consent under this paragraph or a payment of any fee to Landlord in connection therewith (any such assignee or sublessee described in items (A) through (E) of this Section is hereinafter referred to as collectively, "Permitted Transferee" and such transfer, a "Permitted Transfer"). Any assignment

or subletting to a Permitted Transferee shall be subject to the following conditions: (i) Tenant has not committed a material default that remains uncured after written notice thereof and the passing of applicable cure periods, and Tenant shall remain fully liable during the unexpired term of this Lease; (ii) any such assignment or sublease to a Permitted Transferee shall be subject to all of the terms, covenants, and conditions of this Lease; and (iii) Tenant shall endeavor to provide to Landlord no less than fourteen (14) days' prior written notice of any such transfer to a Permitted Transferee, which will include supporting documentation evidencing that the conditions of this Section have been satisfied, except where prior notice is prohibited by Applicable Laws or any confidentiality provision by which Tenant is bound. For purposes hereof, the phrase "controls, is controlled by, or is under common control with" means the ownership of any interest that, in the aggregate, more than fifty percent (50%) of the voting power of such entity, or any interest that has the right to control or direct the management decisions of such entity.

7. **Use**. Tenant shall be entitled to use the Premises for manufacture, storage, and distribution of vegetable protein based food products and other food products, and ancillary or related uses thereto (including office use), so long as such use is in compliance with all present and future applicable laws, ordinances, and regulations of duly constituted public authorities now or hereafter in any manner affecting the Premises or the use thereof. Tenant shall not permit any unlawful occupation, business, or trade to be conducted on the Premises. Tenant may place or install on the exterior of the Building such signs and lights as it deems necessary for identification so long as the same comply with all zoning and other applicable ordinances of all governmental authorities having jurisdiction over the Premises, and provided Landlord consents in writing, which shall not be unreasonably withheld, conditioned, or delayed. Tenant shall, at its sole cost, promptly comply with all applicable laws that are Tenant Generated (as defined herein). "Tenant Generated" means that compliance with the specific applicable law was made necessary by any act or work performed by Tenant or Tenant's agents or by the particular nature of Tenant's use (e.g. "warehouse for vegetable protein based food products" as distinguished from "general warehouse") or by the particular manner in which Tenant conducts its permitted use, an omission of Tenant or a default by Tenant under any of the terms of this Lease. All other compliance with applicable laws shall be the responsibility of the Landlord.

8. **Real Estate Taxes/Insurance Charges**. In addition to the rent and other charges payable hereunder by Tenant, beginning on the Rent Commencement Date, Tenant shall pay to Landlord all ad valorem real estate truces and assessments levied or assessed against the Premises. In addition, Tenant shall reimburse Landford for all insurance premiums paid by Landlord to keep and maintain in full force and effect, the following policies of insurance, which Landlord covenants to procure and maintain in full force and effect during the term of this Lease: (a) a policy or policies of insurance covering the Premises and Landlord Improvements (but not including Tenant Improvements, Tenant's leasehold improvements, alterations, or additions permitted hereunder, Tenant's trade fixtures, or other personal property), in an amount not less than one hundred percent (100%) of its full replacement cost (excluding excavations, foundations, and footings) providing protection against any peril generally included within the classification "Fire and Extended Coverage" (and "Earthquake Insurance" and "Flood Insurance" if Landlord or its lender deems such insurance to be necessary or desirable, provided that such coverage is available at a commercially reasonable rate), together with insurance against sprinkler damage, vandalism and malicious mischief, rental loss insurance for up to twelve (12) months; and (b) commercial general liability insurance applying to the use and occupancy of the Premises or any areas adjacent thereto including contractual liability coverage, in the minimum amounts of Two Million and No/100 Dollars ($2,000,000.00) per occurrence, with an annual aggregate limit of Four Million and No/I 00 Dollars ($4,000,000.00) for personal or bodily injury and damage to property. The real estate taxes and insurance premiums shall be prorated for calendar year 2017 and for the calendar year in which the term of this Lease comes to an end to reflect that portion of such calendar year included within the Lease term, with Tenant not being responsible for any taxes that first accrued before the Rent Commencement Date. On or before the beginning of each calendar year, after the Effective Date, Landlord shall provide to Tenant a reasonable estimate of real estate taxes and assessments and insurance premiums against the Premises (the "Tax/Insurance Estimate"). Beginning on the Rent Commencement Date, in addition to rent and other charges to be paid by Tenant hereunder, Tenant shall pay I/12th of the Tax/Insurance Estimate on the first day of each month, concurrently with payment of the rent. Within thirty (30) days after Landlord receives a bill for real estate taxes, Landlord shall provide to Tenant a statement showing the actual real estate taxes paid, and the insurance premiums paid or to be paid, and there shall be a reconciliation of such amounts between Landlord and Tenant, with

any overpayment to be refunded to Tenant by Landlord within ten (10) days of Landlord's invoice, or any underpayment to be paid by Tenant to Landlord within ten(! 0) days of Landlord's invoice. Landlord's annual statement shall be accompanied by a copy of the real estate tax bill and insurance premium invoice for the calendar year that is the subject of any such annual billing. Landlord shall be the sole named insured for said policy of casualty and liability insurance.

9. **Tenant's Insurance**. During the Lease term, Tenant shall, at Tenant's sole cost and expense, procure and maintain a policy of commercial general public liability insurance insuring Tenant against claims for personal injuries or property damage occurring in, on, or about the Premises during the Lease term or arising out of Tenant's use or occupancy thereof. Tenant's policy ofliability insurance shall have a combined single limit of liability of not less than Two Million Dollars ($2,000,000) and shall name Landlord as an additional insured. On or before the commencement of the term of this Lease, Tenant shall provide to Landlord a certificate of insurance evidencing that such policy is in force and effect. Tenant shall also procure and maintain during the Lease term a policy of property and casualty insurance on all personal property kept or maintained by Tenant at or in the Premises against loss by fire or other casualty, for the full insurable value thereof.

10. **Mutual Waiver**. Each of the parties hereby releases the other party from any claims for loss of or damage to the property of the releasing party, however arising, including the negligence of the released party, to the extent such loss or damage is required to be covered by the policies of property insurance to be maintained by the parties as called for under the foregoing provisions of this Lease.

11. **Tenant's Alterations**. Tenant, at its own expense, may, from time to time, make alterations and improvements in the Building constituting part of the Premises, but shall make no additions or alterations to the Building without the prior written consent of Landlord (except as otherwise provided herein), which consent shall not be unreasonably withheld, conditioned, or delayed; provided, however, that Landlord shall not have any obligation to consent to any alterations or improvements which affect the structural aspect of the Building. Any alterations or improvements shall be conducted by Tenant in accordance with all applicable building codes, in a good and workmanlike manner, and at Tenant's sole cost and expense, and Tenant shall and hereby agrees to indemnify Landlord and to hold Landlord harmless from and against any third-party claims arising out of any failure on the part of Tenant to construct any such alterations and

improvements in such fashion and any mechanics' liens arising out of the construction of any such alterations or improvements that are not removed or bonded around within thirty (30) days of Tenant's receipt of notice of same, pursuant to the applicable provisions of this Lease. Notwithstanding anything to the contrary set forth in this Paragraph 11, Tenant may, from time to time during the Lease Term, at Tenant's sole cost, and after giving Landlord at least thirty (30) days' prior notice of its intention to do so, make such alterations, additions and changes in and to the interior of the Premises as Tenant may find necessary or convenient on condition that such alteration, addition, or change does not cause a Design Problem, as defined below. A "Design Problem" is defined as, and will be deemed to exist if such alteration, addition, or change is reasonably likely to (i) affect the exterior appearance of the Building; (ii) materially adversely affect the Building structure; (iii) materially adversely affect the Building systems; or (iv) fail to comply with applicable laws. Further, notwithstanding anything in this Lease to the contrary, Tenant shall have the right, without Landlord's consent but upon five (5) business days prior notice to Landlord, to make strictly cosmetic, non-structural alterations, additions, or alterations to the Premises ("Cosmetic Alterations") that do not (i) affect the exterior appearance of the Premises or Building, or (ii) affect the Building's mechanical systems.

12. **Maintenance**.

a. Beginning on the Rent Commencement Date, and continuing through the duration of the Lease term, Landlord shall (i) keep and maintain the roof, roof membrane, exterior walls, structural frame, and floor slab and underground plumbing and utility systems of the Building in good and serviceable condition, and (ii) replace all fire sprinkler system and Building mechanical systems when necessary, all at Landlord's cost without contribution from Tenant, provided any defect is not the result of any negligence, abuse, or fault of Tenant or Tenant's agents, customers, or invitees, and further provided that Tenant has provided for regular maintenance of all such systems/sprinklers, as required below, and that Tenant shall be responsible for replacement of any such systems/sprinklers to the extent their installation was Tenant Generated.

b. Except as otherwise provided in subparagraph a. above, Tenant shall, at Tenant's expense, keep and maintain the Premises and all non-structural components thereof, including the heating, ventilating, and air conditioning, mechanical, above ground plumbing, and electrical lines, systems, and equipment in good working order and

condition. Tenant shall keep the interior of the Premises in a clean, sanitary, and safe condition, free of accumulations of trash and debris. Tenant shall obtain annual inspections and routine maintenance necessary to keep all such systems in good working order. In addition, Tenant shall provide all routine maintenance on the fire sprinkler system serving the Premises, and shall repair the fire sprinkler system if necessary in order to keep the same in said condition, to the extent that such repairs are not deemed to be capital expenditures as described in subsection c, hereinafter. Landlord warrants that at the commencement of the Lease term, said fire sprinkler system and the compressor therefor shall be in good working order. Tenant shall at all times keep adequate heat in the Premises to keep the fire sprinkler system from being damaged by freezing.

c. Beginning on the Rent Commencement Date, and continuing through the duration of the Lease term, Landlord shall keep and maintain the sidewalks, curbs, parking areas, sewer and water mains, and all common areas of the Premises serving the Building in a good condition and state of repair. Landlord's responsibility under this subparagraph c. shall include, but not be limited to, mowing and maintenance of all landscaped areas, snow removal, and cosmetic repairs to the exterior walls of the Building, and sealing, striping, and maintaining the parking areas and drives serving the Building. On or before the beginning of each calendar year, after the Effective Date, Landlord shall provide to Tenant a reasonable estimate of maintenance expenses for the Premises as provided for in this subparagraph 12.c. (the "Maintenance Estimate"). Beginning on the Rent Commencement Date, in addition to rent and other charges, Tenant shall pay l/12th of the Maintenance Estimate on the first day of each month, concurrently with payment of the rent. Within thirty (30) days after the end of the calendar year, Landlord shall provide to Tenant a statement showing the actual amounts paid for maintenance of the Premises under this subparagraph 12.c., and there shall be a reconciliation of such amounts between Landlord and Tenant, with any overpayment to be refunded to Tenant by Landlord within ten (10) days of Landlord's invoice, or any underpayment to be paid by Tenant to Landlord within ten (10) days of invoicing by Landlord. Landlord's annual statement shall be accompanied by a written itemization of all such cost and expense incurred by Landlord for the one (I) year period referred to in such billing. Tenant shall have the right to review and inspect Landlord's books and

records relating to such expenses and Landlord agrees to keep and maintain the same for no less than 2 years and to allow Tenant to inspect the same at reasonable times upon reasonable advance notice to Landlord. Notwithstanding anything to the contrary set forth in this Lease, any capital expenditures (i.e. those which are treated as such under either generally accepted accounting principles ("GAAP") or Internal Revenue Code requirements and which, in the customary course of maintenance practice for buildings similar in type and location to that of the Building, do not recur annually) that Landlord may pass through to Tenant pursuant to the applicable provisions of this Lease shall be amortized over such capital expenditure's useful life in accordance with GAAP or the Internal Revenue Code, and Tenant shall pay only the amortized portion during the Lease Term.

13. **Utilities - Services**. Commencing on the Rent Commencement Date, Tenant shall pay for all utilities separately metered or charged to the Premises, including, without limitation, air-conditioning, heat, gas, water, garbage disposal, and electricity. Tenant shall pay its prorated share no more frequently than monthly and immediately upon receipt of Landlord's invoice therefor. To the extent practical, reasonable, and effective, such utilities, including but not limited to gas, electricity, and water, shall be separately metered, and in such event, Tenant shall bear responsibility for and the full cost of such separately metered utilities.

14. **Damage or Destruction**.

a. In the event all or a portion of the Building constituting the Premises is destroyed or damaged by a peril covered by insurance that Landlord maintains or is required to maintain hereunder, then Landlord shall begin repairing the Premises with all reasonable speed to completion, in which event this Lease shall continue in full force and effect. Such repair and reconstruction shall be only to the extent necessary to restore the Premises to its condition as of the Commencement Date ("Landlord's Restoration Work"), and Tenant shall restore the Tenant Improvements after Landlord's Restoration Work is complete.

b. If the Premises are damaged as a result of a peril not covered by insurance maintained or required to be maintained by Landlord and the cost to repair such damage exceeds ten percent (10%) of the total replacement cost of the Building, then Landlord may, within sixty (60) days following the date of the casualty, either (i) commence

Landlord's Restoration Work and prosecute the same to completion with all reasonable speed, or (ii) elect to terminate this Lease effective within ten (10) days after Landlord's written notice thereof

c. With respect to damage or destruction contemplated in Paragraphs 14(a) or 14(b) above, Landlord shall, within sixty (60) days after the occurrence of the casualty (the "Due Date") (and provided that this Lease is not terminated in accordance with the provisions of this Paragraph 14), advise Tenant of the estimated time ("Estimated Restoration Time") to complete Landlord's Restoration Work. If the Estimated Restoration Time exceeds 270 days, then Tenant may elect to terminate this Lease upon at least ten (10) days' notice, which shall be given within ten (10) days after notification of such Estimated Restoration Time. Tenant's failure to respond within such ten(! 0) day period shall be deemed an election by Tenant to await Landlord's repair work within the Estimated Restoration Time. If Landlord fails to complete Landlord's Restoration Work by the Estimated Restoration Time, then Tenant shall have the continuing right thereafter and prior to the completion of construction to terminate this Lease upon ten (10) days written notice to Landlord, except that Landlord's time for performance of Landlord's Restoration Work shall be extended, in the event of any delay caused by force majeure, including, without limitation, for purposes of this subsectionl4. c, unusually adverse weather conditions not reasonably foreseeable, legal proceedings (including, but not limited to, condemnation or eminent domain proceedings), orders of any kind of any court or governmental body (but excluding any orders, ordinances, resolutions or other actions of the City), strikes, lockouts, labor shortages, acts of God, war, any court order or judgment resulting from any litigation affecting the validity of this Agreement, or any of the ordinances or resolutions approving the same, or other like causes beyond the responsible party's reasonable control. Should Landlord require any extension due to an event of force majeure, Landlord shall, within thirty (30) days after the event of force majeure, notify Tenant in writing of the occurrence of such event and shall provide to Tenant at that time a revised estimate of the date on which Landlord's Restoration Work shall be complete.

d. If all or a portion of the Building constituting the Premises is destroyed or damaged during the last year of the Lease term, Tenant cannot occupy the Premises as a

result thereof, Tenant has elected to not exercise its Option Term, and Landlord reasonably determines that the Premises cannot be repaired within ninety (90) days after the occurrence of any such damage, then either party shall be entitled to terminate this Lease effective as of the date of any such damage or destruction by so notifying the other party within ten (10) days after the occurrence thereof. If all or a portion of the Building constituting the Premises is destroyed or damaged during the last year of the Lease term, but the same is not to such extent, or should neither party elect to so terminate this Lease in accordance with the immediately preceding sentence, then Landlord shall proceed to repair and restore the Premises to as good a condition as the same were in prior to the occurrence of any such damage, with all reasonable speed, taking into consideration sound construction practices and delays caused by circumstances beyond Landlord's reasonable ability to control.

e. During the period of any repairs made pursuant to this Paragraph 14, the rent due hereunder shall be equitably abated to the extent that any portion of the Premises is unusable by Tenant during the period of any such repairs and, if from the standpoint of prudent business management, Tenant reasonably determines that it cannot operate in the Premises at all during the performance of the restoration work, then such abatement shall be total.

f. Should Landlord fail to proceed with reasonable diligence in making repairs and restorations pursuant to this Paragraph 14 and such failure continues for twenty (20) days after written notice thereof making specific reference to this paragraph 14 is given by Tenant to Landlord, then Tenant shall have the right to terminate this Lease.

15. **Condemnation**. If the whole or any substantial part of the Premises or access thereto should be taken for any public or quasi-public use under any governmental law, ordinance, or regulation or by right of eminent domain, or sold to the condemning authority under threat of condemnation, this Lease shall terminate and the rent shall be abated during the unexpired portion of the Lease term, effective upon the actual physical taking.

If less than a substantial part of the Premises or access thereto is taken for a public or quasi-public use under any governmental law, ordinance, or regulation, or by right of eminent domain, or be sold to the condemning authority under threat of condemnation, the Lease shall not terminate; however, the rent shall be adjusted as to the area not taken as is fair and

reasonable. Landlord shall restore the remaining portion of the Premises as necessary, at its sole cost and expense, to render the Premises suitable for Tenant's use and occupancy.

That portion of the Premises taken for public or quasi-public use shall be deemed "substantial" if Tenant, at its sole discretion, determines that as a result of such taking, Tenant is unable to conduct business thereon substantially in the manner and to the extent conducted immediately prior to such taking, and, if such taking is "substantial," Tenant may elect to terminate this Lease as of the date of such taking by so notifying Landlord in writing.

Landlord and Tenant, after first paying all costs and expenses of litigation and/or negotiation against the condemning authority, including, but not limited to, reasonable attorneys' fees, shall each be entitled to receive and retain such separate awards and portions of lump-sum awards as may be allocated to their respective interests in the Premises; provided, that, no settlement shall be made by either party until the parties have first agreed upon allocation of the settlement amount. Termination of this Lease in accordance with the first paragraph of this section shall not affect the respective rights of the parties to such awards.

16. **Surrender**. Upon the expiration of the term of this Lease or at any earlier termination in accordance with the provisions hereof, Tenant shall deliver the Premises, together with any alterations or improvements installed in the Premises by Landlord or the Tenant Improvements installed by Tenant (other than trade fixtures and associated Landlord Improvements or Tenant's Improvements that are specialized to accommodate Tenant's trade fixtures including but not limited to internal curbing, epoxy flooring, carbon dioxide, nitrogen, water and steam distribution piping, floor sinks and freezer panels, which Tenant shall remove in accordance with this Paragraph 16), in as good a condition as the same were in at the commencement of the Lease term, ordinary wear and tear and loss by fire or other casualty excepted, and excepting therefrom condemnation, and those items Landlord is required to maintain hereunder, and Tenant shall surrender the Premises to Landlord at the end of the Lease term in broom-clean condition suitable for use as an office warehouse facility. At the end of the Lease term Tenant shall be entitled to remove any trade fixtures and signage installed in or on the Premises by Tenant, provided, however, Tenant repairs all damage to the Premises occasioned by removal by the end of the Lease term.

17. **Default.** It is agreed that (i) if Tenant fails to pay rent or any other charge due Landlord from Tenant when due and said failure continues for ten (I 0) days after written notice

thereof from Landlord to Tenant, or (ii) if default shall be made in the prompt and full performance of any other covenant, condition, or agreement of this Lease to be kept or performed by Tenant and such default continues uncured for thirty (30) days after written notice thereof to Tenant (except, that, if the nature of Tenant's default is such that more than thirty (30) days are reasonably necessary for its cure, then Tenant shall not be deemed to be in default if Tenant commenced such cure within such thirty (30)-day period, and thereafter diligently pursues such cure to completion), or (iii) if Tenant shall suffer this Lease to be taken under any writ of execution or other process, or (iv) if any proceeding shall be commenced to declare Tenant bankrupt, or insolvent, or to obtain relief under any chapter or provision of any bankruptcy or debtor relieflaw or act (and such proceeding is not dismissed within 90 days of the commencement thereof) or to reduce or modify Tenant's debts or obligations or to delay or extend the payment therefor, or if any assignment of Tenant's property be made for the benefit of creditors, or if a receiver or trustee be appointed for Tenant or Tenant's property or business then and in any of such events, Tenant shall be deemed to be in default hereunder. Notwithstanding the foregoing, if, during the Lease term Landlord has given two (2) notices during any calendar year to Tenant under (i) above, any subsequent failure of Tenant to pay any amount due Landlord hereunder when due during such calendar year shall immediately constitute a "Monetary Default" without further notice from Landlord to Tenant. Landlord, besides any other rights or remedies Landlord may have hereunder or under applicable law, shall have the immediate right to terminate this Lease or the immediate right of re-entry with or without termination, in which event, Landlord may remove all persons and property from the Premises and such property may be removed and stored in a public warehouse or elsewhere at the cost of and for the account of Tenant, all without Landlord being deemed guilty of trespass, or becoming liable for any loss or damage which may be occasioned thereby, provided Landlord complies with applicable law. Landlord shall use reasonable efforts to mitigate its damages in the event Tenant defaults hereunder.

Should Landlord elect to re-enter, as herein provided, or should it take possession pursuant to legal proceedings or pursuant to any notice provided for by law, it may either (a) terminate this Lease, or (b) it may from time to time without terminating this Lease, make such reasonable alterations and repairs as may be necessary in order to relet the Premises and relet said Premises or any part thereof for such term or terms (which may be for a term extending beyond the term of this Lease) and at such rental or rentals and upon such other terms and conditions as are reasonable

Upon such reletting, all rentals received by Landlord from such reletting shall be applied, first to the payment of any indebtedness other than rent due hereunder from Tenant to Landlord; second, to the payment of any costs and expenses of such reletting, including brokerage fees and reasonable attorneys' fees and costs of repairs; third, to the payment of rent due and payable hereunder, and the residue, if any, shall be held by Landlord and applied to the payment of future rents as the same may become due and payable hereunder. If such rentals received from reletting during any month be less than that payable during the month by Tenant hereunder, Tenant shall pay any deficiency to Landlord from time to time, within ten (10) days' of Landlord's written demand. No such re-entry or taking possession of said Premises by Landlord shall be construed as an election on its part to terminate this Lease unless a written notice of such intention be given to Tenant or unless the termination thereof be decreed by a court of competent jurisdiction. Notwithstanding any such reletting without termination, Landlord may at any time thereafter elect to terminate this Lease for such previous default by Tenant. Should Landlord at any time terminate this Lease for any default by Tenant that remains uncured after the passing of applicable notice and cure periods, in addition to any other remedies Landlord may have hereunder or under applicable law, Landlord may recover from Tenant all rents and other charges due Landlord from Tenant according to the terms of this Lease and which are in arrears at the time of termination plus an additional amount as liquidated damages equal to the present value of the future rents due under this Lease. Landlord covenants to use commercially reasonable efforts to mitigate damages and relet the Premises at the highest rent and on the best terms then available to Landlord.

No waiver by either party of any breach by the other party of any such other party's obligations, agreements, or covenants hereunder shall be deemed to be a waiver of any prior or subsequent breach of the same or of any other obligations, no shall any forbearance by either party to seek remedy for any breach by the other party be deemed a waiver of any rights and remedies with respect to such breach or any prior or subsequent breach.

Landlord may recover from Tenant all reasonable damages directly incurred by reason of breach or default by Tenant, including, but not limited to, the costs of recovering the Premises and reasonable attorneys' fees; except, that, in no event shall Tenant be liable for consequential damages unless such consequential damages arise from Tenant placing Hazardous Materials in, on, or under the Premises in violation of applicable laws.

18. **Environmental Provisions.** Tenant shall conduct its business operations at the Premises in a manner such that it is in compliance with all federal, state, or local environmental laws, ordinances, and regulations governing the Premises ("Hazardous Materials Laws"). Tenant shall not use, generate, manufacture, store, or dispose of on, under, or about the Premises or transport to or from the Premises any Hazardous Materials in violation of Hazardous Materials Laws. "Hazardous Materials" are any flammable, explosive, radioactive, toxic, or other related materials are regulated or become regulated under Hazardous Materials Laws, including, but not limited to, "hazardous substances" as defined in the Comprehensive Environmental Response and Liability Act of 1980, 42 U.S.C. 9601, et seq. Tenant hereby agrees to indemnify Landlord, its officers, directors, agents, and employees and hold Landlord, its officers, directors, agents, and employees harmless from and against any and all claims, losses, damages, liabilities, fines, penalties, charges, administrative, and judicial proceedings and orders, judgments, remedial action requirements, enforcement actions of any kind, and all costs and expenses incurred in connection therewith (including, but not limited to, reasonable attorney's fees and expenses), arising directly or indirectly, in whole or in part, out of any activity carried on or undertaken on or off the Premises, during the term of the Lease and whether by Tenant or any assignees, licensees, employees, agents, contractors, or subcontractors of Tenant in connection with the handling, treatment, removal, storage, decontamination, cleanup, transport, or disposal of any Hazardous Materials at any time located or present on, under, or about the Premises. Notwithstanding anything to the contrary herein, Tenant shall not be liable or responsible for any environmental conditions that (i) existed on the Premises prior to Tenant's occupancy of the Premises, (ii) was caused or exacerbated by Landlord or Landlord's employees, agents, contractors, or subcontractors, or (iii) was caused or exacerbated by any party other than Tenant or Tenant Parties, provided that Tenant shall bear the burden of proving that any contamination occurring during Tenant's occupancy of the Premises was caused or exacerbated by such third party. Each party shall promptly advise the other party to this Lease in writing of (i) any and all enforcement, cleanup, remedial, removal or other governmental or regulatory actions instituted, completed, or threatened pursuant to any Hazardous Materials Laws; (ii) all claims made or threatened by any third party against Landlord, Tenant, or the Premises relating to damage, contribution, cost recovery compensation, loss, or injury resulting from any Hazardous Materials; and (iii)

Tenant's or Landlord's, as applicable, discovery of any occurrence or condition on any real property adjoining or in the vicinity of the Premises that could cause the Premises to be subject to any restrictions on the ownership, occupancy, transferability, or use of the Premises under any applicable laws.

19. **Subordination and Quiet Enjoyment.** Landlord reserves the right to subject and subordinate this Lease at all times to the lien of any deed of trust now or hereafter placed upon the Premises, or upon any buildings hereafter placed upon the land parcel upon which the demised Premises are located, and Tenant agrees upon request to execute an agreement subordinating its interest and/or attornment agreement to such deed of trust provided that Tenant concurrently receives a written agreement signed by the holder of such lien that includes the following (collectively, "Non-Disturbance Protection"): that no default by Landlord under any such deed of trust shall affect Tenant's rights hereunder so long as Tenant shall not be in default hereunder after written notice thereof and the passing of all applicable cure periods, and Tenant's right to quiet enjoyment and rights and options under this Lease shall not be disturbed if Tenant is not in default. So long as Tenant is not in default under this Lease after written notice thereof and the passing of all applicable cure periods, Landlord covenants and agrees that Tenant shall lawfully and quietly hold, occupy, and enjoy the Premises during the term of this Lease, without hindrance or molestation by or from anyone claiming by, through, or under Landlord. Either party hereto shall and hereby agrees to execute an estoppel letter or certificate from time to time, within fourteen (14) days of receipt of written request by the other party hereto, whereunder the non-requesting party hereto acknowledges that this Lease is then in effect, verifying that the requesting party hereto is not in default under the Lease, or if there be such default, stating the nature of such default, statiug the Commencement Date of the Lease, the amount of the monthly rent installments then due and payable under the Lease and verifying if Tenant has not prepaid the rent more than one (1) month in advance and providing such other information regarding this Lease as the requesting party hereto may request.

20. **Attornment**. In the event any proceedings are brought for the foreclosure of, or in the event of exercise of the power of sale under, any deed of trust made by Landlord covering the Premises, Tenant hereby attoms to and covenants and agrees to execute an instrument in writing that contains Non-Disturbance Protection and is reasonably satisfactory to the new owner and Tenant whereby Tenant attoms to such successor in interest and recognizes such successor as

the Landlord under this Lease, and Tenant's rights and options shall continue under this Lease so long as Tenant is not in default hereunder after written notice thereof and the passing of all applicable cure periods.

21. **Right of First Refusal**. Landlord hereby represents to Tenant that Landlord has a right of refusal to purchase the vacant land adjacent to the north and south of the Property (the "ROFR Space"). In the event that the current owner of the ROFR Space (or any portion of such ROFR Space) enters into a contract to sell all or a part of the ROFR Space, and Landlord is notified of same, Landlord sha!I notify Tenant of same. Tenant shall have ten days thereafter within which to notify Landlord whether Tenant desires to expand the Premises, and negotiate terms acceptable to Landlord and Tenant for a lease of same. Upon expiration of said 10-day period, Landlord may elect not to purchase the ROFR Space without regard to the right of first refusal set forth herein.

22. **Holding Over**. If Tenant shall hold over after expiration of the term of this Lease for any cause, Tenant shall be liable for one and one-half times the base rent payable hereunder for any such holdover period and shall otherwise be upon the terms and conditions herein specified as may be applicable.

23. **Miscellaneous**. Each provision of this Lease shall be deemed to be both a covenant and a condition. All rights and remedies of Landlord and Tenant herein created or otherwise existing at law or equity are cumulative and the exercise of one or more rights or remedies shall not be taken to exclude or waive the rights to the exercise of any other. All such rights and remedies may be exercised and enforced concurrently and whenever and as often as Landlord and Tenant shall deem desirable.

The failure of one party to insist upon strict performance by the other party of any of the covenants, conditions, and agreements of this Lease shall not be deemed a waiver of any rights or remedies concerning any prior, subsequent, or continuing breach or default of any of the covenants, conditions, and agreements of this Lease. No surrender of the demised Premises shall be affected by Landlord's acceptance of rental or by any other means whatsoever unless the same be evidenced by Landlord's written acceptance of such a surrender.

All covenants, promises, conditions, representations, and agreements herein contained shall be binding upon and inure to the parties hereto and their respective successors and permitted assigns; provided that no assignment of this Lease or any interest therein shall be

made except as expressly permitted herein. As used in this Lease the word "Tenant" shall include, where appropriate, any party or parties having or making claim to the leasehold interest herein.

The words "Landlord" and "Tenant" as used herein shall include the plural as well as the singular. Words used in the masculine gender include the feminine and neuter.

The captions or titles to paragraphs and articles of this Lease are not a part of it, are for convenience in locating provisions only, and shall have no effect upon the construction or interpretation of this Lease.

Tenant shall pay before the same becomes delinquent, all taxes on the Tenant's personal property located on the Premises, and all taxes, licenses, and other impositions levied by any governmental jurisdiction having authority on the Tenant's business operated on the Premises.

The sole legal relationship between the parties hereto by reason ofthis Lease shall be that of Landlord and Tenant. Neither party, in any way or for any purpose, becomes a partner of the other party in the conduct of its business or otherwise, or joint venturer or a member of a joint enterprise with the other party.

If any term, covenant, or condition of this Lease or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Lease, or the application of such term, covenant, or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term, covenant, or condition of this Lease shall be valid and be enforced to the fullest extent permitted bylaw.

All exhibits referred to herein and attached to this Lease are incorporated herein by reference.

This Lease shall be construed and interpreted in accordance with the laws of the state in which the Premises are located.

This Lease may be executed in multiple counterparts, each of which shall constitute an original, but all of which taken together shall constitute one and the same Lease.

24. **Brokerage.** Both Landlord and Tenant represent to each other that they have not retained or used the services of a broker or agent in connection with this transaction other than SilverTree Realty Corp., who is serving as the Transaction Broker. Landlord shall be solely responsible for all brokerage commissions incurred by it in connection with this

transaction and agrees to indemnify and hold Tenant harmless from any claims of any other brokers or agents for fees or commissions arising out of this transaction. Each party hereto shall indemnify and hold the other party hereto harmless from any claims of any brokers or agents for fees or commissions arising by or through such party.

25. **Notices.** Notices and demands required or permitted to be given hereunder may be given in writing by personal delivery to either party or any officer or other representative of the party to be notified, or may be sent by certified mail, or via overnight delivery service, addressed, postage prepaid, to the addresses as set out below, or such other addresses, notice of which is given pursuant hereto, or by electronic mail to the email addresses provided:

IF TO LANDLORD:	LeMone Family Limited Partnership LLLP 3316 LeMone Industrial Boulevard Columbia, MO 65201 Attn: Mac LeMone Facsimile: (573) 449-7300 mlemone@ldconst.com
and to:	Phebe La Mar P.O. Box 918 Columbia, MO 65205 Facsimile: (573) 442-6686 lamar@smithlewis.com
IF TO TENANT:	Beyond Meat 2400 Maguire Blvd. Columbia, MO 65201 Attn: Aaron Acevedo aacevedo@beyondmeat.com
and to:	Beyond Meat 1325 E. El Segundo Blvd. El Segundo, CA 90245 Attn: Mark Nelson mnelson@beyondmeat.com

26. **Amendments.** No amendments, modifications of, or supplements to this Lease shall be effective unless in writing and executed by both parties.

27. **Time of Essence.** Time is of the essence of this Lease and each and every provision hereunder.

IN WITNESS WHEREOF, this Lease has been executed on the day and year set forth above.

Landlord:
LeMone Family Limited Partnership LLLP

/s/ Sara Maguire LeMone
Sara Maguire LeMone, General Partner

Tenant:
Savage River, Inc.

By:	/s/ Mark J. Nelson
Printed Name:	Mark J. Nelson
Title:	COO and CFO

Exhibit A

Site Plan

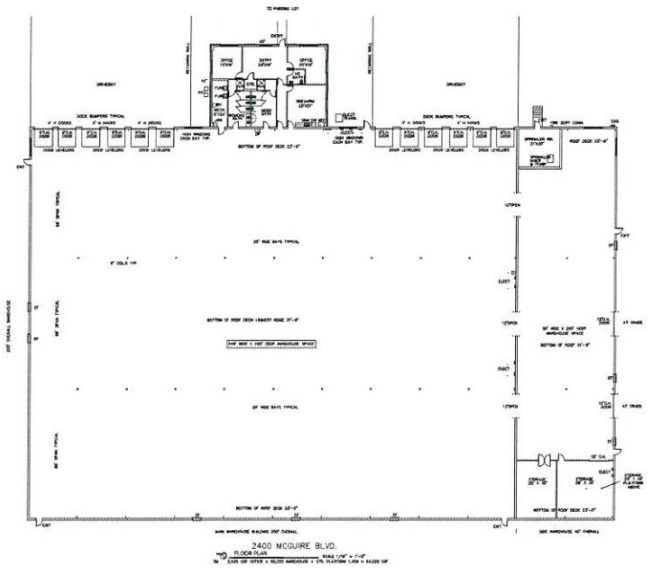


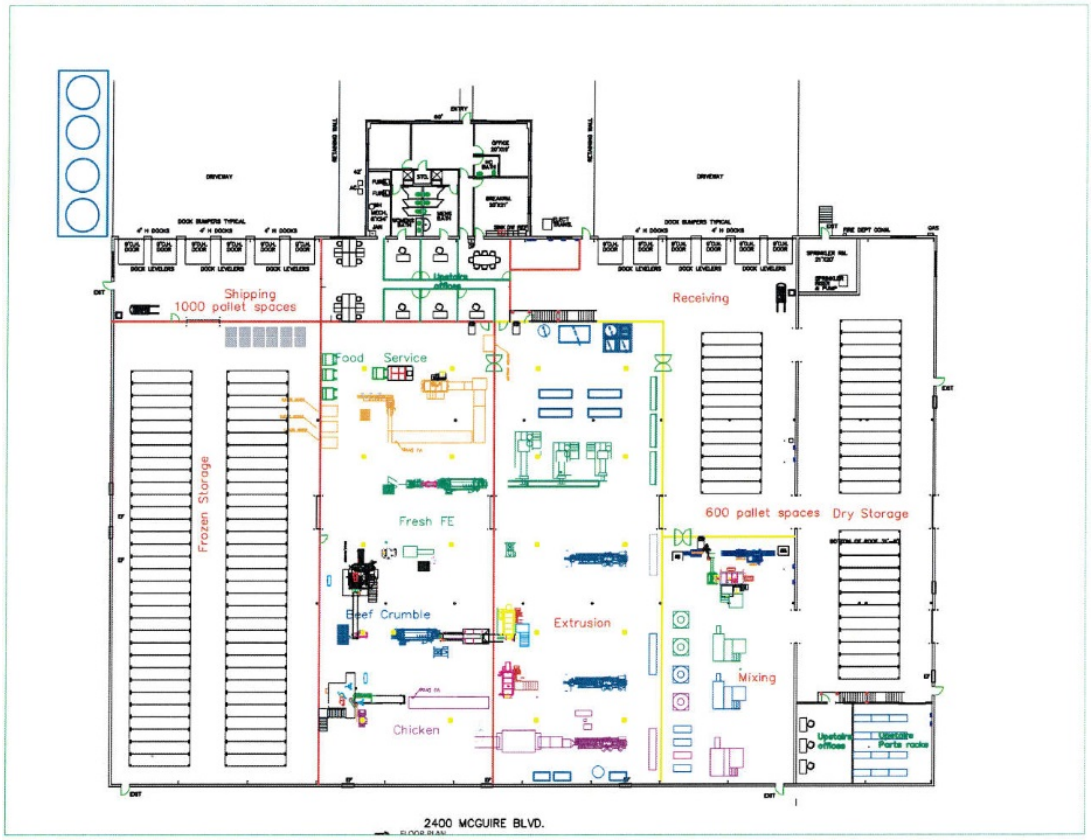
Exhibit B

Landlord Improvements

- Exterior
  - Repair and replace existing exterior doors as needed
  - Repair all penetrations in exterior walls
  - Concrete pads for HVAC
  - Concrete pads for Freezer condensers
  - Concrete footing and pads for Nitrogen and C02 tanks
  - North Access and parking lot addition as allowed by local development ordinances
- Existing Office Area
  - Repair and Remodel existing office area
  - Repair and Remodel existing restrooms
  - Replace HVAC in existing office area
- Office Administration Infill
  - Build-out walls for Chemical Storage, Locker Rooms, Coats, Boot wash and Electrical Panel areas
  - Structural support for mezzanine level office addition
  - Build out mezzanine office addition
  - Stairs to mezzanine
  - FRP in Chemical Storage and Locker Rooms
- Frozen Storage & Packaging Areas
  - Floor cut and insulation for thermal break at Freezer
  - Curbs for freezer
  - Fire Sprinkler modifications for freezer
  - Epoxy overlay in Packaging Area
- Production Area
  - Floor drains and trenches
  - Epoxy overlay flooring
  - Curbs at perimeter
  - Underground floor prep and drains for 2x2 floor sinks
  - Install new HVAC
- Warehouse & Dry Storage Area
  - Install HVAC
  - Structural support for the mezzanine level office and parts supply rooms
  - Build out mezzanine office and parts supply areas
  - Stairs to mezzanine office and parts supply areas
- Utilities
  - Upgrade primary electric service to 4,000 amps
  - Lighting rework throughout to accommodate new infill and FFE
  - Water distribution throughout
- Roofing
  - Modifications for exhaust piping for gas grill and freezer equipment
- Architectural & Engineering
  - Design of all modifications and improvements by Simon Associates and Timberlake Engineering
    - Coordinated by Justin Fuller of Beyond Meat

Exhibit C

Tenant Improvements



LEASE AMENDMENT

THIS LEASE AMENDMENT is entered into on this 18th day of April, 2018, by and between LeMone Family Limited Partnership, LLLP, a Missouri limited liability limited partnership, hereinafter referred to as "Landlord," and Savage River, Inc., a Delaware corporation, hereinafter referred to as "Tenant."

WHEREAS, on or about October 12, 2017, Landlord and Tenant entered into a Lease (the "Original Lease") for certain real estate and improvements located at 2400 Maguire Boulevard, Columbia, Boone County, Missouri (the "Premises"); and

WHEREAS, Landlord and Tenant have obtained and had prepared mutually approved plans and specifications for completion of the Landlord Improvements and the Tenant Improvements contemplated in the Original Lease (collectively, "Plans and Specifications"); and

WHEREAS, the parties desire to enter into this Lease Amendment in order to modify the terms of the Original Lease as herein set forth (hereinafter the Original Lease and the Lease Amendment shall sometimes be referred to collectively as the "Lease").

NOW THREFORE, for and in consideration of the mutual agreements and covenants herein, the parties hereby agree as follows:

1. **Construction.** Landlord and Tenant hereby agree that paragraph 2 of the Original Lease shall be deleted and replaced in its entirety with the following:

"Upon execution of the Original Lease, Landlord commenced construction of the improvements listed on Exhibit B, attached hereto and incorporated herein by this reference (collectively, the "Landlord Improvements"), and shall substantially complete construction using reasonable diligence. The construction of the Landlord Improvements shall be designed to accommodate installation of Tenant's furniture, fixtures, and equipment, shown on the Tenant Improvements portion of the Plans and Specifications coordinated by Tenant and supplied to Landlord, a summary of which is attached hereto as Exhibit C and incorporated herein by this reference (collectively, the "Tenant Improvements"). For purposes of this Lease, the Premises shall be deemed to be "substantially complete" when Landlord has (a) obtained a Certificate of Occupancy for the Premises (temporary or permanent) and (b) completed the Landlord Improvements (i) such that Tenant may lawfully use and occupy the Premises for Tenant's intended purpose, and (ii) in a manner to accommodate the installation of Tenant Improvements, subject to Punch List Items. As used herein "Punch List Items" are those minor items of construction that must be completed or corrected and that will not materially interfere with Tenant's ability to then complete the Tenant Improvements. Landlord shall promptly notify Tenant once the Landlord Improvements are substantially complete, whereupon the Premises shall be delivered to and accepted by Tenant on condition that Landlord shall complete all Punch List Items as soon

thereafter as reasonably practicable. The "Commencement Date" shall be the first day of the calendar month following the calendar month thirty (30) days after the date the Landlord Improvements are substantially complete. Landlord agrees that Landlord is providing to Tenant an allowance of One Million Dollars ($1,000,000) (the "Construction Allowance"), the proceeds of which shall be used for the Landlord Improvements; except, that, to the extent there may be any funds remaining from the Construction Allowance upon completion of the Landlord Improvements, such remainder shall be applied to the cost of constructing Tenant Improvements. All undisputed costs in excess of the Construction Allowance shall be paid by Tenant monthly, within five (5) business days of invoicing from Landlord. Prior to Landlord invoicing Tenant, all applications for payment (each an "Application for Payment") submitted to Landlord by the general contractor performing the Landlord Improvements ("Contractor") shall be simultaneously submitted to Landlord and Tenant for their review.Within five (5) business days after receipt of an accurate, correct, and complete Application for Payment, Landlord and Tenant shall approve or disapprove such Application for Payment (or portions thereof) via DocuSign, and any such disapproval shall be accompanied with a recitation of the reason for such rejection. The Application for Payment shall be deemed approved in the event Landlord and Tenant do not approve or disapprove such Application for Payment within said five. (5) business days. In addition to the foregoing, Landlord shall cause the construction contract with Contractor (with all attachments, exhibits, addenda, and amendments thereto, the "Contract") to be promptly amended to include the provisions set forth on Exhibit D attached hereto and made a part hereof The Tenant Improvements are hereby deemed approved for all purposes of Paragraph 11 of the Lease; and Tenant shall perform the Tenant Improvements in compliance with all requirements of paragraph 11.

2. **Governing Provisions.** Except as provided for above, all other terms and provisions of the Original Lease shall remain in full force and effect. Any inconsistency between the Original Lease and the provisions of this Lease Amendment shall be governed by the provisions of this Lease Amendment.

3. **Binding Effect; Counterparts.** This Lease Amendment, and the Original Lease as amended hereby, shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns. This Lease Amendment may be executed in any number of counterparts, each of which shall be an original and all of which shall constitute one and the same instrument. Facsimile or other electronically transmitted signatures shall be treated as originals for all purposes.

[signature pages follows]

IN WITNESS WHEREOF, this Lease Agreement has been executed on the date first written above.

Landlord:	Tenant:
LeMone Family Limited Partnership LLLP	Savage River, Inc.
By: /s/ Sara Maguire LeMone	By:
Sara Maguire LeMone, General Partner	Printed Name:
	Title:

IN WITNESS WHEREOF, this Lease Agreement has been executed on the date first written above.

Landlord:	Tenant:
LeMone Family Limited Partnership LLLP	Savage River, Inc.
By: _____	By: /s/ Mark J. Nelson
Sara Maguire LeMone, General Partner	Printed Name: Mark Nelson
	Title: COO & CFO

Exhibit B

[attached hereto]

Beyond Meat

2400 Maguire Blvd.

Sheet#	Original Date	Revision #01	Revision #02	Revision #03
Al.O	12/22/2017	1/22/2018		
Al.1	12/22/2017	1/22/2018		
A2.0	12/22/2017	1/22/2018	1/26/2018	
A2.l	12/22/2017	1/22/2018	1/26/2018	
A2.2	12/22/2017	1/22/2018	1/26/2018	
A3.0	12/22/2017	1/22/2018		2/22/2018
A3.l	12/22/2017	1/22/2018	1/26/2018	2/22/2018
A3.2	12/22/2017			2/22/2018
A3.3	12/22/2017			
A3.4	12/22/2017	1/22/2018	1/26/2018	
A3.5	12/22/2017	1/22/2018		2/22/2018
A6.0	12/22/2017	1/22/2018		2/22/2018
ME P1	12/22/2017			
MED1	12/22/2017	1/24/2018		
Ml00	12/22/2017	1/24/2018	1/25/2018	3/9/2018
M101	12/22/2017			
MD100	12/22/2017			3/9/2018
MD200	12/22/2017	1/24/2018	1/25/2018	3/9/2018
EP100	12/22/2017	1/24/2018	1/25/2018	3/9/2018
EP101	12/22/2017	1/24/2018		
EL100	12/22/2017			
EL101	12/22/2017			
ED100	12/22/2017	1/24/2018		
ED200	12/22/2017	1/24/2018	1/25/2018	3/9/2018
PS100	12/22/2017	1/24/2018	1/25/2018	
PS101	12/22/2017	1/24/2018	1/25/2018	3/9/2018
PW100	12/22/2017	1/24/2018	1/25/2018	3/9/2018
PW101	12/22/2017	1/24/2018		3/9/2018

Revision #01 = Response to City Permit Review Letter

Revision #02 = Miscellaneous Drawings corrections

Revision #03 = Value Engineering (Omitting walls, HVAC, etc.)

Exhibit C

[attached hereto]

Beyond Meat

2400 Maguire Blvd.

Sheet#	Original Date	Revision #01	Revision #02	Revision #03
A1.0	12/22/2017	1/22/2018		
A1.1	12/22/2017	1/22/2018		
A2.0	12/22/2017	1/22/2018	1/26/2018	
A2.1	12/22/2017	1/22/2018	1/26/2018	
A2.2	12/22/2017	1/22/2018	1/26/2018	
A3.0	12/22/2017	1/22/2018		
A3.1	12/22/2017	1/22/2018	1/26/2018	2/22/2018
A3.2	12/22/2017			2/22/2018
A3.3	12/22/2017			
A3.4	12/22/2017	1/22/2018	1/26/2018	
A3.5	12/22/2017	1/22/2018		2/22/2018
A6.0	12/22/2017	1/22/2018		2/22/2018
MEP1	12/22/2017			
MED1	12/22/2017			
M100	12/22/2017	1/24/2018	1/25/2018	3/9/2018
M101	12/22/2017			
MD100	12/22/2017			3/9/2018
MD200	12/22/2017	1/24/2018	1/25/2018	3/9/2018
EP100	12/22/2017	1/24/2018	1/25/2018	3/9/2018
EP101	12/22/2017	1/24/2018		
EL100	12/22/2017			
EL101	12/22/2017			
ED100	12/22/2017	1/24/2018		
ED200	12/22/2017	1/24/2018	1/25/2018	3/9/2018
PS100	12/22/2017	1/24/2018	1/25/2018	
PS101	12/22/2017	1/24/2018	1/25/2018	3/9/2018
PW100	12/22/2017	1/24/2018	1/25/2018	3/9/2018
PW101	12/22/2017	1/24/2018		3/9/2018

Revision #01 = Response to City Permit Review Letter

Revision #02 = Miscellaneous Drawings corrections

Revision #03 = Value Engineering (Omitting walls, HVAC, etc.)

Exhibit D

Landlord promptly shall cause the Contract to be revised to include each of the following provisions and Landlord shall provide a copy of the fully executed amendment to the Contract or similar document or agreement evidencing the same:

1. Cost of the Work; General Conditions; Applications for Payment; Audit Rights; Cost Savings.

1.1. The "Cost of the Work" is the amount described as the "Original Scheduled Value" in the Schedule of Values approved by Contractor, Landlord, and Tenant (the "Schedule of Values"). The Cost of the Work shall include the cost of the work and services identified in the Schedule of Values (and as may be modified pursuant to this Paragraph). Notwithstanding anything to the contrary set forth herein or in the Contract, Tenant shall not be obligated to pay as Cost of the Work, and the Construction Allowance may be not be used for, any of the following items: (I) the Contractor's capital expenses, including interest on the Contractor's-capital employed for the work described in the Contract and Plans and Specifications approved by Landlord, Tenant, and Contractor (collectively, the "Contract Documents", and such work, collectively, the "Work"); (2) costs due to the fault or negligence of the Contractor and/or its Subcontractors and any other person or entity for whose acts the Contractor and/or its Subcontractors may be liable, including, without limitation, the costs of correcting damaged, defective or non-conforming Work, disposal and replacement of materials and equipment incorrectly ordered or supplied; and (3) overhead and general expenses, general conditions and profit other than the "General Conditions" of 8% and the "Contractor's Mark-up" of 10% set forth on the project budget attached to Pay Application #1; except, that, "Contractor's Mark-up" shall exclude any mark-up on General Conditions .. Further, notwithstanding anything to the contrary set forth herein or in the Contract, the General Conditions shall not include any cost item that is already accounted for in another line item in the project budget attached to Pay Application #1.

1.2. The period covered by each Application for Payment shall be one calendar month ending on the last day of the month. Each Application for Payment shall be accompanied by a lien waiver, executed by each Subcontractor and each materialman or supplier, covering all labor and materials that shall have been paid for in any previous application. Each Application for Payment shall also be accompanied by a partial lien waiver, executed by the Contractor and covering the entire amount of the payment requested by the relevant Application for Payment, effective on payment. In addition, each Application for Payment shall be notarized, if required, and supported by such data substantiating the Contractor's right to payment as Landlord or Tenant may reasonably require, such as copies of requisitions, invoices or payment applications from Subcontractors and material suppliers. Neither Landlord nor Tenant shall be required to process an Application for Payment until such lien waivers and other requested information are submitted. The Contractor's Applications for Payment may not include requests for payment of amounts the Contractor does not intend to pay to a Subcontractor or material supplier because of a dispute or other reason.

1.3. Contractor shall permit Landlord and Tenant to audit their books for any purpose of determining the correctness and allowability of charges made pursuant to the Contract, including all items in the Cost of the Work and in any change order (except that these provisions shall not apply to Work contracted on a lump sum basis). Contractor shall produce all data that Landlord or Tenant may request for any such purpose. Contractor shall keep, and shall cause all Subcontractors to keep, such full and detailed accounts as may be necessary to reflect its operations with respect to such charges and extras. Landlord and Tenant and each of their respective agents and employees shall be afforded access at all reasonable times to Contractor's and (if applicable) Subcontractors' books, correspondence, instructions, receipts, vouchers, memoranda, and records of all kinds, relating to all Work under the Contract as well as to changes in the Work and extras. In regard to the foregoing and generally, Contractor hereby authorizes the Owner, and shall require all Subcontractors to authorize the Owner, to check directly with its suppliers of labor and materials the charges for such labor, material, and other items appearing in the Contractor's bills rendered to the Owner and the balances due on such charges and to obtain sworn

statements and waivers of lien from any such suppliers. This provision shall survive for a period of four (4) years after the date the Landlord Improvements are substantially complete.

1.4. If the final Cost of the Work incurred by Cootractor on the Project is less than the amount set forth in the Schedule of Values agreed upon by Landlord and Tenant, Tenant shall be entitled to all such savings and Contractor will return to Landlord, for the benefit of Tenant, Cost of the Work saved.

2. Warranties: Condition to Final Payment.

2.1. Contractor warrants to Landlord and Tenant that materials and equipment furnished under the Contract will be of good quality and new unless otherwise required or permitted by Plans and Specifications, that the Work will be free from any defects or deficiencies in workmanship or materials (ordinary wear and tear excepted) and that the Work will conform with the requirements of the Contract Documents. Work not conforming to these requirements, including substitutions not properly approved and authorized, shall be considered defective. The Contractor's warranty does not cover damage or failure of materials to the extent caused by any abuse, modification, improper or insufficient maintenance or improper operation by the Owner. If required by the Owner, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment to be employed in the performance of the Work.

2.2. In addition to the warranties set forth in the immediately preceding Paragraph, Contractor represents and warrants to Landlord and Tenant that all Work, materials, and equipment furnished under the Contract shall be free from failure under ordinary usage for a period of one (1) year from the date the Landlord Improvements are substantially complete. All Work not conforming to these standards shall be considered defective. Further, Contractor agrees that all guarantees or warranties of equipment or materials furnished to the Contractor or Subcontractors by any manufacturer or supplier shall be deemed to run to the benefit of, and are hereby assigned to, Landlord (subject to the remainder of this Paragraph). As a condition to final payment for the Work, the Contractor shall deliver to the Landlord two (2) clean, complete and readable copies of all guarantees and warranties on equipment and materials furnished by all manufacturers and suppliers to the Contractor and all Subcontractors, together with duly executed instruments properly assigning the guarantees and warranties to Landlord, and shall also deliver to Landlord two (2) clean, complete and readable copies of as-built drawings, all related manufacturer's instructions, related maintenance manuals, replacement lists, detailed drawings and any technical requirements necessary to operate and maintain such equipment and materials or needed to maintain the effectiveness of any such warranties. All warranties set forth in this Paragraph and the immediately preceding paragraph shall be assignable to Tenant, and upon Tenant's written request therefor, shall be assigned to Tenant if and to the extent Tenant is required to repair, maintain, or replace any of the Work pursuant to the applicable provisions of the Lease.

3. Indemnity: Insurance.

3 .1.Contractor shall indemnify and hold harmless Landlord, Tenant, and their respective officers, directors, shareholders, partners, employees or agents, from and against claims, damages, losses and expenses, including, without limitation, reasonably attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property including loss of use resulting therefrom, but only to the extent caused in whole or in part by the acts or omissions of the Contractor, a Subcontractor, a sub-Subcontractor, materialrnan, or supplier or anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Paragraph. This indemnification shall survive acceptance of the Work and completion of the Contract. In claims against any person or entity indemnified under the terms of the Contract by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this Contract shall not be limited by a limitation on amount or type of damages, compensation or benefits

payable by or for the Contractor or a Subcontractor under workers or workmen's compensation acts, disability benefits acts or other employee benefit acts.

3 .2. Contractor shall purchase from and maintain in a company or companies lawfully authorized to do business in the State of Missouri and acceptable to Landlord and Tenant such insurance as will protect theContractor from the following kinds of claims, which may arise out of or result from the Contractor's operations under the Contract and for which the Contractor may be legally liable, whether such operations be by the Contractor or by a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable: (1) claims under workers' or workmen's compensation, disability benefit and other similar employee benefit acts which are applicable to the Work to be performed; (2) claims for damages because of bodily injury, occupational sickness or disease, or death of the Contractor's employees; (3) claims for damages because of bodily injury, sickness or disease, or death of any person other than the Contractor's employees; (4) claims for damages insured by usual personal injury liability coverage; (5) claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom; (6) claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle; and (7) claims involving contractual liability insurance applicable to the Contractor's indemnity obligations set forth herein. In addition, Landlord shall carry builder's risk insurance covering the Landlord Improvements. The coverage and limits of liability contained in the Contractor's liability insurance required pursuant to this Paragraph shall not be less than (1) Combined single limit for Bodily or Personal Injury and Property Damage of not less than $1,000,000 each occurrence, $2,000,000 annual aggregate for commercial general liability insurance, and (2) $1,000,000 Each accident, $1,000,000 Disease - Policy and $1,000,000 Disease - Each Employee for employer's liability insurance. All coverage shall be on an occurrence basis. With the exception of workers compensation, insurance coverages required of Contractor by the Contract shall name Landlord and Tenant as additional insureds and shall not be canceled or allowed to expire without thirty (30) days prior written notice to both Landlord and Tenant. The coverage on all such policies required from Contractor pursuant to this Contract shall be primary to any valid and collectible insurance carried by Landlord and Tenant.

Beyond Meat

Pay Application #1

04/10/2018

Item No.	Decryption of Work	Subcontractor	Original Schedule Value	Change Orders	Current Scheduled Value	From Previous Application	Labor	Material/Other/Subcontract	This period	Total Completed To Date	Balance To Finish
0-73 16	Builder's Risk	Naught Naught	$ 5,500.00		$ 5,500.00			$ 4,216.00	$ 4,216.00	$ 4,216.00	$ 1,284.00
1-00 00	Design Fees	Simon Associates	$ 60,370.00		$ 60,370.00			$ 54,970.00	$ 54,970.00	$ 54,970.00	$ 5,400.00
1-32 00	Plan Reproduction	LDC	$ 1,500.00		$ 1,500.00				$ —	$ —	$ 1,500.00
1-35 53	Camera System	LDC	$ —		$ —				$ —	$ —	$ —
1-41 23	Meters / Fees	LDC	$ —		$ —				$ —	$ —	$ —
1-41 26	Building Permit / Permits	City	$ 17,961.00		$ 17,961.00			$ 168.75	$ 168.75	$ 168.75	$ 17,792.25
1-45 23	Testing / Inspections	Crockett Budget	$ 10,000.00		$ 10,000.00			$ 724.50	$ 724.50	$ 724.50	$ 9,275.50
1-51 13	Temporary Electricity	LDC	$ —		$ —				$ —	$ —	$ —
1-51 19	Fuel	LDC	$ —	$ 592.19	$ 592.19			$ 592.19	$ 592.19	$ 592.19	$ —
1-51 23	Temporary Heating	LDC	$ —		$ —				$ —	$ —	$ —
1-52 13	Job Trailer / Storage Container	LDC	$ —		$ —				$ —	$ —	$ —
1-52 19	Sanitary Facilities	LDC	$ —		$ —				$ —	$ —	$ —
1-55 19	Temporary Parking / Lay Down areas	LDC	$ —		$ —				$ —	$ —	$ —
1-56 26	Temporary Fencing	LDC	$ —		$ —				$ —	$ —	$ —
1-62 00	Bits & Blades	LDC	$ 2,500.00		$ 2,500.00			$ 152.13	$ 152.13	$ 152.13	$ 2,347.87
1-71 13	Mobilization	LDC	$ 2,500.00		$ 2,500.00		150.00		$ 150.00	$ 150.00	$ 2,350.00
1-71 14	Travel Expense	LDC	$ —		$ —				$ —	$ —	$ —
1-74 13	Progress Cleaning	LDC	$ 3,000.00	$ 375.00	$ 3,375.00		3,375.00		$ 3,375.00	$ 3,375.00	$ —
1-74 23	Final Cleaning	Wash Authority	$ 9,455.00		$ 9,455.00				$ —	$ —	$ 9,455.00
1-88 00	Equipment (MJS Rental)	Budget	$ 10,000.00		$ 10,000.00				$ —	$ —	$ 10,000.00
2-41 00	Demolition	LDC	$ 5,200.00		$ 5,200.00		975.00		$ 975.00	$ 975.00	$ 4,225.00
3-00 00	Concrete (Sub)	TBD	$ 28,270.00		$ 28,270.00			$ 28,270.00	$ 28,270.00	$ 28,270.00	$ —
3-00 00	Concrete (Materials)	TBD	$ 78,721.13		$ 78,721.13			$ 78,721.13	$ 78,721.13	$ 78,721.13	$ —
3-00 00	Concrete (Labor)	TBD	$ 64,537.50		$ 64,537.50		64,537.50		$ 64,537.50	$ 64,537.50	$ —
3-70 00	Demolition Equipment	Varies	$ 3,992.00		$ 3,992.00			$ 3,992.00	$ 3,992.00	$ 3,992.00	$ —
3-80 00	Concrete Demolition	TBD	$ 764.00		$ 764.00			$ 764.00	$ 764.00	$ 764.00	$ —
5-10 00	Structural Steel (Material)	Ahrens	$ 53,000.00		$ 53,000.00			$ 21,646.30	$ 21,646.30	$ 21,646.30	$ 31,353.70

5-10 00	Structural Steel (Labor)	Ahrens	$ —		$ —				$ —	$ —	$ —
5-40 00	Cold-Formed Metal Framing	Quality	$ —		$ —				$ —	$ —	$ —
5-52 13	Bollards	Ahrens	$ —		$ —				$ —	$ —	$ —
5-52 14	Metal Decking	Quality	$ 7,700.00		$ 7,700.00				$ —	$ —	$ 7,700.00
6-10 00	Wood Framing (Backing)	LDC	$ 1,500.00		$ 1,500.00				$ —	$ —	$ 1,500.00
6-16 23	Plywood Decking	Quality	$ 11,200.00		$ 11,200.00				$ —	$ —	$ 11,200.00
6-40 00	Casework (Material)	Seville	$ 4,402.00		$ 4,402.00				$ —	$ —	$ 4,402.00
6-40 00	Casework (Labor)	LDC	$ 1,500.00		$ 1,500.00				$ —	$ —	$ 1,500.00
6-82 00	FRP	Quality	$ —		$ —				$ —	$ —	$ —
7-21 00	Thermal Insulation (Sound)	Quality	$ —		$ —				$ —	$ —	$ —
7-72 33	Roof Hatch	Budget	$ 1,750.00		$ 1,750.00				$ —	$ —	$ 1,750.00
7-92 00	Joint Sealants (Sub)	Budget	$ 2,500.00		$ 2,500.00			$ 64.73	$ 64.73	$ 64.73	$ 2,435.27
8-10 00	Doors and Frames (Material)	BCM	$ 15,415.00		$ 15,415.00			$ 1,821.77	$ 1,821.77	$ 1,821.77	$ 13,593.23
8-10 00	Doors and Frames (Labor)	LDC	$ 9,000.00		$ 9,000.00		712.50		$ 712.50	$ 712.50	$ 8,287.50
8-10 00	LDC Misc Door Repairs	LDC	$ 2,000.00		$ 2,000.00				$ —	$ —	$ 2,000.00
8-33 00	Overhead Door	N/A		$ 530.71	$ 530.71			$ 530.71	$ 530.71	$ 530.71	$ —
8-40 00	Entrances and Storefronts	CGM	$ 3,974.00		$ 3,974.00				$ —	$ —	$ 3,974.00
8-71 00	Door Hardware	BCM	$ —		$ —				$ —	$ —	$ —
8-80 00	Glazing	CGM	$ —		$ —				$ —	$ —	$ —
8-83 00	Mirrors	T&G	$ —		$ —				$ —	$ —	$ —
9-05 00	Floor Prep (existing VCT)	Wash Authority	$ —		$ —				$ —	$ —	$ —
9-21 00	Gypsum Board Assemblies	Quality	$ 101,025.00		$ 101,025.00			$ 10,198.58	$ 10,198.58	$ 10,198.58	$ 90,826.42
9-50 00	Ceilings	Quality	$ —		$ —				$ —	$ —	$ —
9-60 00	Flooring (Sub)	Carpet Mart	$ 9,940.00		$ 9,940.00				$ —	$ —	$ 9,940.00
9-67 00	Epoxy Flooring	By Tenant	$ —		$ —				$ —	$ —	$ —
9-68 00	Carpeting	None	$ —		$ —				$ —	$ —	$ —
9-90 00	Painting & Coating	S/B	$ 27,821.00		$ 27,821.00				$ —	$ —	$ 27,821.00
10-14 00	Signage (sub)	T&G	$ 755.00		$ 755.00				$ —	$ —	$ 755.00
10-21 13	Toilet Compartments	T&G	$ 4,493.00		$ 4,493.00				$ —	$ —	$ 4,493.00
10-28 00	Toilet Accessories	T&G	$ 1,877.00		$ 1,877.00				$ —	$ —	$ 1,877.00
10-44 16	Fire Extinguishers	T&G	$ 1,681.00		$ 1,681.00				$ —	$ —	$ 1,681.00

10-51 00	Lockers & Benches	By Tenant	$ —		$ —				$ —	$ —	$ —
10-90 00	Knox Box	LDC	$ 400.00		$ 400.00				$ —	$ —	$ 400.00
13-34 00	PEMB Misc. Work (Labor/materials)	RCH (Tim Looper)	$ 47,283.57		$ 47,283.57				$ —	$ —	$ 47,283.57
21-00 00	Water-Based Fire-Suppression Systems	Summit	$ 158,950.00		$ 158,950.00			$ 44,583.57	$ 44,583.57	$ 44,583.57	$ 114,366.43
22-00 00	Plumbing	Summit	$ —		$ —				$ —	$ —	$ —
23-00 00	HVAC	Hulett	$ 322,053.00		$ 322,053.00				$ —	$ —	$ 322,053.00
26-00 00	Electrical (2mezzanine areas only)	Schneider	$ 32,500.00		$ 32,500.00				$ —	$ —	$ 32,500.00
27-20 00	Data Communications (2 mezz. areas only)	Schneider	$ 6,990.00		$ 6,990.00				$ —	$ —	$ 6,990.00
28-31 00	Fire Detection & Alarm	Miwest	$ 2,600.00		$ 2,600.00				$ —	$ —	$ 2,600.00
31-00 00	Earthwork	Site Grading	$ 5,000.00		$ 5,000.00		225.00		$ 225.00	$ 225.00	$ 4,775.00
32-11 00	Base Courses		$ —		$ —				$ —	$ —	$ —
32-12 16	Asphalt Paving		$ —		$ —				$ —	$ —	$ —
32-13 13	Concrete Paving		$ —		$ —				$ —	$ —	$ —
32-17 23	Pavement Markings		$ —		$ —				$ —	$ —	$ —
32-31 0	Fences and Gates (Privacy & Chain Link	Budget	$ 6,000.00		$ 6,000.00				$ —	$ —	$ 6,000.00
32-32 00	Retaining Walls		$ —		$ —				$ —	$ —	$ —
32-80 00	Irrigation		$ —		$ —				$ —	$ —	$ —
32-90 00	Planting		$ —		$ —				$ —	$ —	$ —
1-20 02	General Conditions	SUBTOTAL	$ 1,147,580.20	$ 1,497.90	$ 1,149,078.10	$ —			$ 321,391.36	$ 321,391.36	$ 827,686.74
1-20 01	Contractor's Mark Up	8.0%	$ 91,806.42	$ 149.79	$ 91,956.21	$ —			$ 25,711.31	$ 25,711.31	$ 66,244.90
1-31 00	Project manager	10.0%	$ 114,758.02	$ 149.79	$ 114,907.81	$ —			$ 32,139.14	$ 32,139.14	$ 82,768.67
1-31 13	Superintendent (Mac)	LDC	$ 15,000.00	$ —	$ 15,000.00	$ —	$ 8,362.50		$ 8,362.50	$ 8,362.50	$ 6,637.50
		LDC	$ —	$ —	$ —	$ —			$ —	$ —	$ —
		Grant Totals	$ 1,369,144.64	$ 1,797.48	$ 1,370,942.12	$ —			$ 387,604.30	$ 387,604.30	$ 983,337.81
			Original Schedule Value	Change Orders	Current Scheduled Value	From Previous Application			TOTAL DUE THIS PERIOD	Total Completed To Date	Balance To Finish

LeMone Family Limited Partnership, LLLP

3316 LeMone Industrial Blvd
Columbia, MO 65201
573-449-7200

August 8, 2018

Savage River, Inc.
Attn: Mark Nelson
1325 E. El Segundo Blvd.
El Segundo, CA 90245

RE: **Beyond Meat - 2400 Maguire Blvd., Columbia, MO**

Lease Dated October 12, 2018 ("Lease") by and between LeMone Family Limited Partnership, LLLP ("Landlord") and Savage River, Inc. ("Tenant").

