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

FORM 8-K

CURRENT REPORT
PURSUANT TO SECTION 13 OR 15(D)
OF THE SECURITIES EXCHANGE ACT OF 1934

Date of Report (Date of earliest event reported): October 8, 2026

VOLATO GROUP, INC.
(Exact name of registrant as specified in its charter)

Delaware	**001-41104**	**86-2707040**
(State or other jurisdiction of incorporation)	(Commission File Number)	(IRS Employer Identification No.)

8050 Freedom Ave NW
North Canton, OH 44720
(Address of principal executive offices) (zip code)

844-399-8998
Registrant's telephone number, including area code

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

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

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

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

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

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

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Class A Common Stock	**SOAR**	**NYSE American LLC**
Warrants, each whole warrant exercisable for one share of Class A common stock at an exercise price of $287.50	**SOARW**	**OTC Markets Group, Inc.**

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

Emerging growth company ☒

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

Item 1.01 Entry Into a Material Definitive Agreement.

On October 8, 2026, Volato Group, Inc. (the "Company") entered into a Common Stock Purchase Agreement (the "ELOC Purchase Agreement") and Registration Rights Agreement (the "ELOC Registration Rights Agreement") with DFU, LLC, a Delaware limited liability company (the "Investor"). Pursuant to the ELOC Purchase Agreement, the Company has the right, but not the obligation, to issue and sell to the Investor up to $1,000,000,000 of newly issued shares of our Class A common stock, par value $0.0001 (the "ELOC Shares") from time to time beginning on the effective date of the registration statement covering the resale of the ELOC Shares by the Investor and ending 36 months thereafter (the "Investment Period"), subject to certain conditions and limitations. Sales of ELOC Shares pursuant to the ELOC Purchase Agreement, and the timing and amount of any such sales, are solely within the discretion of the Company, and the Company is under no obligation to sell any securities pursuant to this arrangement.

In no event will the Company issue and sell, under the ELOC Purchase Agreement, more than 19.99% of the Company's outstanding shares of common stock as of the date of the ELOC Purchase Agreement (reduced by the number of shares of common stock issued or issuable pursuant to any transaction or series of transactions that may be aggregated with the transactions contemplated by the ELOC Purchase Agreement under the applicable NYSE American LLC listing rules) without first obtaining prior approval from its stockholders.

During the Investment Period, the Company may direct the Investor to purchase ELOC Shares by delivering to the Investor up to two written notices per trading day (each, a "Put Notice") covering an aggregate of no more than $6,000,000 in ELOC Shares. The purchase price for the ELOC Shares designated in the first Put Notice is the lesser of (i) the lowest traded price of the Company's common stock on the date the Put Notice is delivered and (ii) the average of the three lowest closing sale prices of the Company's common stock during the 10 consecutive trading day period immediately preceding that same date, subject to a floor price of $0.21 (as may be adjusted for any reorganization, recapitalization, stock split, reverse stock split or other similar transaction, the "Floor Price"). The purchase price for the ELOC Shares designated in the second Put Notice is the lesser of (i) 95% of the lowest traded price of the Company's common stock during the five consecutive trading day period immediately preceding the date the Put Notice is delivered, (ii) 95% of the dollar volume-weighted average price of the Company's common stock on that same date and (iii) 95% of the closing bid price of the Company's common stock on that same date, subject to the Floor Price. The purchase price of ELOC Shares may be lower if the Company's common stock becomes subject to a "chill," "stop sign" or similar restriction by The Depository Trust Company.

Pursuant to the ELOC Purchase Agreement, the Company may not issue or sell to the Investor any ELOC Shares that would result in the Investor beneficially owning more than 4.99% of our outstanding shares of common stock upon such issuance (the "Beneficial Ownership Limitation").

The Investor's obligation to purchase ELOC Shares under the ELOC Purchase Agreement is subject to customary conditions, including the effectiveness of a registration statement covering the resale of the ELOC Shares, continued listing of the Company's common stock on an eligible trading market, and other customary closing conditions. Until termination of the ELOC Purchase Agreement, the Company may not, without the Investor's consent, issue common stock or common stock equivalents in any "equity line of credit" or similar continuous offering, except in connection with the ELOC Purchase Agreement, one or more "at-the-market" offerings, or a private offering of equity or debt securities with registration rights that closes within three months after execution of the ELOC Purchase Agreement. In addition, except for certain exempt issuances, the Company may not issue common stock or common stock equivalents at an effective price per share below the purchase price applicable to a Put Notice during the period beginning on the third trading day immediately preceding delivery of the applicable Put Notice and ending on the third trading day after delivery of the purchase price for the shares set forth in that Put Notice.

The Company may terminate the ELOC Purchase Agreement upon one trading day's notice to the Investor, provided that no Put Notices are pending. The ELOC Purchase Agreement will automatically terminate upon certain events, including the end of the Investment Period, the Investor's purchase of the maximum amount of ELOC Shares, the delisting of the Company's common stock, or certain bankruptcy or insolvency events.

As consideration for the Investor's execution and delivery of the ELOC Purchase Agreement, the Company agreed to issue the Investor (i) 3,646,974 shares of common stock (the "Commitment Shares") and (ii) 13,058 shares of Series B convertible preferred stock that are convertible into an aggregate of 56,528,082 shares of common stock, subject to adjustment (the "Series B Preferred Stock" and together with the Commitment Shares, the "Commitment Securities"). The Company is not obligated to issue any Commitment Securities until the NYSE American LLC approves the Company's additional listing application filed in connection with the ELOC Shares and Commitment Securities.

In connection with the ELOC Purchase Agreement, on October 9, 2026, the Company filed a Certificate of Designation, Preferences, and Rights of Series B Preferred Stock (the "Certificate of Designation") with the Delaware Secretary of State to create and establish the rights, preferences, powers, and restrictions of the Series B Preferred Stock. The Series B Preferred Stock ranks senior to the Company's common stock and junior to its Series A preferred stock and Series A-1 preferred stock. Holders of the Series B Preferred Stock are entitled to receive dividends paid and distributions made to holders of the Company's common stock on an as-converted basis. The Series B Preferred Stock is only convertible following (i) stockholder approval of the issuance of shares of the Company's common stock upon the full conversion of the Series B Preferred Stock (the "Stockholder Approval"), and (ii) the effectiveness of an amendment to the Company's Certificate of Incorporation authorizing sufficient shares of common stock for full conversion of the Series B Preferred Stock. Following such approvals, each share of Series B Preferred Stock shall be convertible, at the option of the holder, into 4,329 shares of the Company's common stock, subject to adjustment and a 4.99% beneficial ownership limitation. Shares of the Series B Preferred Stock do not have voting rights prior to the date the Company receives the Stockholder Approval, except as required by law and for certain actions that would adversely affect holders of the Series B Preferred Stock. Thereafter, holders of the Series B Preferred Stock generally are entitled to vote on an as-converted basis with the holders of shares of the Company's common stock.

Pursuant to the ELOC Registration Rights Agreement, the Company agreed, as promptly as practicable and by November 22, 2026, to file with the SEC an initial registration statement covering the resale by the Investor of the maximum number of shares of the Company's common stock (i) pursuant to Put Notices delivered under the ELOC Purchase Agreement, (ii) as Commitment Shares, and (iii) in the event the Company receives the Stockholder Approval, the shares of the Company's common stock issuable upon full conversion of all shares of the Series B Preferred Stock. In any event, the Company may only register shares of the Company's common stock that are registrable in compliance with the Company's Certificate of Incorporation, the rules and regulations of the NYSE American LLC, and applicable law. The Company is required to use commercially reasonable efforts to have the registration statement declared effective by the Securities and Exchange Commission at the earliest practicable date.

The ELOC Purchase Agreement and the ELOC Registration Rights Agreement contains customary representations, warranties, agreements and conditions to completing future sale transactions, indemnification rights and obligations of the parties. Among other things, the Investor represented to the Company, that it is an "accredited investor" (as such term is defined in Rule 501(a) of Regulation D under the Securities Act). The Company issued, and will issue, the securities in reliance upon an exemption from registration contained in Section 4(a)(2) of the Securities Act and Regulation D promulgated thereunder.

The foregoing descriptions of the ELOC Purchase Agreement, the ELOC Registration Rights Agreement, and the Certificate of Designation are qualified in their entirety by reference to the full text of such documents, copies of which are attached hereto as Exhibits 10.1, 10.2, and 3.1, respectively, and each of which is incorporated herein in its entirety by reference. The representations, warranties and covenants contained in such agreements were made only for purposes of such agreements and as of specific dates, were solely for the benefit of the parties to such agreements and may be subject to limitations agreed upon by the contracting parties.

Item 3.02. Unregistered Sales of Equity Securities.

The information set forth under Item 1.01 above of this Current Report on Form 8-K is incorporated by reference in this Item 3.02 to the extent required. The ELOC Shares and Commitment Securities to be issued under the ELOC Purchase Agreement will be sold pursuant to an exemption from the registration requirements under Section 4(a)(2) of the Securities Act and Rule 506 of Regulation D promulgated thereunder. The shares of common stock and Series B Preferred Stock have not been registered under the Securities Act and may not be offered or sold in the United States in the absence of an effective registration statement or exemption from the registration requirements.

Item 3.03. Material Modification to Rights of Security Holders.

The information set forth under Item 1.01 above of this Current Report on Form 8-K relating to the Certificate of Designation is incorporated by reference in this Item 3.03.

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

The information set forth under Item 1.01 of this Current Report on Form 8-K relating to the Certificate of Designation is incorporated by reference in this Item 5.03.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits.

Exhibit No.	Description
3.1	Certificate of Designation, Preferences, and Rights of Series B Preferred Stock.
10.1*	Common Stock Purchase Agreement between the Company and the Investor dated October 8, 2026.
10.2	Registration Rights Agreement between the Company and the Investor dated October 8, 2026.
104	Cover Page Interactive Data File (embedded within the Inline XBRL document)

* As permitted by Regulation S-K, Item 601(b)(10)(iv) of the Securities Exchange Act of 1934, as amended, certain confidential portions of this exhibit have been redacted from the publicly filed document. The Registrant agrees to furnish supplementally an unredacted copy of the exhibit to the Securities and Exchange Commission upon its request.

SIGNATURES

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

Date: October 9, 2026

Volato Group, Inc.

By: */s/ Mark Heinen*
Name: Mark Heinen
Title: Chief Financial Officer

Exhibit 3.1

Certificate of Designations, Preferences and Rights of the
Series B Convertible Preferred Stock of
Volato Group, Inc.

Volato Group, Inc. (the "**Company**") has entered into that certain Common Stock Purchase Agreement dated October 8, 2026 (the "**Purchase Agreement**") by and between the Company and DFU, LLC, a Delaware limited liability company ("**Investor**") pursuant to which the Company shall issue to Investor, subject to the terms, conditions and limitations set forth therein, shares of preferred stock convertible into shares of the Company's Common Stock. Capitalized terms not defined herein and that are not descriptive shall have the meaning as set forth in Section 17 below and the Purchase Agreement.

Pursuant to the authority expressly conferred upon the Board of Directors of the Company (the "**Board**") and by the Company's Certificate of Incorporation, as amended (the "**Certificate of Incorporation**"), the Board on October 9, 2026 hereby designates the Series B Convertible Preferred Stock and the number of shares constituting such series, and fixes the rights, powers, preferences, privileges, limitations and restrictions relating to such series in addition to any set forth in the Certificate of Incorporation as follows:

1. Designation and Number of Shares. There shall hereby be created and established a series of preferred stock of the Company designated as "Series B Convertible Preferred Stock" (the "**Series B Preferred Shares**"). The authorized number of Series B Preferred Shares shall be 13,058 shares. Each Series B Preferred Share shall have a par value of $0.0001. Each Series B Preferred Share shall have a stated value equal to **$1,187.0118** (the "**Stated Value**").

2. Ranking. All shares of Common Stock of the Company shall be junior in rank to all Series B Preferred Shares with respect to the preferences as to dividends, distributions and payments upon the liquidation, dissolution and winding up of the Company (collectively, the "**Junior Stock**"). The Series B Preferred Shares shall be junior in rank to all shares of the Company's Series A and Series A-1 Convertible Preferred Stock (the "**Series A Preferred Shares**"). The rights of all shares of Junior Stock of the Company shall be subject to the rights, powers, preferences and privileges of the Series B Preferred Shares, and the rights of the Series B Preferred Shares shall be subject to the rights, powers, preferences and privileges of the Series A Preferred Shares. In the event of the merger or consolidation of the Company with or into another corporation, the Series B Preferred Shares shall maintain their relative rights, powers, designations, privileges and preferences provided for herein and no such merger or consolidation shall result in terms inconsistent therewith. For the avoidance of doubt, in no circumstance will a Series B Preferred Share have any rights subordinate or otherwise inferior to the rights of shares of any Junior Stock (as defined above). Notwithstanding the foregoing, the Series B Preferred Shares shall not be entitled to participate in any in-kind dividend from the Volato Reserve as such term is defined in the Company's Agreement and Plan of Merger with Alignment Engine, Inc..

3. Conversion.

(a) Holder's Conversion Right. Subject to the provisions of Section 3(e), at any time or times on or after the later of (i) the Stockholder Approval Date (as defined below) and (ii) the Charter Amendment Effectiveness Date (as defined below) (such date, the "**Initial Conversion Date**"), each holder of a Series B Preferred Share (each, a "**Holder**" and collectively, the "**Holders**") shall be entitled to convert any whole number of Series B Preferred Shares into validly issued, fully paid and non-assessable shares of Common Stock in accordance with Section 3(c) determined based on the Conversion Rate (as defined below). Notwithstanding anything to the contrary in this Certificate of Designations (including Section 5(e)), no Series B Preferred Shares shall be convertible, and the Company shall not effect any conversion of any Series B Preferred Shares, in whole or in part, prior to the Stockholder Approval Date.

(b) Conversion Rate. Each Series B Preferred Share shall be convertible without the payment of additional consideration by the Holder thereof, into such number of fully paid and non-assessable shares of Common Stock equal to the ratio determined by dividing (A) the Stated Value of such Series B Preferred Share by (B) the Conversion Price (as defined below) in effect at the time of conversion (the "**Conversion Rate**"). The "**Conversion Price**" shall initially be $0.2742. The Conversion Price shall be subject to adjustment as provided below, and for the avoidance of doubt, any adjustment to the Conversion Price as provided below shall result in a concordant adjustment to the number of shares of Common Stock into which each Series B Preferred Share may be converted pursuant to the Conversion Rate.

No fractional shares of Common Stock are to be issued upon the conversion of any Series B Preferred Shares. If the issuance would result in the issuance of a fraction of a share of Common Stock, the Company shall round such fraction of a share of Common Stock up to the nearest whole share.

(c) Mechanics of Conversion. The conversion of each Series B Preferred Share shall be conducted in the following manner:

(i) Holder's Conversion. To convert a Series B Preferred Share into a validly issued, fully paid and non-assessable share of Common Stock, on any date (a "**Conversion Date**"), a Holder shall deliver (whether via email or otherwise), for receipt on or prior to 11:59 p.m., New York, N.Y. time, on such date, a copy of an executed Conversion Notice with respect to the share(s) of Series B Preferred Shares subject to such conversion in the form attached hereto as **Exhibit I** (the "**Conversion Notice**") to the Company. No ink-original Conversion Notice shall be required, nor shall any medallion guarantee (or other type of guarantee or notarization) of any Conversion Notice form be required. The calculations and entries set forth in the Conversion Notice shall control in the absence of manifest or mathematical error. To effect conversions of Series B Preferred Shares, a Holder shall not be required to surrender the certificate(s) representing the Series B Preferred Shares to the Company unless all of the Series B Preferred Shares represented thereby are so converted, in which case, such Holder shall surrender to a nationally recognized overnight delivery service for delivery to the Company the original certificates representing the share(s) of Series B Preferred Shares (the "**Preferred Share Certificates**") so converted as aforesaid.

(ii) Company's Response. On or before the first Trading Day following the date of receipt by the Company of such Conversion Notice, the Company shall (1) provided that (x) the Transfer Agent is participating in the Depository Trust Company ("**DTC**") Fast Automated Securities Transfer Program and (y) shares of Common Stock to be so issued are eligible for resale pursuant to Rule 144 or an effective registration statement under the Registration Rights Agreement, credit such aggregate number of shares of Common Stock to which such Holder shall be entitled to such Holder's or its designee's balance account with DTC through its Deposit/Withdrawal at Custodian system, or (2) if either of the immediately preceding clauses (x) or (y) are not satisfied, issue and deliver (via reputable overnight courier) to the address as specified in such Conversion Notice, a certificate, registered in the name of such Holder or its designee, for the number of shares of Common Stock to which such Holder shall be entitled. If the number of Series B Preferred Shares represented by the Preferred Share Certificate(s) submitted for conversion pursuant to Section 3(c)(i) is greater than the number of Series B Preferred Shares being converted, then the Company shall if requested by such Holder, as soon as practicable and in no event later than three Trading Days after receipt of the Preferred Share Certificate(s) and at its own expense, issue and deliver to such Holder (or its designee) a new Preferred Share Certificate representing the number of Series B Preferred Shares not converted.

(iii) Record Holder. The Person or Persons entitled to receive the shares of Common Stock issuable upon a conversion of Series B Preferred Shares shall be treated for all purposes as the record holder or holders of such shares of Common Stock on the Conversion Date.

(iv) Delivery of Conversion Shares.

(1) As soon as practicable after any conversion or payment of any amount due hereunder in the form of shares of Common Stock in accordance with this Certificate of Designations, Preferences and Rights of the Series B Convertible Preferred Stock (the "**Certificate of Designations**"), and in any event within one (1) Trading Day thereafter (such date, the "**Share Delivery Date**"), the Company shall, at its expense, cause to be issued in the name of and delivered to the Holder, or as the Holder may direct, a certificate or certificates evidencing the number of shares of fully paid and non-assessable Common Stock to which the Holder shall be entitled on such conversion or payment (the "**Conversion Shares**"), in the applicable denominations based on the applicable conversion or payment, which certificate or certificates shall be free of restrictive and trading legends (except for any such legends as may be required under the Securities Act). In lieu of delivering physical certificates for the Common Stock issuable upon any conversion of this Certificate of Designations, provided the Company's transfer agent (the "**Transfer Agent**") is participating in the DTC Fast Automated Securities Transfer Program ("**FAST**") or a similar program, upon request of the Holder, the Company shall cause the Transfer Agent to electronically transmit such Conversion Shares issuable upon conversion of this Certificate of Designations to the Holder (or its designee), by crediting the account of the Holder's (or such designee's) broker with DTC through its Deposit Withdrawal At Custodian system (provided that the same time periods herein as for stock certificates shall apply) as instructed by the Holder (or its designee). If the Transfer Agent is not participating in FAST or if the Conversion Shares are subject to restrictions under the Securities Act or due to the Rules of the NYSE American, Section 3(c)(v) shall apply.

(2) Obligation Absolute. The Company's obligations to issue and deliver the Conversion Shares upon conversion of this Certificate of Designations in accordance with the terms hereof are absolute and unconditional, irrespective of any action or inaction by the Holder to enforce the same, any waiver or consent with respect to any provision hereof, the recovery of any judgment against any Person or any action to enforce the same, or any setoff, counterclaim, recoupment, limitation or termination, or any breach or alleged breach by the Holder or any other Person of any obligation to the Company or any violation or alleged violation of law by the Holder or any other Person, and irrespective of any other circumstance which might otherwise limit such obligation of the Company to the Holder in connection with the issuance of such Conversion Shares; provided, however, that such delivery shall not operate as a waiver by the Company of any such action the Company may have against the Holder. In the event the Holder of this Certificate of Designations shall elect to convert any or all of the Series B Preferred Shares, the Company may not refuse conversion based on any claim that the Holder or anyone associated or affiliated with the Holder has been engaged in any violation of law, agreement or for any other reason, unless an injunction from a court, issued with prior notice to Holder, restraining and or enjoining conversion of all or part of this Certificate of Designations shall have been sought and obtained, and the Company posts a surety bond for the benefit of the Holder in the amount of 150% of the Stated Value for such Series B Preferred Shares, which is subject to the injunction, which bond shall remain in effect until the completion of litigation of the underlying dispute and the proceeds of which shall be payable to the Holder to the extent it obtains judgment. In the absence of such injunction, the Company shall issue the Conversion Shares upon delivery of a Conversion Notice.

(3) The Company's Failure to Timely Convert. If the Company shall fail for any reason or for no reason, on or prior to the applicable Share Delivery Date, if the Transfer Agent is not participating in FAST or the Conversion Shares are restricted, to issue and deliver to the Holder (or its designee) a certificate for the number of Conversion Shares to which the Holder is entitled and register such Conversion Shares on the Company's share register or, if the Transfer Agent is participating in FAST, to credit the balance account of the Holder or the Holder's designee with DTC for such number of Conversion Shares to which the Holder is entitled upon the Holder's conversion of this Certificate of Designations (as the case may be) (a "**Conversion Failure**"), then, in addition to all other remedies available to the Holder, if the Holder acquires (in an open market transaction, stock loan or otherwise) shares of Common Stock corresponding to all or any portion of the number of shares of Common Stock issuable upon such conversion that the Holder is entitled to receive from the Company and has not received from the Company in connection with such Conversion Failure (a "**Buy-In**"), then, in addition to all other remedies available to the Holder, the Company shall, within two Trading Days after receipt of the Holder's request and in the Holder's discretion, either: (I) pay cash to the Holder in an amount equal to the Holder's total purchase price (including brokerage commissions, mark-ups, stock loan costs and other out-of-pocket expenses, if any) for the shares of Common Stock so acquired (including, without limitation, by any other Person in respect, or on behalf, of the Holder) (the "**Buy-In Price**"), at which point the Company's obligation to so issue and deliver such certificate (and to issue such shares of Common Stock) or credit the balance account of such Holder or such Holder's designee, as applicable, with DTC for the number of shares of Common Stock to which the Holder is entitled upon the Holder's conversion hereunder (as the case may be) (and to issue such shares of Common Stock) shall terminate, or (II) promptly honor its obligation to so issue and deliver to the Holder a certificate or certificates representing such shares of Common Stock or credit the balance account of such Holder or such Holder's designee, as applicable, with DTC for the number of shares of Common Stock to which the Holder is entitled upon the Holder's conversion hereunder (as the case may be) and pay cash to the Holder in an amount equal to the excess (if any) of the Buy-In Price over the product of (x) such number of shares of Common Stock multiplied by (y) the lowest Closing Sale Price of the Common Stock on any Trading Day during the period commencing on the date of the applicable Conversion Notice and ending on the date of such issuance and payment under this clause (II) (the "**Buy-In Payment Amount**"). Nothing shall limit the Holder's right to pursue any other remedies available to it hereunder, at law or in equity, including, without limitation, a decree of specific performance and/or injunctive relief with respect to the Company's failure to timely deliver certificates representing shares of Common Stock (or to electronically deliver such shares of Common Stock) upon the conversion of this Certificate of Designations as required pursuant to the terms hereof.

(4) Conversion Priority. In the event that the Company receives a Conversion Notice from the Holder and any holders of convertible securities for the same Conversion Date and the Company can effect the conversion and exercise of some, but not all, of such portions of the Certificate of Designations, convertible securities submitted for conversion, exercise, or exchange, the Company, subject to this Section 3(c)(iv), shall (i) first effect the entire conversion of the Series A Preferred Shares electing to convert on such date, (ii) second effect the conversion of the entire Stated Value of Series B Preferred Shares submitted for conversion on such date by the Holder, and (iii) thereafter effect the exercise and conversion from each holder of other convertible securities electing to have such other convertible securities exercised, converted or exchanged on such date (other than the Conversion Shares).