Dear Tenant,

This letter is to advise you that, pursuant to Article 2 of the lease, the Landlord achieved Substantial Completion of the Landlord Improvements evidenced by receipt of a Certificate of Occupancy from the City of Columbia on June 19, 2018. Therefore, Commencement Date of the Lease is August 1, 2018. As such, the Initial Term of the Lease commenced August 1, 2018 and has a termination date of July 31, 2025.

Pursuant to Article 4 of the Lease, beginning on August 1 2018 and the 1st of every month thereafter without demand, Tenant shall pay Rent of **$42,515.00** per month. Annual Rent is subject to increases pursuant to Article 4 of the Lease.

Pursuant to Article 8 of the Lease, and concurrently with the payment of the Monthly Rent, Tenant shall pay 1/12th of the annual Tax/Insurance Estimate. Landlord estimates this amount to be **$6,666.00** per month.

Pursuant to Article 12 of the Lease, and concurrently with the payment of the Monthly Rent, Tenant shall pay 1/12th of the annual Maintenance Estimate. Landlord estimates this amount to be **$800.00** per month.

In summary, Tenant shall pay Rent and Estimates of **$49,981.00** per month. By signing below, you are confirming acknowledgment of these dates. Upon execution by both parties, these dates will be incorporated into and made part of the lease.

Sincerely,

Sara M. LeMone, GP

Landlord:		**Tenant:**	
LeMone Family Limited Partnership, LLLP		Savage River, Inc.	
By:	/s/ Sara M LeMone	By:	/s/ Mark Nelson
Title:	General Partner	Title:	CFO & Treasurer
Date:	8/14/18	Date:	8/17/18

Exhibit 10.4

AMENDED AND RESTATED LOAN AND SECURITY AGREEMENT
(Revolving Line)

THIS AMENDED AND RESTATED LOAN AND SECURITY AGREEMENT (REVOLVING LINE) (this "**Agreement**") dated as of June 27, 2018 (the "**Effective Date**") between SILICON VALLEY BANK, a California corporation ("**Bank**"), and SAVAGE RIVER, INC., a Delaware corporation ("**Borrower**"), provides the terms on which Bank shall lend to Borrower and Borrower shall repay Bank. The parties agree as follows:

RECITALS

A. Bank and Borrower entered into that certain Loan and Security Agreement dated as of June 6, 2016 (as the same has been amended, modified, supplemented, renewed, or otherwise modified, from to time, the "**Prior Loan Agreement**"). Pursuant to the Prior Loan Agreement, Bank made certain loans and other credit accommodations available to Borrower, including (i) a revolving line of credit in the aggregate original principal amount not to exceed Two Million Five Hundred Thousand Dollars ($2,500,000) and (ii) growth capital term loan advances in the aggregate original principal amount not to exceed One Million Five Hundred Thousand Dollars ($1,500,000) (each an "**Existing Growth Capital Advance**", and collectively, the "**Existing Growth Capital Advances**").

B. Borrower has requested, and Bank has agreed pursuant to this Agreement, that Bank (i) increase the revolving line of credit, (ii) repay in full the Existing Growth Capital Advances in their entirety, and (iii) replace, amend and restate the Prior Loan Agreement in its entirety.

AGREEMENT

The parties hereby agree that the Prior Loan Agreement is hereby amended, restated, and replaced in its entirety as follows:

1. ACCOUNTING AND OTHER TERMS

Accounting terms not defined in this Agreement shall be construed following GAAP. Calculations and determinations must be made following GAAP; *provided* that if at any time any change in GAAP would affect the computation of any financial ratio or requirement set forth in any Loan Document, and either Borrower or Bank shall so request, Borrower and Bank shall negotiate in good faith to amend such ratio or requirement to preserve the original intent thereof in light of such change in GAAP; *provided, further*, that, until so amended, (a) such ratio or requirement shall continue to be computed in accordance with GAAP prior to such change therein and (b) Borrower shall provide Bank financial statements and other documents required under this Agreement or as reasonably requested hereunder setting forth a reconciliation between calculations of such ratio or requirement made before and after giving effect to such change in GAAP. Notwithstanding any terms in this Agreement to the contrary, for purposes of any financial covenant and other financial calculations in this Agreement (other than for purposes of updating the Borrowing Base) which are made in whole or in part based upon the Availability Amount as of the last day of a particular month, calculations relying on information from a Borrowing Base Statement shall be derived from the Borrowing Base Statement delivered within seven (7) days of month end pursuant to Section 6.2(a) (and not, for clarity, any more recent Borrowing Base Statement delivered after such period), and the actual delivery date of such Borrowing Base Statement shall be deemed to be the last day of the applicable month. Capitalized terms not otherwise defined in this Agreement shall have the meanings set forth in Section 13. All other terms contained in this Agreement, unless otherwise indicated, shall have the meaning provided by the Code to the extent such terms are defined therein.

2. LOAN AND TERMS OF PAYMENT

2.1 Promise to Pay. Borrower hereby unconditionally promises to pay Bank the outstanding principal amount of all Credit Extensions and accrued and unpaid interest thereon as and when due in accordance with this Agreement.

2.2 Revolving Line.

(a) Availability. Subject to the terms and conditions of this Agreement and to deduction of Reserves, Bank shall make Advances not exceeding the Availability Amount. Amounts borrowed under the Revolving Line may be repaid and, prior to the Revolving Line Maturity Date, reborrowed, subject to the applicable terms and conditions precedent herein.

(b) Termination; Repayment. The Revolving Line terminates on the Revolving Line Maturity Date, when the principal amount of all Advances, the unpaid interest thereon, and all other Obligations relating to the Revolving Line shall be immediately due and payable.

2.3 Existing Growth Capital Advances. Borrower acknowledges and agrees that as of the Effective Date, the aggregate outstanding principal balance on the Existing Growth Capital Advances is Seven Hundred Ninety-One Thousand Six Hundred Sixty-Six Dollars and Sixty-One Cents ($791,666.61), which remains outstanding and is continued as an Obligation hereunder as of the Effective Date, and that such sum is not subject to any offset or defense of any kind whatsoever, and in the event Borrower has any offsets or defenses thereto, Borrower hereby irrevocably waives all such offsets and defenses. Borrower and Bank acknowledge and agree that there is no further availability to borrow under the Existing Growth Capital Advances. The Obligations owing with respect to the Existing Growth Capital Advances have not been extinguished or discharged hereby and the execution of this Agreement is not intended to and shall not cause or result in a novation with respect to the Existing Growth Capital Advances. Borrower shall, on or about the Effective Date and in conjunction with Borrower's execution of this Agreement, use a portion of the proceeds from the Tranche One Term Loan Advance (as defined in the EGC Loan Agreement) to repay in full in cash all of the Obligations owing to Bank under the Existing Growth Capital Advances. No "Prepayment Fee" (as such term is defined in the Prior Loan Agreement) shall be due and payable in connection with the repayment of the Existing Growth Capital Advances.

2.4 Overadvances. If, at any time, the outstanding principal amount of any Advances exceeds the lesser of either the Revolving Line or the Borrowing Base, Borrower shall immediately pay to Bank in cash the amount of such excess (such excess, the "**Overadvance**"). Without limiting Borrower's obligation to repay Bank any Overadvance, Borrower agrees to pay Bank interest on the outstanding amount of any Overadvance, on demand, at a per annum rate equal to the rate that is otherwise applicable to Advances plus five percent (5.0%).

2.5 Payment of Interest on the Credit Extensions.

(a) Interest Rate.

(i) Advances. Subject to Section 2.5(b), the outstanding principal amount of each Advance shall accrue interest at a floating per annum rate equal to the Prime Rate plus (1) when a Streamline Period is in effect, three-quarters of one percent (0.75%) or (2) when a Streamline Period is not in effect, one and one-quarter of one percent (1.25%). Interest shall be payable monthly in accordance with Section 2.5(d) below.

(b) Default Rate. Immediately upon the occurrence and during the continuance of an Event of Default, Obligations shall bear interest at a rate per annum which is five percent (5.0%) above the rate that is otherwise applicable thereto (the "**Default Rate**"). Fees and expenses which are required to be paid by Borrower pursuant to the Loan Documents (including, without limitation, Bank Expenses) but are not paid when due shall bear interest until paid at a rate equal to the highest rate applicable to the Obligations. Payment or acceptance of the increased interest rate provided in this Section 2.5(b) is not a permitted alternative to timely payment and shall not constitute a waiver of any Event of Default or otherwise prejudice or limit any rights or remedies of Bank.

(c) Adjustment to Interest Rate. Changes to the interest rate of any Credit Extension based on changes to the Prime Rate shall be effective on the effective date of any change to the Prime Rate and to the extent of any such change.

(d) Payment; Interest Computation. Interest is payable monthly on the Payment Date of each month and shall be computed on the basis of a three hundred sixty (360)-day year for the actual number of days elapsed. In computing interest, (i) all payments received after 12:00 p.m. Pacific time on any day shall be deemed received at the opening of business on the next Business Day, and (ii) the date of the making of any Credit Extension shall be included and the date of payment shall be excluded; provided, however, that if any Credit Extension is repaid on the same day on which it is made, such day shall be included in computing interest on such Credit Extension.

2.6 Fees. Borrower shall pay to Bank:

(a) Revolving Line Commitment Fee. A fully earned, non-refundable commitment fee in connection with the Revolving Line in the amount of Thirty Thousand Dollars ($30,000.00) on the Effective Date (the "**Revolving Line Commitment Fee**");

(b) Good Faith Deposit. A deposit of Twenty-Five Thousand Dollars ($25,000.00) (the "**Good Faith Deposit**") to initiate Bank's due diligence review process. Any portion of the Good Faith Deposit not utilized to pay Bank Expenses on the Effective Date will be applied to the Revolving Line Commitment Fee;

(c) Anniversary Fee. A fully earned, non-refundable anniversary fee in connection with the Revolving Line in the amount of Thirty Thousand Dollars ($30,000.00) (the "**Anniversary Fee**") is earned as of the Effective Date and is due and payable on the earlier to occur of (i) the one (1) year anniversary of the Effective Date, (ii) the termination of this Agreement, or (iii) the occurrence of an Event of Default;

(d) Bank Expenses. All Bank Expenses (including reasonable attorneys' fees and expenses for documentation and negotiation of this Agreement) incurred through and after the Effective Date, when due (or, if no stated due date, upon demand by Bank). Notwithstanding the foregoing, so long as there are no more than two (2) reasonable turns of the Loan Documents and the EGC Loan Documents, Bank Expenses for legal fees (not including hard costs for diligence and other searches) shall not exceed Thirty Thousand Dollars ($30,000) as of the Effective Date; and

(e) Fees Fully Earned. Unless otherwise provided in this Agreement or in a separate writing by Bank, Borrower shall not be entitled to any credit, rebate, or repayment of any fees earned by Bank pursuant to this Agreement notwithstanding any termination of this Agreement or the suspension or termination of Bank's obligation to make loans and advances hereunder. Bank may deduct amounts owing by Borrower under the clauses of this Section 2.6 pursuant to the terms of Section 2.7(c). Bank shall provide Borrower written notice of deductions made from the Designated Deposit Account pursuant to the terms of the clauses of this Section 2.6.

2.7 Payments; Application of Payments; Debit of Accounts.

(a) All payments to be made by Borrower under any Loan Document shall be made in immediately available funds in Dollars, without setoff or counterclaim, before 12:00 p.m. Pacific time on the date when due. Payments of principal and/or interest received after 12:00 p.m. Pacific time are considered received at the opening of business on the next Business Day. When a payment is due on a day that is not a Business Day, the payment shall be due the next Business Day, and additional fees or interest, as applicable, shall continue to accrue until paid.

(b) Bank has the right in its good faith business judgment to determine the order and manner in which all payments with respect to the Obligations may be applied. Borrower shall have no right to specify the order or the accounts to which Bank shall allocate or apply any payments required to be made by Borrower to Bank or otherwise received by Bank under this Agreement when any such allocation or application is not specified elsewhere in this Agreement.

(c) Bank may debit any of Borrower's deposit accounts, including the Designated Deposit Account, for principal and interest payments or any other amounts Borrower owes Bank arising under this Agreement and the other Loan Documents when due. These debits shall not constitute a set-off.

2.8 Withholding. Payments received by Bank from Borrower under this Agreement will be made free and clear of and without deduction for any and all present or future taxes, levies, imposts, duties, deductions, withholdings, assessments, fees or other charges imposed by any Governmental Authority (including any interest, additions to tax or penalties applicable thereto). Specifically, however, if at any time any Governmental Authority, applicable law, regulation or international agreement requires Borrower to make any withholding or deduction from any such payment or other sum payable hereunder to Bank, Borrower hereby covenants and agrees that the amount due from Borrower with respect to such payment or other sum payable hereunder will be increased to the extent necessary to ensure that, after the making of such required withholding or deduction, Bank receives a net sum equal to the sum which it would have received had no withholding or deduction been required, and Borrower shall pay the full amount withheld or deducted to the relevant Governmental Authority. Borrower will, upon request, furnish Bank with proof reasonably satisfactory to Bank indicating that Borrower has made such withholding payment; provided, however, that Borrower need not make any withholding payment if the amount or validity of such withholding payment is contested in good faith by appropriate and timely proceedings and as to which payment in full is bonded or reserved against by Borrower. The agreements and obligations of Borrower contained in this Section 2.8 shall survive the termination of this Agreement.

3. CONDITIONS OF LOANS

3.1 Conditions Precedent to Initial Credit Extension. Bank's obligation to make the initial Credit Extension is subject to the condition precedent that Bank shall have received, in form and substance satisfactory to Bank, such documents, and completion of such other matters, as Bank may reasonably deem necessary or appropriate, including, without limitation:

(a) duly executed signatures to the Loan Documents;

(b) evidence that (i) Borrower's Indebtedness to the Missouri Department of Economic Development has been or will be, concurrently with the initial Credit Extension, repaid in full, (ii) the Liens securing such Indebtedness will be terminated, and (iii) the documents and/or filings evidencing the perfection of such Liens, including without limitation any financing statements and/or control agreements, have been or will be, concurrently with the initial Credit Extension, terminated;

(c) the Operating Documents and good standing certificates of Borrower certified by the Secretaries of State (or equivalent agency) of the States of Delaware and California and each other jurisdiction in which Borrower is qualified to conduct business, each as of a date no earlier than thirty (30) days prior to the Effective Date;

(d) a secretary's certificate of Borrower with respect to such Borrower's Operating Documents, incumbency, specimen signatures and resolutions authorizing the execution and delivery of this Agreement and the other Loan Documents to which it is a party;

(e) duly executed signatures to the completed Borrowing Resolutions for Borrower;

(f) certified copies, dated as of a recent date, of financing statement searches, as Bank may request, accompanied by written evidence (including any UCC termination statements) that the Liens indicated in any such financing statements constitute Permitted Liens or have been, or in connection with the initial Credit Extension, will be terminated or released;

(g) the Perfection Certificate of Borrower, together with the duly executed signature thereto;

(h) Intellectual Property search results and completed exhibits to the IP Agreement;

(i) with respect to the initial Advance, the completion of the Initial Audit;

(j) with respect to the initial Advance, a completed Borrowing Base Statement (and any schedules related thereto and including any other information requested by Bank with respect to Borrower's Accounts); and

(k) payment of the documented fees and Bank Expenses then due as specified in Section 2.6 hereof.

3.2 Conditions Precedent to all Credit Extensions. Bank's obligations to make each Credit Extension, including the initial Credit Extension, is subject to the following conditions precedent:

(a) timely receipt of the Credit Extension request and any materials and documents required by Section 3.4;

(b) the representations and warranties in this Agreement shall be true, accurate, and complete in all material respects on the date of the proposed Credit Extension and on the Funding Date of each Credit Extension; provided, however, that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof; and provided, further that those representations and warranties expressly referring to a specific date shall be true, accurate and complete in all material respects as of such date, and no Event of Default shall have occurred and be continuing or result from the Credit Extension. Each Credit Extension is Borrower's representation and warranty on that date that the representations and warranties in this Agreement remain true, accurate, and complete in all material respects; provided, however, that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof; and provided, further that those representations and warranties expressly referring to a specific date shall be true, accurate and complete in all material respects as of such date; and

(c) in Bank's sole but reasonable discretion, there has not been a Material Adverse Change.

3.3 Covenant to Deliver.

(a) Borrower agrees to deliver to Bank each item required to be delivered to Bank under this Agreement as a condition precedent to any Credit Extension. Borrower expressly agrees that a Credit Extension made prior to the receipt by Bank of any such item shall not constitute a waiver by Bank of Borrower's obligation to deliver such item, and the making of any Credit Extension in the absence of a required item shall be in Bank's sole discretion.

(b) Within forty-five (45) days after the Effective Date, Bank shall have received, in form and substance satisfactory to Bank:

(i) a landlord's consent in favor of Bank for each of Borrower's leased locations, by the respective landlord thereof, together with the duly executed original signatures thereto;

(ii) a bailee's waiver in favor of Bank for each location where Borrower maintains property with a third party having a fair market value in excess of One Hundred Thousand Dollars ($100,000), by each such third party, together with the duly executed original signatures thereto; and

(iii) evidence reasonably satisfactory to Bank that the insurance policies and endorsements required by Section 6.7 hereof are in full force and effect, together with appropriate evidence showing lender loss payable and/or additional insured clauses or endorsements in favor of Bank.

3.4 Procedures for Borrowing.

(a) Advances. Subject to the prior satisfaction of all other applicable conditions to the making of an Advance set forth in this Agreement, to obtain an Advance, Borrower (via an individual duly authorized by an Administrator) shall notify Bank (which notice shall be irrevocable) by electronic mail by 12:00 p.m. Pacific time on the Funding Date of the Advance. Such notice shall be made by Borrower through Bank's online banking program,

provided, however, if Borrower is not utilizing Bank's online banking program, then such notice shall be in a written format reasonably acceptable to Bank that is executed by an Authorized Signer. Bank shall have received satisfactory evidence that the Board has approved that such Authorized Signer may provide such notices and request Advances (but for the avoidance of doubt, Borrower does not need to obtain Board approval with respect to each Advance). In connection with any such notification, Borrower must promptly deliver to Bank by electronic mail or through Bank's online banking program such reports and information, including without limitation, sales journals, cash receipts journals, a Borrowing Base Statement, and accounts receivable aging reports, as Bank may request in its sole but reasonable discretion. Bank shall credit proceeds of an Advance to the Designated Deposit Account. Bank may make Advances under this Agreement based on instructions from an Authorized Signer or without instructions if the Advances are necessary to meet Obligations which have become due.

4. CREATION OF SECURITY INTEREST.

4.1 Grant of Security Interest. Borrower hereby grants Bank, to secure the payment and performance in full of all of the Obligations, a continuing security interest in, and pledges to Bank, the Collateral, wherever located, whether now owned or hereafter acquired or arising, and all proceeds and products thereof.

Subject to the terms contained herein, Bank agrees that the Liens granted to it hereunder in Third Party Equipment shall be subordinate to the Liens in Third Party Equipment of future lenders and lessors engaged in the business of providing equipment financing and leasing for Third Party Equipment; provided that such Liens are (i) permitted under clause (c) of the definition of Permitted Liens, and (ii) properly perfected as a valid "purchase money security interest" under applicable law. So long as no Event of Default has occurred and is continuing, Bank agrees to execute and deliver, at Borrower's expense, such agreements and documents as may be reasonably requested in writing by Borrower and such equipment lender or equipment lessor from time to time which set forth the lien subordination described in this Section 4.1 and are reasonably acceptable to Bank. Bank shall have no obligation to execute any agreement or document which would impose obligations, restrictions, or lien priority on Bank which are less favorable to Bank than those described in this Section 4.1. For purposes of clarity, such subordinations shall be of the priority of Bank's Liens with respect to and not in right in payment in connection with such Third Party Equipment and shall not otherwise limit Bank's rights or remedies with respect to such Third Party Equipment.

Borrower acknowledges that it previously has entered, and/or may in the future enter, into Bank Services Agreements with Bank. Regardless of the terms of any Bank Services Agreement, Borrower agrees that any amounts Borrower owes Bank thereunder shall be deemed to be Obligations hereunder and that it is the intent of Borrower and Bank to have all such Obligations secured by the first priority perfected security interest in the Collateral granted herein (subject only to Permitted Liens that are permitted pursuant to the terms of this Agreement to have superior priority to Bank's Lien in this Agreement).

If this Agreement is terminated, Bank's Lien in the Collateral shall continue until the Obligations (other than inchoate indemnity obligations) are repaid in full in cash. Upon payment in full in cash of the Obligations (other than inchoate indemnity obligations) and at such time as Bank's obligation to make Credit Extensions has terminated, Bank shall, at the sole cost and expense of Borrower, release its Liens in the Collateral and all rights therein shall revert to Borrower. In the event (x) all Obligations (other than inchoate indemnity obligations), except for Bank Services, are satisfied in full, and (y) this Agreement is terminated, Bank shall terminate the security interest granted herein upon Borrower providing cash collateral acceptable to Bank in its good faith business judgment for Bank Services, if any. In the event such Bank Services consist of outstanding Letters of Credit, Borrower shall provide to Bank cash collateral in an amount equal to (x) if such Letters of Credit are denominated in Dollars, then at least one hundred five percent (105.0%); and (y) if such Letters of Credit are denominated in a Foreign Currency, then at least one hundred ten percent (110.0%), of the Dollar Equivalent of the face amount of all such Letters of Credit plus all interest, fees, and costs due or to become due in connection therewith (as estimated by Bank in its good faith business judgment), to secure all of the Obligations relating to such Letters of Credit.

4.2 Priority of Security Interest. Borrower represents, warrants, and covenants that the security interest granted herein is and shall at all times continue to be a first priority perfected security interest in the Collateral (subject only to Permitted Liens that are permitted pursuant to the terms of this Agreement to have superior priority to Bank's

Lien under this Agreement). If Borrower shall acquire a commercial tort claim in excess of One Hundred Thousand Dollars ($100,000), Borrower shall promptly notify Bank in a writing signed by Borrower of the general details thereof and grant to Bank in such writing a security interest therein and in the proceeds thereof, all upon the terms of this Agreement, with such writing to be in form and substance reasonably satisfactory to Bank.

4.3 Authorization to File Financing Statements. Borrower hereby authorizes Bank to file financing statements, without notice to Borrower, with all appropriate jurisdictions to perfect or protect Bank's interest or rights hereunder, including a notice that any disposition of the Collateral, by either Borrower or any other Person, shall be deemed to violate the rights of Bank under the Code. Such financing statements may indicate the Collateral as "all personal property assets of the Debtor" or words of similar effect, or as being of an equal or lesser scope, or with greater detail, all in Bank's discretion.

5. REPRESENTATIONS AND WARRANTIES

Borrower represents and warrants as follows:

5.1 Due Organization, Authorization; Power and Authority. Borrower is duly existing and in good standing as a Registered Organization in its jurisdiction of formation and is qualified and licensed to do business and is in good standing in any jurisdiction in which the conduct of its business or its ownership of property requires that it be qualified except where the failure to do so could not reasonably be expected to have a material adverse effect on Borrower's business. In connection with this Agreement, Borrower has delivered to Bank a completed certificate signed by Borrower, entitled "Perfection Certificate" (the "**Perfection Certificate**"). Borrower represents and warrants to Bank that (a) Borrower's exact legal name is that indicated on the Perfection Certificate and on the signature page hereof; (b) Borrower is an organization of the type and is organized in the jurisdiction set forth in the Perfection Certificate; (c) the Perfection Certificate accurately sets forth Borrower's organizational identification number or accurately states that Borrower has none; (d) the Perfection Certificate accurately sets forth Borrower's place of business, or, if more than one, its chief executive office as well as Borrower's mailing address (if different than its chief executive office); (e) Borrower (and each of its predecessors) has not, in the past five (5) years, changed its jurisdiction of formation, organizational structure or type, or any organizational number assigned by its jurisdiction; and (f) all other information set forth on the Perfection Certificate pertaining to Borrower and each of its Subsidiaries is accurate and complete (it being understood and agreed that Borrower may from time to time update certain information in the Perfection Certificate after the Effective Date to the extent permitted by one or more specific provisions in this Agreement).

The execution, delivery and performance by Borrower of the Loan Documents to which it is a party have been duly authorized, and do not (i) conflict with any of Borrower's organizational documents, (ii) contravene, conflict with, constitute a default under or violate any material Requirement of Law, (iii) contravene, conflict or violate any applicable order, writ, judgment, injunction, decree, determination or award of any Governmental Authority by which Borrower or any of its Subsidiaries or any of their property or assets may be bound or affected, (iv) require any action by, filing, registration, or qualification with, or Governmental Approval from, any Governmental Authority (except such Governmental Approvals which have already been obtained and are in full force and effect or are being obtained pursuant to Section 6.1(b)) or (v) conflict with, contravene, constitute a default or breach under, or result in or permit the termination or acceleration of, any material agreement by which Borrower is bound. Borrower is not in default under any agreement to which it is a party or by which it is bound in which the default could reasonably be expected to have a material adverse effect on Borrower's business.

5.2 Collateral. Borrower has good title to, rights in, and the power to transfer each item of the Collateral upon which it purports to grant a Lien hereunder, free and clear of any and all Liens except Permitted Liens. Borrower has no Collateral Accounts at or with any bank or financial institution other than Bank or Bank's Affiliates except for the Collateral Accounts described in the Perfection Certificate delivered to Bank in connection herewith and which Borrower has taken such actions as are necessary to give Bank a perfected security interest therein, pursuant to the terms of Section 6.8(b). The Accounts are bona fide, existing obligations of the Account Debtors.

The Collateral (other than Offsite Collateral) is not in the possession of any third party bailee (such as a warehouse) except as otherwise provided in the Perfection Certificate. None of the components of the Collateral (other than Offsite Collateral) shall be maintained at locations other than as provided in the Perfection Certificate or as permitted pursuant to Section 7.2.

All Inventory is in all material respects of good and marketable quality, free from material defects.

Borrower is the sole owner of the Intellectual Property which it owns or purports to own except for (a) non-exclusive licenses granted to its customers in the ordinary course of business, (b) over-the-counter software that is commercially available to the public, and (c) material Intellectual Property licensed to Borrower and noted on the Perfection Certificate. Each Patent which it owns or purports to own and which is material to Borrower's business is valid and enforceable, and no part of the Intellectual Property which Borrower owns or purports to own and which is material to Borrower's business has been judged invalid or unenforceable, in whole or in part. To the best of Borrower's knowledge, no claim has been made that any part of the Intellectual Property violates the rights of any third party except to the extent such claim would not reasonably be expected to have a material adverse effect on Borrower's business.

Except as noted on the Perfection Certificate, Borrower is not a party to, nor is it bound by, any Restricted License.

5.3 Accounts Receivable.

(a) For each Account with respect to which Advances are requested, on the date each Advance is requested and made, such Account shall be an Eligible Account.

(b) All statements made and all unpaid balances appearing in all invoices, instruments and other documents evidencing the Eligible Accounts are and shall be true and correct in all material respects and all such invoices, instruments and other documents, and all of Borrower's Books are genuine and in all respects what they purport to be. All sales and other transactions underlying or giving rise to each Eligible Account shall comply in all material respects with all applicable laws and governmental rules and regulations. Borrower has no knowledge of any actual or imminent Insolvency Proceeding of any Account Debtor whose accounts are Eligible Accounts in any Borrowing Base Statement. To the best of Borrower's knowledge, all signatures and endorsements on all documents, instruments, and agreements relating to all Eligible Accounts are genuine, and all such documents, instruments and agreements are legally enforceable in accordance with their terms.

5.4 Litigation. Except as disclosed in writing to Bank, there are no actions or proceedings pending or, to the knowledge of any Responsible Officer, threatened in writing by or against Borrower or any of its Subsidiaries involving more than, individually or in the aggregate, One Hundred Thousand Dollars ($100,000.00).

5.5 Financial Statements; Financial Condition. All consolidated financial statements for Borrower and any of its Subsidiaries delivered to Bank by submission to the Financial Statement Repository or otherwise submitted to Bank fairly present in all material respects Borrower's consolidated financial condition and Borrower's consolidated results of operations. There has not been any material deterioration in Borrower's consolidated financial condition since the date of the most recent financial statements submitted to the Financial Statement Repository or otherwise submitted to Bank.

5.6 Solvency. The fair salable value of Borrower's consolidated assets (including goodwill minus disposition costs) exceeds the fair value of Borrower's liabilities; Borrower is not left with unreasonably small capital after the transactions in this Agreement; and Borrower is able to pay its debts (including trade debts) as they mature.

5.7 Regulatory Compliance. Borrower is not an "investment company" or a company "controlled" by an "investment company" under the Investment Company Act of 1940, as amended. Borrower is not engaged as one of its important activities in extending credit for margin stock (under Regulations X, T and U of the Federal Reserve Board of Governors). Neither Borrower nor any of its Subsidiaries is a "holding company" or an "affiliate" of a "holding company" or a "subsidiary company" of a "holding company" as each term is defined and used in the Public Utility

Holding Company Act of 2005. Borrower (a) has complied in all material respects with all Requirements of Law, and (b) has not violated any Requirements of Law the violation of which could reasonably be expected to have a material adverse effect on its business. None of Borrower's or any of its Subsidiaries' properties or assets has been used by Borrower or any Subsidiary or, to the best of Borrower's knowledge, by previous Persons, in disposing, producing, storing, treating, or transporting any hazardous substance other than legally. Borrower and each of its Subsidiaries have obtained all consents, approvals and authorizations of, made all declarations or filings with, and given all notices to, all Governmental Authorities that are necessary to continue their respective businesses as currently conducted, except where the failure to do so could not reasonably be expected to have a material adverse effect on Borrower's business or operations.

5.8 Subsidiaries; Investments. Borrower does not own any stock, partnership, or other ownership interest or other equity securities except for Permitted Investments.

5.9 Tax Returns and Payments; Pension Contributions. Except for taxes that are being contested pursuant to the subsequent sentence, Borrower has timely filed (taking into account all applicable extension periods) all required tax returns and reports, and Borrower has timely paid all foreign, federal, state and local taxes, assessments, deposits and contributions owed by Borrower, except with respect to such taxes, assessments, deposits and contributions which do not, individually or in the aggregate, exceed Ten Thousand Dollars ($10,000.00) except (a) to the extent such taxes are being contested in good faith by appropriate proceedings promptly instituted and diligently conducted, so long as such reserve or other appropriate provision, if any, as shall be required in conformity with GAAP shall have been accrued therefor, or (b) if such taxes, assessments, deposits and contributions do not, individually or in the aggregate, exceed Fifty Thousand Dollars ($50,000.00).

To the extent Borrower defers payment of any contested taxes, Borrower shall (i) notify Bank in writing of the commencement of, and any material development in, the proceedings, and (ii) post bonds or take any other steps required to prevent the Governmental Authority levying such contested taxes from obtaining a Lien upon any of the Collateral that is other than a "Permitted Lien." Borrower is unaware of any claims or adjustments proposed for any of Borrower's prior tax years which could result in additional taxes becoming due and payable by Borrower in excess of Fifty Thousand Dollars ($50,000.00). Borrower has paid all amounts necessary to fund all present pension, profit sharing and deferred compensation plans in accordance with their terms, and Borrower has not withdrawn from participation in, and has not permitted partial or complete termination of, or permitted the occurrence of any other event with respect to, any such plan which could reasonably be expected to result in any liability of Borrower, including any liability to the Pension Benefit Guaranty Corporation or its successors or any other governmental agency.

5.10 Use of Proceeds. Borrower shall use the proceeds of the Credit Extensions solely as working capital and to fund its general business requirements and not for personal, family, household or agricultural purposes.

5.11 Full Disclosure. No written representation, warranty or other statement of Borrower in any report, certificate, or written statement submitted to the Financial Statement Repository or otherwise submitted to Bank, as of the date such representation, warranty, or other statement was made, taken together with all such written reports, written certificates and written statements submitted to the Financial Statement Repository or otherwise submitted to Bank, contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements contained in the reports, certificates, or written statements not misleading (it being recognized by Bank that the projections and forecasts provided by Borrower in good faith and based upon reasonable assumptions are not viewed as facts and that actual results during the period or periods covered by such projections and forecasts may differ from the projected or forecasted results).

5.12 Definition of "Knowledge." For purposes of the Loan Documents, whenever a representation or warranty is made to Borrower's knowledge or awareness, to the "best of" Borrower's knowledge, or with a similar qualification, knowledge or awareness means the actual knowledge, after reasonable investigation, of any Responsible Officer.

6. AFFIRMATIVE COVENANTS

Borrower shall do all of the following:

6.1 Government Compliance.

(a) Maintain its and all its Subsidiaries' legal existence and good standing in their respective jurisdictions of formation and maintain qualification in each jurisdiction in which the failure to so qualify would reasonably be expected to have a material adverse effect on Borrower's business or operations. Borrower shall comply, and have each Subsidiary comply, in all material respects, with all laws, ordinances and regulations to which it is subject, noncompliance with which could reasonably be expected to have a material adverse effect on Borrower's business.

(b) Obtain all of the Governmental Approvals necessary for the performance by Borrower of its obligations under the Loan Documents to which it is a party and the grant of a security interest to Bank in the Collateral. Borrower shall promptly provide copies of any such obtained Governmental Approvals to Bank.

6.2 Financial Statements, Reports. Provide Bank with the following by submitting to the Financial Statement Repository or otherwise submitting to Bank:

(a) a Borrowing Base Statement (and any schedules related thereto and including any other information requested by Bank with respect to Borrower's Accounts) and a detailed accounts receivable ledger upon each request for an Advance and within seven (7) days after the last day of each month;

(b) within thirty (30) days after the last day of each month, (i) monthly accounts receivable agings, aged by invoice date, (ii) monthly accounts payable agings, aged by invoice date, and outstanding or held check registers, if any, and (iii) monthly reconciliations of accounts receivable agings (aged by invoice date), detailed Account Debtor listing, inventory sell-through report, and general ledger;

(c) as soon as available, but no later than thirty (30) days after the last day of each month, a company-prepared consolidated and consolidating balance sheet and income statement covering Borrower's and each of its Subsidiary's operations for such month in a form reasonably acceptable to Bank (the "**Monthly Financial Statements**");

(d) within (i) thirty (30) days after the last day of each month and (ii) forty-five (45) days after the last day of each fiscal quarter of Borrower, and together with the Monthly Financial Statements and Quarterly Financial Statements, a completed Compliance Statement, confirming that as of the end of such month or fiscal quarter, as applicable, Borrower was in full compliance with all of the terms and conditions of this Agreement, and setting forth calculations showing compliance with the financial covenants set forth in this Agreement and such other information as Bank may reasonably request, including, without limitation, a statement that at the end of such month or fiscal quarter, as applicable, there were no held checks;

(e) as soon as available, and in any event within forty-five (45) days after the last day of each fiscal quarter of Borrower, company-prepared consolidated and consolidating balance sheet and income statement covering Borrower's and each of its Subsidiary's operations for such quarter certified by a Responsible Officer and in a form reasonably acceptable to Bank (the "**Quarterly Financial Statements**");

(f) as soon as available but no later than the earlier of (i) thirty (30) days after the approval thereof by the Board or (ii) January 31st of each year, and contemporaneously with any updates or amendments thereto, (1) annual operating budgets (including income statements, balance sheets and cash flow statements, by month) for the upcoming fiscal year of Borrower, and (2) annual financial projections for the following fiscal year (on a quarterly basis), in each case as approved by the Board, together with any related business forecasts used in the preparation of such annual financial projections;

(g) as soon as available, and in any event within one hundred eighty (180) days after the last day of Borrower's fiscal year, audited consolidated financial statements prepared under GAAP, consistently applied, together with an unqualified opinion on the financial statements from an independent certified public accounting firm reasonably acceptable to Bank;

(h) in the event that Borrower becomes subject to the reporting requirements under the Exchange Act within five (5) days of filing, copies of all periodic and other reports, proxy statements and other similar materials filed by Borrower and/or any Guarantor with the SEC, any Governmental Authority succeeding to any or all of the functions of the SEC or with any national securities exchange, or distributed to all of its shareholders (or required to be distributed), as the case may be (other than materials filed by Borrower on a "confidential treatment" basis). Documents required to be delivered pursuant to the terms hereof (to the extent any such documents are included in materials otherwise filed with the SEC) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date on which Borrower posts such documents, or provides a link thereto, on Borrower's website on the internet at Borrower's website address, or are available at www.sec.gov (or any successor site maintained by the SEC for similar purposes); provided, however, Borrower shall promptly notify Bank in writing (which may be by electronic mail) of the posting of any such documents;

(i) within five (5) days of delivery, copies of all statements, reports and notices made available to Borrower's security holders or to any holders of Subordinated Debt;

(j) within thirty (30) after completion thereof, a copy of each 409(a) valuation report for Borrower's capital stock;

(k) prompt written notice of any changes to the beneficial ownership information set out in the Client Attestation provided by Borrower on the Effective Date. Borrower understands and acknowledges that Bank relies on such true, accurate and up-to-date beneficial ownership information to meet Bank's regulatory obligations to obtain, verify and record information about the beneficial owners of its legal entity customers;

(l) within five (5) days after the occurrence thereof, written notice of a Key Person departing from or ceasing to be employed by Borrower;

(m) prompt report of any legal actions pending or threatened in writing against Borrower or any of its Subsidiaries that could reasonably be expected to result in damages or costs to Borrower or any of its Subsidiaries of, individually or in the aggregate, Two Hundred Fifty Thousand Dollars ($250,000.00) or more; and

(n) promptly, from time to time, such other financial information regarding Borrower or compliance with the terms of any Loan Documents as reasonably requested by Bank.

Any submission by Borrower of a Compliance Statement, a Borrowing Base Statement or any other financial statement submitted to the Financial Statement Repository pursuant to this Section 6.2 or otherwise submitted to Bank shall be deemed to be a representation by Borrower that (a) as of the date of such Compliance Statement, Borrowing Base Statement or other financial statement, the information and calculations set forth therein are true, accurate and correct, (b) as of the end of the compliance period set forth in such submission, Borrower is in complete compliance with all required covenants except as noted in such Compliance Statement, Borrowing Base Statement or other financial statement, as applicable; (c) as of the date of such submission, no Events of Default have occurred or are continuing; (d) all representations and warranties other than any representations or warranties that are made as of a specific date in Article 5 remain true and correct in all material respects as of the date of such submission except as noted in such Compliance Statement, Borrowing Base Statement or other financial statement, as applicable; (e) as of the date of such submission, Borrower and each of its Subsidiaries has timely filed all required tax returns and reports, and Borrower has timely paid all foreign, federal, state and local taxes, assessments, deposits and contributions owed by Borrower except as otherwise permitted pursuant to the terms of Section 5.9; and (f) as of the date of such submission, no Liens have been levied or claims made against Borrower or any of its Subsidiaries relating to unpaid employee payroll or benefits of which Borrower has not previously provided written notification to Bank.

6.3 Accounts Receivable.

(a) Schedules and Documents Relating to Accounts. Borrower shall deliver to Bank transaction reports and schedules of collections, as provided in Section 6.2, on Bank's standard forms; provided, however, that Borrower's failure to execute and deliver the same shall not affect or limit Bank's Lien and other rights in all of Borrower's Accounts, nor shall Bank's failure to advance or lend against a specific Account affect or limit Bank's Lien and other rights therein. If requested by Bank, Borrower shall furnish Bank with copies (or, at Bank's request, originals) of all contracts, orders, invoices, and other similar documents, and all shipping instructions, delivery receipts, bills of lading, and other evidence of delivery, for any goods the sale or disposition of which gave rise to such Accounts. In addition, Borrower shall deliver to Bank, on its request, the originals of all instruments, chattel paper, security agreements, guarantees and other documents and property evidencing or securing any Accounts, in the same form as received, with all necessary indorsements, and copies of all credit memos.

(b) Disputes. Borrower shall promptly notify Bank of all disputes or claims relating to Accounts. Borrower may forgive (completely or partially), compromise, or settle any Account for less than payment in full, or agree to do any of the foregoing so long as (i) Borrower does so in good faith, in a commercially reasonable manner, in the ordinary course of business, in arm's-length transactions, and reports the same to Bank in the regular reports provided to Bank; (ii) no Event of Default has occurred and is continuing; and (iii) after taking into account all such discounts, settlements and forgiveness, the total outstanding Advances will not exceed the lesser of the Revolving Line or the Borrowing Base.

(c) Collection of Accounts. Borrower shall direct Account Debtors to deliver or transmit all proceeds of Accounts into a lockbox account, or such other "blocked account" as specified by Bank (either such account, the "**Cash Collateral Account**"). Whether or not an Event of Default has occurred and is continuing, Borrower shall immediately deliver all payments on and proceeds of Accounts to the Cash Collateral Account. Subject to Bank's right to maintain a reserve pursuant to Section 6.3(d), all amounts received in the Cash Collateral Account shall be (i) when a Streamline Period is not in effect, applied to immediately reduce the Obligations under the Revolving Line (unless Bank, in its sole discretion, at times when an Event of Default exists, elects not to so apply such amounts), or (ii) when a Streamline Period is in effect, transferred on a daily basis to Borrower's operating account with Bank. Borrower hereby authorizes Bank to transfer to the Cash Collateral Account any amounts that Bank reasonably determines are proceeds of the Accounts (provided that Bank is under no obligation to do so and this allowance shall in no event relieve Borrower of its obligations hereunder).

(d) Reserves. Notwithstanding any terms in this Agreement to the contrary, at times when an Event of Default exists, Bank may hold any proceeds of the Accounts and any amounts in the Cash Collateral Account that are not applied to the Obligations pursuant to Section 6.3(c) above (including amounts otherwise required to be transferred to Borrower's operating account with Bank when a Streamline Period is in effect) as a reserve to be applied to any Obligations regardless of whether such Obligations are then due and payable.

(e) Returns. Provided no Event of Default has occurred and is continuing, if any Account Debtor returns any Inventory to Borrower, Borrower shall promptly (i) determine the reason for such return, (ii) issue a credit memorandum to the Account Debtor in the appropriate amount, and (iii) provide a copy of such credit memorandum to Bank, upon request from Bank. In the event any attempted return occurs after the occurrence and during the continuance of any Event of Default, Borrower shall hold the returned Inventory in trust for Bank, and immediately notify Bank of the return of the Inventory.

(f) Verifications; Confirmations; Credit Quality; Notifications. Bank may, from time to time, after prior notice to and consultation with Borrower (provided that no such prior notice or consultation is required if an Event of Default is continuing) (i) verify and confirm directly with the respective Account Debtors the validity, amount and other matters relating to the Accounts, either in the name of Borrower or Bank or such other name as Bank may choose, and notify any Account Debtor of Bank's security interest in such Account and/or (ii) conduct a credit check of any Account Debtor to approve any such Account Debtor's credit.

(g) No Liability. Bank shall not be responsible or liable for any shortage or discrepancy in, damage to, or loss or destruction of, any goods, the sale or other disposition of which gives rise to an Account, or for any error, act, omission, or delay of any kind occurring in the settlement, failure to settle, collection or failure to collect any Account, or for settling any Account in good faith for less than the full amount thereof, nor shall Bank be deemed to be responsible for any of Borrower's obligations under any contract or agreement giving rise to an Account. Nothing herein shall, however, relieve Bank from liability for its own gross negligence or willful misconduct.

6.4 Remittance of Proceeds. Except as otherwise provided in Section 6.3(c), deliver, in kind, all proceeds arising from the disposition of any Collateral to Bank in the original form in which received by Borrower not later than the following Business Day after receipt by Borrower, to be applied to the Obligations (a) prior to an Event of Default, pursuant to the terms of Section 6.3(c) hereof, and (b) after the occurrence and during the continuance of an Event of Default, pursuant to the terms of Section 9.4 hereof; provided that, if no Event of Default has occurred and is continuing, Borrower shall not be obligated to remit to Bank the proceeds of the sale of worn out or obsolete Equipment disposed of by Borrower in good faith in an arm's length transaction for an aggregate purchase price of One Hundred Thousand Dollars ($100,000.00) or less (for all such transactions in any fiscal year). Borrower agrees that it will not commingle proceeds of Collateral with any of Borrower's other funds or property, but will hold such proceeds separate and apart from such other funds and property and in an express trust for Bank. Nothing in this Section 6.4 limits the restrictions on disposition of Collateral set forth elsewhere in this Agreement.

6.5 Taxes; Pensions. Timely file or obtain extensions for filing (taking into account all applicable extension periods), and require each of its Subsidiaries to timely file or obtain extensions for filing (taking into account all applicable extension periods), all required tax returns and reports and timely pay or obtain extensions for payment (taking into account all applicable extension periods), and require each of its Subsidiaries to timely pay or obtain extensions for payment (taking into account all applicable extension periods), all foreign, federal, state and local taxes, assessments, deposits and contributions owed by Borrower and each of its Subsidiaries, except for deferred payment of any taxes contested pursuant to the terms of Section 5.9 hereof and taxes and assessments with respect to which the amount does not exceed the amount set forth in Section 5.9 hereof, and shall deliver to Bank, within five (5) days after appropriate certificates attesting to such payments, and pay all amounts necessary to fund all present pension, profit sharing and deferred compensation plans in accordance with their terms.

6.6 Access to Collateral; Books and Records. At reasonable times, on three (3) Business Days' notice (provided no notice is required if an Event of Default has occurred and is continuing), Bank, or its agents, shall have the right to inspect the Collateral and the right to audit and copy Borrower's Books. The foregoing inspections and audits shall be conducted no more often than twice every twelve (12) months, unless an Event of Default has occurred and is continuing in which case such inspections and audits shall occur as often as Bank shall determine is necessary. The foregoing inspections and audits shall be conducted at Borrower's expense and the charge therefor shall be One Thousand Dollars ($1,000.00) per person per day (or such higher amount as shall represent Bank's then-current standard charge for the same), plus reasonable out-of-pocket expenses. In the event Borrower and Bank schedule an audit more than eight (8) days in advance, and Borrower cancels or seeks to or reschedules the audit with less than eight (8) days written notice to Bank, then (without limiting any of Bank's rights or remedies) Borrower shall pay Bank a fee of Two Thousand Dollars ($2,000.00) plus any out-of-pocket expenses incurred by Bank to compensate Bank for the anticipated costs and expenses of the cancellation or rescheduling.

6.7 Insurance.

(a) Keep its business and the Collateral insured for risks and in amounts standard for companies in Borrower's industry and location and as Bank may reasonably request. Insurance policies shall be in a form, with financially sound and reputable insurance companies that are not Affiliates of Borrower, and in amounts that are commercially reasonable and satisfactory to Bank in its good faith discretion (Bank acknowledges that insurance maintained by Borrower as of the Effective Date is acceptable to Bank as of the Effective Date). All property policies shall have a lender's loss payable endorsement showing Bank as the sole lender loss payee. All liability policies shall show, or have endorsements showing, Bank as an additional insured. Bank shall be named as lender loss payee and/or additional insured with respect to any such insurance providing coverage in respect of any Collateral. Bank

acknowledges that the insurance maintained by Borrower as of the Effective Date is acceptable to Bank as of the Effective Date.

(b) Ensure that proceeds payable under any property policy are, at Bank's option, payable to Bank on account of the Obligations.

(c) At Bank's request, Borrower shall deliver certified copies of insurance policies and evidence of all premium payments. Each provider of any such insurance required under this Section 6.7 shall agree, by endorsement upon the policy or policies issued by it or by independent instruments furnished to Bank, that it will give Bank thirty (30) days prior written notice before any such policy or policies shall be canceled. If Borrower fails to obtain insurance as required under this Section 6.7 or to pay any amount or furnish any required proof of payment to third persons and Bank, Bank may make all or part of such payment or obtain such insurance policies required in this Section 6.7, and take any action under the policies Bank deems prudent.

6.8 Accounts.

(a) Maintain the Cash Collateral Account, all of its primary banking relationship (including all of its operating and other deposit accounts, and securities/investment accounts), and letters of credit with Bank and Bank's Affiliates. Any Guarantor shall maintain all of its primary banking relationship (including all of its operating and other deposit accounts, and securities/investment accounts), and letters of credit with Bank and Bank's Affiliates.

(b) In addition to and without limiting the restrictions in (a), Borrower shall provide Bank five (5) days prior written notice before establishing any Collateral Account at or with any bank or financial institution other than Bank or Bank's Affiliates. For each Collateral Account that Borrower at any time maintains, Borrower shall cause the applicable bank or financial institution (other than Bank) at or with which any Collateral Account is maintained to execute and deliver a Control Agreement or other appropriate instrument with respect to such Collateral Account to perfect Bank's Lien in such Collateral Account in accordance with the terms hereunder which Control Agreement may not be terminated without the prior written consent of Bank. The provisions of the previous sentence shall not apply to (i) deposit accounts exclusively used for payroll, payroll taxes, and other employee wage and benefit payments to or for the benefit of Borrower's employees and identified to Bank by Borrower as such or (ii) Borrower's deposit accounts at Chase Bank provided the aggregate balance thereof does not exceed Two Hundred Thousand Dollars ($200,000) at any time.

6.9 Financial Covenants. Maintain at all times, subject to periodic reporting, on a consolidated basis with respect to Borrower and its Subsidiaries:

(a) Minimum Liquidity. Liquidity, tested as of the last day of each month, of at least Four Million Dollars ($4,000,000.00).

6.10 Protection and Registration of Intellectual Property Rights.

(a) (i) Protect, defend and maintain the validity and enforceability of its Intellectual Property material to Borrower's business; (ii) promptly advise Bank in writing of material infringements or any other event that could reasonably be expected to materially and adversely affect the value of its Intellectual Property material to Borrower's business; and (iii) not allow any Intellectual Property material to Borrower's business to be abandoned, forfeited or dedicated to the public without Bank's written consent.

(b) If Borrower (i) obtains any Patent, registered Trademark, registered Copyright, registered mask work, or any pending application for any of the foregoing, whether as owner, licensee or otherwise, or (ii) applies for any Patent or the registration of any Trademark, then Borrower shall promptly provide written notice thereof to Bank and shall execute such intellectual property security agreements and other documents and take such other actions as Bank may request in its good faith business judgment to perfect and maintain a first priority perfected security interest in favor of Bank in such property. If Borrower decides to register any Copyrights or mask works in the United States Copyright Office, Borrower shall: (x) provide Bank with prior written notice of Borrower's intent to register such

Copyrights or mask works together with a copy of the application it intends to file with the United States Copyright Office (excluding exhibits thereto); (y) execute an intellectual property security agreement and such other documents and take such other actions as Bank may request in its good faith business judgment to perfect and maintain a first priority perfected security interest in favor of Bank in the Copyrights or mask works intended to be registered with the United States Copyright Office; and (z) record such intellectual property security agreement with the United States Copyright Office contemporaneously with filing the Copyright or mask work application(s) with the United States Copyright Office. Borrower shall promptly provide to Bank copies of all applications that it files for Patents or for the registration of Trademarks, Copyrights or mask works, together with evidence of the recording of the intellectual property security agreement required for Bank to perfect and maintain a first priority perfected security interest in such property.

(c) Provide written notice to Bank within ten (10) days of entering or becoming bound by any Restricted License (other than over-the-counter software that is commercially available to the public). Borrower shall take such commercially reasonable steps as Bank requests to obtain the consent of, or waiver by, any person whose consent or waiver is necessary for (i) any Restricted License to be deemed "Collateral" and for Bank to have a security interest in it that might otherwise be restricted or prohibited by law or by the terms of any such Restricted License, whether now existing or entered into in the future, and (ii) Bank to have the ability in the event of a liquidation of any Collateral to dispose of such Collateral in accordance with Bank's rights and remedies under this Agreement and the other Loan Documents.

6.11 Litigation Cooperation. From the date hereof and continuing through the termination of this Agreement, make reasonably available to Bank, during normal business hours, without expense to Bank, Borrower and its officers, employees and agents and Borrower's books and records, to the extent that Bank may deem them reasonably necessary to prosecute or defend any third-party suit or proceeding instituted by or against Bank with respect to any Collateral or relating to Borrower.

6.12 Online Banking.

(a) Utilize Bank's online banking platform for all matters reasonably requested by Bank which shall include, without limitation (and without request by Bank for the following matters), uploading information pertaining to Accounts and Account Debtors, requesting approval for exceptions, requesting Credit Extensions, and uploading financial statements and other reports required to be delivered by this Agreement (including, without limitation, those described in Section 6.2 of this Agreement).

(b) Comply with the terms of Bank's Online Banking Agreement as in effect from time to time and ensure that all persons utilizing Bank's online banking platform are duly authorized to do so by an Administrator. Bank shall be entitled to assume the authenticity, accuracy and completeness on any information, instruction or request for a Credit Extension submitted via Bank's online banking platform and to further assume that any submissions or requests made via Bank's online banking platform have been duly authorized by an Administrator.

6.13 Formation or Acquisition of Subsidiaries. Notwithstanding and without limiting the negative covenants contained in Sections 7.3 and 7.7 hereof, at the time that Borrower or any Guarantor forms any direct or indirect Subsidiary or acquires any direct or indirect Subsidiary after the Effective Date, upon Bank's request, Borrower and such Guarantor shall (a) cause such new Domestic Subsidiary to provide to Bank a joinder to this Agreement to become a co-borrower hereunder or a Guaranty to become a Guarantor hereunder (as Bank may direct in its sole discretion), together with such appropriate financing statements and/or Control Agreements, all in form and substance reasonably satisfactory to Bank (including being sufficient to grant Bank a first priority Lien (subject to Permitted Liens) in and to the personal property assets of such newly formed or acquired Domestic Subsidiary), (b) provide to Bank appropriate certificates and powers and financing statements, pledging all (or in the case of a Foreign Subsidiary, sixty-five percent (65%)) of the direct or beneficial ownership interest in such new Subsidiary, in form and substance reasonably satisfactory to Bank; and (c) provide to Bank all other documentation in form and substance reasonably satisfactory to Bank. Any document, agreement, or instrument executed or issued pursuant to this Section 6.13 shall be a Loan Document.

6.14 Further Assurances. Execute any further instruments and take further action as Bank reasonably requests to perfect or continue Bank's Lien in the Collateral or to effect the purposes of this Agreement. Deliver to Bank, within ten (10) days after the same are sent or received, copies of all correspondence, reports, documents and other filings with any Governmental Authority regarding compliance with or maintenance of Governmental Approvals or Requirements of Law or that could reasonably be expected to have a material effect on any of the Governmental Approvals or otherwise on the operations of Borrower or any of its Subsidiaries.

7. NEGATIVE COVENANTS

Borrower shall not do any of the following without Bank's prior written consent:

7.1 Dispositions. Convey, sell, lease, transfer, assign, or otherwise dispose of (collectively, "**Transfer**"), or permit any of its Subsidiaries to Transfer, all or any part of its business or property, except for Transfers (a) of Inventory in the ordinary course of business; (b) of worn-out, surplus, or obsolete Equipment that is, in the reasonable judgment of Borrower, no longer economically practicable to maintain or useful in the ordinary course of business of Borrower; (c) consisting of Permitted Liens and Permitted Investments; (d) consisting of the sale or issuance of any stock of Borrower permitted under Section 7.2 of this Agreement; (e) consisting of Borrower's use or transfer of money or Cash Equivalents in the ordinary course of its business for the payment of ordinary course business expenses in a manner that is not prohibited by the terms of this Agreement or the other Loan Documents; and (f) of non-exclusive licenses for the use of the property of Borrower or its Subsidiaries in the ordinary course of business and licenses that could not result in a legal transfer of title of the licensed property but that may be exclusive in respects other than territory and that may be exclusive as to territory only as to discrete geographical areas outside of the United States.

7.2 Changes in Business, Management, Control, or Business Locations. (a) Engage in or permit any of its Subsidiaries to engage in any business other than the businesses currently engaged in by Borrower and such Subsidiary, as applicable, or reasonably related thereto; (b) liquidate or dissolve; (c) have a change in management such that any Key Person departs from or ceases to be employed by Borrower and a replacement satisfactory to the Board is not made within one hundred eighty (180) days after his or her departure from Borrower; or (d) permit or suffer any Change in Control.

Borrower shall not, without at least ten (10) days prior written notice to Bank: (1) add any new offices or business locations, including warehouses (unless such new offices or business locations contain less than One Hundred Thousand Dollars ($100,000.00) in Borrower's assets or property) or deliver any portion of the Collateral valued, individually or in the aggregate, in excess of One Hundred Thousand Dollars ($100,000.00) to a bailee at a location other than to a bailee and at a location already disclosed in the Perfection Certificate, (2) change its jurisdiction of organization, (3) change its organizational structure or type, (4) change its legal name, or (5) change any organizational number (if any) assigned by its jurisdiction of organization. If Borrower intends to add any new offices or business locations, including warehouses, containing in excess of One Hundred Thousand Dollars ($100,000.00) of Borrower's assets or property, then Borrower will first receive the written consent of Bank, and the landlord of any such new offices or business locations, including warehouses, shall execute and deliver a landlord consent in form and substance satisfactory to Bank. If Borrower intends to deliver any portion of the Collateral valued, individually or in the aggregate, in excess of One Hundred Thousand Dollars ($100,000.00) to a bailee, and Bank and such bailee are not already parties to a bailee agreement governing both the Collateral and the location to which Borrower intends to deliver the Collateral, then Borrower will first receive the written consent of Bank, and such bailee shall execute and deliver a bailee agreement in form and substance reasonably satisfactory to Bank.

7.3 Mergers or Acquisitions. Merge or consolidate, or permit any of its Subsidiaries to merge or consolidate, with any other Person, or acquire, or permit any of its Subsidiaries to acquire, all or substantially all of the capital stock or property of another Person (the "**Target**") (including, without limitation, by the formation of any Subsidiary) (an "**Acquisition**") other than in connection with a Permitted Acquisition. A Subsidiary may merge or consolidate into another Subsidiary or into Borrower.

7.4 Indebtedness. Create, incur, assume, or be liable for any Indebtedness, or permit any Subsidiary to do so, other than Permitted Indebtedness.

7.5 Encumbrance. Create, incur, allow, or suffer any Lien on any of its property, or assign or convey any right to receive income, including the sale of any Accounts, or permit any of its Subsidiaries to do so, except for Permitted Liens, permit any Collateral not to be subject to the first priority security interest granted herein, or enter into any agreement, document, instrument or other arrangement (except with or in favor of Bank) with any Person which directly or indirectly prohibits or has the effect of prohibiting Borrower or any Subsidiary from assigning, mortgaging, pledging, granting a security interest in or upon, or encumbering any of Borrower's or any Subsidiary's Intellectual Property, except as is otherwise permitted in Section 7.1 hereof and the definition of "Permitted Liens" herein.

7.6 Maintenance of Collateral Accounts. Maintain any Collateral Account except pursuant to the terms of Section 6.8(b) hereof.

7.7 Distributions; Investments. (a) Pay any dividends or make any distribution or payment or redeem, retire or purchase any capital stock, provided that (i) Borrower may convert any of its convertible securities into other securities pursuant to the terms of such convertible securities or otherwise in exchange thereof, (ii) Borrower may pay dividends solely in common stock, and (iii) Borrower may repurchase the stock of former employees, directors, or consultants pursuant to stock repurchase agreements so long as an Event of Default does not exist at the time of such repurchase and would not exist after giving effect to such repurchase, provided that the aggregate amount of all such repurchases does not exceed Two Hundred Fifty Thousand Dollars ($250,000) per fiscal year; or (b) directly or indirectly make any Investment (including, without limitation, by the formation of any Subsidiary) other than Permitted Investments, or permit any of its Subsidiaries to do so.

7.8 Transactions with Affiliates. Directly or indirectly enter into or permit to exist any material transaction with any Affiliate of Borrower, except for transactions that are in the ordinary course of Borrower's business, upon fair and reasonable terms that are no less favorable to Borrower than would be obtained in an arm's length transaction with a non-affiliated Person.

7.9 Subordinated Debt. (a) Make or permit any payment on any Subordinated Debt (other than conversions into equity), except under the terms of the subordination, intercreditor, or other similar agreement to which such Subordinated Debt is subject, or (b) amend any provision in any document relating to the Subordinated Debt which would increase the amount thereof, provide for earlier or greater principal, interest, or other payments thereon, or adversely affect the subordination thereof to Obligations owed to Bank.

7.10 Compliance. Become an "investment company" or a company controlled by an "investment company", under the Investment Company Act of 1940, as amended, or undertake as one of its important activities extending credit to purchase or carry margin stock (as defined in Regulation U of the Board of Governors of the Federal Reserve System), or use the proceeds of any Credit Extension for that purpose; fail to (a) meet the minimum funding requirements of ERISA, (b) prevent a Reportable Event or Prohibited Transaction, as defined in ERISA, from occurring, or (c) comply with the Federal Fair Labor Standards Act, the failure of any of the conditions described in clauses (a) through (c) which could reasonably be expected to have a material adverse effect on Borrower's business; or violate any other law or regulation, if the violation could reasonably be expected to have a material adverse effect on Borrower's business, or permit any of its Subsidiaries to do so; withdraw or permit any Subsidiary to withdraw from participation in, permit partial or complete termination of, or permit the occurrence of any other event with respect to, any present pension, profit sharing and deferred compensation plan which could reasonably be expected to result in any liability of Borrower, including any liability to the Pension Benefit Guaranty Corporation or its successors or any other governmental agency.

8. EVENTS OF DEFAULT

Any one of the following shall constitute an event of default (an "**Event of Default**") under this Agreement:

8.1 Payment Default. Borrower fails to (a) make any payment of principal or interest on any Credit Extension when due, or (b) pay any other Obligations within three (3) Business Days after such Obligations are due and payable (which three (3) Business Day cure period shall not apply to payments due on the Revolving Line Maturity

Date). During the cure period, the failure to make or pay any payment specified under clause (b) hereunder is not an Event of Default (but no Credit Extension will be made during the cure period);

8.2 Covenant Default.

(a) Borrower fails or neglects to perform any obligation in Sections 3.3(b), 6.2, 6.3, 6.4, 6.5, 6.6, 6.7, 6.8, 6.9, 6.10, or 6.12 or violates any covenant in Section 7; or

(b) Borrower fails or neglects to perform, keep, or observe any other term, provision, condition, covenant or agreement contained in this Agreement or any Loan Documents, and as to any default (other than those specified in this Section 8) under such other term, provision, condition, covenant or agreement that can be cured, has failed to cure the default within ten (10) days after the occurrence thereof; provided, however, that if the default cannot by its nature be cured within the ten (10) day period or cannot after diligent attempts by Borrower be cured within such ten (10) day period, and such default is likely to be cured within a reasonable time, then Borrower shall have an additional period (which shall not in any case exceed thirty (30) days) to attempt to cure such default, and within such reasonable time period the failure to cure the default shall not be deemed an Event of Default (but no Credit Extensions shall be made during such cure period). Cure periods provided under this section shall not apply, among other things, to financial covenants or any other covenants set forth in clause (a) above;

8.3 Investor Abandonment; Priority of Security Interest. If Bank determines in its good faith judgment that it is the clear intention of Borrower's investors to not continue to fund Borrower in the amounts and timeframe to the extent necessary to enable Borrower to satisfy the Obligations as they become due and payable, or there is a material impairment in the perfection or priority of Bank's security interest in the Collateral;

8.4 Attachment; Levy; Restraint on Business.

(a) (i) The service of process seeking to attach, by trustee or similar process, any funds of Borrower or of any entity under the control of Borrower (including a Subsidiary), or (ii) a notice of lien or levy is filed against any of Borrower's assets by any Governmental Authority, and the same under subclauses (i) and (ii) hereof are not, within ten (10) days after the occurrence thereof, discharged or stayed (whether through the posting of a bond or otherwise); provided, however, no Credit Extensions shall be made during any ten (10) day cure period; or

(b) (i) any material portion of Borrower's assets is attached, seized, levied on, or comes into possession of a trustee or receiver, or (ii) any court order enjoins, restrains, or prevents Borrower from conducting all or any material part of its business;

8.5 Insolvency. (a) Borrower or any of its Subsidiaries is unable to pay its debts (including trade debts) as they become due or otherwise becomes insolvent; (b) Borrower or any of its Subsidiaries begins an Insolvency Proceeding; or (c) an Insolvency Proceeding is begun against Borrower or any of its Subsidiaries and is not dismissed or stayed within forty-five (45) days (but no Credit Extensions shall be made while any of the conditions described in clause (a) exist and/or until any Insolvency Proceeding is dismissed);

8.6 Other Agreements. There is, under any agreement to which Borrower or any Guarantor is a party with a third party or parties, (a) any default resulting in a right by such third party or parties, whether or not exercised, to accelerate the maturity of any Indebtedness in an amount individually or in the aggregate in excess of Five Hundred Thousand Dollars ($500,000.00); or (b) any breach or default by Borrower or Guarantor, the result of which could reasonably be expected to have a material adverse effect on Borrower's or any Guarantor's business; provided, however, that the Event of Default under this Section 8.6 caused by the occurrence of a breach or default under such other agreement shall be cured or waived for purposes of this Agreement upon Bank receiving written notice from the party asserting such breach or default of such cure or waiver of the breach or default under such other agreement, if at the time of such cure or waiver under such other agreement (x) Bank has not declared an Event of Default under this Agreement and/or exercised any rights with respect thereto; (y) any such cure or waiver does not result in an Event of Default under any other provision of this Agreement or any Loan Document; and (z) in connection with any such cure or waiver under such other agreement, the terms of any agreement with such third party are not modified or amended

in any manner which could in the good faith business judgment of Bank be materially less advantageous to Borrower or any Guarantor;

8.7 Judgments; Penalties. One or more fines, penalties or final judgments, orders or decrees for the payment of money in an amount, individually or in the aggregate, of at least Five Hundred Thousand Dollars ($500,000.00) (not covered by independent third-party insurance as to which liability has been accepted by such insurance carrier) shall be rendered against Borrower by any Governmental Authority, and the same are not, within ten (10) days after the entry, assessment or issuance thereof, discharged, satisfied, or paid, or after execution thereof, stayed or bonded pending appeal, or such judgments are not discharged prior to the expiration of any such stay (provided that no Credit Extensions will be made prior to the satisfaction, payment, discharge, stay, or bonding of such fine, penalty, judgment, order or decree);

8.8 Misrepresentations. Borrower or any Person acting for Borrower makes any representation, warranty, or other statement now or later in this Agreement, any Loan Document or in any writing delivered to Bank or to induce Bank to enter this Agreement or any Loan Document, and such representation, warranty, or other statement is incorrect in any material respect when made;

8.9 Subordinated Debt. The subordination provisions of any document, instrument, or agreement evidencing the subordination of any Subordinated Debt shall for any reason be revoked or invalidated or otherwise cease to be in full force and effect, any Person shall be in breach thereof or contest in any manner the validity or enforceability thereof or deny that it has any further liability or obligation thereunder, or the Obligations shall for any reason be subordinated or shall not have the priority contemplated by this Agreement or any applicable subordination or intercreditor agreement;

8.10 Guaranty. (a) Any guaranty of any Obligations terminates or ceases for any reason to be in full force and effect; (b) any Guarantor does not perform any obligation or covenant under any guaranty of the Obligations; (c) any circumstance described in Sections 8.3, 8.4, 8.5, 8.6, 8.7, or 8.8 of this Agreement occurs with respect to any Guarantor, (d) the death, liquidation, winding up, or termination of existence of any Guarantor; or (e)(i) a material impairment in the perfection or priority of Bank's Lien in the collateral provided by Guarantor or in the value of such collateral or (ii) a material adverse change in the general affairs, management, results of operation, condition (financial or otherwise) or the prospect of repayment of the Obligations occurs with respect to any Guarantor; or

8.11 Governmental Approvals. Any Governmental Approval material to Borrower's business shall have been (a) revoked, rescinded, suspended, modified in an adverse manner or not renewed in the ordinary course for a full term or (b) subject to any decision by a Governmental Authority that designates a hearing with respect to any applications for renewal of any of such Governmental Approval or that could result in the Governmental Authority taking any of the actions described in clause (a) above, and such decision or such revocation, rescission, suspension, modification or non-renewal (i) causes, or could reasonably be expected to cause, a Material Adverse Change, or (ii) adversely affects the legal qualifications of Borrower or any of its Subsidiaries to hold such Governmental Approval in any applicable jurisdiction and such revocation, rescission, suspension, modification or non-renewal could reasonably be expected to affect the status of or legal qualifications of Borrower or any of its Subsidiaries to hold any Governmental Approval in any other jurisdiction.