(v) Book-Entry. If the Transfer Agent is not participating in FAST or if the Conversion Shares are restricted under the Securities Act, the Company shall issue the Conversion Shares in book entry within the time provided in this Certificate of Designations. Notwithstanding anything to the contrary set forth in this Section 3, upon conversion of any Series B Preferred Shares in accordance with the terms hereof, no Holder thereof shall be required to physically surrender the certificate representing the Series B Preferred Shares to the Company following conversion thereof unless (A) the full or remaining number of Series B Preferred Shares represented by the certificate are being converted (in which event such certificate(s) shall be delivered to the Company as contemplated by this Section 3(c)(v) or (B) such Holder has provided the Company with prior written notice (which notice may be included in a Conversion Notice) requesting reissuance of Series B Preferred Shares upon physical surrender of any Series B Preferred Shares. Each Holder and the Company shall maintain records showing the number of Series B Preferred Shares so converted by such Holder and the dates of such conversions or shall use such other method, reasonably satisfactory to such Holder and the Company, so as not to require physical surrender of the certificate representing the Series B Preferred Shares upon each such conversion. In the event of any dispute or discrepancy, such records of such Holder establishing the number of Series B Preferred Shares to which the record holder is entitled shall be controlling and determinative in the absence of manifest error. A Holder and any transferee or assignee, by acceptance of a certificate, acknowledge and agree that, by reason of the provisions of this paragraph, following conversion of any Series B Preferred Shares, the number of Series B Preferred Shares represented by such certificate may be less than the number of Series B Preferred Shares stated on the face thereof. Each certificate for Series B Preferred Shares shall bear the following legend:

ANY TRANSFEREE OR ASSIGNEE OF THIS CERTIFICATE SHOULD CAREFULLY REVIEW THE TERMS OF THE COMPANY'S CERTIFICATE OF DESIGNATIONS RELATING TO THE SHARES OF SERIES B PREFERRED STOCK REPRESENTED BY THIS CERTIFICATE, INCLUDING SECTION 3(c) THEREOF. THE NUMBER OF SHARES OF SERIES B PREFERRED STOCK REPRESENTED BY THIS CERTIFICATE MAY BE LESS THAN THE NUMBER OF SHARES OF SERIES B PREFERRED STOCK STATED ON THE FACE HEREOF PURSUANT TO SECTION 3(c) OF THE CERTIFICATE OF DESIGNATIONS RELATING TO THE SHARES OF SERIES B PREFERRED STOCK REPRESENTED BY THIS CERTIFICATE.

(d) Taxes. The Company shall pay any and all documentary, stamp, transfer (but only in respect of the registered holder thereof), transfer agent fees, issuance and other similar taxes that may be payable with respect to the issuance and delivery of shares of Common Stock upon the conversion of Series B Preferred Shares.

(e) Beneficial Ownership Limitation. The Company shall not effect any conversion of the Series B Preferred Shares, and a Holder shall not have the right to convert any portion of the Series B Preferred Shares, to the extent that, after giving effect to the conversion set forth on the applicable Conversion Notice, such Holder (together with such Holder's Affiliates, and any Persons acting as a group together with such Holder or any of such Holder's Affiliates (such Persons, "**Attribution Parties**")) would beneficially own in excess of the Beneficial Ownership Limitation (as defined below). For purposes of the foregoing sentence, the number of shares of Common Stock beneficially owned by such Holder and its Affiliates and Attribution Parties shall include the number of shares of Common Stock issuable upon conversion of the Series B Preferred Shares with respect to which such determination is being made, but shall exclude the number of shares of Common Stock which are issuable upon (i) conversion of the remaining, unconverted Stated Value of Series B Preferred Shares beneficially owned by such Holder or any of its Affiliates or Attribution Parties and (ii) exercise or conversion of the unexercised or unconverted portion of any other securities of the Company subject to a limitation on conversion or exercise analogous to the limitation contained herein (including, without limitation, the Series B Preferred Shares and warrants, if any) beneficially owned by such Holder or any of its Affiliates or Attribution Parties. Except as set forth in the preceding sentence, for purposes of this Section 3(e), beneficial ownership shall be calculated in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder. To the extent that the limitation contained in this Section 3(e) applies, the determination of whether the Series B Preferred Shares is convertible (in relation to other securities owned by such Holder together with any Affiliates and Attribution Parties) and of how many shares of Series B Preferred Shares are convertible shall be in the sole discretion of such Holder, and the submission of a Conversion Notice shall be deemed to be such Holder's determination of whether the shares of Series B Preferred Shares may be converted (in relation to other securities owned by such Holder together with any Affiliates and Attribution Parties) and how many Series B Preferred Shares are convertible, in each case subject to the Beneficial Ownership Limitation. To ensure compliance with this restriction, each Holder will be deemed to represent to the Company each time it delivers a Conversion Notice that such Conversion Notice has not violated the restrictions set forth in this paragraph and the Company shall have no obligation to verify or confirm the accuracy of such determination provided that for purposes of this Section 3(e), the Holder shall be entitled to rely on: (i) the Company's most recent periodic or annual report filed with the Commission, (ii) a more recent public announcement by the Company, or (iii) a more recent written notice by the Company or the Transfer Agent setting forth the number of shares of Common Stock outstanding and the Company shall indemnify the Holder in accordance with the Purchase Agreement, if the Holder suffers any damages including attorneys' fees, claims or losses as a result of Excess Shares (as defined below) being issued as which arises from the inaccuracy of any of the foregoing or any action or failure to act by the Company in accordance with this Certificate of Designations. In addition, a determination as to any group status as contemplated above shall be determined in accordance with Section 13(d)(3) of the Exchange Act and the rules and regulations promulgated thereunder. Upon the request of a Holder, the Company shall within one Trading Day confirm orally and in writing to such Holder the number of shares of Common Stock then outstanding. In any case, the number of outstanding shares of Common Stock shall be determined after giving effect to the conversion or exercise of securities of the Company, including the Series B Preferred Shares and warrants, if any, by such Holder or its Affiliates or Attribution Parties since the date as of which such number of outstanding shares of Common Stock was reported. The "**Beneficial Ownership Limitation**" shall be 4.99% of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock issuable upon conversion of Series B Preferred Shares held by the applicable Holder. In the event that the issuance of shares of Common Stock to the Holder upon conversion of the Series B Preferred Shares results in the Holder together with any Affiliates and Attribution Parties being deemed to beneficially own, in the aggregate, a number of outstanding shares of Common Stock in excess of the Beneficial Ownership Limitation, the number of shares so issued by which the Holder's together with any of its Affiliates' and Attribution Parties' aggregate beneficial ownership of shares of Common Stock exceeds the Beneficial Ownership Limitation (the "**Excess Shares**") shall not be issued by the Company, and any Excess Shares shall be deemed not issued, and the corresponding Series B Preferred Shares shall remain outstanding and convertible. A Holder, upon notice to the Company, may increase or decrease the Beneficial Ownership Limitation provisions of this Section 3(e) applicable to its Series B Preferred Shares provided that the Beneficial Ownership Limitation in no event exceeds 9.99% of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock upon conversion of Series B Preferred Shares held by the Holder and the provisions of this Section 3(e) shall continue to apply. Any such increase in the Beneficial Ownership Limitation will not be effective until the 61st day after such notice is delivered to the Company and shall only apply to such Holder and no other Holder. The provisions of this paragraph shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this Section 3(e) to correct this paragraph (or any portion hereof) which may be defective or inconsistent with the intended Beneficial Ownership Limitation contained herein or to make changes or supplements necessary or desirable to properly give effect to such limitation. The limitations contained in this paragraph shall apply to a successor holder of Series B Preferred Shares. Notwithstanding the foregoing and for avoidance of doubt, to comply with the rules and regulations of the Principal Market, the Company shall not affect any conversion of any Series B Preferred Shares prior to the Stockholder Approval Date.

4. Adjustments.

(a) Adjustment of Conversion Rate upon Subdivision or Combination of Common Stock. With respect to any unconverted Series B Preferred Shares, if the Company at any time on or after the Initial Issuance Date subdivides (by any stock split, stock dividend, recapitalization or otherwise) one or more classes of its outstanding shares of Common Stock into a greater number of shares, the Conversion Price for any unconverted shares in effect immediately prior to such subdivision will be proportionately decreased so that the number of shares of Common Stock issuable on conversion of each Series B Preferred Share shall be increased in proportion to such increase in the aggregate number of shares of Common Stock outstanding. With respect to any unconverted Series B Preferred Shares, if the Company at any time on or after the Initial Issuance Date combines (by combination, reverse stock split or otherwise) one or more classes of its outstanding shares of Common Stock into a smaller number of shares, the Conversion Price for any unconverted shares in effect immediately prior to such combination will be proportionately increased so that the number of shares of Common Stock issuable on conversion of each Series B Preferred Share shall be decreased in proportion to such decrease in the aggregate number of shares of Common Stock outstanding. Any adjustment pursuant to this Section 4(a) shall become effective immediately after the effective date of such subdivision or combination.

(b) Rights Upon Fundamental Transactions. At any time while any Series B Preferred Shares remain outstanding, upon any subsequent conversion of any Series B Preferred Shares, the Holder shall have the right to receive, for each Conversion Share that would have been issuable upon such conversion immediately prior to the occurrence of such Fundamental Transaction (without regard to any limitation in Section 3(e) on the conversion of any Series B Preferred Shares), the number of shares of Common Stock of the successor or acquiring corporation or of the Company, if it is the surviving corporation, and any additional consideration (the "**Alternate Consideration**") receivable as a result of such Fundamental Transaction by a holder of the number of shares of Common Stock for which any Series B Preferred Shares is convertible immediately prior to such Fundamental Transaction (without regard to any limitation in Section 3(e) on the conversion of any Series B Preferred Shares). For purposes of any such conversion, the determination of the Conversion Price shall be appropriately adjusted to apply to such Alternate Consideration based on the amount of Alternate Consideration issuable in respect of one share of Common Stock in such Fundamental Transaction, and the Company shall apportion the Conversion Price among the Alternate Consideration in a reasonable manner reflecting the relative value of any different components of the Alternate Consideration. If holders of Common Stock are given any choice as to the securities, cash or property to be received in a Fundamental Transaction, then the Holder shall be given the same choice as to the Alternate Consideration it receives upon any conversion of any Series B Preferred Shares following such Fundamental Transaction. To the extent necessary to effectuate the foregoing provisions, any successor to the Company or Surviving Entity in such Fundamental Transaction shall file a new Certificate of Designations with the same terms and conditions and issue to the Holders new preferred stock consistent with the foregoing provisions and evidencing the Holders' right to convert such preferred stock into Alternate Consideration. The Company shall cause any successor entity in a Fundamental Transaction in which the Company is not the survivor (the "**Successor Entity**") to assume in writing all of the obligations of the Company under this Certificate of Designations and the other Transaction Documents (as defined in the Purchase Agreement) in accordance with the provisions of this Section 4(b) pursuant to written agreements in form and substance reasonably satisfactory to the Holder and approved by the Holder (without unreasonable delay) prior to such Fundamental Transaction and shall, at the option of the holder of any Series B Preferred Shares, deliver to the Holder in exchange for such Series B Preferred Shares a security of the Successor Entity evidenced by a written instrument substantially similar in form and substance to the Series B Preferred Shares which is convertible for a corresponding number of shares of capital stock of such Successor Entity (or its parent entity) equivalent to the shares of Common Stock acquirable and receivable upon conversion of the Series B Preferred Shares (without regard to any limitations on the conversion of the Series B Preferred Shares) prior to such Fundamental Transaction, and with a conversion price which applies the Conversion Price hereunder to such shares of capital stock (but taking into account the relative value of the shares of Common Stock pursuant to such Fundamental Transaction and the value of such shares of capital stock, such number of shares of capital stock and such Conversion Price being for the purpose of protecting the economic value of the Series B Preferred Shares immediately prior to the consummation of such Fundamental Transaction), and which is reasonably satisfactory in form and substance to the Holder. Upon the occurrence of any such Fundamental Transaction, the Successor Entity shall succeed to, and be substituted for (so that from and after the date of such Fundamental Transaction, the provisions of this Certificate of Designations and the other Transaction Documents referring to the "Company" shall refer instead to the Successor Entity), and may exercise every right and power of the Company and shall assume all of the obligations of the Company under this Certificate of Designations and the other Transaction Documents with the same effect as if such Successor Entity had been named as the Company herein.

(c) Calculations. All calculations under this Section shall be made to the nearest cent or nearest 1/100th of a share, as the case may be. For purposes of this Section 4, the nearest number of shares of Common Stock deemed to be issued and outstanding as of a given date shall be the sum of the number of shares of Common Stock (excluding any treasury shares, if any) issued and outstanding.

(d) Notice to Holder.

(i) Adjustment to Conversion Price. Whenever the Conversion Price is adjusted pursuant to any provision of this Section 4, the Company shall promptly give notice to the Holder setting forth the Conversion Price after such adjustment and any resulting adjustment to the number of Conversion Shares and setting forth a statement of the facts requiring such adjustment ("**Adjustment Notice**"). For purposes of clarification, whether or not the Company provides an Adjustment Notice pursuant to this Section, upon the occurrence of any event resulting in an adjustment hereunder, the Holder is entitled to receive a number of Conversion Shares based upon the adjusted Conversion Rate regardless of whether the Holder accurately refers to the Conversion Price in the Conversion Notice.

(ii) Notice to Allow Conversion by Holder. If (A) the Company shall declare a dividend (or any other distribution in whatever form) on the Common Stock (other than an in-kind dividend from the Volato Reserve), (B) the Company shall declare a special nonrecurring cash dividend on or a redemption of the Common Stock, (C) the Company shall authorize the granting to all holders of the Common Stock rights or warrants to subscribe for or purchase any shares of capital stock of any class or of any rights, (D) the approval of any stockholders of the Company shall be required in connection with any reclassification of the Common Stock, any consolidation or merger to which the Company is a party, any sale or transfer of all or substantially all of the assets of the Company, or any compulsory share exchange whereby the Common Stock are converted into other securities, or (E) the Company shall authorize the voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Company, then, the Company shall deliver to the Holder at its last address as it shall appear upon the books of the Company, at least 20 calendar days prior to the applicable record or effective date hereinafter specified, a notice stating (x) the date on which a record is to be taken for the purpose of such dividend, distribution, redemption, rights or warrants, or if a record is not to be taken, the date as of which the holders of the Common Stock of record to be entitled to such dividend, distributions, redemption, rights or warrants are to be determined or (y) the date on which such reclassification, consolidation, merger, sale, transfer or share exchange is expected to become effective or close, and the date as of which it is expected that holders of the Common Stock of record shall be entitled to exchange their shares of the Common Stock for securities, cash or other property deliverable upon such reclassification, consolidation, merger, sale, transfer or share exchange; provided that the failure to mail such notice or any defect therein or in the mailing thereof shall not affect the validity of the corporate action required to be specified in such notice. The Holder shall remain entitled to convert these Series B Preferred Shares during the period commencing on the date of such notice to the effective date of the event triggering such notice except as may otherwise be expressly set forth herein.

5. Authorized Shares; Other Matters.

(a) Reservation. Beginning on the Stockholder Approval Date, the Company shall reserve out of its authorized and unissued Common Stock a number of shares of Common Stock equal to 100% of the total number of Conversion Shares issuable upon full conversion of all outstanding Series B Preferred Shares pursuant to this Certificate of Designations, without giving effect to the Beneficial Ownership Limitation, as such amount may be reduced following conversions or otherwise changed pursuant to this Certificate of Designations. Following the Initial Conversion Date, so long as any of the Series B Preferred Shares are outstanding, the Company shall take all action necessary to reserve and keep available out of its authorized and unissued shares of Common Stock, solely for the purpose of effecting the conversion of the Series B Preferred Shares, as of any given date, 100% of the number of shares of Common Stock as shall from time-to-time be necessary to effect the full conversion of all of the Series B Preferred Shares then outstanding, without giving effect to the Beneficial Ownership Limitation, provided that at no time shall the number of shares of Common Stock so available be less than the number of shares required to be reserved by the previous sentence (without regard to any limitations on conversions contained in this Certificate of Designations) (the "**Required Amount**"). The initial number of shares of Common Stock reserved for conversions of the Series B Preferred Shares and each adjustment in the number of shares so reserved shall be allocated pro rata among the Holders based on the number of Series B Preferred Shares held by each Holder on the Initial Issuance Date or adjustment in the number of reserved shares (as the case may be) (the "**Authorized Share Allocation**"). In the event a Holder shall sell or otherwise transfer any of such Holder's Series B Preferred Shares, each transferee shall be allocated a pro rata portion of such Holder's Authorized Share Allocation. Any shares of Common Stock reserved and allocated to any Person which ceases to hold any Series B Preferred Shares shall be allocated to the remaining Holders of Series B Preferred Shares, pro rata based on the number of Series B Preferred Shares then held by such Holders.

(b) Insufficient Authorized Shares.

(i) The Company shall use commercially reasonable efforts to obtain the Stockholder Approval and to cause the Initial Conversion Date to occur within the minimum period of time practicable in accordance with applicable laws, rules and regulations, including those enforced or promulgated by the SEC, the Principal Market and the State of Delaware. The Company shall include proposals for Stockholder Approval and the Charter Amendment at its next annual or special meeting held after the Initial Issuance Date and at each annual or special meeting held thereafter until the Stockholder Approval and Charter Amendment have been obtained, with the Board's recommendation in favor of each such proposal.

(ii) If, notwithstanding Sections 5(a) and 5(b)(i) and not in limitation thereof, at any time following the Initial Conversion Date and while any of the Series B Preferred Shares remain outstanding the Company does not have a sufficient number of authorized and unissued shares of Common Stock to satisfy its obligation to have available for issuance upon conversion of the Series B Preferred Shares at least a number of shares of Common Stock equal to the Required Amount (an "**Authorized Share Failure**"), then the Company shall take all reasonable action necessary to increase the Company's authorized shares of Common Stock to an amount sufficient to allow the Company to reserve and have available the Required Amount for all of the Series B Preferred Shares then outstanding, and shall use commercially reasonable efforts to cause such increase to take effect within the minimum period of time practicable in accordance with applicable laws, rules and regulations, including those enforced or promulgated by the SEC, the Principal Market and the State of Delaware. In the event of any Authorized Share Failure, the Company shall comply with and follow the terms and procedures set forth in Section 5(b)(i) to obtain the requisite stockholder approval and amendment to its Certificate of Incorporation.

(iii) In the event the Company can comply with this Section 5(b) using the written consent of its stockholders in lieu of a meeting in accordance with applicable laws, rules and regulations, the Company shall pursue such consent, adhering to the requirements of the SEC and the Principal Market, to cause the Stockholder Approval or remediation of any subsequent Authorized Share Failure within the minimum amount of time practicable in compliance with applicable laws, rules and regulations, and in any event within a shorter time period than those contemplated in Sections 5(b)(i) or (ii) with respect to a meeting of its stockholders.

(c) Subsequent Rights Offerings. In addition to any adjustments pursuant to Section 4(a) above, if at any time the Company grants, issues or sells any Common Stock Equivalents (as defined below) or rights to purchase stock, warrants, securities or other property pro rata to the record holders of any class of shares of Common Stock (the "**Purchase Rights**"), then each Holder will be entitled to acquire, upon the terms applicable to such Purchase Rights, the aggregate Purchase Rights which such Holder could have acquired if such Holder had held the number of shares of Common Stock acquirable upon complete conversion of such Holder's Series B Preferred Shares (without regard to any limitations on conversion hereof, including without limitation, the Beneficial Ownership Limitation) immediately before the date on which a record is taken for the grant, issuance or sale of such Purchase Rights, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the grant, issue or sale of such Purchase Rights; provided, however, that, to the extent that such Holder's right to participate in any such Purchase Right would result in such Holder exceeding the Beneficial Ownership Limitation, then such Holder shall not be entitled to participate in such Purchase Right to such extent (or beneficial ownership of such shares of Common Stock as a result of such Purchase Right to such extent) and such Purchase Right to such extent shall be held in abeyance for such Holder until such time not to exceed 12 months as its right thereto would not result in such Holder exceeding the Beneficial Ownership Limitation provided Holder complies with all of the other obligations of a beneficiary of the Purchase Rights that would not result in Holder exceeding the Beneficial Ownership Limitation.

(d) Pro Rata Distributions. During such time as the Series B Preferred Shares are outstanding, if the Company declares or makes any dividend or other distribution of its assets (or rights to acquire its assets) to holders of shares of Common Stock, by way of return of capital or otherwise (including, without limitation, any distribution of cash, stock or other securities, property or options by way of a dividend, spin off, reclassification, corporate rearrangement, scheme of arrangement or other similar transaction, but excluding any in-kind dividend from the Volato Reserve) (a "**Distribution**"), then, in each such case, each Holder shall be entitled to participate in such Distribution to the same extent that such Holder would have participated therein if such Holder had held the number of shares of Common Stock acquirable upon complete conversion of the Holder's Series B Preferred Shares (without regard to any limitations on conversion hereof, including without limitation, the Beneficial Ownership Limitation) immediately before the date of which a record is taken for such Distribution, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the participation in such Distribution (provided, however, to the extent that any Holder's right to participate in any such Distribution would result in such Holder exceeding the Beneficial Ownership Limitation, then such Holder shall not be entitled to participate in such Distribution to such extent (or in the beneficial ownership of any shares of Common Stock as a result of such Distribution to such extent) and the portion of such Distribution shall be held in abeyance for the benefit of such Holder until such times, not in excess of 12 months, as its right thereto would not result in such Holder exceeding the Beneficial Ownership Limitation).

(e) Notwithstanding anything in this Certificate of Designations to the contrary, in the event that the Company's Common Stock is no longer listed on the NYSE American or another Eligible Market, (A) the Series B Preferred Shares may be converted subject only to the occurrence of the Charter Amendment Effectiveness Date, and (B) in such event, Holders of the Series B Preferred Shares shall be entitled to vote on an as-converted basis with the holders of shares of Common Stock (except as otherwise required by applicable law, including the DGCL) on all matters brought before the stockholders of the Company; provided, however, that Holders of Series B Preferred Shares will not be entitled to vote on any matters for which stockholder approval is sought in order to comply with the rules and regulations of the Principal Market and on which the Holders are not entitled or are precluded from voting pursuant to the rules and regulations of the Principal Market. In the event of any conflict or inconsistency between this Section 5(e) and any other provision of this Certificate of Designations (other than the last sentence of Section 3(a)), the provisions of this Section 5(e) shall prevail, and such other provisions shall be construed in a manner which most closely reflects the intent of the parties as set forth in this Section 5(e).