8.12 Cross-Default with EGC Loan Documents. A default shall occur under the EGC Loan Documents and such default is not cured within any applicable grace or cure period provided therein.

9. BANK'S RIGHTS AND REMEDIES

9.1 Rights and Remedies. Upon the occurrence and during the continuance of an Event of Default, Bank may, without notice or demand, do any or all of the following:

(a) declare all Obligations immediately due and payable (but if an Event of Default described in Section 8.5 occurs all Obligations are immediately due and payable without any action by Bank);

(b) stop advancing money or extending credit for Borrower's benefit under this Agreement or under any other agreement between Borrower and Bank;

(c) demand that Borrower (i) deposit cash with Bank in an amount equal to at least (A) one hundred five percent (105.0%) of the Dollar Equivalent of the aggregate face amount of all Letters of Credit denominated in Dollars remaining undrawn, and (B) one hundred ten percent (110.0%) of the Dollar Equivalent of the aggregate face amount of all Letters of Credit denominated in a Foreign Currency remaining undrawn (plus, in each case, all interest, fees, and costs due or to become due in connection therewith (as estimated by Bank in its good faith business judgment)), to secure all of the Obligations relating to such Letters of Credit, as collateral security for the repayment of any future drawings under such Letters of Credit, and Borrower shall forthwith deposit and pay such amounts, and (ii) pay in advance all letter of credit fees scheduled to be paid or payable over the remaining term of any Letters of Credit;

(d) terminate any FX Contracts;

(e) verify the amount of, demand payment of and performance under, and collect any Accounts and General Intangibles, settle or adjust disputes and claims directly with Account Debtors for amounts on terms and in any order that Bank considers advisable, and notify any Person owing Borrower money of Bank's security interest in such funds. Borrower shall collect all payments in trust for Bank and, if requested by Bank, immediately deliver the payments to Bank in the form received from the Account Debtor, with proper endorsements for deposit;

(f) make any payments and do any acts it considers necessary or reasonable to protect the Collateral and/or its security interest in the Collateral. Borrower shall assemble the Collateral if Bank requests and make it available as Bank designates. Bank may enter premises where the Collateral is located, take and maintain possession of any part of the Collateral, and pay, purchase, contest, or compromise any Lien which appears to be prior or superior to its security interest and pay all expenses incurred. Borrower grants Bank a license to enter and occupy any of its premises, without charge, to exercise any of Bank's rights or remedies;

(g) apply to the Obligations any (i) balances and deposits of Borrower it holds, or (ii) amount held by Bank owing to or for the credit or the account of Borrower;

(h) ship, reclaim, recover, store, finish, maintain, repair, prepare for sale, advertise for sale, and sell the Collateral. Bank is hereby granted a non-exclusive, royalty-free license or other right to use, without charge, Borrower's labels, Patents, Copyrights, mask works, rights of use of any name, trade secrets, trade names, Trademarks, and advertising matter, or any similar property as it pertains to the Collateral, in completing production of, advertising for sale, and selling any Collateral and, in connection with Bank's exercise of its rights under this Section 9.1, Borrower's rights under all licenses and all franchise agreements inure to Bank's benefit;

(i) place a "hold" on any account maintained with Bank and/or deliver a notice of exclusive control, any entitlement order, or other directions or instructions pursuant to any Control Agreement or similar agreements providing control of any Collateral;

(j) demand and receive possession of Borrower's Books; and

(k) exercise all rights and remedies available to Bank under the Loan Documents or at law or equity, including all remedies provided under the Code (including disposal of the Collateral pursuant to the terms thereof).

9.2 Power of Attorney. Borrower hereby irrevocably appoints Bank as its lawful attorney-in-fact, exercisable following the occurrence and during the continuance of an Event of Default, to: (a) endorse Borrower's name on any checks, payment instruments, or other forms of payment or security; (b) sign Borrower's name on any invoice or bill of lading for any Account or drafts against Account Debtors; (c) demand, collect, sue, and give releases to any Account Debtor for monies due, settle and adjust disputes and claims about the Accounts directly with Account Debtors, and compromise, prosecute, or defend any action, claim, case, or proceeding about any Collateral (including

filing a claim or voting a claim in any bankruptcy case in Bank's or Borrower's name, as Bank chooses); (d) make, settle, and adjust all claims under Borrower's insurance policies; (e) pay, contest or settle any Lien, charge, encumbrance, security interest, or other claim in or to the Collateral, or any judgment based thereon, or otherwise take any action to terminate or discharge the same; and (f) transfer the Collateral into the name of Bank or a third party as the Code permits. Borrower hereby appoints Bank as its lawful attorney-in-fact to sign Borrower's name on any documents necessary to perfect or continue the perfection of Bank's security interest in the Collateral regardless of whether an Event of Default has occurred until all Obligations have been satisfied in full and the Loan Documents have been terminated. Bank's foregoing appointment as Borrower's attorney in fact, and all of Bank's rights and powers, coupled with an interest, are irrevocable until all Obligations have been fully repaid and performed and the Loan Documents have been terminated.

9.3 Protective Payments. If Borrower fails to obtain the insurance called for by Section 6.7 or fails to pay any premium thereon or fails to pay any other amount which Borrower is obligated to pay under this Agreement or any other Loan Document or which may be required to preserve the Collateral, Bank may obtain such insurance or make such payment, and all amounts so paid by Bank are Bank Expenses and immediately due and payable, bearing interest at the then highest rate applicable to the Obligations, and secured by the Collateral. Bank will make reasonable efforts to provide Borrower with notice of Bank obtaining such insurance at the time it is obtained or within a reasonable time thereafter. No payments by Bank are deemed an agreement to make similar payments in the future or Bank's waiver of any Event of Default.

9.4 Application of Payments and Proceeds. If an Event of Default has occurred and is continuing, Bank shall have the right to apply in any order any funds in its possession, whether from Borrower account balances, payments, proceeds realized as the result of any collection of Accounts or other disposition of the Collateral, or otherwise (collectively, the "**Proceeds of Collection**"), to the Obligations. Bank shall pay any surplus to Borrower by credit to the Designated Deposit Account or to other Persons legally entitled thereto; Borrower shall remain liable to Bank for any deficiency. If Bank, directly or indirectly, enters into a deferred payment or other credit transaction with any purchaser at any sale of Collateral, Bank shall have the option, exercisable at any time, of either reducing the Obligations by the principal amount of the purchase price or deferring the reduction of the Obligations until the actual receipt by Bank of cash therefor.

Notwithstanding anything to the contrary in this Agreement or the other Loan Documents, the Proceeds of Collection shall upon receipt by Bank be paid to and applied as follows:

First, to the payment of then outstanding Bank Expenses (as defined herein and in the EGC Loan Agreement), including all amounts expended by Bank to preserve the value of the Collateral, of foreclosure or suit, if any, and of such sale and the exercise of any other rights or remedies, and of all proper fees, expenses, liability and advances;

Second, to the payment of all accrued and unpaid interest owing to Bank on the Revolving Line;

Third, to the payment of the outstanding principal owing to Bank on the Revolving Line;

Fourth, to the payment of the premiums, the Anniversary Fee, or early termination fees (if applicable) owing to Bank on the Revolving Line;

Fifth, to the payment of all other outstanding and unpaid Obligations owing to Bank under the Revolving Line (including indemnification claims not otherwise satisfied pursuant to the preceding clauses);

Sixth, to the payment of all accrued and unpaid interest owing to Bank on the Term Loan Advances;

Seventh, to the payment of the outstanding principal owing to Bank on the Term Loan Advances;

Eighth, to the payment of the outstanding premiums (if any), the Term Loan Commitment Fees, and the Prepayment Fee, owing to Bank on the Term Loan Advances;

Ninth, to the payment of all other outstanding and unpaid Obligations owing to Bank under the Term Loan Advances (including indemnification claims not otherwise satisfied pursuant to the preceding clauses);

Tenth, to the payment of all outstanding and unpaid Obligations owing to Bank under Bank Services Agreements (including indemnification claims not otherwise satisfied pursuant to the preceding clauses);

Eleventh, to the payment of all other outstanding and unpaid Obligations owing to Bank (including indemnification claims not otherwise satisfied pursuant to the preceding clauses); and

Twelfth, to Borrower, its successors and assigns, or to whomsoever may be lawfully entitled to receive the same.

9.5 Bank's Liability for Collateral. So long as Bank complies with reasonable banking practices regarding the safekeeping of the Collateral in the possession or under the control of Bank, Bank shall not be liable or responsible for: (a) the safekeeping of the Collateral; (b) any loss or damage to the Collateral; (c) any diminution in the value of the Collateral; or (d) any act or default of any carrier, warehouseman, bailee, or other Person. Borrower bears all risk of loss, damage or destruction of the Collateral.

9.6 No Waiver; Remedies Cumulative. Bank's failure, at any time or times, to require strict performance by Borrower of any provision of this Agreement or any other Loan Document shall not waive, affect, or diminish any right of Bank thereafter to demand strict performance and compliance herewith or therewith. No waiver hereunder shall be effective unless signed by the party granting the waiver and then is only effective for the specific instance and purpose for which it is given. Bank's rights and remedies under this Agreement and the other Loan Documents are cumulative. Bank has all rights and remedies provided under the Code, by law, or in equity. Bank's exercise of one right or remedy is not an election and shall not preclude Bank from exercising any other remedy under this Agreement or other remedy available at law or in equity, and Bank's waiver of any Event of Default is not a continuing waiver. Bank's delay in exercising any remedy is not a waiver, election, or acquiescence.

9.7 Demand Waiver. Borrower waives demand, notice of default or dishonor, notice of payment and nonpayment, notice of any default, nonpayment at maturity, release, compromise, settlement, extension, or renewal of accounts, documents, instruments, chattel paper, and guarantees held by Bank on which Borrower is liable.

10. NOTICES

All notices, consents, requests, approvals, demands, or other communication by any party to this Agreement or any other Loan Document must be in writing and shall be deemed to have been validly served, given, or delivered: (a) upon the earlier of actual receipt and three (3) Business Days after deposit in the U.S. mail, first class, registered or certified mail return receipt requested, with proper postage prepaid; (b) upon transmission, when sent by electronic mail (absent bounce back, error message, or other indicator of non-receipt) or facsimile transmission; (c) one (1) Business Day after deposit with a reputable overnight courier with all charges prepaid; or (d) when delivered, if hand-delivered by messenger, all of which shall be addressed to the party to be notified and sent to the address, facsimile number, or email address indicated below. Bank or Borrower may change its mailing or electronic mail address or facsimile number by giving the other party written notice thereof in accordance with the terms of this Section 10.

If to Borrower:	Savage River, Inc. 1325 E. El Segundo Blvd El Segundo, California 90245 Attn: Mark Nelson, Chief Financial Officer Email: mnelson@beyondmeat.com
If to Bank:	Silicon Valley Bank 380 Interlocken Crescent, Suite 600 Broomfield, Colorado 80021 Attn: Derek Hofmeister, Vice President

11. CHOICE OF LAW, VENUE, JURY TRIAL WAIVER AND JUDICIAL REFERENCE

Except as otherwise expressly provided in any of the Loan Documents, California law governs the Loan Documents without regard to principles of conflicts of law. Borrower and Bank each submit to the exclusive jurisdiction of the State and Federal courts in Santa Clara County, California; provided, however, that nothing in this Agreement shall be deemed to operate to preclude Bank from bringing suit or taking other legal action in any other jurisdiction to realize on the Collateral or any other security for the Obligations, or to enforce a judgment or other court order in favor of Bank. Borrower expressly submits and consents in advance to such jurisdiction in any action or suit commenced in any such court, and Borrower hereby waives any objection that it may have based upon lack of personal jurisdiction, improper venue, or forum non conveniens and hereby consents to the granting of such legal or equitable relief as is deemed appropriate by such court. Borrower hereby waives personal service of the summons, complaints, and other process issued in such action or suit and agrees that service of such summons, complaints, and other process may be made by registered or certified mail addressed to Borrower at the address set forth in, or subsequently provided by Borrower in accordance with, Section 10 of this Agreement and that service so made shall be deemed completed upon the earlier to occur of Borrower's actual receipt thereof or three (3) days after deposit in the U.S. mails, proper postage prepaid.

TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, BORROWER AND BANK EACH WAIVE THEIR RIGHT TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION ARISING OUT OF OR BASED UPON THIS AGREEMENT, THE LOAN DOCUMENTS OR ANY CONTEMPLATED TRANSACTION, INCLUDING CONTRACT, TORT, BREACH OF DUTY AND ALL OTHER CLAIMS. THIS WAIVER IS A MATERIAL INDUCEMENT FOR BOTH PARTIES TO ENTER INTO THIS AGREEMENT. EACH PARTY HAS REVIEWED THIS WAIVER WITH ITS COUNSEL.

WITHOUT INTENDING IN ANY WAY TO LIMIT THE PARTIES' AGREEMENT TO WAIVE THEIR RESPECTIVE RIGHT TO A TRIAL BY JURY, if the above waiver of the right to a trial by jury is not enforceable, the parties hereto agree that any and all disputes or controversies of any nature between them arising at any time shall be decided by a reference to a private judge, mutually selected by the parties (or, if they cannot agree, by the Presiding Judge of the Santa Clara County, California Superior Court) appointed in accordance with California Code of Civil Procedure Section 638 (or pursuant to comparable provisions of federal law if the dispute falls within the exclusive jurisdiction of the federal courts), sitting without a jury, in Santa Clara County, California; and the parties hereby submit to the jurisdiction of such court. The reference proceedings shall be conducted pursuant to and in accordance with the provisions of California Code of Civil Procedure Sections 638 through 645.1, inclusive. The private judge shall have the power, among others, to grant provisional relief, including without limitation, entering temporary restraining orders, issuing preliminary and permanent injunctions and appointing receivers. All such proceedings shall be closed to the public and confidential and all records relating thereto shall be permanently sealed. If during the course of any dispute, a party desires to seek provisional relief, but a judge has not been appointed at that point pursuant to the judicial reference procedures, then such party may apply to the Santa Clara County, California Superior Court for such relief. The proceeding before the private judge shall be conducted in the same manner as it would be before a court under the rules of evidence applicable to judicial proceedings. The parties shall be entitled to discovery which shall be conducted in the same manner as it would be before a court under the rules of discovery applicable to judicial proceedings. The private judge shall oversee discovery and may enforce all discovery rules and orders applicable to judicial proceedings in the same manner as a trial court judge. The parties agree that the selected or appointed private judge shall have the power to decide all issues in the action or proceeding, whether of fact or of law, and shall report a statement of decision thereon pursuant to California Code of Civil Procedure Section 644(a). Nothing in this paragraph shall limit the right of any party at any time to exercise self-help remedies, foreclose against collateral, or obtain provisional remedies. The private judge shall also determine all issues relating to the applicability, interpretation, and enforceability of this paragraph.

This Section 11 shall survive the termination of this Agreement.

12. GENERAL PROVISIONS

12.1 Termination Prior to Maturity Date; Survival. All covenants, representations and warranties made in this Agreement shall continue in full force until this Agreement has terminated pursuant to its terms and all Obligations (other than inchoate indemnity obligations, and any other obligations which, by their terms, are to survive the termination of this Agreement, and any Obligations under Bank Services Agreements that are cash collateralized in accordance with Section 4.1 of this Agreement) have been satisfied. So long as Borrower has satisfied the Obligations (other than inchoate indemnity obligations, and any other obligations which, by their terms, are to survive the termination of this Agreement, and any Obligations under Bank Services Agreements that are cash collateralized in accordance with Section 4.1 of this Agreement), this Agreement may be terminated prior to the Revolving Line Maturity Date by Borrower, effective three (3) Business Days after written notice of termination is given to Bank. Those obligations that are expressly specified in this Agreement as surviving this Agreement's termination shall continue to survive notwithstanding this Agreement's termination.

12.2 Successors and Assigns. This Agreement binds and is for the benefit of the successors and permitted assigns of each party. Borrower may not assign this Agreement or any rights or obligations under it without Bank's prior written consent (which may be granted or withheld in Bank's discretion). Subject to the following sentence, Bank has the right, without the consent of or notice to Borrower, to sell, transfer, assign, negotiate, or grant participation in all or any part of, or any interest in, Bank's obligations, rights, and benefits under this Agreement and the other Loan Documents (other than the Warrant, as to which assignment, transfer and other such actions are governed by the terms thereof) (each of the foregoing, a "**Loan Interest Sale**"). Notwithstanding the foregoing, so long as no Event of Default shall have occurred and is continuing, Bank shall not make any Loan Interest Sale to any Person that is (a) not an Eligible Assignee, or (b) who in the reasonable estimation of Bank is a direct competitor of Borrower.

12.3 Indemnification. Borrower agrees to indemnify, defend and hold Bank and its directors, officers, employees, agents, attorneys, or any other Person affiliated with or representing Bank (each, an "**Indemnified Person**") harmless against: (i) all obligations, demands, claims, and liabilities (collectively, "**Claims**") claimed or asserted by any other party in connection with the transactions contemplated by the Loan Documents; and (ii) all losses or expenses (including Bank Expenses) in any way suffered, incurred, or paid by such Indemnified Person as a result of, following from, consequential to, or arising from transactions between Bank and Borrower (including reasonable attorneys' fees and expenses), except for Claims and/or losses directly caused by such Indemnified Person's gross negligence or willful misconduct.

This Section 12.3 shall survive until all statutes of limitation with respect to the Claims, losses, and expenses for which indemnity is given shall have run.

12.4 Time of Essence. Time is of the essence for the performance of all Obligations in this Agreement.

12.5 Severability of Provisions. Each provision of this Agreement is severable from every other provision in determining the enforceability of any provision.

12.6 Correction of Loan Documents. Bank may correct patent errors and fill in any blanks in the Loan Documents consistent with the agreement of the parties so long as Bank provides Borrower with notice of such correction and allows Borrower at least ten (10) days to object to such correction. In the event of such objection, such correction shall not be made except by an amendment signed by both Bank and Borrower.

12.7 Amendments in Writing; Waiver; Integration. No purported amendment or modification of any Loan Document, or waiver, discharge or termination of any obligation under any Loan Document, shall be enforceable or admissible unless, and only to the extent, expressly set forth in a writing signed by the party against which enforcement or admission is sought. Without limiting the generality of the foregoing, no oral promise or statement, nor any action, inaction, delay, failure to require performance or course of conduct shall operate as, or evidence, an amendment, supplement or waiver or have any other effect on any Loan Document. Any waiver granted shall be limited to the specific circumstance expressly described in it, and shall not apply to any subsequent or other circumstance, whether similar or dissimilar, or give rise to, or evidence, any obligation or commitment to grant any further waiver. The Loan

Documents represent the entire agreement about this subject matter and supersede prior negotiations or agreements. All prior agreements, understandings, representations, warranties, and negotiations between the parties about the subject matter of the Loan Documents merge into the Loan Documents.

12.8 Counterparts. This Agreement may be executed in any number of counterparts and by different parties on separate counterparts, each of which, when executed and delivered, is an original, and all taken together, constitute one Agreement.

12.9 Confidentiality. In handling any confidential information, Bank shall exercise the same degree of care that it exercises for its own proprietary information (but not less than a reasonable degree of care), but disclosure of information may be made: (a) to Bank's Subsidiaries or Affiliates who are bound by the confidentiality obligations of this provision or substantially similar obligations (such Subsidiaries and Affiliates, together with Bank, collectively, "**Bank Entities**"); (b) to prospective transferees or purchasers of any interest in the Credit Extensions (provided, however, Bank shall use its best efforts to obtain any prospective transferee's or purchaser's agreement to the terms of this provision); (c) as required by law, regulation, subpoena, or other order; (d) to Bank's regulators or as otherwise required in connection with Bank's examination or audit; (e) as Bank considers appropriate in exercising remedies under the Loan Documents; and (f) to third-party service providers of Bank so long as such service providers have executed a confidentiality agreement with Bank with terms no less restrictive than those contained herein. Confidential information does not include information that is: (i) either in the public domain other than as a result of Bank's breach of this section or is in Bank's possession when disclosed to Bank; or (ii) disclosed to Bank by a third party on a non-confidential basis if Bank does not know that the third party is prohibited from disclosing the information.

Bank Entities may use anonymous forms of confidential information for aggregate datasets, for analyses or reporting, and for any other uses not expressly prohibited in writing by Borrower. The provisions of the immediately preceding sentence shall survive the termination of this Agreement.

12.10 Attorneys' Fees, Costs and Expenses. In any action or proceeding between Borrower and Bank arising out of or relating to the Loan Documents, the prevailing party shall be entitled to recover its reasonable attorneys' fees and other costs and expenses incurred, in addition to any other relief to which it may be entitled.

12.11 Electronic Execution of Documents. The words "execution," "signed," "signature" and words of like import in any Loan Document shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity and enforceability as a manually executed signature or the use of a paper-based recordkeeping systems, as the case may be, to the extent and as provided for in any applicable law, including, without limitation, any state law based on the Uniform Electronic Transactions Act.

12.12 Right of Setoff. Borrower hereby grants to Bank a Lien and a right of setoff as security for all Obligations to Bank, whether now existing or hereafter arising upon and against all deposits, credits, collateral and property, now or hereafter in the possession, custody, safekeeping or control of Bank or any entity under the control of Bank (including a subsidiary of Bank) or in transit to any of them. At any time after the occurrence and during the continuance of an Event of Default, without demand or notice, Bank may setoff the same or any part thereof and apply the same to any liability or Obligation of Borrower even though unmatured and regardless of the adequacy of any other collateral securing the Obligations. ANY AND ALL RIGHTS TO REQUIRE BANK TO EXERCISE ITS RIGHTS OR REMEDIES WITH RESPECT TO ANY OTHER COLLATERAL WHICH SECURES THE OBLIGATIONS, PRIOR TO EXERCISING ITS RIGHT OF SETOFF WITH RESPECT TO SUCH DEPOSITS, CREDITS OR OTHER PROPERTY OF BORROWER, ARE HEREBY KNOWINGLY, VOLUNTARILY AND IRREVOCABLY WAIVED.

12.13 Captions. The headings used in this Agreement are for convenience only and shall not affect the interpretation of this Agreement.

12.14 Construction of Agreement. The parties mutually acknowledge that they and their attorneys have participated in the preparation and negotiation of this Agreement. In cases of uncertainty this Agreement shall be construed without regard to which of the parties caused the uncertainty to exist.

12.15 Relationship. The relationship of the parties to this Agreement is determined solely by the provisions of this Agreement. The parties do not intend to create any agency, partnership, joint venture, trust, fiduciary or other relationship with duties or incidents different from those of parties to an arm's-length contract.

12.16 Third Parties. Nothing in this Agreement, whether express or implied, is intended to: (a) confer any benefits, rights or remedies under or by reason of this Agreement on any persons other than the express parties to it and their respective permitted successors and assigns; (b) relieve or discharge the obligation or liability of any person not an express party to this Agreement; or (c) give any person not an express party to this Agreement any right of subrogation or action against any party to this Agreement.

12.17 Transitional Arrangements. On the Effective Date, this Agreement shall amend, restate and supersede the Prior Loan Agreement in its entirety, except as provided in this Section. On the Effective Date, the rights and obligations of the parties evidenced by the Prior Loan Agreement shall be evidenced by this Agreement and the other Loan Documents and the grant of security interest in the Collateral by the Borrower under the Prior Loan Agreement and the other "Loan Documents" (as defined in the Prior Loan Agreement) shall continue under this Agreement and the other Loan Documents, and such security interest and any other rights and obligations which by their express terms survive the termination of the Loan Documents shall not in any event be terminated, extinguished or annulled but shall hereafter be governed by this Agreement and the other Loan Documents. All references to the Prior Loan Agreement in any Loan Document or other document or instrument delivered in connection therewith shall be deemed to refer to this Agreement and the provisions hereof as amended, restated, or otherwise modified from time to time.

13. DEFINITIONS

13.1 Definitions. As used in the Loan Documents, the word "shall" is mandatory, the word "may" is permissive, the word "or" is not exclusive, the words "includes" and "including" are not limiting, the singular includes the plural, and numbers denoting amounts that are set off in brackets are negative. As used in this Agreement, the following capitalized terms have the following meanings:

"**Account**" is, as to any Person, any "**account**" of such Person as "account" is defined in the Code with such additions to such term as may hereafter be made, and includes, without limitation, all accounts receivable and other sums owing to such Person.

"**Account Debtor**" is any "account debtor" as defined in the Code with such additions to such term as may hereafter be made.

"**Administrator**" is an individual that is named:

(a) as an "Administrator" in the "SVB Online Services" form completed by Borrower with the authority to determine who will be authorized to use SVB Online Services (as defined in Bank's Online Banking Agreement as in effect from time to time) on behalf of Borrower; and

(b) as an Authorized Signer of Borrower in an approval by the Board.

"**Advance**" or "**Advances**" means a revolving credit loan (or revolving credit loans) under the Revolving Line.

"**Affiliate**" is, with respect to any Person, each other Person that owns or controls directly or indirectly the Person, any Person that controls or is controlled by or is under common control with the Person, and each of that Person's senior executive officers, directors, partners and, for any Person that is a limited liability company, that Person's managers and members. For purposes of the definition of Eligible Accounts, Affiliate shall include a Specified Affiliate.

"**Agreement**" is defined in the preamble hereof.

"**Anniversary Fee**" is defined in Section 2.6(c).

"**Authorized Signer**" is any individual listed in Borrower's Borrowing Resolution who is authorized to execute the Loan Documents, including making (and executing if applicable) any Credit Extension request, on behalf of Borrower.

"**Availability Amount**" is (a) the lesser of (i) the Revolving Line or (ii) the amount available under the Borrowing Base, minus (b) the outstanding principal balance of any Advances.

"**Bank**" is defined in the preamble hereof.

"**Bank Entities**" is defined in Section 12.9.

"**Bank Expenses**" are all reasonable invoiced audit fees and expenses, costs, and expenses (including reasonable attorneys' fees and expenses) for preparing, amending, negotiating, administering, defending and enforcing the Loan Documents (including, without limitation, those incurred in connection with appeals or Insolvency Proceedings) or otherwise incurred with respect to Borrower or any Guarantor.

"**Bank Services**" are any products, credit services, and/or financial accommodations previously, now, or hereafter provided to Borrower or any of its Subsidiaries by Bank or any Bank Affiliate, including, without limitation, any letters of credit, cash management services (including, without limitation, merchant services, direct deposit of payroll, business credit cards, and check cashing services), interest rate swap arrangements, and foreign exchange services as any such products or services may be identified in Bank's various agreements related thereto (each, a "**Bank Services Agreement**").

"**Bank Services Agreement**" is defined in the definition of Bank Services.

"**Board**" is Borrower's board of directors.

"**Borrower**" is defined in the preamble hereof.

"**Borrower's Books**" are all Borrower's books and records including ledgers, federal and state tax returns, records regarding Borrower's assets or liabilities, the Collateral, business operations or financial condition, and all computer programs or storage or any equipment containing such information.

"**Borrowing Base**" is eighty-five percent (85%) of Eligible Accounts, as determined by Bank from Borrower's most recent Borrowing Base Statement (and as may subsequently be updated by Bank based upon information received by Bank including, without limitation, Accounts that are paid and/or billed following the date of the Borrowing Base Statement); provided, however, that Bank has the right, after consultation with Borrower, (provided no consultation is required if an Event of Default is continuing), to decrease the foregoing percentage in its good faith business judgment to mitigate the impact of events, conditions, contingencies, or risks which may adversely affect the Collateral or its value.

"**Borrowing Base Statement**" is that certain report of the value of certain Collateral in the form specified by Bank to Borrower from time to time.

"**Borrowing Resolutions**" are, with respect to any Person, those resolutions adopted by such Person's board of directors (and, if required under the terms of such Person's Operating Documents, stockholders) and delivered by such Person to Bank approving the Loan Documents to which such Person is a party and the transactions contemplated thereby, together with a certificate executed by its secretary on behalf of such Person certifying (a) such Person has the authority to execute, deliver, and perform its obligations under each of the Loan Documents to which it is a party, (b) that set forth as a part of or attached as an exhibit to such certificate is a true, correct, and complete copy of the resolutions then in full force and effect authorizing and ratifying the execution, delivery, and performance by such Person of the Loan Documents to which it is a party, (c) the name(s) of the Person(s) authorized to execute the Loan Documents, including making (and executing if applicable) any Credit Extension request, on behalf of such Person, together with a sample of the true signature(s) of such Person(s), and (d) that Bank may conclusively rely on such

certificate unless and until such Person shall have delivered to Bank a further certificate canceling or amending such prior certificate.

"**Business Day**" is any day that is not a Saturday, Sunday or a day on which Bank is closed.

"**Cash Collateral Account**" is defined in Section 6.3(c).

"**Cash Equivalents**" means (a) marketable direct obligations issued or unconditionally guaranteed by the United States or any agency or any State thereof having maturities of not more than one (1) year from the date of acquisition; (b) commercial paper maturing no more than one (1) year after its creation and having the highest rating from either Standard & Poor's Ratings Group or Moody's Investors Service, Inc.; (c) Bank's certificates of deposit issued maturing no more than one (1) year after issue; and (d) money market funds at least ninety-five percent (95%) of the assets of which constitute Cash Equivalents of the kinds described in clauses (a) through (c) of this definition.

"**Change in Control**" means (a) at any time, any "person" or "group" (as such terms are used in Sections 13(d) and 14(d) of the Exchange Act) shall become, or obtain rights (whether by means of warrants, options or otherwise) to become, the "beneficial owner" (as defined in Rules 13(d)-3 and 13(d)-5 under the Exchange Act), directly or indirectly, of forty-nine percent (49%) or more of the ordinary voting power for the election of directors of Borrower (determined on a fully diluted basis) other than by the sale of Borrower's equity securities in a public offering or to venture capital, strategic or private equity investors so long as Borrower identifies to Bank the venture capital, strategic or private equity investors at least seven (7) Business Days prior to the closing of the transaction and provides to Bank a description of the material terms of the transaction; (b) during any period of twelve (12) consecutive months, a majority of the members of the Board or other equivalent governing body of Borrower cease to be composed of individuals (i) who were members of that board or equivalent governing body on the first day of such period, (ii) whose election or nomination to that board or equivalent governing body was approved by individuals referred to in clause (i) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body or (iii) whose election or nomination to that board or other equivalent governing body was approved by individuals referred to in clauses (i) and (ii) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body; or (c) at any time, Borrower shall cease to own and control, of record and beneficially, directly or indirectly, one hundred percent (100.0%) of each class of outstanding capital stock of each subsidiary of Borrower free and clear of all Liens (except Liens created by this Agreement).

"**Claims**" is defined in Section 12.3.

"**Code**" is the Uniform Commercial Code, as the same may, from time to time, be enacted and in effect in the State of California; provided, that, to the extent that the Code is used to define any term herein or in any Loan Document and such term is defined differently in different Articles or Divisions of the Code, the definition of such term contained in Article or Division 9 shall govern; provided further, that in the event that, by reason of mandatory provisions of law, any or all of the attachment, perfection, or priority of, or remedies with respect to, Bank's Lien on any Collateral is governed by the Uniform Commercial Code in effect in a jurisdiction other than the State of California, the term "**Code**" shall mean the Uniform Commercial Code as enacted and in effect in such other jurisdiction solely for purposes of the provisions thereof relating to such attachment, perfection, priority, or remedies and for purposes of definitions relating to such provisions.

"**Collateral**" is any and all properties, rights and assets of Borrower described on Exhibit A.

"**Collateral Account**" is any Deposit Account, Securities Account, or Commodity Account.

"**Commodity Account**" is any "commodity account" as defined in the Code with such additions to such term as may hereafter be made.

"**Compliance Statement**" is that certain statement in the form attached hereto as Exhibit B.

"**Contingent Obligation**" is, for any Person, any direct or indirect liability, contingent or not, of that Person for (a) any indebtedness, lease, dividend, letter of credit or other obligation of another such as an obligation, in each case, directly or indirectly guaranteed, endorsed, co made, discounted or sold with recourse by that Person, or for which that Person is directly or indirectly liable; (b) any obligations for undrawn letters of credit for the account of that Person; and (c) all obligations from any interest rate, currency or commodity swap agreement, interest rate cap or collar agreement, or other agreement or arrangement designated to protect a Person against fluctuation in interest rates, currency exchange rates or commodity prices; but "Contingent Obligation" does not include endorsements in the ordinary course of business. The amount of a Contingent Obligation is the stated or determined amount of the primary obligation for which the Contingent Obligation is made or, if not determinable, the maximum reasonably anticipated liability for it determined by the Person in good faith; but the amount may not exceed the maximum of the obligations under any guarantee or other support arrangement.

"**Control Agreement**" is any control agreement entered into among the depository institution at which Borrower maintains a Deposit Account or the securities intermediary or commodity intermediary at which Borrower maintains a Securities Account or a Commodity Account, Borrower, and Bank pursuant to which Bank obtains control (within the meaning of the Code) over such Deposit Account, Securities Account, or Commodity Account.

"**Copyrights**" are any and all copyright rights, copyright applications, copyright registrations and like protections in each work of authorship and derivative work thereof, whether published or unpublished and whether or not the same also constitutes a trade secret.

"**Credit Extension**" is any Advance, any Overadvance, or any other extension of credit by Bank for Borrower's benefit.

"**Default Rate**" is defined in Section 2.5(b).

"**Deferred Revenue**" is all amounts received or invoiced in advance of performance under contracts and not yet recognized as revenue.

"**Deposit Account**" is any "deposit account" as defined in the Code with such additions to such term as may hereafter be made.

"**Designated Deposit Account**" is the account number ending 597 (last three digits) maintained by Borrower with Bank (provided, however, if no such account number is included, then the Designated Deposit Account shall be any deposit account of Borrower maintained with Bank as chosen by Bank).

"**Dollar Equivalent**" is, at any time, (a) with respect to any amount denominated in Dollars, such amount, and (b) with respect to any amount denominated in a Foreign Currency, the equivalent amount therefor in Dollars as determined by Bank at such time on the basis of the then-prevailing rate of exchange in San Francisco, California, for sales of the Foreign Currency for transfer to the country issuing such Foreign Currency.

"**Dollars**," "**dollars**" or use of the sign "**$**" means only lawful money of the United States and not any other currency, regardless of whether that currency uses the "$" sign to denote its currency or may be readily converted into lawful money of the United States.

"**Domestic Subsidiary**" means a Subsidiary organized under the laws of the United States or any state or territory thereof or the District of Columbia.

"**Effective Date**" is defined in the preamble hereof.

"**EGC Loan Agreement**" is that certain Loan and Security Agreement (Term Loan), dated as of the Effective Date, by and between Borrower and Bank, as the same may be amended, modified, supplemented or restated from time to time.

"**EGC Loan Documents**" are, collectively, the EGC Loan Agreement, any note, or notes, security agreements, or guaranties executed by Borrower or any other Person and any other present or future agreement between Bank and Borrower in connection with the EGC Loan Agreement, all as amended, extended or restated from time to time.

"**Eligible Accounts**" means Accounts owing to Borrower which arise in the ordinary course of Borrower's business that meet all Borrower's representations and warranties in Section 5.3, that have been, at the option of Bank, confirmed in accordance with Section 6.3(f) of this Agreement, and are due and owing from Account Debtors deemed creditworthy by Bank in its good faith business judgment. Bank reserves the right at any time after the Effective Date to adjust any of the criteria set forth below and to establish new criteria in its good faith business judgment. Unless Bank otherwise agrees in writing, Eligible Accounts shall not include:

(a) Accounts (i) for which the Account Debtor is Borrower's Affiliate, officer, employee, investor, or agent, or (ii) that are intercompany Accounts;

(b) Accounts that the Account Debtor has not paid within ninety (90) days of invoice date regardless of invoice payment period terms;

(c) Accounts with credit balances over ninety (90) days from invoice date;

(d) Accounts owing from an Account Debtor if fifty percent (50%) or more of the Accounts owing from such Account Debtor have not been paid within ninety (90) days of invoice date;

(e) Accounts owing from an Account Debtor (i) which does not have its principal place of business in the United States or Canada or (ii) whose billing address (as set forth in the applicable invoice for such Account) is not in the United States or Canada, in each case unless otherwise approved by Bank in writing on a case-by-case basis in its sole discretion;

(f) Accounts billed from and/or payable to Borrower outside of the United States (sometimes called foreign invoiced accounts);

(g) Accounts in which Bank does not have a first priority, perfected security interest under all applicable laws;

(h) Accounts billed and/or payable in a Currency other than Dollars;

(i) Accounts owing from an Account Debtor to the extent that Borrower is indebted or obligated in any manner to the Account Debtor (as creditor, lessor, supplier or otherwise - sometimes called "contra" accounts, accounts payable, customer deposits or credit accounts);

(j) Accounts with or in respect of accruals for marketing allowances, incentive rebates, price protection, cooperative advertising and other similar marketing credits, unless otherwise approved by Bank in writing;

(k) Accounts owing from an Account Debtor which is a United States government entity or any department, agency, or instrumentality thereof unless Borrower has assigned its payment rights to Bank and the assignment has been acknowledged under the Federal Assignment of Claims Act of 1940, as amended;

(l) Accounts with customer deposits and/or with respect to which Borrower has received an upfront payment, to the extent of such customer deposit and/or upfront payment;

(m) Accounts for demonstration or promotional equipment, or in which goods are consigned, or sold on a "sale guaranteed", "sale or return", "sale on approval", or other terms if Account Debtor's payment may be conditional;

(n) Accounts owing from an Account Debtor where goods or services have not yet been rendered to the Account Debtor (sometimes called memo billings or pre-billings);

(o) Accounts subject to contractual arrangements between Borrower and an Account Debtor where payments shall be scheduled or due according to completion or fulfillment requirements (sometimes called contracts accounts receivable, progress billings, milestone billings, or fulfillment contracts);

(p) Accounts owing from an Account Debtor the amount of which may be subject to withholding based on the Account Debtor's satisfaction of Borrower's complete performance (but only to the extent of the amount withheld; sometimes called retainage billings);

(q) Accounts subject to trust provisions, subrogation rights of a bonding company, or a statutory trust;

(r) Accounts owing from an Account Debtor that has been invoiced for goods that have not been shipped to the Account Debtor unless Bank, Borrower, and the Account Debtor have entered into an agreement reasonably acceptable to Bank wherein the Account Debtor acknowledges that (i) it has title to and has ownership of the goods wherever located, (ii) a bona fide sale of the goods has occurred, and (iii) it owes payment for such goods in accordance with invoices from Borrower (sometimes called "bill and hold" accounts);

(s) Accounts for which the Account Debtor has not been invoiced;

(t) Accounts that represent non-trade receivables or that are derived by means other than in the ordinary course of Borrower's business;

(u) Accounts for which Borrower has permitted Account Debtor's payment to extend beyond ninety (90) days (including Accounts with a due date that is more than ninety (90) days from invoice date);

(v) Accounts arising from chargebacks, debit memos or other payment deductions taken by an Account Debtor;

(w) Accounts arising from product returns and/or exchanges (sometimes called "warranty" or "RMA" accounts);

(x) Accounts in which the Account Debtor disputes liability or makes any claim in writing (but only up to the disputed or claimed amount), or if the Account Debtor is subject to an Insolvency Proceeding (whether voluntary or involuntary), or becomes insolvent, or goes out of business;

(y) Accounts owing from an Account Debtor with respect to which Borrower has received Deferred Revenue (but only to the extent of such Deferred Revenue);

(z) Accounts owing from an Account Debtor, whose total obligations to Borrower exceed twenty-five percent (25.0%) of all Accounts (except for UNFI Corporate and Sysco Corporation, for which such percentage is forty percent (40.0%)), for the amounts that exceed that percentage, unless Bank approves in writing; and

(aa) Accounts for which Bank in its good faith business judgment determines collection to be doubtful, including, without limitation, accounts represented by "refreshed" or "recycled" invoices.

"**Eligible Assignee**" is any of (a) an Affiliate of Bank, (b) a commercial bank or (c) a finance company, insurance company, or other financial institution that is engaged in making, purchasing, or otherwise investing in commercial loans in the ordinary course of its business and that is regulated by the United States Federal Reserve Bank, Office of the Comptroller of the Currency, Federal Deposit Insurance Corporation, Office of Thrift Supervision or any other governmental agency.

"**Equipment**" is all "equipment" as defined in the Code with such additions to such term as may hereafter be made, and includes without limitation all machinery, fixtures, goods, vehicles (including motor vehicles and trailers), and any interest in any of the foregoing.

"**ERISA**" is the Employee Retirement Income Security Act of 1974, and its regulations.

"**Event of Default**" is defined in Section 8.

"**Exchange Act**" is the Securities Exchange Act of 1934, as amended.

"**Existing Growth Capital Advance**" and "**Existing Growth Capital Advances**" are each defined in Recital A.

"**Financial Statement Repository**" is each of (a) ERIreporting@svb.com or such other means of collecting information approved and designated by Bank after providing notice thereof to Borrower from time to time and (b) Bank's online banking platform as described in Section 6.12.

"**Foreign Currency**" means lawful money of a country other than the United States.

"**Foreign Subsidiary**" means any Subsidiary which is not a Domestic Subsidiary.

"**Funding Date**" is any date on which a Credit Extension is made to or for the account of Borrower which shall be a Business Day.

"**FX Contract**" is any foreign exchange contract by and between Borrower and Bank under which Borrower commits to purchase from or sell to Bank a specific amount of Foreign Currency on a specified date.

"**GAAP**" is generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other Person as may be approved by a significant segment of the accounting profession, which are applicable to the circumstances as of the date of determination.

"**General Intangibles**" is all "general intangibles" as defined in the Code in effect on the date hereof with such additions to such term as may hereafter be made, and includes without limitation, all Intellectual Property, claims, income and other tax refunds, security and other deposits, payment intangibles, contract rights, options to purchase or sell real or personal property, rights in all litigation presently or hereafter pending (whether in contract, tort or otherwise), insurance policies (including without limitation key man, property damage, and business interruption insurance), payments of insurance and rights to payment of any kind.

"**Good Faith Deposit**" is defined in Section 2.6(b).

"**Governmental Approval**" is any consent, authorization, approval, order, license, franchise, permit, certificate, accreditation, registration, filing or notice, of, issued by, from or to, or other act by or in respect of, any Governmental Authority.

"**Governmental Authority**" is any nation or government, any state or other political subdivision thereof, any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative functions of or pertaining to government, any securities exchange and any self-regulatory organization.

"**Guarantor**" is any Person providing a Guaranty in favor of Bank.

"**Guaranty**" is any guarantee of all or any part of the Obligations, as the same may from time to time be amended, restated, modified or otherwise supplemented.

"**Indebtedness**" is (a) indebtedness for borrowed money or the deferred price of property or services, such as reimbursement and other obligations for surety bonds and letters of credit, (b) obligations evidenced by notes, bonds, debentures or similar instruments, (c) capital lease obligations, and (d) Contingent Obligations.

"**Indemnified Person**" is defined in Section 12.3.

"**Initial Audit**" is Bank's inspection of Borrower's Accounts, the Collateral, and Borrower's Books, with results satisfactory to Bank in its sole and absolute discretion.

"**Insolvency Proceeding**" is any proceeding by or against any Person under the United States Bankruptcy Code, or any other bankruptcy or insolvency law, including assignments for the benefit of creditors, compositions, extensions generally with its creditors, or proceedings seeking reorganization, arrangement, or other relief.

"**Intellectual Property**" means, with respect to any Person, all of such Person's right, title, and interest in and to the following:

(a) its Copyrights, Trademarks and Patents;

(b) any and all trade secrets and trade secret rights, including, without limitation, any rights to unpatented inventions, know-how, and operating manuals;

(c) any and all source code;

(d) any and all design rights which may be available to such Person;

(e) any and all claims for damages by way of past, present and future infringement of any of the foregoing, with the right, but not the obligation, to sue for and collect such damages for said use or infringement of the Intellectual Property rights identified above; and

(f) all amendments, renewals and extensions of any of the Copyrights, Trademarks or Patents.

"**Inventory**" is all "inventory" as defined in the Code in effect on the date hereof with such additions to such term as may hereafter be made, and includes without limitation all merchandise, raw materials, parts, supplies, packing and shipping materials, work in process and finished products, including without limitation such inventory as is temporarily out of Borrower's custody or possession or in transit and including any returned goods and any documents of title representing any of the above.

"**Investment**" is any beneficial ownership interest in any Person (including stock, partnership interest or other securities), and any loan, advance or capital contribution to any Person.

"**IP Agreement**" is that certain Intellectual Property Security Agreement between Borrower and Bank dated as of the Effective Date, as may be amended, modified or restated from time to time.

"**Key Person**" is Borrower's Chief Executive Officer, who is Ethan Brown as of the Effective Date.

"**Letter of Credit**" is a standby or commercial letter of credit issued by Bank upon request of Borrower based upon an application, guarantee, indemnity, or similar agreement.

"**Lien**" is a claim, mortgage, deed of trust, levy, charge, pledge, security interest or other encumbrance of any kind, whether voluntarily incurred or arising by operation of law or otherwise against any property.

"**Liquidity**" is, at any time, the sum of (a) the aggregate amount of Borrower's unrestricted and unencumbered cash and Cash Equivalents (excluding the Lien in favor of Bank securing the Obligations, other than with respect to cash collateral securing Bank Services), each maintained with Bank or its Affiliates, and (b) the Availability Amount.

"**Loan Documents**" are, collectively, this Agreement and any schedules, exhibits, certificates, notices, and any other documents related to this Agreement, the Warrant, the IP Agreement, any Bank Services Agreement, any subordination agreement, any note, or notes or guaranties executed by Borrower or any Guarantor, and any other present or future agreement by Borrower and/or any Guarantor with or for the benefit of Bank, all as amended, restated, or otherwise modified; provided, however, that no agreement entered into (other than this Agreement or the Warrant) regarding the securities of Borrower or any rights or obligations of Bank regarding such securities (including but not limited to any investors' rights agreement, subscription agreement, or "lock up" agreement) shall constitute Loan Documents.

"**Loan Interest Sale**" is defined in 12.2.

"**Material Adverse Change**" is (a) a material impairment in the perfection or priority of Bank's Lien in the Collateral or in the value of such Collateral; (b) a material adverse change in the business, operations, or financial condition of Borrower; and (c) a material impairment of the prospect of repayment of any portion of the Obligations as and when due.

"**Monthly Financial Statements**" is defined in Section 6.2(c).

"**Net Cash**" means the aggregate amount of Borrower's unrestricted and unencumbered cash and Cash Equivalents (excluding the Lien in favor of Bank securing the Obligations other than with respect to cash collateral securing Bank Services), each maintained with Bank minus all obligations and liabilities of Borrower to Bank (including all Indebtedness owing under the EGC Loan Documents).

"**Obligations**" are Borrower's obligations to pay when due any debts, principal, interest, fees, Bank Expenses, the Anniversary Fee, and other amounts Borrower owes Bank now or later, whether under this Agreement, the other Loan Documents (other than the Warrant or any shares or other securities issued upon exercise and/or conversion or reclassification thereof, and any investors' rights agreement, subscription agreement, "lock up" agreement, or other similar agreements regarding the securities of Borrower or any rights or obligations of Bank regarding such securities), or otherwise, including, without limitation, all obligations relating to Bank Services and interest accruing after Insolvency Proceedings begin and debts, liabilities, or obligations of Borrower assigned to Bank, and the performance of Borrower's duties under the Loan Documents (other than the Warrant or any shares or other securities issued upon exercise and/or conversion or reclassification thereof, and any investors' rights agreement, subscription agreement, "lock up" agreement, or other similar agreements regarding the securities of Borrower or any rights or obligations of Bank regarding such securities).

"**Offsite Collateral**" means computer equipment, cell phones and related equipment in the possession of employees in the ordinary course of business with an aggregate value not to exceed One Hundred Thousand Dollars ($100,000.00).

"**Operating Documents**" are, for any Person, such Person's formation documents, as certified by the Secretary of State (or equivalent agency) of such Person's jurisdiction of organization on a date that is no earlier than thirty (30) days prior to the Effective Date, and, (a) if such Person is a corporation, its bylaws in current form, (b) if such Person is a limited liability company, its limited liability company agreement (or similar agreement), and (c) if such Person is a partnership, its partnership agreement (or similar agreement), each of the foregoing with all current amendments or modifications thereto.

"**Overadvance**" is defined in Section 2.4.

"**Patents**" means all patents, patent applications and like protections including without limitation improvements, divisions, continuations, renewals, reissues, extensions and continuations-in-part of the same.

"**Payment Date**" is the last calendar day of each month.

"**Perfection Certificate**" is defined in Section 5.1.

"**Permitted Acquisition**" means any Acquisition, consisting of a single transaction or a series of related transactions, by the Borrower or any Subsidiary in the form of Acquisitions of any other Person if (a) total cash and non-cash consideration for all such Acquisitions does not in the aggregate exceed One Million Dollars ($1,000,000) in any fiscal year of Borrower; (b) the Target shall be located in the United States and in a similar line of business as that of the Borrower; (c) the Target shall be a going concern (other than in respect of the formation of a Subsidiary formed to effect the Acquisition), not involved in any material litigation that is not fully covered by reserves and/or insurance; (d) no Event of Default has occurred and is continuing or would exist after giving effect to such Acquisition, including, without limitation, Borrower's compliance with Section 6.13; (e) if such Acquisition is in the form of a merger by the Borrower into another Person, the Borrower is the surviving legal entity; (f) if such Acquisition is in the form of a merger by a Subsidiary into another Person, one hundred percent (100%) of the outstanding and issued equity of the surviving legal entity shall be owned by the Borrower or a Subsidiary; (g) no Indebtedness shall be assumed by any Borrower in connection with such Acquisition other than Permitted Indebtedness; (h) the Acquisition is not a hostile Acquisition; (i) Borrower shall be in compliance, on a pro forma basis immediately after giving effect to such Acquisition, with the covenants contained in Section 6.9 recomputed as of the last day of the most recently ended month or fiscal quarter as applicable as if such transaction had occurred on the first (1st) day of the relevant month or fiscal quarter for testing such compliance; (j) the credit risk to Bank, in its sole but reasonable discretion, shall not be increased as a result of the Permitted Acquisition, and (k) Bank shall receive at least 20 days' prior notice of such Permitted Acquisition, which notice shall include a reasonably detailed description of such Permitted Acquisition, and such other financial information, financial analysis, documentation or other information relating to such Permitted Acquisition as Bank shall reasonably request.

"**Permitted Indebtedness**" is:

(a) Borrower's Indebtedness to Bank under this Agreement, the other Loan Documents, and the EGC Loan Documents;

(b) Indebtedness existing on the Effective Date which is shown on the Perfection Certificate;

(c) Subordinated Debt;

(d) unsecured Indebtedness to trade creditors incurred in the ordinary course of business;

(e) Indebtedness incurred as a result of endorsing negotiable instruments received in the ordinary course of business;

(f) Indebtedness secured by Liens permitted under clauses (a) and (c) of the definition of "Permitted Liens" hereunder;

(g) other unsecured Indebtedness not otherwise permitted by Section 7.4 not exceeding One Hundred Thousand Dollars ($100,000.00) in the aggregate outstanding at any time; and

(h) extensions, refinancings, modifications, amendments and restatements of any items of Permitted Indebtedness (a) through (g) above, provided that the principal amount thereof is not increased or the terms thereof are not modified to impose more burdensome terms upon Borrower or its Subsidiary, as the case may be.

"**Permitted Investments**" are:

(a) Investments (including, without limitation, Subsidiaries) existing on the Effective Date which are shown on the Perfection Certificate (but specifically excluding any future Investments in any Subsidiaries unless otherwise permitted hereunder);

(b) Investments consisting of Cash Equivalents;

(c) Investments consisting of the endorsement of negotiable instruments for deposit or collection or similar transactions in the ordinary course of Borrower;

(d) Investments consisting of deposit accounts in which Bank has a first priority perfected security interest;

(e) Investments accepted in connection with Transfers permitted by Section 7.1 of this Agreement;

(f) Investments (i) by Borrower in Subsidiaries not to exceed One Hundred Thousand Dollars ($100,000.00) in the aggregate in any twelve (12) month period and (ii) by Subsidiaries in other Subsidiaries or in Borrower;

(g) Investments consisting of (i) travel advances and employee relocation loans and other employee loans and advances in the ordinary course of business, and (ii) loans to employees, officers or directors relating to the purchase of equity securities of Borrower or its Subsidiaries pursuant to employee stock purchase plans or agreements approved by the Board;

(h) Investments (including debt obligations) received in connection with the bankruptcy or reorganization of customers or suppliers and in settlement of delinquent obligations of, and other disputes with, customers or suppliers arising in the ordinary course of business; and

(i) Investments consisting of notes receivable of, or prepaid royalties and other credit extensions, to customers and suppliers who are not Affiliates, in the ordinary course of business; provided that this paragraph (i) shall not apply to Investments of Borrower in any Subsidiary.

"**Permitted Liens**" are:

(a) Liens existing on the Effective Date which are shown on the Perfection Certificate or arising under this Agreement, the other Loan Documents, or the EGC Loan Documents;

(b) Liens for taxes, fees, assessments or other government charges or levies, either (i) not due and payable or (ii) being contested in good faith and for which Borrower maintains adequate reserves on Borrower's Books, provided that no notice of any such Lien has been filed or recorded under the Internal Revenue Code of 1986, as amended, and the Treasury Regulations adopted thereunder;

(c) purchase money Liens or capital leases (i) on Equipment acquired or held by Borrower incurred for financing the acquisition of the Equipment securing no more than Five Million Dollars ($5,000,000.00) in the aggregate amount outstanding, or (ii) existing on Equipment when acquired, if the Lien is confined to the property and improvements and the proceeds of the Equipment; and

(d) Liens of carriers, warehousemen, suppliers, or other Persons that are possessory in nature arising in the ordinary course of business so long as such Liens attach only to Inventory, securing liabilities which are not delinquent or remain payable without penalty or which are being contested in good faith and by appropriate proceedings which proceedings have the effect of preventing the forfeiture or sale of the property subject thereto;

(e) Liens to secure payment of workers' compensation, employment insurance, old-age pensions, social security and other like obligations incurred in the ordinary course of business (other than Liens imposed by ERISA);

(f) Liens incurred in the extension, renewal or refinancing of the Indebtedness secured by Liens described in (a) through (c), but any extension, renewal or replacement Lien must be limited to the property encumbered by the existing Lien and the principal amount of the indebtedness may not increase;

(g) leases or subleases of real property granted in the ordinary course of Borrower's business (or, if referring to another Person, in the ordinary course of such Person's business), and leases, subleases, non-exclusive licenses or sublicenses of personal property (other than Intellectual Property) granted in the ordinary course of Borrower's business (or, if referring to another Person, in the ordinary course of such Person's business), if the leases, subleases, licenses and sublicenses do not prohibit granting Bank a security interest therein;

(h) non-exclusive licenses of Intellectual Property granted to third parties in the ordinary course of business, and licenses of Intellectual Property that could not result in a legal transfer of title of the licensed property that may be exclusive in respects other than territory and that may be exclusive as to territory only as to discrete geographical areas outside of the United States;

(i) Liens arising from attachments or judgments, orders, or decrees in circumstances not constituting an Event of Default under Sections 8.4 and 8.7 of this Agreement; and

(j) Liens in favor of other financial institutions arising in connection with Borrower's deposit and/or securities accounts held at such institutions, provided that Bank has a first priority perfected security interest in the amounts held in such deposit and/or securities accounts.

"**Person**" is any individual, sole proprietorship, partnership, limited liability company, joint venture, company, trust, unincorporated organization, association, corporation, institution, public benefit corporation, firm, joint stock company, estate, entity or government agency.

"**Prepayment Fee**" is defined in the EGC Loan Agreement.

"**Prime Rate**" is the rate of interest per annum from time to time published in the money rates section of The Wall Street Journal or any successor publication thereto as the "prime rate" then in effect; provided that, in the event such rate of interest is less than zero, such rate shall be deemed to be zero for purposes of this Agreement; and provided further that if such rate of interest, as set forth from time to time in the money rates section of The Wall Street Journal, becomes unavailable for any reason as determined by Bank, the "Prime Rate" shall mean the rate of interest per annum announced by Bank as its prime rate in effect at its principal office in the State of California (such Bank announced Prime Rate not being intended to be the lowest rate of interest charged by Bank in connection with extensions of credit to debtors); provided that, in the event such rate of interest is less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

"**Quarterly Financial Statements**" is defined in Section 6.2(e).

"**Registered Organization**" is any "registered organization" as defined in the Code with such additions to such term as may hereafter be made.

"**Requirement of Law**" is as to any Person, the organizational or governing documents of such Person, and any law (statutory or common), treaty, rule or regulation or determination of an arbitrator or a court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

"**Reserves**" means, as of any date of determination, such amounts as Bank may from time to time establish and revise in its good faith business judgment after consultation with Borrower (provided no consultation is required if an Event of Default is continuing), reducing the amount of Advances and other financial accommodations which would otherwise be available to Borrower (a) to reflect events, conditions, contingencies or risks which, as determined by Bank in its good faith business judgment, do or may adversely affect (i) the Collateral or any other property which is security for the Obligations or its value (including without limitation any increase in delinquencies of Accounts), (ii) the assets, business or prospects of Borrower or any Guarantor, or (iii) the security interests and other rights of Bank in the Collateral (including the enforceability, perfection and priority thereof); or (b) to reflect Bank's reasonable belief that any collateral report or financial information furnished by or on behalf of Borrower or any Guarantor to Bank is or may have been incomplete, inaccurate or misleading in any material respect; or (c) in respect of any state of facts

which Bank determines constitutes an Event of Default or may, with notice or passage of time or both, constitute an Event of Default.

"**Responsible Officer**" is any of the Chief Executive Officer, President, Chief Financial Officer and Controller of Borrower.

"**Restricted License**" is any material license or other similar agreement with respect to which Borrower is the licensee (a) that prohibits or otherwise restricts Borrower from granting a security interest in Borrower's interest in such license or agreement or any other property, or (b) for which a default under or termination of could reasonably be expected to interfere with Bank's right to sell any Collateral.

"**Revolving Line**" is an aggregate principal amount equal to Six Million Dollars ($6,000,000.00).

"**Revolving Line Commitment Fee**" is defined in Section 2.6(a).

"**Revolving Line Maturity Date**" is June ___, 2020.

"**SEC**" shall mean the Securities and Exchange Commission, any successor thereto, and any analogous Governmental Authority.

"**Securities Account**" is any "securities account" as defined in the Code with such additions to such term as may hereafter be made.

"**Specified Affiliate**" is any Person (a) more than ten percent (10.0%) of whose aggregate issued and outstanding equity or ownership securities or interests, voting, non-voting or both, are owned or held directly or indirectly, beneficially or of record, by Borrower, and/or (b) whose equity or ownership securities or interests representing more than ten percent (10.0%) of such Person's total outstanding combined voting power are owned or held directly or indirectly, beneficially or of record, by Borrower.

"**Streamline Balance**" is defined in the definition of Streamline Period.

"**Streamline Period**" is, on and after the Effective Date, provided no Event of Default has occurred and is continuing, the period (a) commencing on the first (1st) day of the month following the day that Borrower provides to Bank a written report that, for each consecutive day in the immediately preceding month, Borrower's Net Cash, as determined by Bank in its discretion, is greater than One Dollar ($1.00) (the "**Streamline Balance**"); and (b) terminating on the earlier to occur of (i) the occurrence and continuance of an Event of Default, and (ii) the first (1st) day thereafter in which Borrower fails to maintain the Streamline Balance, as determined by Bank in its discretion. Upon the termination of a Streamline Period, Borrower must maintain the Streamline Balance each consecutive day for one (1) fiscal quarter as determined by Bank in its discretion, prior to entering into a subsequent Streamline Period. Borrower shall give Bank prior written notice of Borrower's election to enter into any such Streamline Period, and each such Streamline Period shall commence on the first (1st) day of the monthly period following the date Bank determines, in its reasonable discretion, that the Streamline Balance has been achieved.

"**Subordinated Debt**" is indebtedness incurred by Borrower subordinated to all of Borrower's now or hereafter indebtedness to Bank (pursuant to a subordination, intercreditor, or other similar agreement in form and substance satisfactory to Bank entered into between Bank and the other creditor), on terms acceptable to Bank.

"**Subsidiary**" is, as to any Person, a corporation, partnership, limited liability company or other entity of which shares of stock or other ownership interests having ordinary voting power (other than stock or such other ownership interests having such power only by reason of the happening of a contingency) to elect a majority of the board of directors or other managers of such corporation, partnership or other entity are at the time owned, or the management of which is otherwise controlled, directly or indirectly through one or more intermediaries, or both, by such Person. Unless the context otherwise requires, each reference to a Subsidiary herein shall be a reference to a Subsidiary of Borrower or Guarantor.

"**Term Loan Advances**" is defined in the EGC Loan Agreement.

"**Term Loan Commitment Fees**" is defined in the EGC Loan Agreement.

"**Third Party Equipment**" means the Equipment (and additions, accessions, parts, replacements, fixtures, improvements and attachments thereto and the proceeds thereof) financed or acquired pursuant to clause (c) of the definition of Permitted Liens.

"**Trademarks**" means any trademark and servicemark rights, whether registered or not, applications to register and registrations of the same and like protections, and the entire goodwill of the business of Borrower connected with and symbolized by such trademarks.

"**Transfer**" is defined in Section 7.1.

"**Warrant**" is that certain Warrant to Purchase Stock dated as of June 6, 2016, between Borrower and Bank, as amended, modified, supplemented and/or restated from time to time.

[Signature page follows.**]**

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the Effective Date.

BORROWER:

SAVAGE RIVER, INC.

By: /s/ Mark Nelson
Name: Mark Nelson
Title: Chief Financial Officer

BANK:

SILICON VALLEY BANK

By: /s/ Derek Hofmeister
Name: Derek Hofmeister
Title: Vice President

EXHIBIT A

COLLATERAL DESCRIPTION

The Collateral consists of all of Borrower's right, title and interest in and to the following personal property:

All goods, Accounts (including health-care receivables), Equipment, Inventory, contract rights or rights to payment of money, leases, license agreements, franchise agreements, General Intangibles, Intellectual Property, commercial tort claims, documents, instruments (including any promissory notes), chattel paper (whether tangible or electronic), cash, deposit accounts, certificates of deposit, fixtures, letters of credit rights (whether or not the letter of credit is evidenced by a writing), securities, and all other investment property, supporting obligations, and financial assets, whether now owned or hereafter acquired, wherever located; and

all Borrower's Books relating to the foregoing, and any and all claims, rights and interests in any of the above and all substitutions for, additions, attachments, accessories, accessions and improvements to and replacements, products, proceeds and insurance proceeds of any or all of the foregoing.

EXHIBIT B

COMPLIANCE STATEMENT

TO: SILICON VALLEY BANK Date: _____

FROM: SAVAGE RIVER, INC.

Under the terms and conditions of the Amended and Restated Loan and Security Agreement (Revolving Line) between SAVAGE RIVER, INC., a Delaware corporation ("**Borrower**")and Bank (the "**Agreement**"), Borrower is in complete compliance for the period ending with all required covenants except as noted below. Attached are the required documents evidencing such compliance, setting forth calculations prepared in accordance with GAAP consistently applied from one period to the next except as explained in an accompanying letter or footnotes. Capitalized terms used but not otherwise defined herein shall have the meanings given them in the Agreement.

Please indicate compliance status by circling Yes/No under "Complies" column.

Reporting Covenants	Required	Complies
Monthly financial statements with Compliance Statement	Monthly within 30 days	Yes No
Quarterly financial statements with Compliance Statement	Quarterly within 45 days	Yes No
Annual financial statements (CPA Audited)	FYE within 180 days	Yes No
10-Q, 10-K and 8-K	Within 5 days after filing with SEC	Yes No
A/R & A/P Agings; Detailed Account Debtor listing; inventory sell-through report; general ledger	Monthly within 30 days	Yes No
Borrowing Base Statements	Monthly within 7 days of month end	Yes No
Board-approved projections	Earlier of (a) 30 days after Board approval or (b) January 31st of each year, and as amended/updated	Yes No
409(a) Valuation Report	Within 30 days of completion	Yes No
The following Intellectual Property was registered after the Effective Date (if no registrations, state "None")		

STREAMLINE ELIGIBILITY AND PERFORMANCE PRICING			
Streamline Period	**Actual**	**Streamline Period Applies**	**Interest Rate for Revolving Line**
Net Cash > 1.00	$_____	Yes	Prime Rate + 0.75%
		No	Prime Rate + 1.25%

Financial Covenant	Required	Actual	Complies
Maintain at all times:			
Minimum Liquidity (tested monthly)	$4,000,000	$_____	Yes No

The following financial covenant and streamline eligibility analyses and information set forth in Schedule 1 attached hereto are true and accurate as of the date of this Compliance Statement.

The following are the exceptions with respect to the certification above: (If no exceptions exist, state “No exceptions to note.”)

_____

Schedule 1 to Compliance Statement

Financial Covenants and Streamline Eligibility of Borrower

In the event of a conflict between this Schedule and the Agreement, the terms of the Agreement shall govern.

Dated: _____

I. **Net Cash** (definition of Streamline Period in Section 13.1)

Required:	>$1.00	
Actual:		
A.	Aggregate amount of Borrower's unrestricted and unencumbered cash maintained with Bank	$
B.	Aggregate amount of all obligations and liabilities of Borrower to Bank	$
C.	Net Cash (line A minus line B)	$

Is line C greater than $1.00?

No, Streamline Period is not in effect _____ Yes, Streamline Period is in effect

II. **Liquidity** (Section 6.9(a))

Required:	≥$4,000,000.00	
Actual:		
A.	Aggregate amount of Borrower's unrestricted and unencumbered cash maintained with Bank or its Affiliates	$
B.	80% of Eligible Accounts	$
C.	The outstanding principal balance of any Advances	$
D.	Availability Amount (lesser of (i) the Revolving Line or (ii) line B, minus line C)	$
E.	Liquidity (line A plus line D)	$

Is line E equal to or greater than $4,000,000.00?

No, Streamline Period is not in effect _____ Yes, Streamline Period is in effect

LOAN AND SECURITY AGREEMENT
(Term Loan)

THIS LOAN AND SECURITY AGREEMENT (TERM LOAN) (this "**Agreement**") dated as of June 27, 2018 (the "**Effective Date**") between SILICON VALLEY BANK, a California corporation ("**Bank**"), and SAVAGE RIVER, INC., a Delaware corporation ("**Borrower**"), provides the terms on which Bank shall lend to Borrower and Borrower shall repay Bank. The parties agree as follows:

1. ACCOUNTING AND OTHER TERMS

Accounting terms not defined in this Agreement shall be construed following GAAP. Calculations and determinations must be made following GAAP. Capitalized terms not otherwise defined in this Agreement shall have the meanings set forth in Section 13. All other terms contained in this Agreement, unless otherwise indicated, shall have the meaning provided by the Code to the extent such terms are defined therein.

2. LOAN AND TERMS OF PAYMENT

2.1 Promise to Pay. Borrower hereby unconditionally promises to pay Bank the outstanding principal amount of all Credit Extensions and accrued and unpaid interest thereon as and when due in accordance with this Agreement.

2.2 Term Loan.

(a) Availability. Subject to the terms and conditions of this Agreement, upon Borrower's request, Bank shall make term loan advances available to Borrower in an aggregate original principal amount not to exceed the Term Loan Commitment Amount (each such advance is referred to herein as a "**Term Loan Advance**" and, collectively, as the "**Term Loan Advances**") in three (3) tranches as follows: (i) the first (1st) tranche shall be funded to Borrower on or about the Effective Date in a single Term Loan Advance in a principal amount not to exceed Ten Million Dollars ($10,000,000) (the "**Tranche One Term Loan Advance**"), (ii) provided that no Event of Default has occurred and is continuing, the second (2nd) tranche shall be available to Borrower from the Effective Date until the Term Loan Commitment Termination Date in a single Term Loan Advance in a principal amount of Five Million Dollars ($5,000,000) ("**Tranche Two Term Loan Advance**"), and (iii) provided that Borrower has achieved the Tranche Three Milestone and no Event of Default has occurred and is continuing, the third (3rd) tranche shall be available to Borrower from the date on which Borrower achieves the Tranche Three Milestone until the Term Loan Commitment Termination Date in a single Term Loan Advance in a principal amount of Five Million Dollars ($5,000,000) ("**Tranche Three Term Loan Advance**"). After repayment, no Term Loan Advance (or any portion thereof) may be reborrowed.

(b) Interest Payments. With respect to each Term Loan Advance, commencing on the first (1st) Payment Date following the Funding Date of such Term Loan Advance and continuing on the Payment Date of each month thereafter, Borrower shall make monthly payments of interest, in arrears, on the principal amount of such Term Loan Advance then outstanding at the rate set forth in Section 2.3(a)(i).

(c) Repayment. Commencing on the Term Loan Amortization Date and continuing on each Payment Date thereafter, Borrower shall repay each Term Loan Advance in (i) the Applicable Number of equal monthly installments of principal, plus (ii) monthly payments of accrued interest at the rate set forth in Section 2.3(a)(i). All outstanding principal and accrued and unpaid interest under each Term Loan Advance, and all other outstanding Obligations with respect to such Term Loan Advances, are due and payable in full on the Term Loan Maturity Date.

(d) Permitted Prepayment. Borrower shall have the option to prepay all or any portion of the Term Loan Advances, provided Borrower (i) delivers written notice (which may be revocable) to Bank of its election to prepay the Term Loan Advances at least five (5) days prior to such prepayment, and (ii) pays, on the date of such prepayment (A) the outstanding principal of all Term Loan Advances plus accrued and unpaid interest, (B) the Prepayment Fee, and (C) all other sums, if any, that shall have become due and payable with respect to the Term Loan Advances, including interest at the Default Rate with respect to any past due amounts.

(e) Mandatory Prepayment Upon an Acceleration. If the Term Loan Advances are accelerated by Bank following the occurrence and during the continuance of an Event of Default, Borrower shall immediately pay to Bank an amount equal to the sum of (i) all outstanding principal plus accrued and unpaid interest with respect to the Term Loan Advances, (ii) the Prepayment Fee, and (iii) all other sums, if any, that shall have become due and payable with respect to the Term Loan Advances, including interest at the Default Rate with respect to any past due amounts.

2.3 Payment of Interest on the Credit Extensions.

(a) Interest Rate.

(i) Term Loan. Subject to Section 2.3(b), the outstanding principal amount of each Term Loan Advance shall accrue interest at a floating per annum rate equal to four percent (4.00%) above the Prime Rate. Interest shall be payable monthly in accordance with Section 2.3(d) below.

(b) Default Rate. Immediately upon the occurrence and during the continuance of an Event of Default, Obligations shall bear interest at a rate per annum which is five percent (5.0%) above the rate that is otherwise applicable thereto (the "**Default Rate**"). Fees and expenses which are required to be paid by Borrower pursuant to the Loan Documents (including, without limitation, Bank Expenses) but are not paid when due shall bear interest until paid at a rate equal to the highest rate applicable to the Obligations. Payment or acceptance of the increased interest rate provided in this Section 2.2(b) is not a permitted alternative to timely payment and shall not constitute a waiver of any Event of Default or otherwise prejudice or limit any rights or remedies of Bank.

(c) Adjustment to Interest Rate. Changes to the interest rate of any Credit Extension based on changes to the Prime Rate shall be effective on the effective date of any change to the Prime Rate and to the extent of any such change.

(d) Payment; Interest Computation. Interest is payable monthly on the Payment Date of each month and shall be computed on the basis of a three hundred sixty (360)-day year for the actual number of days elapsed. In computing interest, (i) all payments received after 12:00 p.m. Pacific time on any day shall be deemed received at the opening of business on the next Business Day, and (ii) the date of the making of any Credit Extension shall be included and the date of payment shall be excluded; provided, however, that if any Credit Extension is repaid on the same day on which it is made, such day shall be included in computing interest on such Credit Extension.

2.4 Fees. Borrower shall pay to Bank:

(a) Term Loan Commitment Fees. Commitment fees in the aggregate amount equal to one percent (1.00%) of the Term Loan Commitment Amount (each "**Term Loan Commitment Fee**" and collectively, the "**Term Loan Commitment Fees**") shall be due and payable as follows: (i) a commitment fee of One Hundred Thousand Dollars ($100,000.00) (the "**Closing Date Term Loan Commitment Fee**") is fully earned, non-refundable, and payable to Bank on the Effective Date and (ii) an additional commitment fee (the "**Subsequent Funding Date Term Loan Commitment Fees**") shall be due and payable on each Funding Date of each Tranche Two Term Loan Advance and Tranche Three Term Loan Advance and shall be equal to Two Hundred Thousand Dollars ($200,000.00) multiplied by a percentage equal to the principal amount of such Term Loan Advance drawn on the applicable Funding Date divided by the Term Loan Commitment Amount, provided that such Subsequent Funding Date Term Loan Commitment Fees shall not exceed One Hundred Thousand Dollars ($100,000.00) in the aggregate;

(b) Prepayment Fee. The Prepayment Fee, when due hereunder;

(c) Bank Expenses. All Bank Expenses (including reasonable attorneys' fees and expenses for documentation and negotiation of this Agreement) incurred through and after the Effective Date, when due (or, if no stated due date, upon demand by Bank). Notwithstanding the foregoing, so long as there are no more than two (2) reasonable turns of the Loan Documents and the EGC Loan Documents, Bank Expenses for legal fees (not including hard costs for diligence and other searches) shall not exceed Thirty Thousand Dollars ($30,000) as of the Effective Date.

(d) Fees Fully Earned. Unless otherwise provided in this Agreement or in a separate writing by Bank, Borrower shall not be entitled to any credit, rebate, or repayment of any fees earned by Bank pursuant to this Agreement notwithstanding any termination of this Agreement or the suspension or termination of Bank's obligation to make loans and advances hereunder. Bank may deduct amounts owing by Borrower under the clauses of this Section 2.4 pursuant to the terms of Section 2.5(c). Bank shall provide Borrower written notice of deductions made from the Designated Deposit Account pursuant to the terms of the clauses of this Section 2.4.

2.5 Payments; Application of Payments; Debit of Accounts.

(a) All payments to be made by Borrower under any Loan Document shall be made in immediately available funds in Dollars, without setoff or counterclaim, before 12:00 p.m. Pacific time on the date when due. Payments of principal and/or interest received after 12:00 p.m. Pacific time are considered received at the opening of business on the next Business Day. When a payment is due on a day that is not a Business Day, the payment shall be due the next Business Day, and additional fees or interest, as applicable, shall continue to accrue until paid.

(b) Bank has the right in its good faith business judgment to determine the order and manner in which all payments with respect to the Obligations may be applied. Borrower shall have no right to specify the order or the accounts to which Bank shall allocate or apply any payments required to be made by Borrower to Bank or otherwise received by Bank under this Agreement when any such allocation or application is not specified elsewhere in this Agreement.

(c) Bank may debit any of Borrower's deposit accounts, including the Designated Deposit Account, for principal and interest payments or any other amounts Borrower owes Bank arising under this Agreement and the other Loan Documents when due. These debits shall not constitute a set-off.

2.6 Withholding. Payments received by Bank from Borrower under this Agreement will be made free and clear of and without deduction for any and all present or future taxes, levies, imposts, duties, deductions, withholdings, assessments, fees or other charges imposed by any Governmental Authority (including any interest, additions to tax or penalties applicable thereto). Specifically, however, if at any time any Governmental Authority, applicable law, regulation or international agreement requires Borrower to make any withholding or deduction from any such payment or other sum payable hereunder to Bank, Borrower hereby covenants and agrees that the amount due from Borrower with respect to such payment or other sum payable hereunder will be increased to the extent necessary to ensure that, after the making of such required withholding or deduction, Bank receives a net sum equal to the sum which it would have received had no withholding or deduction been required, and Borrower shall pay the full amount withheld or deducted to the relevant Governmental Authority. Borrower will, upon request, furnish Bank with proof reasonably satisfactory to Bank indicating that Borrower has made such withholding payment; provided, however, that Borrower need not make any withholding payment if the amount or validity of such withholding payment is contested in good faith by appropriate and timely proceedings and as to which payment in full is bonded or reserved against by Borrower. The agreements and obligations of Borrower contained in this Section 2.6 shall survive the termination of this Agreement.

3. CONDITIONS OF LOANS

3.1 Conditions Precedent to Initial Credit Extension. Bank's obligation to make the initial Credit Extension is subject to the condition precedent that Bank shall have received, in form and substance satisfactory to Bank, such documents, and completion of such other matters, as Bank may reasonably deem necessary or appropriate, including, without limitation:

(a) duly executed signatures to the Loan Documents;

(b) evidence that (i) Borrower's Indebtedness to the Missouri Department of Economic Development has been or will be, concurrently with the initial Credit Extension, repaid in full, (ii) the Liens securing such Indebtedness will be terminated, and (iii) the documents and/or filings evidencing the perfection of such Liens,

including without limitation any financing statements and/or control agreements, have been or will be, concurrently with the initial Credit Extension, terminated;

(c) the Operating Documents and good standing certificates of Borrower certified by the Secretaries of State (or equivalent agency) of the States of Delaware and California and each other jurisdiction in which Borrower is qualified to conduct business, each as of a date no earlier than thirty (30) days prior to the Effective Date;

(d) a secretary's certificate of Borrower with respect to such Borrower's Operating Documents, incumbency, specimen signatures and resolutions authorizing the execution and delivery of this Agreement and the other Loan Documents to which it is a party;

(e) duly executed signatures to the completed Borrowing Resolutions for Borrower;

(f) certified copies, dated as of a recent date, of financing statement searches, as Bank may request, accompanied by written evidence (including any UCC termination statements) that the Liens indicated in any such financing statements constitute Permitted Liens or have been or, in connection with the initial Credit Extension, will be terminated or released;

(g) the Perfection Certificate of Borrower, together with the duly executed signature thereto;

(h) Intellectual Property search results and completed exhibits to the IP Agreement; and

(i) payment of the documented fees and Bank Expenses then due as specified in Section 2.4 hereof.

3.2 Conditions Precedent to all Credit Extensions. Bank's obligations to make each Credit Extension, including the initial Credit Extension, is subject to the following conditions precedent:

(a) timely receipt of an executed Payment/Advance Form and any materials and documents required by Section 3.4;

(b) the representations and warranties in this Agreement shall be true, accurate, and complete in all material respects on the date of the Payment/Advance Form, and on the Funding Date of each Credit Extension; provided, however, that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof; and provided, further that those representations and warranties expressly referring to a specific date shall be true, accurate and complete in all material respects as of such date, and no Event of Default shall have occurred and be continuing or result from the Credit Extension. Each Credit Extension is Borrower's representation and warranty on that date that the representations and warranties in this Agreement remain true, accurate, and complete in all material respects; provided, however, that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof; and provided, further that those representations and warranties expressly referring to a specific date shall be true, accurate and complete in all material respects as of such date; and

(c) in Bank's sole but reasonable discretion, there has not been a Material Adverse Change.

3.3 Covenant to Deliver.

(a) Borrower agrees to deliver to Bank each item required to be delivered to Bank under this Agreement as a condition precedent to any Credit Extension. Borrower expressly agrees that a Credit Extension made prior to the receipt by Bank of any such item shall not constitute a waiver by Bank of Borrower's obligation to deliver such item, and the making of any Credit Extension in the absence of a required item shall be in Bank's sole discretion.

(b) Within forty-five (45) days after the Effective Date, Bank shall have received, in form and substance satisfactory to Bank:

(i) a landlord's consent in favor of Bank for each of Borrower's leased locations, by the respective landlord thereof, together with the duly executed original signatures thereto;

(ii) a bailee's waiver in favor of Bank for each location where Borrower maintains property with a third party having a fair market value in excess of One Hundred Thousand Dollars ($100,000), by each such third party, together with the duly executed original signatures thereto; and

(iii) evidence reasonably satisfactory to Bank that the insurance policies and endorsements required by Section 6.7 hereof are in full force and effect, together with appropriate evidence showing lender loss payable and/or additional insured clauses or endorsements in favor of Bank.

3.4 Procedures for Borrowing.

(a) Term Loan Advances. Subject to the prior satisfaction of all other applicable conditions to the making of a Term Loan Advance set forth in this Agreement, to obtain a Term Loan Advance, Borrower (via an individual duly authorized by an Administrator) shall notify Bank (which notice shall be irrevocable) by electronic mail by 12:00 noon Pacific time on the Funding Date of the Term Loan Advance. Such notice shall be made by Borrower through Bank's online banking program, provided, however, if Borrower is not utilizing Bank's online banking program, then such notice shall be in a written format reasonably acceptable to Bank that is executed by an Authorized Signer. Bank shall have received satisfactory evidence that the Board has approved that such Authorized Signer may provide such notices and request Term Loan Advances (but for the avoidance of doubt, Borrower does not need to obtain Board approval with respect to each Term Loan Advance). In connection with such notification, Borrower must promptly deliver to Bank by electronic mail or through Bank's online banking program a completed Payment/Advance Form executed by an Authorized Signer together with such other reports and information, as Bank may request in its sole but reasonable discretion. Bank shall credit proceeds of any Term Loan Advance to the Designated Deposit Account. Bank may make Term Loan Advances under this Agreement based on instructions from an Authorized Signer or without instructions if the Term Loan Advances are necessary to meet Obligations which have become due.

4. CREATION OF SECURITY INTEREST.

4.1 Grant of Security Interest. Borrower hereby grants Bank, to secure the payment and performance in full of all of the Obligations, a continuing security interest in, and pledges to Bank, the Collateral, wherever located, whether now owned or hereafter acquired or arising, and all proceeds and products thereof.

Subject to the terms contained herein, Bank agrees that the Liens granted to it hereunder in Third Party Equipment shall be subordinate to the Liens in Third Party Equipment of future lenders and lessors engaged in the business of providing equipment financing and leasing for Third Party Equipment; provided that such Liens are (i) permitted under clause (c) of the definition of Permitted Liens, and (ii) properly perfected as a valid "purchase money security interest" under applicable law. So long as no Event of Default has occurred and is continuing, Bank agrees to execute and deliver, at Borrower's expense, such agreements and documents as may be reasonably requested in writing by Borrower and such equipment lender or equipment lessor from time to time which set forth the lien subordination described in this Section 4.1 and are reasonably acceptable to Bank. Bank shall have no obligation to execute any agreement or document which would impose obligations, restrictions, or lien priority on Bank which are less favorable to Bank than those described in this Section 4.1. For purposes of clarity, such subordinations shall be of the priority of Bank's Liens with respect to and not in right in payment in connection with such Third Party Equipment and shall not otherwise limit Bank's rights or remedies with respect to such Third Party Equipment.

Borrower acknowledges that it previously has entered, and/or may in the future enter, into Bank Services Agreements with Bank. Regardless of the terms of any Bank Services Agreement, Borrower agrees that any amounts Borrower owes Bank thereunder shall be deemed to be Obligations hereunder and that it is the intent of Borrower and Bank to have all such Obligations secured by the first priority perfected security interest in the Collateral granted herein

(subject only to Permitted Liens that are permitted pursuant to the terms of this Agreement to have superior priority to Bank's Lien in this Agreement).

If this Agreement is terminated, Bank's Lien in the Collateral shall continue until the Obligations (other than inchoate indemnity obligations) are repaid in full in cash. Upon payment in full in cash of the Obligations (other than inchoate indemnity obligations) and at such time as Bank's obligation to make Credit Extensions has terminated, Bank shall, at the sole cost and expense of Borrower, release its Liens in the Collateral and all rights therein shall revert to Borrower. In the event (x) all Obligations (other than inchoate indemnity obligations), except for Bank Services, are satisfied in full, and (y) this Agreement is terminated, Bank shall terminate the security interest granted herein upon Borrower providing cash collateral acceptable to Bank in its good faith business judgment for Bank Services, if any. In the event such Bank Services consist of outstanding Letters of Credit, Borrower shall provide to Bank cash collateral in an amount equal to (x) if such Letters of Credit are denominated in Dollars, then at least one hundred five percent (105.0%); and (y) if such Letters of Credit are denominated in a Foreign Currency, then at least one hundred ten percent (110.0%), of the Dollar Equivalent of the face amount of all such Letters of Credit plus all interest, fees, and costs due or to become due in connection therewith (as estimated by Bank in its good faith business judgment), to secure all of the Obligations relating to such Letters of Credit.

4.2 Priority of Security Interest. Borrower represents, warrants, and covenants that the security interest granted herein is and shall at all times continue to be a first priority perfected security interest in the Collateral (subject only to Permitted Liens that are permitted pursuant to the terms of this Agreement to have superior priority to Bank's Lien under this Agreement). If Borrower shall acquire a commercial tort claim in excess of One Hundred Thousand Dollars ($100,000), Borrower shall promptly notify Bank in a writing signed by Borrower of the general details thereof and grant to Bank in such writing a security interest therein and in the proceeds thereof, all upon the terms of this Agreement, with such writing to be in form and substance reasonably satisfactory to Bank.

4.3 Authorization to File Financing Statements. Borrower hereby authorizes Bank to file financing statements, without notice to Borrower, with all appropriate jurisdictions to perfect or protect Bank's interest or rights hereunder, including a notice that any disposition of the Collateral, by either Borrower or any other Person, shall be deemed to violate the rights of Bank under the Code. Such financing statements may indicate the Collateral as "all personal property assets of the Debtor" or words of similar effect, or as being of an equal or lesser scope, or with greater detail, all in Bank's discretion.

5. REPRESENTATIONS AND WARRANTIES

Borrower represents and warrants as follows:

5.1 Due Organization, Authorization; Power and Authority. Borrower is duly existing and in good standing as a Registered Organization in its jurisdiction of formation and is qualified and licensed to do business and is in good standing in any jurisdiction in which the conduct of its business or its ownership of property requires that it be qualified except where the failure to do so could not reasonably be expected to have a material adverse effect on Borrower's business. In connection with this Agreement, Borrower has delivered to Bank a completed certificate signed by Borrower, entitled "Perfection Certificate" (the "**Perfection Certificate**"). Borrower represents and warrants to Bank that (a) Borrower's exact legal name is that indicated on the Perfection Certificate and on the signature page hereof; (b) Borrower is an organization of the type and is organized in the jurisdiction set forth in the Perfection Certificate; (c) the Perfection Certificate accurately sets forth Borrower's organizational identification number or accurately states that Borrower has none; (d) the Perfection Certificate accurately sets forth Borrower's place of business, or, if more than one, its chief executive office as well as Borrower's mailing address (if different than its chief executive office); (e) Borrower (and each of its predecessors) has not, in the past five (5) years, changed its jurisdiction of formation, organizational structure or type, or any organizational number assigned by its jurisdiction; and (f) all other information set forth on the Perfection Certificate pertaining to Borrower and each of its Subsidiaries is accurate and complete (it being understood and agreed that Borrower may from time to time update certain information in the Perfection Certificate after the Effective Date to the extent permitted by one or more specific provisions in this Agreement).

The execution, delivery and performance by Borrower of the Loan Documents to which it is a party have been duly authorized, and do not (i) conflict with any of Borrower's organizational documents, (ii) contravene, conflict with, constitute a default under or violate any material Requirement of Law, (iii) contravene, conflict or violate any applicable order, writ, judgment, injunction, decree, determination or award of any Governmental Authority by which Borrower or any of its Subsidiaries or any of their property or assets may be bound or affected, (iv) require any action by, filing, registration, or qualification with, or Governmental Approval from, any Governmental Authority (except such Governmental Approvals which have already been obtained and are in full force and effect or are being obtained pursuant to Section 6.1(b)) or (v) conflict with, contravene, constitute a default or breach under, or result in or permit the termination or acceleration of, any material agreement by which Borrower is bound. Borrower is not in default under any agreement to which it is a party or by which it is bound in which the default could reasonably be expected to have a material adverse effect on Borrower's business.

5.2 Collateral. Borrower has good title to, rights in, and the power to transfer each item of the Collateral upon which it purports to grant a Lien hereunder, free and clear of any and all Liens except Permitted Liens. Borrower has no Collateral Accounts at or with any bank or financial institution other than Bank or Bank's Affiliates except for the Collateral Accounts described in the Perfection Certificate delivered to Bank in connection herewith and which Borrower has taken such actions as are necessary to give Bank a perfected security interest therein, pursuant to the terms of Section 6.8(b). The Accounts are bona fide, existing obligations of the Account Debtors.

The Collateral (other than Offsite Collateral) is not in the possession of any third party bailee (such as a warehouse) except as otherwise provided in the Perfection Certificate. None of the components of the Collateral (other than Offsite Collateral) shall be maintained at locations other than as provided in the Perfection Certificate or as permitted pursuant to Section 7.2.

All Inventory is in all material respects of good and marketable quality, free from material defects.

Borrower is the sole owner of the Intellectual Property which it owns or purports to own except for (a) non-exclusive licenses granted to its customers in the ordinary course of business, (b) over-the-counter software that is commercially available to the public, and (c) material Intellectual Property licensed to Borrower and noted on the Perfection Certificate. Each Patent which it owns or purports to own and which is material to Borrower's business is valid and enforceable, and no part of the Intellectual Property which Borrower owns or purports to own and which is material to Borrower's business has been judged invalid or unenforceable, in whole or in part. To the best of Borrower's knowledge, no claim has been made that any part of the Intellectual Property violates the rights of any third party except to the extent such claim would not reasonably be expected to have a material adverse effect on Borrower's business.

Except as noted on the Perfection Certificate, Borrower is not a party to, nor is it bound by, any Restricted License.

5.3 Reserved.

5.4 Litigation. Except as disclosed in writing to Bank, there are no actions or proceedings pending or, to the knowledge of any Responsible Officer, threatened in writing by or against Borrower or any of its Subsidiaries involving more than, individually or in the aggregate, One Hundred Thousand Dollars ($100,000.00).

5.5 Financial Statements; Financial Condition. All consolidated financial statements for Borrower and any of its Subsidiaries delivered to Bank by submission to the Financial Statement Repository or otherwise submitted to Bank fairly present in all material respects Borrower's consolidated financial condition and Borrower's consolidated results of operations. There has not been any material deterioration in Borrower's consolidated financial condition since the date of the most recent financial statements submitted to the Financial Statement Repository or otherwise submitted to Bank.

5.6 Solvency. The fair salable value of Borrower's consolidated assets (including goodwill minus disposition costs) exceeds the fair value of Borrower's liabilities; Borrower is not left with unreasonably small capital after the transactions in this Agreement; and Borrower is able to pay its debts (including trade debts) as they mature.

5.7 Regulatory Compliance. Borrower is not an "investment company" or a company "controlled" by an "investment company" under the Investment Company Act of 1940, as amended. Borrower is not engaged as one of its important activities in extending credit for margin stock (under Regulations X, T and U of the Federal Reserve Board of Governors). Neither Borrower nor any of its Subsidiaries is a "holding company" or an "affiliate" of a "holding company" or a "subsidiary company" of a "holding company" as each term is defined and used in the Public Utility Holding Company Act of 2005. Borrower (a) has complied in all material respects with all Requirements of Law, and (b) has not violated any Requirements of Law the violation of which could reasonably be expected to have a material adverse effect on its business. None of Borrower's or any of its Subsidiaries' properties or assets has been used by Borrower or any Subsidiary or, to the best of Borrower's knowledge, by previous Persons, in disposing, producing, storing, treating, or transporting any hazardous substance other than legally. Borrower and each of its Subsidiaries have obtained all consents, approvals and authorizations of, made all declarations or filings with, and given all notices to, all Governmental Authorities that are necessary to continue their respective businesses as currently conducted, except where the failure to do so could not reasonably be expected to have a material adverse effect on Borrower's business or operations.

5.8 Subsidiaries; Investments. Borrower does not own any stock, partnership, or other ownership interest or other equity securities except for Permitted Investments.

5.9 Tax Returns and Payments; Pension Contributions. Except for taxes that are being contested pursuant to the subsequent sentence, Borrower has timely filed (taking into account all applicable extension periods) all required tax returns and reports, and Borrower has timely paid all foreign, federal, state and local taxes, assessments, deposits and contributions owed by Borrower, except with respect to such taxes, assessments, deposits and contributions which do not, individually or in the aggregate, exceed Ten Thousand Dollars ($10,000.00) except (a) to the extent such taxes are being contested in good faith by appropriate proceedings promptly instituted and diligently conducted, so long as such reserve or other appropriate provision, if any, as shall be required in conformity with GAAP shall have been accrued therefor, or (b) if such taxes, assessments, deposits and contributions do not, individually or in the aggregate, exceed Fifty Thousand Dollars ($50,000.00).

To the extent Borrower defers payment of any contested taxes, Borrower shall (i) notify Bank in writing of the commencement of, and any material development in, the proceedings, and (ii) post bonds or take any other steps required to prevent the Governmental Authority levying such contested taxes from obtaining a Lien upon any of the Collateral that is other than a "Permitted Lien." Borrower is unaware of any claims or adjustments proposed for any of Borrower's prior tax years which could result in additional taxes becoming due and payable by Borrower in excess of Fifty Thousand Dollars ($50,000.00). Borrower has paid all amounts necessary to fund all present pension, profit sharing and deferred compensation plans in accordance with their terms, and Borrower has not withdrawn from participation in, and has not permitted partial or complete termination of, or permitted the occurrence of any other event with respect to, any such plan which could reasonably be expected to result in any liability of Borrower, including any liability to the Pension Benefit Guaranty Corporation or its successors or any other governmental agency.

5.10 Use of Proceeds. Borrower shall use the proceeds of the Credit Extensions solely as working capital and to fund its general business requirements and not for personal, family, household or agricultural purposes.

5.11 Full Disclosure. No written representation, warranty or other statement of Borrower in any report, certificate, or written statement submitted to the Financial Statement Repository or otherwise submitted to Bank, as of the date such representation, warranty, or other statement was made, taken together with all such written reports, written certificates and written statements submitted to the Financial Statement Repository or otherwise submitted to Bank, contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements contained in the reports, certificates, or written statements not misleading (it being recognized by Bank that the projections and forecasts provided by Borrower in good faith and based upon reasonable assumptions are not viewed as facts and that actual results during the period or periods covered by such projections and forecasts may differ from the projected or forecasted results).

5.12 Definition of "Knowledge." For purposes of the Loan Documents, whenever a representation or warranty is made to Borrower's knowledge or awareness, to the "best of" Borrower's knowledge, or with a similar

qualification, knowledge or awareness means the actual knowledge, after reasonable investigation, of any Responsible Officer.

6. AFFIRMATIVE COVENANTS

Borrower shall do all of the following:

6.1 Government Compliance.

(a) Maintain its and all its Subsidiaries' legal existence and good standing in their respective jurisdictions of formation and maintain qualification in each jurisdiction in which the failure to so qualify would reasonably be expected to have a material adverse effect on Borrower's business or operations. Borrower shall comply, and have each Subsidiary comply, in all material respects, with all laws, ordinances and regulations to which it is subject, noncompliance with which could reasonably be expected to have a material adverse effect on Borrower's business.

(b) Obtain all of the Governmental Approvals necessary for the performance by Borrower of its obligations under the Loan Documents to which it is a party and the grant of a security interest to Bank in all of the Collateral. Borrower shall promptly provide copies of any such obtained Governmental Approvals to Bank.

6.2 Financial Statements, Reports. Provide Bank with the following by submitting to the Financial Statement Repository or otherwise submitting to Bank:

(a) as soon as available, but no later than thirty (30) days after the last day of each month, a company-prepared consolidated and consolidating balance sheet and income statement covering Borrower's and each of its Subsidiary's operations for such month in a form reasonably acceptable to Bank (the "**Monthly Financial Statements**");

(b) within (i) thirty (30) days after the last day of each month and (ii) forty-five (45) days after the last day of each fiscal quarter of Borrower, and together with the Monthly Financial Statements and Quarterly Financial Statements, a completed Compliance Statement, confirming that as of the end of such month or fiscal quarter, as applicable, Borrower was in full compliance with all of the terms and conditions of this Agreement, and setting forth calculations showing compliance with the financial covenants (if any) set forth in this Agreement and such other information as Bank may reasonably request, including, without limitation, a statement that at the end of such month or fiscal quarter, as applicable, there were no held checks;

(c) as soon as available, and in any event within forty-five (45) days after the last day of each fiscal quarter of Borrower, company-prepared consolidated and consolidating balance sheet and income statement covering Borrower's and each of its Subsidiary's operations for such quarter certified by a Responsible Officer and in a form reasonably acceptable to Bank (the "**Quarterly Financial Statements**");

(d) as soon as available but no later than the earlier of (i) thirty (30) days after the approval thereof by the Board or (ii) January 31st of each year, and contemporaneously with any updates or amendments thereto, (1) annual operating budgets (including income statements, balance sheets and cash flow statements, by month) for the upcoming fiscal year of Borrower, and (2) annual financial projections for the following fiscal year (on a quarterly basis), in each case as approved by the Board, together with any related business forecasts used in the preparation of such annual financial projections;

(e) as soon as available, and in any event within one hundred eighty (180) days after the last day of Borrower's fiscal year, audited consolidated financial statements prepared under GAAP, consistently applied, together with an unqualified opinion on the financial statements from an independent certified public accounting firm reasonably acceptable to Bank;

(f) in the event that Borrower becomes subject to the reporting requirements under the Exchange Act within five (5) days of filing, copies of all periodic and other reports, proxy statements and other similar materials

filed by Borrower and/or any Guarantor with the SEC, any Governmental Authority succeeding to any or all of the functions of the SEC or with any national securities exchange, or distributed to all of its shareholders (or required to be distributed), as the case may be (other than materials filed by Borrower on a "confidential treatment" basis). Documents required to be delivered pursuant to the terms hereof (to the extent any such documents are included in materials otherwise filed with the SEC) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date on which Borrower posts such documents, or provides a link thereto, on Borrower's website on the internet at Borrower's website address, or are available at www.sec.gov (or any successor site maintained by the SEC for similar purposes); provided, however, Borrower shall promptly notify Bank in writing (which may be by electronic mail) of the posting of any such documents;

(g) within five (5) days of delivery, copies of all statements, reports and notices made available to Borrower's security holders or to any holders of Subordinated Debt;

(h) within thirty (30) after completion thereof, a copy of each 409(a) valuation report for Borrower's capital stock;

(i) prompt written notice of any changes to the beneficial ownership information set out in the Client Attestation provided by Borrower on the Effective Date. Borrower understands and acknowledges that Bank relies on such true, accurate and up-to-date beneficial ownership information to meet Bank's regulatory obligations to obtain, verify and record information about the beneficial owners of its legal entity customers;

(j) within five (5) days after the occurrence thereof, written notice of a Key Person departing from or ceasing to be employed by Borrower;

(k) prompt report of any legal actions pending or threatened in writing against Borrower or any of its Subsidiaries that could reasonably be expected to result in damages or costs to Borrower or any of its Subsidiaries of, individually or in the aggregate, Two Hundred Fifty Thousand Dollars ($250,000.00) or more; and

(l) promptly, from time to time, such other financial information regarding Borrower or compliance with the terms of any Loan Documents as reasonably requested by Bank.

Any submission by Borrower of a Compliance Statement or any other financial statement submitted to the Financial Statement Repository pursuant to this Section 6.2 or otherwise submitted to Bank shall be deemed to be a representation by Borrower that (a) as of the date of such Compliance Statement or other financial statement, the information and calculations set forth therein are true, accurate and correct, (b) as of the end of the compliance period set forth in such submission, Borrower is in complete compliance with all required covenants except as noted in such Compliance Statement or other financial statement, as applicable; (c) as of the date of such submission, no Events of Default have occurred or are continuing; (d) all representations and warranties other than any representations or warranties that are made as of a specific date in Article 5 remain true and correct in all material respects as of the date of such submission except as noted in such Compliance Statement or other financial statement, as applicable; (e) as of the date of such submission, Borrower and each of its Subsidiaries has timely filed all required tax returns and reports, and Borrower has timely paid all foreign, federal, state and local taxes, assessments, deposits and contributions owed by Borrower except as otherwise permitted pursuant to the terms of Section 5.9; and (f) as of the date of such submission, no Liens have been levied or claims made against Borrower or any of its Subsidiaries relating to unpaid employee payroll or benefits of which Borrower has not previously provided written notification to Bank.

6.3 Reserved.

6.4 Reserved.

6.5 Taxes; Pensions. Timely file or obtain extensions for filing (taking into account all applicable extension periods), and require each of its Subsidiaries to timely file or obtain extensions for filing (taking into account all applicable extension periods), all required tax returns and reports and timely pay or obtain extensions for payment (taking into account all applicable extension periods), and require each of its Subsidiaries to timely pay or obtain

extensions for payment (taking into account all applicable extension periods), all foreign, federal, state and local taxes, assessments, deposits and contributions owed by Borrower and each of its Subsidiaries, except for deferred payment of any taxes contested pursuant to the terms of Section 5.9 hereof and taxes and assessments with respect to which the amount does not exceed the amount set forth in Section 5.9 hereof, and shall deliver to Bank, within five (5) days after appropriate certificates attesting to such payments, and pay all amounts necessary to fund all present pension, profit sharing and deferred compensation plans in accordance with their terms.

6.6 Access to Collateral; Books and Records. At reasonable times, on three (3) Business Days' notice (provided no notice is required if an Event of Default has occurred and is continuing), Bank, or its agents, shall have the right to inspect the Collateral and the right to audit and copy Borrower's Books. The foregoing inspections and audits shall be conducted no more often than twice every twelve (12) months, unless an Event of Default has occurred and is continuing in which case such inspections and audits shall occur as often as Bank shall determine is necessary. The foregoing inspections and audits shall be conducted at Borrower's expense and the charge therefor shall be One Thousand Dollars ($1,000.00) per person per day (or such higher amount as shall represent Bank's then-current standard charge for the same), plus reasonable out-of-pocket expenses. In the event Borrower and Bank schedule an audit more than eight (8) days in advance, and Borrower cancels or seeks to or reschedules the audit with less than eight (8) days written notice to Bank, then (without limiting any of Bank's rights or remedies) Borrower shall pay Bank a fee of Two Thousand Dollars ($2,000.00) plus any out-of-pocket expenses incurred by Bank to compensate Bank for the anticipated costs and expenses of the cancellation or rescheduling.

6.7 Insurance.

(a) Keep its business and the Collateral insured for risks and in amounts standard for companies in Borrower's industry and location and as Bank may reasonably request. Insurance policies shall be in a form, with financially sound and reputable insurance companies that are not Affiliates of Borrower, and in amounts that are commercially reasonable and satisfactory to Bank in its good faith discretion (Bank acknowledges that insurance maintained by Borrower as of the Effective Date is acceptable to Bank as of the Effective Date). All property policies shall have a lender's loss payable endorsement showing Bank as the sole lender loss payee. All liability policies shall show, or have endorsements showing, Bank as an additional insured. Bank shall be named as lender loss payee and/or additional insured with respect to any such insurance providing coverage in respect of any Collateral. Bank acknowledges that the insurance maintained by Borrower as of the Effective Date is acceptable to Bank as of the Effective Date.

(b) Ensure that proceeds payable under any property policy are, at Bank's option, payable to Bank on account of the Obligations.

(c) At Bank's request, Borrower shall deliver certified copies of insurance policies and evidence of all premium payments. Each provider of any such insurance required under this Section 6.7 shall agree, by endorsement upon the policy or policies issued by it or by independent instruments furnished to Bank, that it will give Bank thirty (30) days prior written notice before any such policy or policies shall be canceled. If Borrower fails to obtain insurance as required under this Section 6.7 or to pay any amount or furnish any required proof of payment to third persons and Bank, Bank may make all or part of such payment or obtain such insurance policies required in this Section 6.7, and take any action under the policies Bank deems prudent.

6.8 Accounts.

(a) Maintain the Cash Collateral Account, all of its primary banking relationship (including all of its operating and other deposit accounts, and securities/investment accounts), and letters of credit with Bank and Bank's Affiliates. Any Guarantor shall maintain all of its primary banking relationship (including all of its operating and other deposit accounts, and securities/investment accounts), and letters of credit with Bank and Bank's Affiliates.

(b) In addition to and without limiting the restrictions in (a), Borrower shall provide Bank five (5) days prior written notice before establishing any Collateral Account at or with any bank or financial institution other than Bank or Bank's Affiliates. For each Collateral Account that Borrower at any time maintains, Borrower shall cause

the applicable bank or financial institution (other than Bank) at or with which any Collateral Account is maintained to execute and deliver a Control Agreement or other appropriate instrument with respect to such Collateral Account to perfect Bank's Lien in such Collateral Account in accordance with the terms hereunder which Control Agreement may not be terminated without the prior written consent of Bank. The provisions of the previous sentence shall not apply to (i) deposit accounts exclusively used for payroll, payroll taxes, and other employee wage and benefit payments to or for the benefit of Borrower's employees and identified to Bank by Borrower as such or (ii) Borrower's deposit accounts at Chase Bank provided the aggregate balance thereof does not exceed Two Hundred Thousand Dollars ($200,000) at any time.

6.9 Reserved.

6.10 Protection and Registration of Intellectual Property Rights.

(a) (i) Protect, defend and maintain the validity and enforceability of its Intellectual Property material to Borrower's business; (ii) promptly advise Bank in writing of material infringements or any other event that could reasonably be expected to materially and adversely affect the value of its Intellectual Property material to Borrower's business; and (iii) not allow any Intellectual Property material to Borrower's business to be abandoned, forfeited or dedicated to the public without Bank's written consent.

(b) If Borrower (i) obtains any Patent, registered Trademark, registered Copyright, registered mask work, or any pending application for any of the foregoing, whether as owner, licensee or otherwise, or (ii) applies for any Patent or the registration of any Trademark, then Borrower shall promptly provide written notice thereof to Bank and shall execute such intellectual property security agreements and other documents and take such other actions as Bank may request in its good faith business judgment to perfect and maintain a first priority perfected security interest in favor of Bank in such property. If Borrower decides to register any Copyrights or mask works in the United States Copyright Office, Borrower shall: (x) provide Bank with prior written notice of Borrower's intent to register such Copyrights or mask works together with a copy of the application it intends to file with the United States Copyright Office (excluding exhibits thereto); (y) execute an intellectual property security agreement and such other documents and take such other actions as Bank may request in its good faith business judgment to perfect and maintain a first priority perfected security interest in favor of Bank in the Copyrights or mask works intended to be registered with the United States Copyright Office; and (z) record such intellectual property security agreement with the United States Copyright Office contemporaneously with filing the Copyright or mask work application(s) with the United States Copyright Office. Borrower shall promptly provide to Bank copies of all applications that it files for Patents or for the registration of Trademarks, Copyrights or mask works, together with evidence of the recording of the intellectual property security agreement required for Bank to perfect and maintain a first priority perfected security interest in such property.

(c) Provide written notice to Bank within ten (10) days of entering or becoming bound by any Restricted License (other than over-the-counter software that is commercially available to the public). Borrower shall take such commercially reasonable steps as Bank requests to obtain the consent of, or waiver by, any person whose consent or waiver is necessary for (i) any Restricted License to be deemed "Collateral" and for Bank to have a security interest in it that might otherwise be restricted or prohibited by law or by the terms of any such Restricted License, whether now existing or entered into in the future, and (ii) Bank to have the ability in the event of a liquidation of any Collateral to dispose of such Collateral in accordance with Bank's rights and remedies under this Agreement and the other Loan Documents.

6.11 Litigation Cooperation. From the date hereof and continuing through the termination of this Agreement, make reasonably available to Bank, during normal business hours, without expense to Bank, Borrower and its officers, employees and agents and Borrower's books and records, to the extent that Bank may deem them reasonably necessary to prosecute or defend any third-party suit or proceeding instituted by or against Bank with respect to any Collateral or relating to Borrower.

6.12 Online Banking.

(a) Utilize Bank's online banking platform for all matters reasonably requested by Bank which shall include, without limitation (and without request by Bank for the following matters), uploading information pertaining to Accounts and Account Debtors, requesting approval for exceptions, requesting Credit Extensions, and uploading financial statements and other reports required to be delivered by this Agreement (including, without limitation, those described in Section 6.2 of this Agreement).

(b) Comply with the terms of Bank's Online Banking Agreement as in effect from time to time and ensure that all persons utilizing Bank's online banking platform are duly authorized to do so by an Administrator. Bank shall be entitled to assume the authenticity, accuracy and completeness on any information, instruction or request for a Credit Extension submitted via Bank's online banking platform and to further assume that any submissions or requests made via Bank's online banking platform have been duly authorized by an Administrator.

6.13 Formation or Acquisition of Subsidiaries. Notwithstanding and without limiting the negative covenants contained in Sections 7.3 and 7.7 hereof, at the time that Borrower or any Guarantor forms any direct or indirect Subsidiary or acquires any direct or indirect Subsidiary after the Effective Date, upon Bank's request, Borrower and such Guarantor shall (a) cause such new Domestic Subsidiary to provide to Bank a joinder to this Agreement to become a co-borrower hereunder or a Guaranty to become a Guarantor hereunder (as Bank may direct in its sole discretion), together with such appropriate financing statements and/or Control Agreements, all in form and substance reasonably satisfactory to Bank (including being sufficient to grant Bank a first priority Lien (subject to Permitted Liens) in and to the personal property assets of such newly formed or acquired Domestic Subsidiary), (b) provide to Bank appropriate certificates and powers and financing statements, pledging all (or in the case of a Foreign Subsidiary, sixty-five percent (65%)) of the direct or beneficial ownership interest in such new Subsidiary, in form and substance reasonably satisfactory to Bank; and (c) provide to Bank all other documentation in form and substance reasonably satisfactory to Bank. Any document, agreement, or instrument executed or issued pursuant to this Section 6.13 shall be a Loan Document.

6.14 Further Assurances. Execute any further instruments and take further action as Bank reasonably requests to perfect or continue Bank's Lien in the Collateral or to effect the purposes of this Agreement. Deliver to Bank, within ten (10) days after the same are sent or received, copies of all correspondence, reports, documents and other filings with any Governmental Authority regarding compliance with or maintenance of Governmental Approvals or Requirements of Law or that could reasonably be expected to have a material effect on any of the Governmental Approvals or otherwise on the operations of Borrower or any of its Subsidiaries.

7. NEGATIVE COVENANTS

Borrower shall not do any of the following without Bank's prior written consent:

7.1 Dispositions. Convey, sell, lease, transfer, assign, or otherwise dispose of (collectively, "**Transfer**"), or permit any of its Subsidiaries to Transfer, all or any part of its business or property, except for Transfers (a) of Inventory in the ordinary course of business; (b) of worn-out, surplus, or obsolete Equipment that is, in the reasonable judgment of Borrower, no longer economically practicable to maintain or useful in the ordinary course of business of Borrower; (c) consisting of Permitted Liens and Permitted Investments; (d) consisting of the sale or issuance of any stock of Borrower permitted under Section 7.2 of this Agreement; (e) consisting of Borrower's use or transfer of money or Cash Equivalents in the ordinary course of its business for the payment of ordinary course business expenses in a manner that is not prohibited by the terms of this Agreement or the other Loan Documents; and (f) of non-exclusive licenses for the use of the property of Borrower or its Subsidiaries in the ordinary course of business and licenses that could not result in a legal transfer of title of the licensed property but that may be exclusive in respects other than territory and that may be exclusive as to territory only as to discrete geographical areas outside of the United States.

7.2 Changes in Business, Management, Control, or Business Locations. (a) Engage in or permit any of its Subsidiaries to engage in any business other than the businesses currently engaged in by Borrower and such Subsidiary, as applicable, or reasonably related thereto; (b) liquidate or dissolve; (c) have a change in management

such that any Key Person departs from or ceases to be employed by Borrower and a replacement satisfactory to the Board is not made within one hundred eighty (180) days after his or her departure from Borrower; or (d) permit or suffer any Change in Control.

Borrower shall not, without at least ten (10) days prior written notice to Bank: (1) add any new offices or business locations, including warehouses (unless such new offices or business locations contain less than One Hundred Thousand Dollars ($100,000.00) in Borrower's assets or property) or deliver any portion of the Collateral valued, individually or in the aggregate, in excess of One Hundred Thousand Dollars ($100,000.00) to a bailee at a location other than to a bailee and at a location already disclosed in the Perfection Certificate, (2) change its jurisdiction of organization, (3) change its organizational structure or type, (4) change its legal name, or (5) change any organizational number (if any) assigned by its jurisdiction of organization. If Borrower intends to add any new offices or business locations, including warehouses, containing in excess of One Hundred Thousand Dollars ($100,000.00) of Borrower's assets or property, then Borrower will first receive the written consent of Bank, and the landlord of any such new offices or business locations, including warehouses, shall execute and deliver a landlord consent in form and substance satisfactory to Bank. If Borrower intends to deliver any portion of the Collateral valued, individually or in the aggregate, in excess of One Hundred Thousand Dollars ($100,000.00) to a bailee, and Bank and such bailee are not already parties to a bailee agreement governing both the Collateral and the location to which Borrower intends to deliver the Collateral, then Borrower will first receive the written consent of Bank, and such bailee shall execute and deliver a bailee agreement in form and substance reasonably satisfactory to Bank.

7.3 Mergers or Acquisitions. Merge or consolidate, or permit any of its Subsidiaries to merge or consolidate, with any other Person, or acquire, or permit any of its Subsidiaries to acquire, all or substantially all of the capital stock or property of another Person (the "**Target**") (including, without limitation, by the formation of any Subsidiary) (an "**Acquisition**") other than in connection with a Permitted Acquisition. A Subsidiary may merge or consolidate into another Subsidiary or into Borrower.

7.4 Indebtedness. Create, incur, assume, or be liable for any Indebtedness, or permit any Subsidiary to do so, other than Permitted Indebtedness.

7.5 Encumbrance. Create, incur, allow, or suffer any Lien on any of its property, or assign or convey any right to receive income, including the sale of any Accounts, or permit any of its Subsidiaries to do so, except for Permitted Liens, permit any Collateral not to be subject to the first priority security interest granted herein, or enter into any agreement, document, instrument or other arrangement (except with or in favor of Bank) with any Person which directly or indirectly prohibits or has the effect of prohibiting Borrower or any Subsidiary from assigning, mortgaging, pledging, granting a security interest in or upon, or encumbering any of Borrower's or any Subsidiary's Intellectual Property, except as is otherwise permitted in Section 7.1 hereof and the definition of "Permitted Liens" herein.

7.6 Maintenance of Collateral Accounts. Maintain any Collateral Account except pursuant to the terms of Section 6.8(b) hereof.

7.7 Distributions; Investments. (a) Pay any dividends or make any distribution or payment or redeem, retire or purchase any capital stock, provided that (i) Borrower may convert any of its convertible securities into other securities pursuant to the terms of such convertible securities or otherwise in exchange thereof, (ii) Borrower may pay dividends solely in common stock; and (iii) Borrower may repurchase the stock of former employees, directors, or consultants pursuant to stock repurchase agreements so long as an Event of Default does not exist at the time of such repurchase and would not exist after giving effect to such repurchase, provided that the aggregate amount of all such repurchases does not exceed Two Hundred Fifty Thousand Dollars ($250,000) per fiscal year; or (b) directly or indirectly make any Investment (including, without limitation, by the formation of any Subsidiary) other than Permitted Investments, or permit any of its Subsidiaries to do so.

7.8 Transactions with Affiliates. Directly or indirectly enter into or permit to exist any material transaction with any Affiliate of Borrower, except for transactions that are in the ordinary course of Borrower's business,

upon fair and reasonable terms that are no less favorable to Borrower than would be obtained in an arm's length transaction with a non-affiliated Person.

7.9 Subordinated Debt. (a) Make or permit any payment on any Subordinated Debt (other than conversions into equity), except under the terms of the subordination, intercreditor, or other similar agreement to which such Subordinated Debt is subject, or (b) amend any provision in any document relating to the Subordinated Debt which would increase the amount thereof, provide for earlier or greater principal, interest, or other payments thereon, or adversely affect the subordination thereof to Obligations owed to Bank.

7.10 Compliance. Become an "investment company" or a company controlled by an "investment company", under the Investment Company Act of 1940, as amended, or undertake as one of its important activities extending credit to purchase or carry margin stock (as defined in Regulation U of the Board of Governors of the Federal Reserve System), or use the proceeds of any Credit Extension for that purpose; fail to (a) meet the minimum funding requirements of ERISA, (b) prevent a Reportable Event or Prohibited Transaction, as defined in ERISA, from occurring, or (c) comply with the Federal Fair Labor Standards Act, the failure of any of the conditions described in clauses (a) through (c) which could reasonably be expected to have a material adverse effect on Borrower's business; or violate any other law or regulation, if the violation could reasonably be expected to have a material adverse effect on Borrower's business, or permit any of its Subsidiaries to do so; withdraw or permit any Subsidiary to withdraw from participation in, permit partial or complete termination of, or permit the occurrence of any other event with respect to, any present pension, profit sharing and deferred compensation plan which could reasonably be expected to result in any liability of Borrower, including any liability to the Pension Benefit Guaranty Corporation or its successors or any other governmental agency.

8. EVENTS OF DEFAULT

Any one of the following shall constitute an event of default (an "**Event of Default**") under this Agreement:

8.1 Payment Default. Borrower fails to (a) make any payment of principal or interest on any Credit Extension when due, or (a) pay any other Obligations within three (3) Business Days after such Obligations are due and payable (which three (3) Business Day cure period shall not apply to payments due on the Term Loan Maturity Date). During the cure period, the failure to make or pay any payment specified under clause (b) hereunder is not an Event of Default (but no Credit Extension will be made during the cure period);

8.2 Covenant Default.

(a) Borrower fails or neglects to perform any obligation in Sections 3.3(b), 6.2, 6.5, 6.6, 6.7, 6.8, 6.9 (if any), 6.10, or 6.12 or violates any covenant in Section 7; or

(b) Borrower fails or neglects to perform, keep, or observe any other term, provision, condition, covenant or agreement contained in this Agreement or any Loan Documents, and as to any default (other than those specified in this Section 8) under such other term, provision, condition, covenant or agreement that can be cured, has failed to cure the default within ten (10) days after the occurrence thereof; provided, however, that if the default cannot by its nature be cured within the ten (10) day period or cannot after diligent attempts by Borrower be cured within such ten (10) day period, and such default is likely to be cured within a reasonable time, then Borrower shall have an additional period (which shall not in any case exceed thirty (30) days) to attempt to cure such default, and within such reasonable time period the failure to cure the default shall not be deemed an Event of Default (but no Credit Extensions shall be made during such cure period). Cure periods provided under this section shall not apply, among other things, to financial covenants (if any) or any other covenants set forth in clause (a) above;

8.3 Investor Abandonment; Priority of Security Interest. If Bank determines in its good faith judgment that it is the clear intention of Borrower's investors to not continue to fund Borrower in the amounts and timeframe to the extent necessary to enable Borrower to satisfy the Obligations as they become due and payable, or there is a material impairment in the perfection or priority of Bank's security interest in the Collateral;

8.4 Attachment; Levy; Restraint on Business.

(a) (i) The service of process seeking to attach, by trustee or similar process, any funds of Borrower or of any entity under the control of Borrower (including a Subsidiary), or (ii) a notice of lien or levy is filed against any of Borrower's assets by any Governmental Authority, and the same under subclauses (i) and (ii) hereof are not, within ten (10) days after the occurrence thereof, discharged or stayed (whether through the posting of a bond or otherwise); provided, however, no Credit Extensions shall be made during any ten (10) day cure period; or

(b) (i) any material portion of Borrower's assets is attached, seized, levied on, or comes into possession of a trustee or receiver, or (ii) any court order enjoins, restrains, or prevents Borrower from conducting all or any material part of its business;

8.5 Insolvency. (a) Borrower or any of its Subsidiaries is unable to pay its debts (including trade debts) as they become due or otherwise becomes insolvent; (b) Borrower or any of its Subsidiaries begins an Insolvency Proceeding; or (c) an Insolvency Proceeding is begun against Borrower or any of its Subsidiaries and is not dismissed or stayed within forty-five (45) days (but no Credit Extensions shall be made while any of the conditions described in clause (a) exist and/or until any Insolvency Proceeding is dismissed);

8.6 Other Agreements. There is, under any agreement to which Borrower or any Guarantor is a party with a third party or parties, (a) any default resulting in a right by such third party or parties, whether or not exercised, to accelerate the maturity of any Indebtedness in an amount individually or in the aggregate in excess of Five Hundred Thousand Dollars ($500,000.00); or (b) any breach or default by Borrower or Guarantor, the result of which could reasonably be expected to have a material adverse effect on Borrower's or any Guarantor's business; provided, however, that the Event of Default under this Section 8.6 caused by the occurrence of a breach or default under such other agreement shall be cured or waived for purposes of this Agreement upon Bank receiving written notice from the party asserting such breach or default of such cure or waiver of the breach or default under such other agreement, if at the time of such cure or waiver under such other agreement (x) Bank has not declared an Event of Default under this Agreement and/or exercised any rights with respect thereto; (y) any such cure or waiver does not result in an Event of Default under any other provision of this Agreement or any Loan Document; and (z) in connection with any such cure or waiver under such other agreement, the terms of any agreement with such third party are not modified or amended in any manner which could in the good faith business judgment of Bank be materially less advantageous to Borrower or any Guarantor;

8.7 Judgments; Penalties. One or more fines, penalties or final judgments, orders or decrees for the payment of money in an amount, individually or in the aggregate, of at least Five Hundred Thousand Dollars ($500,000.00) (not covered by independent third-party insurance as to which liability has been accepted by such insurance carrier) shall be rendered against Borrower by any Governmental Authority, and the same are not, within ten (10) days after the entry, assessment or issuance thereof, discharged, satisfied, or paid, or after execution thereof, stayed or bonded pending appeal, or such judgments are not discharged prior to the expiration of any such stay (provided that no Credit Extensions will be made prior to the satisfaction, payment, discharge, stay, or bonding of such fine, penalty, judgment, order or decree);

8.8 Misrepresentations. Borrower or any Person acting for Borrower makes any representation, warranty, or other statement now or later in this Agreement, any Loan Document or in any writing delivered to Bank or to induce Bank to enter this Agreement or any Loan Document, and such representation, warranty, or other statement is incorrect in any material respect when made;

8.9 Subordinated Debt. The subordination provisions of any document, instrument, or agreement evidencing the subordination of any Subordinated Debt shall for any reason be revoked or invalidated or otherwise cease to be in full force and effect, any Person shall be in breach thereof or contest in any manner the validity or enforceability thereof or deny that it has any further liability or obligation thereunder, or the Obligations shall for any reason be subordinated or shall not have the priority contemplated by this Agreement or any applicable subordination or intercreditor agreement;

8.10 Guaranty. (a) Any guaranty of any Obligations terminates or ceases for any reason to be in full force and effect; (b) any Guarantor does not perform any obligation or covenant under any guaranty of the Obligations; (c) any circumstance described in Sections 8.3, 8.4, 8.5, 8.6, 8.7, or 8.8 of this Agreement occurs with respect to any Guarantor, (d) the death, liquidation, winding up, or termination of existence of any Guarantor; or (e)(i) a material impairment in the perfection or priority of Bank's Lien in the collateral provided by Guarantor or in the value of such collateral or (ii) a material adverse change in the general affairs, management, results of operation, condition (financial or otherwise) or the prospect of repayment of the Obligations occurs with respect to any Guarantor; or

8.11 Governmental Approvals. Any Governmental Approval material to Borrower's business shall have been (a) revoked, rescinded, suspended, modified in an adverse manner or not renewed in the ordinary course for a full term or (b) subject to any decision by a Governmental Authority that designates a hearing with respect to any applications for renewal of any of such Governmental Approval or that could result in the Governmental Authority taking any of the actions described in clause (a) above, and such decision or such revocation, rescission, suspension, modification or non-renewal (i) causes, or could reasonably be expected to cause, a Material Adverse Change, or (ii) adversely affects the legal qualifications of Borrower or any of its Subsidiaries to hold such Governmental Approval in any applicable jurisdiction and such revocation, rescission, suspension, modification or non-renewal could reasonably be expected to affect the status of or legal qualifications of Borrower or any of its Subsidiaries to hold any Governmental Approval in any other jurisdiction.

8.12 Cross-Default with Revolving Line Loan Documents. A default shall occur under the Revolving Line Loan Documents (other than with respect to the financial covenants set forth in the Revolving Line Loan Documents) and such default is not cured within any applicable grace or cure period provided therein.

9. BANK'S RIGHTS AND REMEDIES

9.1 Rights and Remedies. Upon the occurrence and during the continuance of an Event of Default, Bank may, without notice or demand, do any or all of the following:

(a) declare all Obligations immediately due and payable (but if an Event of Default described in Section 8.5 occurs all Obligations are immediately due and payable without any action by Bank);

(b) stop advancing money or extending credit for Borrower's benefit under this Agreement or under any other agreement between Borrower and Bank;

(c) demand that Borrower (i) deposit cash with Bank in an amount equal to at least (A) one hundred five percent (105.0%) of the Dollar Equivalent of the aggregate face amount of all Letters of Credit denominated in Dollars remaining undrawn, and (B) one hundred ten percent (110.0%) of the Dollar Equivalent of the aggregate face amount of all Letters of Credit denominated in a Foreign Currency remaining undrawn (plus, in each case, all interest, fees, and costs due or to become due in connection therewith (as estimated by Bank in its good faith business judgment)), to secure all of the Obligations relating to such Letters of Credit, as collateral security for the repayment of any future drawings under such Letters of Credit, and Borrower shall forthwith deposit and pay such amounts, and (ii) pay in advance all letter of credit fees scheduled to be paid or payable over the remaining term of any Letters of Credit;

(d) terminate any FX Contracts;

(e) verify the amount of, demand payment of and performance under, and collect any Accounts and General Intangibles, settle or adjust disputes and claims directly with Account Debtors for amounts on terms and in any order that Bank considers advisable, and notify any Person owing Borrower money of Bank's security interest in such funds. Borrower shall collect all payments in trust for Bank and, if requested by Bank, immediately deliver the payments to Bank in the form received from the Account Debtor, with proper endorsements for deposit;

(f) make any payments and do any acts it considers necessary or reasonable to protect the Collateral and/or its security interest in the Collateral. Borrower shall assemble the Collateral if Bank requests and

make it available as Bank designates. Bank may enter premises where the Collateral is located, take and maintain possession of any part of the Collateral, and pay, purchase, contest, or compromise any Lien which appears to be prior or superior to its security interest and pay all expenses incurred. Borrower grants Bank a license to enter and occupy any of its premises, without charge, to exercise any of Bank's rights or remedies;

(g) apply to the Obligations any (i) balances and deposits of Borrower it holds, or (ii) amount held by Bank owing to or for the credit or the account of Borrower;

(h) ship, reclaim, recover, store, finish, maintain, repair, prepare for sale, advertise for sale, and sell the Collateral. Bank is hereby granted a non-exclusive, royalty-free license or other right to use, without charge, Borrower's labels, Patents, Copyrights, mask works, rights of use of any name, trade secrets, trade names, Trademarks, and advertising matter, or any similar property as it pertains to the Collateral, in completing production of, advertising for sale, and selling any Collateral and, in connection with Bank's exercise of its rights under this Section 9.1, Borrower's rights under all licenses and all franchise agreements inure to Bank's benefit;

(i) place a "hold" on any account maintained with Bank and/or deliver a notice of exclusive control, any entitlement order, or other directions or instructions pursuant to any Control Agreement or similar agreements providing control of any Collateral;

(j) demand and receive possession of Borrower's Books; and

(k) exercise all rights and remedies available to Bank under the Loan Documents or at law or equity, including all remedies provided under the Code (including disposal of the Collateral pursuant to the terms thereof).

9.2 Power of Attorney. Borrower hereby irrevocably appoints Bank as its lawful attorney-in-fact, exercisable following the occurrence and during the continuance of an Event of Default, to: (a) endorse Borrower's name on any checks, payment instruments, or other forms of payment or security; (b) sign Borrower's name on any invoice or bill of lading for any Account or drafts against Account Debtors; (c) demand, collect, sue, and give releases to any Account Debtor for monies due, settle and adjust disputes and claims about the Accounts directly with Account Debtors, and compromise, prosecute, or defend any action, claim, case, or proceeding about any Collateral (including filing a claim or voting a claim in any bankruptcy case in Bank's or Borrower's name, as Bank chooses); (d) make, settle, and adjust all claims under Borrower's insurance policies; (e) pay, contest or settle any Lien, charge, encumbrance, security interest, or other claim in or to the Collateral, or any judgment based thereon, or otherwise take any action to terminate or discharge the same; and (f) transfer the Collateral into the name of Bank or a third party as the Code permits. Borrower hereby appoints Bank as its lawful attorney-in-fact to sign Borrower's name on any documents necessary to perfect or continue the perfection of Bank's security interest in the Collateral regardless of whether an Event of Default has occurred until all Obligations have been satisfied in full and the Loan Documents have been terminated. Bank's foregoing appointment as Borrower's attorney in fact, and all of Bank's rights and powers, coupled with an interest, are irrevocable until all Obligations have been fully repaid and performed and the Loan Documents have been terminated.

9.3 Protective Payments. If Borrower fails to obtain the insurance called for by Section 6.7 or fails to pay any premium thereon or fails to pay any other amount which Borrower is obligated to pay under this Agreement or any other Loan Document or which may be required to preserve the Collateral, Bank may obtain such insurance or make such payment, and all amounts so paid by Bank are Bank Expenses and immediately due and payable, bearing interest at the then highest rate applicable to the Obligations, and secured by the Collateral. Bank will make reasonable efforts to provide Borrower with notice of Bank obtaining such insurance at the time it is obtained or within a reasonable time thereafter. No payments by Bank are deemed an agreement to make similar payments in the future or Bank's waiver of any Event of Default.

9.4 Application of Payments and Proceeds. If an Event of Default has occurred and is continuing, Bank shall have the right to apply in any order any funds in its possession, whether from Borrower account balances, payments, proceeds realized as the result of any collection of Accounts or other disposition of the Collateral, or otherwise

(collectively, the "**Proceeds of Collection**"), to the Obligations. Bank shall pay any surplus to Borrower by credit to the Designated Deposit Account or to other Persons legally entitled thereto; Borrower shall remain liable to Bank for any deficiency. If Bank, directly or indirectly, enters into a deferred payment or other credit transaction with any purchaser at any sale of Collateral, Bank shall have the option, exercisable at any time, of either reducing the Obligations by the principal amount of the purchase price or deferring the reduction of the Obligations until the actual receipt by Bank of cash therefor.