6. Voting Rights. Prior to the Stockholder Approval Date, Holders of the Series B Preferred Shares shall have no voting rights, except as required by law (including without limitation, the DGCL), provided, however, as long as any Series B Preferred Shares are outstanding, the Company shall not, without the affirmative vote of the Holders of a majority of the then-outstanding Series B Preferred Shares:

(a) alter or change adversely the powers, preferences or rights given to the Series B Preferred Shares or alter or amend this Certificate of Designations;

(b) amend its Certificate of Incorporation or other charter documents in any manner that adversely affects any rights of the Holders; provided, however, any increase in authorized capital or adjustments under Section 4 shall not be deemed to be adverse;

(c) increase the number of authorized shares of Series B Preferred Shares;

(d) pay cash dividends or distributions on junior securities of the Company (including but not limited to Junior Stock); or

(e) authorize, create or issue any class or series of capital stock ranking senior to or pari passu with the Series B Preferred Shares (other than the Series A Preferred Shares and Series A-1 Preferred Shares as in effect on the Initial Issuance Date), or amend the terms of the Series B Preferred Shares in a manner adverse to the Holders; or redeem or repurchase any Junior Stock;

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

Beginning on the Stockholder Approval Date, Holders of the Series B Preferred Shares shall be entitled to vote on an as-converted basis with the holders of shares of Common Stock (except as otherwise required by applicable law, including the DGCL) on all matters brought before the stockholders of the Company; provided, however, that Holders of Series B Preferred Shares will not be entitled to vote on any matters for which stockholder approval is sought in order to comply with the rules and regulations of the Principal Market and on which the Holders are not entitled or are precluded from voting pursuant to the rules and regulations of the Principal Market. After the Stockholder Approval Date, any Holder may, by written notice to the Company, elect to decline to exercise its voting rights on an as-converted basis under this Section 6 in order to avoid affiliate status.

Holders of the Series B Preferred Shares shall be entitled to written notice of all stockholder meetings or written consents (and copies of proxy materials and other information sent to stockholders), which notice shall be provided pursuant to and in accordance with the Company's Bylaws and the DGCL.

7. Liquidation Preference, Dissolution, Winding-Up. Upon any Liquidation Event, each holder of Series B Preferred Shares shall be entitled to receive, in cash out of the assets of the Company, whether from capital or from earnings available for distribution to its stockholders (the "**Liquidation Funds**"), prior and in preference to any distribution to the holders of Junior Stock, but junior to any distribution to the holders of Series A Preferred Shares, an amount equal to such holder's Stated Value per share for each Series B Preferred Share (the "**Liquidation Preference**"). Following payment in full of the Liquidation Preference, the remaining assets and proceeds available for distribution shall be distributed among the holders of Common Stock and the Holders of Series B Preferred Shares (on an as converted basis) pro rata in accordance with their respective ownership percentages. To the extent necessary, the Company shall cause such actions to be taken by each of its Subsidiaries so as to enable, to the maximum extent permitted by law, the proceeds of a Liquidation Event to be distributed to the Holders in accordance with this Section 7. All the preferential amounts to be paid to the Holders under this Section 7 shall be paid or set apart for payment before the payment or setting apart for payment of any amount for, or the distribution of any Liquidation Funds of the Company to the holders of shares of Junior Stock in connection with a Liquidation Event as to which this Section 7 applies. The Company shall mail written notice of any such Liquidation, not less than 45 days prior to the payment date stated therein, to each Holder. If the Liquidation Funds are insufficient to pay the full amount due to the Holders and holders of shares of parity stock, then each Holder and each holder of parity stock shall receive a percentage of the Liquidation Funds equal to the full amount of Liquidation Funds payable to such Holder and such holder of parity stock, in accordance with their respective certificate of designations (or equivalent), as a percentage of the full amount of Liquidation Funds payable to all holders of Series B Preferred Shares and all holders of shares of parity stock.

8. Participation. In addition to any adjustments pursuant to Section 4, the Holders shall, as holders of Series B Preferred Shares, be entitled to receive such dividends paid and distributions made to the holders of shares of Common Stock to the same extent as if such Holders had converted each Series B Preferred Share held by each of them into shares of Common Stock (without regard to any limitations on conversion herein or elsewhere) and had held such shares of Common Stock on the record date for such dividends and distributions. Payments under the preceding sentence shall be made concurrently with the dividend or distribution to the holders of shares of Common Stock (provided, however, to the extent that a Holder's right to participate in any such dividend or distribution would result in such Holder exceeding the Beneficial Ownership Limitation, then such Holder shall not be entitled to participate in such dividend or distribution to such extent (or the beneficial ownership of any such shares of Common Stock as a result of such dividend or distribution to such extent) and such dividend or distribution to such extent shall be held in abeyance for the benefit of such Holder until such time, if ever, as its right thereto would not result in such Holder exceeding the Beneficial Ownership Limitation). Notwithstanding the foregoing, the participation rights in this Section 8 shall not apply to any in-kind dividend from the Volato Reserve. Except as provided in this Section 8, no dividends shall accrue or be payable with respect to the Series B Preferred Shares.

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

10. Lost or Stolen Certificates. Upon receipt by the Company of evidence reasonably satisfactory to the Company of the loss, theft, destruction or mutilation of any certificates representing Series B Preferred Shares (as to which a written certification and the indemnification contemplated below shall suffice as such evidence), and, in the case of loss, theft or destruction, of an indemnification undertaking by the applicable Holder to the Company in customary and reasonable form and, in the case of mutilation, upon surrender and cancellation of the certificate(s), the Company shall execute and deliver new certificate(s) of like tenor and date.

11. Remedies, Characterizations, Other Obligations, Breaches and Injunctive Relief. The remedies provided in this Certificate of Designations shall be cumulative and in addition to all other remedies available under this Certificate of Designations, at law or in equity (including a decree of specific performance and/or other injunctive relief), and no remedy contained herein shall be deemed a waiver of compliance with the provisions giving rise to such remedy. Nothing herein shall limit any Holder's right to pursue actual and consequential damages for any failure by the Company to comply with the terms of this Certificate of Designations. The Company covenants to each Holder that there shall be no characterization concerning this instrument other than as expressly provided herein. Amounts set forth or provided for herein with respect to payments, conversion and the like (and the computation thereof) shall be the amounts to be received by a Holder and shall not, except as expressly provided herein, be subject to any other obligation of the Company (or the performance thereof). The Company acknowledges that a breach by it of its obligations hereunder will cause irreparable harm to the Holders and that the remedy at law for any such breach may be inadequate. The Company therefore agrees that, in the event of any such breach or threatened breach, each Holder shall be entitled, in addition to all other available remedies, to an injunction restraining any such breach or any such threatened breach, without the necessity of showing economic loss and without any bond or other security being required, to the extent permitted by applicable law. The Company shall provide all information and documentation to a Holder that is requested by such Holder to enable such Holder to confirm the Company's compliance with the terms and conditions of this Certificate of Designations.

12. Non-circumvention. The Company hereby covenants and agrees that the Company will not, by amendment of its Certificate of Incorporation, Bylaws or through any reorganization, transfer of assets, consolidation, merger, scheme of arrangement, dissolution, issue or sale of securities, or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Certificate of Designations, and will at all times in good faith carry out all the provisions of this Certificate of Designations and take all action as may be required to protect the rights of the Holders. Without limiting the generality of the foregoing or any other provision of this Certificate of Designations, the Company (i) shall take all such actions as may be necessary or appropriate in order that the Company may validly and legally issue fully paid and non-assessable shares of Common Stock upon the conversion of Series B Preferred Shares and (ii) shall, so long as any Series B Preferred Shares are outstanding, take all action necessary to reserve and keep available out of its authorized and unissued shares of Common Stock, solely for the purpose of effecting the conversion of the Series B Preferred Shares, the maximum number of shares of Common Stock as shall from time to time be necessary to effect the conversion of the Series B Preferred Shares then outstanding (without regard to any limitations on conversion contained herein).

13. Failure or Indulgence Not Waiver. No failure or delay on the part of a Holder in the exercise of any power, right or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such power, right or privilege preclude other or further exercise thereof or of any other right, power or privilege. No waiver shall be effective unless it is in writing and signed by an authorized representative of the waiving party. This Certificate of Designations shall be deemed to be jointly drafted by the Company and all Holders and shall not be construed against any Person as the drafter hereof.

14. Notices. All notices, demands, requests, consents, approvals, and other communications required or permitted hereunder shall be in writing and, unless otherwise specified herein, shall be (i) personally served, (ii) delivered by reputable air courier service with charges prepaid, next Trading Day delivery, or (iii) transmitted by email, addressed as set forth below or to such other address as such party shall have specified most recently by written notice. Any notice or other communication required or permitted to be given hereunder shall be deemed effective (a) upon hand delivery or delivery by email, with evidence of confirmation, at the address designated below (if delivered on a Trading Day during normal business hours where such notice is to be received), or the first Trading Day following such delivery (if delivered other than on a Trading Day during normal business hours where such notice is to be received) or (b) on the second Trading Day following the date of transmittal by express courier service, fully prepaid, addressed to such address. The addresses for such communications shall be: (i) if to the Company, to: 1954 Airport Road, Suite 124, Chamblee, GA 30341, Attention: Mark Heinen, Chief Financial Officer, mark.heinen@flyvolato.com; and (ii) if to the Holders, to: the addresses and email address on record with the Company.

15. Series B Preferred Shares Register. The Company shall maintain at its principal executive offices (or such other office or agency of the Company as it may designate by notice to the Holders), or shall engage the transfer agent for its common stock to maintain, a register for the Series B Preferred Shares, in which the Company shall record the name, address and email address of the Persons in whose name the Series B Preferred Shares have been issued, as well as the name and address of each transferee. The Company may treat the Person in whose name any Series B Preferred Shares are registered on the register as the owner and holder thereof for all purposes, notwithstanding any notice to the contrary, but in all events recognizing any properly made transfers.

15A. Transfer. A Holder may transfer Series B Preferred Shares to any Affiliate or in compliance with applicable securities laws, in each case without the consent of the Company.

16. Stockholder Matters; Amendment.

(a) Stockholder Matters. Any stockholder action, approval or consent required, desired or otherwise sought by the Company pursuant to the DGCL, the Certificate of Incorporation, this Certificate of Designations or otherwise with respect to the issuance of Series B Preferred Shares may be effected by written consent of the Company's stockholders or at a duly called meeting of the Company's stockholders, all in accordance with the DGCL. This provision is intended to comply with the applicable DGCL sections permitting stockholder action, approval and consent effected by written consent in lieu of a meeting.

(b) Amendment. This Certificate of Designations or any provision hereof may be amended by obtaining the affirmative vote at a meeting duly called for such purpose, or written consent without a meeting in accordance with the DGCL, of the Required Holders, voting separately as a single class, and with such other stockholder approval, if any, as may then be required pursuant to the DGCL and the Certificate of Incorporation.

17. Certain Defined Terms. For purposes of this Certificate of Designations, the following terms shall have the following meanings:

(a) "**Certificate of Designations**" means Certificate of Designations, Preferences and Rights of the Series B Convertible Preferred Stock of Volato Group, Inc.

(b) "**Charter Amendment**" means a Certificate of Amendment to the Company's Certificate of Incorporation to increase the number of authorized shares of Common Stock in an amount sufficient to provide for issuance of all Conversion Shares and for the Company to reserve a number of authorized and unissued shares of Common Stock equal to the Required Amount.

(c) "**Charter Amendment Effectiveness Date**" means the first Trading Day following effectiveness of the Charter Amendment filed with the Secretary of State of the State of Delaware.

(d) "**Closing Sale Price**" means, for any security as of any date, the last closing trade price, respectively, for such security on the Principal Market, as reported by Bloomberg, or, if the Principal Market begins to operate on an extended hours basis and does not designate the closing trade price (as the case may be) then the last trade price of such security prior to 4:00 p.m., New York, New York time, as reported by Bloomberg, or, if the NYSE American or another Eligible Market is not the Principal Market, the last trade price of such security on the principal securities exchange or Trading Market where such security is listed or traded as reported by Bloomberg, or if the foregoing do not apply, the last trade price of such security in the over-the-counter market on the electronic bulletin board for such security as reported by Bloomberg, or, if no last trade price is reported for such security by Bloomberg, the average of the bid prices, or the ask prices, respectively, of any market makers for such security as reported in the OTCID Basic Market operated by OTC Markets Group Inc. If the Closing Sale Price cannot be calculated for a security on a particular date on any of the foregoing bases, the Closing Sale Price of such security on such date shall be the fair market value as mutually determined in good faith by the Company and the applicable Holder. All such determinations shall be appropriately adjusted for any stock dividend, stock split, stock combination or other similar transaction during such period.

(e) "**Common Stock**" means (i) the Company's shares of common stock, $0.0001 par value per share, and (ii) any capital stock into which such common stock shall have been changed or any share capital resulting from a reclassification of such common stock.

(f) "**Common Stock Equivalents**" means any securities of the Company or the Subsidiaries which would entitle the holder thereof to acquire at any time Common Stock, including, without limitation, any debt, preferred stock, right, option, warrant, units or other instrument that is at any time convertible into or exercisable or exchangeable for, or otherwise entitles the holder thereof to receive, Common Stock.

(g) "**DGCL**" means the Delaware General Corporation Law.

(h) "**Eligible Market**" means The New York Stock Exchange, the NYSE American, The Nasdaq Global Select Market, The Nasdaq Global Market or The Nasdaq Capital Market.

(i) "**Exchange Act**" means the Securities Exchange Act of 1934, as amended.

(j) "**Fundamental Transaction**" shall mean that (i) the Company or any of its Subsidiaries shall, directly or indirectly, in one or more related transactions, (A) consolidate or merge with or into (whether or not the Company or any of its Subsidiaries is the surviving corporation) any other Person, or (B) the Company, directly or indirectly, effects any sale, lease, license, assignment, transfer, conveyance or other disposition of all or substantially all of its assets in one or a series of related transactions to any other Person, or (C) directly or indirectly make, or allow any other Person to make, a purchase, tender or exchange offer (whether by the Company or another Person) that is accepted by the holders of more than 50% of the outstanding shares of voting stock of the Company (not including any shares of voting stock of the Company held by the Person or Persons making or party to, or associated or affiliated with the Persons making or party to, such purchase, tender or exchange offer), or (D) the Company, directly or indirectly, in one or more related transactions, consummate a stock or share exchange agreement or other business combination (including, without limitation, a reorganization, recapitalization, spin-off or scheme of arrangement) with any other Person whereby such other Person acquires more than 50% of the outstanding shares of voting stock of the Company (not including any shares of voting stock of the Company held by the other Person or other Persons making or party to, or associated or affiliated with the other Persons making or party to, such stock or share exchange agreement or other business combination), or (E) the Company reorganizes, recapitalizes or reclassifies the Common Stock, or (ii) any "person" or "group" (as these terms are used for purposes of Sections 13(d) and 14(d) of the Exchange Act and the rules and regulations promulgated thereunder) is or shall become the "beneficial owner" (as defined in Rule 13d-3 under the Exchange Act), directly or indirectly, of 50% of the aggregate ordinary voting power represented by issued and outstanding voting stock of the Company. Notwithstanding the foregoing, the term Fundamental Transaction shall not include the transactions contemplated by the Purchase Agreement.

(k) "**Initial Issuance Date**" means the date on which the Series B Preferred Shares are issued.

(l) "**Liquidation Event**" means, whether in a single transaction or series of transactions, the voluntary or involuntary liquidation, dissolution or winding up of the Company or such Subsidiaries the assets of which constitute all or substantially all of the assets of the business of the Company and its Subsidiaries, taken as a whole. Notwithstanding the foregoing, the term Liquidation Event shall not include the transactions contemplated by the Purchase Agreement.

(m) "**Parent Entity**" of a Person means an entity that, directly or indirectly, controls the applicable Person and whose common stock or equivalent equity security is quoted or listed on an Eligible Market, or, if there is more than one such Person or Parent Entity, the Person or Parent Entity with the largest public market capitalization as of the date of consummation of the Fundamental Transaction.

(n) "**Person**" means an individual, a limited liability company, a partnership, a joint venture, a corporation, a trust, an unincorporated organization, any other entity or a government or any department or agency thereof.

(o) "**Principal Market**" means the market on which the Common Stock is listed or quoted for trading as of the date in question. As of the Initial Issuance Date, the Principal Market is the NYSE American, LLC.

(p) "**Required Holders**" means holders of at least a majority of the outstanding Series B Preferred Shares.

(q) "**SEC**" means the U.S. Securities and Exchange Commission.

(r) "**Securities**" means, collectively, the Series B Preferred Shares and the shares of Common Stock issuable upon conversion of the Series B Preferred Shares.

(s) "**Securities Act**" means the Securities Act of 1933, as amended.

(t) "**Stockholder Approval**" means (a) such approval as may be required by the applicable rules and regulations of the NYSE American, LLC (or any successor entity) from the stockholders of the Company with respect to issuance of all of the Conversion Shares upon the conversion of the Series B Preferred Shares, and (b) approval for the Company to file the Charter Amendment.

(u) "**Stockholder Approval Date**" means the first Trading Day following the Company's notice to the Holders of Stockholder Approval, which notice shall be provided within two Trading Days of the Company's receipt of Stockholder Approval. Notwithstanding anything to the contrary, such notice shall be deemed to be given by a public filing with the SEC disclosing the effectiveness of the Stockholder Approval.

(v) **"Subsidiary**" means any subsidiary of the Company and shall, where applicable, also include any direct or indirect subsidiary of the Company formed or acquired after the date hereof.

(w) "**Successor Entity**" means the Person (or, if so elected by the Required Holders, the Parent Entity) formed by, resulting from or surviving any Fundamental Transaction or the Person (or, if so elected by the Required Holders, the Parent Entity) with which such Fundamental Transaction shall have been entered into.

(x) "**Trading Day**" means any day on which the Common Stock is traded on the Principal Market, or, if the Principal Market is not the principal trading market for the Common Stock, then on the principal securities exchange or securities market on which the Common Stock is then traded, provided that "Trading Day" shall not include any day on which the Common Stock is scheduled to trade on such exchange or market for less than 4.5 hours or any day that the Common Stock is suspended from trading during the final hour of trading on such exchange or market (or if such exchange or market does not designate in advance the closing time of trading on such exchange or market, then during the hour ending at 4:00 p.m., New York, New York time) unless such day is otherwise designated as a Trading Day in writing by the Required Holders.

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

[signature page follows]

IN WITNESS WHEREOF, the Company has caused this Certificate of Designations of Volato Group, Inc. to be signed by its Chief Executive Officer on this 9th day of October, 2026.

Volato Group, Inc.

/s/ Mark Heinen

Name: Mark Heinen
Title: Chief Financial Officer

Signature Page to Certificate of Designations

EXHIBIT I

VOLATO GROUP, INC.
CONVERSION NOTICE

Reference is made to the Certificate of Designations, Preferences and Rights of the Series B Convertible Preferred Stock of Volato Group, Inc. (the "**Certificate of Designations**"). In accordance with and pursuant to the Certificate of Designations, the undersigned hereby elects to convert the number of shares of Series B Convertible Preferred Stock, $0.0001 par value per share (the "**Series B Preferred Shares**"), of Volato Group, Inc., a Delaware corporation (the "**Company**"), indicated below into shares of common stock, $0.0001 par value per share (the "**Common Stock**"), of the Company, as of the date specified below.

Date of Conversion: _____

Number of Series B Preferred Shares to be converted: _____

Tax ID Number (If applicable): _____

Conversion Price: _____

Number of shares of Common Stock to be issued: _____ _____

Please issue the shares of Common Stock into which the Series B Preferred Shares are being converted in the following name and to the following address:

Issue to: _____

Address: _____

Telephone Number: _____

Email address: _____

Holder: _____

By: _____

Title: _____

Dated:_____

Account Number (if electronic book entry transfer): _____

Transaction Code Number (if electronic book entry transfer): _____

Exhibit 10.1

Execution Version

COMMON STOCK PURCHASE AGREEMENT

This **COMMON STOCK PURCHASE AGREEMENT** is made and entered into as of October 8, 2026 (this "***Agreement***"), by and between DFU, LLC, a Delaware limited liability company (the "***Investor***"), and Volato Group, Inc., a Delaware corporation (the "***Company***").

RECITALS

WHEREAS, the parties desire that, upon the terms and subject to the conditions and limitations set forth herein, the Company may issue and sell to the Investor, from time to time as provided herein, and the Investor shall purchase from the Company, up to the lesser of (a) $1,000,000,000 and (b) 19.99% of the Company's outstanding shares of Common Stock as of the date of this Agreement, unless Stockholder Approval (defined below) is obtained to issue more than such 19.99%;

WHEREAS, in consideration for the Investor's execution and delivery of this Agreement, the Company shall cause its Transfer Agent to issue the Commitment Securities to the Investor; and

WHEREAS, the parties hereto are concurrently entering into a Registration Rights Agreement in the form attached as Exhibit A hereto (the "***Registration Rights Agreement***"), pursuant to which the Company shall provide Investor with certain registration rights related to the shares issued under this Agreement, upon the terms and subject to the conditions set forth therein.

NOW, THEREFORE, the parties hereto, intending to be legally bound, hereby agree as follows:

ARTICLE I
PURCHASE AND SALE OF COMMON STOCK

Section 1.1. Purchase and Sale of Stock. Upon the terms and subject to the conditions of this Agreement, during the Investment Period, the Company, in its sole discretion, shall have the right, but not the obligation, to issue and sell to the Investor, and the Investor shall purchase from the Company, up to the lesser of (a) $1,000,000,000 and (b) the Aggregate Limit (as defined below) of shares of Common Stock (the "***Total Purchase Commitment***"), to the extent applicable under Section 2.4, by the delivery to the Investor of a Put Notice as provided in Article II. The "***Aggregate Limit***" means (x) prior to the Stockholder Approval Date (if any), 19.99% of the Company's outstanding shares of Common Stock as of the date of this Agreement, including the Commitment Securities, which number of shares shall be reduced on a share-for-share basis by the number of shares of Common Stock issued or issuable pursuant to any transaction or series of transactions that may be aggregated with the transactions contemplated by this Agreement under the applicable rules of the Trading Market, and (y) from and after the Stockholder Approval Date, such greater number of shares of Common Stock as shall have been approved by the Company's stockholders. "***Stockholder Approval***" means the approval by the Company's stockholders of the issuance of shares of Common Stock in excess of the Aggregate Limit described in clause (x) above, to the extent required by Section 713 of the NYSE American Company Guide, and the "***Stockholder Approval Date***" means the date upon which Stockholder Approval is obtained (if at all). For the avoidance of doubt, the Total Purchase Commitment is the maximum facility size only and shall not create any obligation of the Company to sell any minimum amount of Securities, to utilize the facility or, subject to Article VII, to maintain the facility.

Section 1.2. Closing Date; Settlement Dates. This Agreement shall become effective and binding (the "***Closing***") upon (a) the delivery of counterpart signature pages of this Agreement and the Registration Rights Agreement executed by each of the parties hereto and thereto, and (b) the delivery of all other documents, instruments and writings required to be delivered at the Closing, in each case as provided in Section 6.1, to the offices of Honigman LLP, 2290 First National Building, 660 Woodward Avenue, Detroit, MI48226, at 1:00 p.m., New York City time, on the Closing Date. Notwithstanding the foregoing, the Company will not be obligated to issue the Commitment Securities until (i) the Company having filed an additional listing application with the Trading Market with respect to the Shares, Commitment Shares, and Commitment Preferred Stock (as may be required), and such application having been approved by the Trading Market, (ii) the filing of an amendment to the Company's Certificate of Incorporation with the Delaware Secretary of State in connection with the Commitment Preferred Stock (the "***Charter Amendment***") following the Company's board of directors approval of the ***Charter Amendment***, and (iii) the Charter Amendment becoming effective in accordance with applicable law, or such other time and place as the parties hereto shall agree, provided, that each of the conditions specified in (i) through (iii) have occurred. In consideration of, and in express reliance upon, the representations, warranties and covenants contained in, and upon the terms and subject to the conditions of, this Agreement, during the Investment Period the Company, at its sole option and discretion, may issue and sell to the Investor, and, if the Company elects to so issue and sell, the Investor shall purchase from the Company, the Shares in respect of each Put Notice (each, a "***Settlement***"). The payment for the Shares in respect of each Put Notice shall occur (i) on the Delivery Date or the Trading Day following the Delivery Date, and (ii) in accordance with Article II hereof; provided, that all of the conditions precedent in Article VI shall have been fulfilled at the applicable times set forth in Article VI.