Notwithstanding anything to the contrary in this Agreement or the other Loan Documents, the Proceeds of Collection shall upon receipt by Bank be paid to and applied as follows:

First, to the payment of then outstanding Bank Expenses (as defined herein and in the Revolving Line Loan Agreement), including all amounts expended by Bank to preserve the value of the Collateral, of foreclosure or suit, if any, and of such sale and the exercise of any other rights or remedies, and of all proper fees, expenses, liability and advances;

Second, to the payment of all accrued and unpaid interest owing to Bank on the Revolving Line;

Third, to the payment of the outstanding principal owing to Bank on the Revolving Line;

Fourth, to the payment of the premiums, the Anniversary Fee, or early termination fees (if applicable) owing to Bank on the Revolving Line;

Fifth, to the payment of all other outstanding and unpaid Obligations owing to Bank under the Revolving Line (including indemnification claims not otherwise satisfied pursuant to the preceding clauses);

Sixth, to the payment of all accrued and unpaid interest owing to Bank on the Term Loan Advances;

Seventh, to the payment of the outstanding principal owing to Bank on the Term Loan Advances;

Eighth, to the payment of the outstanding premiums (if any), the Term Loan Commitment Fees, and the Prepayment Fee, owing to Bank on the Term Loan Advances;

Ninth, to the payment of all other outstanding and unpaid Obligations owing to Bank under the Term Loan Advances (including indemnification claims not otherwise satisfied pursuant to the preceding clauses);

Tenth, to the payment of all outstanding and unpaid Obligations owing to Bank under Bank Services Agreements (including indemnification claims not otherwise satisfied pursuant to the preceding clauses);

Eleventh, to the payment of all other outstanding and unpaid Obligations owing to Bank (including indemnification claims not otherwise satisfied pursuant to the preceding clauses); and

Twelfth, to Borrower, its successors and assigns, or to whomsoever may be lawfully entitled to receive the same.

9.5 Bank's Liability for Collateral. So long as Bank complies with reasonable banking practices regarding the safekeeping of the Collateral in the possession or under the control of Bank, Bank shall not be liable or responsible for: (a) the safekeeping of the Collateral; (b) any loss or damage to the Collateral; (c) any diminution in the value of the Collateral; or (d) any act or default of any carrier, warehouseman, bailee, or other Person. Borrower bears all risk of loss, damage or destruction of the Collateral.

9.6 No Waiver; Remedies Cumulative. Bank's failure, at any time or times, to require strict performance by Borrower of any provision of this Agreement or any other Loan Document shall not waive, affect, or diminish any right of Bank thereafter to demand strict performance and compliance herewith or therewith. No waiver hereunder shall be effective unless signed by the party granting the waiver and then is only effective for the specific instance and

purpose for which it is given. Bank's rights and remedies under this Agreement and the other Loan Documents are cumulative. Bank has all rights and remedies provided under the Code, by law, or in equity. Bank's exercise of one right or remedy is not an election and shall not preclude Bank from exercising any other remedy under this Agreement or other remedy available at law or in equity, and Bank's waiver of any Event of Default is not a continuing waiver. Bank's delay in exercising any remedy is not a waiver, election, or acquiescence.

9.7 Demand Waiver. Borrower waives demand, notice of default or dishonor, notice of payment and nonpayment, notice of any default, nonpayment at maturity, release, compromise, settlement, extension, or renewal of accounts, documents, instruments, chattel paper, and guarantees held by Bank on which Borrower is liable.

10. NOTICES

All notices, consents, requests, approvals, demands, or other communication by any party to this Agreement or any other Loan Document must be in writing and shall be deemed to have been validly served, given, or delivered: (a) upon the earlier of actual receipt and three (3) Business Days after deposit in the U.S. mail, first class, registered or certified mail return receipt requested, with proper postage prepaid; (b) upon transmission, when sent by electronic mail (absent bounce back, error message or other indicator of non-receipt) or facsimile transmission; (c) one (1) Business Day after deposit with a reputable overnight courier with all charges prepaid; or (d) when delivered, if hand-delivered by messenger, all of which shall be addressed to the party to be notified and sent to the address, facsimile number, or email address indicated below. Bank or Borrower may change its mailing or electronic mail address or facsimile number by giving the other party written notice thereof in accordance with the terms of this Section 10.

If to Borrower:	Savage River, Inc. 1325 E. El Segundo Blvd El Segundo, California 90245 Attn: Mark Nelson, Chief Financial Officer Email: mnelson@beyondmeat.com
If to Bank:	Silicon Valley Bank 380 Interlocken Crescent, Suite 600 Broomfield, Colorado 80021 Attn: Derek Hofmeister, Vice President Email: dhofmeister@svb.com

11. CHOICE OF LAW, VENUE, JURY TRIAL WAIVER AND JUDICIAL REFERENCE

Except as otherwise expressly provided in any of the Loan Documents, California law governs the Loan Documents without regard to principles of conflicts of law. Borrower and Bank each submit to the exclusive jurisdiction of the State and Federal courts in Santa Clara County, California; provided, however, that nothing in this Agreement shall be deemed to operate to preclude Bank from bringing suit or taking other legal action in any other jurisdiction to realize on the Collateral or any other security for the Obligations, or to enforce a judgment or other court order in favor of Bank. Borrower expressly submits and consents in advance to such jurisdiction in any action or suit commenced in any such court, and Borrower hereby waives any objection that it may have based upon lack of personal jurisdiction, improper venue, or forum non conveniens and hereby consents to the granting of such legal or equitable relief as is deemed appropriate by such court. Borrower hereby waives personal service of the summons, complaints, and other process issued in such action or suit and agrees that service of such summons, complaints, and other process may be made by registered or certified mail addressed to Borrower at the address set forth in, or subsequently provided by Borrower in accordance with, Section 10 of this Agreement and that service so made shall be deemed completed upon the earlier to occur of Borrower's actual receipt thereof or three (3) days after deposit in the U.S. mails, proper postage prepaid.

TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, BORROWER AND BANK EACH WAIVE THEIR RIGHT TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION ARISING OUT OF OR BASED UPON THIS AGREEMENT, THE LOAN DOCUMENTS OR ANY CONTEMPLATED

TRANSACTION, INCLUDING CONTRACT, TORT, BREACH OF DUTY AND ALL OTHER CLAIMS. THIS WAIVER IS A MATERIAL INDUCEMENT FOR BOTH PARTIES TO ENTER INTO THIS AGREEMENT. EACH PARTY HAS REVIEWED THIS WAIVER WITH ITS COUNSEL.

WITHOUT INTENDING IN ANY WAY TO LIMIT THE PARTIES' AGREEMENT TO WAIVE THEIR RESPECTIVE RIGHT TO A TRIAL BY JURY, if the above waiver of the right to a trial by jury is not enforceable, the parties hereto agree that any and all disputes or controversies of any nature between them arising at any time shall be decided by a reference to a private judge, mutually selected by the parties (or, if they cannot agree, by the Presiding Judge of the Santa Clara County, California Superior Court) appointed in accordance with California Code of Civil Procedure Section 638 (or pursuant to comparable provisions of federal law if the dispute falls within the exclusive jurisdiction of the federal courts), sitting without a jury, in Santa Clara County, California; and the parties hereby submit to the jurisdiction of such court. The reference proceedings shall be conducted pursuant to and in accordance with the provisions of California Code of Civil Procedure Sections 638 through 645.1, inclusive. The private judge shall have the power, among others, to grant provisional relief, including without limitation, entering temporary restraining orders, issuing preliminary and permanent injunctions and appointing receivers. All such proceedings shall be closed to the public and confidential and all records relating thereto shall be permanently sealed. If during the course of any dispute, a party desires to seek provisional relief, but a judge has not been appointed at that point pursuant to the judicial reference procedures, then such party may apply to the Santa Clara County, California Superior Court for such relief. The proceeding before the private judge shall be conducted in the same manner as it would be before a court under the rules of evidence applicable to judicial proceedings. The parties shall be entitled to discovery which shall be conducted in the same manner as it would be before a court under the rules of discovery applicable to judicial proceedings. The private judge shall oversee discovery and may enforce all discovery rules and orders applicable to judicial proceedings in the same manner as a trial court judge. The parties agree that the selected or appointed private judge shall have the power to decide all issues in the action or proceeding, whether of fact or of law, and shall report a statement of decision thereon pursuant to California Code of Civil Procedure Section 644(a). Nothing in this paragraph shall limit the right of any party at any time to exercise self-help remedies, foreclose against collateral, or obtain provisional remedies. The private judge shall also determine all issues relating to the applicability, interpretation, and enforceability of this paragraph.

This Section 11 shall survive the termination of this Agreement.

12. GENERAL PROVISIONS

12.1 Termination Prior to Maturity Date; Survival. All covenants, representations and warranties made in this Agreement shall continue in full force until this Agreement has terminated pursuant to its terms and all Obligations (other than inchoate indemnity obligations, and any other obligations which, by their terms, are to survive the termination of this Agreement, and any Obligations under Bank Services Agreements that are cash collateralized in accordance with Section 4.1 of this Agreement) have been satisfied. So long as Borrower has satisfied the Obligations (other than inchoate indemnity obligations, and any other obligations which, by their terms, are to survive the termination of this Agreement, and any Obligations under Bank Services Agreements that are cash collateralized in accordance with Section 4.1 of this Agreement), this Agreement may be terminated prior to the Term Loan Maturity Date by Borrower pursuant to Section 2.2(d). Those obligations that are expressly specified in this Agreement as surviving this Agreement's termination shall continue to survive notwithstanding this Agreement's termination.

12.2 Successors and Assigns. This Agreement binds and is for the benefit of the successors and permitted assigns of each party. Borrower may not assign this Agreement or any rights or obligations under it without Bank's prior written consent (which may be granted or withheld in Bank's discretion). Subject to the following sentence, Bank has the right, without the consent of or notice to Borrower, to sell, transfer, assign, negotiate, or grant participation in all or any part of, or any interest in, Bank's obligations, rights, and benefits under this Agreement and the other Loan Documents (other than the Warrant, as to which assignment, transfer and other such actions are governed by the terms thereof) (each of the foregoing, a "**Loan Interest Sale**"). Notwithstanding the foregoing, so long as no Event of Default shall have occurred and is continuing, Bank shall not make any Loan Interest Sale to any Person that is (a) not an Eligible Assignee, or (b) who in the reasonable estimation of Bank is a direct competitor of Borrower.

12.3 Indemnification. Borrower agrees to indemnify, defend and hold Bank and its directors, officers, employees, agents, attorneys, or any other Person affiliated with or representing Bank (each, an "**Indemnified Person**") harmless against: (i) all obligations, demands, claims, and liabilities (collectively, "**Claims**") claimed or asserted by any other party in connection with the transactions contemplated by the Loan Documents; and (ii) all losses or expenses (including Bank Expenses) in any way suffered, incurred, or paid by such Indemnified Person as a result of, following from, consequential to, or arising from transactions between Bank and Borrower (including reasonable attorneys' fees and expenses), except for Claims and/or losses directly caused by such Indemnified Person's gross negligence or willful misconduct.

This Section 12.3 shall survive until all statutes of limitation with respect to the Claims, losses, and expenses for which indemnity is given shall have run.

12.4 Time of Essence. Time is of the essence for the performance of all Obligations in this Agreement.

12.5 Severability of Provisions. Each provision of this Agreement is severable from every other provision in determining the enforceability of any provision.

12.6 Correction of Loan Documents. Bank may correct patent errors and fill in any blanks in the Loan Documents consistent with the agreement of the parties so long as Bank provides Borrower with notice of such correction and allows Borrower at least ten (10) days to object to such correction. In the event of such objection, such correction shall not be made except by an amendment signed by both Bank and Borrower.

12.7 Amendments in Writing; Waiver; Integration. No purported amendment or modification of any Loan Document, or waiver, discharge or termination of any obligation under any Loan Document, shall be enforceable or admissible unless, and only to the extent, expressly set forth in a writing signed by the party against which enforcement or admission is sought. Without limiting the generality of the foregoing, no oral promise or statement, nor any action, inaction, delay, failure to require performance or course of conduct shall operate as, or evidence, an amendment, supplement or waiver or have any other effect on any Loan Document. Any waiver granted shall be limited to the specific circumstance expressly described in it, and shall not apply to any subsequent or other circumstance, whether similar or dissimilar, or give rise to, or evidence, any obligation or commitment to grant any further waiver. The Loan Documents represent the entire agreement about this subject matter and supersede prior negotiations or agreements. All prior agreements, understandings, representations, warranties, and negotiations between the parties about the subject matter of the Loan Documents merge into the Loan Documents.

12.8 Counterparts. This Agreement may be executed in any number of counterparts and by different parties on separate counterparts, each of which, when executed and delivered, is an original, and all taken together, constitute one Agreement.

12.9 Confidentiality. In handling any confidential information, Bank shall exercise the same degree of care that it exercises for its own proprietary information (but not less than a reasonable degree of care), but disclosure of information may be made: (a) to Bank's Subsidiaries or Affiliates who are bound by the confidentiality obligations of this provision or substantially similar obligations (such Subsidiaries and Affiliates, together with Bank, collectively, "**Bank Entities**"); (b) to prospective transferees or purchasers of any interest in the Credit Extensions (provided, however, Bank shall use its best efforts to obtain any prospective transferee's or purchaser's agreement to the terms of this provision); (c) as required by law, regulation, subpoena, or other order; (d) to Bank's regulators or as otherwise required in connection with Bank's examination or audit; (e) as Bank considers appropriate in exercising remedies under the Loan Documents; and (f) to third-party service providers of Bank so long as such service providers have executed a confidentiality agreement with Bank with terms no less restrictive than those contained herein. Confidential information does not include information that is: (i) either in the public domain other than as a result of Bank's breach of this section or is in Bank's possession when disclosed to Bank; or (ii) disclosed to Bank by a third party on a non-confidential basis if Bank does not know that the third party is prohibited from disclosing the information.

Bank Entities may use anonymous forms of confidential information for aggregate datasets, for analyses or reporting, and for any other uses not expressly prohibited in writing by Borrower. The provisions of the immediately preceding sentence shall survive the termination of this Agreement.

12.10 Attorneys' Fees, Costs and Expenses. In any action or proceeding between Borrower and Bank arising out of or relating to the Loan Documents, the prevailing party shall be entitled to recover its reasonable attorneys' fees and other costs and expenses incurred, in addition to any other relief to which it may be entitled.

12.11 Electronic Execution of Documents. The words "execution," "signed," "signature" and words of like import in any Loan Document shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity and enforceability as a manually executed signature or the use of a paper-based recordkeeping systems, as the case may be, to the extent and as provided for in any applicable law, including, without limitation, any state law based on the Uniform Electronic Transactions Act.

12.12 Right of Setoff. Borrower hereby grants to Bank a Lien and a right of setoff as security for all Obligations to Bank, whether now existing or hereafter arising upon and against all deposits, credits, collateral and property, now or hereafter in the possession, custody, safekeeping or control of Bank or any entity under the control of Bank (including a subsidiary of Bank) or in transit to any of them. At any time after the occurrence and during the continuance of an Event of Default, without demand or notice, Bank may setoff the same or any part thereof and apply the same to any liability or Obligation of Borrower even though unmatured and regardless of the adequacy of any other collateral securing the Obligations. ANY AND ALL RIGHTS TO REQUIRE BANK TO EXERCISE ITS RIGHTS OR REMEDIES WITH RESPECT TO ANY OTHER COLLATERAL WHICH SECURES THE OBLIGATIONS, PRIOR TO EXERCISING ITS RIGHT OF SETOFF WITH RESPECT TO SUCH DEPOSITS, CREDITS OR OTHER PROPERTY OF BORROWER, ARE HEREBY KNOWINGLY, VOLUNTARILY AND IRREVOCABLY WAIVED.

12.13 Captions. The headings used in this Agreement are for convenience only and shall not affect the interpretation of this Agreement.

12.14 Construction of Agreement. The parties mutually acknowledge that they and their attorneys have participated in the preparation and negotiation of this Agreement. In cases of uncertainty this Agreement shall be construed without regard to which of the parties caused the uncertainty to exist.

12.15 Relationship. The relationship of the parties to this Agreement is determined solely by the provisions of this Agreement. The parties do not intend to create any agency, partnership, joint venture, trust, fiduciary or other relationship with duties or incidents different from those of parties to an arm's-length contract.

12.16 Third Parties. Nothing in this Agreement, whether express or implied, is intended to: (a) confer any benefits, rights or remedies under or by reason of this Agreement on any persons other than the express parties to it and their respective permitted successors and assigns; (b) relieve or discharge the obligation or liability of any person not an express party to this Agreement; or (c) give any person not an express party to this Agreement any right of subrogation or action against any party to this Agreement.

13. DEFINITIONS

13.1 Definitions. As used in the Loan Documents, the word "shall" is mandatory, the word "may" is permissive, the word "or" is not exclusive, the words "includes" and "including" are not limiting, the singular includes the plural, and numbers denoting amounts that are set off in brackets are negative. As used in this Agreement, the following capitalized terms have the following meanings:

"**Account**" is, as to any Person, any "**account**" of such Person as "account" is defined in the Code with such additions to such term as may hereafter be made, and includes, without limitation, all accounts receivable and other sums owing to such Person.

"**Account Debtor**" is any "account debtor" as defined in the Code with such additions to such term as may hereafter be made.

"**Administrator**" is an individual that is named:

(a) as an "Administrator" in the "SVB Online Services" form completed by Borrower with the authority to determine who will be authorized to use SVB Online Services (as defined in Bank's Online Banking Agreement as in effect from time to time) on behalf of Borrower; and

(b) as an Authorized Signer of Borrower in an approval by the Board.

"**Affiliate**" is, with respect to any Person, each other Person that owns or controls directly or indirectly the Person, any Person that controls or is controlled by or is under common control with the Person, and each of that Person's senior executive officers, directors, partners and, for any Person that is a limited liability company, that Person's managers and members.

"**Agreement**" is defined in the preamble hereof.

"**Anniversary Fee**" is defined in the Revolving Line Loan Agreement.

"**Applicable Number**" is thirty (30); provided, however, that in the event that Borrower has achieved the Tranche Three Milestone and the Term Loan Amortization Date has been extended subject to the terms and conditions herein, the Applicable Number shall be automatically reduced to twenty-four (24).

"**Authorized Signer**" is any individual listed in Borrower's Borrowing Resolution who is authorized to execute the Loan Documents, including making (and executing if applicable) any Credit Extension request, on behalf of Borrower.

"**Bank**" is defined in the preamble hereof.

"**Bank Entities**" is defined in Section 12.9.

"**Bank Expenses**" are all reasonable, invoiced audit fees and expenses, costs, and expenses (including reasonable attorneys' fees and expenses) for preparing, amending, negotiating, administering, defending and enforcing the Loan Documents (including, without limitation, those incurred in connection with appeals or Insolvency Proceedings) or otherwise incurred with respect to Borrower or any Guarantor.

"**Bank Services**" are any products, credit services, and/or financial accommodations previously, now, or hereafter provided to Borrower or any of its Subsidiaries by Bank or any Bank Affiliate, including, without limitation, any letters of credit, cash management services (including, without limitation, merchant services, direct deposit of payroll, business credit cards, and check cashing services), interest rate swap arrangements, and foreign exchange services as any such products or services may be identified in Bank's various agreements related thereto (each, a "**Bank Services Agreement**").

"**Bank Services Agreement**" is defined in the definition of Bank Services.

"**Board**" is Borrower's board of directors.

"**Borrower**" is defined in the preamble hereof.

"**Borrower's Books**" are all Borrower's books and records including ledgers, federal and state tax returns, records regarding Borrower's assets or liabilities, the Collateral, business operations or financial condition, and all computer programs or storage or any equipment containing such information.

"**Borrowing Resolutions**" are, with respect to any Person, those resolutions adopted by such Person's board of directors (and, if required under the terms of such Person's Operating Documents, stockholders) and delivered by such Person to Bank approving the Loan Documents to which such Person is a party and the transactions contemplated thereby, together with a certificate executed by its secretary on behalf of such Person certifying (a) such Person has the authority to execute, deliver, and perform its obligations under each of the Loan Documents to which it is a party, (b) that set forth as a part of or attached as an exhibit to such certificate is a true, correct, and complete copy of the resolutions then in full force and effect authorizing and ratifying the execution, delivery, and performance by such Person of the Loan Documents to which it is a party, (c) the name(s) of the Person(s) authorized to execute the Loan Documents, including making (and executing if applicable) any Credit Extension request, on behalf of such Person, together with a sample of the true signature(s) of such Person(s), and (d) that Bank may conclusively rely on such certificate unless and until such Person shall have delivered to Bank a further certificate canceling or amending such prior certificate.

"**Business Day**" is any day that is not a Saturday, Sunday or a day on which Bank is closed.

"**Cash Equivalents**" means (a) marketable direct obligations issued or unconditionally guaranteed by the United States or any agency or any State thereof having maturities of not more than one (1) year from the date of acquisition; (b) commercial paper maturing no more than one (1) year after its creation and having the highest rating from either Standard & Poor's Ratings Group or Moody's Investors Service, Inc.; (c) Bank's certificates of deposit issued maturing no more than one (1) year after issue; and (d) money market funds at least ninety-five percent (95%) of the assets of which constitute Cash Equivalents of the kinds described in clauses (a) through (c) of this definition.

"**Change in Control**" means (a) at any time, any "person" or "group" (as such terms are used in Sections 13(d) and 14(d) of the Exchange Act) shall become, or obtain rights (whether by means of warrants, options or otherwise) to become, the "beneficial owner" (as defined in Rules 13(d)-3 and 13(d)-5 under the Exchange Act), directly or indirectly, of forty-nine percent (49%) or more of the ordinary voting power for the election of directors of Borrower (determined on a fully diluted basis) other than by the sale of Borrower's equity securities in a public offering or to venture capital, strategic or private equity investors so long as Borrower identifies to Bank the venture capital, strategic or private equity investors at least seven (7) Business Days prior to the closing of the transaction and provides to Bank a description of the material terms of the transaction; (b) during any period of twelve (12) consecutive months, a majority of the members of the Board or other equivalent governing body of Borrower cease to be composed of individuals (i) who were members of that board or equivalent governing body on the first day of such period, (ii) whose election or nomination to that board or equivalent governing body was approved by individuals referred to in clause (i) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body or (iii) whose election or nomination to that board or other equivalent governing body was approved by individuals referred to in clauses (i) and (ii) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body; or (c) at any time, Borrower shall cease to own and control, of record and beneficially, directly or indirectly, one hundred percent (100.0%) of each class of outstanding capital stock of each subsidiary of Borrower free and clear of all Liens (except Liens created by this Agreement).

"**Claims**" is defined in Section 12.3.

"**Code**" is the Uniform Commercial Code, as the same may, from time to time, be enacted and in effect in the State of California; provided, that, to the extent that the Code is used to define any term herein or in any Loan Document and such term is defined differently in different Articles or Divisions of the Code, the definition of such term contained in Article or Division 9 shall govern; provided further, that in the event that, by reason of mandatory provisions of law, any or all of the attachment, perfection, or priority of, or remedies with respect to, Bank's Lien on any Collateral is governed by the Uniform Commercial Code in effect in a jurisdiction other than the State of California, the term "**Code**" shall mean the Uniform Commercial Code as enacted and in effect in such other jurisdiction solely for purposes of the provisions thereof relating to such attachment, perfection, priority, or remedies and for purposes of definitions relating to such provisions.

"**Collateral**" is any and all properties, rights and assets of Borrower described on Exhibit A.

"**Collateral Account**" is any Deposit Account, Securities Account, or Commodity Account.

"**Commodity Account**" is any "commodity account" as defined in the Code with such additions to such term as may hereafter be made.

"**Compliance Statement**" is (a) until the termination of the Revolving Line Loan Agreement, the "Compliance Statement" as defined in the Senior Loan Agreement and (b) upon termination of the Revolving Line Loan Agreement and thereafter that certain statement in the form attached hereto as Exhibit B.

"**Contingent Obligation**" is, for any Person, any direct or indirect liability, contingent or not, of that Person for (a) any indebtedness, lease, dividend, letter of credit or other obligation of another such as an obligation, in each case, directly or indirectly guaranteed, endorsed, co made, discounted or sold with recourse by that Person, or for which that Person is directly or indirectly liable; (b) any obligations for undrawn letters of credit for the account of that Person; and (c) all obligations from any interest rate, currency or commodity swap agreement, interest rate cap or collar agreement, or other agreement or arrangement designated to protect a Person against fluctuation in interest rates, currency exchange rates or commodity prices; but "Contingent Obligation" does not include endorsements in the ordinary course of business. The amount of a Contingent Obligation is the stated or determined amount of the primary obligation for which the Contingent Obligation is made or, if not determinable, the maximum reasonably anticipated liability for it determined by the Person in good faith; but the amount may not exceed the maximum of the obligations under any guarantee or other support arrangement.

"**Control Agreement**" is any control agreement entered into among the depository institution at which Borrower maintains a Deposit Account or the securities intermediary or commodity intermediary at which Borrower maintains a Securities Account or a Commodity Account, Borrower, and Bank pursuant to which Bank obtains control (within the meaning of the Code) over such Deposit Account, Securities Account, or Commodity Account.

"**Copyrights**" are any and all copyright rights, copyright applications, copyright registrations and like protections in each work of authorship and derivative work thereof, whether published or unpublished and whether or not the same also constitutes a trade secret.

"**Credit Extension**" is any Growth Capital Advance or any other extension of credit by Bank for Borrower's benefit.

"**Default Rate**" is defined in Section 2.3(b).

"**Deferred Revenue**" is all amounts received or invoiced in advance of performance under contracts and not yet recognized as revenue.

"**Deposit Account**" is any "deposit account" as defined in the Code with such additions to such term as may hereafter be made.

"**Designated Deposit Account**" is the account number ending 597 (last three digits) maintained by Borrower with Bank (provided, however, if no such account number is included, then the Designated Deposit Account shall be any deposit account of Borrower maintained with Bank as chosen by Bank).

"**Dollar Equivalent**" is, at any time, (a) with respect to any amount denominated in Dollars, such amount, and (b) with respect to any amount denominated in a Foreign Currency, the equivalent amount therefor in Dollars as determined by Bank at such time on the basis of the then-prevailing rate of exchange in San Francisco, California, for sales of the Foreign Currency for transfer to the country issuing such Foreign Currency.

"**Dollars**," "**dollars**" or use of the sign "**$**" means only lawful money of the United States and not any other currency, regardless of whether that currency uses the "$" sign to denote its currency or may be readily converted into lawful money of the United States.

"**Domestic Subsidiary**" means a Subsidiary organized under the laws of the United States or any state or territory thereof or the District of Columbia.

"**Effective Date**" is defined in the preamble hereof.

"**Eligible Assignee**" is any of (a) an Affiliate of Bank, (b) a commercial bank or (c) a finance company, insurance company, or other financial institution that is engaged in making, purchasing, or otherwise investing in commercial loans in the ordinary course of its business and that is regulated by the United States Federal Reserve Bank, Office of the Comptroller of the Currency, Federal Deposit Insurance Corporation, Office of Thrift Supervision or any other governmental agency.

"**Equipment**" is all "equipment" as defined in the Code with such additions to such term as may hereafter be made, and includes without limitation all machinery, fixtures, goods, vehicles (including motor vehicles and trailers), and any interest in any of the foregoing.

"**ERISA**" is the Employee Retirement Income Security Act of 1974, and its regulations.

"**Event of Default**" is defined in Section 8.

"**Exchange Act**" is the Securities Exchange Act of 1934, as amended.

"**Financial Statement Repository**" is each of (a) ERIreporting@svb.com or such other means of collecting information approved and designated by Bank after providing notice thereof to Borrower from time to time and (b) Bank's online banking platform as described in Section 6.12.

"**Foreign Currency**" means lawful money of a country other than the United States.

"**Foreign Subsidiary**" means any Subsidiary which is not a Domestic Subsidiary.

"**Funding Date**" is any date on which a Credit Extension is made to or for the account of Borrower which shall be a Business Day.

"**FX Contract**" is any foreign exchange contract by and between Borrower and Bank under which Borrower commits to purchase from or sell to Bank a specific amount of Foreign Currency on a specified date.

"**GAAP**" is generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other Person as may be approved by a significant segment of the accounting profession, which are applicable to the circumstances as of the date of determination.

"**General Intangibles**" is all "general intangibles" as defined in the Code in effect on the date hereof with such additions to such term as may hereafter be made, and includes without limitation, all Intellectual Property, claims, income and other tax refunds, security and other deposits, payment intangibles, contract rights, options to purchase or sell real or personal property, rights in all litigation presently or hereafter pending (whether in contract, tort or otherwise), insurance policies (including without limitation key man, property damage, and business interruption insurance), payments of insurance and rights to payment of any kind.

"**Governmental Approval**" is any consent, authorization, approval, order, license, franchise, permit, certificate, accreditation, registration, filing or notice, of, issued by, from or to, or other act by or in respect of, any Governmental Authority.

"**Governmental Authority**" is any nation or government, any state or other political subdivision thereof, any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative,

judicial, taxing, regulatory or administrative functions of or pertaining to government, any securities exchange and any self-regulatory organization.

"**Guarantor**" is any Person providing a Guaranty in favor of Bank.

"**Guaranty**" is any guarantee of all or any part of the Obligations, as the same may from time to time be amended, restated, modified or otherwise supplemented.

"**Indebtedness**" is (a) indebtedness for borrowed money or the deferred price of property or services, such as reimbursement and other obligations for surety bonds and letters of credit, (b) obligations evidenced by notes, bonds, debentures or similar instruments, (c) capital lease obligations, and (d) Contingent Obligations.

"**Indemnified Person**" is defined in Section 12.3.

"**Initial Audit**" is Bank's inspection of Borrower's Accounts, the Collateral, and Borrower's Books, with results satisfactory to Bank in its sole and absolute discretion.

"**Insolvency Proceeding**" is any proceeding by or against any Person under the United States Bankruptcy Code, or any other bankruptcy or insolvency law, including assignments for the benefit of creditors, compositions, extensions generally with its creditors, or proceedings seeking reorganization, arrangement, or other relief.

"**Intellectual Property**" means, with respect to any Person, all of such Person's right, title, and interest in and to the following:

(a) its Copyrights, Trademarks and Patents;

(b) any and all trade secrets and trade secret rights, including, without limitation, any rights to unpatented inventions, know-how, and operating manuals;

(c) any and all source code;

(d) any and all design rights which may be available to such Person;

(e) any and all claims for damages by way of past, present and future infringement of any of the foregoing, with the right, but not the obligation, to sue for and collect such damages for said use or infringement of the Intellectual Property rights identified above; and

(f) all amendments, renewals and extensions of any of the Copyrights, Trademarks or Patents.

"**Inventory**" is all "inventory" as defined in the Code in effect on the date hereof with such additions to such term as may hereafter be made, and includes without limitation all merchandise, raw materials, parts, supplies, packing and shipping materials, work in process and finished products, including without limitation such inventory as is temporarily out of Borrower's custody or possession or in transit and including any returned goods and any documents of title representing any of the above.

"**Investment**" is any beneficial ownership interest in any Person (including stock, partnership interest or other securities), and any loan, advance or capital contribution to any Person.

"**IP Agreement**" is that certain Intellectual Property Security Agreement between Borrower and Bank dated as of the Effective Date, as may be amended, modified or restated from time to time.

"**Key Person**" is Borrower's Chief Executive Officer, who is Ethan Brown as of the Effective Date.

"**Letter of Credit**" is a standby or commercial letter of credit issued by Bank upon request of Borrower based upon an application, guarantee, indemnity, or similar agreement.

"**Lien**" is a claim, mortgage, deed of trust, levy, charge, pledge, security interest or other encumbrance of any kind, whether voluntarily incurred or arising by operation of law or otherwise against any property.

"**Loan Documents**" are, collectively, this Agreement and any schedules, exhibits, certificates, notices, and any other documents related to this Agreement, the Warrant, the IP Agreement, any Bank Services Agreement, any subordination agreement, any note, or notes or guaranties executed by Borrower or any Guarantor, and any other present or future agreement by Borrower and/or any Guarantor with or for the benefit of Bank, all as amended, restated, or otherwise modified; provided, however, that no agreement entered into (other than this Agreement or the Warrant) regarding the securities of Borrower or any rights or obligations of Bank regarding such securities (including but not limited to any investors' rights agreement, subscription agreement, or "lock up" agreement) shall constitute Loan Documents.

"**Loan Interest Sale**" is defined in 12.2.

"**Material Adverse Change**" is (a) a material impairment in the perfection or priority of Bank's Lien in the Collateral or in the value of such Collateral; (b) a material adverse change in the business, operations, or financial condition of Borrower; and (c) a material impairment of the prospect of repayment of any portion of the Obligations as and when due.

"**Monthly Financial Statements**" is defined in Section 6.2(a).

"**Obligations**" are Borrower's obligations to pay when due any debts, principal, interest, fees, Bank Expenses, the Term Loan Commitment Fees, the Prepayment Fee, and other amounts Borrower owes Bank now or later, whether under this Agreement, the other Loan Documents (other than the Warrant or any shares or other securities issued upon exercise and/or conversion or reclassification thereof, and any investors' rights agreement, subscription agreement, "lock up" agreement, or other similar agreements regarding the securities of Borrower or any rights or obligations of Bank regarding such securities), or otherwise, including, without limitation, all obligations relating to Bank Services and interest accruing after Insolvency Proceedings begin and debts, liabilities, or obligations of Borrower assigned to Bank, and the performance of Borrower's duties under the Loan Documents (other than the Warrant or any shares or other securities issued upon exercise and/or conversion or reclassification thereof, and any investors' rights agreement, subscription agreement, "lock up" agreement, or other similar agreements regarding the securities of Borrower or any rights or obligations of Bank regarding such securities).

"**Offsite Collateral**" means computer equipment, cell phones and related equipment in the possession of employees in the ordinary course of business with an aggregate value not to exceed Two Hundred Fifty Thousand Dollars ($250,000.00).

"**Operating Documents**" are, for any Person, such Person's formation documents, as certified by the Secretary of State (or equivalent agency) of such Person's jurisdiction of organization on a date that is no earlier than thirty (30) days prior to the Effective Date, and, (a) if such Person is a corporation, its bylaws in current form, (b) if such Person is a limited liability company, its limited liability company agreement (or similar agreement), and (c) if such Person is a partnership, its partnership agreement (or similar agreement), each of the foregoing with all current amendments or modifications thereto.

"**Patents**" means all patents, patent applications and like protections including without limitation improvements, divisions, continuations, renewals, reissues, extensions and continuations-in-part of the same.

"**Payment/Advance Form**" is that certain form in the form attached hereto as Exhibit C.

"**Payment Date**" is the first (1st) calendar day of each month.

"**Perfection Certificate**" is defined in Section 5.1.

"**Permitted Acquisition**" means any Acquisition, consisting of a single transaction or a series of related transactions, by the Borrower or any Subsidiary in the form of Acquisitions of any other Person if (a) total cash and non-cash consideration for all such Acquisitions does not in the aggregate exceed One Million Dollars ($1,000,000) in any fiscal year of Borrower; (b) the Target shall be located in the United States and in a similar line of business as that of the Borrower; (c) the Target shall be a going concern (other than in respect of the formation of a Subsidiary formed to effect the Acquisition), not involved in any material litigation that is not fully covered by reserves and/or insurance; (d) no Event of Default has occurred and is continuing or would exist after giving effect to such Acquisition, including, without limitation, Borrower's compliance with Section 6.13; (e) if such Acquisition is in the form of a merger by the Borrower into another Person, the Borrower is the surviving legal entity; (f) if such Acquisition is in the form of a merger by a Subsidiary into another Person, one hundred percent (100%) of the outstanding and issued equity of the surviving legal entity shall be owned by the Borrower or a Subsidiary; (g) no Indebtedness shall be assumed by any Borrower in connection with such Acquisition other than Permitted Indebtedness; (h) the Acquisition is not a hostile Acquisition; (i) Borrower shall be in compliance, on a pro forma basis immediately after giving effect to such Acquisition, with the covenants contained in Section 6.9 (if any) recomputed as of the last day of the most recently ended month or fiscal quarter as applicable as if such transaction had occurred on the first (1st) day of the relevant month or fiscal quarter for testing such compliance; (j) the credit risk to Bank, in its sole but reasonable discretion, shall not be increased as a result of the Permitted Acquisition, and (k) Bank shall receive at least 20 days' prior notice of such Permitted Acquisition, which notice shall include a reasonably detailed description of such Permitted Acquisition, and such other financial information, financial analysis, documentation or other information relating to such Permitted Acquisition as Bank shall reasonably request.

"**Permitted Indebtedness**" is:

(a) Borrower's Indebtedness to Bank under this Agreement, the other Loan Documents, and the Revolving Line Loan Documents;

(b) Indebtedness existing on the Effective Date which is shown on the Perfection Certificate;

(c) Subordinated Debt;

(d) unsecured Indebtedness to trade creditors incurred in the ordinary course of business;

(e) Indebtedness incurred as a result of endorsing negotiable instruments received in the ordinary course of business;

(f) Indebtedness secured by Liens permitted under clauses (a) and (c) of the definition of "Permitted Liens" hereunder;

(g) other unsecured Indebtedness not otherwise permitted by Section 7.4 not exceeding One Hundred Thousand Dollars ($100,000.00) in the aggregate outstanding at any time; and

(h) extensions, refinancings, modifications, amendments and restatements of any items of Permitted Indebtedness (a) through (g) above, provided that the principal amount thereof is not increased or the terms thereof are not modified to impose more burdensome terms upon Borrower or its Subsidiary, as the case may be.

"**Permitted Investments**" are:

(a) Investments (including, without limitation, Subsidiaries) existing on the Effective Date which are shown on the Perfection Certificate (but specifically excluding any future Investments in any Subsidiaries unless otherwise permitted hereunder);

(b) Investments consisting of Cash Equivalents;

(c) Investments consisting of the endorsement of negotiable instruments for deposit or collection or similar transactions in the ordinary course of Borrower;

(d) Investments consisting of deposit accounts in which Bank has a first priority perfected security interest;

(e) Investments accepted in connection with Transfers permitted by Section 7.1 of this Agreement;

(f) Investments (i) by Borrower in Subsidiaries not to exceed One Hundred Thousand Dollars ($100,000.00) in the aggregate in any twelve (12) month period and (ii) by Subsidiaries in other Subsidiaries or in Borrower;

(g) Investments consisting of (i) travel advances and employee relocation loans and other employee loans and advances in the ordinary course of business, and (ii) loans to employees, officers or directors relating to the purchase of equity securities of Borrower or its Subsidiaries pursuant to employee stock purchase plans or agreements approved by the Board;

(h) Investments (including debt obligations) received in connection with the bankruptcy or reorganization of customers or suppliers and in settlement of delinquent obligations of, and other disputes with, customers or suppliers arising in the ordinary course of business; and

(i) Investments consisting of notes receivable of, or prepaid royalties and other credit extensions, to customers and suppliers who are not Affiliates, in the ordinary course of business; provided that this paragraph (i) shall not apply to Investments of Borrower in any Subsidiary.

"**Permitted Liens**" are:

(a) Liens existing on the Effective Date which are shown on the Perfection Certificate or arising under this Agreement, the other Loan Documents, or the Revolving Line Loan Documents;

(b) Liens for taxes, fees, assessments or other government charges or levies, either (i) not due and payable or (ii) being contested in good faith and for which Borrower maintains adequate reserves on Borrower's Books, provided that no notice of any such Lien has been filed or recorded under the Internal Revenue Code of 1986, as amended, and the Treasury Regulations adopted thereunder;

(c) purchase money Liens or capital leases (i) on Equipment acquired or held by Borrower incurred for financing the acquisition of the Equipment securing no more than Five Million Dollars ($5,000,000.00) in the aggregate amount outstanding, or (ii) existing on Equipment when acquired, if the Lien is confined to the property and improvements and the proceeds of the Equipment; and

(d) Liens of carriers, warehousemen, suppliers, or other Persons that are possessory in nature arising in the ordinary course of business so long as such Liens attach only to Inventory, securing liabilities which are not delinquent or remain payable without penalty or which are being contested in good faith and by appropriate proceedings which proceedings have the effect of preventing the forfeiture or sale of the property subject thereto;

(e) Liens to secure payment of workers' compensation, employment insurance, old-age pensions, social security and other like obligations incurred in the ordinary course of business (other than Liens imposed by ERISA);

(f) Liens incurred in the extension, renewal or refinancing of the Indebtedness secured by Liens described in (a) through (c), but any extension, renewal or replacement Lien must be limited to the property encumbered by the existing Lien and the principal amount of the indebtedness may not increase;

(g) leases or subleases of real property granted in the ordinary course of Borrower's business (or, if referring to another Person, in the ordinary course of such Person's business), and leases, subleases, non-exclusive

licenses or sublicenses of personal property (other than Intellectual Property) granted in the ordinary course of Borrower's business (or, if referring to another Person, in the ordinary course of such Person's business), if the leases, subleases, licenses and sublicenses do not prohibit granting Bank a security interest therein;

(h) non-exclusive licenses of Intellectual Property granted to third parties in the ordinary course of business, and licenses of Intellectual Property that could not result in a legal transfer of title of the licensed property that may be exclusive in respects other than territory and that may be exclusive as to territory only as to discrete geographical areas outside of the United States;

(i) Liens arising from attachments or judgments, orders, or decrees in circumstances not constituting an Event of Default under Sections 8.4 and 8.7 of this Agreement; and

(j) Liens in favor of other financial institutions arising in connection with Borrower's deposit and/or securities accounts held at such institutions, provided that Bank has a first priority perfected security interest in the amounts held in such deposit and/or securities accounts.

"**Person**" is any individual, sole proprietorship, partnership, limited liability company, joint venture, company, trust, unincorporated organization, association, corporation, institution, public benefit corporation, firm, joint stock company, estate, entity or government agency.

"**Prepayment Fee**" shall be an additional fee, payable to Bank, with respect to each Term Loan Advance, in an amount equal to (a) three percent (3.0%) of the original principal amount of such Term Loan Advance if such Term Loan Advance has been outstanding for less than one (1) year; (b) two percent (2.0%) of the original principal amount of such Term Loan Advance if such Term Loan Advance has been outstanding for at least one (1) year but less than two (2) years; and (c) one percent (1.0%) of the original principal amount of such Term Loan Advance if such Term Loan Advance has been outstanding for at least two (2) years but less than three (3) years.

"**Prime Rate**" is the rate of interest per annum from time to time published in the money rates section of The Wall Street Journal or any successor publication thereto as the "prime rate" then in effect; provided that, in the event such rate of interest is less than zero, such rate shall be deemed to be zero for purposes of this Agreement; and provided further that if such rate of interest, as set forth from time to time in the money rates section of The Wall Street Journal, becomes unavailable for any reason as determined by Bank, the "Prime Rate" shall mean the rate of interest per annum announced by Bank as its prime rate in effect at its principal office in the State of California (such Bank announced Prime Rate not being intended to be the lowest rate of interest charged by Bank in connection with extensions of credit to debtors); provided that, in the event such rate of interest is less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

"**Quarterly Financial Statements**" is defined in Section 6.2(c).

"**Registered Organization**" is any "registered organization" as defined in the Code with such additions to such term as may hereafter be made.

"**Requirement of Law**" is as to any Person, the organizational or governing documents of such Person, and any law (statutory or common), treaty, rule or regulation or determination of an arbitrator or a court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

"**Responsible Officer**" is any of the Chief Executive Officer, President, Chief Financial Officer and Controller of Borrower.

"**Restricted License**" is any material license or other similar agreement with respect to which Borrower is the licensee (a) that prohibits or otherwise restricts Borrower from granting a security interest in Borrower's interest in such license or agreement or any other property, or (b) for which a default under or termination of could reasonably be expected to interfere with Bank's right to sell any Collateral.

"**Revolving Line**" is defined in the Revolving Line Loan Agreement.

"**Revolving Line Loan Agreement**" is that certain Amended and Restated Loan and Security Agreement (Revolving Line), dated as of the Effective Date, by and between Borrower and Bank, as the same may be amended, modified, supplemented or restated from time to time.

"**Revolving Line Loan Documents**" are, collectively, the Revolving Line Loan Agreement, any note, or notes, security agreements, or guaranties executed by Borrower or any other Person and any other present or future agreement between Bank and Borrower in connection with the Revolving Line Loan Agreement, all as amended, extended or restated from time to time.

"**SEC**" shall mean the Securities and Exchange Commission, any successor thereto, and any analogous Governmental Authority.

"**Securities Account**" is any "securities account" as defined in the Code with such additions to such term as may hereafter be made.

"**Subordinated Debt**" is indebtedness incurred by Borrower subordinated to all of Borrower's now or hereafter indebtedness to Bank (pursuant to a subordination, intercreditor, or other similar agreement in form and substance satisfactory to Bank entered into between Bank and the other creditor), on terms acceptable to Bank.

"**Subsidiary**" is, as to any Person, a corporation, partnership, limited liability company or other entity of which shares of stock or other ownership interests having ordinary voting power (other than stock or such other ownership interests having such power only by reason of the happening of a contingency) to elect a majority of the board of directors or other managers of such corporation, partnership or other entity are at the time owned, or the management of which is otherwise controlled, directly or indirectly through one or more intermediaries, or both, by such Person. Unless the context otherwise requires, each reference to a Subsidiary herein shall be a reference to a Subsidiary of Borrower or Guarantor.

"**Term Loan Advance**" and "**Term Loan Advances**" are each defined in Section 2.2(a).

"**Term Loan Amortization Date**" is January 1, 2020; provided, however, that in the event that Borrower has achieved the Tranche Three Milestone, the Term Loan Amortization Date may be extended at Borrower's option in its absolute and sole discretion upon its written notice to Bank to July 1, 2020.

"**Term Loan Commitment Amount**" means Twenty Million Dollars ($20,000,000.00).

"**Term Loan Commitment Fee**" and "**Term Loan Commitment Fees**" are each defined in Section 2.4(a).

"**Term Loan Commitment Termination Date**" means February 28, 2019.

"**Term Loan Maturity Date**" is June 1, 2022.

"**Third Party Equipment**" means the Equipment (and additions, accessions, parts, replacements, fixtures, improvements and attachments thereto and the proceeds thereof) financed or acquired pursuant to clause (c) of the definition of Permitted Liens.

"**Trademarks**" means any trademark and servicemark rights, whether registered or not, applications to register and registrations of the same and like protections, and the entire goodwill of the business of Borrower connected with and symbolized by such trademarks.

"**Tranche One Term Loan Advance**" is defined in Section 2.2(a).

"**Tranche Three Milestone**" means Bank's receipt of evidence reasonably satisfactory to Bank, in its sole and absolute discretion, that the aggregate amount of Borrower's gross profit for the trailing twelve (12) month period is at least Ten Million One Hundred Ten Thousand Dollars ($10,110,000.00) as reflected in the financial statements submitted to Bank pursuant to Section 6.2(e) for the 2018 fiscal year of Borrower.

"**Tranche Three Term Loan Advance**" is defined in Section 2.2(a).

"**Tranche Two Term Loan Advance**" is defined in Section 2.2(a).

"**Transfer**" is defined in Section 7.1.

"**Warrant**" means, individually and collectively, those certain Warrants to Purchase Common Stock dated as of the Effective Date executed by Borrower in favor of Bank and WestRiver Mezzanine Loans – Loan Pool V, LLC, each as amended, modified, supplemented and/or restated from time to time.

[Signature page follows.**]**

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the Effective Date.

BORROWER:

SAVAGE RIVER, INC

By: /s/ Mark Nelson
Name: Mark Nelson
Title: Chief Financial Officer

BANK:

SILICON VALLEY BANK

By: /s/ Derek Hofmeister
Name: Derek Hofmeister
Title: Vice President

EXHIBIT A

COLLATERAL DESCRIPTION

The Collateral consists of all of Borrower's right, title and interest in and to the following personal property:

All goods, Accounts (including health-care receivables), Equipment, Inventory, contract rights or rights to payment of money, leases, license agreements, franchise agreements, General Intangibles, Intellectual Property, commercial tort claims, documents, instruments (including any promissory notes), chattel paper (whether tangible or electronic), cash, deposit accounts, certificates of deposit, fixtures, letters of credit rights (whether or not the letter of credit is evidenced by a writing), securities, and all other investment property, supporting obligations, and financial assets, whether now owned or hereafter acquired, wherever located; and

all Borrower's Books relating to the foregoing, and any and all claims, rights and interests in any of the above and all substitutions for, additions, attachments, accessories, accessions and improvements to and replacements, products, proceeds and insurance proceeds of any or all of the foregoing.

EXHIBIT B

COMPLIANCE STATEMENT

TO: SILICON VALLEY BANK Date: _____

FROM: SAVAGE RIVER, INC.

Under the terms and conditions of the Loan and Security Agreement (Term Loan) between SAVAGE RIVER, INC., a Delaware corporation ("**Borrower**") and Bank (the "**Agreement**"), Borrower is in complete compliance for the period ending with all required covenants except as noted below. Attached are the required documents evidencing such compliance, setting forth calculations prepared in accordance with GAAP consistently applied from one period to the next except as explained in an accompanying letter or footnotes. Capitalized terms used but not otherwise defined herein shall have the meanings given them in the Agreement.

Please indicate compliance status by circling Yes/No under "Complies" column.

Reporting Covenants	Required	Complies
Monthly financial statements with Compliance Statement	Monthly within 30 days	Yes No
Quarterly financial statements with Compliance Statement	Quarterly within 45 days	Yes No
Annual financial statements (CPA Audited)	FYE within 180 days	Yes No
10-Q, 10-K and 8-K	Within 5 days after filing with SEC	Yes No
Board-approved projections	Earlier of (a) 30 days after Board approval or (b) January 31st of each year, and as amended/updated	Yes No
409(a) Valuation Report	Within 30 days of completion	Yes No
The following Intellectual Property was registered after the Effective Date (if no registrations, state "None")		

The following are the exceptions with respect to the certification above: (If no exceptions exist, state "No exceptions to note.")

_____

EXHIBIT C

LOAN PAYMENT/ADVANCE REQUEST FORM

DEADLINE FOR SAME DAY PROCESSING IS NOON PACIFIC TIME

Fax To: Date: _____

LOAN PAYMENT:

SAVAGE RIVER, INC.

From Account # _____ To Account # _____

(Deposit Account #) (Loan Account #)

Principal $ _____ and/or Interest $ _____

Authorized Signature: _____ Phone Number: _____

Print Name/Title: _____

LOAN ADVANCE:

Complete *Outgoing Wire Request* section below if all or a portion of the funds from this loan advance are for an outgoing wire.

From Account # _____ To Account # _____

(Loan Account #) (Deposit Account #)

Amount of Term Loan Advance $ _____

All Borrower's representations and warranties in the Loan and Security Agreement (Term Loan) are true, correct and complete in all material respects on the date of the request for an advance; provided, however, that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof; and provided, further that those representations and warranties expressly referring to a specific date shall be true, accurate an d complete in all material respects as of such date:

Authorized Signature: _____ Phone Number: _____

Print Name/Title: _____

OUTGOING WIRE REQUEST:

Complete only if all or a portion of funds from the loan advance above is to be wired.

Deadline for same day processing is noon, Pacific Time

Beneficiary Name: _____ Amount of Wire: $ _____

Beneficiary Bank: _____ Account Number: _____

City and State: _____

Beneficiary Bank Transit (ABA) #: _____ Beneficiary Bank Code (Swift, Sort, Chip, etc.): _____

(For International Wire Only)

Intermediary Bank: _____ Transit (ABA) #: _____

For Further Credit to: _____

Special Instruction: _____

By signing below, I (we) acknowledge and agree that my (our) funds transfer request shall be processed in accordance with and subject to the terms and conditions set forth in the agreements(s) covering funds transfer service(s), which agreements(s) were previously received and executed by me (us).

Authorized Signature: _____ 2nd Signature (if required): _____

Print Name/Title: _____ Print Name/Title: _____

Telephone #: _____ Telephone # _____

FIRST AMENDMENT TO LOAN AND SECURITY AGREEMENT (Term Loan)

THIS FIRST AMENDMENT TO LOAN AND SECURITY AGREEMENT (this "**Amendment**") is entered into this 27th day of September, 2018, by and between **SILICON VALLEY BANK**, a California corporation ("**Bank**"), and BEYOND MEAT, INC. (formerly known as Savage River, Inc.), a Delaware corporation ("**Borrower**").

RECITALS

A. Bank and Borrower have entered into that certain Loan and Security Agreement (Term Loan) dated as of June 27, 2018 (as the same may from time to time be amended, modified, supplemented or restated, the "**Loan Agreement**").

B. Bank has extended credit to Borrower for the purposes permitted in the Loan Agreement.

C. Borrower has requested that Bank amend the Loan Agreement to permit the Borrower to draw the Tranche Three Term Loan Advance prior to completion of the Tranche Three Milestone requirement.

D. Bank has agreed to so amend certain provisions of the Loan Agreement, but only to the extent, in accordance with the terms, subject to the conditions and in reliance upon the representations and warranties set forth below.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, and intending to be legally bound, the parties hereto agree as follows:

1. Definitions. Capitalized terms used but not defined in this Amendment, including its preamble and recitals, shall have the meanings given to them in the Loan Agreement.

2. Amendments to Loan Agreement.

2.1 Section 2.2(a) (**Availability**). Section 2.2(a) of the Loan Agreement is hereby amended by deleting subclause (iii) thereof in its entirety and replacing it with the following:

(iii) the third (3rd) tranche shall be funded to Borrower on or about September 28, 2018 in a single Term Loan Advance in a principal amount of Five Million Dollars ($5,000,000) ("**Tranche Three Term Loan Advance**").

3. Limitation of Amendments.

3.1 The amendments set forth in Section 2, above, are effective for the purposes set forth herein and shall be limited precisely as written and shall not be deemed to (a) be a consent to any

amendment, waiver or modification of any other term or condition of any Loan Document, or (b) otherwise prejudice any right or remedy which Bank may now have or may have in the future under or in connection with any Loan Document.

3.2 This Amendment shall be construed in connection with and as part of the Loan Documents and all terms, conditions, representations, warranties, covenants and agreements set forth in the Loan Documents, except as herein amended, are hereby ratified and confirmed and shall remain in full force and effect.

3.3 In addition to those Events of Default specifically enumerated in the Loan Documents, the failure to comply with the terms of any covenant or agreement contained herein shall constitute an Event of Default, and shall entitle Bank to exercise all rights and remedies provided to Bank under the terms of any of the other Loan Documents as a result of the occurrence of the same.

4. Representations and Warranties. To induce Bank to enter into this Amendment, Borrower hereby represents and warrants to Bank as follows:

4.1 Immediately after giving effect to this Amendment (a) the representations and warranties contained in the Loan Documents are true, accurate and complete in all material respects as of the date hereof (except to the extent such representations and warranties relate to an earlier date, in which case they are true and correct in all material respects as of such date), and (b) no Event of Default, has occurred and is continuing;

4.2 Borrower has the power and authority to execute and deliver this Amendment and to perform its obligations under the Loan Agreement, as amended by this Amendment;

4.3 The organizational documents of Borrower delivered to Bank on the Effective Date and amended by any updates thereto delivered to Bank on the First Amendment Effective Date are true, accurate and complete and have not been further amended, supplemented or restated and are and continue to be in full force and effect;

4.4 The execution and delivery by Borrower of this Amendment and the performance by Borrower of its obligations under the Loan Agreement, as amended by this Amendment, have been duly authorized;

4.5 The execution and delivery by Borrower of this Amendment and the performance by Borrower of its obligations under the Loan Agreement, as amended by this Amendment, do not and will not contravene (a) any material Requirement of Law, (b) any material contractual restriction with a Person binding on Borrower, (c) any order, judgment or decree of any Governmental Authority by which Borrower or any of its Subsidiaries or any of their property or assets may be bound or affected, or (d) the organizational documents of Borrower;

4.6 The execution and delivery by Borrower of this Amendment and the performance by Borrower of its obligations under the Loan Agreement, as amended by this Amendment, do not require any action by, filing, registration, or qualification with, or Governmental Approval from,

any Governmental Authority (except such Governmental Approvals which have already been obtained and are in full force and effect); and

4.7 This Amendment has been duly executed and delivered by Borrower and is the binding obligation of Borrower, enforceable against Borrower in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, liquidation, moratorium or other similar laws of general application and equitable principles relating to or affecting creditors' rights.

5. Integration. This Amendment and the Loan Documents represent the entire agreement about this subject matter and supersede prior negotiations or agreements. All prior agreements, understandings, representations, warranties, and negotiations between the parties about the subject matter of this Amendment and the Loan Documents merge into this Amendment and the Loan Documents.

6. Counterparts. This Amendment may be executed in any number of counterparts and all of such counterparts taken together shall be deemed to constitute one and the same instrument.

7. Effectiveness. This Amendment shall be deemed effective upon (a) the due execution and delivery to Bank of this Amendment by each party hereto, (b) Borrower's payment of a fully earned, non-refundable amendment fee to Bank in an amount equal to Fifteen Thousand Dollars ($15,000), (c) Borrower's payment of the Subsequent Funding Date Term Loan Commitment Fee for the Tranche Three Term Loan Advance in accordance with Section 2.4(a) of the Loan Agreement, (d) Borrower's delivery to Bank of true, correct and complete copies of executed documents in connection with the contemplated round of Series H preferred equity financing (the "**Series H Financing**"), (e) Borrower's receipt of proceeds from such Series H Financing in an amount acceptable to Bank, and (f) payment of all Bank's legal fees and expenses in connection with the preparation and negotiation of this Amendment.

[Signature Page Follows.]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed and delivered as of the date first written above.

BANK

SILICON VALLEY BANK

By: /s/ Derek Hofmeister
Derek Hofmeister
Vice President

BORROWER

BEYOND MEAT, INC.

By: /s/ Mark Nelson
Mark Nelson
Chief Financial Officer

INTELLECTUAL PROPERTY SECURITY AGREEMENT

THIS INTELLECTUAL PROPERTY SECURITY AGREEMENT ("**Agreement**") is entered into as of June 27, 2018 by and between SILICON VALLEY BANK, a California corporation ("**Bank**"), and SAVAGE RIVER, INC., a Delaware corporation ("**Grantor**").

RECITALS

A. Bank has agreed to make certain advances of money and to extend certain financial accommodation to Grantor (the "**Loans**") in the amounts and manner set forth in that certain Amended and Restated Loan and Security Agreement (Revolving Line) by and between Bank and Grantor dated the Effective Date (as the same may be amended, modified or supplemented from time to time, the "**Loan Agreement**"; capitalized terms used herein are used as defined in the Loan Agreement). Bank is willing to make the Loans to Grantor, but only upon the condition, among others, that Grantor shall grant to Bank a security interest in certain Copyrights, Trademarks, Patents, and Mask Works (as each term is described below) to secure the obligations of Grantor under the Loan Agreement.

B. Pursuant to the terms of the Loan Agreement, Grantor has granted to Bank a security interest in all of Grantor's right, title and interest, whether presently existing or hereafter acquired, in, to and under all of the Collateral.

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, and intending to be legally bound, as collateral security for the prompt and complete payment when due of its obligations under the Loan Agreement, Grantor hereby represents, warrants, covenants and agrees as follows:

AGREEMENT

1. Grant of Security Interest. To secure its obligations under the Loan Agreement, Grantor grants and pledges to Bank a security interest in all of Grantor's right, title and interest in, to and under its intellectual property (all of which shall collectively be called the "**Intellectual Property Collateral**"), including, without limitation, the following:

(a) Any and all copyright rights, copyright applications, copyright registrations and like protections in each work or authorship and derivative work thereof, whether published or unpublished and whether or not the same also constitutes a trade secret, now or hereafter existing, created, acquired or held, including without limitation those set forth on Exhibit A attached hereto (collectively, the "**Copyrights**");

(b) Any and all trade secrets, and any and all intellectual property rights in computer software and computer software products now or hereafter existing, created, acquired or held;

(c) Any and all design rights that may be available to Grantor now or hereafter existing, created, acquired or held;

(d) All patents, patent applications and like protections including, without limitation, improvements, divisions, continuations, renewals, reissues, extensions and continuations-in-part of the same, including without limitation the patents and patent applications set forth on Exhibit B attached hereto and any patents and patent applications claiming the priority benefit of the patents and patent applications set forth on Exhibit B attached hereto (collectively, the "**Patents**");

(e) Any trademark and servicemark rights, whether registered or not, applications to register and registrations of the same and like protections, and the entire goodwill of the business of Grantor connected with and symbolized by such trademarks, including without limitation those set forth on Exhibit C attached hereto (collectively, the "**Trademarks**");

(f) All mask works or similar rights available for the protection of semiconductor chips, now owned or hereafter acquired, including, without limitation those set forth on Exhibit D attached hereto (collectively, the "**Mask Works**");

(g) Any and all claims for damages by way of past, present and future infringements of any of the rights included above, with the right, but not the obligation, to sue for and collect such damages for said use or infringement of the intellectual property rights identified above;

(h) All licenses or other rights to use any of the Copyrights, Patents, Trademarks, or Mask Works and all license fees and royalties arising from such use to the extent permitted by such license or rights;

(i) All amendments, extensions, renewals and extensions of any of the Copyrights, Trademarks, Patents, or Mask Works; and

(j) All proceeds and products of the foregoing, including without limitation all payments under insurance or any indemnity or warranty payable in respect of any of the foregoing.

2. Recordation. Grantor authorizes the Commissioner for Patents, the Commissioner for Trademarks and the Register of Copyrights and any other government officials to record and register this Agreement upon request by Bank.

3. Authorization. Grantor hereby authorizes Bank to (1) modify this Agreement unilaterally by amending the exhibits to this Agreement to include any Intellectual Property Collateral which Grantor obtains subsequent to the date of this Agreement, and (1) file a duplicate original of this Agreement containing amended exhibits reflecting such new Intellectual Property Collateral.

4. Loan Documents. This Agreement has been entered into pursuant to and in conjunction with the Loan Agreement, which is hereby incorporated by reference. The provisions of the Loan Agreement shall supersede and control over any conflicting or inconsistent provision herein. The rights and remedies of Bank with respect to the Intellectual Property Collateral are as

provided by the Loan Agreement and related documents, and nothing in this Agreement shall be deemed to limit such rights and remedies.

5. Execution in Counterparts. This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. Delivery of an executed counterpart of a signature page to this Agreement by facsimile or in electronic (i.e., “pdf” or “tif” format) shall be effective as delivery of a manually executed counterpart of this Agreement.

6. Successors and Assigns. This Agreement will be binding on and shall inure to the benefit of the parties hereto and their respective successors and assigns.

7. Governing Law. This Agreement and any claim, controversy, dispute or cause of action (whether in contract or tort or otherwise) based upon, arising out of or relating to this Agreement and the transactions contemplated hereby and thereby shall be governed by, and construed in accordance with, the laws of the United States and the State of California, without giving effect to any choice or conflict of law provision or rule (whether of the State of California or any other jurisdiction).

[Signature page follows.]

IN WITNESS WHEREOF, the parties have caused this Intellectual Property Security Agreement to be duly executed by its officers thereunto duly authorized as of the first date written above.

GRANTOR:

SAVAGE RIVER, INC.

By:	/s/ Mark Nelson
Name:	Mark Nelson
Title:	Chief Financial Officer

BANK:

SILICON VALLEY BANK

By:	/s/ Derek Hofmeister
Name:	Derek Hofmeister
Title:	Vice President

EXHIBIT A

Copyrights

No.	Description	Registration Number	Application Number
1.	None Identified		

EXHIBIT B

Patents

No.	Description	Application Number	Registration Number
1.	Nutrient-Dense Meat Structured Protein Products		9,526,267 (12/27/2016)
2.	Plant Based Meat Structured Protein Products	14/687,803 (04/15/2015)	
3.	Microbial Biomass Compromising Food Products	14/855,212 (09/15/2015)	
4.	Food Products Compromising Cell Wall Material	15/225,646 (08/01/2016)	
5.	Meat-Like Food Products	15/298,199 (10/19/2016)	
6.	Nutrient-Dense Meat Structured Protein Products	15/385,036 (12/20/2016)	
7.	Meat-Like Food Products	PCT US2016057840 (10/20/2016)	
8.	Food Products Comprising Cell Wall Material	PCT US2016045128 (08/02/2016)	
9.	Microbial Biomass Comprising Food Products	PCT US2015050421 (09/16/2015)	
10.	Plant Based Meat Structured Protein Products	PCT US2015026206 (04/16/2015)	
11.	Nutrient-Dense Meat Structured Protein Products	PCT US2015026222 (04/16/2015)	

EXHIBIT C

Trademarks

No.	Description	Serial Number	Registration Number
1.	THE FUTURE OF PROTEIN MADE FROM PLANTS	87/903,995 (05/02/2018)	
2.	THE FUTURE OF PROTEIN BEYOND MEAT (& design)	87/463,132 (05/24/2017)	
3.	BEYOND BREAKFAST SAUSAGE	87/899,827 (04/30/2018)	
4.	BEYOND HOT DOGS	87/512,332 (06/30/2017)	
5.	BEYOND LAMB	87/512,318 (06/30/2017)	
6.	BEYOND TUNA	87/512,314 (06/30/2017)	
7.	BEYOND SHRIMP	87/512,310 (06/30/2017)	
8.	BEYOND FISH	87/512,309 (06/30/2017)	
9.	BEYOND CRAB	87/512,304 (06/30/2017)	
10.	BEYOND HAM	87/512,298 (06/30/2017)	
11.	BEYOND PORK	87/512,293 (06/30/2017)	
12.	BEYOND TURKEY	87/512,291 (06/30/2017)	
13.	BEYOND SAUSAGE	87/479,168 (06/07/2017)	
14.	EAT WHAT YOU LOVE	87/793,698 (02/12/2018)	
15.	THE COOKOUT CLASSIC	87/360,042 (03/06/2017)	
16.	BEYOND GROUND	87/512,323 (06/30/2017)	
17.	BEYOND JERKY	86/664,622 (06/16/2015)	

No.	Description	Serial Number	Registration Number
18.	THE BEYOND BURGER		5,101,972 (12/13/2016)
19.	THE FUTURE OF PROTEIN		4,852,710 (11/10/2015)
20.	BEYOND BEEF		4,654,352 (12/09/2014)
21.	BEYOND CHICKEN		4,654,351 (12/09/2014)
22.	BEYOND MEAT (& design)		4,392,040 (08/27/2013)
23.	BEYOND MEAT		4,314,689 (04/02/2013)
24.	BEYOND BURGERS	86/918082	

EXHIBIT D

Mask Works

No.	Description	Application	Registration
1.	None Identified		

INTELLECTUAL PROPERTY SECURITY AGREEMENT

THIS INTELLECTUAL PROPERTY SECURITY AGREEMENT ("**Agreement**") is entered into as of June 27, 2018 by and between SILICON VALLEY BANK, a California corporation ("**Bank**"), and SAVAGE RIVER, INC., a Delaware corporation ("**Grantor**").

RECITALS

A. Bank has agreed to make certain advances of money and to extend certain financial accommodation to Grantor (the "**Loans**") in the amounts and manner set forth in that certain Loan and Security Agreement (Term Loan) by and between Bank and Grantor dated the Effective Date (as the same may be amended, modified or supplemented from time to time, the "**Loan Agreement**"; capitalized terms used herein are used as defined in the Loan Agreement). Bank is willing to make the Loans to Grantor, but only upon the condition, among others, that Grantor shall grant to Bank a security interest in certain Copyrights, Trademarks, Patents, and Mask Works (as each term is described below) to secure the obligations of Grantor under the Loan Agreement.

B. Pursuant to the terms of the Loan Agreement, Grantor has granted to Bank a security interest in all of Grantor's right, title and interest, whether presently existing or hereafter acquired, in, to and under all of the Collateral.

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, and intending to be legally bound, as collateral security for the prompt and complete payment when due of its obligations under the Loan Agreement, Grantor hereby represents, warrants, covenants and agrees as follows:

AGREEMENT

1. Grant of Security Interest. To secure its obligations under the Loan Agreement, Grantor grants and pledges to Bank a security interest in all of Grantor's right, title and interest in, to and under its intellectual property (all of which shall collectively be called the "**Intellectual Property Collateral**"), including, without limitation, the following:

(a) Any and all copyright rights, copyright applications, copyright registrations and like protections in each work or authorship and derivative work thereof, whether published or unpublished and whether or not the same also constitutes a trade secret, now or hereafter existing, created, acquired or held, including without limitation those set forth on Exhibit A attached hereto (collectively, the "**Copyrights**");

(b) Any and all trade secrets, and any and all intellectual property rights in computer software and computer software products now or hereafter existing, created, acquired or held;

(c) Any and all design rights that may be available to Grantor now or hereafter existing, created, acquired or held;

(d) All patents, patent applications and like protections including, without limitation, improvements, divisions, continuations, renewals, reissues, extensions and continuations-in-part of the same, including without limitation the patents and patent applications set forth on Exhibit B attached hereto and any patents and patent applications claiming the priority benefit of the patents and patent applications set forth on Exhibit B attached hereto (collectively, the "**Patents**");

(e) Any trademark and servicemark rights, whether registered or not, applications to register and registrations of the same and like protections, and the entire goodwill of the business of Grantor connected with and symbolized by such trademarks, including without limitation those set forth on Exhibit C attached hereto (collectively, the "**Trademarks**");

(f) All mask works or similar rights available for the protection of semiconductor chips, now owned or hereafter acquired, including, without limitation those set forth on Exhibit D attached hereto (collectively, the "**Mask Works**");

(g) Any and all claims for damages by way of past, present and future infringements of any of the rights included above, with the right, but not the obligation, to sue for and collect such damages for said use or infringement of the intellectual property rights identified above;

(h) All licenses or other rights to use any of the Copyrights, Patents, Trademarks, or Mask Works and all license fees and royalties arising from such use to the extent permitted by such license or rights;

(i) All amendments, extensions, renewals and extensions of any of the Copyrights, Trademarks, Patents, or Mask Works; and

(j) All proceeds and products of the foregoing, including without limitation all payments under insurance or any indemnity or warranty payable in respect of any of the foregoing.

2. Recordation. Grantor authorizes the Commissioner for Patents, the Commissioner for Trademarks and the Register of Copyrights and any other government officials to record and register this Agreement upon request by Bank.

3. Authorization. Grantor hereby authorizes Bank to (1) modify this Agreement unilaterally by amending the exhibits to this Agreement to include any Intellectual Property Collateral which Grantor obtains subsequent to the date of this Agreement, and (1) file a duplicate original of this Agreement containing amended exhibits reflecting such new Intellectual Property Collateral.

4. Loan Documents. This Agreement has been entered into pursuant to and in conjunction with the Loan Agreement, which is hereby incorporated by reference. The provisions of the Loan Agreement shall supersede and control over any conflicting or inconsistent provision herein. The rights and remedies of Bank with respect to the Intellectual Property Collateral are as

provided by the Loan Agreement and related documents, and nothing in this Agreement shall be deemed to limit such rights and remedies.

5. Execution in Counterparts. This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. Delivery of an executed counterpart of a signature page to this Agreement by facsimile or in electronic (i.e., “pdf” or “tif” format) shall be effective as delivery of a manually executed counterpart of this Agreement.

6. Successors and Assigns. This Agreement will be binding on and shall inure to the benefit of the parties hereto and their respective successors and assigns.

7. Governing Law. This Agreement and any claim, controversy, dispute or cause of action (whether in contract or tort or otherwise) based upon, arising out of or relating to this Agreement and the transactions contemplated hereby and thereby shall be governed by, and construed in accordance with, the laws of the United States and the State of California, without giving effect to any choice or conflict of law provision or rule (whether of the State of California or any other jurisdiction).

[Signature page follows.]

IN WITNESS WHEREOF, the parties have caused this Intellectual Property Security Agreement to be duly executed by its officers thereunto duly authorized as of the first date written above.

GRANTOR:

SAVAGE RIVER, INC.

By: /s/ Mark Nelson
Name: Mark Nelson
Title: Chief Financial Officer

BANK:

SILICON VALLEY BANK

By: /s/ Derek Hofmeister
Name: Derek Hofmeister
Title: Vice President

EXHIBIT A

Copyrights

No.	Description	Registration Number	Application Number
1.	None Identified		

EXHIBIT B

Patents

No.	Description	Application Number	Registration Number
1.	Nutrient-Dense Meat Structured Protein Products		9,526,267 (12/27/2016)
2.	Plant Based Meat Structured Protein Products	14/687,803 (04/15/2015)	
3.	Microbial Biomass Compromising Food Products	14/855,212 (09/15/2015)	
4.	Food Products Compromising Cell Wall Material	15/225,646 (08/01/2016)	
5.	Meat-Like Food Products	15/298,199 (10/19/2016)	
6.	Nutrient-Dense Meat Structured Protein Products	15/385,036 (12/20/2016)	
7.	Meat-Like Food Products	PCT US2016057840 (10/20/2016)	
8.	Food Products Comprising Cell Wall Material	PCT US2016045128 (08/02/2016)	
9.	Microbial Biomass Comprising Food Products	PCT US2015050421 (09/16/2015)	
10.	Plant Based Meat Structured Protein Products	PCT US2015026206 (04/16/2015)	
11.	Nutrient-Dense Meat Structured Protein Products	PCT US2015026222 (04/16/2015)	

EXHIBIT C

Trademarks

No.	Description	Serial Number	Registration Number
1.	THE FUTURE OF PROTEIN MADE FROM PLANTS	87/903,995 (05/02/2018)	
2.	THE FUTURE OF PROTEIN BEYOND MEAT (& design)	87/463,132 (05/24/2017)	
3.	BEYOND BREAKFAST SAUSAGE	87/899,827 (04/30/2018)	
4.	BEYOND HOT DOGS	87/512,332 (06/30/2017)	
5.	BEYOND LAMB	87/512,318 (06/30/2017)	
6.	BEYOND TUNA	87/512,314 (06/30/2017)	
7.	BEYOND SHRIMP	87/512,310 (06/30/2017)	
8.	BEYOND FISH	87/512,309 (06/30/2017)	
9.	BEYOND CRAB	87/512,304 (06/30/2017)	
10.	BEYOND HAM	87/512,298 (06/30/2017)	
11.	BEYOND PORK	87/512,293 (06/30/2017)	
12.	BEYOND TURKEY	87/512,291 (06/30/2017)	
13.	BEYOND SAUSAGE	87/479,168 (06/07/2017)	
14.	EAT WHAT YOU LOVE	87/793,698 (02/12/2018)	
15.	THE COOKOUT CLASSIC	87/360,042 (03/06/2017)	
16.	BEYOND GROUND	87/512,323 (06/30/2017)	
17.	BEYOND JERKY	86/664,622 (06/16/2015)	

No.	Description	Serial Number	Registration Number
18.	THE BEYOND BURGER		5,101,972 (12/13/2016)
19.	THE FUTURE OF PROTEIN		4,852,710 (11/10/2015)
20.	BEYOND BEEF		4,654,352 (12/09/2014)
21.	BEYOND CHICKEN		4,654,351 (12/09/2014)
22.	BEYOND MEAT (& design)		4,392,040 (08/27/2013)
23.	BEYOND MEAT		4,314,689 (04/02/2013)
24.	BEYOND BURGERS	86/918082	

EXHIBIT D

Mask Works

No.	Description	Application	Registration
1.	None Identified		

EQUIPMENT LOAN AND SECURITY AGREEMENT

THIS EQUIPMENT LOAN AND SECURITY AGREEMENT (this "*Agreement*") is entered into as of September 19, 2018 (the "*Closing Date*"), by and between the party or parties hereto signing as a lender (each, a "*Lender*" and collectively, the "*Lenders*"), **OCEAN II PLO, LLC**, a California limited liability company, as collateral agent for the Lenders (in such capacity, "*Collateral Agent*"), and as administrative agent for the Lenders (in such capacity, "*Administrative Agent*"), and **BEYOND MEAT, INC.**, a Delaware corporation ("*Borrower*").

RECITALS

Borrower wishes to borrow money from time to time from Lenders and Lenders desires to lend money to Borrower. This Agreement sets forth the terms on which Lenders will lend to Borrower and Borrower will repay the loan to Lenders.

AGREEMENT

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, parties agree as follows:

1. DEFINITIONS AND CONSTRUCTION

1.1. Definitions. As used in this Agreement, the following terms shall have the following:

"Advance" means each extension of credit by a Lender to Borrower under this Agreement.

"Advance Amount" has the meaning given to such term in **Section 6.13(b)**.

"*Affiliate*" means, with respect to any Person, any Person that owns or controls directly or indirectly thirty percent (30%) or more of the outstanding stock of such Person, any Person that controls or is controlled by or is under common control with such Person or any Affiliate of such Person or each of such Person's senior executive officers, directors, members or partners.

"*Agent*" means either Administrative Agent or Collateral Agent, and "*Agents*" means both Administrative Agent and Collateral Agent.

"Amortization Date" means June 30, 2019, provided however, if the First Interest Only Extension Conditions occur, then "*Amortization Date*" shall mean December 31, 2019, provided further, if the Second Interest Only Extension Conditions occur, then "*Amortization Date*" shall mean December 31, 2020.

"*Approved Budget*" shall have the meaning given to such term in **Section 6.3**.

"Basic Rate" means for any day, a *per annum* rate of interest equal to Six and One Quarter percent (6.25%) plus the Prime Rate then in effect.

"*Board*" means Borrower's board of directors.

"Borrower's Books" means all of Borrower's books and records including: ledgers; records concerning Borrower's assets or liabilities, the Collateral, business operations or financial condition; and all computer programs, or data storage, and the related devices and equipment, containing such information.

"Business Day" means any day that is not a Saturday, Sunday, or other day on which banks in the State of California are authorized to close under the laws of, or are in fact closed in, California.

"*Capital Lease Obligations*" of any Person means the obligations of such Person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as capital leases on a balance sheet of such Person under GAAP, and the amount of such obligations shall be the capitalized amount thereof determined in accordance with GAAP.

"*Cash Equivalents*" means, (a) marketable direct obligations issued or unconditionally guaranteed by the United States or any agency or any State thereof having maturities of not more than one (1) year from the date of acquisition; (b) commercial paper maturing no more than one (1) year after its creation and having the highest rating from either Standard & Poor's Ratings Group or Moody's Investors Service, Inc.; (c) Silicon Valley Bank certificates of deposit issued maturing no more than one (1) year after issue; and (d) money market funds at least ninety-five percent (95%) of the assets of which constitute Cash Equivalents of the kinds described in clauses (a) through (c) of this definition.

"*Closing Date*" has the meaning given to such term in preamble to this Agreement.

"*Code*" means the Uniform Commercial Code as adopted and in effect in the State of California, as amended from time to time, provided, that, to the extent that the Code is used to define any term herein or in any Loan Document and such term is defined differently in different Articles or Divisions of the Code, the definition of such term contained in Article or Division 9 shall govern; provided further, that in the event that, by reason of mandatory provisions of law, any or all of the attachment, perfection, or priority of, or remedies with respect to, Agent's Lien on any Collateral is governed by the Uniform Commercial Code in effect in a jurisdiction other than the State of California, the term "**Code**" shall mean the Uniform Commercial Code as enacted and in effect in such other jurisdiction solely for purposes of the provisions thereof relating to such attachment, perfection, priority, or remedies and for purposes of definitions relating to such provisions.

"*Collateral*" means the property described on ***Exhibit A*** attached hereto.

"*Commitment*" means (a) with respect to all Lenders, $5,000,000, provided however, that upon Borrower's request to increase the Commitment by an additional $5,000,000 and Required Lenders' written approval of such request to increase, which approval may be withheld in Required Lenders' sole discretion, the "*Commitment*" shall mean $10,000,000, and (b) with respect to each Lender, the amount set forth opposite such Lender's name on Schedule 2.1 attached hereto.

"*Commitment Termination Date*" means noon Pacific Time, December 31, 2018.

"*Contingent Obligation*" means, as applied to any Person, any direct or indirect liability, contingent or otherwise, of that Person with respect to (i) any indebtedness, lease, dividend, letter of credit or other obligation of another; (ii) any obligations with respect to undrawn letters of credit, corporate credit cards, or merchant services issued or provided for the account of that Person; and (iii) all obligations arising under any agreement or arrangement designed to protect such Person against fluctuation in interest rates, currency exchange rates or commodity prices; provided, however, that the term "Contingent Obligation" shall not include endorsements for collection or deposit in the ordinary course of business. The amount of any Contingent Obligation shall be deemed to be an amount equal to the stated or determined amount of the primary obligation in respect of which such Contingent Obligation is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by Lender in good faith; provided, however, that such amount shall not in any event exceed the maximum amount of the obligations under the guarantee or other support arrangement.

"*Control Agreement*" means an agreement, the terms of which are reasonably satisfactory to Agent, which is executed by Agent, Borrower and the applicable financial institution and/or securities/investment intermediary, and which perfect's Agent's security interest on behalf of the Lenders in Borrower's accounts maintained at such financial institution or securities/investment intermediary.

"*Convertible Notes*" means short term unsecured subordinated Indebtedness in connection with a bona fide equity investment in Borrower, *provided* such subordinated convertible Indebtedness is subordinated to the Obligations and is subject to a subordination agreement in form and substance reasonably satisfactory to Agent and such Indebtedness by its terms is convertible into equity securities of the Borrower.

"*Copyrights*" means any and all copyright rights, copyright applications, copyright registrations and like protections in each work or authorship and derivative work thereof.

"*Current Financial Statements*" has the meaning given to such term in **Section 5.9**.

"*Customer*" means a Person that purchases Borrower's products in the ordinary course of business that is not an Affiliate of Borrower or any of its Subsidiaries.

"*Default*" means any event which with the passing of time or the giving of notice or both would become an Event of Default hereunder.

"*Default Rate*" means the *per annum* rate of interest equal to (i) the then applicable Basic Rate of interest, plus (ii) 5% per annum.

"*Deposit Account*" means any "deposit account" as defined in the Code.

"*Disqualified Stock*" means any Equity Interest that, by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable), or upon the happening of any event, (a) matures (excluding any maturity as the result of an optional redemption by the issuer thereof) or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or is redeemable at the option of the holder thereof, in whole or in part, or requires the payment of any cash dividend or any other scheduled payment constituting a return of capital, in each case at any time on or prior to the date that is one year and one day following the last possible Term Loan Maturity Date; or (b) is convertible into or exchangeable (unless at the sole option of the issuer thereof) for (i) debt securities or (ii) any Equity Interest referred to in clause (a) above, in each case at any time on or prior to the date that is one year and one day following the Maturity Date.

"*Equipment Collateral*" has the meaning given to such term in **Section 2.2(a)**.

"*Equity Interests*" mean "shares of capital stock, partnership interests, membership interests in a limited liability company, beneficial interests in a trust or other equity interests in any Person, and any option, warrant, convertible debt or other right entitling the holder thereof to purchase or otherwise acquire any such equity interest, provided that in the case of any convertible debt, such convertible debt shall be required to be Subordinated Debt.

"*Equity Round*" means any transaction in which Borrower shall issue and sell Equity Interests after the Closing Date for total gross consideration of at least $10,000,000, excluding issuances of Equity Interests to employees, directors and consultants pursuant to a stockholder approved stock option or equity incentive plan.

"*ERISA*" means the Employee Retirement Income Security Act of 1974, as amended from time to time.

"*ERISA Affiliate*" means any entity, trade or business (whether or not incorporated) under common control with the Borrower or any of its Affiliates within the meaning of Section 414(b) or (c) of the Internal Revenue Code (and Sections 414(m) and (o) for purposes of provisions relating to Section 412 of the Internal Revenue Code).

"*Event of Default*" has the meaning given to such term in **Section 8**.

"*Exchange Act*" is the Securities Exchange Act of 1934, as amended.

"Excluded Taxes" has the meaning given to such term in **Section 2.7(d)**.

"Facility Fee" has the meaning given to such term in **Section 2.5(a)**.

"FATCA" has the meaning given to such term in **Section 2.7(d)**.

"Final Payment Fee" has the meaning given to such term in **Section 2.5(e)**.

"*First Interest Only Extension Conditions*" means (i) no Event of Default shall have occurred and be continuing as of June 30, 2019, (ii) Net Revenue for fiscal 2018 is at least $60,000,000, (ii) Gross Profit for fiscal 2018 is at least $12,300,000, with evidence thereof reasonably acceptable to Collateral Agent having been provided to Collateral Agent not later than July 31, 2019.

"Funding Date" means any date on which an Advance is made to or on account of Borrower under this Agreement.

"GAAP" means, as of any date of determination, generally accepted accounting principles as then in effect in the United States of America set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board.

"Governmental Authority" means (a) any United States federal, state, county, municipal or foreign government, or political subdivision thereof, (b) any governmental or quasi-governmental agency, authority, board, bureau, commission, department, instrumentality or public body, (c) any court or administrative tribunal or (d) with respect to any Person, any arbitration tribunal or other similar non-governmental authority to whose jurisdiction that Person has consented.

"*Gross Profit*" means Gross Revenue minus Borrower's cost of sales (excluding equity- based compensation), and shall be calculated in the same manner as gross margin is calculated in the Current Financial Statements.

"*Gross Margin Percentage*" means Gross Profit divided by Gross Revenue.

"Gross Revenue" means all of Borrower's revenue derived from sales to customers in the ordinary course of Borrower's business, determined in compliance with GAAP.

"*Hedging Agreement*" means any interest rate protection agreement, foreign currency exchange agreement, commodity price protection agreement or other interest or currency exchange rate or commodity price hedging arrangement.

"Indebtedness" of any Person means, without duplication, (a) all obligations of such Person for borrowed money (including interest whether charged at the Basic Rate or otherwise) or with respect to deposits or advances of any kind, (b) all obligations of such Person evidenced by bonds, debentures, notes or similar instruments, (c) all obligations of such Person upon which interest charges are customarily paid, (d) all obligations of such Person under conditional sale or other title retention agreements relating to property or assets purchased by such Person, including any earn-out obligations, (e) all obligations of such Person issued or assumed as the deferred purchase price of property or services (excluding trade accounts payable and accrued obligations incurred in the ordinary course of business and not more than 3 days past due), (f) all Indebtedness of others secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien on property owned or acquired by such Person, whether or not the obligations secured thereby have been assumed, (g) all Contingent Obligations of such Person including indebtedness of others, (h) all Capital Lease Obligations and Synthetic Lease Obligations of such Person, (i) all obligations of such Person as an account party in respect of letters of credit, (j) all obligations of

such Person in respect of bankers' acceptances, (k) obligations in respect of Disqualified Stock, and (l) all obligations of such Person in respect of any exchange traded or over the counter derivative transaction, including any Hedging Agreement, in each case, whether entered into for hedging or speculative purposes or otherwise. The amount of any Indebtedness of any Person in respect of a Hedging Agreement shall be the amount determined in respect thereof as of the end of the then most recently ended fiscal quarter of such Person, based on the assumption that such Hedging Agreement had terminated at the end of such fiscal quarter. In making such determination, if any agreement relating to such Hedging Agreement provides for the netting of amounts payable by and to such Person thereunder or if any such agreement provides for the simultaneous payment of amounts by and to such Person, then in each such case, the amount of such obligation shall be the net amount so determined, in each case to the extent that such agreement is legally enforceable in Insolvency Proceedings against the applicable counterparty thereof. The Indebtedness of any Person shall include the Indebtedness of any partnership or joint venture in which such Person is a general partner or joint venturer.

"Insolvency Proceeding" means any proceeding commenced by or against any Person or entity under any provision of the United States Bankruptcy Code, as amended, or under any other bankruptcy or insolvency law (domestic or foreign), including assignments for the benefit of creditors, formal or informal moratoria, compositions, extensions generally with its creditors, or proceedings seeking reorganization, arrangement, or other relief.

"*Insolvent*" means, with respect to any Person as of any date of determination, that (a) at fair valuations, the sum of such Person's debts (including contingent liabilities) is greater than all of such Person's assets, (b) such Person is engaged or about to engage in a business or transaction for which the remaining assets of such Person are unreasonably small in relation to the business or transaction or for which the property remaining with such Person is an unreasonably small capital, and (c) such Person has incurred, or reasonably believes that it will incur, debts beyond its ability to pay such debts as they generally become due (whether at maturity or otherwise), or (d) such Person is not "solvent" or is "insolvent", as applicable within the meaning given those terms and similar terms under applicable laws relating to fraudulent transfers and conveyances.

"Intellectual Property" means all of Borrower's right, title, and interest in and to the following: domain names; Copyrights, Trademarks and Patents (including registrations and applications therefore prior to granting, and whether or not filed, recorded or issued); all trade secrets and related rights, including without limitation rights to unpatented inventions, know-how and manuals; all design rights; claims for damages by way of past, present and future infringement of any of the rights included above; all amendments, renewals and extensions of any Copyrights, Trademarks or Patents.

"Investment" means any beneficial equity ownership in any Person (including stock, partnership interest or other securities), or any loan, advance or capital contribution to any Person.

"*Internal Revenue Code*" means the Internal Revenue Code of 1986, as amended from time to time, and the regulations promulgated and rulings issued thereunder.

"Inventory" means "inventory" as defined in the Code, including work in process and finished products intended for sale or lease or to be furnished under a contract of service, of every kind and description now or at any time hereafter owned by or in the custody or possession, actual or constructive, of Borrower, including such inventory as is temporarily out of its custody or possession or in transit and including any returns upon any accounts or other proceeds, including insurance proceeds, resulting from the sale or disposition of any of the foregoing and any documents of title representing any of the above, and Borrower's Books relating to any of the foregoing.

"IPO" has the meaning given to such term in **Section 6.13(b)**.

"*Joinder Agreement*" means the agreement substantially in the form of ***Exhibit F*** hereto.

"*Key Person*" is Borrower's Chief Executive Officer, who is Ethan Brown as of the Closing

"*Landlord Subordination and Access Agreement*" means an agreement between Borrower's landlord(s) and Agent that provides Agent access to the premises that Borrower leases from such landlord.

"*Lender Expenses*" means all reasonable and reasonably documented out-of-pocket costs or expenses (including reasonable attorneys' fees and expenses) incurred by Agent or any Lender in connection with the preparation, negotiation, administration, and enforcement of the Loan Documents; reasonable Collateral audit fees incurred by Agent; and Agent and Lender's reasonable documented out-of-pocket attorneys' fees and expenses incurred in maintaining, amending, enforcing or defending the Loan Documents (including fees and expenses of appeal), incurred before, during and after an Insolvency Proceeding, whether or not suit is brought.

"*Lien*" means any pledge, bailment, lease, mortgage, hypothecation, conditional sales and title retention agreement, charge, claim, encumbrance or other lien in favor of any Person.

"*Liquidation Event*" means any of the following: (i) a merger of Borrower with another entity pursuant to which Borrower is not the surviving entity; or (ii) the sale of all or substantially all of Borrower's assets; or (iii) a sale or other disposition of the equity securities or interests of Borrower by Borrower or the equity holders of Borrower as of the Closing Date (other than sales or dispositions to Affiliates of such equity holders), which results in such equity holders owning less than 50% of the voting equity securities or interests of Borrower immediately following such transaction (other than through the sale of Borrower's equity securities in the IPO).

"*Loan Documents*" means, collectively, this Agreement, the Perfection Certificate, each Note, each Joinder Agreement, each Notice of Borrowing, the Control Agreement(s), the Landlord Subordination and Access Agreement, the Notice and Access Agreement, any Subordination Agreement and all other documents, instruments and agreements entered into between Borrower and/or Agent and Lenders in connection with this Agreement, all as amended or extended from time to time; *provided that* the Loan Documents shall not include any stock purchase agreement, options, or other warrants or similar equity instruments to acquire, or agreements governing the rights of, any capital stock or other equity security, or any common stock, preferred stock, unit, or equity security issued to or purchased by any Lender or its nominee or assignee.

"*Material Adverse Effect*" means (i) a material impairment in the perfection or priority of Agent's Lien in the Collateral or in the value of such Collateral; (ii) a material adverse change in the business, operations, or financial condition of Borrower; and (iii) a material impairment of the prospect of repayment of any portion of the Obligations as and when due.

"*Material Contracts*" means any contract or agreement (whether written or oral) to which the Borrower or any of its Subsidiaries is a party where the aggregate consideration payable to or by the Borrower or such Subsidiary pursuant to the terms of such contract or agreement exceeds 10% of the Borrower's or such Subsidiary's expenditures for contracts or agreements of such type, with the types of "expenditures" being (i) revenue, (ii) costs and (iii) operating expenditures.

"*Maturity Date*" means, with respect to all Advances, May 1, 2022.

"*Multiemployer Plan*" means any "multiemployer plan" (as defined in Section 4001(a)(3) of ERISA) to which the Borrower, any of its Subsidiaries or any ERISA Affiliate makes or is obligated to make contributions, or during the preceding six years has made or been obligated to make contributions.

"*Negotiable Collateral*" means all letters of credit of which Borrower is a beneficiary, notes, drafts, instruments, securities, documents of title, and chattel paper, and Borrower's Books relating to any of the foregoing.

"*Net Revenue*" means all of Borrower's net revenue derived from sales to customers in the ordinary course of Borrower's business, determined in compliance with GAAP.

"*Note"* means a secured promissory note in favor of a Lender in the form of ***Exhibit B***.

"*Notice and Access Agreement"* means an agreement between a third party warehouse, fulfillment center, bailee or similar entity, on the one hand, and Agent on the other, that provides Agent access to the premises containing Borrower's Inventory or other Collateral.

"*Notice of Borrowing*" means a notice of borrowing of an Advance pursuant to the terms of this Agreement in substantially the form of ***Exhibit C***.

"*Obligations"* means all debt, principal, interest, fees, charges, Lender Expenses and other amounts owing by Borrower to Agent or a Lender of any kind and description whether arising under or pursuant to or evidenced by the Loan Documents, and whether or not for the payment of money, whether direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising, including the principal and interest due with respect to the Advances, and further including all Lender's Expenses that Borrower is required to pay or reimburse by the Loan Documents, by law, or otherwise. Notwithstanding the foregoing, Obligations shall not include any obligations of Borrower in connection with any warrant or other equity security of Borrower held by Agent or a Lender or their Affiliates or any agreements governing the rights of Agent or any Lender or their Affiliates with respect to any such warrant or other equity securities; *provided* that Obligations shall include Borrower's obligations, and Agent's and Lenders' rights under **Section 6.13(a**) and **Section 6.13(b).**

"*Offsite Collateral*" means computer equipment, cell phones and related equipment in the possession of employees in the ordinary course of business with an aggregate value not to exceed Two Hundred Fifty Thousand Dollars ($250,000.00).

"*Patents"* means all patents, patent applications and like protections including without limitation improvements, divisions, continuations, renewals, reissues, extensions and continuations-in-part of the same.

"*Pension Plan*" means any "employee benefit plan" (as such term is defined in Section 3(2) of ERISA), other than a Multiemployer Plan, which is subject to Title IV of ERISA or Sections 412 of the Internal Revenue Code or Section 302 of ERISA, and which is or was, within the preceding six years, maintained by Borrower, any of its subsidiaries or any ERISA Affiliate.

"*Perfection Certificate"* means the Perfection Certificate substantially in the form of ***Exhibit E*** hereto.

"*Permitted Liens"* means Liens allowed by, or in favor of, Senior Creditor.

"*Person"* means and includes any individual, any partnership, any corporation, any business trust, any joint stock company, any limited liability company, any unincorporated association or any other entity and any Governmental Authority.

"*Prepayment Fee*" means, (i) if prepayment is made on or before November 30, 2020, an amount equal to two percent (2.00%) of the principal amount of Advance(s) prepaid, and (ii) if prepayment is made after November 30, 2020 but prior to the Maturity Date, an amount equal to one percent (1.00%) of the principal amount of Advance(s) prepaid.

"*Prime Rate*" means, for any day, the Prime Rate most recently published in the Money Rates section of the Western Edition of The Wall Street Journal, but in no event less than 4.75%. If the Wall Street Journal, Western Addition no longer reports the Prime Rate, then Agent shall select a reasonably comparable index or source to use as the basis for the Prime Rate, provided that in no event shall the Prime Rate be less than 4.75%.

"*Pro Rata Percentage*" means, with respect to any Lender, a percentage equal to a fraction, the numerator of which is such Lender's Commitment and the denominator of which is the aggregate of the Commitments of all Lenders.

"*Property*" means any interest in any kind of property or asset, whether real, personal or mixed, whether tangible or intangible.

"*Required Lenders*" means Lenders holding a majority in interest of the Commitment.

"*Responsible Officer*" means the President, Chief Executive Officer, Chief Financial Officer, Head of Finance, or Controller of Borrower.

"*Schedule*" means those certain schedules of information attached hereto.

"*SEC*" shall mean the Securities and Exchange Commission, any successor thereto, and any analogous Governmental Authority.

"*Second Interest Only Extension Conditions*" means (i) no Event of Default shall have occurred and be continuing as of January 31, 2020, (ii) the First Interest Only Extension Conditions occurred, (iii) Net Revenue for fiscal 2019 is at least $100,000,000, (ii) Gross Margin Percentage for fiscal 2019 is at least 20%, with evidence thereof reasonably acceptable to Collateral Agent having been provided to Collateral Agent not later than January 31, 2020.

"*Secondary Collateral*" means any Collateral that is not Equipment Collateral.

"*Securities Account*" means any "securities account" as defined in the Code.

"*Senior Creditor*" means Silicon Valley Bank, NA pursuant to that certain (i) Loan and Security Agreement dated June 27, 2018, between Silicon Valley Bank, NA and Borrower (as may be amended, modified, restated, replaced, or supplemented from time to time, and (ii) Amended and Restated Loan and Security Agreement dated June 27, 2018, between Silicon Valley Bank, NA and Borrower (as may be amended, modified, restated, replaced, or supplemented from time to time.

"*Soft Costs*" mean any costs for ancillary items purchased or agreements entered into in connection with Borrower's purchase of Equipment, including, but not limited to, maintenance agreements or service agreements relating to the Collateral, freight charges and taxes.

"*Subsidiary*" means any corporation of which a majority of the outstanding capital stock entitled to vote for the election of directors is owned by Borrower directly or indirectly through Subsidiaries including any Subsidiary formed after the date hereof.

"*Synthetic Lease Obligations*" means, as to any Person, an amount equal to the capitalized amount of the remaining lease payments under any synthetic lease that would appear on a balance sheet of such Person in accordance with GAAP if such obligations were accounted for as Capital Lease Obligations.

"*Trademarks*" means any trademark and servicemark rights, whether registered or not, applications to register and registrations of the same and like protections, and the entire goodwill of the business of Borrower connected with and symbolized by such trademarks.

"*Transfer*" has the meaning given to such term in **Section 7.2**.

"*Unrestricted Cash*" of any Person, shall mean cash or Cash Equivalents of such Person, (a) that are not, and are not required to be, designated as "restricted" on the financial statements of such Person, (b) that are not contractually required, and have not been contractually committed by such Person, to be used for a specific purpose, (c) that are not subject to (i) any provision of law, statute, rule or regulation, (ii) any provision of the organizational documents of such Person, (iii) any order of any Governmental Authority or (iv) any contractual restriction (including the terms of any Equity Interests), in each case of (i) through (iv), preventing such cash or Cash Equivalents from being applied to the payment of the Obligations, (d) in which no Person other than the Agent and the

Senior Creditor has a Lien other than Permitted Liens, and (e) that are held in a Deposit Account or Securities Account, as applicable, in which the Agent has a valid and enforceable security interest, perfected by "control" (within the meaning of the applicable Code or for any Deposit Account or Securities Account located outside the United States, other controlling legal authority), but in all cases shall exclude the amount of such Person's Indebtedness which is more than 3 Business Days overdue.

"*USA FREEDOM Act*" means The Uniting and Strengthening America by Fulfilling Rights and Ending Eavesdropping, Dragnet-collection and Online Monitoring (USA FREEDOM ACT) Act of 2015, Public Law 114-23 (June 2, 2015), as may be amended.

"*USA PATRIOT Act*" means The Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Title III of Pub. L. No. 107-56 (signed into law October 26, 2001)), as may be amended.

1.1 Other Interpretive Provisions. References in this Agreement to "Articles," "Sections," "Exhibits," "Schedules" and "Annexes" are to articles, sections, exhibits, schedules and annexes herein and hereto unless otherwise indicated. References in this Agreement and each of the other Loan Documents to (a) any other document, instrument or agreement shall include all exhibits, schedules, annexes and other attachments thereto, and (b) any law, statute or regulation shall include all statutory and regulatory provisions consolidating, amending, replacing, supplementing or interpreting such law, statute or regulation, and (c) any reference herein to any Person shall be construed to include such Person's successors and permitted assigns. References to this Agreement or any of the other Loan Documents shall mean such document, instrument or agreement, or replacement or predecessor thereto, as amended, modified and supplemented from time to time and in effect at any given time. The words "hereof," "herein" and "hereunder" and words of similar import when used in this Agreement or any other Loan Document shall refer to this Agreement or such other Loan Document, as the case may be, as a whole and not to any particular provision of this Agreement or such other Loan Document, as the case may be. The words "include" and "including" and words or similar import when used in this Agreement or any other Loan Document shall not be construed to be limiting or exclusive. Unless otherwise indicated in this Agreement or any other Loan Document, all accounting terms used in this Agreement or any other Loan Document shall be construed, and all accounting and financial computations hereunder or thereunder shall be computed, in accordance with GAAP. Any of the terms defined herein may, unless the context otherwise requires, be used in the singular or the plural, depending on the reference. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms.

2. Loan and Terms of Payment

2.1 Commitment. Subject to the terms and conditions of this Agreement and relying upon the representations and warranties herein set forth as and when made or deemed to be made, each Lender agrees to lend to Borrower, prior to the Commitment Termination Date, the Advances; *provided that* the aggregate principal amount of the Advances shall not exceed the Commitment and no Lender shall be required to lend more than its Pro Rata Percentage of the Commitment as set forth on Schedule 2.1. The initial Advance shall be requested in the minimum amount of $1,000,000 to be funded as of the Closing Date. Each Advance must be for a minimum of $1,000,000 unless there is less than $1,000,000 available under the Commitment, in which case such Advance must be for the full amount available under the Commitment. If prepaid, the principal of the Advances may not be re-borrowed.

2.2 Use of Proceeds; The Advances.

(a) Use of Proceeds. Except for the payment of Borrower's fees and expenses required by this Agreement, each Advance will be used solely to purchase Equipment (and not for any Soft Costs); provided that an Advance may be used to reimburse the purchase of Equipment (but not for any Soft Costs) made within 120 days prior to such Advance being made. All such Equipment purchased or for which the payment is reimbursed shall be deemed "Equipment Collateral" and prior to Lender's obligation to fund any Advance, Borrower shall provide Collateral Agent with a list of all Equipment that will constitute Equipment Collateral and all of the

purchase documentation associated with Borrower's purchase of such Equipment, including but not limited to the invoices and bills of sale.

(b) The Advances. The Advances shall be repayable as set forth in **Section 2.4**. Each Lender and Agent may, and are hereby authorized by Borrower to, endorse in Lender's and Agent's books and records appropriate notations regarding such Lender's interest in the Advances; *provided, however,* that the failure to make, or an error in making, any such notation shall not limit or otherwise affect the Obligations.

2.3 Procedure for Making Advances; Interest.

(a) **Notice**. Not less than three (3) Business Days prior to each Funding Date, Borrower shall submit the Notice of Borrowing to Administrative Agent, whereupon Administrative Agent shall immediately notify Collateral Agent and Lenders. Each Lender's obligation hereunder to make the Advance on the initial Funding Date shall be subject to the satisfaction of the conditions set forth in **Sections 2.2(a)**, **3.1** and **3.2**. Each Lender's obligation hereunder to make a subsequent Advance shall be subject to the satisfaction of the conditions set forth in **Sections 2.2(a)** and **3.2**. The amount of the requested Advance on the initial Funding Date shall be $5,000,000. Upon satisfaction of the applicable conditions for any Advance requested by Borrower hereunder, each Lender agrees, severally and not jointly, to make such Advance to Borrower in a principal amount equal to such Lender's Pro Rata Percentage of such Advance.

(b) **Interest Rate**. Borrower shall pay interest to Agent for the benefit of Lenders on the unpaid principal amount of the Advances from the date of such Advance until such Advance has been paid in full, at a *per annum* rate of interest equal to the Basic Rate. In addition, Borrower shall pay interest to Agent for the benefit of Lender on any other Obligation from the time when such Obligation is due until such Obligation has been paid in full. All computations of interest shall be based on a year of three hundred sixty (360) days for actual days elapsed. Notwithstanding any other provision hereof, the amount of interest payable hereunder shall not in any event exceed the maximum amount permitted by the law applicable to interest charged on commercial loans.

(c) **Disbursement**. Subject to the satisfaction of the conditions set forth in **Sections 2.2(a)**, **3.1** and **3.2** with respect to the Advance made on the initial Funding Date, and the satisfaction of the conditions set forth in **Sections 2.1**, **2.2(a)** and **3.2** with respect to any subsequent Advance, the Advances shall be disbursed by Agent after receipt from Lenders via wire transfer of funds to one or more accounts designated in writing by Borrower in the Notice of Borrowing.

(d) **Termination of Commitment to Lend.** Notwithstanding anything in the Loan Documents, each Lender's obligation to lend the undisbursed portion of the Commitment to Borrower hereunder shall terminate on the Commitment Termination Date or as set forth in **Section 2.8**.

2.4 Amortization of Principal and Interest; Final Payment.

(a) **Interest Payments**. Interest on each Advance shall be due and payable to Agent for the benefit of Lenders in advance on the first Business Day of each month and continuing on the first day of each month thereafter (each a "*Payment Date")* during the term of such Advance; *provided however,* and in addition, that upon the funding of each Advance, interest on such Advance shall be withheld from the Advance o n the Funding Date of the Advance for the period between the Funding Date of such Advance and the first Payment Date immediately following the Funding Date of such Advance. Agent shall allocate and distribute all interest payments received from Borrower to the Lenders based on each Lender's Pro Rata Percentage.

(b) **Principal Payments**. From and after the Amortization Date, Borrower shall make equal monthly payments of principal on each Payment Date until the Maturity Date. Administrative Agent shall allocate and distribute all principal payments received from Borrower to the Lenders based on each Lender's Pro Rata Percentage.

(c) **Final Payment**. Unless an Advance is prepaid in full prior to the Maturity Date or the payment of the Advances are accelerated as provided herein, Borrower shall pay the entire unpaid principal and accrued interest and all unpaid Obligations on the Maturity Date. Administrative Agent shall allocate and distribute all such payments to the Lenders based on each Lender's Pro Rata Percentage.

2.5 Fees and Expenses. Borrower shall pay to Administrative Agent for the benefit of Lenders the following:

(a) **Facility Fee.** On the Closing Date, a cash facility fee equal to $62,500 (the "***Initial Facility Fee***"). The Initial Facility Fee may be deducted and withheld from the initial Advance. The Initial Facility Fee is nonrefundable and deemed fully earned as of the Closing Date. If the additional $5,000,000 of availability under the Commitment is approved, an additional $62,500 shall be paid on such approval, and it shall nonrefundable and deemed fully earned as of the date the additional $5,000,000 of availability under the Commitment is approved. Agent shall allocate and disburse such payments based on each Lender's Pro Rata Percentage.

(b) **Lender's Expenses.** On or immediately after the initial Funding Date, all unreimbursed Lender Expenses, provided however, that Borrower shall not be required to reimburse Lender Expenses consisting of attorneys' fees and costs incurred in connection with the preparation and negotiation of the Loan Documents through the Closing Date in excess of $25,000. Thereafter, all unreimbursed Lender Expenses shall be due within ten (10) Business Days after written demand. Agent shall allocate and disburse such payments to the Person having incurred such Lender Expenses.

(c) **Administration Fee.** On the Closing Date and each anniversary thereof, an administration fee equal to $12,000. Such fee may be deducted and withheld from the initial Advance, and is nonrefundable and deemed fully earned as of the date it is to be paid.

(d) **Late Fee.** If any payment is not made due, Borrower shall pay a late fee equal to the lesser of (i) five percent (5%) of the amount of such unpaid amount or (ii) the maximum amount permitted to be charged under applicable law. Administrative Agent shall allocate and distribute all such payments to the Lenders based on each Lender's Pro Rata Percentage.

(e) **Final Payment Term Fee**. On the earlier of Maturity Date and such other date as the Advances otherwise become due and payable, Borrower shall pay a final payment fee (the "**Final Payment Fee**") equal to 13% of the Committed Amount, provided however such fee shall increase to 14% of the Committed Amount if the Second Interest Only Extension Conditions are satisfied.

2.6 Prepayments.

(a) **Mandatory Prepayment Upon an Acceleration**. If, at the election of Collateral Agent, repayment of the Advances is accelerated following the occurrence and continuance of an Event of Default, then Borrower shall immediately pay to Administrative Agent for the benefit of Lenders (i) all accrued and unpaid payments of interest with respect to the Advances due prior to the date of prepayment, (ii) the outstanding principal amount of the Advances, (iii) the applicable Prepayment Fee, (iv) the Final Payment Fee, and (v) all other sums, if any, that shall have become due and payable hereunder with respect to the Advances, including all Obligations due hereunder.

(b) **Mandatory Prepayment Upon a Liquidation Event.** If a Liquidation Event shall occur, then Borrower shall upon such Liquidation Event pay to Administrative Agent for the benefit of Lenders (i) all accrued and unpaid payments of interest with respect to the Advances due prior to such Liquidation Event, (ii) the outstanding principal amount of the Advances, (iii) the applicable Prepayment Fee, (iv) the Final Payment Fee, and (v) all other sums, if any, that shall have become due and payable hereunder with respect to the Advances, including all Obligations due hereunder.

(c) **Voluntary Prepayment**. Borrower may voluntarily prepay the Advances in whole or in part at any time; *provided that* except for prepayments affected pursuant to Section 6.13 (Investment Rights), each of the following conditions is satisfied: Borrower pays to Administrative Agent for the benefit of Lenders (i) all accrued and unpaid payments of interest with respect to the portion of the Advances being repaid due up to and including the date of prepayment, (ii) the outstanding principal amount of the portion of the Advances being prepaid, (iii) the applicable Prepayment Fee, (iv) the applicable portion of the Final Payment Fee with respect to such portion of the Advances being prepaid, and (v) to the extent all Advances are being voluntarily prepaid, all other sums, if any, that shall have become due and payable hereunder with respect to the Advances, including all Obligations due hereunder.

2.7 Other Payment Terms.

(a) **Place and Manner**. Borrower shall authorize Administrative Agent to cause all payments due to Administrative Agent hereunder, whether such payments are on account of the Advances, Lender Expenses, fees or other payments due, to be made in lawful money of the United States, in good same day or immediately available funds to an account designated by Administrative Agent or to Administrative Agent's address.

(b) **Date**. Whenever any payment due hereunder shall fall due on a day other than a Business Day, such payment shall be made on the next succeeding Business Day, and such extension of time shall be included in the computation of interest or fees, as the case may be.

(c) **Default Rate**. If an Event of Default has occurred and is continuing, at Administrative Agent's election, Borrower shall pay interest on the Obligations from the date of such Event of Default until such Event of Default is cured, at a *per annum* rate equal to the Default Rate. All computations of such interest shall be based on a year of three hundred sixty (360) days for actual days elapsed.

(d) **Payments Free from Taxes**. All payments by or on account of any obligation of Borrower hereunder shall be made free and clear of, and without deduction for, any present or future taxes, duties, levies, imposts, deductions, assessments, fees, withholdings or similar charges imposed under U.S. federal, state, local or any foreign law (including additions to tax, penalties and interest), other than (i) taxes imposed on or with respect to a Lender or its assignee based on or measured with respect to overall net income or net profits (including any branch profits or franchise taxes imposed in lieu thereof), (ii) backup withholding taxes by the jurisdiction (or any political subdivision thereof) under the laws of the jurisdiction(s) in which a Lender or its assignee is resident or deemed to be resident, is organized, or carries on business or is deemed to carry on business (other than a jurisdiction in which a Lender or its assignee would not have been treated as carrying on business but for this Agreement) to which such payment relates, (iii) withholding taxes imposed on amounts payable to or for the account of such Lender or assignee with respect to an applicable interest in an Obligation or Advance pursuant to a law in effect on the date on which such Lender or assignee acquires such interest in the Obligation or Advance, (iv) any U.S. federal withholding Taxes imposed under FATCA and (v) any taxes imposed solely as a result of a Lender's or any of its assignee's assignment of this Agreement (such taxes in clauses (i)-(v), "*Excluded Taxes*"). If any taxes, other than Excluded Taxes, shall be deducted (as required by law or otherwise) from, or in respect of, any such payments (including any consent or similar fees), (i) the sum payable by Borrower shall be increased as necessary so that after making all deductions (including deductions on account of taxes that are applicable to additional sums payable under this **Section 2.7(d)**), a Lender or its assignee receives an amount equal to the sum it would have received had no such deductions been made, (ii) the applicable withholding agent shall make such deductions, and (iii) the applicable withholding agent shall pay the full amount deducted to the relevant taxation authority or other authority in accordance with applicable laws. Within thirty (30) days after the date of any payment of amounts deducted to the appropriate taxing authority (or, if receipts or evidence are not available within thirty (30) days, as soon as possible thereafter), Borrower shall furnish to Administrative Agent the original or a certified copy of a receipt evidencing payment thereof, or such other written proof of payment thereof that is reasonably satisfactory to Administrative Agent. If Borrower fails to pay any taxes (other than Excluded Taxes) when due to the appropriate taxing authority or fails to remit to Administrative Agent for the benefit of the Lenders the required receipts or other required documentary evidence, Borrower shall indemnify Agents and Lenders (and any assignee) for any taxes (other than Excluded Taxes) that may become payable by such person (or such person's beneficial owners) arising out of such failure. Notwithstanding anything to the contrary contained herein, in the event that a Lender shall sell, assign, transfer, convey or otherwise dispose of any or all of its

rights and/or obligations hereunder to a Person that is not a "United States Person" (as such term is defined in Section 7701(a)(30) of the Internal Revenue Code, as amended, such Lender (and not Borrower) shall be solely responsible for any withholding or other taxes assessed on account of such transfer, or on account of the payment of principal and/or interest to such Person under this Agreement. As used herein, "*FATCA*" means Sections 1471 through 1474 of the Internal Revenue Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof and any agreement entered into pursuant to Section 1471(b)(1) of the Internal Revenue Code**.**

(e) **Crediting Payments.** All payments made to by Borrower hereunder shall be made via wire transfer per wire transfer instructions separately provided by Administrative Agent to Borrower. Unless otherwise specified, all payments received from Borrower shall be applied first to any outstanding fees and/or Lender Expenses, then to accrued and unpaid interest, then to principal. Any wire transfer or payment received by Administrative Agent after 12:00 noon Pacific Time may be deemed to have been received by Agent as of the opening of business on the immediately following Business Day.

2.8 Term. This Agreement shall become effective on the Closing Date and shall continue in full force and effect for so long as any Obligations remain outstanding (other than inchoate indemnity obligations). Notwithstanding the foregoing, Collateral Agent shall have the right to terminate any obligation to make Advances under this Agreement immediately and without notice upon the occurrence and during the continuance of an Event of Default. Notwithstanding termination, Collateral Agent's Lien on the Collateral shall remain in effect for so long as any Obligations are outstanding (other than inchoate indemnity obligations) and upon payment in full of all Obligations (other than inchoate indemnity obligations which are not the subject of an indemnity claim), Collateral Agent's Lien on the Collateral shall terminate automatically.

3. Conditions of Closing and Advances

3.1 Conditions Precedent to Initial Funding. The obligation of each Lender to make the initial Advance is subject to the condition precedent that Collateral Agent shall have received, in form and substance satisfactory to Collateral Agent, or that Collateral Agent shall have waived in writing the requirement to receive such item, all of the following:

(a) The Loan Documents duly executed by Borrower and its Subsidiaries required to sign a Joinder Agreement;

(b) A duly executed officer's certificate of Borrower and any party signing a Joinder Agreement containing the following documents: (i) current certificate of incorporation (or equivalent document), (ii) bylaws, (iii) resolutions authorizing the Loan Documents, (iv) a good standing certificate from each party's state of formation and from any state where such party is required to be qualified to do business and (v) incumbency and representative signatures;

(c) All necessary consents of stockholders or members and other third parties with respect to the execution, delivery and performance of the Loan Documents;

(d) All documentation and other information which Agents reasonably requests with respect to the Borrower in order to comply with their ongoing obligations under applicable "know your customer" and anti-money laundering rules and regulations, including the USA PATRIOT ACT, the USA FREEDOM Act, IRS Form W-9 and applicable tax forms;

(e) The Current Financial Statements of Borrower shall have been delivered to Collateral Agent;

(f) Evidence of the insurance coverage required by **Section 6.8** of this Agreement; and

(g) Such other documents, and completion of such other matters, as Agents may deem necessary or appropriate.

3.2 Conditions Precedent to all Advances. The obligation of Lender to make each Advance, including the initial Advance on the initial Funding Date, is further subject to the following conditions:

(a) If requested by Collateral Agent, Borrower shall have executed and delivered to Collateral Agent for the benefit of a Lender, the Note in the principal amount of such Advance including the initial Advance;

(b) Collateral Agent shall have received such documents, instruments and agreements, including UCC financing statements or amendments to UCC financing statements, as Agent shall reasonably request to evidence the perfection and priority of the security interests granted to Collateral Agent pursuant to **Section 4**;

(c) Borrower shall have delivered to Collateral Agent for the benefit of Lender a subordination agreement, release, or estoppel letter, as appropriate, from any Person having an existing Lien on any item of Equipment Collateral;

(d) The representations and warranties contained in **Section 5** shall be true and correct on and as of effective date of each Advance as though made at and as of each such date, and no Default or Event of Default shall have occurred and be continuing, or would exist after giving effect to such Advance. The making of each Advance shall be deemed to be a representation and warranty by Borrower on the date of such Advance as to the accuracy of the facts referred to in this **Section 3.2**. Borrower shall be eligible to request an Advance pursuant to **Section 2.1**.

(e) In Collateral Agent's reasonable discretion, there has not been any material impairment in the Collateral, Borrower's general affairs, management, results of operations, financial condition or the prospect for repayment of the Obligations as and when due; and

(f) Such other documents, and completion of such other matters, as Agenst may reasonably deem necessary or appropriate.

3.3 Covenant to Deliver. Borrower agrees (not as a condition but as a covenant) to deliver to Agents each item required under this Agreement to be delivered to Agents as a condition to each Advance, if such Advance is made. Borrower expressly agrees that the extension of such Advance prior to the receipt by an Agent of any such item shall not constitute a waiver by Agent of Borrower's obligation to deliver such item. Upon Collateral Agent's written request, Borrower shall promptly deliver an executed Note representing any Advance that is then outstanding.

4. Creation of Security Interest

4.1 Grant of Security Interest. To secure prompt repayment of any and all Obligations and prompt performance by Borrower of each of its covenants and duties under the Loan Documents, Borrower grants Agent, for itself and as agent for Lenders, a continuing security interest in all presently existing and hereafter acquired or arising Equipment Collateral and Secondary Collateral. Such security interest (a) constitutes a valid,first priority security interest in the presently existing Equipment Collateral, and will constitute a valid, first priority security interest in Equipment Collateral acquired after the date hereof, and (b) constitutes a valid, second priority security interest in the presently existing Secondary Collateral, subject to Permitted Liens, and will constitute a valid, second priority security interest in Secondary Collateral acquired after the date hereof, subject to Permitted Liens.

4.2 Duration of Security Interest. Collateral Agent's security interest in the Collateral shall continue until the payment in full in cash and the satisfaction of all Obligations (other than inchoate indemnity obligations or other obligations that expressly survive termination), whereupon such security interest shall terminate and Collateral Agent shall, at Borrower's sole cost and expense, promptly execute such further documents and take such further actions

as may be necessary to effect the release contemplated by this **Section 4.2**, including duly executing and delivering termination statements for filing in all relevant jurisdictions under the Code.

4.3 Possession of Collateral. So long as no Event of Default has occurred and is continuing, Borrower shall remain in full possession, enjoyment and control of the Collateral (except only as may be otherwise required by Collateral Agent or Senior Creditor for perfection of its security interest therein) and shall be entitled to manage, operate and use the same and each part thereof with all the rights and franchises appertaining thereto; *provided*, *however*, that the possession, enjoyment, control and use of the Collateral shall at all times be subject to the observance and performance of the terms of this Agreement.

4.4 Right to Inspect. Collateral Agent (through any of its officers, employees, or agents) shall have the right, upon reasonable prior notice, from time to time during Borrower's usual business hours but no more than twice a year (unless an Event of Default has occurred and is continuing), to inspect Borrower's Books and to make copies thereof and to check, test, and appraise the Collateral in order to verify Borrower's financial condition or the amount, condition of, or any other matter relating to, the Collateral.

5. Representations and Warranties

Borrower represents, warrants and covenants to Agents and Lenders as follows:

5.1 Due Organization and Qualification. Borrower is a Delaware corporation duly formed and existing under the laws of its state of formation and qualified and licensed to do business in any state in which the conduct of its business or its ownership of property requires that it be so qualified, except where the failure to do so could not reasonably be expected to cause a Material Adverse Effect. Each of Borrower's Subsidiaries is duly formed and validly existing under its respective jurisdiction of formation.

5.2 Authority. The execution, delivery, and performance of the Loan Documents are within Borrower's powers, have been duly authorized, and are not in conflict with nor constitute a breach of any provision of the Borrower's certificate of incorporation. Borrower is not in default under any Material Contract to which it is a party or by which it is bound and the execution and delivery by Borrower of the Loan Documents will not ca use a breach of any Material Contract to which Borrower is a party or by which it is bound.

5.3 Subsidiaries. As of the Closing Date, Borrower does not have any Subsidiaries.

5.4 Conflict with Other Instruments, etc. Neither the execution and delivery of any Loan Document to which Borrower is a party nor the consummation of the transactions therein contemplated nor compliance with the terms, conditions and provisions thereof will (a) conflict with or result in a breach of any material law or any material regulation, order, writ, injunction or decree of any court or governmental instrumentality or (b) or result in the creation or imposition of any Lien on the Collateral, other than Permitted Liens. [NTD: We expect that SVB will insist on a second priority lien on the Equipment Collateral.]

5.5 Enforceability. The Loan Documents have been duly executed and delivered by the Borrower and constitute legal, valid and binding obligations of Borrower, enforceable in accordance with their respective terms, except as the enforceability thereof may be limited by bankruptcy, insolvency or other similar laws of general application relating to or affecting the enforcement of creditors' rights or by general principles of equity.

5.6 No Prior Encumbrances. Borrower has good and marketable title to the Collateral, free and clear of Liens, except for Permitted Liens. Borrower has all right to dispose of the Collateral free and clear of all Liens except for Permitted Liens.

5.7 Name; Location of Chief Executive Office, Principal Place of Business and Collateral. As of the Closing Date and each date that a Compliance Certificate is to be delivered,(a) in the most recent five (5) years, Borrower has not done business under any name other than that specified on the signature page hereof or as disclosed on the Perfection Certificate, as may be amended, (b) the chief executive office, principal

place of business, and the locations where Borrower maintains its records concerning the Collateral are presently located at the address(es) set forth in the Perfection Certificate (other than Offsite Collateral), as may be amended (c) the Equipment Collateral is presently located at the address(es) set forth in the Perfection Certificate, as may be amended, and (d) the Perfection Certificate is accurate and complete. No Equipment Collateral is in the possession of a bailee or any third party.

5.8 Litigation; Governmental Action. Except as set forth in **Section 6** of the Perfection Certificate, there are no actions or proceedings pending or, to the knowledge of the Responsible Officers, threatened by or against Borrower or any of its Subsidiaries involving (i) more than, individually or in the aggregate, Two Hundred Fifty Thousand Dollars ($250,000), (ii) fines, penalties or other sanctions by any Governmental Authority, or (iii) claims for injunctive or equitable relief. Except as set forth in **Section 6** of the Perfection Certificate, there is no action or proceeding pending by or against Borrower or any of its Subsidiaries where Borrower or any Subsidiary has incurred in excess of $250,000 in legal expenses, including without limitation, attorneys' fees, for which Borrower has not been reimbursed by third party insurance (i.e., not self-insurance) within 60 days of Borrower's written request for reimbursement.

5.9 Financial Statements. All consolidated financial statements related to Borrower and its Subsidiaries fairly present in all material respects Borrower's consolidated financial condition as of the date thereof and consolidated results of operations for the period then ended. On the Closing Date, there has not been a material adverse change in the financial condition of Borrower since the date of the most recent of such financial statements and submitted to Collateral Agent and Lenders and attached to this Agreement (the "*Current Financial Statements*").

5.10 Solvency. Borrower is not Insolvent.

5.11 Taxes. Borrower and each Subsidiary has filed or caused to be filed (taking into account all applicable extension periods) all tax returns required to be filed, and has paid, or has made adequate provision for the payment of, all taxes before the same become delinquent, other than payments of taxes in an outstanding aggregate amount not to exceed $10,000 or except to the extent such taxes are being contested in good faith by appropriate proceedings promptly instituted and diligently conducted, so long as such reserve or other appropriate provision, if any, as shall be required in conformity with GAAP shall have been made therefor or if such taxes, assessments, deposits and contributions do not, individually or in the aggregate, exceed $50,000. Borrower is unaware of any claims or adjustments proposed for any of Borrower's or any Subsidiary's prior tax years which could result in additional taxes in excess of $10,000 becoming due and payable. Borrower and each Subsidiary have paid all amounts necessary, if any, to fund all present pension, profit sharing and deferred compensation plans in accordance with their terms, and neither Borrower nor any Subsidiary have withdrawn from participation in, and have not permitted partial or complete termination of, or permitted the occurrence of any other event with respect to, any such plan which could reasonably be expected to result in any liability of Borrower or any Subsidiary in excess of $250,000, including any such liability to the Pension Benefit Guaranty Corporation or its successors or any other governmental agency

5.12 Consents and Approvals. No approval, authorization or consent of any trustee or holder of any Indebtedness or obligation of Borrower or of any other Person under any material agreement, contract, lease or license or similar document or instrument to which Borrower or any Subsidiary is a party or by which Borrower or any Subsidiary is bound, is required to be obtained by Borrower in order to make or consummate the transactions contemplated under the Loan Documents other than the approval of the Senior Creditor. All consents and approvals of, filings and registrations with, and other actions in respect of, all Governmental Authorities required to be obtained by Borrower in order to make or consummate the transactions contemplated under the Loan Documents have been, or prior to the time when required will have been, obtained, given, filed or taken and are or will be in full force and effect.

5.13 Reserved.

5.14 Accounts. All of Borrower's depository, operating, and investment accounts are listed on the Schedule, and each of such accounts is subject to a Control Agreement in favor of Agent, subject to the senior rights of Senior Creditor. Prior to opening any new account after the Closing Date, Borrower shall first notify Collateral

Agent and not deposit any funds or securities into such account until such account is subject to a Control Agreement in favor of Collateral Agent, which control agreement shall recognize the senior rights of Senior Creditor, whereupon, Borrower shall be deemed to have updated the Schedule to include such new account.

5.15 Environmental Condition. None of Borrower's or any Subsidiary's material properties or assets has ever been used by Borrower or any Subsidiary or, to the Borrower's knowledge, by previous owners or operators, in the disposal of, or to produce, store, handle, treat, release, or transport, any hazardous waste or hazardous substance other than in material compliance with applicable law; to Borrower's knowledge, none of Borrower's material properties or assets has ever been designated or identified in any manner pursuant to any environmental protection statute as a hazardous waste or hazardous substance disposal site, or a candidate for closure pursuant to any environmental protection statute; no lien arising under any environmental protection statute has attached to any material revenues or to any material real or personal property owned by Borrower or any Subsidiary; and neither Borrower nor any Subsidiary has received a summons, citation, notice, or directive from the Environmental Protection Agency or any other federal, state or other governmental agency concerning any material action or omission by Borrower or any Subsidiary resulting in the releasing, or otherwise disposing of hazardous waste or hazardous substances into the environment.

5.16 Government Consents. Borrower has obtained all material consents, approvals and authorizations of, made all declarations or filings with, and given all notices to, all Governmental Authorities that are necessary for the continued operation of Borrower's business as currently conducted.

5.17 Full Disclosure. No representation, warranty or other statement made by Borrower in any Loan Document, certificate or written statement furnished to any Agent or, taken together with all such certificates, Loan Documents and written statements, contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements contained in such Loan Documents, certificates or statements not misleading, it being recognized by Agents and Lenders that the projections and forecasts provided by Borrower in good faith and based upon reasonable assumptions are not to be viewed as facts and that actual results during the period or periods covered by any such projections and forecasts may differ from the projected or forecasted results.

5.18 Inventory. All Inventory is in all material respects of good and marketable quality, free from all material defects, spoilage, non-conformance, or payment dispute, except for Inventory for which adequate reserves have been made.

5.19 Material Contracts. As of the Closing Date, Borrower has delivered to Collateral Agent true and correct copies of all Material Contracts (or, with respect to oral contracts or agreements, written descriptions of the material terms thereof).

5.20 Sanctioned Persons. None of Borrower or any of its Subsidiaries, and to Borrower's knowledge, any of their directors, officers, agents, employees or Affiliate is currently subject to any U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Treasury Department ("*OFAC*"). Borrower will not directly or indirectly use the proceeds of any Advance or otherwise make available such proceeds to any Person, for the purpose of financing the activities of any Person currently subject to any U.S. sanctions administered by OFAC.

5.21 Foreign Assets Control Regulations, Etc.

(a) Neither the borrowing of any Advance by Borrower hereunder nor its use thereof will violate (i) the United States Trading with the Enemy Act, as amended, (ii) any of the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended) or any enabling legislation or executive order relating thereto, (iii) Executive Order No. 13,224, 66 Fed Reg 49,079 (2001), issued by the President of the United States (Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit or Support Terrorism) (the "***Terrorism Order***"), (iv) USA PATRIOT ACT, or (v) USA FREEDOM ACT. No part of the Advance will be used, directly or indirectly, for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the United States Foreign Corrupt Practices Act of 1977, as amended.

(b) Neither Borrower nor any Subsidiary (i) is or will become a "blocked person" as described in Section 1.01 of the Terrorism Order or (ii) engages or will engage in any dealings or transactions, or is otherwise associated, with any such blocked person.

(c) Each of Borrower and any Subsidiary and their Affiliates are in compliance, in all material respects, with the USA PATRIOT ACT and the USA FREEDOM ACT.

6. Affirmative Covenants

Borrower covenants and agrees that, until the full and complete payment of the Obligations (other than inchoate indemnity obligations) in cash, Borrower shall do all of the following:

6.1 Good Standing. Borrower shall maintain its corporate existence and good standing in its jurisdiction of formation and maintain qualification in each other jurisdiction in which the failure to so qualify could reasonably be expected to have a Material Adverse Effect. Borrower shall maintain in force all licenses, approvals and agreements, the loss of which could reasonably be expected to have a Material Adverse Effect.

6.2 Government Compliance. Borrower and each Subsidiary shall comply with all applicable federal and state statutes, laws, ordinances and government rules and regulations to which it or its operations is subject, noncompliance with which could reasonably be expected to have a Material Adverse Effect.

6.3 Financial Statements, Reports, Certificates. Borrower shall deliver the following to Collateral Agent by email to the address specified pursuant to **Section 11**, and Agents and Lenders shall be entitled to rely on the information contained therein:

(a) as soon as available, but no later than thirty (30) days after the last day of each month, a company-prepared consolidated and consolidating balance sheet and income statement covering Borrower's and each of its Subsidiary's operations for such month in a form reasonably acceptable to Collateral Agent (the "**Monthly Financial Statements**");

(b) as soon as available, and in any event within forty-five (45) days after the last day of each fiscal quarter of Borrower, company-prepared consolidated and consolidating balance sheet and income statement covering Borrower's and each of its Subsidiary's operations for such quarter certified by a Responsible Officer and in a form reasonably acceptable to Bank;

(c) as soon as available but no later than the earlier of (i) thirty (30) days after the approval thereof by the Board or (ii) January 31st of each year, and contemporaneously with any updates or amendments thereto, (a) annual operating budgets (including income statements, balance sheets and cash flow statements, by month) for the upcoming fiscal year of Borrower, and (b) annual financial projections for the following fiscal year (on a quarterly basis), in each case as approved by the Board, together with any related business forecasts used in the preparation of such annual financial projections;

(d) as soon as available, and in any event within one hundred eighty (180) days after the last day of Borrower's fiscal year, audited consolidated financial statements prepared under GAAP, consistently applied, together with an unqualified opinion on the financial statements from an independent certified public accounting firm reasonably acceptable to Senior Creditor, or if there is none, Collateral Agent;

(e) in the event that Borrower becomes subject to the reporting requirements under the Exchange Act, within five (5) days of filing, copies of all periodic and other reports, proxy statements and other similar materials filed by Borrower with the SEC, any Governmental Authority succeeding to any or all of the functions of the SEC or with any national securities exchange, or distributed to all of its shareholders (or required to be distributed), as the case may be (other than materials filed by Borrower on a "confidential treatment" basis). Documents required to be delivered pursuant to the terms hereof (to the extent any such documents are included in materials otherwise filed with the SEC) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date

on which Borrower posts such documents, or provides a link thereto, on Borrower's website on the internet at Borrower's website address, or are available at www.sec.gov (or any successor site maintained by the SEC for similar purposes); provided, however, Borrower shall promptly notify Collateral Agent in writing (which may be by electronic mail) of the posting of any such documents;

(f) within five (5) days of delivery, copies of all statements, reports and notices made available to Borrower's security holders or to any holders of Indebtedness which is subordinated to the Obligations;

(g) within thirty (30) after completion thereof, a copy of each 409(a) valuation report for Borrower's capital stock;

(h) reserved;

(i) within five (5) days after the occurrence thereof, written notice of a Key Person departing from or ceasing to be employed by Borrower;

(j) prompt report of any legal actions pending or threatened in writing against Borrower or any of its Subsidiaries that could reasonably be expected to result in damages or costs to Borrower or any of its Subsidiaries of, individually or in the aggregate, Two Hundred Fifty Thousand Dollars ($250,000.00) or more; and

(k) promptly, from time to time, such other financial information regarding Borrower or compliance with the terms of any Loan Documents as reasonably requested by Collateral Agent.