Section 1.3. **Initial Public Announcements and Required Filings**. The Company shall, within the time period required under the Exchange Act, file with the Commission a Current Report on Form 8-K describing the material terms of the transactions contemplated by the Transaction Documents, including, without limitation, the potential issuance of the Commitment Securities to the Investor pursuant to the terms of this Agreement, and attaching as exhibits thereto copies of each of this Agreement, the Registration Rights Agreement, and, if applicable, any press release issued by the Company disclosing the execution of this Agreement by the Company (including all exhibits thereto, the "***Current Report***"). The Company shall provide the Investor a reasonable opportunity to comment on a draft of the Current Report prior to filing the Current Report with the Commission and shall give due consideration to all such comments. From and after the filing of the Current Report with the Commission, the Company shall have publicly disclosed all material, nonpublic information delivered to the Investor (or the Investor's representatives or agents) by the Company, any of its Subsidiaries, or any of their respective officers, directors, employees, agents or representatives (if any) in connection with the transactions contemplated by the Transaction Documents. The Investor covenants that until such time as the transactions contemplated by this Agreement are publicly disclosed by the Company as described in this Section 1.3, the Investor shall maintain the confidentiality of all disclosures made to it in connection with the transactions contemplated by the Transaction Documents (including the existence and terms of the transactions), except that the Investor may disclose the terms of such transactions to its financial, accounting, legal and other advisors (provided that the Investor directs such Persons to maintain the confidentiality of such information). The Company shall use its commercially reasonable efforts to prepare and, as soon as practicable, but in no event later than the applicable Filing Deadline, file with the Commission the Registration Statement (as defined in the Registration Rights Agreement) covering only the resale by the Investor of the Registrable Securities in accordance with the Securities Act and the Registration Rights Agreement. Subject to the foregoing limitations, the Registration Statement shall cover the full Total Purchase Commitment at signing. Additional registration statements or supplements may be filed at the Company's discretion and subject to applicable approvals, Commission and Trading Market review, available authorized shares and the Company's financing strategy. At or before 8:30 a.m. (New York City time) on the Trading Day immediately following the Effective Date of the Registration Statement, the Company shall use its commercially reasonable efforts to file with the Commission in accordance with Rule 424(b) under the Securities Act the final Prospectus to be used in connection with sales pursuant to such Registration Statement (or post-effective amendment thereto).

ARTICLE II
PURCHASE TERMS

Subject to the satisfaction or (to the extent permitted by applicable law) waiver of the conditions set forth in this Agreement, the parties agree (unless otherwise mutually agreed upon by the parties in writing) as follows:

Section 2.1. **Primary Put**. Upon the initial satisfaction of all of the conditions set forth in Section 6.2 (the "***Commencement***" and the date of initial satisfaction of all of such conditions, the "***Commencement Date***") and from time to time thereafter, subject to the satisfaction of all of the conditions set forth in Section 6.3, and on any business day selected by the Company, the Company may direct the Investor to process a Primary Put Notice to purchase Put Shares, provided that notwithstanding any other terms of this Agreement, in each instance, (i) the total number of Put Shares is not more than the Primary Maximum Put Amount for any Primary Put, (ii) the aggregate Investment Amount of all Primary Puts and Secondary Puts shall not exceed the Total Purchase Commitment; (iii) the Trading Day prior to the subject Delivery Date did not have the lowest VWAP of the Common Stock out of the prior ten (10) consecutive Trading Days, (iv) at least two (2) Trading Days have lapsed since the most recent Delivery Date of a Primary Put, (v) the aggregate Investment Amount of the Primary Put on any particular Put Date or Delivery Date does not exceed $2,000,000.00 and (vi) the Primary Put Purchase Price is not lower than the Floor Price; provided that, subject to compliance with applicable rules of the Company's Trading Market, the Investor may waive any component of the foregoing in any particular case.

Section 2.2. Secondary Put. Upon the initial satisfaction of all of the conditions set forth in Section 6.2 and Section 6.3, on the Commencement Date and from time to time thereafter, and subject to the satisfaction of all of the conditions set forth herein, on any business day selected by the Company, the Company may direct the Investor to process a Secondary Put Notice to purchase Put Shares, provided that notwithstanding any other terms of this Agreement, in each instance, (i) a Primary Put has been previously and effectively processed and its Delivery Date is the same day as the Put Notice for such Secondary Put Notice, (ii) the total number of Put Shares is not more than the Secondary Maximum Put Amount for any Secondary Put, (iii) the aggregate Investment Amount of all Primary Puts and Secondary Puts shall not exceed the Total Purchase Commitment, (iv) the aggregate Investment Amount of the Primary Put and Secondary Put on any particular Put Date or Delivery Date does not exceed $6,000,000.00, (v) all shares of Common Stock resulting from prior submitted Put Notices for Primary Puts have been delivered, and (vi) the Secondary Put Purchase Price is not lower than the Floor Price; provided that, subject to compliance with applicable rules of the Company's Trading Market, the Investor may waive any component of the foregoing in any particular case.

Section 2.3. Put Notice and Settlement Mechanics.

(a) Put Date. A Put Notice shall be deemed delivered on (i) the Trading Day it is received by e-mail by the Investor if such notice is received on or prior to 8:30 a.m. EST or (ii) the immediately succeeding Trading Day if it is received by e-mail after 8:30 a.m. EST on a Trading Day or at any time on a day which is not a Trading Day.

(b) Delivery Date. Following the delivery of a Put Notice, the Company shall deliver, or cause to be delivered, the Put Shares as DWAC Shares to the Investor within one (1) Trading Day following the Put Date.

(c) Payment Date. The payment date for a Primary Put shall be the Delivery Date or within two (2) Trading Days after the Trading Day following the Delivery Date, whereby the Investor shall deliver the Investment Amount by wire transfer of immediately available funds to an account designated by the Company. The payment date for an Secondary Put shall be the Delivery Date or within two (2) Trading Days after the Trading Day following the Delivery Date, whereby the Investor shall deliver the Investment Amount by wire transfer of immediately available funds to an account designated by the Company. In addition, on or prior to any such payment date, each of the Company and the Investor shall deliver to each other all documents, instruments and writings required to be delivered or reasonably requested by either of them pursuant to this Agreement in order to implement and effect the transactions contemplated herein.

Section 2.4. Compliance with Rules of Trading Market. The Company shall not issue or sell any shares of Common Stock pursuant to this Agreement if such issuance or sale would reasonably be expected to result in (A) a violation of the Securities Act, (B) a breach of the rules of the Trading Market, including any required NYSE American approval, supplemental listing application or additional listing approval, (C) the Company issuing Securities in excess of the Company's available authorized and unissued shares, or (D) the Company being required to obtain a charter amendment, board approval or stockholder approval that has not been obtained. No put, issuance, registration obligation, commitment-share issuance or other action shall be required to the extent it would conflict with or cause a breach under any existing or future Company financing agreement, merger agreement, lock-up, listing requirement, registration statement, charter document, board approval, stockholder approval or applicable law, rule or regulation. The provisions of this Section 2.4 shall be implemented in a manner otherwise than in strict conformity with the terms of this Section 2.4 only if necessary to ensure compliance with the Securities Act, the applicable rules of the Trading Market, the Company's charter documents and applicable law.

Section 2.5. **Beneficial Ownership Limitation**. Notwithstanding anything to the contrary contained in this Agreement, the Company shall not issue or sell, and the Investor shall not purchase or acquire, any shares of Common Stock under this Agreement which, when aggregated with all other shares of Common Stock then beneficially owned by the Investor and its Affiliates (as calculated pursuant to Section 13(d) of the Exchange Act and Rule 13d-3 promulgated thereunder), would result in the beneficial ownership by the Investor of more than 4.99% of the outstanding shares of Common Stock (the "***Beneficial Ownership Limitation***"). The Beneficial Ownership Limitation shall not limit or otherwise expand the Aggregate Limit, any exchange cap, authorized share limitation, stockholder approval requirement or other issuance limitation set forth in this Agreement. Upon the written or oral request of the Investor, the Company shall promptly (but not later than the next business day on which the Transfer Agent is open for business) confirm orally or in writing to the Investor the number of shares of Common Stock outstanding as of the most recent date for which the Transfer Agent has such information. The Investor and the Company shall each cooperate in good faith in the determinations required under this Section 2.5 and the application of this Section 2.5. The Investor's written certification to the Company of the applicability of the Beneficial Ownership Limitation, and the resulting effect thereof hereunder at any time, shall be conclusive with respect to the applicability thereof and such result absent manifest error. The provisions of this Section 2.5 shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this Section 2.5 to the extent necessary to properly give effect to the limitations contained in this Section 2.5.

Section 2.6. **Commitment Securities**. In consideration for the Investor's execution and delivery of this Agreement, the Company shall, promptly following Closing and satisfaction of the additional requirements described in Section 1.2, issue the Commitment Securities to the Investor in accordance with Section 9.1(b). Promptly following Closing, the Company shall issue to the Investor (i) 3,646,974 Commitment Shares and (ii) shares of Commitment Preferred Stock convertible into an aggregate of 56,528,082 shares of Common Stock. The Commitment Securities shall be included in the Registration Statement to the extent required by and subject to the limitations set forth in this Agreement and the Registration Rights Agreement as well as applicable federal securities laws and the rules and regulations of the Commission and the Trading Market.

ARTICLE III
REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE INVESTOR

The Investor hereby makes the following representations, warranties and covenants to the Company:

Section 3.1. **Organization and Standing of the Investor**. The Investor is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Delaware.

Section 3.2. **Authorization and Power**. The Investor has the requisite limited liability company power and authority to enter into and perform its obligations under this Agreement and the Registration Rights Agreement and to purchase or acquire the Securities in accordance with the terms hereof. The execution, delivery and performance by the Investor of this Agreement and the Registration Rights Agreement and the consummation by it of the transactions contemplated hereby and thereby have been duly authorized by all necessary limited liability company action, and no further consent or authorization of the Investor, its Board of Directors or its members is required. Each of this Agreement and the Registration Rights Agreement has been duly executed and delivered by the Investor and constitutes a valid and binding obligation of the Investor enforceable against it in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium, liquidation, conservatorship, receivership, or similar laws relating to, or affecting generally the enforcement of, creditor's rights and remedies or by other equitable principles of general application (including any limitation of equitable remedies).

Section 3.3. **No Conflicts**. The execution, delivery and performance by the Investor of this Agreement and the Registration Rights Agreement and the consummation by the Investor of the transactions contemplated hereby and thereby do not and shall not (i) result in a violation of such Investor's certificate of formation, limited liability company agreement or other applicable organizational instruments, (ii) conflict with, constitute a default (or an event which, with notice or lapse of time or both, would become a default) under, or give rise to any rights of termination, amendment, acceleration or cancellation of, any material agreement, mortgage, deed of trust, indenture, note, bond, license, lease agreement, instrument or obligation to which the Investor is a party or is bound, (iii) create or impose any lien, charge or encumbrance on any property of the Investor under any agreement or any commitment to which the Investor is party or under which the Investor is bound or under which any of its properties or assets are bound, or (iv) result in a violation of any federal, state, local or foreign statute, rule, or regulation, or any order, judgment or decree of any court or governmental agency applicable to the Investor or by which any of its properties or assets are bound or affected, except, in the case of clauses (ii), (iii) and (iv), for such conflicts, defaults, terminations, amendments, acceleration, cancellations and violations as would not, individually or in the aggregate, prohibit or otherwise interfere with, in any material respect, the ability of the Investor to enter into and perform its obligations under this Agreement and the Registration Rights Agreement. The Investor is not required under any applicable federal, state, local or foreign law, rule or regulation to obtain any consent, authorization or order of, or make any filing or registration with, any court or governmental agency in order for it to execute, deliver or perform any of its obligations under this Agreement and the Registration Rights Agreement or to purchase or acquire the Securities in accordance with the terms hereof; provided, however, that for purposes of the representation made in this sentence, the Investor is assuming and relying upon the accuracy of the relevant representations and warranties and the compliance with the relevant covenants and agreements of the Company in the Transaction Documents to which it is a party.

Section 3.4. Investment Purpose. The Investor is acquiring the Securities for its own account, for investment purposes and not with a view towards, or for resale in connection with, the public sale or distribution thereof, except pursuant to sales registered under or exempt from the registration requirements of the Securities Act; provided, however, that by making the representations herein, the Investor does not agree, or make any representation or warranty, to hold any of the Securities for any minimum or other specific term and reserves the right to dispose of the Securities at any time in accordance with, or pursuant to, a registration statement filed pursuant to the Registration Rights Agreement or an applicable exemption under the Securities Act. The Investor does not presently have any agreement or understanding, directly or indirectly, with any Person to sell or distribute any of the Securities.

Section 3.5. Accredited Investor Status. The Investor is an "accredited investor" as that term is defined in Rule 501(a) of Regulation D.

Section 3.6. Reliance on Exemptions. The Investor understands that the Securities are being offered and sold to it in reliance on specific exemptions from the registration requirements of U.S. federal and state securities laws and that the Company is relying upon the truth and accuracy of, and the Investor's compliance with, the representations, warranties, agreements, acknowledgments and understandings of the Investor set forth herein in order to determine the availability of such exemptions and the eligibility of the Investor to acquire the Securities.

Section 3.7. Information. All materials relating to the business, financial condition, management and operations of the Company and materials relating to the offer and sale of the Securities which have been requested by the Investor have been furnished or otherwise made available to the Investor or its advisors, including, without limitation, the Commission Documents. The Investor understands that its investment in the Securities involves a high degree of risk. The Investor is able to bear the economic risk of an investment in the Securities and has such knowledge and experience in financial and business matters that it is capable of evaluating the merits and risks of a proposed investment in the Securities. The Investor and its advisors have been afforded the opportunity to ask questions of and receive answers from representatives of the Company concerning the financial condition and business of the Company and other matters relating to an investment in the Securities. Neither such inquiries nor any other due diligence investigations conducted by the Investor or its advisors, if any, or its representatives shall modify, amend or affect the Investor's right to rely on the Company's representations and warranties contained in this Agreement or in any other Transaction Document to which the Company is a party or the Investor's right to rely on any other document or instrument executed and/or delivered in connection with this Agreement or the consummation of the transaction contemplated hereby (including, without limitation, the opinions of the Company's counsel delivered pursuant to Section 6.2(r)). The Investor has sought such accounting, legal and tax advice as it has considered necessary to make an informed investment decision with respect to its acquisition of the Securities. The Investor understands that it (and not the Company) shall be responsible for its own tax liabilities that may arise as a result of this investment or the transactions contemplated by this Agreement.

Section 3.8. No Governmental Review. The Investor understands that no United States federal or state agency or any other government or governmental agency has passed on or made any recommendation or endorsement of the Securities or the fairness or suitability of the investment in the Securities nor have such authorities passed upon or endorsed the merits of the offering of the Securities.

Section 3.9. No General Solicitation. The Investor is not purchasing or acquiring the Securities as a result of any form of general solicitation or general advertising (within the meaning of Regulation D) in connection with the offer or sale of the Securities.

Section 3.10. **Not an Affiliate**. The Investor is not an officer, director or an Affiliate of the Company. As of the date of this Agreement, the Investor does not beneficially own any shares of Common Stock or securities exercisable for or convertible into shares of Common Stock, and during the Restricted Period, Investor will not acquire beneficial ownership of any shares of the Company's capital stock (including shares of Common Stock or securities exercisable for or convertible into shares of Common Stock) other than pursuant to this Agreement; provided, however, that nothing in this Agreement shall prohibit or be deemed to prohibit the Investor from purchasing, in an open market transaction or otherwise, shares of Common Stock necessary to make delivery by the Investor in satisfaction of a sale by the Investor of Shares that the Investor anticipated receiving from the Company in connection with the settlement of a Put Notice, if the Company or the Transfer Agent shall have failed for any reason to electronically transfer all of the Shares subject to such Put Notice, as applicable, to the Investor by crediting the Investor's or its designated Broker-Dealer's account at DTC through its DWAC delivery system, at or prior to the applicable time required by and otherwise in compliance with Section 2.4 of this Agreement.

Section 3.11. No Prior Short Sales. At no time prior to the date of this Agreement has any of the Investor, its agents, representatives or Affiliates engaged in or effected, in any manner whatsoever, directly or indirectly, any (i) "short sale" (as such term is defined in Rule 200 of Regulation SHO of the Exchange Act) of the Common Stock or (ii) hedging transaction, which establishes a net short position with respect to the Common Stock.

Section 3.12. **Statutory Underwriter Status** The Investor acknowledges that it will be disclosed as an "underwriter" and a "selling stockholder" in the Registration Statement and in any Prospectus contained therein to the extent required by applicable law.

ARTICLE IV
REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE COMPANY

Except as set forth in the Commission Documents, the Company hereby makes the following representations, warranties and covenants to the Investor:

Section 4.1. **Organization, Good Standing and Power**. The Company and each of the Subsidiaries is an entity duly incorporated or otherwise organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation or organization, with the requisite power and authority to own and use its properties and assets and to carry on its business as currently conducted. Neither the Company nor any Subsidiary is in violation nor default of any of the provisions of its respective certificate or articles of incorporation, bylaws or other organizational or charter documents. Each of the Company and the Subsidiaries is duly qualified to conduct business and is in good standing as a foreign corporation or other entity in each jurisdiction in which the nature of the business conducted or property owned by it makes such qualification necessary, except where the failure to be so qualified or in good standing, as the case may be, could not have or reasonably be expected to result in a Material Adverse Effect and no proceeding has been instituted in any such jurisdiction revoking, limiting or curtailing or seeking to revoke, limit or curtail such power and authority or qualification.

Section 4.2. **Authorization, Enforcement**. Each of the Company and its Subsidiaries has the requisite corporate or other power and authority to enter into and perform its obligations under each of the Transaction Documents to which it is a party and, in the case of the Company, to issue the Securities in accordance with the terms hereof and thereof. Except for approvals of the Company's Board of Directors or a committee thereof as may be required in connection with any issuance and sale of Shares to the Investor hereunder (which approvals shall be obtained prior to the delivery of any Put Notice), the execution, delivery and performance by the Company of each of the Transaction Documents to which it is a party and the consummation by it of the transactions contemplated hereby and thereby have been duly and validly authorized by all necessary corporate or other action (as applicable) on the part of the Company, and no further consent or authorization of the Company or its Board of Directors or its stockholders, or any other Person is required in order for the Company to execute, deliver and perform its respective obligations under the Transaction Documents to which it is a party. Each of the Transaction Documents to which the Company is a party has been duly executed and delivered by the Company and constitutes a valid and binding obligation of the Company enforceable against the Company in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium, liquidation, conservatorship, receivership or similar laws relating to, or affecting generally the enforcement of, creditor's rights and remedies or by other equitable principles of general application (including any limitation of equitable remedies).

Section 4.3. Capitalization. All of the outstanding shares of capital stock of the Company and each of its Subsidiaries have been duly and validly authorized and issued and are fully paid and non-assessable, and, except as otherwise set forth in the Commission Documents, all outstanding shares of capital stock or membership interests of the Subsidiaries are owned by the Company either directly or through wholly owned Subsidiaries and are free and clear of any perfected security interest or any other security interests, claims, liens or encumbrances. Except as set forth in the Commission Documents and this Agreement, there are no agreements or arrangements under which the Company is obligated to register the sale of any securities under the Securities Act. Except as set forth in the Commission Documents, no shares of capital stock of the Company are entitled to preemptive rights and there are no outstanding debt securities and no contracts, commitments, understandings, or arrangements by which the Company is or may become bound to issue additional shares of the capital stock of the Company or options, warrants, scrip, rights to subscribe to, calls or commitments of any character whatsoever relating to, or securities or rights convertible into or exchangeable for, any shares of capital stock of the Company other than those issued or granted in the ordinary course of business pursuant to the Company's equity incentive and/or compensatory plans or arrangements. Except for customary transfer restrictions contained in agreements entered into by the Company to sell restricted securities or as set forth in the Commission Documents, the Company is not a party to, and it has no Knowledge of, any agreement restricting the voting or transfer of any shares of the capital stock of the Company. Except as set forth in the Commission Documents, there are no securities or instruments containing anti-dilution or similar provisions that will be triggered by this Agreement or any of the other Transaction Documents or the consummation of the transactions described herein or therein. The Company has made available via EDGAR true and correct copies of the Company's Certificate of Incorporation as in effect on the Commencement Date (the "Charter"), and the Company's Bylaws as in effect on the Commencement Date (the "Bylaws").

Section 4.4. Issuance of Securities. The Shares to be issued under this Agreement have been, or with respect to Shares to be purchased by the Investor pursuant to a particular Put Notice, will be, prior to the delivery to the Investor hereunder of such Put Notice, respectively, duly authorized by all necessary corporate action on the part of the Company. The Commitment Shares, when issued to the Investor in accordance with this Agreement, and the Shares, when issued and sold against payment therefor in accordance with this Agreement, shall be validly issued and outstanding, fully paid and non-assessable and free from all liens, charges, taxes, security interests, encumbrances, rights of first refusal, preemptive or similar rights and other encumbrances with respect to the issue thereof, and the Investor shall be entitled to all rights accorded to a holder of Common Stock. As of the date of this Agreement, the Company has duly authorized and reserved 19.99% of the Company's outstanding shares of Common Stock for issuance and sale to the Investors as Shares, Commitment Shares, and shares underlying any Commitment Securities under this Agreement as are authorized and unissued pursuant to the Company's Charter.

Section 4.5. No Conflicts. The execution, delivery and performance by the Company of each of the Transaction Documents to which it is a party and the consummation by the Company of the transactions contemplated hereby and thereby do not and shall not (i) result in a violation of any provision of the Company's Charter or Bylaws, (ii) conflict with or result in a breach or violation of any of the terms or provisions of, or constitute a default (or an event which, with notice or lapse of time or both, would become a default) under, or give rise to any rights of termination, amendment, acceleration or cancellation of, any material agreement, mortgage, deed of trust, indenture, note, bond, license, lease agreement, instrument or obligation to which the Company or of the Company's Subsidiaries is a party or is bound, (iii) create or impose a lien, charge or encumbrance on any property or assets of the Company or of the Company's Subsidiaries under any agreement or any commitment to which the Company or of the Company's Subsidiaries is a party or by which the Company or of the Company's Subsidiaries is bound or to which any of their respective properties or assets is subject, or (iv) result in a violation of any federal, state, local or foreign statute, rule, regulation, order, judgment or decree applicable to the Company or of the Company's Subsidiaries or by which any property or asset of the Company or of the Company's Subsidiaries are bound or affected (including federal and state securities laws and regulations and the rules and regulations of the Trading Market), except, in the case of clauses (ii), (iii) and (iv), for such conflicts, defaults, terminations, amendments, acceleration, cancellations, liens, charges, encumbrances and violations as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. Except as specifically contemplated by this Agreement or the Registration Rights Agreement and as required under the Securities Act and any applicable state securities laws, the Company is not required under any federal, state, local or foreign law, rule or regulation to obtain any consent, authorization or order of, or make any filing or registration with, any court or governmental agency (including, without limitation, the Trading Market) in order for it to execute, deliver or perform any of its respective obligations under the Transaction Documents to which it is a party, or to issue the Securities to the Investor in accordance with the terms hereof and thereof (other than such consents, authorizations, orders, filings or registrations as have been obtained or made prior to the Closing Date); provided, however, that, for purposes of the representation made in this sentence, the Company is assuming and relying upon the accuracy of the representations and warranties of the Investor in this Agreement and the compliance by it with its covenants and agreements contained in this Agreement and the Registration Rights Agreement.

Section 4.6. Commission Documents, Financial Statements; Disclosure Controls and Procedures; Internal Controls Over Financial Reporting; Accountants. The Company has timely filed (giving effect to permissible extensions in accordance with Rule 12b-25 under the Exchange Act) all Commission Documents for the twelve months preceding the date of this Agreement required to be filed by it (the "***Filed Commission Documents***"). The Company has delivered or made available to the Investor via EDGAR or otherwise true and complete copies of the Filed Commission Documents prior to the Closing Date. As of its filing date, each Filed Commission Document complied in all material respects with the requirements of the Securities Act or the Exchange Act, as applicable, and other federal, state and local laws, rules and regulations applicable to it, and, as of its filing date (or, if amended or superseded by a filing prior to the Closing Date, on the date of such amended or superseded filing). Each Registration Statement, on the date it is filed with the Commission, on the date it is declared effective by the Commission, on each Delivery Date, shall comply in all material respects with the requirements of the Securities Act (including, without limitation, Rule 415 under the Securities Act) and shall not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein not misleading, except that this representation and warranty shall not apply to statements in or omissions from such Registration Statement made in reliance upon and in conformity with information relating to the Investor furnished to the Company in writing by or on behalf of the Investor expressly for use therein. The Prospectus and each Prospectus Supplement required to be filed pursuant to this Agreement or the Registration Rights Agreement after the Closing Date, when taken together, on its date, on each Delivery Date, shall comply in all material respects with the requirements of the Securities Act (including, without limitation, Rule 424(b) under the Securities Act) and shall not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading, except that this representation and warranty shall not apply to statements in or omissions from the Prospectus or any Prospectus Supplement made in reliance upon and in conformity with information relating to the Investor furnished to the Company in writing by or on behalf of the Investor expressly for use therein. Each Commission Document to be filed with or furnished to the Commission after the Closing Date and filed as part of or incorporated by reference in the Registration Statement, or the Prospectus included therein or any Prospectus Supplement thereto required to be filed pursuant to this Agreement or the Registration Rights Agreement (including, without limitation, the Current Report), when such document is filed with or furnished to the Commission and, if applicable, when such document becomes effective, as the case may be, shall comply in all material respects with the requirements of the Securities Act or the Exchange Act, as applicable, and other federal, state and local laws, rules and regulations applicable to it. There are no outstanding or unresolved comments or undertakings in such comment letters received by the Company from the Commission. The Commission has not issued any stop order or other order suspending the effectiveness of any registration statement filed by the Company under the Securities Act or the Exchange Act. To the Company's Knowledge, the Commission has not commenced any enforcement proceedings against the Company or any of its Subsidiaries.

The financial statements and schedules of the Company and its consolidated Subsidiaries to be filed as part of or incorporated by reference in the Registration Statement, or the Prospectus included therein or any Prospectus Supplement thereto, present fairly in all material respects the financial condition, results of operations and cash flows of the Company and its consolidated Subsidiaries as of the dates and for the periods indicated, comply as to form with the applicable accounting requirements of Regulation S-X, and have been prepared in conformity with United States generally accepted accounting principles ("***GAAP***") applied on a consistent basis throughout the periods involved (except as otherwise noted therein). The interactive data in eXtensible Business Reporting Language included or incorporated by reference in the Filed Commission Documents fairly presents the information called for in all material respects and have been prepared in accordance with the Commission's rules and guidelines applicable thereto. The statistical and market-related data included or incorporated by reference in the Filed Commission Documents or any Registration Statement are based on or derived from sources that the Company believes, after reasonable inquiry, to be reliable and accurate and, to the extent required, the Company has obtained the written consent to the use of such data from such source.

The Company and the Subsidiaries have established and maintain disclosure controls and procedures (as such term is defined in Rule 13a-15 and 15d-15 under the Exchange Act). Except as disclosed in the Filed Commission Documents, such disclosure controls and procedures are designed to ensure that material information relating to the Company and its Subsidiaries is made known to the Company's Chief Executive Officer and its Chief Financial Officer by others within those entities, and such disclosure controls and procedures are effective to perform the functions for which they were established. The Company and the Subsidiaries have established and maintain internal control over financial reporting (as such term is defined in Rule 13a-15 and 15d-15 under the Exchange Act). Except as disclosed in the Filed Commission Documents, such internal control over financial reporting is designed 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 GAAP and to maintain accountability for assets; (C) access to assets is permitted only in accordance with management's general or specific authorization; (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 (E) the interactive data in eXtensible Business Reporting Language in the Filed Commission Documents fairly presents the information called for in all material respects and are prepared in accordance with the Commission's rules and guidelines applicable thereto. The Company's auditors and the Audit Committee of the Board of Directors of the Company have been advised of: (i) any significant deficiencies and material weaknesses in the design or operation of internal controls which could adversely affect the Company's ability to record, process, summarize, and report financial data; and (ii) any fraud, whether or not material, that involves management or other employees who have a role in the Company's internal controls. Since the date of the most recent evaluation of such disclosure controls and procedures, except as disclosed in the Filed Commission Documents, there have been (A) no material weakness in the Company's internal control over financial reporting (whether or not remediated) and (B) no significant changes in internal controls or in other factors that could significantly affect internal controls, including any corrective actions with regard to significant deficiencies.

The Company is in compliance with all applicable provisions of the Sarbanes-Oxley Act of 2002, as amended, and the rules and regulations thereunder, which are applicable to it as of the date hereof.

The Company's accountants are set forth in the Filed Commission Documents and, to the Knowledge of the Company, such accountants are an independent registered public accounting firm as required by the Securities Act.

Section 4.7. Subsidiaries. The Filed Commission Documents set forth each subsidiary (each, a "***Subsidiary***," and collectively, the "***Subsidiaries***"), of the Company as of the Commencement Date, other than those that may be omitted pursuant to Item 601 of Regulation S-K, showing its jurisdiction of incorporation or organization, and the Company does not have any other Subsidiaries as of the Commencement Date. Except as otherwise disclosed in any Commission Document, no Subsidiary of the Company is currently prohibited, directly or indirectly, from paying any dividends to the Company, from making any other distribution on such Subsidiary's capital stock, from repaying to the Company any loans or advances to such Subsidiary from the Company or from transferring any of such Subsidiary's property or assets to the Company or any other Subsidiary of the Company, except as described or incorporated by reference in, or contemplated by, the Registration Statement and the Prospectus, or as would not reasonably be expected to have a Material Adverse Effect.

Section 4.8. No Material Adverse Effect or Material Adverse Change, No Undisclosed Liabilities. Except as otherwise disclosed in any Commission Document, since the end of the Company's most recent audited fiscal year: (i) the Company has not experienced or suffered any Material Adverse Effect, and, to the Company's Knowledge, there exists no current state of facts, condition or event which would have a Material Adverse Effect; (ii) there has not occurred any material adverse change, or any development that would reasonably be expected to result in a prospective material adverse change, in the condition, financial or otherwise, or in the earnings, business or operations of the Company from that set forth in the Commission Documents, including, without limitation, as a result of the outbreak of COVID-19, or as a result of any measures intended to contain the outbreak of COVID-19 imposed by any federal, state, local or foreign government or government agency in any country or region in which the Company, or any of its agents, consultants, advisors or vendors, has assets or properties or conducts business, including, without limitation, any limitations, curtailments, suspensions or closures of businesses, business offices or establishments, schools, properties and other public areas due to quarantines, curfews, travel restrictions, workplace controls, "stay-at-home" orders, social distancing requirements or guidelines or other public gathering restrictions or limitations; (iii) neither the Company nor any of its Subsidiaries has incurred any material liability or obligation, direct or contingent, nor entered into any material transaction; (iv) the Company has not purchased any of its outstanding capital stock, nor declared, paid or otherwise made any dividend or distribution of any kind on its capital stock other than ordinary and customary dividends; and (v) there has not been any material change in the capital stock, short-term debt or long-term debt of the Company.

Neither the Company nor any of its Subsidiaries has any liabilities, obligations, claims or losses (whether liquidated or unliquidated, secured or unsecured, absolute, accrued, contingent or otherwise) that would be required to be disclosed on a balance sheet of the Company or any Subsidiary (including the notes thereto) in conformity with GAAP and are not disclosed in the Commission Documents, other than those incurred in the ordinary course of the Company's or its Subsidiaries respective businesses and which, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect.

Section 4.9. No Undisclosed Events or Circumstances. Except as otherwise disclosed in any Commission Document, no event, liability, development or circumstance has occurred or exists, or is reasonably expected to exist or occur with respect to the Company, any of its Subsidiaries or any of their respective businesses, properties, liabilities, prospects, operations (including results thereof) or condition (financial or otherwise), that (i) would be required to be disclosed by the Company under applicable securities laws in the Registration Statement or the Prospectus, which has not been disclosed or incorporated by reference in the Registration Statement and the Prospectus, or (ii) would reasonably be expected to have a Material Adverse Effect.

Section 4.10. Indebtedness. The Commission Documents set forth all outstanding secured and unsecured Indebtedness of the Company or any Subsidiary, or for which the Company or any Subsidiary has commitments through such date. For the purposes of this Agreement, "***Indebtedness***" shall mean (a) any liabilities for borrowed money or amounts owed in excess of $100,000 (other than trade accounts payable incurred in the ordinary course of business), (b) all guaranties, endorsements, indemnities and other contingent obligations in respect of Indebtedness of others in excess of $100,000, whether or not the same are or should be reflected in the Company's balance sheet (or the notes thereto), except guaranties by endorsement of negotiable instruments for deposit or collection or similar transactions in the ordinary course of business; and (c) the present value of any lease payments in excess of $100,000 due under leases required to be capitalized in accordance with GAAP. There is no existing or continuing default or event of default in respect of any Indebtedness of the Company or any of its Subsidiaries. The Company has not taken any steps, and does not currently expect to take any steps, to seek protection pursuant to Title 11 of the United States Code or any similar federal or state bankruptcy law or law for the relief of debtors, nor does the Company have any Knowledge that its creditors intend to initiate involuntary bankruptcy, insolvency, reorganization or liquidation proceedings or other proceedings for relief under Title 11 of the United States Code or any other federal or state bankruptcy law or any law for the relief of debtors.

Section 4.11. Title to Assets. The Company and each of its Subsidiaries have good and marketable title in fee simple to all real property and good and marketable title to all personal property owned by them which is material to the business of the Company, in each case free and clear of all liens, encumbrances and defects except such as are described or incorporated by reference in the Commission Documents 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 by the Company and its Subsidiaries; and any real property and buildings held under lease by the Company and its Subsidiaries are held by it under valid, subsisting and enforceable leases with such exceptions as are not material and do not interfere in any material respect with the use made and proposed to be made of such property and buildings by the Company and its Subsidiaries, in each case except as described or incorporated by reference in the Commission Documents.

Section 4.12. Actions Pending. Except as disclosed in Commission Documents, there is no action, suit, proceeding, inquiry or investigation before or by any court, public board, government agency, self-regulatory organization or body pending or, to the Knowledge of the Company, threatened against or affecting the Company or any of the Subsidiaries, or any of their respective officers or directors in their capacities as such, which would reasonably be expected to have a Material Adverse Effect.

Section 4.13. **Compliance With Laws**. During the 12-month period immediately preceding the date hereof, except as described in the Filed Commission Documents, the Company and each of its Subsidiaries is and at all times has been in material compliance with all applicable U.S. and foreign statutes, rules, or regulations applicable to Company and its Subsidiaries ("***Applicable Laws***"), except as would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

Section 4.14. **Certain Fees**. No brokerage or finder's fees or commissions are or will be payable by the Company or the Subsidiaries to any broker, financial advisor or consultant, finder, placement agent, investment banker, bank or other Person with respect to the transactions contemplated by the Transaction Documents. The Investor shall have no obligation with respect to any fees or with respect to any claims made by or on behalf of other Persons for fees of a type contemplated in this Section 4.14 incurred by the Company or the Subsidiaries that may be due or payable in connection with the transactions contemplated by the Transaction Documents.

Section 4.15. **Operation of Business**. The Company and the Subsidiaries possess or have obtained, all licenses, certificates, consents, orders, approvals, permits and other authorizations issued by, and have made all declarations and filings with, the appropriate federal, state, local or foreign governmental entity that are necessary for the ownership or lease of their respective properties or the conduct of their respective businesses as currently conducted, as described or incorporated by reference in the Commission Documents (the "***Permits***"), except where the failure to possess, obtain or make the same would not, individually or in the aggregate, have a Material Adverse Effect. Neither the Company nor any Subsidiary has received written notice of any proceeding relating to revocation or modification of any such Permit or has any reason to believe that such Permit will not be renewed in the ordinary course, except where the failure to obtain any such renewal would not, individually or in the aggregate, have a Material Adverse Effect. This Section 4.15 does not relate to environmental matters, such items being the subject of Section 4.16.

Section 4.16. **Environmental Compliance**. Other than as disclosed in the Commission Documents, to the Knowledge of the Company, the Company and its Subsidiaries are not in violation of any statute, any rule, regulation, decision or order of any governmental agency or body or any court, domestic or foreign, relating to the use, disposal or release of hazardous or toxic substances (collectively, "***Environmental Laws***"), owns or operates any real property contaminated with any substance that is subject to any Environmental Laws, is liable for any off-site disposal or contamination pursuant to any Environmental Laws, or subject to any claim relating to any Environmental Laws, which violation, contamination, liability or claim would, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect; and the Company is not aware of any pending investigation which might lead to such a claim. Other than as disclosed in the Commission Documents or set forth or incorporated by reference in the Registration Statement and the Prospectus, there is no judgment, decree, injunction, rule, writ or order of any governmental entity under any Environmental Laws outstanding against the Company and its Subsidiaries which would, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

Section 4.17. **Material Agreements**. Except as set forth in the Commission Documents, neither the Company nor any Subsidiary of the Company is a party to any written or oral contract, instrument, agreement commitment, obligation, plan or arrangement, a copy of which would be required pursuant to the Securities Act or the Exchange Act to be filed with the Commission as an exhibit to an annual report on Form 10-K (collectively, "***Material Agreements***"). Each of the Material Agreements described in the Commission Documents conform in all material respects to the descriptions thereof contained or incorporated by reference therein. Except as disclosed in the Commission Documents, the Company and each of its Subsidiaries have performed in all material respects all the obligations then required to be performed by them under the Material Agreements, have received no notice of default or an event of default by the Company or any of its Subsidiaries thereunder and are not aware of any basis for the assertion thereof, and neither the Company or any of its Subsidiaries nor, to the Knowledge of the Company, any other contracting party thereto are in default under any Material Agreement now in effect, the result of which would have a Material Adverse Effect. Each of the Material Agreements is in full force and effect, and constitutes a legal, valid and binding obligation enforceable in accordance with its terms against the Company and/or any of its Subsidiaries and, to the Knowledge of the Company, each other contracting party thereto, except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium, liquidation, conservatorship, receivership or similar laws relating to, or affecting generally the enforcement of, creditor's rights and remedies or by other equitable principles of general application.

Section 4.18. **Transactions With Affiliates**. Except as disclosed in the Commission Documents, none of the Company's officers or directors, or to the Company's Knowledge, none of the Company's stockholders or any family member or Affiliate of any of the foregoing, has either directly or indirectly an interest in, or is a party to, any transaction that would be required to be disclosed as a related party transaction pursuant to Item 404 of Regulation S-K promulgated under the Securities Act.

Section 4.19. **Intellectual Property Rights**. The Company and its Subsidiaries own or possess adequate rights or licenses to use all material trademarks, trade names, service marks, service mark registrations, service names, patents, patent rights, copyrights, inventions, licenses, approvals, governmental authorizations, trade secrets and rights necessary to conduct their respective businesses as now conducted, except as would not reasonably be expected to have a Material Adverse Effect. None of the Company's material trademarks, trade names, service marks, service mark registrations, service names, patents, patent rights, copyrights, inventions, licenses, approvals, government authorizations, trade secrets or other intellectual property rights have expired or terminated, or, by the terms and conditions thereof, will expire or terminate within two years from the date of this Agreement, except as would not reasonably be expected to have a Material Adverse Effect. The Company has no Knowledge of any infringement by the Company or the Subsidiaries of any material trademark, trade name rights, patents, patent rights, copyrights, inventions, licenses, service names, service marks, service mark registrations, trade secret or other similar rights of others, or of any such development of similar or identical trade secrets or technical information by others, and there is no claim, action or proceeding being made or brought against, or to the Company's Knowledge, being threatened against, the Company or the Subsidiaries regarding trademark, trade name, patents, patent rights, invention, copyright, license, service names, service marks, service mark registrations, trade secret or other infringement, which would reasonably be expected to have a Material Adverse Effect.

Section 4.20. **Use of Proceeds**. The proceeds from the sale of the Shares by the Company to the Investor shall be used by the Company in the manner as will be set forth in the Prospectus included in any Registration Statement (and any post-effective amendment thereto) and any Prospectus Supplement thereto filed pursuant to the Registration Rights Agreement.

Section 4.21. **Investment Company Act Status**. The Company is not required to be registered as, and immediately after receipt of payment for the Shares will not be required to be registered as, an "investment company" within the meaning of the Investment Company Act of 1940, as amended.

Section 4.22. **Benefit Plans; Labor Matters**. Each benefit and compensation plan, agreement, policy and arrangement that is maintained, administered or contributed to by the Company for current or former employees or directors of, or independent contractors with respect to, the Company has been maintained in material compliance with its terms and the requirements of any applicable statutes, orders, rules and regulations, and the Company has complied in all material respects with all applicable statutes, orders, rules and regulations in regard to such plans, agreements, policies and arrangements. Each stock option granted under any equity incentive plan of the Company (each, a "***Stock Plan***") was granted with a per share exercise price no less than the market price per common share on the grant date of such option in accordance with the rules of the Trading Market, and no such grant involved any "back-dating," "forward-dating" or similar practice with respect to the effective date of such grant; each such option (i) was granted in compliance in all material respects with Applicable Laws and with the applicable Stock Plan(s), (ii) was duly approved by or under authority granted by the Company's Board of Directors, and (iii) has been properly accounted for in the Company's financial statements and disclosed, to the extent required, in the Company's filings or submissions with the Commission, and the Trading Market. Neither the Company nor any Subsidiary is in violation of or has received written notice of any violation with respect to any federal or state law, regulation or rule relating to discrimination in the hiring, termination, promotion, employment or pay of employees, nor any applicable federal or state wages and hours law, nor any state law, regulation or rule precluding the denial of credit due to the neighborhood in which a property is situated, the violation of any of which, individually or in the aggregate, would reasonably be expected to have a Material Adverse Effect. Except as otherwise disclosed in the Commission Documents, there are no existing or, to the Knowledge of the Company, threatened labor disputes with the employees of the Company or any of the Subsidiaries that would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

Section 4.23. Taxes. Each of the Company and the Subsidiaries has filed on a timely basis (including in accordance with any applicable extensions) all material necessary federal, state, local and foreign income and franchise tax returns required to be filed through the date hereof or have properly requested extensions thereof, and have paid all taxes shown as due thereon, and if due and payable, any related or similar assessment, fine or penalty levied against the Company or the Subsidiaries. Except as disclosed in the Commission Documents, no material tax deficiency has been asserted against any such entity, and the Company has no Knowledge of any tax deficiency that is likely to be asserted against any such entity that, individually or in the aggregate, if determined adversely to any such entity, would reasonably be expected to have a Material Adverse Effect. All material tax liabilities are adequately provided for on the respective books of the Company and the Subsidiaries.

Section 4.24. Insurance. The Company and each of its Subsidiaries are insured by insurers of recognized financial responsibility against such losses and risks and in such amounts as management of the Company believes to be prudent and customary in the businesses in which the Company and its Subsidiaries are engaged, including, but not limited to, insurance covering real and personal property owned or leased by the Company and the Subsidiaries against theft, damage, destruction, environmental liabilities, acts of vandalism, terrorism, earthquakes, flood and all other risks customarily insured against, all of which insurance is in full force and effect. Neither the Company nor any such Subsidiary has been refused any insurance coverage sought or applied for and neither the Company nor any such Subsidiary has any reason to believe that it will not be able to obtain similar coverage from similar insurers as may be necessary to continue its business at a cost that would not reasonably be expected to have a Material Adverse Effect.

Section 4.25. Dilutive Effect. The Company is aware and acknowledges that issuance of the Securities could cause dilution to existing stockholders and could significantly increase the outstanding number of shares of Common Stock. The Company further acknowledges that its obligation to issue the Commitment Securities and to issue the Shares pursuant to the terms of a Put Notice in accordance with this Agreement is, in each case, unconditional regardless of the dilutive effect that such issuance may have on the ownership interests of other stockholders of the Company.

Section 4.26. Manipulation of Price. The Company has not, and to its Knowledge no Person acting on its behalf has, (i) taken, directly or indirectly, any action designed to cause or to result in the stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of any of the Securities, (ii) sold, bid for, purchased, or, paid any compensation for soliciting purchases of, any of the Securities, or (iii) paid or agreed to pay to any Person any compensation for soliciting another to purchase any other securities of the Company. Neither the Company nor any of its officers, directors or Affiliates will during the term of this Agreement, and, to the Knowledge of the Company, no Person acting on their behalf will during the term of this Agreement, take any of the actions referred to in the immediately preceding sentence.

Section 4.27. Securities Act. The Company has complied and shall comply with all applicable federal and state securities laws in connection with the offer, issuance and sale of the Securities hereunder, including, without limitation, the applicable requirements of the Securities Act. Each Registration Statement, upon filing with the Commission and at the time it is declared effective by the Commission, shall satisfy all of the requirements of the Securities Act to register the resale of the Registrable Securities included therein by the Investor in accordance with the Registration Rights Agreement on a delayed or continuous basis under Rule 415 under the Securities Act at then-prevailing market prices, and not fixed prices. The Company is not an issuer identified in, or subject to, Rule 144(i).

Section 4.28. Listing and Maintenance Requirements; DTC Eligibility. The Common Stock is registered pursuant to Section 12(b) of the Exchange Act, and the Company has taken no action designed to, or which to its Knowledge is likely to have the effect of, terminating the registration of the Common Stock pursuant to the Exchange Act nor has the Company received any notification that the Commission is currently contemplating terminating such registration. Except as disclosed in the Commission Documents, the Company has not, in the twelve (12) months preceding the date hereof, received any written notice from any Person to the effect that the Company is not in compliance with the listing or maintenance requirements of the Trading Market. Except as disclosed in the Commission Documents, the Company is in compliance with all such listing and maintenance requirements of the Trading Market. The Common Stock is eligible for participation in the DTC book entry system and has shares on deposit at DTC for transfer electronically to third parties via DTC through its DWAC delivery system. The Company has not received notice from DTC to the effect that a suspension of, or restriction on, accepting additional deposits of the Common Stock, electronic trading or book-entry services by DTC with respect to the Common Stock is being imposed or is contemplated.