6.4 Certificates of Compliance. Each time financial statements are required to be furnished pursuant to **Section 6.3(a)** above, there shall be delivered to Collateral Agent a certificate signed by a Responsible Officer (each a "*Compliance Certificate*") in the form attached hereto as **Exhibit D** certifying that as of the end of the reporting period for such financial statements, Borrower was in full compliance with all of the terms and conditions of the Loan Documents, and setting forth such other information as Collateral Agent shall reasonably request. Borrower shall deliver the Compliance Certificate by email to the address specified pursuant to **Section 11**, and Agents and Lenders shall be entitled to rely on the information contained therein.

6.5 Notice of Defaults. As soon as possible, and in any event within three (3) Business Days after the discovery of a Default or an Event of Default, notify Collateral Agent of the facts relating to or giving rise to such Default or Event of Default and the action which Borrower proposes to take with respect thereto. Borrower shall deliver such notice to Collateral Agent by email to the address specified pursuant to **Section 11**, and Agents and Lenders shall be entitled to rely on the information contained therein.

6.6 Taxes. Borrower shall make, and cause each Subsidiary to make, due and timely payment or deposit (taking into account all applicable extension periods) of all material federal, state, and local taxes, assessments, or contributions required of it by law or imposed upon any properties belonging to it; and Borrower will make due and timely payment or deposit (taking into account all applicable extension periods) of all material related tax payments and withholding taxes required of it by applicable laws, including those laws concerning F.I.C.A., F.U.T.A., and state disability, and will, upon request, furnish Collateral Agent with proof satisfactory to Collateral Agent indicating that Borrower has made such payments or deposits; *provided that* Borrower need not make any payment if the amount or validity of such payment is contested in good faith by appropriate proceedings and is fully reserved against by Borrower.

6.7 Maintenance. Borrower, at its expense, shall maintain the Equipment Collateral in good condition, normal wear and tear and casualty and condemnation excepted, and will comply in all material respects with all laws, rules and regulations to which the use and operation of the Equipment Collateral may be or become subject. Such obligation shall extend to repair and replacement of any partial loss or damage to the Equipment Collateral, regardless of the cause, except where the failure to do so would not reasonably be expected to result in a Material Adverse Effect.

6.8 Insurance.

(a) Borrower shall maintain, at its sole cost and expense, with financially sound and reputable insurance companies not affiliates of Borrower, insurance with respect to the Equipment Collateral, its and its Subsidiaries' properties and businesses against loss or damage of the kinds customarily insured against by Persons engaged in the same or similar business, of such types and in such amounts as are customarily carried under similar circumstances by such other Persons, but in no event an amount less than full replacement cost. All such policies of insurance shall be in such form, with such companies, and in such amounts as are reasonably satisfactory to Agent (Agent acknowledges that insurance maintained by Borrower as of the Closing Date is acceptable to Agent as of the Closing Date).

(b) Subject to the rights of the Senior Creditor, all such policies of property insurance shall contain a lender's loss payable endorsement, in a form reasonably satisfactory to Collateral Agent, showing Collateral Agent for itself and the benefit of Administrative Agent and Lenders as an additional loss payee thereof, and all liability insurance policies shall show Collateral Agent for itself and the benefit of Administrative Agent and Lenders as an additional insured and shall specify that the insurer must give at least thirty (30) days' notice to Collateral Agent before canceling its policy for any reason (except for nonpayment, which shall be ten (10) days prior notice). Borrower shall promptly deliver to Collateral Agent its current certified copy of such policies of insurance, evidence of the payments of all premiums therefor and insurance certificates and related endorsements thereto, it being understood that any time there is a change or renewal of insurance, it is Borrower's obligation to promptly deliver such materials to Collateral Agent.

(c) Borrower shall bear the risk of the Collateral being lost, stolen, destroyed, damaged beyond repair, rendered permanently unfit for use, or seized by a Governmental Authority for any reason whatsoever at any time. Proceeds payable under any insurance policy shall, at Collateral Agent's option, be payable to Collateral Agent on account of the Obligations.

6.9 Reserved.

6.10 Formation or Acquisition of Subsidiaries. Notwithstanding and without limiting the negative covenants contained in **Section 7.6** hereof, within seven (7) days of the date that Borrower forms any direct or indirect domestic Subsidiary (other than any indirect domestic Subsidiary that is directly held by a foreign Subsidiary of Borrower) or acquires any direct or indirect domestic Subsidiary (other than any indirect domestic Subsidiary that is directly held by a foreign Subsidiary of Borrower), Borrower shall (a) cause such new domestic Subsidiary to provide to Collateral Agent a Joinder Agreement, together with such other Loan Documents, all in form and substance satisfactory to Collateral Agent, and (b) provide to Collateral Agent all other documentation in form and substance satisfactory to Collateral Agent that in its opinion is appropriate with respect to the execution and delivery of the applicable documentation referred to above, including all documentation and other information which Agents may reasonably request with respect to any new Subsidiary that signs and delivers a Joinder Agreement in order to comply with its ongoing obligations under applicable "know your customer" and anti-money laundering rules and regulations, including the USA PATRIOT ACT, the USA FREEDOM Act, an IRS Form W-9 or other applicable tax forms.

6.11 Financial Covenants.

(a) Borrower shall maintain at all times not less than $2,000,000 of Unrestricted Cash in accounts subject to a Control Agreement in favor of Senior Creditor and Agent.

6.12 Further Assurances. At any time and from time to time Borrower shall execute and deliver such further instruments and take such further action as may reasonably be requested by Collateral Agent to effect the purposes of this Agreement.

6.13 Investment Rights.

(a) Borrower shall offer to Lenders (or any Affiliate at Lenders' option), the ability to purchase up to an aggregate of $1,000,000 of the Equity Interests issued in Borrower's next Equity Round, with such purchase to be either in cash or conversion of any Advance, provided, however, Borrower shall have no obligation to make such offer if a Lender or its assignee is not an "accredited" investor, as defined in the rules associated with the Securities Act of 1933. SCI or its Affiliate(s) shall be entitled to purchase the same class and series of equity, for the same price and on the same terms as are offered to other investors in the Equity Round. Borrower will promptly notify Lenders upon the execution of a term sheet with respect to such next Equity Round and at a minimum not less than ten (10) days prior to the close of such next Equity Round, and Lenders or their Affiliate will have ten (10) days after receipt of that notice to participate, in which case Lender(s) or its Affiliate(s), as applicable, will execute and be party to the purchase agreement, investor rights agreement, and other agreements executed by the other investors in connection with such next Equity Round. Without otherwise limiting the foregoing (i) if Borrower shall notify Lender or its designated Affiliate(s) that such next Equity Round is anticipated to close prior to the end of Lenders' 10-day participation election period, Lender(s) or its designated Affiliate(s) will use reasonable efforts to make its participation election by two (2) Business Days prior to such anticipated close, and (ii) in any event, in lieu of complying with the advance notice requirements of this **Section 6.13(a)**, Borrower may elect to give Lenders or their designated Affiliate(s) notice of such Equity Round within five (5) days after the initial closing thereof, and they will then have ten (10) days to purchase the Equity Interests that they were otherwise entitled to purchase pursuant to the foregoing provisions of this **Section 6.13(a)**.

6.14 Reserved.

6.15 Delivery of Third-Party Agreements. Within sixty (60) days following the Closing Date, Borrower shall obtain and deliver to Collateral Agent a Landlord Subordination and Access Agreement (with respect to the any location where Collateral Equipment having a fair market value of at least $100,000 is planned to be located) in form and substance satisfactory to Agent in Agent's sole, but reasonable discretion. In addition, in the event that Borrower shall enter into a new lease with respect to a new or additional operating location after Closing Date in which Equipment Collateral having a fair market value of at least $100,000 will be located, then Borrower shall, within sixty (60) days following the execution of such lease, obtain and deliver to Collateral Agent a Landlord Subordination and Access Agreement with respect to such new lease, in form and substance satisfactory to Collateral Agent in Collateral Agent's sole, but reasonable discretion. Collateral Agent agrees not to exercise its rights to access to any property covered by a Landlord Subordination and Access Agreement except during the continuance of an Event of Default.

7. Negative Covenants

Borrower covenants and agrees that until the full and complete payment of the Obligations (other than inchoate indemnity obligations) in cash and termination of the Commitment, Borrower will not do any of the following:

7.1 Chief Executive Office; Location of Collateral. During the continuance of this Agreement, change the state of formation, chief executive office or principal place of business or remove or cause to be removed, except in the ordinary course of Borrower's business, the Equipment Collateral or the records concerning the Collateral from the premises listed in the Perfection Certificate without ten (10) days prior written notice to Collateral Agent, provided that any such removal may not be to a location outside of the United States without Collateral Agent's prior written consent.

7.2 Extraordinary Transactions and Disposal of Assets. Convey, sell, lease, transfer or otherwise dispose of (collectively, a "***Transfer***"), or permit any of its Subsidiaries to Transfer, all or any part of the Equipment Collateral without Collateral Agent's prior written consent (collectively, the "***Permitted Transfers***").

7.3 Restructure. Borrower shall not: (i) without providing not less than ten (10) days advance written notice to Collateral Agent's, change Borrower's name, (ii) suspend operation of Borrower's business, (iii) engage in any business, or permit any of its Subsidiaries to engage in any business, other than the businesses currently engaged in by Borrower and any business substantially similar or related thereto; (iv) experience a departure of a

Responsible Officer, without providing Collateral Agent a written notice within 10 days after the occurrence of such departure; or (v) without Collateral Agent's prior written consent, change the date on which its fiscal year ends.

7.4 Liens/Negative Pledge. Create, incur, assume or suffer to exist any Lien with respect to any Equipment Collateral, except for a junior Lien in favor of Senior Creditor on terms acceptable to Collateral Agent in its sole discretion, or enter into any agreement with any Person other than Collateral Agent that prohibits Borrower from granting a security interest in, or otherwise encumbering, any Equipment Collateral.

7.5 Reserved.

7.6 Reserved.

(a) **Distributions.** Pay any dividends or make any distribution or payment or redeem, retire or purchase any Equity Interests of Borrower, provided that (i) Borrower may convert any of its convertible securities into other securities pursuant to the terms of such convertible securities or otherwise in exchange thereof, (ii) Borrower may pay dividends solely in common stock; and (iii) Borrower may repurchase the stock of former employees, directors, or consultants pursuant to stock repurchase agreements so long as an Event of Default does not exist at the time of such repurchase and would not exist after giving effect to such repurchase, provided that the aggregate amount of all such repurchases does not exceed Two Hundred Fifty Thousand Dollars ($250,000) per fiscal year.

7.7 Reserved.

7.8 Reserved.

7.9 Compliance. Become an "investment company" under the Investment Company Act of 1940 or undertake as one of its important activities extending credit to purchase or carry margin stock, or use the proceeds of any Advance for that purpose; except as could not be reasonably expected to have a Material Adverse Effect, fail to meet the minimum funding requirements of ERISA with respect to any Pension Plan or permit a Reportable Event (within the meaning of Section 4043(c) of ERISA) or a Prohibited Transaction (as such term is defined in Section 4975 of the Internal Revenue Code) to occur; fail to comply with the Federal Fair Labor Standards Act or violate any other law or regulation, if the violation could reasonably be expected to have a Material Adverse Effect or permit any of its Subsidiaries to do so.

7.10 Deposit Accounts. Maintain any Deposit Accounts or Securities Accounts except accounts respecting which Agent has obtained a Control Agreement.

8. Events of Default

Any one or more of the following events shall constitute an "Event of Default" by Borrower under

8.1 Payment Default. If Borrower fails to pay any payment of principal or interest on any Advance when due, or fails to pay any other Obligations within three (3) Business Days after such Obligations are due and payable (which three (3) Business Day cure period shall not apply to payments due on the Maturity Date , and in no event shall any Advances be required to be made during such cure period).

8.2 Certain Covenant Defaults. If Borrower fails to perform any obligation under **Section 6.3, Section 6.4, Section 6.5, Section 6.8, Section 6.9(a), Section 6.11,** and **Section 6.13** or violates any of the covenants contained in **Section 7** of this Agreement.

8.3 Other Covenant Defaults. If Borrower fails or neglects to perform or observe any other material term, provision, condition, or covenant contained in this Agreement, in any of the Loan Documents, or in any other present or future agreement between Borrower and any Agent or Lender and as to any default under such other term, provision, condition or covenant that can be cured, has failed to cure such default within ten (10) days after Borrower receives notice thereof or any Responsible Officer of Borrower becomes aware thereof; provided, however,

that if the default cannot by its nature be cured within the ten (10) day period or cannot after diligent attempts by Borrower be cured within such ten (10) day period, and such default is likely to be cured within a reasonable time, then Borrower shall have an additional period (which shall not in any case exceed thirty (30) days) to attempt to cure such default, and within such reasonable time period the failure to cure the default shall not be deemed an Event of Default (but no Advances shall be made during such cure period). Cure periods provided under this section shall not apply, among other things, to financial covenants (if any) or any other covenants set forth in Section 8.2 above.

8.4 Investor Abandonment; Priority of Security Interest. If Lender determines in its good faith judgment that it is the clear intention of Borrower's investors to not continue to fund Borrower in the amounts and timeframe to the extent necessary to enable Borrower to satisfy the Obligations as they become due and payable, or there is a material impairment in the perfection or priority of Lender's security interest in the Collateral.

8.5 Attachment. If any material portion of the Collateral is attached, seized, subjected to a writ or distress warrant, or is levied upon, or comes into the possession of any trustee, receiver or Person acting in a similar capacity and such attachment, seizure, writ or distress warrant or levy has not been removed, discharged or rescinded within ten (10) days, or if Borrower is enjoined, restrained, or in any way prevented by court order from continuing to conduct all or any material part of its business affairs, or if a judgment or other claim becomes a lien or encumbrance upon any material portion of Borrower's assets, or if a notice of lien, levy, or assessment is filed of record with respect to any of Borrower's assets by the United States Government, or any department, agency, or instrumentality thereof, or by any state, county, municipal, or governmental agency, and the same is not paid within ten (10) days after Borrower receives notice thereof; *provided that* none of the foregoing shall constitute an Event of Default where such action or event is stayed or an adequate bond has been posted pending a good faith contesting by Borrower or its Subsidiary.

8.6 Other Agreements. If there is (a) a default in any agreement to which Borrower or a Subsidiary is a party with a third party or parties resulting in a right by such third party or parties, whether or not exercised, to accelerate the maturity of any Indebtedness in excess of Five Hundred Thousand Dollars ($500,000), or (b) any breach or default by Borrower or Guarantor, the result of which could reasonably be expected to have a Material Adverse Effect on Borrower or any party signing a Joinder Agreement (other than Collateral Agent); provided, however, that the Event of Default under this Section 8.6 caused by the occurrence of a breach or default under such other agreement shall be cured or waived for purposes of this Agreement upon Agent receiving written notice from the party asserting such breach or default of such cure or waiver of the breach or default under such other agreement, if at the time of such cure or waiver under such other agreement (x) Agent has not declared an Event of Default under this Agreement and/or exercised any rights with respect thereto; (y) any such cure or waiver does not result in an Event of Default under any other provision of this Agreement or any Loan Document; and (z) in connection with any such cure or waiver under such other agreement, the terms of any agreement with such third party are not modified or amended in any manner which could in the good faith business judgment of Agent be materially less advantageous to Borrower.

8.7 Judgments. If there is entry of a judgment or judgments against Borrower or any Subsidiary (other than a judgment or judgements covered by independent third-party insurance as to which liability has been acknowledged by such insurance carrier) for the payment of money in an amount, individually or in the aggregate, of at least Five Hundred Thousand Dollars ($500,000), and the same are not, within ten (10) days after the entry, assessment or issuance thereof, discharged, satisfied, or paid, or after execution thereof, stayed or bonded pending appeal, or such judgments are not discharged prior to the expiration of any such stay (provided that no Advances will be made prior to the satisfaction, payment, discharge, stay, or bonding of such fine, penalty, judgment, order or decree).

8.8 Misrepresentations. If any material misrepresentation or material misstatement exists now, when made or when deemed made in any written warranty, representation, statement, certificate, or report made to any Agent or Lender by Borrower or any Responsible Officer of Borrower.

8.9 Enforceability. If any Loan Document shall in any material respect cease to be, or Borrower asserts that any Loan Document is not a legal, valid and binding obligation of Borrower enforceable in accordance with its terms except for the termination of such Loan Document pursuant to its terms. If any subordination agreement relating to Subordinated Debt shall in any material respect cease to be a legal, valid and binding obligation, or the holder of any Subordinated Debt challenges the legality, validity or binding nature of the subordination agreement

to which such Subordinated Debt relates except for the termination of such subordination agreement pursuant to its terms.

8.10 Involuntary Bankruptcy. If a proceeding shall have been instituted in a court having jurisdiction in the premises seeking a decree or order for relief in respect of Borrower or any Subsidiary in an involuntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or for the appointment of a receiver, liquidator, assignee, custodian, trustee (or similar official) of Borrower or for any substantial part of its property, or for the winding-up or liquidation of its affairs, and such proceeding shall remain undismissed or unstayed and in effect for a period of forty-five (45) consecutive days or such court shall enter a decree or order granting the relief sought in such proceeding.

8.11 Voluntary Bankruptcy. If Borrower or any Subsidiary shall commence a voluntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, shall consent to the entry of an order for relief in an involuntary case under any such law, or shall consent to the appointment of or taking possession by a receiver, liquidator, assignee, trustee, custodian (or other similar official) of Borrower or for any substantial part of its property, or shall make a general assignment for the benefit of creditors, or shall take any corporate action in furtherance of any of the foregoing.

8.12 Insolvency. If Borrower becomes Insolvent.

9. Agents' and Lenders' Rights and Remedies

9.1 Rights and Remedies. Upon the occurrence and during the continuance of any Event of Default, Collateral Agent shall have the rights, options, duties and remedies of a secured party as permitted by, and in accordance with, applicable law and, in addition to and without limitation of the foregoing, Collateral Agent may (and not any Lender without Collateral Agent's written consent), at its election, without notice of election and without demand, do any one or more of the following, all of which are authorized by Borrower:

(a) Declare all Obligations, whether evidenced by this Agreement, or by any of the other Loan Documents, including the outstanding principal amount of, and accrued interest on, each Advance, immediately due and payable (*provided that* upon the occurrence of an Event of Default described in **Section 8.11** or **8.12** all Obligations shall become immediately due and payable without any action by Collateral Agent);

(b) Make such payments and do such acts as Collateral Agent considers necessary or reasonable to protect its security interest in the Collateral. Borrower agrees to assemble the Collateral if Collateral Agent so requires, and to make the Collateral available to Collateral Agent as Collateral Agent may designate. Borrower authorizes Collateral Agent to enter the premises where the Collateral is located, to take and maintain possession of the Collateral, or any part of it, and to pay, purchase, contest, or compromise any Lien which in Collateral Agent's determination appears to be prior or superior to its security interest and to pay all expenses incurred in connection therewith; with respect to any of Borrower's owned premises, Borrower hereby grants Collateral Agent, subject to any rights of third parties, a license to enter into possession of such premises and to occupy the same, without charge in order to exercise any of Collateral Agent's rights or remedies provided herein, at law, in equity, or otherwise;

(c) Set off and apply to the Obligations any and all Indebtedness at any time owing to or for the credit or the account of Borrower;

(d) Ship, reclaim, recover, store, finish, maintain, repair, prepare for sale, advertise for sale, and sell (in the manner provided for herein) the Collateral. Collateral Agent is hereby granted a license or other right, solely pursuant to the provisions of this **Section 9.1**, to use, without charge, Borrower's labels, Patents, Copyrights, rights of use of any name, trade secrets, trade names, Trademarks, service marks, and advertising matter, or any Property of a similar nature, as it pertains to the Collateral, in completing production of, advertising for sale, and selling any Collateral and, in connection with Collateral Agent's exercise of its rights under this **Section 9.1.** Borrower's rights under all licenses and all franchise agreements shall inure to Collateral Agent's benefit;

(e) Deliver a notice of exclusive control, any entitlement order, or other directions or instructions pursuant to any Control Agreement or similar agreement provided control of any Collateral:

(f) Sell the Collateral at either a public or private sale, or both, by way of one or more contracts or transactions, for cash or on terms, in such manner and at such places (including Borrower's premises) as Agent determines are commercially reasonable; and

(g) Collateral Agent may credit bid and purchase at any public sale. Any deficiency that exists after disposition of the Collateral as provided above will be paid immediately by Borrower.

9.2 Waiver by Borrower. Upon the occurrence and during the continuance of an Event of Default, to the extent permitted by law, Borrower covenants that it will not at any time insist upon or plead, or in any manner whatever claim or take any benefit or advantage of, any stay or extension of law now or at any time hereafter in force, nor claim, take nor insist upon any benefit or advantage of or from any law now or hereafter in force providing for the valuation or appraisement of the Collateral or any part thereof prior to any sale or sales thereof to be made pursuant to any provision herein contained, or to the decree, judgment or order of any court of competent jurisdiction; nor, after such sale or sales, claim or exercise any right under any statute now or hereafter made or enacted by any state or otherwise to redeem the Property so sold or any part thereof, and, to the full extent legally permitted, except as to rights expressly provided herein, hereby expressly waives for itself and on behalf of each and every Person, except decree or judgment creditors of Borrower acquiring any interest in or title to the Collateral or any part thereof subsequent to the date of this Agreement, all benefit and advantage of any such law or laws, and covenants that it will not invoke or utilize any such law or laws or otherwise hinder, delay or impede the execution of any power herein granted and delegated to Agent, but will suffer and permit the execution of every such power as though no such power, law or laws had been made or enacted.

9.3 Effect of Sale. Subject to applicable law, any sale, whether under any power of sale hereby given under this **Article 9** or by virtue of judicial proceedings, shall operate to divest all right, title, interest, claim and demand whatsoever, either at law or in equity, of Borrower in and to the Property sold, and shall be a perpetual bar, both at law and in equity, against Borrower, its successors and assigns, and against any and all Persons claiming the Property sold or any part thereof under, by or through Borrower, its successors or assigns. The timing of any foreclosure sale of Collateral shall be deemed reasonable provided that Collateral Agent gives at least 10 days advance notice of the initial date set for such foreclosure sale.

9.4 Power of Attorney in Respect of the Collateral. Borrower does hereby irrevocably appoint Collateral Agent (which appointment is coupled with an interest) effective only on the occurrence and during the continuance of an Event of Default, the true and lawful attorney in fact of Borrower with full power of substitution, for it and in its name: (a) to ask, demand, collect, receive, receipt for, sue for, compound and give acquittance for any and all rents, issues, profits, avails, distributions, income, payment draws and other sums in which a security interest is granted under **Section 4** with full power to settle, adjust or compromise any claim thereunder as fully as if Agent were Borrower itself, (b) to receive payment of and to endorse the name of Borrower to any items of Collateral (including checks, drafts and other orders for the payment of money) that come into Collateral Agent's possession or under Collateral Agent's control, (c) to make all demands, consents and waivers, or take any other action with respect to, the Collateral, (d) in Collateral Agent's discretion to file any claim or take any other action or proceedings, either in its own name or in the name of Borrower or otherwise, which Collateral Agent may reasonably deem necessary or appropriate to protect and preserve the right, title and interest of Collateral Agent in and to the Collateral, or (e) to otherwise act with respect thereto as though Collateral Agent were the outright owner of the Collateral.

9.5 Lender Expenses. If Borrower fails to pay any amounts or furnish any required proof of payment due to third persons or entities as required under the terms of this Agreement, then Collateral Agent (or a Lender with Collateral Agent's consent) may do any or all of the following: (a) make payment of the same or any part thereof; (b) set up such reserves as Collateral Agent or such Lender, as applicable, deems necessary to protect Collateral Agent and Lender from the exposure created by such failure; or (c) obtain and maintain insurance policies of the type discussed in **Section 6.8** of this Agreement, and take any action with respect to such policies as Collateral Agent or such Lender, as applicable, deems prudent. Any amounts paid or deposited by Collateral Agent or such Lender, as

applicable, shall constitute Lender Expenses, shall be immediately due and payable, and shall bear interest at the then applicable rate hereinabove provided, and shall be secured by the Collateral. Any payments made by Collateral Agent or such Lender shall not constitute an agreement by Collateral Agent or any Lender to make similar payments in the future or a waiver by Collateral Agent of any Event of Default under this Agreement.

9.6 Remedies Cumulative. Each Agent's and each Lender's rights and remedies under this Agreement, the other Loan Documents, and all other agreements shall be cumulative. Agents and Lenders shall have all other rights and remedies not inconsistent herewith as provided under the Code, by law, or in equity, provided however, that Lender must first obtain Collateral Agent's written consent before exercising any such rights and remedies. No exercise by Agents or Lenders (to the extent authorized by Collateral Agent) of one right or remedy shall be deemed an election, and no waiver by Collateral Agent, for itself or on behalf of Administrative Agent or Lenders, of any Event of Default on Borrower's part shall be deemed a continuing waiver. No delay by Agents or Lenders shall constitute a waiver, election, or acquiescence by such party.

9.7 Reinstatement of Rights. If Collateral Agent (or a Lender with Collateral Agent's written consent) shall have proceeded to enforce any right under this Agreement or any other Loan Document by foreclosure, sale, entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason or shall have been determined adversely, then and in every such case (unless otherwise ordered by a court of competent jurisdiction), Agents and Lenders shall be restored to their former position and rights hereunder with respect to the Property subject to the security interest created under this Agreement.

10. Waivers; Indemnification

10.1 Demand; Protest. Except as otherwise provided in this Agreement, Borrower waives demand, protest, notice of protest, notice of default or dishonor, notice of payment and nonpayment, notice of any default, and any other notices relating to the Obligations or Agents' and/or Lenders' rights and remedies hereunder.

10.2 Liability for Collateral. So long as Collateral Agent complies with its obligations, if any, under Section 9207 of the Code, neither Agents nor any Lender in any way or manner shall be liable or responsible for: (a) the safekeeping of the Collateral; (b) any loss or damage thereto occurring or arising in any manner or fashion from any cause; (c) any diminution in the value thereof; or (d) any act or default of any carrier, warehouseman, bailee, forwarding agency, or other Person whomsoever. All risk of loss, damage or destruction of the Collateral shall be borne by Borrower.

10.3 Indemnification.

(a) **General Indemnity.** Borrower shall pay, indemnify, and hold each Agent and each Lender, and each of their officers, directors, employees, partners, agents, counsel and attorneys-in-fact (each, an "*Indemnified Person*") harmless from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, charges, expenses or disbursements (including Lender Expenses and reasonable attorney's fees) of any kind or nature whatsoever with respect to the execution, delivery, enforcement, performance and administration of this Agreement and any other Loan Documents, or the transactions contemplated hereby and thereby, and with respect to any investigation, litigation or proceeding (including any case, action or proceeding before any court or other Governmental Authority relating to bankruptcy, reorganization, insolvency, liquidation, dissolution or relief of debtors or any appellate proceeding) related to this Agreement or the Advances or the use of the proceeds thereof, whether or not any Indemnified Person is a party thereto (all the foregoing, collectively, the "*Indemnified Liabilities*"); *provided*, that Borrower shall have no obligation hereunder to any Indemnified Person with respect to Indemnified Liabilities arising from solely the gross negligence or willful misconduct of such Indemnified Person.

(b) **Defense.** At the election of Agent, Borrower shall defend such Indemnified Persons in connection with the Indemnified Liabilities, using a single legal counsel satisfactory to Collateral Agent (and, in the event of a conflict of interest acknowledged by such legal counsel between the Indemnified Persons, additional legal counsel), at the sole cost and expense of Borrower. All indemnity amounts owing under this **Section 10.3** shall be paid within thirty (30) days after written demand.

11. Notices

11.1 Unless otherwise provided in this Agreement, all notices or demands by any party relating to this Agreement or any other agreement entered into in connection herewith shall be in writing and (except for financial statements and other informational documents which shall be sent by e-mail) shall be personally delivered or sent by certified mail, postage prepaid, return receipt requested, by e-mail or by prepaid facsimile to Borrower, to Agent or to Lender, as the case may be, at their respective addresses set forth below:

If to Borrower:	Beyond Meat, Inc. 1325 E. El Segundo Blvd El Segundo, California 90245 Attn: Mark Nelson, Chief Financial Officer EMAIL: mnelson@beyondmeat.com
If to Collateral Agent:	Ocean II PLO, LLC 3555 Alameda De Las Pulgas, Suite 205 Menlo Park, CA 94025 Attn: Kai Tse, Managing Partner EMAIL: kai@structuralcapital.com
If to Administrative Agent:	Ocean II PLO, LLC 3555 Alameda De Las Pulgas, Suite 205 Menlo Park, CA 94025 Attn: Kai Tse, Managing Partner kai@structuralcapital.com EMAIL:
If to a Lender:	At such address provided immediately below such Lender's signature to this Agreement

The parties hereto may change the address at which they are to receive notices hereunder, by notice in writing in the foregoing manner given to the other.

12. AGENT PROVISIONS

12.1 Appointment and Authorization.

(a) Each Lender hereby irrevocably appoints Ocean II PLO, LLC to act on its behalf as the administrative agent and collateral agent under the Loan Documents, and authorizes the it to take such actions on its behalf and to exercise such powers as are delegated to it by the terms of any of the Loan Documents, together with such actions and powers as are reasonably incidental thereto.

(b) Each Lender hereby authorizes Collateral Agent, on behalf of and for the benefit of Lender, to enter into any of the Loan Document as secured party, and as Collateral Agent for and representative of Lender thereunder, and each Lender agrees to be bound by the terms of each such document; provided that Collateral Agent shall not (i) enter into or consent to any material amendment, modification, termination or waiver of any provision contained in any such document or (ii) release any Collateral (except as otherwise expressly permitted or required pursuant to the terms of this Agreement or the applicable Loan Document), in the case of each of clauses (i) and (ii) without the prior consent of Required Lenders (or, if required pursuant to Section 13.4, all Lenders); provided further,

however, that, without further written consent or authorization from Lenders, Collateral Agent may execute any documents or instruments necessary to (a) release any Lien encumbering any item of Collateral that is the subject of a Transfer of assets permitted by this Agreement or to which Required Lenders have otherwise consented, (b) release any party from a Joinder Agreement if all of the Equity Interests of such party are Transferred to any Person (other than an Affiliate of a Loan Party) pursuant to a Transfer permitted hereunder or to which Required Lenders have otherwise consented, or (c) subordinate the Liens of Collateral Agent, on behalf of Lenders, to any Permitted Liens or (d) release all Liens in accordance with Section 4.2 Anything contained in any of the Loan Documents to the contrary notwithstanding, Borrower, each Agent and each Lender hereby agree that (1) neither any Lender nor Administrative Agent shall have any right individually to realize upon any of the Collateral under or otherwise enforce any Loan Document, it being understood and agreed that all powers, rights and remedies under the Loan Documents may be exercised solely by Collateral Agent for the benefit of Lenders and Agents in accordance with the terms thereof, and (2) in the event of a foreclosure by either on any of the Collateral pursuant to a public or private sale, either Collateral Agent or any Lender may be the purchaser of any or all of such Collateral at any such sale and Collateral Agent, as agent for and representative of Lenders (but not any Lender or Lenders in its or their respective individual capacities unless Required Lenders shall otherwise agree in writing) shall be entitled, for the purpose of bidding and making settlement or payment of the purchase price for all or any portion of the Collateral sold at any such public sale, to use and apply any of the Obligations as a credit on account of the purchase price for any Collateral payable by Collateral Agent at such sale. Without limiting the generality of the foregoing, Collateral Agent is hereby expressly authorized to execute any and all documents (including releases) with respect to (i) the Collateral and the rights of Lenders and Administrative Agent with respect thereto, as contemplated by and in accordance with the provisions of the Loan Documents, and (ii) any other subordination agreement with respect to any junior or Subordinated Debt.

12.2 Agent in Individual Capacity; Lender as Agent. The Person serving as an Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not an Agent and the term "Lender" shall, unless otherwise expressly indicated or unless the context otherwise requires, include each such Person serving as Agent hereunder in its individual capacity. The exculpatory provisions contained in this Section 12 shall not relieve a Person acting as Agent from its obligations as a Lender to the extent that such Agent is also a Lender.

12.3 Exculpatory Provisions. Agents shall have no duties or obligations except those expressly set forth in the Loan Documents. Without limiting the generality of the foregoing, Agents shall not:

(a) be subject to any fiduciary or other implied duties, regardless of whether any default or any Event of Default has occurred and is continuing;

(b) have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated by the Loan Documents that Agent is required to exercise as directed in writing by the Lender, provided that Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Agent to liability or that is contrary to any Loan Document or applicable law; and

(c) except as expressly set forth in the Loan Documents, have any duty to disclose, and Agent shall not be liable for the failure to disclose, any information relating to the Borrower or any of its Affiliates that is communicated to or obtained by any Person serving as Agent or any of its Affiliates in any capacity.

Agents shall (i) provide Lenders a copy of material written information its receives from Borrower promptly on receipt, it being understood that Agents anticipate that there will be a significant amount of email correspondence, much of which will not be material and therefore will not be relayed to Lenders, and (ii) endeavor to keep Lenders generally apprised of important non-written information Borrower communicates to Agents.

12.4 Limitation of Liability.

(a) No Agent shall be liable for any action taken or not taken by it (i) with the consent or at the request of the Required Lender or as such Agent shall believe in good faith shall be necessary, under the circumstances or (ii) in the absence of its own gross negligence or willful misconduct.

(b) No Agent shall be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with the Loan Documents, (ii) the contents of any certificate, report or other document delivered under any of the Loan Documents, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth in any of the Loan Documents, (iv) the validity, enforceability, effectiveness or genuineness of any of eh Loan Documents or any other agreement, instrument or document or (v) the satisfaction of any condition set forth in Section 3 or elsewhere in the Loan Documents, other than to confirm receipt of items expressly required to be delivered to such Agent.

(c) Each Agent may rely, and shall be fully protected in acting, or refraining to act, upon, any resolution, statement, certificate, instrument, opinion, report, notice, request, consent, order, bond or other paper or document that it has no reason to believe to be other than genuine and to have been signed or presented by the proper party or parties or, in the case of emails, cables, telecopies and telexes, to have been sent by the proper party or parties. In the absence of its gross negligence or willful misconduct, each Agent may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any certificates or opinions furnished to Agent and conforming to the requirements of any of the Loan Documents. Each Agent may consult with counsel, and any opinion or legal advice of such counsel shall be full and complete authorization and protection in respect of any action taken, not taken or suffered by Agent under any of the Loan Documents in accordance therewith. Each Agent shall have the right at any time to seek instructions concerning the administration of the Collateral from any court of competent jurisdiction. Each Agent shall not be under any obligation to exercise any of the rights or powers granted to Agent by the Loan Documents at the request or direction of any Lender unless Agent shall have been provided by such Lender with adequate security and indemnity against the costs, expenses and liabilities that may be incurred by it in compliance with such request or direction, and then, only to the extent that such Lender has the right under the applicable Loan Document to direct Agent to act.

12.5 Exculpation. Each Lender acknowledges that neither Agents nor any other Lender has made any representation or warranty to it, and that no act by any Agent or other Lender hereafter taken, including any consent to and acceptance of any assignment or review of the affairs of Borrower or any Affiliate thereof, shall be deemed to constitute any representation or warranty by any Agent or such Lender to any other Lender as to any matter, including whether there has been disclosure of material information in their possession. Each Lender acknowledges that it has, independently and without reliance upon Agent or any other Lender and bas ed on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender also acknowledges that it will, independently and without reliance upon any Agent or any other Lender and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon the Loan Documents, any related agreement or any document furnished thereunder.

13. General Provisions

13.1 Successors and Assigns. This Agreement shall bind and inure to the benefit of the respective successors and permitted assigns of each of the parties; *provided*, *however*, that neither this Agreement nor any rights hereunder may be assigned by Borrower without Collateral Agent's prior written consent, which consent may be granted or withheld in Collateral Agent's sole discretion. Each Lender shall have the right without the consent of and without written notice to Borrower to sell, transfer, negotiate, or grant participations in all or any part of, or any interest in Lender's rights and benefits hereunder and under any Loan Document to an Affiliate of Lender, provided that any other sale, transfer or participation of a Lender's interest in any Loan Document shall require Collateral Agent's prior written consent. Notwithstanding the foregoing, so long as no Event of Default shall have occurred and is continuing, no Lender shall assign its interest in this Agreement to any Person that is in the reasonable estimation of Agent a direct competitor of Borrower.

13.2 Time of Essence. Time is of the essence for the performance of all obligations set forth in this Agreement.

13.3 Severability of Provisions. Each provision of this Agreement shall be severable from every other provision of this Agreement for the purpose of determining the legal enforceability of any specific provision.

13.4 Entire Agreement; Construction; Amendment and Waivers.

(a) This Agreement and each of the other Loan Documents, taken together, constitute and contain the entire agreement between Borrower, Agents and Lenders and supersede any and all prior agreements, negotiations, correspondence, understandings and communications between the parties, whether written or oral, respecting the subject matter hereof, including that certain term sheet dated June 6, 2018 issued by Structural Capital Investments II, LP to Borrower.

(b) This Agreement is the result of negotiations between and has been reviewed by each of Borrower, Agents and Lenders as of the date hereof and their respective counsel; *accordingly*, this Agreement shall be deemed to be the product of the parties hereto, and no ambiguity shall be construed in favor of or against Borrower, any Agent or any Lender as a result of such provision having been written by such party. Borrower, Agents and Lenders agree that they intend the literal words of this Agreement and the other Loan Documents and that no parol evidence shall be necessary or appropriate to establish Borrower's, Agents' or Lenders' actual intentions.

(c) Any and all amendments, modifications, discharges or waivers of, or consents to any departures from any provision of this Agreement or of any of the other Loan Documents shall not be effective without the written consent of Agents, the Required Lenders and Borrower, provided however, that any amendment to the Commitment or any decrease in the principal amount of any Advance shall also require the written consent of the Lender whose Commitment or principal amount of any Advance is being amended. Any waiver or consent with respect to any provision of the Loan Documents shall be effective only in the specific instance and for the specific purpose for which it was given. No notice to or demand on Borrower in any case shall entitle Borrower to any other or further notice or demand in similar or other circumstances. Any amendment, modification, waiver or consent effected in accordance with this **Section 13.4** shall be binding upon Agents, Lenders and Borrower.

13.5 Reliance. All covenants, agreements, representations and warranties made herein by Borrower shall, notwithstanding any investigation by Agents and Lenders, be deemed to be material to and to have been relied upon by Agents and Lenders.

13.6 No Set-Offs by Borrower. All Obligations payable by Borrower pursuant to this Agreement or any of the other Loan Documents shall be payable without notice or demand and shall be payable in United States Dollars without set-off or reduction of any manner whatsoever.

13.7 Counterparts. This Agreement and each of the other Loan Documents may be executed in any number of counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which together shall constitute one instrument. Delivery of an executed counterpart of a signature page of this Agreement or any of the other Loan Documents by telecopy or other electronic imaging means (e.g. PDF by email) shall be effective as delivery of a manually executed counterpart.

13.8 Survival. All covenants, representations and warranties made in this Agreement shall continue in full force and effect so long as any Obligations remain outstanding. The obligation of Borrower to indemnify each Indemnified Person with respect to the expenses, damages, losses, costs and liabilities described in **Section 10.3** shall survive until all applicable statute of limitations periods with respect to actions that may be brought against an Indemnified Person have run.

13.9 Reserved.

13.10 Correction of Loan Documents. Collateral Agent may correct patent errors and fill in any blanks in the Loan Documents consistent with the agreement of the parties so long as such Collateral Agent provides Borrower, Lenders and Administrative Agent with written notice of such correction and allows Borrower, Lenders and Administrative Agent at least ten (10) days to object to such correction. In the event of such objection, such correction shall not be made except by an amendment signed by Agents, the Required Lenders and Borrower.

13.11 Relationship of Parties. Borrower, Agents and Lenders acknowledge, understand and agree that the relationship between the Borrower, on the one hand, and Agents and Lenders, on the other, is, and at all times shall remain solely that of a borrower and lender. Neither Agents nor Lenders shall under any circumstances be construed to be a partner or joint venturer of Borrower or any of its Affiliates; nor shall Agents or any Lender under any circumstances be deemed to be in a relationship of confidence or trust or a fiduciary relationship with Borrower or any of its Affiliates, or to owe any fiduciary duty to Borrower or any of its Affiliates. Agents and Lenders do not undertake or assume any responsibility or duty to Borrower or any of its Affiliates to select, review, inspect, supervise, pass judgment upon or otherwise inform the Borrower or any of its Affiliates of any matter in connection with its or their Property, any Collateral or the operations of Borrower or any of its Affiliates. Borrower and each of its Affiliates shall rely entirely on their own judgment with respect to such matters, and any review, inspection, supervision, exercise of judgment or supply of information undertaken or assumed by Agents or Lenders in connection with such matters is solely for the protection of Agents and Lenders, and neither Borrower nor any Affiliate is entitled to rely thereon.

13.12 Confidentiality. Neither Agents, Lenders nor any of their employees, agents or representatives shall disclose to any third party any Confidential Information that Borrower or any Affiliate of Borrower discloses to it pursuant to the Loan Documents, except that Agent and Lenders (i) may disclose Confidential Information to a third party to the extent required by law, subpoena, civil investigative demand, interrogatories or similar legal process, upon giving Borrower reasonable advance notice of such disclosure if allowed pursuant to applicable law to permit Borrower to seek a protective order or otherwise prevent such disclosure, (ii) may disclose Confidential Information to a potential assignee or transferee of or participant in the Loan Documents or any warrant; *provided that* the potential assignee, transferee or participant agrees to be bound by substantially similar confidentiality obligations as Agents and Lenders under this **Section 13.12**, (iii) may disclose Confidential Information to their legal counsel, accountants and other professional advisors provided they are bound by law or contract by the substantially similar confidentiality obligations as Agent or Lender as set forth in this Section, (iv) may disclose Confidential Information to regulatory authorities having jurisdiction over Agents or Lenders or any assignee, transferee or participant, and (v) may disclose Confidential Information in connection with the exercise of its rights and remedies during the continuance of an Event of Default, to the extent Agents or Lenders reasonably deems necessary. For purposes hereof, "*Confidential Information*" is information that Borrower or an Affiliate of Borrower discloses to Agents or Lenders pursuant to the Loan Documents that is not information which (i) becomes generally available to the public, other than as a result of disclosure by Agents or Lenders, (ii) was available on a non-confidential basis prior to its disclosure to Agents or Lenders by Borrower or such Affiliate, as applicable, (iii) becomes available to Agents or any Lender on a non-confidential basis from a source other the Borrower or such Affiliate, as applicable; *provided that* neither Agents nor any Lender have actual knowledge that such third party is prohibited from disclosing such information, or (iv) is independently developed by any Agent or any Lender without reference to confidential information provided by Borrower or an Affiliate of Borrower.

13.13 Patriot Act/Freedom Act. Agents and Lenders hereby notify Borrower and its Subsidiaries that pursuant to the requirements of the USA PATRIOT Act and USA FREEDOM Act, they are required to obtain, verify and record information that identifies Borrower and its Subsidiaries, which information includes the name and address of Borrower and its Subsidiaries and other information that will allow them to identify Borrower and its Subsidiaries in accordance with the USA PATRIOT Act and the USA FREEDOM Act.

14. CHOICE OF LAW AND VENUE; JURY TRIAL WAIVER.

14.1 THIS AGREEMENT AND ALL OTHER LOAN DOCUMENTS (EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN ANY OF THE LOAN DOCUMENTS) SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE STATE OF CALIFORNIA, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW. EACH OF BORROWER, AGENTS AND LENDERS HEREBY SUBMIT TO THE EXCLUSIVE JURISDICTION OF THE STATE AND FEDERAL COURTS LOCATED IN THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA. BORROWER, AGENTS AND LENDERS EACH HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM

OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF ANY OF THE LOAN DOCUMENTS OR ANY OF THE TRANSACTIONS CONTEMPLATED THEREIN, INCLUDING CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS, AND ALL OTHER COMMON LAW OR STATUTORY CLAIMS. EACH PARTY RECOGNIZES AND AGREES THAT THE FOREGOING WAIVER CONSTITUTES A MATERIAL INDUCEMENT FOR IT TO ENTER INTO THIS AGREEMENT. EACH PARTY REPRESENTS AND WARRANTS THAT IT HAS REVIEWED THIS WAIVER WITH ITS LEGAL COUNSEL AND THAT IT KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL.

14.2 IF THE FOREGOING JURY TRIAL WAIVER IS FOR ANY REASON UNENFORCEABLE, THE PARTIES AGREE TO RESOLVE ALL CLAIMS, CAUSES AND DISPUTES THROUGH JUDICIAL REFERENCE PURSUANT TO CODE OF CIVIL PROCEDURE SECTION 638 ET SEQ., BEFORE A MUTUALLY ACCEPTABLE REFEREE IN SAN MATEO COUNTY SITTING WITHOUT A JURY OR, IF THE PARTIES CANNOT AGREE ON A REFEREE, THEN ONE APPOINTED BY THE PRESIDING JUDGE OF THE CALIFORNIA SUPERIOR COURT FOR SAN MATEO COUNTY, CALIFORNIA. NOTHING IN THIS SECTION SHALL RESTRICT A PARTY FROM EXERCISING PRE-JUDGMENT REMEDIES OR ITS RIGHTS UNDER THE CODE.

[*Signature page follows*]

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

BORROWER:

Beyond Meat, Inc.

By: /s/ Mark Nelson

Name: Mark Nelson

Title: Chief Financial Officer

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

LENDER(S):

Structural Capital Investments II, LP,
a Delaware limited partnership

By: **Structural Capital GP II, LLC,**
a Delaware limited liability company
its General Partner

By: /s/ Kai Tse
Name: Kai Tse
Title: Managing Member

COLLATERAL AGENT

Ocean II PLO, LLC,
a California limited liability company

By: **Structural Capital GP II, LLC,**
a Delaware limited liability company its General Partnership
its manager

By: /s/ Kai Tse
Name: Kai Tse
Title: General Partner

ADMINISTRATIVE AGENT:

Ocean II PLO, LLC,
a California limited liability company

By: **Structural Capital GP II, LLC,**
a Delaware limited partnership
its Manager

By: /s/ Kai Tse
Name: Kai Tse
Title: General Partner

List of Schedules and Exhibits

Schedule 2.1	Commitments
Exhibit A	Collateral Description
Exhibit B	Form of Secured Promissory Note
Exhibit C	Form of Notice of Borrowing
Exhibit D	Form of Compliance Certificate
Exhibit E	Perfection Certificate
Exhibit F	Form of Joinder Agreement

Current Financial Statements

Disclosure Schedules

Schedule 2.1
Commitments

Lender Name	**Commitment**
Structural Capital Investments II, LP	100,000,000.00

EXHIBIT A

DEBTOR:	**Beyond Meat, Inc.**
SECURED PARTY:	**OCEAN II PLO, LLC,** **for itself and as agent for others**

COLLATERAL DESCRIPTION ATTACHMENT
TO EQUIPMENT LOAN AND SECURITY AGREEMENT

All of the following property of Borrower (herein referred to as "Borrower" or "Debtor") whether presently existing or hereafter created or acquired, and wherever located (collectively, the "Collateral"):

(a) all accounts (including health-care-insurance receivables), deposit accounts, securities accounts, Equipment Collateral (including all accessions and additions thereto) and all general intangibles related thereto (including without limitation, Intellectual Property), money, and all of Debtor's books and records with respect to any of the foregoing, and the computers and equipment containing said books and records;

(b) any and all cash proceeds and/or noncash proceeds of any of the foregoing, including, without limitation, insurance proceeds, and all supporting obligations and the security therefor or for any right to payment.

EXHIBIT B

FORM OF SECURED PROMISSORY NOTE

EXHIBIT B
SECURED PROMISSORY NOTE

THIS SECURED PROMISSORY NOTE (this "*Promissory Note*") is made as of _____ ____, 20___, by _____**,** ___ **,** a _____ [corporation/limited liability company] ("*Borrower*") in favor of _____ [lender] ("*Lender*") in connection with that certain Equipment Loan and Security Agreement dated as of _____ ____, 20___, by and between Borrower, Lender, Ocean II PLO, LLC, a California limited liability company, as collateral and administrative agent ("*Agent*"), and the lenders party thereto, as such agreement may be amended or amended and restated from time to time (the "*Loan Agreement*").

FOR VALUE RECEIVED, Borrower promises to pay in lawful money of the United States, to the order of Agent for the benefit of Lender, at 3555 Alameda De Las Pulgas, Suite 205, Menlo Park, California 94025, or such other place as Agent may from time to time designate in writing to Borrower ("*Agent's Office*"), the principal sum of $_____ together with interest thereon and all other amounts specified in the Loan Agreement as provided in accordance with the terms hereof and the Loan Agreement.

This Promissory Note is one of the Notes referred to in, and is executed and delivered in connection with, the Loan Agreement, and is entitled to the benefit and security of the Loan Agreement and the other Loan Documents (as defined in the Loan Agreement), to which reference is made for a statement of all of the terms and conditions thereof and which are hereby incorporated by reference. All payments due hereunder shall be made in accordance with the Loan Agreement. All terms defined in the Loan Agreement shall have the same definitions when used herein, unless otherwise defined herein. An Event of Default under the Loan Agreement shall constitute a default under this Promissory Note.

Borrower waives presentment and demand for payment, notice of dishonor, protest and notice of protest under the Code and any other applicable law. Borrower agrees to make all payments under this Note without setoff, recoupment or deduction and regardless of any counterclaim or defense. No delay or omission by Lender or Agent in exercising or enforcing any of their powers, rights, privileges, remedies or discretions hereunder shall operate as a waiver thereof on that occasion nor on any other occasion. No waiver of any Event of Default shall operate as a waiver of any other Event of Default, nor as a continuing waiver. This Note shall be binding upon Borrower and upon its successors, assigns, and representatives, and shall inure to the benefit of Lender and its successors, endorsees and assigns.

This Promissory Note has been negotiated and delivered to Lender and is payable in the State of California. For the avoidance of doubt, it is agreed that (i) this Promissory Note shall be governed by and construed and enforced in accordance with, the laws of the State of California, excluding any conflicts of law rules or principles that would cause the application of the laws of any other jurisdiction, and (ii) that the Choice of Law and Venue; Jury Trial Waiver provisions of Section 13 of the Loan Agreement are deemed to be incorporated herein, *mutatis mutandis*.

IN WITNESS WHEREOF, Borrower has caused this Promissory Note to be executed by a duly authorized officer as of the day and year first above written.

BORROWER:

_____

By: _____
Name: _____
Title: _____

EXHIBIT C

NOTICE OF BORROWING

_____, ____

Ocean II PLO, Inc., Administrative Agent
3555 Alameda De Las Pulgas, Suite 205
Menlo Park, CA 94025
Attn: Kai Tse, Managing Partner
EMAIL: kai@structuralcapital.com

Ladies and Gentlemen:

Reference is made to the Equipment Loan and Security Agreement dated as of September ____, 2018, (as it may be amended from time to time, the "*Loan Agreement*," the capitalized terms used herein as defined therein), between Ocean II PLO, LLC and Structural Capital Investments II, LP,_____and Beyond Meat, Inc. (the "*Company*").

The undersigned is a Responsible Officer of the Company, and hereby requests an Advance under the Loan Agreement, and in that connection certifies as follows:

1. The amount of the proposed Advance is $_____ , and should be wired to the Company as follows:

[insert wire instructions].

2. The Funding Date of the proposed Advance is _____ .

3. As of this date, no Default or Event of Default has occurred and is continuing, or will result from the making of the proposed Advance, and the representations and warranties of the Company contained in **Section 5** of the Loan Agreement are true and correct in all respects as of the date hereof except for such representations and warranties made as of a specific date.

4. As of the Funding Date, no injunction or other restraining order has been issued and no hearing to cause an injunction or other restraining order to be issued is pending or noticed with respect to any action, suit or proceeding seeking to enjoin or otherwise prevent the consummation of, or to recover any damages or obtain relief as a result of, the transactions contemplated by the Loan Agreement or the making of the proposed Advance.

5. There has not been any material impairment in the Collateral, Borrower's general affairs, management, results of operations, financial condition or the prospect for repayment of the Obligations as and when due since the date of the most recent financial statements submitted to you by the Company.

The Company agrees to notify you promptly before the funding of the Advance if any of the matters to which I have certified above shall not be true and correct on the Funding Date.

Very truly yours,

_____

EXHIBT D

COMPLIANCE CERTIFICATE

VIA EMAIL: kai@structuralcapital.com

[Date]

Ocean II PLO, LLC
3555 Alameda De Las Pulgas, Suite 205
Menlo Park, CA 94025
ATTN: Kai Tse

Re: Beyond Meat, Inc.

Dear Kai:

Reference is made to that certain Equipment Loan and Security Agreement dated September , 2018 entered into as of September , 2018 as may be amended from time to time (hereinafter referred to collectively as the "*Loan Agreement*") by and among Beyond Meat, Inc., a Delaware corporation (the "*Borrower*"), Ocean II PLO, LLC, as administrative agent and collateral agent (the "*Agent*"), the several lenders party thereto from time to time (collectively, the "Lenders"). Capitalized terms used but not defined herein shall have the meaning provided in the Loan Agreement.

The undersigned is an Officer of the Borrower, knowledgeable of all Borrower financial matters, and is authorized to provide certification of information regarding the Borrower. The undersigned hereby certifies on behalf of the Borrower that in accordance with the terms and conditions of the Loan Agreement, the Borrower is in compliance for the period ending _____of all covenants, conditions and terms of the Loan Documents, and hereby reaffirms that except as provided below, all representations and warranties contained therein are true and correct on and as of the date of this Compliance Certificate with the same effect as though made on and as of such date, except to the extent such representations and warranties expressly relate to an earlier date, after giving effect in all cases to any standard(s) of materiality contained in the Loan Documents as to such representations and warranties. Attached are the required documents supporting the above certification, including evidence showing compliance with **Section 6.11** of the Loan Agreement. The undersigned further certifies that the attached financial statements are prepared in accordance with GAAP (except for the absence of footnotes with respect to unaudited financial statement and subject to normal year end adjustments) and are consistent from one period to the next except as explained below.

Reporting Requirement	**Due Date**	**Check if Included**
Monthly Financial Statements	Monthly within 30 days	
Quarterly financial Statements	Quarterly within 45 days	
Annual Audited Financial Statements	FYE within 180 days	
Annual Budget	FYE within 45 days	

The undersigned hereby also confirms the below disclosed accounts represent all depository accounts and securities accounts presently opened in the name of each Borrower and Subsidiary since the last Compliance Certificate was due, as applicable.

Holder of Account	Financial Institution	Account Number	Type of Account (deposit/ securities)	Account Name	Last Month Ending Balance

Financial Covenant	Required	Actual	Complies (yes/no)
Minimum Cash (Section 6.11(a))			

Please use the following space to list any exceptions with respect to the certifications provided above (the listing on an exception does not excuse non-compliance):

_____

_____

Name:

Title

EXHIBIT E

PERFECTION CERTIFICATE

EXHIBIT F
FORM JOINDER AGREEMENT

This Joinder Agreement (the "Joinder Agreement") is made and dated as of [ ], 20[ ], and is entered into by and between_____., a _____ corporation ("Subsidiary"), and Ocean II PLO, LLC (as "Collateral Agent").

RECITALS

A. Subsidiary's Affiliate, [ ] ("Company") [has entered/desires to enter] into that certain Equipment Loan and Security Agreement dated September ____, 2018, with the several banks and other financial institutions or entities from time to time party thereto as lender (collectively, the "Lender") and the Collateral Agent, as such agreement may be amended (the "Loan Agreement"), together with the other agreements executed and delivered in connection therewith;

B. Subsidiary acknowledges and agrees that it will benefit both directly and indirectly from Company's execution of the Loan Agreement and the other agreements executed and delivered in connection therewith;

AGREEMENT

NOW THEREFORE, Subsidiary and Collateral Agent agree as follows:

1. The recitals set forth above are incorporated into and made part of this Joinder Agreement. Capitalized terms not defined herein shall have the meaning provided in the Loan Agreement.

2. By signing this Joinder Agreement, Subsidiary shall be bound by the terms and conditions of the Loan Agreement the same as if it were the Borrower (as defined in the Loan Agreement) under the Loan Agreement, *mutatis mutandis*, provided however, that (a) with respect to (i) Section 5.1 of the Loan Agreement, Subsidiary represents that it is an entity duly organized, legally existing and in good standing under the laws of [ ], (b) neither Agents nor Lenders shall have any duties, responsibilities or obligations to Subsidiary arising under or related to the Loan Agreement or the other Loan Documents, (c) that as long as Company satisfies the requirements of Sections 6.3 through 6.5 of the Loan Agreement, Subsidiary shall not have to provide Collateral Agent separate Financial Statements, Compliance Certificates or notices of default and (d) that if Subsidiary is covered by Company's insurance, Subsidiary shall not be required to maintain separate insurance or comply with the provisions of Section 6.8 of the Loan Agreement.

3. To the extent that any Agent or Lender has any duties, responsibilities or obligations arising under or related to the Loan Agreement or the other Loan Documents, those duties, responsibilities or obligations shall flow only to Company and not to Subsidiary or any other Person or entity. By way of example (and not an exclusive list): (i) Collateral Agent's providing notice to Company in accordance with the Loan Agreement or as otherwise agreed among Company, Collateral Agent and Lenders shall be deemed provided to Subsidiary; (ii) a Lender's providing an Advance to Company shall be deemed an Advance to Subsidiary; and (iii) Subsidiary shall have no right to request an Advance or make any other demand on Lender.

4. Subsidiary acknowledges that it benefits, both directly and indirectly, from the Loan Agreement, and hereby waives, for itself and on behalf on any and all successors in interest (including without limitation any assignee for the benefit of creditors, receiver, bankruptcy trustee or itself as debtor-in-possession under any bankruptcy proceeding) to the fullest extent provided by law, any and all claims, rights or defenses to the enforcement of this Joinder Agreement on the basis that (a) it failed to receive adequate consideration for the execution and delivery of this Joinder Agreement or (b) its obligations under this Joinder Agreement are avoidable as a fraudulent conveyance.

5. As security for the prompt, complete and indefeasible payment when due (whether on the payment dates or otherwise) of all the Obligations, Subsidiary grants to Collateral Agent a security interest in all of Subsidiary's right, title, and interest in and to the Collateral.

6. Section 13 of the Loan Agreement is incorporated herein by reference, *mutatis mutandis.*

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

SUBSIDIARY

_____

By: _____
Name: _____
Title: _____

Agent:

Ocean II PLO, LLC,
a California limited liability company

By: Structural Capital Management Company II, LP,
a Delaware limited partnership
its Manager

By: _____
Name: _____
Title: General Partner

BEYOND MEAT, INC.
EXECUTIVE INCENTIVE BONUS PLAN

1. PURPOSE

The purpose of the Beyond Meat, Inc. Executive Incentive Bonus Plan (as amended from time to time, the "***Plan***") is to motivate and reward eligible employees for their contributions toward the achievement of certain Performance Goals (as defined below) by Beyond Meat, Inc. (together with its subsidiaries, the "***Company***").

2. DEFINITIONS

The following definitions shall be applicable throughout the Plan:

(a) "***Award***" means the amount of cash incentive payable under the Plan to a Participant with respect to a Performance Period.

(b) "***Board***" means the Board of Directors of the Company, as constituted from time to time.

(c) "***Code***" means the Internal Revenue Code of 1986, as amended. Reference to a specific section of the Code or regulation thereunder shall include such section or regulation, any valid regulation promulgated under such section, and any comparable provision of any future legislation or regulation amending, supplementing or superseding such section or regulation.

(d) "***Committee***" means the Compensation Committee of the Board unless another Committee is designated by the Board. The members of any Committee designated by the Board shall be appointed from time to time by, and serve at the pleasure of, the Board. Any member of any such Committee may resign at any time by notice in writing mailed or delivered to the Secretary of the Company. As of the Effective Date, the Plan shall be administered by the Compensation Committee of the Board.

(e) "***Effective Date***" means the day immediately prior to the date on which the Company's Registration Statement is declared effective by the Securities and Exchange Commission.

(f) "***Participant***" means any officer or employee of the Company who is designated as a Participant by the Committee.

(g) "***Performance Goal***" means a formula or standard determined by the Committee with respect to each Performance Period based on one or more of the following criteria and any adjustment(s) thereto established by the Committee: (1) sales or non-sales revenue; (2) return on revenues; (3) operating income; (4) income or earnings including operating income; (5) income or earnings before or after taxes, interest, depreciation and/or amortization; (6) income or earnings from continuing operations; (7) net income; (8) pre-tax income or after-tax income; (9) net income

excluding amortization of intangible assets, depreciation and impairment of goodwill and intangible assets and/or excluding charges attributable to the adoption of new accounting pronouncements; (10) raising of financing or fundraising; (11) project financing; (12) revenue backlog; (13) gross margin; (14) operating margin or profit margin; (15) capital expenditures, cost targets, reductions and savings and expense management; (16) return on assets (gross or net), return on investment, return on capital, or return on shareholder equity; (17) cash flow, free cash flow, cash flow return on investment (discounted or otherwise), net cash provided by operations, or cash flow in excess of cost of capital; (18) performance warranty and/or guarantee claims; (19) stock price or total stockholder return; (20) earnings or book value per share (basic or diluted); (21) economic value created; (22) pre-tax profit or after-tax profit; (23) strategic business criteria, consisting of one or more objectives based on meeting specified market penetration or market share, completion of strategic agreements such as licenses, joint ventures, acquisitions, and the like, geographic business expansion, objective customer satisfaction or information technology goals, intellectual property asset metrics; (24) objective goals relating to divestitures, joint ventures, mergers, acquisitions and similar transactions; (25) objective goals relating to staff management, results from staff attitude and/or opinion surveys, staff satisfaction scores, staff safety, staff accident and/or injury rates, compliance, headcount, performance management, completion of critical staff training initiatives; (26) objective goals relating to projects, including project completion, timing and/or achievement of milestones, project budget, technical progress against work plans; and (27) enterprise resource planning. Awards issued to Participants may take into account other factors (including subjective factors). Performance Goals may differ from Participant to Participant, Performance Period to Performance Period and from Award to Award. Any criteria used may be measured, as applicable, (i) in absolute terms, (ii) in relative terms (including, but not limited to, any increase (or decrease) over the passage of time and/or any measurement against other companies or financial or business or stock index metrics particular to the Company), (iii) on a per share and/or share per capita basis, (iv) against the performance of the Company as a whole or against any affiliate(s), or a particular segment(s), a business unit(s) or a product(s) of the Company or individual project company, (v) on a pre-tax or after-tax basis, and/or (vi) using an actual foreign exchange rate or on a foreign exchange neutral basis.

(h) "***Performance Period***" means the Company's fiscal year, multiple fiscal years or any other period longer or shorter than one fiscal year, as determined by the Committee, in its sole discretion. The Committee may establish different Performance Periods for different Participants, and the Committee may establish concurrent or overlapping Performance Periods.

3. ADMINISTRATION

The Plan shall be administered by the Committee, which shall have the discretionary authority to interpret the provisions of the Plan, including all decisions on eligibility to participate, the establishment of Performance Goals, the amount of Awards payable under the Plan, and the payment of Awards. The Committee shall also have the discretionary authority to establish rules under the Plan so long as such rules do not explicitly conflict with the terms of the Plan and any such rules shall constitute part of the Plan. The decisions of the Committee shall be final and binding on all parties making claims under the Plan. The Committee, in its sole discretion and on such

terms and conditions as it may provide, may delegate all or part of its authority and powers under the Plan to one or more directors and/or officers of the Company.

4. ELIGIBILITY

Officers and other key employees of the Company designated by the Committee to participate in the Plan shall be eligible to participate in this Plan, provided the Committee has not, in its sole discretion, withdrawn such designation and he or she meets the following conditions:

(a) is a part-time or full-time regular employee of the Company as of the last day of the applicable Performance Period; and

(b) is not subject to disciplinary action, is in good standing with the Company and is not subject to a performance improvement plan.

5. AMOUNT OF AWARDS

With respect to each Participant, the Committee will establish one or more Performance Periods, an individual Participant incentive target (which may be, but is not required to be, based on the Participant's base salary) for each Performance Period and the Performance Goal(s) to be met during such Performance Period(s).

Except as otherwise required by applicable law or as determined by the Committee, base salary shall not include salary paid during any paid leave of absence or any variable forms of compensation including, but not limited to, overtime, on-call pay, lead premiums, shift differentials, bonuses, incentive compensation, commissions, stock options, restricted stock units, restricted stock, stock appreciation rights, or expense allowances or reimbursements. Nothing in the Plan, or arising as a result of a Participant's participation in the Plan, shall prevent the Company from changing a Participant's base salary at any time based on such factors as the Company shall in its discretion determine appropriate.

Awards may be pro-rated on any basis determined appropriate in the Committee's sole discretion, including, but not limited to, in connection with transfers to new positions or new locations, new hires, Participants on a leave of absence for all or any portion of a Performance Period, or Participants working less than full-time. The Committee reserves the right, in its sole discretion, to increase, reduce or eliminate the amount of an Award otherwise payable to a Participant with respect to any Performance Period.