Section 4.29. **Application of Takeover Protections**. The Company and its Board of Directors have taken all necessary action, if any, in order to render inapplicable any control share acquisition, business combination, poison pill (including any distribution under a rights agreement) or other similar anti-takeover provision under the Company's Charter or the laws of the State of Delaware that is or could become applicable to the Investor as a result of the Investor and the Company fulfilling their respective obligations or exercising their respective rights under the Transaction Documents (as applicable), including, without limitation, as a result of the Company's issuance of the Securities and the Investor's ownership of the Securities.

Section 4.30. **Foreign Corrupt Practices**. Neither the Company or Subsidiary, nor to the Knowledge of the Company, any agent or other Person acting on behalf of the Company, has (i) directly or indirectly, used any funds for unlawful contributions, gifts, entertainment or other unlawful expenses related to foreign or domestic political activity, (ii) made any unlawful payment to foreign or domestic government officials or employees or to any foreign or domestic political parties or campaigns from corporate funds, (iii) failed to disclose fully any contribution made by the Company (or made by any Person acting on its behalf of which the Company is aware) which is in violation of law, or (iv) violated in any material respect any provision of the Foreign Corrupt Practices Act of 1977, as amended (the "***FCPA***").

Section 4.31. **Money Laundering Laws**. The operations of the Company and its Subsidiaries are and have been conducted at all times in compliance with applicable financial recordkeeping and reporting requirements of the Currency and Foreign Transactions Reporting Act of 1970, as amended, the money laundering statutes of all jurisdictions, the rules and regulations thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any governmental agency (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 or any Subsidiary with respect to the Money Laundering Laws is pending or, to the Knowledge of the Company, threatened.

Section 4.32. **OFAC**. Neither the Company nor any of its Subsidiaries nor, to the Knowledge of the Company, any director, officer, agent, employee or Affiliate of the Company or any of its Subsidiaries (i) is currently subject to any sanctions administered by the U.S. government, including the Office of Foreign Assets Control of the U.S. Treasury Department ("***OFAC***") or the U.S. Department of State, the United Nations Security Council, the European Union, or the United Kingdom (including sanctions administered or controlled by Her Majesty's Treasury) (collectively, "***Sanctions***" and such persons, "***Sanctioned Persons***") or other relevant sanctions authority, and (ii) will use the proceeds of this offering, directly or indirectly, to fund or facilitate the activities of any Sanctioned Persons or entity or any country, region or territory that is, at the time of such funding or facilitation, subject to Sanctions or any person or entity located in a country, region or territory subject to Sanctions (including any administered or enforced by OFAC or the U.S. Department of State), the United Nations Security Council, the European Union, or the United Kingdom (including sanctions administered or controlled by Her Majesty's Treasury). Neither the Company nor any of its Subsidiaries nor, to the Knowledge of the Company, any director, officer, agent, employee or Affiliate of the Company or any of its Subsidiaries, is a Person that is, or is 50% or more owned or otherwise controlled by a Person that is: (i) the subject of any Sanctions; or (ii) located, organized or resident in a country, region or territory that is, or whose government is, the subject of Sanctions that broadly prohibit dealings with that country, region or territory (including at the time of this agreement, Cuba, Iran, North Korea, Syria and Crimea) (collectively, "***Sanctioned Countries***" and each, a "***Sanctioned Country***"). The Company and its Subsidiaries have not engaged in any dealings or transactions with or for the benefit of Sanctioned Persons, or with or in a Sanctioned Country, in the preceding three years, nor does the Company or any of its Subsidiaries have any plans to deal or transact with Sanctioned Persons, or with or in Sanctioned Countries.

Section 4.33. **Information Technology; Compliance with Data Privacy Laws**. To the Company's Knowledge and except as previously disclosed under the Commission Documents, (i) there have been no material breaches or violations of (or unauthorized access to) the Company, or the Subsidiaries' information technology assets and equipment, computers, systems, networks, hardware, software, websites, applications and databases (collectively, the "***IT Systems***") or any personal, personally identifiable, sensitive, confidential or regulated data (collectively, "***Personal Data***") processed or stored by or on behalf of the Company or the Subsidiaries, except for those that have been remedied without material cost or liability or the duty to notify any regulator, nor are there any pending internal investigations of the Company or the Subsidiaries relating to the same and (ii) the Company and the Subsidiaries are presently in compliance in all material respects with all Applicable Laws, statutes and regulations and contractual obligations relating to the privacy and security of IT Systems and Personal Data.

Section 4.34. No Disqualification Events. None of the Company, any of its predecessors, any affiliated issuer, any director, executive officer, other officer of the Company participating in the offering contemplated hereby, any beneficial owner of 20% or more of the Company's outstanding voting equity securities, calculated on the basis of voting power, nor any promoter (as that term is defined in Rule 405 under the Securities Act) connected with the Company in any capacity at the time of sale (each, an "***Issuer Covered Person***") is subject to any of the "Bad Actor" disqualifications described in Rule 506(d)(1)(i) to (viii) under the Securities Act (a "***Disqualification Event***"), except for a Disqualification Event covered by Rule 506(d)(2) or (d)(3) under the Securities Act. The Company have exercised reasonable care to determine whether any Issuer Covered Person is subject to a Disqualification Event.

Section 4.35. ERISA. Except as set forth in the Commission Documents, the Company is not a party to an "employee benefit plan," as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("***ERISA***"), which: (i) is subject to Title IV of ERISA and (ii) is or was at any time maintained, administered or contributed to by the Company or any of its ERISA Affiliates (as defined hereafter). These plans are referred to collectively herein as the "Employee Plans." An "ERISA Affiliate" of any person or entity means any other person or entity which, together with that Person or entity, could be treated as a single employer under Section 414(b), (c), (m) or (o) of the Code. Each Employee Plan has been maintained in material compliance with its terms and the requirements of Applicable Law. Except as set forth in the Commission Documents, there is no liability in respect of post-retirement health and medical benefits for retired employees of the Company or any of its ERISA Affiliates, other than medical benefits required to be continued under Applicable Law. No "prohibited transaction" (as defined in either Section 406 of ERISA or Section 4975 of the Code) has occurred with respect to any Employee Plan that could reasonably be expected to result in a Material Adverse Effect; and each Employee Plan that is intended to be qualified under Section 401(a) of the Code is so qualified, and nothing has occurred, whether by action or by failure to act, which could cause the loss of such qualification.

Section 4.36. No Other Similar Agreement. Except as disclosed in the Commission Documents, other than the Transaction Documents to which it is a party, the Company is not a party to any agreement that is (or that contains any term, obligation or restriction that is) in effect on the date hereof with any Person, other than the Investor, relating to any "at the market offering," "equity line of credit" or any other similar continuous offering in which the Company may offer, issue or sell Common Stock or Common Stock Equivalents at a future determined price.

Section 4.37. Acknowledgement Regarding Investor's Acquisition of Securities. The Company acknowledges and agrees that the Investor is acting solely in the capacity of an arm's-length purchaser with respect to this Agreement and the transactions contemplated by the Transaction Documents. The Company further acknowledges that the Investor is not acting as a financial advisor or fiduciary of the Company (or in any similar capacity) with respect to this Agreement and the transactions contemplated by the Transaction Documents, and any advice given by the Investor or any of its representatives or agents in connection therewith is merely incidental to the Investor's acquisition of the Securities. The Company further represents to the Investor that the Company's decision to enter into the Transaction Documents to which it is a party has been based solely on the independent evaluation of the transactions contemplated thereby by the Company and its representatives. The Company acknowledges and agrees that the Investor has not made and does not make any representations or warranties with respect to the transactions contemplated by this Agreement other than those specifically set forth in Article III.

ARTICLE V

ADDITIONAL COVENANTS

The Company covenants with the Investor, and the Investor covenants with the Company, as follows, which covenants of one party are for the benefit of the other party during the Investment Period (and with respect to the Company for the period following the termination of this Agreement specified in Section 7.3 pursuant to and in accordance with Section 7.3):

Section 5.1. Securities Compliance. The Company shall notify the Commission and the Trading Market, if and as applicable, in accordance with their respective rules and regulations, of the transactions contemplated by the Transaction Documents, and shall take all necessary action, undertake all proceedings and obtain all registrations, permits, consents and approvals for the legal and valid issuance of the Securities to the Investor in accordance with the terms of the Transaction Documents, as applicable.

Section 5.2. **Reservation of Common Stock**. Subject to Section 2.4 and the other limitations set forth in this Agreement and the Company's Charter the Company has available and the Company shall reserve and keep available at all times, free of preemptive and other similar rights of stockholders, sufficient shares of authorized but unissued shares of Common Stock to enable the Company to timely effect the issuance, sale and delivery of Shares and Commitment Shares pursuant to this Agreement. As of the date of this Agreement the Company has reserved, and as of the Commencement Date shall have continued to reserve, out of its authorized and unissued Common Stock, sufficient shares of Common Stock solely for the purpose of effecting Put Notices under this Agreement, and sufficient shares of Common Stock solely for the purpose of issuing the Commitment Securities. For the sake of clarity, as of the date of this Agreement the Company shall have reserved out of its authorized and unissued Common Stock, a number of shares of Common Stock equal to 19.99% of the Company's outstanding shares of Common Stock as of the date of this Agreement, for purposes of effecting Put Notices and issuing the Commitment Securities. Promptly upon receiving Stockholder Approval, the Company shall have reserved out of its authorized and unissued Common Stock, sufficient shares of Common Stock for the purpose of effecting Put Notices up to the Total Purchase Commitment and issuing all Commitment Securities. The number of shares of Common Stock so reserved for the purpose of effecting Put Notices under this Agreement may be increased from time to time by the Company from and after the Commencement Date, and such number of reserved shares may be reduced from and after the Commencement Date only by the number of Shares actually issued, sold and delivered to the Investor pursuant to any Put Notices effected from and after the Commencement Date pursuant to this Agreement.

Section 5.3. **Registration and Listing**. The Company shall use its commercially reasonable efforts to cause the Common Stock to continue to be registered as a class of securities under Sections 12(b) of the Exchange Act, and to comply with its reporting and filing obligations under the Exchange Act, and shall not take any action or file any document (whether or not permitted by the Securities Act or the Exchange Act) to terminate or suspend such registration or to terminate or suspend its reporting and filing obligations under the Exchange Act or Securities Act, except as permitted herein. The Company shall use its commercially reasonable efforts to continue the listing and trading of its Common Stock and the listing of the Securities purchased by the Investor hereunder on the Trading Market and to comply with the Company's reporting, filing and other obligations under the rules and regulations of the Trading Market. The Company shall not take any action which could be reasonably expected to result in the delisting or suspension of the Common Stock on the Trading Market. If the Company receives any final and non-appealable notice that the listing or quotation of the Common Stock on the Trading Market shall be terminated on a date certain, the Company shall promptly (and in any case within 24 hours) notify the Investor of such fact in writing and shall use its commercially reasonable efforts to cause the Common Stock to be listed or quoted on another Eligible Market.

Section 5.4. **Compliance with Laws.**

During the Investment Period, (a) the Company shall comply, and the Company shall cause each Subsidiary to comply, with all laws, rules, regulations and orders applicable to the business and operations of the Company and the Subsidiaries, except as would not have a Material Adverse Effect, and (b) the Company shall comply with all applicable provisions of the Securities Act and the Exchange Act, including Regulation M thereunder, applicable state securities or "Blue Sky" laws, and applicable listing rules of the Trading Market or Eligible Market, except as would not, individually or in the aggregate, prohibit or otherwise interfere with the ability of the Company to enter into and perform its obligations under this Agreement in any material respect or for Investor to conduct resales of Securities under the Registration Statement in any material respect. Without limiting the foregoing, none of the Company, or any of the Subsidiaries, nor to the Knowledge of the Company, any of their respective directors, officers, agents, employees or any other Persons acting on their behalf shall, in connection with the operation of the respective businesses of the Company and the Subsidiaries, (1) use any corporate funds for unlawful contributions, payments, gifts or entertainment or to make any unlawful expenditures relating to political activity to government officials, candidates or members of political parties or organizations, (2) pay, accept or receive any unlawful contributions, payments, expenditures or gifts, or (3) violate or operate in noncompliance with any export restrictions, anti-boycott regulations, embargo regulations or other applicable domestic or foreign laws and regulations, including, without limitation, the FCPA and the Money Laundering Laws.

The Investor shall comply with all laws, rules, regulations and orders applicable to the performance by it of its obligations under this Agreement and its investment in the Securities, except as would not, individually or in the aggregate, prohibit or otherwise interfere with the ability of the Investor to enter into and perform its obligations under this Agreement in any material respect. Without limiting the foregoing, the Investor shall comply with all applicable provisions of the Securities Act and the Exchange Act, including Regulation M thereunder, and all applicable state securities or "Blue Sky" laws.

Section 5.5. Keeping of Records and Books of Account; Due Diligence.

The Investor and the Company shall each maintain records showing the remaining Total Purchase Commitment, the remaining Aggregate Limit and the dates and shares sold pursuant to each Put Notice delivered hereunder.

The Investor shall have the right, from time to time as the Investor may reasonably deem appropriate, and upon reasonable advance notice to the Company, to perform reasonable due diligence on the Company during normal business hours; provided, however, that after the Closing Date, the Investor's continued due diligence of the Company shall not be a condition precedent to, or otherwise impair, delay or modify in any respect, the Company's right to deliver to the Investor any Put Notice, or the Investor's obligation to purchase the Shares subject thereto, pursuant to this Agreement. The Company and its officers and employees shall provide information on a reasonably timely basis and otherwise reasonably cooperate with the Investor in connection with any reasonable request by the Investor related to the Investor's due diligence of the Company.

Section 5.6. No Frustration; Prohibition of Certain Issuances Before Settlement of Purchases; No Similar Transactions.

a) **No Frustration.** The Company shall not enter into, announce or recommend to the Company's stockholders any agreement, plan, arrangement or transaction in or of which the terms thereof would restrict, materially delay, conflict with or impair the ability or right of the Company to perform its obligations under the Transaction Documents to which it is a party, including, without limitation, the obligation of the Company to deliver (i) the Commitment Securities to the Investor or its designee, when earned, (ii) the Shares to the Investor in respect of a Put Notice as DWAC Shares. For the avoidance of doubt, nothing in this Section 5.6(a) shall in any way limit the Company's right to terminate this Agreement in accordance with Section 7.2 (subject in all cases to Section 7.3) or restrict, condition, delay or require Investor consent for any Fundamental Transaction, any merger, acquisition, reverse merger, business combination or strategic transaction, "at-the-market" securities offerings, or, if closed within three (3) months of the date of this Agreement, securities issued in a private offering of equity or debt securities with registration rights.

b) **No Dilutive Issuances During Reference Periods.** Neither the Company nor any Subsidiary shall issue, sell or grant any right, option or warrant to purchase, or issue, sell or grant any right to reprice (or reset the purchase price therefor), or otherwise dispose of for cash (or enter into any agreement, plan or arrangement contemplating any of the foregoing, or seek to utilize any existing agreement, plan or arrangement to effect any of the foregoing), or announce any offer, issuance, sale or grant of any option or warrant to purchase or other disposition for cash (or any agreement, plan or arrangement therefor), at any time during the following periods: (i) with respect to each Put Notice which the Company has delivered to the Investor, the period beginning on the third (3rd) Trading Day immediately preceding the applicable Put Date for such Put Notice and ending on the third (3rd) Trading Day next following the Trading Day on which the Investor has delivered to the Company the applicable total purchase price for all of the Shares to be purchased by the Investor under such Put Notice pursuant to Section 2 (each such period, a "***Reference Period***"), any Common Stock or Common Stock Equivalents, at an effective price per share of Common Stock less than the applicable Put Notice Purchase Price per Share (such price, the "***Reference Price***") to be sold to the Investor under the applicable Put Notice to which such Reference Period relates (each such issuance, a "***Dilutive Issuance***"), other than an Exempt Issuance (it being understood and agreed that if the holder of the Common Stock or Common Stock Equivalents so issued shall at any time, whether by operation of purchase price adjustments, reset provisions, floating conversion, exercise or exchange prices or otherwise, or due to warrants, options or rights per share which are issued in connection with such issuance, be entitled to receive shares of Common Stock at an effective price per share of Common Stock that is less than the applicable Reference Price, such issuance shall be deemed to have occurred for less than the applicable Reference Price on such date of the Dilutive Issuance at such effective price) and the applicable Put Notice Purchase Price (as applicable) shall be reduced to equal the Reference Price. If the Company enters into a Variable Rate Transaction, the Company shall be deemed to have issued Common Stock or Common Stock Equivalents at the lowest possible conversion or exercise price at which such securities may be converted or exercised. The Investor shall be entitled to seek injunctive relief against the Company and the Subsidiaries to preclude any such Dilutive Issuance that does not constitute an Exempt Issuance, which remedy shall be in addition to any right to collect damages, without the necessity of showing economic loss and without any bond or other security being required.

c) **No Other Similar Transactions.** From and after the date of this Agreement until the termination of this Agreement pursuant to Section 7 (the "***Similar Transaction Restricted Period***"), none of the Company or any Subsidiary shall issue, sell or grant any, or otherwise dispose of or issue (or enter into any agreement, plan or arrangement contemplating any of the foregoing, or seek to utilize any existing agreement, plan or arrangement to effect any of the foregoing), or announce any offer, issuance, sale or grant or other disposition or issuance of (or any agreement, plan or arrangement therefor) any Common Stock or Common Stock Equivalents (or a combination of units thereof) in any "equity line of credit" or other similar continuous offering in which the Company may offer, issue or sell Common Stock or Common Stock Equivalents (or any combination of units thereof) at a future determined price without the consent of the Investor (such consent not to be unreasonably withheld, conditioned or delayed), other than (a) Securities issued to the Investor pursuant to this Agreement and any of the other Transaction Documents or pursuant to any other agreement entered into between the Company and the Investor at any time after the date of this Agreement, (b) securities issued in one or more "at-the-market" offerings, (c) if closed within three (3) months of the date of this Agreement securities issued in a private offering of equity or debt securities with registration rights, and (d) any securities of the Company issued upon the exercise or exchange of or conversion of any shares of Common Stock or Common Stock Equivalents held by the Investor at any time (such similar transaction other than those referred to clauses (a) through (d) hereof, a "***Similar Transaction***"). From and after the date immediately following the last day of the Similar Transaction Restricted Period, the Company and/or any Subsidiary shall be permitted to enter into an agreement, plan or arrangement to effect a Similar Transaction (and may publicly announce the same), and the Company and/or any Subsidiary shall be permitted to take all such actions necessary or as contemplated thereby in order to satisfy any conditions required thereunder to be satisfied by the Company and/or any Subsidiary in order to commence issuances and sales of Common Stock or Common Stock Equivalents (or a combination of units thereof) thereunder, including, without limitation, preparing and filing with the Commission one or more registration statements to register under the Securities Act the offer, issuance and sale by the Company of Common Stock or Common Stock Equivalents (or a combination of units thereof) thereunder, or to register the resale by any Person or Persons of Common Stock or Common Stock Equivalents (or a combination of units thereof) that may be issued or sold by the Company and/or any Subsidiary to such Person or Persons thereunder; provided, however, that none of the Company or Subsidiary may issue, sell or otherwise dispose of any shares of Common Stock or Common Stock Equivalents (or a combination of units thereof) to or through any Person or Persons thereunder prior to the date of termination of this Agreement pursuant to Section 7. The Investor shall be entitled to seek injunctive relief against the Company and the Subsidiaries to preclude any such issuance, which remedy shall be in addition to any right to collect damages, without the necessity of showing economic loss and without any bond or other security being required.

Section 5.7. Corporate Existence. The Company shall take all steps necessary to preserve and continue the corporate existence of the Company; provided, however, that, except as provided in Section 5.8, nothing in this Agreement shall be deemed to prohibit the Company from engaging in any Fundamental Transaction with another Person. For the avoidance of doubt, nothing in this Section 5.7 shall in any way limit the Company's right to terminate this Agreement in accordance with Section 7.2 (subject in all cases to Section 7.3).

Section 5.8. Fundamental Transaction. If a Put Notice has been delivered by the Company to the Investor under Article II and the applicable transaction has not yet been fully settled in accordance with this Agreement (including, without limitation, the delivery by the Investor to the Company of the applicable total purchase price for all of the Shares to be purchased by the Investor in under such Put Notice as contemplated by Article II), the Company shall not effect any Fundamental Transaction until the expiration of three (3) Trading Days following the Trading Day on which the Investor has delivered to the Company the applicable total purchase price for all of the Shares to be purchased by the Investor under such Put Notice.

Section 5.9. Selling Restrictions.

Except as expressly set forth below, the Investor covenants that from and after the Closing Date through and including the Trading Day next following the expiration or termination of this Agreement (the "***Restricted Period***"), neither the Investor nor any of its Affiliates nor any entity managed or controlled by the Investor (collectively, the "***Restricted Persons***" and each of the foregoing is referred to herein as a "***Restricted Person***") shall, directly or indirectly, (x) engage in any Short Sales involving the Company's securities or (y) grant any option to purchase, or acquire any right to dispose of or otherwise dispose for value of, any shares of Common Stock or any securities convertible into or exercisable or exchangeable for any shares of Common Stock, or enter into any swap, hedge or other similar agreement that transfers, in whole or in part, the economic risk of ownership of the Common Stock. Notwithstanding the foregoing, it is expressly understood and agreed that nothing contained herein shall (without implication that the contrary would otherwise be true) prohibit any Restricted Person during the Restricted Period from: (1) selling "long" (as defined under Rule 200 promulgated under Regulation SHO) the Securities; or (2) selling a number of shares of Common Stock equal to the number of Shares that such Restricted Person is or may be obligated to purchase under a pending Put Notice but has not yet taken possession of so long as such Restricted Person (or the Broker-Dealer, as applicable) delivers the Shares purchased pursuant to such Put Notice (as applicable) to the purchaser thereof or the applicable Broker-Dealer upon such Restricted Person's receipt of such shares of Common Stock from the Company pursuant to this Agreement.

In addition to the foregoing, in connection with any sale of Securities (including any sale permitted by the paragraph above), the Investor shall comply in all respects with all applicable laws, rules, regulations and orders, including, without limitation, the requirements of the Securities Act and the Exchange Act.

Section 5.10. Effective Registration Statement. During the Investment Period, the Company shall use its commercially reasonable efforts to maintain the continuous effectiveness of each Registration Statement filed with the Commission under the Securities Act for the applicable Registration Period (as defined in the Registration Rights Agreement) pursuant to and in accordance with the Registration Rights Agreement.

Section 5.11. Blue Sky. The Company shall take such action, if any, as is necessary by the Company in order to obtain an exemption for or to qualify the Securities for sale by the Company to the Investor pursuant to the Transaction Documents, and at the request of the Investor, the subsequent resale of Registrable Securities by the Investor, in each case, under applicable state securities or "Blue Sky" laws and shall provide evidence of any such action so taken to the Investor from time to time following the Closing Date; provided, however, that the Company shall not be required in connection therewith or as a condition thereto to (x) qualify to do business in any jurisdiction where it would not otherwise be required to qualify but for this Section 5.11, (y) subject itself to general taxation in any such jurisdiction, or (z) file a general consent to service of process in any such jurisdiction.

Section 5.12. Non-Public Information. None of the Company or of the Subsidiaries, nor any of their respective directors, officers, employees or agents shall disclose any material non-public information about the Company or the Subsidiaries to the Investor, unless a simultaneous public announcement thereof is made by the Company in the manner contemplated by Regulation FD. In the event of a breach of the foregoing covenant by the Company or of the Subsidiaries, or any of their respective directors, officers, employees and agents (as determined in the reasonable good faith judgment of the Investor), (i) the Investor shall promptly provide written notice of such breach to the Company and (ii) after such notice has been provided to the Company and, provided that the Company shall have failed to publicly disclose such material, non-public information within 24 hours following demand therefor by the Investor, in addition to any other remedy provided herein or in the other Transaction Documents, the Investor shall have the right to make a public disclosure, in the form of a press release, public advertisement or otherwise, of such material, non-public information without the prior approval by the Company, any of the Subsidiaries, or any of their respective directors, officers, employees or agents. The Investor shall not have any liability to the Company, any of the Subsidiaries, or any of their respective directors, officers, employees, stockholders or agents, for any such disclosure.

Section 5.13. Broker/Dealer. The Investor shall use one or more broker-dealers to effectuate all sales, if any, of the Shares that it may purchase or otherwise acquire from the Company pursuant to the Transaction Documents, as applicable, which (or whom) shall be unaffiliated with the Investor and not then currently engaged or used by the Company, and a DTC participant (collectively, the "***Broker-Dealer***"). The Investor shall, from time to time, provide the Company and the Transfer Agent with all information regarding the Broker-Dealer reasonably requested by the Company. The Investor shall be solely responsible for all fees and commissions of the Broker-Dealer, which shall not exceed customary brokerage fees and commissions and shall be responsible for designating only a DTC participant eligible to receive DWAC Shares.

Section 5.14. **Delivery of Bring Down Opinions and Compliance Certificates Upon Occurrence of Certain Events**. Within three (3) Trading Days immediately following the (i) filing of (A) a post-effective amendment to the Registration Statement required to be filed by the Company with the Commission pursuant to the Registration Rights Agreement, (B) a New Registration Statement required to be filed by the Company with the Commission pursuant to Section 2(c) of the Registration Rights Agreement, or (C) a post-effective amendment to a New Registration Statement required to be filed by the Company with the Commission pursuant to Section 2(c) of the Registration Rights Agreement, in each case with respect to a fiscal year ending after the Commencement Date, to register the resale of Securities by the Investor under the Securities Act pursuant to this Agreement and the Registration Rights Agreement, and (ii) the date the Company files with the Commission (A) a Prospectus Supplement to the Prospectus contained in the Registration Statement under the Securities Act, (B) an annual report on Form 10-K under the Exchange Act with respect to a fiscal year ending after the Commencement Date, (C) an amendment on Form 10-K/A to an annual report on Form 10-K under the Exchange Act with respect to a fiscal year ending after the Commencement Date, which contains amended material financial information (or a restatement of material financial information) or an amendment to other material information contained in a previously filed Form 10-K, and (D) a Commission Document under the Exchange Act (other than those referred to in clauses (ii)(A) and (ii)(B) of this Section 5.15), which contains amended material financial information (or a restatement of material financial information) or an amendment to other material information contained or incorporated by reference in the Registration Statement, or the Prospectus or any Prospectus Supplement contained in the Registration Statement (it being hereby acknowledged and agreed that the filing by the Company with the Commission of a quarterly report on Form 10-Q that includes only updated financial information as of the end of the Company's most recent fiscal quarter shall not, in and of itself, constitute an "amendment" or "restatement" for purposes of clause (ii) of this Section 5.15), in each case of this clause (ii) if the Company is not also then required under the Securities Act to file a post-effective amendment to the Registration Statement or a post-effective amendment to any New Registration Statement, in each case with respect to a fiscal year ending after the Commencement Date, to register the resale of Securities by the Investor under the Securities Act pursuant to this Agreement and the Registration Rights Agreement, and in any case of this clause (ii), not more than once per calendar quarter, the Company shall (I) deliver to the Investor a Compliance Certificate, dated such date, and (II) cause to be furnished to the Investor an opinion "bring down" from outside counsel to the Company substantially in the form mutually agreed to by the Company and the Investor prior to the date of this Agreement, modified, as necessary, to relate to such Registration Statement or post-effective amendment, or the Prospectus contained therein as then amended or supplemented by such Prospectus Supplement, as applicable (each such opinion, a "***Bring Down Opinion***").

Section 5.15. **DTC Chill**. If the Common stock is chilled for deposit at DTC, becomes chilled, or receives a Stop Sign or other trading restrictions at any point while this Agreement remains outstanding, an additional 10% discount will be attributed to the price per Share at which each Put Notice is made and the Investor shall be entitled to deduct from such payment for the Shares an amount equal to $1,500 for each Put Notice to cover costs associated with the deposit of chilled or otherwise trade restricted stocks for each issuance.

ARTICLE VI
CONDITIONS TO CLOSING AND CONDITIONS TO THE SALE AND PURCHASE OF THE SHARES

Section 6.1. **Conditions Precedent to Closing**. The Closing is subject to the satisfaction of each of the conditions set forth in this Section 6.1 on the Closing Date.

a) **Accuracy of the Investor's Representations and Warranties**. The representations and warranties of the Investor contained in this Agreement (a) that are not qualified by "materiality" shall be true and correct in all material respects as of the Closing Date, except to the extent such representations and warranties are as of another date, in which case, such representations and warranties shall be true and correct in all material respects as of such other date and (b) that are qualified by "materiality" shall be true and correct as of the Closing Date, except to the extent such representations and warranties are as of another date, in which case, such representations and warranties shall be true and correct as of such other date.

b) **Accuracy of the Company's Representations and Warranties**. The representations and warranties of the Company contained in this Agreement (a) that are not qualified by "materiality" or "Material Adverse Effect" shall be true and correct in all material respects as of the Closing Date, except to the extent such representations and warranties are as of another date, in which case, such representations and warranties shall be true and correct in all material respects as of such other date and (b) that are qualified by "materiality" or "Material Adverse Effect" shall be true and correct as of the Closing Date, except to the extent such representations and warranties are as of another date, in which case, such representations and warranties shall be true and correct as of such other date.

c) **Reserved.**

d) **Closing Deliverables**. At the Closing, counterpart signature pages of this Agreement and the Registration Rights Agreement executed by each of the parties hereto shall be delivered as provided in Section 1.2. Simultaneously with the execution and delivery of this Agreement and the Registration Rights Agreement, the Investor's counsel shall have received the closing certificate from the Company, dated as of the Closing Date, in the form of Exhibit B hereto.

Section 6.2. Conditions Precedent to Commencement. The right of the Company to commence delivering Put Notice under this Agreement, and the obligation of the Investor to accept Put Notice to the Investor by the Company under this Agreement, are subject to the initial satisfaction, at the time of Commencement, of each of the conditions set forth in this Section 6.2.

d) **Accuracy of the Company's Representations and Warranties**. The representations and warranties of the Company contained in this Agreement (a) that are not qualified by "materiality" or "Material Adverse Effect" shall have been true and correct in all material respects when made and shall be true and correct in all material respects as of the Commencement Date with the same force and effect as if made on such date, except to the extent such representations and warranties are as of another date, in which case, such representations and warranties shall be true and correct in all material respects as of such other date and (b) that are qualified by "materiality" or "Material Adverse Effect" shall have been true and correct when made and shall be true and correct as of the Commencement Date with the same force and effect as if made on such date, except to the extent such representations and warranties are as of another date, in which case, such representations and warranties shall be true and correct as of such other date.

e) **Performance of the Company**. The Company shall have performed, satisfied and complied in all material respects with all covenants, agreements and conditions required by this Agreement and the Registration Rights Agreement to be performed, satisfied or complied with by the Company at or prior to the Commencement. The Company shall deliver to the Investor on the Commencement Date the compliance certificate substantially in the form attached hereto as Exhibit C (the "***Compliance Certificate***").

f) **No Material Notices**. None of the following events shall have occurred and be continuing: (a) receipt of any request by the Commission or any other federal or state governmental authority for any additional information relating to the Prospectus Supplement, or the Prospectus contained therein or any Prospectus Supplement thereto, or for any amendment of or supplement to the Prospectus Supplement, the Prospectus contained therein or any Prospectus Supplement thereto; (b) the issuance by the Commission or any other federal or state governmental authority of any stop order suspending the effectiveness of the Prospectus Supplement or prohibiting or suspending the use of the Prospectus contained therein or any Prospectus Supplement thereto, or of the suspension of qualification or exemption from qualification of the Securities for offering or sale in any jurisdiction, or the initiation or contemplated initiation of any proceeding for such purpose; or (c) the occurrence of any event or the existence of any condition or state of facts, which makes any statement of a material fact made in the Prospectus Supplement, the Prospectus contained therein or any Prospectus Supplement thereto untrue or which requires the making of any additions to or changes to the statements then made in the Prospectus Supplement, the Prospectus contained therein or any Prospectus Supplement thereto in order to state a material fact required by the Securities Act to be stated therein or necessary in order to make the statements then made therein (in the case of the Prospectus or any Prospectus Supplement, in light of the circumstances under which they were made) not misleading, or which requires an amendment to the Prospectus Supplement or a supplement to the Prospectus contained therein or any Prospectus Supplement thereto to comply with the Securities Act or any other law. The Company shall not have any Knowledge of any event that would reasonably be expected to have the effect of causing the suspension of the effectiveness of the Prospectus Supplement or the prohibition or suspension of the use of the Prospectus contained therein or any Prospectus Supplement thereto in connection with the resale of the Registrable Securities by the Investor.

g) **Other Commission Filings**. The Current Report shall have been filed with the Commission as required pursuant to Section 1.3. The final Prospectus included in any post-effective amendment to the Prospectus Supplement, and any Prospectus Supplement thereto, required to be filed by the Company with the Commission pursuant to Section 1.3 and the Registration Rights Agreement after the Commencement Date and prior to the applicable Delivery Date shall have been filed with the Commission in accordance with Section 1.3 and the Registration Rights Agreement. The final Prospectus included in any New Registration Statement and in any post-effective amendment thereto, and any Prospectus Supplement thereto, required to be filed by the Company with the Commission pursuant to Section 1.3 and the Registration Rights Agreement after the Commencement Date and prior to the applicable Delivery Date shall have been filed with the Commission in accordance with Section 1.3 and the Registration Rights Agreement. All reports, schedules, registrations, forms, statements, information and other documents required to have been filed by the Company with the Commission pursuant to the reporting requirements of the Exchange Act, including all material required to have been filed pursuant to Section 13(a) or 15(d) of the Exchange Act, after the Commencement Date and prior to the applicable Delivery Date shall have been filed with the Commission and, if any Registrable Securities are covered by a Registration Statement on Form S-3, such filings shall have been made within the applicable time period prescribed for such filing under the Exchange Act.

h) **No Suspension of Trading in or Notice of Delisting of Common Stock**. Trading in the Common Stock shall not have been suspended by the Commission, the Trading Market or the FINRA (except for any suspension of trading of limited duration agreed to by the Company, which suspension shall be terminated prior to the Commencement Date), the Company shall not have received any final and non-appealable notice that the listing or quotation of the Common Stock on the Trading Market shall be terminated on a date certain (unless, prior to such date certain, the Common Stock is listed or quoted on any other Eligible Market), nor shall there have been imposed any suspension of, or restriction on, accepting additional deposits of the Common Stock, electronic trading or book-entry services by DTC with respect to the Common Stock that is continuing, the Company shall not have received any notice from DTC to the effect that a suspension of, or restriction on, accepting additional deposits of the Common Stock, electronic trading or book-entry services by DTC with respect to the Common Stock is being imposed or is contemplated (unless, prior to such suspension or restriction, DTC shall have notified the Company in writing that DTC has determined not to impose any such suspension or restriction).

i) **Compliance with Laws**. The Company shall have complied in all material respects with all applicable federal, state and local governmental laws, rules, regulations and ordinances in connection with the execution, delivery and performance of this Agreement and the other Transaction Documents to which it is a party and the consummation of the transactions contemplated hereby and thereby, including, without limitation, the Company shall have obtained all permits and qualifications required by any applicable state securities or "Blue Sky" laws for the offer and sale of the Securities by the Company to the Investor and the subsequent resale of the Registrable Securities by the Investor (or shall have the availability of exemptions therefrom).

j) **No Injunction**. No statute, regulation, order, decree, writ, ruling or injunction shall have been enacted, entered, promulgated, threatened or endorsed by any court or governmental authority of competent jurisdiction which prohibits the consummation of, or which would materially modify or delay any of the transactions contemplated by, the Transaction Documents.

k) **No Proceedings or Litigation**. No action, suit or proceeding before any arbitrator or any court or governmental authority shall have been commenced, and no inquiry or investigation by any governmental authority shall have been commenced, against the Company or any Subsidiary, or any of the officers, directors or Affiliates of the Company or any Subsidiary, seeking to restrain, prevent or change the transactions contemplated by the Transaction Documents, or seeking material damages in connection with such transactions.

l) **Listing of Securities**. All of the Securities that have been and may be issued pursuant to this Agreement shall have been approved for listing or quotation on the Trading Market as of the Commencement Date, subject only to notice of issuance.

m) **No Material Adverse Effect.** No condition, occurrence, state of facts or event constituting a Material Adverse Effect shall have occurred and be continuing.

n) **No Bankruptcy Proceedings.** No Person shall have commenced a proceeding against the Company pursuant to or within the meaning of any Bankruptcy Law. The Company shall not have, pursuant to or within the meaning of any Bankruptcy Law, (a) commenced a voluntary case, (b) consented to the entry of an order for relief against it in an involuntary case, (c) consented to the appointment of a Custodian of the Company for all or substantially all of the Company's property, or (d) made a general assignment for the benefit of its creditors. A court of competent jurisdiction shall not have entered an order or decree under any Bankruptcy Law that (I) is for relief against the Company in an involuntary case, (II) appoints a Custodian of the Company for all or substantially all of the Company's property, or (III) orders the liquidation of the Company or of the Subsidiaries.

o) **Reserved.**

p) **Delivery of Commencement Irrevocable Transfer Agent Instructions and Notice of Effectiveness**. The Commencement Irrevocable Transfer Agent Instructions shall have been executed by the Company and delivered to and acknowledged in writing by the Transfer Agent, and the Notice of Effectiveness relating to the Registration Statement shall have been executed by the Company's outside counsel and delivered to the Transfer Agent.

q) **Reservation of Shares**. As of the Commencement Date, the Company shall have reserved out of its authorized and unissued Common Stock, shares of Common Stock solely for the purpose of effecting Put Notices under this Agreement up to the maximum amount of shares authorized and unissued pursuant to the Charter.

r) **Opinions of Company Counsel**. On the Commencement Date, the Investor shall have received the opinion and negative assurances from outside counsel to the Company, dated the Commencement Date, in the forms mutually agreed to by the Company and the Investor prior to the date of this Agreement.

Section 6.3. Conditions Precedent to Purchases by Investor. The right of the Company to deliver Put Notices under this Agreement after the Commencement Date, and the obligation of the Investor to accept Put Notices under this Agreement after the Commencement Date, are subject to the satisfaction of each of the conditions set forth in this Section 6.3 at the time of delivery of the applicable Put Notice to the Investor and the applicable Delivery Date (each such time, a "***Notice Delivery Time***").

a) **Satisfaction of Certain Prior Conditions**. Each of the conditions set forth in subsections (a), (b), and (g) through (n) set forth in Section 6.2 shall be satisfied at the applicable Notice Delivery Time after the Commencement Date (with the terms "Commencement" and "Commencement Date" in the conditions set forth in subsections (a) and (b) of Section 6.2 replaced with "applicable Notice Delivery Time"); provided, however, that the Company shall not be required to deliver the Compliance Certificate after the Commencement Date, except as provided in Section 5.1 and Section 6.2(b).

b) **Any Required New Registration Statement Effective**. Any New Registration Statement covering the resale by the Investor of the Registrable Securities, included therein, and any post-effective amendment thereto, required to be filed by the Company with the Commission pursuant to the Registration Rights Agreement after the Commencement Date and prior to the applicable Delivery Date, in each case shall have been declared effective under the Securities Act by the Commission and shall remain effective for the applicable Registration Period, and the Investor shall be permitted to utilize the Prospectus therein, and any Prospectus Supplement thereto, to resell (a) all of the then-issued Commitment Securities (if any) included in such New Registration Statement, and any post-effective amendment thereto, (b) all of the Shares included in such New Registration Statement, and any post-effective amendment thereto, that have been issued and sold to the Investor hereunder pursuant to all Put Notices delivered by the Company to the Investor prior to such applicable Delivery Date and (c) all of the Shares included in such new Registration Statement, and any post-effective amendment thereto, that are issuable pursuant to the applicable Put Notices delivered by the Company to the Investor with respect to such transaction.

c) **Delivery of Subsequent Irrevocable Transfer Agent Instructions and Notice of Effectiveness**. With respect to any post-effective amendment to the Registration Statement or any post-effective amendment to any Registration Statement, in each case declared effective by the Commission after the Commencement Date, the Company shall have delivered or caused to be delivered to the Transfer Agent (a) irrevocable instructions in the form substantially similar to the Commencement Irrevocable Transfer Agent Instructions executed by the Company and acknowledged in writing by the Transfer Agent and (b) the Notice of Effectiveness, in each case modified as necessary to refer to such Registration Statement or post-effective amendment and the Registrable Securities included therein, to issue the Registrable Securities included therein as DWAC Shares in accordance with the terms of this Agreement and the Registration Rights Agreement.

d) **No Material Notices**. None of the following events shall have occurred and be continuing: (a) receipt of any request by the Commission or any other federal or state governmental authority for any additional information relating to the Registration Statement or any post-effective amendment thereto, or any New Registration Statement or any post-effective amendment thereto, or the Prospectus contained in any of the foregoing or any Prospectus Supplement thereto; (b) the issuance by the Commission or any other federal or state governmental authority of any stop order suspending the effectiveness of any Registration Statement or any post-effective amendment thereto, or prohibiting or suspending the use of the Prospectus contained in any of the foregoing or any Prospectus Supplement thereto, or of the suspension of qualification or exemption from qualification of the Securities for offering or sale in any jurisdiction, or the initiation or contemplated initiation of any proceeding for such purpose; or (c) the occurrence of any event or the existence of any condition or state of facts, which makes any statement of a material fact made in the Registration Statement or any post-effective amendment thereto, or the Prospectus contained in any of the foregoing or any Prospectus Supplement thereto untrue or which requires the making of any additions to or changes to the statements then made in the Registration Statement or any post-effective amendment thereto, or the Prospectus contained in any of the foregoing or any Prospectus Supplement thereto in order to state a material fact required by the Securities Act to be stated therein or necessary in order to make the statements then made therein (in the case of the Prospectus or any Prospectus Supplement, in light of the circumstances under which they were made) not misleading, or which requires an amendment or any post-effective amendment thereto, any New Registration Statement or any post-effective amendment thereto, or the Prospectus contained in any of the foregoing or any Prospectus Supplement thereto to comply with the Securities Act or any other law (other than the transactions contemplated by the applicable Put Notices). The Company shall not have any Knowledge of any event that would reasonably be expected to have the effect of causing the suspension of the effectiveness of the Registration Statement or any post-effective amendment thereto, or the prohibition or suspension of the use of the Prospectus contained in any of the foregoing or any Prospectus Supplement thereto in connection with the resale of the Registrable Securities by the Investor.

e) **Other Commission Filings**. The final Prospectus included in any post-effective amendment to any Prospectus required to be filed by the Company with the Commission pursuant to Section 1.3 and the Registration Rights Agreement after the Commencement Date and prior to the applicable Delivery Date shall have been filed with the Commission in accordance with Section 1.3 and the Registration Rights Agreement. The final Prospectus included in any New Registration Statement and in any post-effective amendment thereto, and any Prospectus Supplement thereto, required to be filed by the Company with the Commission pursuant to Section 1.3 and the Registration Rights Agreement after the Commencement Date and prior to the applicable Delivery Date shall have been filed with the Commission in accordance with Section 1.3 and the Registration Rights Agreement. All reports, schedules, registrations, forms, statements, information and other documents required to have been filed by the Company with the Commission pursuant to the reporting requirements of the Exchange Act, including all material required to have been filed pursuant to Section 13(a) or 15(d) of the Exchange Act, after the Commencement Date and prior to the applicable Delivery Date shall have been filed with the Commission and, if any Registrable Securities are covered by a Registration Statement on Form S-3, such filings shall have been made within the applicable time period prescribed for such filing under the Exchange Act.

f) **No Suspension of Trading in or Notice of Delisting of Common Stock**. Trading in the Common Stock shall not have been suspended by the Commission, the Trading Market or FINRA (except for any suspension of trading of limited duration agreed to by the Company, which suspension shall be terminated prior to the applicable Put Date), the Company shall not have received any final and non-appealable notice that the listing or quotation of the Common Stock on the Trading Market shall be terminated on a date certain (unless, prior to such date certain, the Common Stock is listed or quoted on any other Eligible Market), nor shall there have been imposed any suspension of, or restriction on, accepting additional deposits of the Common Stock, electronic trading or book-entry services by DTC with respect to the Common Stock that is continuing, the Company shall not have received any notice from DTC to the effect that a suspension of, or restriction on, accepting additional deposits of the Common Stock, electronic trading or book-entry services by DTC with respect to the Common Stock is being imposed or is contemplated (unless, prior to such suspension or restriction, DTC shall have notified the Company in writing that DTC has determined not to impose any such suspension or restriction).

g) **Certain Limitations.** The issuance and sale of the Shares issuable pursuant to the applicable Put Notices shall not (a) exceed the applicable Total Purchase Commitment or (b) cause the Aggregate Limit or the Beneficial Ownership Limitation to be exceeded.

h) **Shares Authorized and Delivered.** All of the Shares issuable pursuant to the applicable Put Notices shall have been duly authorized by all necessary corporate action of the Company. All Shares relating to all prior Put Notices required to have been received by the Investor as DWAC Shares under this Agreement prior to the applicable Notice Delivery Time for the applicable Put Notice shall have been delivered to the Investor as DWAC Shares in accordance with this Agreement.

i) **Bring Down Opinions of Company Counsel**. The Investor shall have received (a) all Bring Down Opinions from outside counsel to the Company for which the Company was obligated to instruct their outside counsel to deliver to the Investor prior to the applicable Notice Delivery Time for the applicable Put Notice and (b) all Compliance Certificates from the Company that the Company was obligated to deliver to the Investor prior to the applicable Notice Delivery Time for the applicable Put Notice, in each case in accordance with Section 5.15.

ARTICLE VII
TERMINATION

Section 7.1. Automatic Termination; Termination by Consent. Unless earlier terminated as provided hereunder, this Agreement shall terminate automatically, without any further action or notice by any Person, on the earliest to occur of (i) the date that is 36 months after the Effective Date, (ii) the expiration of the Registration Statement pursuant to Rule 415(a)(5) of the Securities Act, (iii) the date on which the Investor shall have purchased the Aggregate Limit of Shares pursuant to this Agreement, (iv) the date on which the Common Stock shall have failed to be listed or quoted on the Trading Market or any Eligible Market, (v) the thirtieth (30th) Trading Day next following the date on which, pursuant to or within the meaning of any Bankruptcy Law, the Company commences a voluntary case or any Person commences a proceeding against the Company, in each case that is not discharged or dismissed prior to such thirtieth (30th) Trading Day, and (vi) the date on which, pursuant to or within the meaning of any Bankruptcy Law, a Custodian is appointed for the Company or for all or substantially all of its property, or the Company makes a general assignment for the benefit of its creditors. Subject to Section 7.3, this Agreement may be terminated at any time by the mutual written consent of the parties, effective as of the date of such mutual written consent unless otherwise provided in such written consent.