6. PAYMENT OF AWARDS

(a) Unless otherwise determined by the Committee, a Participant must be actively employed and in good standing with the Company on the date the Award is paid. The Committee may make exceptions to this requirement in the case of retirement, death or disability, an unqualified leave of absence or under other circumstances, as determined by the Committee in its sole discretion.

(b) Any distribution made under the Plan shall be made in cash and shall occur within a reasonable period of time after the end of the Performance Period in which the Participant has

earned the Award. Notwithstanding the foregoing, in order to comply with the short-term deferral exception under Code Section 409A, if the Committee waives the requirement that a Participant must be employed on the date the Award is to be paid, payout shall occur no later than the 15th day of the third month following the later of (i) the end of the Company's taxable year in which such Award is earned or (ii) the end of the calendar year in which such Award is earned, or shall otherwise be structured to comply with, or be exempt from, Code Section 409A.

7. GENERAL

(a) TAX WITHHOLDING. The Company shall have the right to deduct from all Awards any applicable taxes, and any other deductions, required to be withheld with respect to such payments. The Company also may withhold such amounts from any other amount payable by the Company or any affiliate to the Participant, subject to compliance with applicable laws.

(b) CLAIM TO AWARDS AND EMPLOYMENT RIGHTS. Nothing in the Plan shall confer on any Participant the right to continued employment with the Company or any of its affiliates, or affect in any way the right of the Company or any affiliate to terminate the Participant's employment at any time, and for any reason, or change the Participant's responsibilities. Awards represent unfunded and unsecured obligations of the Company and a holder of any right hereunder in respect of any Award shall have no rights other than those of a general unsecured creditor to the Company.

(c) BENEFICIARIES. To the extent the Committee permits beneficiary designations, any payment of Awards under the Plan to a deceased Participant shall be paid to the beneficiary duly designated by the Participant in accordance with the Company's practices. If no such beneficiary has been designated or survives the Participant, payment shall be made to the Participant's legal representative, legal beneficiary or estate, as applicable. A beneficiary designation may be changed or revoked by a Participant at any time, provided the change or revocation is filed with the Committee prior to the Participant's death.

(d) NONTRANSFERABILITY. A person's rights and interests under the Plan, including any Award previously made to such person or any amounts payable under the Plan, may not be sold, assigned, pledged, transferred or otherwise alienated or hypothecated except, in the event of a Participant's death, to a designated beneficiary as provided in the Plan, or in the absence of such designation, by will or the laws of descent and distribution.

(e) SUCCESSOR. All obligations of the Company under the Plan, with respect to Awards granted hereunder, shall be binding on any successor to the Company, whether the existence of such successor is the result of a direct or indirect purchase, merger, consolidation, or otherwise, of all or substantially all of the business or assets of the Company.

(f) INDEMNIFICATION. Each person who is or shall have been a member of the Committee and each employee of the Company or an affiliate who is delegated a duty under the Plan shall be indemnified and held harmless by the Company from and against any loss, cost, liability or expense that may be imposed upon or reasonably incurred by him or her in connection with or resulting from any claim, action, suit or proceeding to which he or she may be a party or in which

he or she may be involved by reason of any action or failure to act under the Plan and against and from any and all amounts paid by him or her in satisfaction of judgment in any such action, suit or proceeding against him or her, provided such loss, cost, liability or expense is not attributable to such person's willful misconduct. Any person seeking indemnification under this provision shall give the Company prompt notice of any claim and shall give the Company an opportunity, at its own expense, to handle and defend the same before the person undertakes to handle and defend such claim on his or her own behalf. The foregoing right of indemnification shall not be exclusive of any other rights of indemnification to which such persons may be entitled, including under the Company's Articles of Incorporation or Bylaws, as a matter of law, or otherwise, or any power that the Company may have to indemnify them or hold them harmless.

(g) EXPENSES. The expenses of administering the Plan shall be borne by the Company.

(h) TITLES AND HEADINGS. The titles and headings of the sections in the Plan are for convenience of reference only, and in the event of any conflict, the text of the Plan, rather than such titles or headings, shall control.

(i) INTENT. It is the intent of this Plan that all payments hereunder be exempt from the requirements of Code Section 409A so that none of the payments to be provided under this Plan will be subject to the adverse tax penalties imposed under Section 409A, and any ambiguities or ambiguous terms herein will be interpreted to be so exempt. The Company and each Participant will work together in good faith to consider amendments to the Plan or revisions to the Plan with respect to the payment of any Awards under the Plan, which are necessary or appropriate to avoid imposition of any additional tax or income recognition prior to the actual payment to the Participant under Code Section 409A. In no event will the Company reimburse a Participant for any taxes or other penalties that may be imposed on the Participant as a result of Code Section 409A.

(j) GOVERNING LAW. The validity, construction, and effect of the Plan, any rules and regulations relating to the Plan, and any Award shall be determined in accordance with the laws of the State of California (without giving effect to principles of conflicts of laws thereof) and applicable federal law.

(k) AMENDMENTS AND TERMINATION. The Committee may terminate the Plan at any time, provided such termination shall not affect the payment of any Awards accrued under the Plan prior to the date of the termination. The Committee may, at any time, or from time to time, amend or suspend and, if suspended, reinstate, the Plan in whole or in part; *provided*, *however*, that any amendment of the Plan shall be subject to the approval of the Company's shareholders to the extent required to comply with applicable laws, regulations or rules.

BEYOND MEAT, INC.

EXECUTIVE CHANGE IN CONTROL SEVERANCE AGREEMENT

This Executive Change in Control Severance Agreement (the "***Agreement***") is made and entered into by and between _____ ("***Executive***") and Beyond Meat, Inc. (the "***Company***"), effective as of _____ __, 2018 (the "***Effective Date***").

RECITALS

1. The Board of Directors of the Company (the "***Board***") desires to provide for the payment of certain benefits in connection with certain terminations of Executive's employment with the Company that occur in connection with a Change in Control.

2. Certain capitalized terms used in this Agreement are defined in Section 6 below.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

1. At-Will Employment. The Company and Executive acknowledge that Executive's employment is and will continue to be at-will, as defined under applicable law.

2. Rights Upon Termination. Except as expressly provided in Section 3, upon the termination of Executive's employment, Executive shall only be entitled to: (i) all earned but unpaid salary, all accrued but unpaid vacation and all other earned but unpaid compensation or wages, (ii) any unreimbursed business expenses incurred by Executive on or before the termination date and which are reimbursable under the Company's business expense reimbursement policies, which will be paid to Executive promptly following Executive's submission of any required receipts and other documentation to the Company in accordance with the Company's business expense reimbursement policies, provided such receipts and documents are received by the Company within forty-five (45) days after the date of Executive's termination, and (iii) such other compensation or benefits due to Executive under any Company-provided plans, policies, and arrangements or as otherwise required by law (collectively, the "***Accrued Benefits***").

3. Severance Benefits.

(a) Termination without Cause or for Good Reason during Change in Control Period. If, during the Change in Control Period, (i) the Company (or any parent, subsidiary or successor of the Company) terminates Executive's employment without Cause or (ii) Executive terminates his employment with the Company (or any parent, subsidiary or successor of the Company) for Good Reason, then, subject to Section 4 below, Executive will receive the following severance benefits from the Company:

(i) Base Salary Severance Payment. Executive will receive a base salary severance payment in an amount equal to twelve (12) months of Executive's then current base salary as in effect immediately prior to the date of such termination (provided, if Executive resigns as a result of Section 6(g)(ii), the base salary used to calculate the base salary severance payment due shall be the base salary as in effect immediately prior to the reduction triggering Section 6(g)(ii)). The base salary

severance payment shall be paid to Executive in a single lump-sum within thirty (30) days following the Release Deadline.

(ii) Benefits Severance Payment. Executive will receive a benefits severance payment in an amount equal to twelve (12) months' of the monthly premiums that would be due for continuation coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended ("***COBRA***") if Executive were to elect COBRA continuation coverage for Executive and Executive's eligible dependents (based on the coverage levels in effect immediately prior to Executive's termination or resignation and based on the premium amount that would be due for the first month of COBRA coverage if Executive were to elect COBRA continuation coverage). The benefits severance payment shall be paid to Executive in a single lump-sum within thirty (30) days following the Release Deadline and will be made, subject to all applicable taxes and withholding for required deductions, and regardless of whether Executive elects COBRA continuation coverage.

(iii) Equity Awards. Executive shall vest in 100% of any then outstanding and unvested Equity Awards that are subject to time-based vesting. The Equity Awards will otherwise remain subject to the terms and conditions of the applicable Equity Award agreement. Notwithstanding anything stated herein or elsewhere to the contrary, if the successor to the Company or any affiliate of such successor does not agree to assume, substitute or otherwise continue any then outstanding Equity Awards at the time of a Change in Control, then 100% of the then-unvested shares subject to the Equity Awards shall fully vest and, if applicable, become exercisable, as of immediately prior to, and contingent upon, the consummation of such Change in Control, regardless of whether Executive's employment with the Company (or any parent, subsidiary or successor of the Company) continues or terminates unless such termination is due to Executive's resignation without Good Reason or by the Company for Cause.

(b) Resignation; Termination for Cause. If Executive's employment with the Company is terminated (i) by Executive (other than for Good Reason during the Change in Control Period), (ii) without Cause by the Company outside the Change in Control Period, or (iii) for Cause by the Company at any time, then Executive will not be entitled to receive severance or other benefits pursuant to this Agreement except for the Accrued Benefits.

(c) Disability; Death. If the Company terminates Executive's employment as a result of Executive's Disability where Executive is no longer willing or able to continue performing services for the Company, or Executive's employment terminates due to his death, then Executive will not be entitled to receive severance or other benefits pursuant to this Agreement except for the Accrued Benefits.

(d) Breach. The parties acknowledge that Executive's entitlement to the severance payments and benefits contained in this Section 3 are of the essence and an integral part of this Agreement, and that, without such severance provisions, the parties would not enter into this Agreement. Therefore, if the Company, or any successor to the Company, breaches the terms of this Section 3 by failing or refusing pay or provide any of the severance payments or benefits owed to Executive in the amounts and/or according to the time periods set forth herein, Executive shall be entitled to two times (2x) the amount of severance payments and benefits that Executive would otherwise be entitled to receive, payable and/or provided according to the same terms set forth herein. The parties acknowledge and agree that any additional severance payments and benefits paid pursuant to this Section 3(d) constitute liquidated damages that would be incurred by Executive and that these additional severance payments and benefits are not a penalty, rather they are a reasonable amount intended as liquidated damages that will compensate Executive in the circumstances in which they are payable for the efforts and resources expended, and opportunities foregone, while negotiating and/or enforcing this Agreement

and in reliance on this Agreement and on the expectation of the consummation of the transactions contemplated by this Agreement, which amounts would otherwise be impossible to calculate with precision.

4. Conditions to Receipt of Severance.

(a) Release of Claims Agreement. The receipt of any severance or other benefits pursuant to Section 3 will be subject to Executive signing and not revoking a general release of all claims in a form provided by the Company, and such release becoming effective and irrevocable no later than the sixtieth (60th) day following Executive's termination (such deadline, the "***Release Deadline***"). No severance or other benefits will be paid or provided pursuant to this Agreement until the release becomes effective and irrevocable. If the release does not become effective and irrevocable by the Release Deadline, Executive will forfeit all rights to severance payments and benefits under this Agreement.

(b) Confidential Information Agreement and Other Requirements. Executive's receipt of any payments or benefits under Section 3 will be subject to Executive continuing to comply with the terms of the [Insert title of applicable confidentiality agreement], which Executive acknowledges and agrees shall remain in full force and effect.

(c) Code Section 409A. For purposes of Section 409A of the Code, the regulations and other guidance there under and any state law of similar effect (collectively "***Section 409A***"), each payment that is paid pursuant to this Agreement is hereby designated as a separate payment. Further, (i) no severance or benefits to be paid or provided to Executive, if any, pursuant to this Agreement that, when considered together with any other severance payments or benefits, are considered deferred compensation under Section 409A, will be paid or otherwise provided until Executive has had a "separation from service" within the meaning of Section 409A, (ii) no severance or benefits to be paid or provided to Executive, if any, pursuant to this Agreement that are intended to be exempt from Section 409A pursuant to Treasury Regulation Section 1.409A-1(b)(9)(iii) will be paid or otherwise provided until Executive has had an "involuntary separation from service" within the meaning of Section 409A, and (iii) in the case of (i) and (ii), any reference in this Agreement to "termination" or "termination of employment" or any similar term shall be construed to mean a "separation from service" within the meaning of Section 409A. The parties intend that all payments and benefits provided or to be provided under this Agreement comply with, or are exempt from, the requirements of Section 409A so that none of the payments or benefits will be subject to the adverse tax penalties imposed under Section 409A, and any ambiguities herein will be interpreted to so comply or be so exempt. The Company and Executive agree to work together in good faith to consider amendments to this Agreement, and to take such reasonable actions, which are necessary, appropriate or desirable to avoid imposition of any additional tax or income recognition under Section 409A before payments or benefits are provided to Executive. Any severance payments or benefits made in connection with Executive's termination under this Agreement and provided on or before the 15th day of the 3rd month following the end of Executive's first tax year in which Executive's termination occurs or, if later, the 15th day of the 3rd month following the end of the Company's first tax year in which Executive's termination occurs, shall be exempt from Section 409A to the maximum extent permitted pursuant to Treasury Regulation Section 1.409A-1(b)(4) and any additional payments or benefits provided in connection with Executive's termination under this Agreement shall be exempt from Section 409A to the maximum extent permitted pursuant to Treasury Regulation Section 1.409A-1(b)(9)(iii) (to the extent it is exempt pursuant to such section it will in any event be provided no later than the last day of Executive's 2nd taxable year following the taxable year in which Executive's termination occurs). Notwithstanding the foregoing, if any of the payments or benefits provided in connection with Executive's termination do not qualify for any reason to be exempt

from Section 409A pursuant to Treasury Regulation Section 1.409A-1(b)(4), Treasury Regulation Section 1.409A-1(b)(9)(iii), or any other applicable exemption and Executive is, at the time of his termination, a "specified employee," as defined in Treasury Regulation Section 1.409A-1(i), each such payment or benefit will not be provided until the first regularly scheduled payroll date that occurs on or after the date six (6) months and one (1) day following Executive's termination and, on such date (or, if earlier, another date that occurs as soon as practicable after Executive's death), Executive will receive all payments and benefits that would have been provided during such period in a single lump sum, if applicable. In addition, notwithstanding any other provision herein to the contrary, to the extent that any reimbursements or in-kind benefits under this Agreement or otherwise constitute non-exempt "nonqualified deferred compensation" within the meaning of Section 409A, then any such reimbursements and/or benefits (i) shall be made or provided promptly but no later than December 31st of the calendar year following the year in which the expense was incurred by Executive, (ii) shall not in any way affect the expenses eligible for reimbursement or in-kind benefits to be provided in any other calendar year, and (iii) shall not be subject to liquidation or exchange for another benefit.

5. Limitation on Payments. In the event that the severance benefits provided for in this Agreement and/or other payments and benefits otherwise provided to Executive (i) constitute "parachute payments" within the meaning of Section 280G of the Code and (ii) but for this Section 5, would be subject to the excise tax imposed by Section 4999 of the Code, then, at the election of Executive, Executive's severance benefits under Section 3, and/or the other payments and benefits otherwise provided to Executive, will be either:

(a) delivered in full, or

(b) delivered as to such lesser extent which would result in no portion of such severance benefits being subject to excise tax under Section 4999 of the Code,

whichever of the foregoing amounts, taking into account the applicable federal, state and local income taxes and the excise tax imposed by Section 4999, results in the receipt by Executive on an after-tax basis, of the greatest amount of severance benefits and other payments and benefits, notwithstanding that all or some portion of such severance benefits and other payments and benefits may be taxable under Section 4999 of the Code. Unless the Company and Executive otherwise agree in writing, any determination required under this Section 5 will be made in writing by the Company's outside legal counsel or independent public accountants or other firm selected by the Company (the "***Firm***"), whose determination will be conclusive and binding upon Executive and the Company for all purposes. For purposes of making the calculations required by this Section 5, the Firm may make reasonable assumptions and approximations concerning applicable taxes and may rely on reasonable, good faith interpretations concerning the application of Sections 280G and 4999 of the Code. The Company and Executive will furnish to the Firm such information and documents as the Firm may reasonably request in order to make a determination under this Section. The Company will bear all costs the Firm may reasonably incur in connection with any calculations contemplated by this Section 5. Any reduction made pursuant to this Section 5 shall be made in accordance with the following order of priority: (i) stock options whose exercise price exceeds the fair market value of the optioned stock ("***Underwater Options***") (ii) Full Credit Payments (as defined below) that are payable in cash, (iii) non-cash Full Credit Payments that are taxable, (iv) non-cash Full Credit Payments that are not taxable (v) Partial Credit Payments (as defined below) and (vi) non-cash employee welfare benefits. In each case, reductions shall be made in reverse chronological order such that the payment or benefit owed on the latest date following the occurrence of the event triggering the excise tax will be the first payment or benefit to be reduced (with reductions made pro-rata in the event payments or benefits are owed at the same time). "***Full Credit Payment***" means a payment,

distribution or benefit, whether paid or payable or distributed or distributable pursuant to the terms of this Agreement or otherwise, that if reduced in value by one dollar reduces the amount of the parachute payment (as defined in Section 280G of the Code) by one dollar, determined as if such payment, distribution or benefit had been paid or distributed on the date of the event triggering the excise tax. "***Partial Credit Payment***" means any payment, distribution or benefit that is not a Full Credit Payment. In no event shall Executive have any discretion with respect to the ordering of payment reductions.

6. Definition of Terms. The following terms referred to in this Agreement will have the following meanings:

(a) Cause. For purposes of this Agreement, "***Cause***" means:

(i) Executive's willful, deliberate and repeated failure to substantially perform his assigned duties (other than a failure resulting from Executive's Disability), which failure is not cured within thirty (30) days after a written demand for substantial performance is received by Executive from the Board which identifies the manner in which the Board believes Executive has not substantially performed his duties;

(ii) Executive's illegal or intentional gross misconduct in the performance of his duties hereunder that is materially injurious to the Company's business and/or reputation, which, if capable being cured, is not cured within thirty (30) days after written notice from the Board, which written notice shall state that failure to cure may result in termination for Cause;

(iii) Executive's unauthorized and willful use or disclosure of any proprietary information or trade secrets of the Company where such use or disclosure causes material harm to the Company; or

(iv) Executive's conviction of, or plea of *nolo contendere* to, a felony or any crime involving fraud, embezzlement or theft which is materially injurious, or reasonably expected to be materially injurious, to the Company's business or reputation.

(b) Code. For purposes of this Agreement, "***Code***" means the Internal Revenue Code of 1986, as amended:

(c) Change in Control. For purposes of this Agreement, "***Change in Control***" means the occurrence of any of the following:

(i) The consummation of a merger or consolidation of the Company with or into another entity or any other corporate reorganization if the Company's stockholders immediately prior to such merger, consolidation or reorganization cease to directly or indirectly own immediately after such merger, consolidation or reorganization at least a majority of the combined voting power of the continuing or surviving entity's securities outstanding immediately after such merger, consolidation or reorganization;

(ii) The consummation of the sale, transfer or other disposition of all or substantially all of the Company's assets (other than (x) to a corporation or other entity of which at least a majority of its combined voting power is owned directly or indirectly by the Company, (y) to a corporation or other entity owned directly or indirectly by the shareholders of the Company in substantially the same proportions as their ownership of the Common Stock of the Company or (z) to a

continuing or surviving entity described in Section 6(c)(i) in connection with a merger, consolidation or reorganization which does not result in a Change in Control under Section 6(c)(i));

(iii) A change in the effective control of the Company which occurs on the date that a majority of members of the Board is replaced during any twelve (12) month period by members of the Board whose appointment or election is not endorsed by a majority of the members of the Board prior to the date of the appointment or election; or

(iv) The consummation of any transaction as a result of which any Person becomes the "beneficial owner" (as defined in Rule 13d-3 under the Securities Exchange Act of 1934 (the "***Exchange Act***")), directly or indirectly, of securities of the Company representing at least 50% of the total voting power represented by the Company's then outstanding voting securities. For purposes of this Section 6(c)(iv), (A) if any Person who is the beneficial owner, directly or indirectly, of securities of the Company representing at least 50% of the total voting power represented by the Company's then outstanding voting securities acquires additional securities of the Company, such acquisition of additional securities will not be considered to cause a Change in Control pursuant to this Section 6(c)(iv), and (B) the term "***Person***" shall have the same meaning as when used in sections 13(d) and 14(d) of the Exchange Act but shall exclude:

(1) a trustee or other fiduciary holding securities under an employee benefit plan of the Company or an affiliate of the Company;

(2) a corporation or other entity owned directly or indirectly by the stockholders of the Company in substantially the same proportions as their ownership of the Company's Common Stock;

(3) the Company; and

(4) a corporation or other entity of which at least a majority of its combined voting power is owned directly or indirectly by the Company.

A transaction shall not constitute a Change in Control if its sole purpose is to change the state of the Company's incorporation or to create a holding company that will be owned in substantially the same proportions by the persons who held the Company's securities immediately before such transactions.

(d) Change in Control Period. For purposes of this Agreement, "***Change in Control Period***" means the period beginning three (3) months prior to, and ending eighteen (18) months following, a Change in Control.

(e) Disability. For purposes of this Agreement, "***Disability***" means total and permanent disability as defined in Section 22(e) (3) of the Code.

(f) Equity Award. For purposes of this Agreement, "***Equity Award***" means each then outstanding award relating to the Company's common stock (whether stock options, stock appreciation rights, shares of restricted stock, restricted stock units, performance shares, performance units or other similar awards).

(g) Good Reason. For purposes of this Agreement, resignation for "***Good Reason***" means Executive's resignation due to the occurrence of any of the following conditions which occurs without Executive's written consent, provided that the requirements regarding advance notice and an opportunity to cure set forth below are satisfied:

(i) A material adverse change to Executive's authority, duties or responsibilities that, taken as a whole, results in a material diminution in Executive's authority, duties or responsibilities in effect prior to such change;

(ii) A 10% or more reduction in Executive's then-current base salary or a 10% or more reduction in Executive's base compensation (including base salary and bonus);

(iii) The Company conditions Executive's continued service with the Company on the relocation of Executive's principal work location to a location that is more than thirty-five (35) miles from Executive's then current principal work location and such relocation results in an increase in Executive's one-way commuting distance from his home by thirty-five (35) miles or more;

(iv) The failure of the Company to obtain the assumption of this Agreement by any successor to the Company; or

(v) Any material breach or material violation of a material provision of this Agreement by the Company (or any successor to the Company).

In order for Executive to resign for Good Reason, Executive must provide written notice to the Company of the existence of the Good Reason condition within ninety (90) days of the initial existence of such Good Reason condition. Upon receipt of such notice, the Company will have thirty (30) days during which it may remedy the Good Reason condition and not be required to provide the severance payments and benefits described herein as a result of such proposed resignation. If the Good Reason condition is not remedied within such thirty (30) day cure period, Executive may resign based on the Good Reason condition specified in the notice effective no later than ninety (90) days following the expiration of the thirty (30) day cure period.

7. Successors.

(a) Company Successors. Any successor to the Company (whether direct or indirect and whether by purchase, merger, consolidation, liquidation or otherwise) to all or substantially all of the Company's business and/or assets shall assume the obligations under this Agreement and agree expressly to perform the obligations under this Agreement in the same manner and to the same extent as the Company would be required to perform such obligations in the absence of a succession. For all purposes under this Agreement, the term "Company" will include any such successor to the Company's business and/or assets.

(b) Executive's Successors. The terms of this Agreement and all rights of Executive hereunder will inure to the benefit of, and be enforceable by, Executive's personal or legal representatives, executors, administrators, successors, heirs, distributees, devisees and legatees.

8. Notice.

(a) General. Notices and all other communications contemplated by this Agreement will be in writing and will be deemed to have been duly given when personally delivered or when mailed

by U.S. registered or certified mail, return receipt requested and postage prepaid. In the case of Executive, mailed notices will be addressed to him at the home address which he most recently communicated to the Company in writing. In the case of the Company, mailed notices will be addressed to its corporate headquarters, and all notices will be directed to the attention of the Company's Secretary (or, if Executive is the Company's Secretary, any other executive officer of the Company).

(b) Notice of Termination. Any termination by the Company for Cause or by Executive for Good Reason or as a result of a voluntary resignation will be communicated by a notice of termination to the other party hereto given in accordance with Section 8(a) of this Agreement. Such notice will indicate the specific termination provision in this Agreement relied upon, will set forth in reasonable detail the facts and circumstances claimed to provide a basis for termination under the provision so indicated, and will specify the termination date.

9. Miscellaneous Provisions.

(a) No Duty to Mitigate. Executive will not be required to mitigate the amount of any payment contemplated by this Agreement, nor will any earnings that Executive may receive from any other source reduce any such payment.

(b) Waiver. No provision of this Agreement will be modified, waived or discharged unless the modification, waiver or discharge is agreed to in writing and signed by Executive and by an authorized officer of the Company (other than Executive). No waiver by either party of any breach of, or of compliance with, any condition or provision of this Agreement by the other party will be considered a waiver of any other condition or provision or of the same condition or provision at another time.

(c) Headings. All captions and section headings used in this Agreement are for convenient reference only and do not form a part of this Agreement.

(d) Choice of Law. The validity, interpretation, construction and performance of this Agreement will be governed by the laws of the State of California (with the exception of its conflict of laws provisions).

(e) Entire Agreement. This Agreement represents the entire agreement and understanding between the parties hereto and supersedes all prior or contemporaneous agreements with respect to the subject matter of this Agreement. Further, this Agreement supersedes in their entirety any and all prior offer letters or employment agreements entered into by and between Executive and the Company, which offer letters and employment agreements shall be null and void. No waiver, alteration, or modification of any of the provisions of this Agreement will be binding unless in writing and signed by duly authorized representatives of the parties hereto and which specifically mention this Agreement. In entering into this Agreement, no party has relied on or made any representation, warranty, inducement, promise, or understanding that is not in this Agreement. To the extent that any provisions of this Agreement conflict with those of any other agreement between Executive and the Company, the terms in this Agreement will prevail.

(f) Severability. In the event that any provision or any portion of any provision hereof becomes or is declared by a court of competent jurisdiction to be illegal, unenforceable, or void, this Agreement will continue in full force and effect without said provision or portion of provision. The remainder of this Agreement shall be interpreted so as best to effect the intent of the Company and Executive.

(g) Taxes, Withholding and Required Deductions. All payments and, if applicable, benefits made pursuant to this Agreement will be subject to all applicable taxes, withholding of taxes, and any other required deductions.

(h) Counterparts. This Agreement may be executed in counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

(Remainder of page intentionally left blank)

IN WITNESS WHEREOF, each of the parties has executed this Agreement, in the case of the Company by its duly authorized officer, as of the day and year set forth below.

BEYOND MEAT, INC.

COMPANY

By: _____

Title: _____

Date: _____

EXECUTIVE

_____

By: _____

Date: _____

Exhibit 10.17

SAVAGE RIVER, INC.

May 11, 2017

Mark Nelson

Dear Mark:

As you know, Savage River, Inc. (the "Company") previously granted you the following stock options pursuant to the Company's 2011 Equity Incentive Plan (the "Plan"): (i) the stock option to purchase 603,965 shares of the Company's Common Stock granted on December 1, 2015 (the "First Option"), (ii) the stock option to purchase 218,003 shares of the Company's Common Stock granted on February 4, 2016 (the "Second Option"), (iii) the stock option to purchase 228,347 shares of the Company's Common Stock granted on July 20, 2016 (the "Third Option"), and (iv) the stock option to purchase 105,032 shares of the Company's Common Stock granted on July 20, 2016 (the "Fourth Option" and, together with the First Option, the Second Option and the Third Option, the "Options").

We are writing you now to offer you the opportunity to amend your Options to provide that your March 10, 2017 termination of employment from the Company will not be considered a termination of your "Continuous Service" (as defined in the Plan), and you will be considered to have remained a service provider to the Company from and after March 10, 2017 through the date you return as an employee of the Company (the "Option Amendments"). Please note, to the extent that any of the shares subject to the Options are incentive stock option shares, they will automatically become non-statutory stock option shares upon the effectiveness of the Option Amendments.

We are also writing to clarify and confirm the vesting terms applicable to the Options. Specifically, the Options shall vest, and become exercisable, as set forth below.

Option	**Vesting Commencement Date**
First Option	December 1, 2015
Second Option	December 1, 2015
Third Option	February 4, 2016
Fourth Option	July 20, 2016

Each Option shall vest and become exercisable as follows: 1/4th of the total number of shares subject to the Option shall vest and become exercisable on the one year anniversary of the Vesting Commencement Date and 1/48th of the total number of shares subject to the Option shall vest and become exercisable each month thereafter, for so long as you remain a service provider to the Company.

Notwithstanding the foregoing, if your employment is terminated by the Company without Cause (as defined in the Plan) or if you resign for Good Reason (as defined below), in each case, upon the consummation of, or within 12 months following, a Corporate Transaction (as defined in the Plan), then 50% of the then unvested shares subject to each Option will immediately vest and become exercisable upon the date of such termination or resignation. As used herein, "Good Reason" will mean your resignation due to the occurrence of any of the following conditions which occurs without your written consent, provided that the requirements regarding advance notice and an opportunity to cure set forth below are satisfied: (1) a reduction of your then current base salary by 10% or more

unless such reduction is part of a generalized salary reduction affecting similarly situated employees; (2) a change in your position with the Company that materially reduces your duties, level of authority or responsibility; or (3) the Company conditions your continued service with the Company on your being transferred to a site of employment that would increase your one-way commute by more than 35 miles from your then principal residence. In order for you to resign for Good Reason, you must provide written notice to the Company of the existence of the Good Reason condition within 60 days of the initial existence of such Good Reason condition. Upon receipt of such notice, the Company will have 30 days during which it may remedy the Good Reason condition and not be required to provide for the vesting acceleration described herein as a result of such proposed resignation. If the Good Reason condition is not remedied within such 30 day period, you may resign based on the Good Reason condition specified in the notice effective no later than 30 days following the expiration of the 30-day cure period.

The Option Amendments are subject to your consent. Please indicate your consent to the Option Amendments and the vesting terms applicable to the Options described herein by signing this letter in the space provided below and returning a copy to me on or before May 30, 2017. ***If you do not indicate your consent to the Option Amendments and the vesting terms applicable to the Options described herein on or before May 30, 2017, the Option Amendments will not be effective and your Options will be subject to the terms and conditions that currently apply to the Options, including the expiration provisions applicable thereto.***

The Notice of Stock Option Grant and Stock Option Agreement evidencing each Option (together, the "Option Agreements") will be deemed amended if and when you consent to the Option Amendments. To the extent not expressly amended by the Option Amendments, your Option Agreements will remain in full force and effect.

By signing below, you acknowledge and agree that (i) the Company has not provided you with any financial, legal or tax advice related to the Option Amendments or this letter agreement, (ii) the Company has advised you to consult with your own professional advisor regarding the financial, legal and tax consequences of executing this letter agreement and the transactions contemplated herein, and (iii) the Company will not be held liable for any applicable costs, taxes, or penalties associated with such transactions.

This letter agreement, and all acts and transactions pursuant hereto, and the rights and obligations of the parties hereto shall be governed, construed and interpreted in accordance with the laws of the State of California, without giving effect to principles of conflicts of law. Further, this letter agreement, together with the Option Agreements (to the extent not amended by the Option Amendments) and the Plan, represent the entire agreement between you and the Company and supersede any and all prior or contemporaneous contracts, arrangements or understandings between you and the Company with respect to the Options.

Please keep a copy of this letter agreement for your records.

Very truly yours,

SAVAGE RIVER, INC.

/s/ Ethan Brown

Ethan Brown, Chief Executive Officer

Agreed and Accepted

/s/ Mark Nelson

Mark Nelson

Dated: May 11, 2017

Exhibit 10.18

FEBRUARY 26, 2016

SAVAGE RIVER, INC.

Advisor:
Bernhard van Lengerich
Food System Strategies, LLC
1855 Troy Lane
Plymouth, MN 55447

Re: Advisor Agreement

1. Services. Savage River, Inc. Inc., a Delaware corporation, (the "***Company***"), wishes to obtain your services as an independent contractor ("**Advisor**") on topics set forth in **Exhibit A** hereto (the "***Services***"). This letter will constitute an agreement between you and the Company and contains all the terms and conditions relating to the services you are to provide (the "***Agreement***").

2. Consideration. As consideration for your services and other obligations, the Company agrees to pay you the compensation set forth on **Exhibit A** to this Agreement.

3. Term and Termination. The term of this Agreement will be as set forth on **Exhibit A** to this Agreement, provided, however, that either party may terminate this Agreement at any time for any reason or no reason, with or without cause, upon written notice to the other party. Your obligations under Sections 6 and 7 will survive termination of this Agreement.

4. Expenses. You will be reimbursed for reasonable travel and other out-of-pocket expenses incurred by you at the request of the Company in connection with your services under this Agreement; provided that you provide the Company with receipts for such expenses and obtain prior approval of the Company for such expenses. Such expenses shall be reimbursed within two (2) weeks of the time Company is provided with such receipts.

5. Advisor. Nothing in this Agreement shall in any way be construed to constitute you as an agent, employee or representative of the Company. You will have no authority to enter into contracts which bind the Company or create obligations on the part of the Company without the express prior authorization of the Company. Instead, your relationship with the Company will be that of an independent contractor performing the Services. You will not be eligible for any employee benefits, nor will the Company make deductions from payments made to you for taxes. You acknowledge and agree that you are obligated to report as income all consideration that you receive under this Agreement, and you acknowledge and agree to pay all self-employment and other taxes thereon. You further agree to indemnify the Company and hold it harmless to the

extent of any obligation imposed on the Company (a) to pay withholding taxes or similar items or (b) resulting from your being determined not to be an Advisor.

6. Confidentiality. Company will not use Advisor's name or the terms of this agreement on it's website, publications such as company brochures or press releases without Advisor's prior written consent. You shall not disclose any of the Company's Confidential Information to third parties. You agree to take reasonable measures to protect the secrecy of and avoid disclosure or use of the Company's Confidential Information in order to prevent it from falling into the public domain or the possession of persons other than those persons authorized under this Agreement to have any such information. Such measures shall include the degree of care that you utilize to protect your own Confidential Information of a similar nature. You agree to notify the Company of any misuse, misappropriation or unauthorized disclosure of the Company's Confidential Information which may come to your attention. The foregoing commitments of confidentiality and non-use shall survive any termination or expiration of this Agreement and shall continue for a period of two (2) years from the date this Agreement is terminated or expires.

(a) "Confidential Information" means any oral, written, graphic or machine- readable information, technical data or know-how disclosed by the Company to you which Confidential Information is designated in writing to be confidential or proprietary, or if given orally, is confirmed in writing as having been disclosed as confidential or proprietary within a reasonable time (not to exceed thirty (30) days) after the oral disclosure, or which information would, under the circumstances, appear to a reasonable person to be confidential or proprietary.

(b) Exceptions. Notwithstanding the above, you shall have no liability to the Company with regard to any Confidential Information that: (i) was in the public domain at the time it was disclosed or has entered the public domain through no fault of you; (ii) was known to you, without restriction, at the time of disclosure, as demonstrated by files in existence at the time of disclosure; (iii) becomes known to you, without restriction, from a source other than the Company without breach of this Agreement by you and otherwise not in violation of the Company's rights; (iiii) is disclosed with the prior written approval of the Company; or (iiiii) is disclosed pursuant to the order or requirement of a court, administrative agency, or other governmental body; provided, however, that you shall provide prompt notice of such court order or requirement to the Company to enable the Company to seek a protective order or otherwise prevent or restrict such disclosure.

7. Conflicting Agreements. You represent that your performance of the terms of this Agreement does not and will not breach any agreement to keep in confidence proprietary information, knowledge or data acquired by you in confidence prior to this Agreement with the Company, and you will not disclose to the Company, or induce the Company to use, any confidential or proprietary information or material belonging to any previous employer or others. You agree not to enter into any agreement in conflict with the provisions of this Agreement. If you are being asked to provide any Services to Company that would create a conflict of interest with obligations

owed by you to a third party, you will notify Company and decline participation in the Services that create such a conflict.

8. Delegation and Assignment Prohibited. You may not delegate any duties or assign any rights under this Agreement without the express prior written consent of the Company.

9. Amendment. Any amendment to this Agreement must be in writing signed by you and the Company.

10. Notices. All notices, requests and other communications called for by this Agreement will be deemed to have been given if made in writing and either sent via email to the appropriate email addresses noted below or mailed, postage prepaid, if to you at the address set forth above and if to the Company at Savage River, Inc 111 Main Street, El Segundo, CA 90245 or such other addresses as either party specifies to the other. Notices provided via email shall be deemed to have been given by the next business day after the email was sent and notices provided via mail, postage prepaid, shall be deemed to have been given three (3) business days after the day the notices was mailed.

11. Governing Law/Dispute Resolution. The validity, performance and construction of this Agreement will be governed by the laws of the State of Minnesota. All claims and disputes arising under or relating to this Agreement are to be settled by binding arbitration in either Minneapolis or St. Paul, Minnesota or such other location as is mutually agreeable to the parties. The arbitration shall be conducted by one (1) arbitrator on a confidential basis pursuant to the Commercial Arbitration Rules of the American Arbitration Association, which arbitrator shall be appointed in accordance with said rules. Any decision or award as a result of any such arbitration proceeding shall be in writing and shall provide an explanation for all conclusions of law and fact and shall include the assessment of costs, expenses, and reasonable attorneys' fees. Any such arbitration shall be conducted by an arbitrator experienced in the consumer food products industry and shall include a written record of the arbitration hearing. The parties reserve the right to object to any individual who shall be employed by or affiliated with a competing organization or entity. The parties agree that the arbitrator’s decision shall be the sole, exclusive and binding remedy between them regarding any and all disputes, controversies, claims and counterclaims presented to the arbitrator.

12. Entire Agreement. This Agreement is the entire agreement and supersedes any prior consulting or other agreements between you and the Company with respect to the subject matter hereof.

13. Approvals. You represent that you are under no pre-existing obligations in conflict with the provisions of this agreement.

14. Reasonable Best Efforts/Indemnification. Advisor shall use reasonable best efforts in providing the Services contemplated hereunder. However, Advisor does not guarantee or warrant the accuracy of any information provided hereunder or that the Services provided hereunder will lead to any successful result for Company. As such, with the exception of any damage to Company

caused by Advisor's breach of its obligations under Sections 6 and 7, above, and/or any act of willful misconduct by Advisor, the Company agrees (a) not to bring suit against Advisor for any inaccuracies associated with information provided by Advisor hereunder and/or lack of any successful result for Company and (b) to indemnify, hold harmless, defend and pay damages in accordance with applicable law to Advisor in relation to any damages which Advisor incurs as a result of any lawsuit brought by a third party in which Advisor is named as a defendant as a result of providing Services under this Agreement.

SALVAGE RIVER, INC.

By /s/ Ethan Brown
Name: Ethan Brown
Title: CEO

Email:

FOOD SYSTEM STRATEGIES, LLC

By /s/ Bernhard Van Lengerich
Name: Bernhard Van Lengerich
Title: Founder & CEO
Email: bv101@comcast.net

EXHIBIT A

1. Contact: Advisor's principal Company contact: Ethan Brown, CEO.

2. Services: Advisor will render to the Company the following Services, as requested:

   a) Serve as the internal leader of the organization's research and development, innovation and product commercialization, and patent strategy.

3. Term: Commencing on February 1, 2016 for a three-year period. One-year check-in upon anniversary of agreement to review logistics of contract and renew given remote nature of role.

4. Commitment: Company and Advisor agree that Advisor shall provide 60% of his professional time to business with the understanding that this percent allocation may be adjusted, along with compensation, based on mutual agreement between parties (Company and Advisor).

5. Compensation: For Services rendered by Advisor under this Agreement, the Company shall pay Advisor as follows: $25,000 per month, payable monthly (net 30 days). Company shall further provide stock options according to Option Agreement in Exhibit B.

6. Other: Company agrees to pay for Advisor travel and lodging that is required to perform duties under the contract. Advisor agrees to participate in Company budgeting process and to execute agreed upon budget for R&D program.

EXHIBIT A

Subject to approval by the Company's Board of Directors, the Company will issue to Advisor a nonstatutory stock option (the "Option") to purchase 798,848 shares of the Company's Common Stock. The exercise price per share will be equal to the fair market value per share on the date the Option is granted, as determined by the Company's Board of Directors in good faith compliance with applicable guidance in order to avoid having the option be treated as deferred compensation under Section 409A of the Internal Revenue Code of 1986, as amended. There is no guarantee that the Internal Revenue Service will agree with this value. Advisor should consult with Advisor's own tax advisor concerning the tax risks associated with accepting an option to purchase the Company's Common Stock. The shares subject to the Option will vest at the rate of 1/36th of the total number of shares on the first monthly anniversary of the date February 1, 2016 and 1/36th of the total number of shares each month thereafter, subject to Advisor's continued service to the Company through each vesting date; provided, however, that if your continued service is terminated by the Company without Cause (as defined in the 2011 Equity Incentive Plan, the "Plan") upon the consummation of, or within 12 months following, a Corporate Transaction (as defined in the Plan), then 50% of the then unvested shares subject to the Option will immediately vest and become exercisable upon the date of such termination.

Amended EXHIBIT A

1.Contact:

- Advisor's principal Company contact: Ethan Brown, CEO.

2. Services:

Advisor will render to the Company the following Services, as requested:

- Participate in Bi-Quarterly Program Reviews

  Advisor to meet with Ethan Brown and R&D leadership to review goals and progress toward them.

- Provide Technical Expertise

  Advisor to be available to Ethan Brown and members of the R&D and production team to advise on a broad range of technical questions and discussion, including on extrusion, IP and innovation approaches.

- Provide Long-term Vision

  Advisor to serve as technical expert on long-term opportunities in the areas of protein feedstock, protein separation, and conversion approaches. In this role, Advisor will:

  i. Work with Seth Goldman to identify and evaluate potential North American feedstocks to help minimize and/or eliminate longer term dependency on non US Pea as protein source for major BYMT product categories.

  ii. Work with Seth Goldman and Ethan Brown to evaluate and champion separation approaches that can cost-effectively handle a breadth of non-Pea but protein rich feedstocks (on the one hand this can be done by partnering with ingredient companies, on the other it could be more fundamental and working w/universities, for example, to create new IP around separation capabilities that Company could ultimately own, or some combination of both). Parties recognize that partnering with any third party may require a BYMT point of contact to resource and operationalize collaboration (i.e. material testing, extrusion, sensory etc.).

- Support operations on continuous production approaches (i.e. continuous multistage mixing) and other novel conversion platforms.

3. <u>Communication</u>

- Weekly 1-hour one-one call with Ethan Brown to cover broad range of technical topics

- Participate in periodic program reviews with Research and Development leads as scheduled by Company
- Board meetings attendance, in person as often as possible

4. Term:

   - From December 1, 2016 through Feb. 26, 2019. Check-in upon anniversary of agreement to review logistics of contract and renew given remote nature of role.

5. Commitment:

   - Company and Advisor agree that Advisor shall provide 5-6 days per month of his professional time to Company's business with the understanding that this allocation may be adjusted, along with compensation, based on mutual agreement between parties (Company and Advisor).

6. Compensation:

   - For Services rendered by Advisor under this Agreement, the Company shall pay Advisor as follows: $10,000 per month, payable monthly (net 30 days).
   - Company shall continue to provide stock options according to original Option Agreement between the parties from Feb. 26, 2016 (see Exhibit B).

SAVAGE RIVER, INC
By /s/ Ethan Brown
Name: Ethan Brown
Title: CEO
Date: 9/5/2017

FOOD SYSTEM STRATEGIES, LLC
By /s/ Bernhard Van Lengerich
Name: Bernhard Van Lengerich
Title: Founder & CEO
Date: 9/5/2017

SAVAGE RIVER, INC.

AMENDED & RESTATED
CONSULTING AGREEMENT

This Amended & Restated Consulting Agreement (the "Agreement") is made as of **November 15, 2018** by and between Savage River, Inc., a Delaware corporation (the "Company"), and **Seth Goldman** ("Consultant").

1. **Consulting Relationship**. During the term of this Agreement, Consultant will provide consulting services to the Company as described on Exhibit A hereto (the "Services"). Consultant shall use Consultant's best efforts to perform the Services such that the results are satisfactory to the Company.

2. **Fees**. As consideration for the Services to be provided by Consultant and other obligations, the Company shall pay to Consultant the amounts specified in Exhibit B hereto at the times specified therein.

3. **Expenses**. As a condition to receipt of reimbursement, Consultant shall be required to submit to the Company reasonable evidence that the amount involved was both reasonable and necessary to the Services provided under this Agreement.

4. **Term and Termination**. Consultant shall serve as a consultant to the Company for a period commencing on **3/2/2016**.

Notwithstanding the above, either party may terminate this Agreement at any time upon 120 business days' written notice. In the event of such termination, Consultant shall be paid for any portion of the Services that have been performed prior to the termination.

Should either party default in the performance of this Agreement or materially breach any of its obligations under this Agreement, including but not limited to Consultant's obligations under the Confidential Information and Invention Assignment Agreement between the Company and Consultant referenced below, the non-breaching party may terminate this Agreement immediately if the breaching party fails to cure the breach within 30 business days after having received written notice by the non-breaching party of the breach or default.

5. **Independent Contractor**. Consultant's relationship with the Company will be that of an independent contractor and not that of an employee.

6. **Method of Provision of Services**. Consultant shall be solely responsible for determining the method, details and means of performing the Services.

(a) **No Authority to Bind Company**. Consultant acknowledges and agrees that Consultant and its assistants have no authority in Consultant's capacity as a consultant to the Company to enter into contracts that bind the Company or create obligations on the part of the Company without the prior written authorization of the Company.

(b) **No Benefits**. Consultant acknowledges and agrees that Consultant shall not be eligible for any Company employee benefits and, to the extent Consultant otherwise would be eligible for any Company employee benefits but for the express terms of this Agreement, Consultant (on behalf of itself and its assistants) hereby expressly declines to participate in such Company employee benefits.

(c) **Taxes; Indemnification**. Consultant shall have full responsibility for applicable taxes for all compensation paid to Consultant under this Agreement, including any withholding requirements that apply to any such taxes, and for compliance with all applicable labor and employment requirements with respect to Consultant's self-employment, sole proprietorship or other form of business organization, and with respect to the assistants, including state worker's compensation insurance coverage requirements and any U.S. immigration visa requirements. Consultant agrees to indemnify, defend and hold the Company harmless from any liability for, or assessment of, any claims or penalties or interest with respect to such taxes, labor or employment requirements, including any liability for, or assessment of, taxes imposed on the Company by the relevant taxing authorities with respect to any compensation paid to Consultant or its assistants or any liability related to the withholding of such taxes.

7. **Supervision of Consultant's Services**. All of the services to be performed by Consultant, including but not limited to the Services, will be as agreed between Consultant and the Lead Independent Director of the Company's Board of Directors.

8. **Consulting or Other Services for Competitors**. Consultant represents and warrants that Consultant does not presently perform or intend to perform, during the term of the Agreement, consulting or other services for, or engage in or intend to engage in an employment relationship with, companies who businesses or proposed businesses in any way involve products or services which would be competitive with the Company's products or services, or those products or services proposed or in development by the Company during the term of the Agreement (except for those companies, if any, listed on Exhibit D hereto). If, however, Consultant decides to do so, Consultant agrees that, in advance of accepting such work, Consultant will promptly notify the Company in writing, specifying the organization with which Consultant proposes to consult, provide services, or become employed by and to provide information sufficient to allow the Company to determine if such work would conflict with the terms of this Agreement, including the terms of the Confidentiality Agreement, the interests of the Company or further services which the Company might request of Consultant. If the Company determines that such work conflicts with the terms of this Agreement, the Company reserves the right to terminate this Agreement immediately. In no event shall any of the Services be performed for the Company at the facilities of a third party or using the resources of a third party.

9. **Confidentiality Agreement**. Consultant shall sign, or has signed, a Confidentiality Agreement, on or before the date Consultant begins providing the Services.

10. **Conflicts with this Agreement**. Consultant represents and warrants that neither Consultant nor any of the assistants is under any pre-existing obligation in conflict or in any way

inconsistent with the provisions of this Agreement. Consultant represents and warrants that Consultant's performance of all the terms of this Agreement will not breach any agreement to keep in confidence proprietary information acquired by Consultant in confidence or in trust prior to commencement of this Agreement. Consultant warrants that Consultant has the right to disclose and/or or use all ideas, processes, techniques and other information, if any, which Consultant has gained from third parties, and which Consultant discloses to the Company or uses in the course of performance of this Agreement, without liability to such third parties. Notwithstanding the foregoing, Consultant agrees that Consultant shall not bundle with or incorporate into any deliveries provided to the Company herewith any third-party products, ideas, processes, or other techniques, without the express, written prior approval of the Company. Consultant represents and warrants that Consultant has not granted and will not grant any rights or licenses to any intellectual property or technology that would conflict with Consultant's obligations under this Agreement. Consultant will not knowingly infringe upon any copyright, patent, trade secret or other property right of any former client, employer or third party in the performance of the Services.

11. **Miscellaneous**.

(a) **Amendments and Waivers**. Any term of this Agreement may be amended or waived only with the written consent of the Company.

(b) **Sole Agreement**. This Agreement, including the Exhibits hereto, constitutes the sole agreement of the parties and supersedes all oral negotiations and prior writings with respect to the subject matter hereof.

(c) **Notices**. Any notice required or permitted by this Agreement shall be in writing and shall be deemed sufficient upon delivery, when delivered personally or by overnight courier or sent by email or fax (upon customary confirmation of receipt), or forty-eight (48) hours after being deposited in the U.S. mail as certified or registered mail with postage prepaid, addressed to the party to be notified at such party's address or fax number as set forth on the signature page or as subsequently modified by written notice.

(d) **Choice of Law**. The validity, interpretation, construction and performance of this Agreement shall be governed by the laws of State of California, without giving effect to the principles of conflict of laws.

(e) **Severability**. If one or more provisions of this Agreement are held to be unenforceable under applicable law, the parties agree to renegotiate such provision in good faith. In the event that the parties cannot reach a mutually agreeable and enforceable replacement for such provision, then (i) such provision shall be excluded from this Agreement, (ii) the balance of the Agreement shall be interpreted as if such provision were so excluded and (iii) the balance of the Agreement shall be enforceable in accordance with its terms.

(f) **Counterparts**. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together will constitute one and the same instrument.

(g) **Advice of Counsel**. EACH PARTY ACKNOWLEDGES THAT, IN EXECUTING THIS AGREEMENT, SUCH PARTY HAS HAD THE OPPORTUNITY TO SEEK THE ADVICE OF INDEPENDENT LEGAL COUNSEL AND HAS READ AND UNDERSTOOD ALL OF THE TERMS AND PROVISIONS OF THIS AGREEMENT. THIS AGREEMENT SHALL NOT BE CONSTRUED AGAINST ANY PARTY BY REASON OF THE DRAFTING OR PREPARATION HEREOF.

[Signature Page Follows]

The parties have executed this Agreement as of the date first written above.

THE COMPANY:

SAVAGE RIVER INC.

By: /s/ Ethan Brown
(Signature)

Name: Ethan Brown
Title: CEO

CONSULTANT:

SETH GOLDMAN
/s/ Seth Goldman
(Signature)

Address:

Fax:

email:

EXHIBIT A

DESCRIPTION OF CONSULTING SERVICES

1. **Support expansion of gross revenue, gross margin, operating income**

2. **Support financing of expansion capital**

3. **Support development of robust company culture**

4. **Support development of a vibrant brand**

EXHIBIT B

COMPENSATION

Check applicable payment terms:

[X] For Services rendered by Consultant under this Agreement, the Company shall pay Consultant at the rate of USD $16,877.00 per month, payable the first business day of the following month.

[ ] Consultant shall be paid $_____ upon the execution of this Agreement and $_____ upon completion of the Services specified on Exhibit A to this Agreement.

[ ] The Company will recommend that the Board grant a non-qualified option to purchase _____ shares of the Company's Common Stock, at an exercise price equal to the fair market value (as determined by the Company's Board of Directors) on the date of grant, and which will vest and become exercisable as follows:

[ ] Consultant is authorized to incur the following expenses:

[X] Other: On the date of each annual meeting of the Company's stockholders after which Consultant's non-employee service on the Company's Board of Directors will continue, Consultant shall be granted restricted stock units under the Company's 2018 Equity Incentive Plan covering shares of the Company's Common Stock having a grant date value of $105,000 (each, an "Annual RSU"). The value of each Annual RSU will equal the number of shares subject to the Annual RSU multiplied by the average closing price of a share on the stock exchange or a national market system on which the shares are listed over the 30 trading days preceding the grant date, with the shares subject to the Annual RSU rounded down to the nearest whole share. Each Annual RSU shall vest in equal monthly installments over the 12-month period following the grant date, subject to Consultant's continued service as a member of the Company's Board of Directors through each such vesting date, provided each outstanding Annual RSU shall vest in full immediately prior to, and contingent upon, the consummation of a Change in Control (as defined in the Company's 2018 Equity Incentive Plan). Each Annual RSU shall otherwise be subject to the terms and conditions applicable to awards granted under the Company's 2018 Equity Incentive Plan and Plan and the Company's standard form of restricted stock unit award agreement.

Exhibit 10.20

Savage River, Inc.

April 29, 2017

Mark Nelson

Dear Mark:

Savage River, Inc., a Delaware corporation (the "Company"), is pleased to offer you employment with the Company on the terms described below.

1. Position. You will start in a full-time, exempt position as Chief Financial Officer and Chief Operating Officer and you will report to the Company's Chief Executive Officer, Ethan Brown. By signing this letter, you confirm with the Company that you are under no contractual or other legal obligations that would prohibit you from performing your duties with the Company.

2. TriNet HR Corporation. The Company's benefits, payroll, and other human resource management services are provided through TriNet HR Corporation, a professional employer organization. As a result of the Savage River, Inc. arrangement with TriNet, TriNet will be considered your employer of record for these purposes and your managers at Savage River, Inc. will be responsible for directing your work, reviewing your performance, setting your schedule, and otherwise directing your work at Savage River, Inc.

3. Compensation and Employee Benefits. Your annualized base salary will be $325,000 per year, payable on the Company's regular payroll dates, and your start date will be May 4, 2017. You will also be part of the Company's Incentive Plan, which will provide a bonus target level of 50% of your base salary. Bonuses are discretionary and are based on your individual performance and the performance of the Company. Your bonus eligibility will begin on May 4, 2017. As a regular employee of the Company you will be eligible to participate in a number of Company-sponsored benefits, which are described in the employee benefit summary that I have enclosed with this letter. In addition to Company holidays, you will be entitled to 20 days of Paid Time-Off (PTO).

4. **Stock Options.** All stock options that were terminated on March 10, 2017 are restored, having continued to vest from that date forward. For purposes of removing doubt, your stock options reflect no interruption in service (see Appendix A).

5. **Confidential Information and Invention Assignment Agreement.** Like all Company employees, you will be required, as a condition of your employment with the Company, to sign the Company's enclosed standard Confidential Information and Invention Assignment Agreement.

6. **Employment Relationship.** Employment with the Company is for no specific period of time. Your employment with the Company will be "at will," meaning that either you or the Company may terminate your employment at any time and for any reason, with or without cause. Any contrary representations which may have been made to you are superseded by this offer. This is the full and complete agreement between you and the Company on this term. Although your job duties, title, compensation and benefits, as well as the Company's personnel policies and procedures, may change from time to time, the "at will" nature of your employment may only be changed in an express written agreement signed by you and the Company's Chief Executive Officer.

7. **Outside Activities.** While you render services to the Company, you agree that you will not engage in any other employment, consulting or other business activity without the written consent of the Company. In addition, while you render services to the Company, you will not assist any person or entity in competing with the Company, in preparing to compete with the Company or in hiring any employees or consultants of the Company.

8. **Withholding Taxes.** All forms of compensation referred to in this letter are subject to applicable withholding and payroll taxes.

9. **Entire Agreement.** This letter supersedes and replaces any prior understandings or agreements, whether oral, written or implied, between you and the Company regarding the matters described in this letter.

[Signature Page Follows]

If you wish to accept this offer, please sign and date this and the other documents, as outlined below. As required, by law, your employment with the Company is also contingent upon your providing legal proof of your identity and authorization to work in the United States. This offer, if not accepted, will expire at the close of business on May 2, 2017. We look forward to having you join us on May 4, 2017.

Very truly yours,

SAVAGE RIVER INC.

By: /s/ Ethan Brown
Ethan Brown
Chief Executive Office

ACCEPTED AND AGREED:

Mark J. Nelson
/s/ Mark J. Nelson
(Signature)

4/30/2017
Date

Anticipated Start Date: May 4, 2017

Attachments:

1. To be completed, signed (where applicable) and returned, along with this offer letter, (a) via email to your hiring manager and lohagan@beyondmeat.com as soon as possible; and (b) by hand on your first day or by mail to Laura O'Hagan (Beyond Meat, 1325 El Segundo Blvd, El Segundo, CA, 90245):
   a) Confidential Information and Invention Assignment Agreement
   b) Background consent form
   c) Application for Employment
   d) New employee personal information form
   e) I-9 form(s) of identification – *please include a scanned PDF of your identification form(s)*
2. Background information
   a) Benefits Overview 2015-2016
   b) Benefits at a glance – 2015-2016
   c) Benefits – Semi Monthly Costs – Salaried Employee
   d) 2011 Equity Incentive Plan
   e) Travel & Expense Reimbursement Policy

NELSON OPTION AMENDMENT

RESOLVED: That the Board believes that it is advisable and in the best interests of the Company to amend each of the following stock options previously granted to Mark Nelson pursuant to the Plan to provide that such options will continue in effect pursuant to their original terms as if Mr. Nelson's employment with the Company did not terminate on March 10, 2017: (i) the stock option to purchase 603,965 shares of the Company's Common Stock granted on December 1, 2015 (the "First Option"), (ii) the stock option to purchase 218,003 shares of the Company's Common Stock granted on February 4, 2016 (the "Second Option"), (iii) the stock option to purchase 228,347 shares of the Company's Common Stock granted on July 20, 2016 (the "Third Option"), and (iv) the stock option to purchase 105,032 shares of the Company's Common Stock granted on July 20, 2016 (the "Fourth Option" and, together with the First Option, the Second Option and the Third Option, the "Options").

RESOLVED FURTHER: That the Board is authorized pursuant to the Plan to amend the Options to provide for purposes of the Options, the Plan and the applicable Stock Option Grant Notice and Option Agreement for each Option (together, the "Option Agreements"), that Mr. Nelson's termination of employment from the Company, which was effective on March 10, 2017, shall not be considered a termination of Mr. Nelson's "Continuous Service" (as defined in the Plan) and Mr. Nelson shall be considered to have remained a service provider to the Company from and after March 10, 2017 through the date Mr. Nelson returns as an employee of the Company, subject to and contingent upon Mr. Nelson's actual return as an employee of the Company prior to the expiration of the Options (the "Option Amendments").

RESOLVED FURTHER: That, pursuant to Section 144 of the Delaware General Corporation Law, no contract or transaction between the Company and one or more of its directors or officers (any such contract or transaction is referred to herein as an "Interested Party Transaction") shall be void or voidable solely for that reason, or solely because the director or officer is present at or participates in the meeting of the Board which authorized the Interested Party Transaction or solely because the vote of any such director is counted for such purpose, if: (i) the material facts as to the relationship or interest and as to the contract are disclosed or are known to the Board, and the Board in good faith authorizes the contract or transaction by affirmative votes of a majority of the disinterested directors, even though the disinterested directors be less than a quorum, or (ii) the contract or transaction is fair as to the Company as of the time it is authorized, approved or ratified by the Board.

RESOLVED FURTHER: That it has been disclosed or made known to the Board that Mr. Nelson is expected to return to the Company as the Chief Operating Officer of the Company on May 4, 2017.

RESOLVED FURTHER: That the Board is aware of the material facts related to the Option Amendments and has had an adequate opportunity to ask questions regarding, and investigate the nature of, the relationships and/or interests of Mr. Nelson with and in the Company in connection with the Option Amendments.

RESOLVED FURTHER: That the terms and conditions of the Option Amendments are hereby determined to be fair, just, and reasonable as to the Company, and it is further determined that it is in the best interest of the Company and its stockholders to authorize and approve the Option Amendments.

RESOLVED FURTHER: That the Option Amendments on the terms and conditions set forth herein are hereby authorized and approved in all respects, include for purposes of Section 144 of the Delaware General Corporation Law, subject to Mr. Nelson's consent to the Option Amendments.

RESOLVED FURTHER: That the officers of the Company (acting singly or jointly) are hereby authorized and directed to take whatever steps, and to enter into any appropriate agreement, as they determine to be advisable, necessary or appropriate to implement and give effect to the Option Amendments.

Savage River, Inc.

May 5, 2017

Charles Muth
10105 Bracken Drive
Ellicott City, MD 21042

Dear Chuck:

Savage River, Inc., a Delaware corporation (the "Company"), is pleased to offer you employment with the Company on the terms described below.

1. **Position.** You will start in a full-time, exempt position as Chief Growth Officer and you will report to the Company's Chief Executive Officer, Ethan Brown. By signing this letter, you confirm with the Company that you are under no contractual or other legal obligations that would prohibit you from performing your duties with the Company.

2. **TriNet HR Corporation.** The Company's benefits, payroll, and other human resource management services are provided through TriNet HR Corporation, a professional employer organization. As a result of the Savage River, Inc. arrangement with TriNet, TriNet will be considered your employer of record for these purposes and your managers at Savage River, Inc. will be responsible for directing your work, reviewing your performance, setting your schedule, and otherwise directing your work at Savage River, Inc.

3. **Compensation and Employee Benefits.** Your annualized base salary will be $285,000 per year, payable on the Company's regular payroll dates, and your start date will be May 30, 2017. You will also be part of the Company's Incentive Plan, which will provide a bonus target level of 50% of your base salary. Bonuses are discretionary and are based on your individual performance and the performance of the Company. Your bonus eligibility will begin on May 30, 2017. As a regular employee of the Company you will be eligible to participate in a number of Company-sponsored benefits, which are described in the employee benefit summary that I have enclosed with this letter. In addition to Company holidays, you will be entitled to 20 days of Paid Time-Off (PTO). Lastly, the Company will provide up to $75,000 in moving expenses and a $834/month car allowance.

4. **Stock Options.** Subject to the approval of the Company's Board of Directors, you will be granted an option ("Option") to purchase 683,781 shares of the Company's Common Stock. The Option will be subject to the terms and conditions applicable to options granted under the Company's 2011 Equity Incentive Plan ("Plan"), as described in the Plan and the applicable stock option agreement, which you will be required to sign. 25% of the total number of shares subject to the Option shall vest and become exercisable on the 12-month anniversary of your vesting commencement date and 1/48th of the total number of shares subject to the Option shall vest and become exercisable in monthly installments thereafter during continuous service, as described in the applicable stock option agreement. The exercise price per share will be equal to the fair market value per share on the date the Option is granted, as determined by the Company's Board of Directors in good faith compliance with applicable guidance in order to avoid having the Option be treated as deferred compensation under Section 409A of the Internal Revenue Code of 1986, as amended. There is no guarantee that the Internal Revenue Service will agree with this value. You should consult with your own tax advisor concerning the tax risks associated with accepting an option to purchase the Company's Common Stock.

5. **Background Check.** Like all Company employees, your employment is subject to a background check. As a condition of your employment with the Company, you are required to sign the Company's enclosed background check consent form.

6. **Confidential Information and Invention Assignment Agreement.** Like all Company employees, you will be required, as a condition of your employment with the Company, to sign the Company's enclosed standard Confidential Information and Invention Assignment Agreement.

7. **Employment Relationship.** Employment with the Company is for no specific period of time. Your employment with the Company will be "at will," meaning that either you or the Company may terminate your employment at any time and for any reason, with or without cause. Any contrary representations which may have been made to you are superseded by this offer. This is the full and complete agreement between you and the Company on this term. Although your job duties, title, compensation and benefits, as well as the Company's personnel policies and procedures, may change from time to time, the "at will" nature of your employment may only be changed in an express written agreement signed by you and the Company's Chief Executive Officer. In the event you are terminated for reasons unrelated to cause, the Company agrees to pay you 6 months salary as a severance payment.

8. **Outside Activities.** While you render services to the Company, you agree that you will not engage in any other employment, consulting or other business activity without the written consent of the Company. In addition, while you render services to the Company, you will not assist any person or entity in competing with the Company, in preparing to compete with the Company or in hiring any employees or consultants of the Company.

9. **Withholding Taxes.** All forms of compensation referred to in this letter are subject to applicable withholding and payroll taxes.

10. **Entire Agreement.** This letter supersedes and replaces any prior understandings or agreements, whether oral, written or implied, between you and the Company regarding the matters described in this letter.

[Signature Page Follows]

If you wish to accept this offer, please sign and date this and the other documents, as outlined below. As required, by law, your employment with the Company is also contingent upon your providing legal proof of your identity and authorization to work in the United States. This offer, if not accepted, will expire at the close of business on May 8, 2017. We look forward to having you join us on May 30, 2017.

Very truly yours,

SAVAGE RIVER INC.

By: /s/ Ethan Brown
Ethan Brown
Chief Executive Officer

ACCEPTED AND AGREED:

Charles Muth
/s/ Charles Muth
(Signature)

5/5/2017
Date

Anticipated Start Date: _____

Attachments:

1. To be completed, signed (where applicable) and returned, along with this offer letter, (a) via email to your hiring manager and lohagan@beyondmeat.com as soon as possible; and (b) by hand on your first day or by mail to Laura O'Hagan (Beyond Meat, 1325 El Segundo Blvd, El Segundo, CA, 90245):
   a) Confidential Information and Invention Assignment Agreement
   b) Background consent form
   c) Application for Employment
   d) New employee personal information form
   e) I-9 form(s) of identification – *please include a scanned PDF of your identification form(s)*
2. Background information
   a) Benefits Overview 2015-2016
   b) Benefits at a glance – 2015-2016
   c) Benefits – Semi Monthly Costs – Salaried Employee 2011 Equity Incentive Plan
   d) Travel & Expense Reimbursement Policy

Exhibit 23.1

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the use in this Registration Statement on Form S-1 of our report dated September 10, 2018 relating to the financial statements of Beyond Meat, Inc. (formerly Savage River, Inc.) appearing in the Prospectus, which is part of this Registration Statement.

We also consent to the reference to us under the heading "Experts" in such Prospectus.

/s/ Deloitte & Touche LLP

Los Angeles, California

November 16, 2018