Section 7.2. Other Termination. Subject to Section 7.3, the Company may terminate this Agreement at any time effective upon one (1) Trading Day's prior written notice to the Investor in accordance with Section 9.4, without penalty, premium, make-whole, unused facility fee or other payment obligation; provided, however, that no properly submitted and accepted Put Notice is then pending, and subject only to the Company's obligation to issue any Commitment Securities that have become earned and payable pursuant to Section 2.6 and to pay the Investor Expense Reimbursement if and when payable pursuant to Section 9.1. Prior to issuing any press release, or making any public statement or announcement, with respect to such termination, the Company shall afford the Investor and its counsel a reasonable opportunity to review and comment on the form and substance of such press release or other disclosure; provided, that the Company shall not disclose the Investor's identity without the Investor's prior written consent unless required by law, Commission rule or stock exchange regulation. Subject to Section 7.3, this Agreement may be terminated at any time by the mutual written consent of the parties, effective as of the date of such mutual written consent unless otherwise provided in such written consent. Subject to Section 7.3, the Investor shall have the right to terminate this Agreement effective upon ten (10) Trading Days' prior written notice to the Company in accordance with Section 9.4, if: (a) any condition, occurrence, state of facts or event constituting a Material Adverse Effect has occurred and is continuing; (b) a Fundamental Transaction shall have occurred; (c) the Registration Statement is not filed by the applicable Filing Deadline therefor or declared effective by the Commission by the applicable Effectiveness Deadline (as defined in the Registration Rights Agreement) therefor, or the Company is otherwise in breach or default in any material respect under any of the other provisions of the Registration Rights Agreement, and, if such failure, breach or default is capable of being cured, such failure, breach or default is not cured within 10 Trading Days after notice of such failure, breach or default is delivered to the Company pursuant to Section 9.4; (d) while a Registration Statement, or any post-effective amendment thereto, is required to be maintained effective pursuant to the terms of the Registration Rights Agreement and the Investor holds any Registrable Securities, the effectiveness of such Registration Statement, or any post-effective amendment thereto, lapses for any reason (including, without limitation, the issuance of a stop order by the Commission) or such Registration Statement or any post-effective amendment thereto, the Prospectus contained therein or any Prospectus Supplement thereto otherwise becomes unavailable to the Investor for the resale of all of the Registrable Securities included therein in accordance with the terms of the Registration Rights Agreement, and such lapse or unavailability continues for a period of 20 consecutive Trading Days, other than due to acts of the Investor; (e) trading in the Common Stock on the Trading Market (or if the Common Stock is then listed or quoted on an Eligible Market, trading in the Common Stock on such Eligible Market) shall have been suspended and such suspension continues for a period of five (5) consecutive Trading Days; or (f) the Company is in material breach or default of this Agreement, and, if such breach or default is capable of being cured, such breach or default is not cured within 10 Trading Days after notice of such breach or default is delivered to the Company (as applicable) pursuant to Section 9.4. Unless notification thereof is required elsewhere in this Agreement (in which case such notification shall be provided in accordance with such other provision), the Company shall promptly (but in no event later than 24 hours) notify the Investor (and, if required under Applicable Law, including, without limitation, Regulation FD promulgated by the Commission, or under the applicable rules and regulations of the Trading Market (or if the Common Stock is then listed on an Eligible Market, the rules and regulations of such Eligible Market), the Company shall publicly disclose such information in accordance with Regulation FD and the applicable rules and regulations of the Trading Market, or the applicable rules and regulations of such Eligible Market, as applicable) upon becoming aware of any of the events set forth in the immediately preceding sentence.

Section 7.3. Effect of Termination. In the event of termination by the Company or the Investor (other than by mutual termination) pursuant to Section 7.2, written notice thereof shall forthwith be given to the other party as provided in Section 9.4 and the transactions contemplated by this Agreement shall be terminated without further action by either party. If this Agreement is terminated as provided in Section 7.1 or Section 7.2, this Agreement shall become void and of no further force and effect, except that (i) the provisions of Article VIII (Indemnification), Article IX (Miscellaneous) and this Article VII (Termination) shall remain in full force and effect indefinitely notwithstanding such termination and (ii) so long as the Investor owns any Securities, the covenants and agreements of the Company contained in Article V (Covenants) shall remain in full force and effect for a period of six (6) months following such termination. Notwithstanding anything in this Agreement to the contrary, no termination of this Agreement by any party shall (i) become effective prior to the first Trading Day immediately following the settlement date related to any pending Put Notices that has been properly submitted and accepted and has not been fully settled in accordance with the terms and conditions of this Agreement (it being hereby acknowledged and agreed that no termination of this Agreement shall limit, alter, modify, change or otherwise affect any of the parties' respective rights or obligations under the Transaction Documents with respect to any such pending Put Notices, and that the parties shall fully perform their respective obligations with respect to any such pending Put Notices under the Transaction Documents, provided all of the conditions to the settlement thereof set forth in Article VI are timely satisfied), (ii) limit, alter, modify, change or otherwise affect the parties' respective rights or obligations under the Registration Rights Agreement, all of which shall survive any such termination, (iii) affect the Investor Expense Reimbursement paid to the Investor, all of which shall be non-refundable when paid as of the Closing Date pursuant to Section 9.1(a), regardless of whether any Put Notices are made or settled hereunder or any subsequent termination of this Agreement, or (iv) affect any Commitment Securities previously issued or delivered, or any rights of any holder thereof. Nothing in this Section 7.3 shall be deemed to release the Company or the Investor from any liability for any breach or default under this Agreement or any of the other Transaction Documents to which it is a party, or to impair the respective rights of the Company and the Investor to compel specific performance by the other party of its obligations under the Transaction Documents to which it is a party.

ARTICLE VIII
INDEMNIFICATION

Section 8.1. Indemnification of Investor. In consideration of the Investor's execution and delivery of this Agreement and acquiring the Securities hereunder and in addition to all of the other respective obligations of the Company under the Transaction Documents to which it is a party, subject to the provisions of this Section 8.1, the Company shall indemnify and hold harmless the Investor, each of its directors, officers, shareholders, members, partners, employees, representatives, agents and advisors (and any other Persons with a functionally equivalent role of a Person holding such titles notwithstanding the lack of such title or any other title), each Person, if any, who controls the Investor (within the meaning of Section 15 of the Securities Act or Section 20(a) of the Exchange Act), and the respective directors, officers, shareholders, members, partners, employees, representatives, agents and advisors (and any other Persons with a functionally equivalent role of a Person holding such titles notwithstanding the lack of such title or any other title) of such controlling Persons (each, an "***Investor Party***"), from and against all losses, liabilities, obligations, claims, contingencies, damages, costs and expenses (including all judgments, amounts paid in settlement, court costs, reasonable attorneys' fees and costs of defense and investigation) (collectively, "***Damages***") that any Investor Party may suffer or incur as a result of or relating to (a) any breach of any of the representations, warranties, covenants or agreements made by the Company in this Agreement or in the other Transaction Documents to which it is a party or (b) any action, suit, claim or proceeding (including for these purposes a derivative action brought on behalf of the Company) instituted against such Investor Party arising out of or resulting from the execution, delivery, performance or enforcement of the Transaction Documents, other than claims for indemnification within the scope of Section 6 of the Registration Rights Agreement; provided, however, that (x) the foregoing indemnity shall not apply to any Damages to the extent, but only to the extent, that such Damages resulted directly and primarily from any acts or failures to act, undertaken or omitted to be taken by such Investor Party through its fraud, bad faith, gross negligence, or willful or reckless misconduct. Provided further, the Company shall not be liable under this Section 8.1(a) to the extent that a court of competent jurisdiction shall have determined by a final judgment (from which no further appeals are available) that such loss, claim, damage, liability or expense resulted directly and solely from any such acts or failures to act, undertaken or omitted to be taken by the Investor or such Person through its gross negligence or willful misconduct, (B) the foregoing indemnity shall not apply to any loss, claim, damage, liability or expense to the extent, but only to the extent, arising out of or based upon any untrue statement or alleged untrue statement or omission or alleged omission made in reliance upon and in conformity with written information furnished to the Company by or on behalf of the Investor expressly for use in the Current Report, Registration Statement, Prospectus, or any Prospectus Supplement, or any amendment thereof or supplement thereto, and (C) with respect to the Prospectus, the foregoing indemnity shall not inure to the benefit of the Investor or any such Person from whom the Person asserting any loss, claim, damage, liability or expense purchased Common Stock, if copies of all Prospectus Supplements required to be filed pursuant to Section 1.3, together with the Base Prospectus, were timely delivered or made available to the Investor pursuant hereto and a copy of the Base Prospectus, together with a Prospectus Supplement (as applicable), was not sent or given by or on behalf of the Investor or any such Person to such Person, if required by law to have been delivered, at or prior to the written confirmation of the sale of the Common Stock to such Person, and if delivery of the Base Prospectus, together with a Prospectus Supplement (as applicable), would have cured the defect giving rise to such loss, claim, damage, liability or expense.

The Company shall reimburse any Investor Party promptly upon demand (with accompanying presentation of documentary evidence) for all legal and other costs and expenses reasonably incurred by such Investor Party in connection with (i) any action, suit, claim or proceeding, whether at law or in equity, to enforce compliance by the Company with any provision of the Transaction Documents to which it is a party or (ii) any other any action, suit, claim or proceeding, whether at law or in equity, with respect to which it is entitled to indemnification under this Section 8.1; provided that the Investor shall promptly reimburse the Company for all such legal and other costs and expenses to the extent a court of competent jurisdiction determines that any Investor Party was not entitled to such reimbursement.

An Investor Party's right to indemnification or other remedies based upon the representations, warranties, covenants and agreements of the Company set forth in the Transaction Documents to which it is a party shall not in any way be affected by any investigation or knowledge of such Investor Party. Such representations, warranties, covenants and agreements shall not be affected or deemed waived by reason of the fact that an Investor Party knew or should have known that any representation or warranty might be inaccurate or that the Company failed to comply with any agreement or covenant. Any investigation by such Investor Party shall be for its own protection only and shall not affect or impair any right or remedy hereunder.

To the extent that the foregoing joint and several undertakings by the Company set forth in this Section 8.1 may be unenforceable for any reason, the Company shall make the maximum contribution to the payment and satisfaction of each of the Damages which is permissible under Applicable Law.

Section 8.2. Indemnification Procedures. Promptly after an Investor Party receives notice of a claim or the commencement of an action for which the Investor Party intends to seek indemnification under Section 8.1, the Investor Party will notify the Company in writing of the claim or commencement of the action, suit or proceeding; provided, however, that failure to notify the Company will not relieve the Company from liability under Section 8.1, except to the extent it has been materially prejudiced by the failure to give notice. The Company will be entitled to participate in the defense of any claim, action, suit or proceeding as to which indemnification is being sought, and if the Company acknowledges in writing the obligation to indemnify the Investor Party against whom the claim or action is brought, the Company may (but will not be required to) assume the defense against the claim, action, suit or proceeding with counsel reasonably satisfactory to such Investor Party. After the Company notifies the Investor Party that the Company wishes to assume the defense of a claim, action, suit or proceeding, the Company will not be liable for any further legal or other expenses incurred by the Investor Party in connection with the defense against the claim, action, suit or proceeding except that if, in the opinion of counsel to the Investor Party, it would be inappropriate under the applicable rules of professional responsibility for the same counsel to represent both the Company and such Investor Party. In such event, the Company will pay the reasonable fees and expenses of no more than one separate counsel for all such Investor Parties promptly as such fees and expenses are incurred. Each Investor Party, as a condition to receiving indemnification as provided in Section 8.1, will cooperate in all reasonable respects with the Company in the defense of any action or claim as to which indemnification is sought. The Company will not be liable for any settlement of any action effected without its prior written consent, which consent shall not be unreasonably withheld, delayed or conditioned. The Company will not, without the prior written consent of the Investor Party, effect any settlement of a pending or threatened action with respect to which an Investor Party is, or is informed that it may be, made a party and for which it would be entitled to indemnification, unless the settlement includes an unconditional release of the Investor Party from all liability and claims which are the subject matter of the pending or threatened action.

The remedies provided for in this Article VIII are not exclusive and shall not limit any rights or remedies which may otherwise be available to any Investor Party at law or in equity.

ARTICLE IX
MISCELLANEOUS

Section 9.1. Certain Fees and Expenses; Commitment Securities; Commencement Irrevocable Transfer Agent Instructions.

a) **Certain Fees and Expenses**. Each party shall bear its own fees and expenses related to the transactions contemplated by this Agreement; provided, however, that upon the closing of the Transaction, the Company shall pay, by wire transfer of immediately available funds to an account designated by the Investor, documented, reasonable third-party legal expenses for the preparation, negotiation, execution and delivery of the Transaction Documents by the Investor, not to exceed $35,000 (such amount, the "***Investor Expense Reimbursement***"). No Investor Expense Reimbursement shall be payable solely upon execution of this Agreement, and no additional documentation, diligence, structuring, break-up, termination or similar fee shall be payable unless expressly agreed in the definitive agreements. The Company shall pay all U.S. federal, state and local stamp and other similar transfer and other taxes and duties levied in connection with issuance of the Securities pursuant hereto.

b) **Commitment Securities**. In consideration for the Investor's execution and delivery of this Agreement, the Company shall issue the Commitment Securities to the Investor or its designee in accordance with Section 2.6 of this Agreement. The Commitment Shares shall be priced at the Closing Sale Price of the Company's Common Stock on the Trading Day immediately prior to the date hereof. The Commitment Securities shall constitute Registrable Securities and shall be included in the Registration Statement and any post-effective amendment thereto, in each case in accordance with and subject to the limitations set forth in this Agreement, the Registration Rights Agreement, applicable federal securities laws, and the rules and regulations of the Commission and the Trading Market.

c) **Irrevocable Transfer Agent Instructions; Notice of Effectiveness**. On the date the Commitment Shares become earned and payable pursuant to Section 2.6, the Company shall cause the Transfer Agent to credit the Investor's or its designee's account at DTC as DWAC Shares such number of shares of Common Stock equal to the number of Commitment Shares issued to the Investor pursuant to Sections 2.6 and 9.1(b). The Company shall take all actions to carry out the intent and accomplish the purposes of the immediately preceding sentence, including, without limitation, delivering all such legal opinions, consents, certificates, resolutions and instructions to the Transfer Agent, and any successor transfer agent of the Company, as may be requested from time to time by the Investor or necessary or desirable to carry out the intent and accomplish the purposes of the immediately preceding sentence. Upon the effectiveness of the Registration Statement, the Company shall deliver or cause to be delivered to the Transfer Agent (and thereafter, shall deliver or cause to be delivered to any subsequent transfer agent of the Company), (i) irrevocable instructions executed by the Company and acknowledged in writing by the Transfer Agent (the "***Commencement Irrevocable Transfer Agent Instructions***") and (ii) the notice of effectiveness in the form attached as an exhibit to the Registration Rights Agreement (the "***Notice of Effectiveness***"), in each case directing the Transfer Agent to issue to the Investor or its designee all of the Registrable Securities covered thereby as DWAC Shares in accordance with this Agreement and the Registration Rights Agreement. With respect to any post-effective amendment to the Registration Statement or any post-effective amendment to any New Registration Statement, in each case declared effective by the Commission after the Commencement Date, the Company shall deliver or cause to be delivered to the Transfer Agent (and thereafter, shall deliver or cause to be delivered to any subsequent transfer agent of the Company) (i) irrevocable instructions in the form substantially similar to the Commencement Irrevocable Transfer Agent Instructions executed by the Company and acknowledged in writing by the Transfer Agent and (ii) the Notice of Effectiveness, in each case modified as necessary to refer to such Registration Statement or post-effective amendment and the Registrable Securities included therein. For the avoidance of doubt, all Shares and Commitment Shares to be issued from and after Commencement to or for the benefit of the Investor pursuant to this Agreement shall be issued to the Investor or its designee only as DWAC Shares. The Company represents and warrants to the Investor that, while this Agreement is effective, no instruction other than those referred to in this Section 9.1(c) will be given by the Company to the Transfer Agent, or any successor transfer agent of the Company, with respect to the Shares and the Commitment Shares from and after Commencement, and the Shares and the Commitment Shares (as applicable) covered by any New Registration Statement or post-effective amendment thereof, as applicable, shall otherwise be freely transferable on the books and records of the Company and no stop transfer instructions shall be maintained against the transfer thereof. The Company agrees that if the Company fails to fully comply with the provisions of this Section 9.1(c) within three (3) Trading Days after the date on which the Investor has provided the deliverables referred to above that the Investor is required to provide to the Company or the Transfer Agent, the Company shall, at the Investor's written instruction, purchase from the Investor all shares of Common Stock purchased or acquired by the Investor pursuant to this Agreement that contain restrictive legends at the greater of (i) the purchase price paid for such shares of Common Stock (as applicable) and (ii) the Closing Sale Price of the Common Stock on the date of the Investor's written instruction.

Section 9.2. Specific Enforcement, Consent to Jurisdiction, Waiver of Jury Trial.

The Company and the Investor acknowledge and agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that the Company, on the one hand, and the Investor, on the other hand, shall be entitled to an injunction or injunctions to prevent or cure breaches of the provisions of this Agreement by the other party and to enforce specifically the terms and provisions hereof (without the necessity of showing economic loss and without any bond or other security being required), this being in addition to any other remedy to which either party may be entitled by law or equity.

Each of the Company and the Investor (a) hereby irrevocably submits to the jurisdiction of the U.S. District Court and other courts of the United States sitting in the State of Delaware for the purposes of any suit, action or proceeding arising out of or relating to this Agreement, and (b) hereby waives, and agrees not to assert in any such suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of such court, that the suit, action or proceeding is brought in an inconvenient forum or that the venue of the suit, action or proceeding is improper. Each of the Company and the Investor consents to process being served in any such suit, action or proceeding by mailing a copy thereof to such party at the address in effect for notices to it under this Agreement and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing in this Section 9.2 shall affect or limit any right to serve process in any other manner permitted by law.

(i) EACH OF THE COMPANY AND THE INVESTOR HEREBY WAIVES TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT TO ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR DISPUTES RELATING HERETO. EACH OF THE COMPANY AND THE INVESTOR (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 9.2.

Section 9.3. Entire Agreement. The Transaction Documents set forth the entire agreement and understanding of the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements, negotiations and understandings between the parties, both oral and written, with respect to such matters. There are no promises, undertakings, representations or warranties by either party relative to subject matter hereof not expressly set forth in the Transaction Documents. All exhibits to this Agreement are hereby incorporated by reference in, and made a part of, this Agreement as if set forth in full herein.

Section 9.4. Notices. Any notice, demand, request, waiver or other communication required or permitted to be given hereunder shall be in writing and shall be effective (a) upon hand delivery or electronic mail delivery at the address or number designated below (if delivered on a business day during normal business hours where such notice is to be received), or the first business day following such delivery (if delivered other than on a business day during normal business hours where such notice is to be received) or (b) on the second business day following the date of mailing by express courier service, fully prepaid, addressed to such address, or upon actual receipt of such mailing, whichever shall first occur. The address for such communications shall be:

If to the Company:

Volato Group, Inc.
954 Airport Road Suite 124
Chamblee, GA 30341
Attention: Chief Executive Officer
E-mail: chris.ensey@aligned.co

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

Dykema Gossett PLLC
111 E. Kilbourn Avenue
Suite 1050
Milwaukee, WI 53202
Attention: Kate Bechen
Email: kbechen@dykema.com

If to the Investor:

DFU, LLC
411 Dorado BCH E
Dorado, PR 00646
Attention: Adam Long
Email:

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

Honigman LLP
2290 First National Building
660 Woodward Avenue
Detroit, MI482267
Attention: Michael J. Rosenberg and N. Danny Shulman.
Email: MRosenberg@honigman.com and NShulman@honigman.com

Either party hereto may from time to time change its address for notices by giving at least five (5) days' advance written notice of such changed address to the other party hereto.

Section 9.5. Waivers. No provision of this Agreement may be waived by the parties from and after the date that is one (1) Trading Day immediately preceding the filing of the Registration Statement with the Commission. Subject to the immediately preceding sentence, no provision of this Agreement may be waived other than in a written instrument signed by the party against whom enforcement of such waiver is sought. No failure or delay in the exercise of any power, right or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such power, right or privilege preclude other or further exercises thereof or of any other right, power or privilege.

Section 9.6. Amendments. No provision of this Agreement may be amended by the parties from and after the date that is one (1) Trading Day immediately preceding the filing of the Registration Statement with the Commission. Subject to the immediately preceding sentence, no provision of this Agreement may be amended other than by a written instrument signed by both parties hereto.

Section 9.7. Headings. The article, section and subsection headings in this Agreement are for convenience only and shall not constitute a part of this Agreement for any other purpose and shall not be deemed to limit or affect any of the provisions hereof. Unless the context clearly indicates otherwise, each pronoun herein shall be deemed to include the masculine, feminine, neuter, singular and plural forms thereof. The terms "including," "includes," "include" and words of like import shall be construed broadly as if followed by the words "without limitation." The terms "herein," "hereunder," "hereof" and words of like import refer to this entire Agreement instead of just the provision in which they are found.

Section 9.8. Construction. The parties agree that each of them and their respective counsel has reviewed and had an opportunity to revise the Transaction Documents and, therefore, the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of the Transaction Documents. In addition, each and every reference to share prices and number of shares of Common Stock in any Transaction Document shall, in all cases, be subject to adjustment for any stock splits, stock combinations, stock dividends, recapitalizations, reorganizations and other similar transactions that occur on or after the date of this Agreement. Any reference in this Agreement to "Dollars" or "$" shall mean the lawful currency of the United States of America. Any references to "Section" or "Article" in this Agreement shall, unless otherwise expressly stated herein, refer to the applicable Section or Article of this Agreement.

Section 9.9. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors. Neither the Company nor the Investor may assign this Agreement or any of their respective rights or obligations hereunder to any Person.

Section 9.10. No Third Party Beneficiaries. Except as expressly provided in Article VIII, this Agreement is intended only for the benefit of the parties hereto and their respective successors, and is not for the benefit of, nor may any provision hereof be enforced by, any other Person.

Section 9.11. Governing Law. This Agreement shall be governed by and construed in accordance with the internal procedural and substantive laws of the State of Delaware, without giving effect to the choice of law provisions of such state that would cause the application of the laws of any other jurisdiction.

Section 9.12. Survival. The representations, warranties, covenants and agreements of the Company and the Investor contained in this Agreement shall survive the execution and delivery hereof until the termination of this Agreement; provided, however, that (i) the provisions of Article IV (Representations and Warranties of the Company), Article VII (Termination), Article VIII (Indemnification) and this Article IX (Miscellaneous) shall remain in full force and effect indefinitely notwithstanding such termination, (ii) so long as the Investor owns any Securities, the covenants and agreements of the Company and the Investor contained in Article V (Covenants), other than Section 5.9, shall remain in full force and effect notwithstanding such termination for a period of six (6) months following such termination, and (iii) Section 5.9 shall survive until the expiration of the Restricted Period.

Section 9.13. Counterparts. This Agreement may be executed in two or more identical counterparts, all of which shall be considered one and the same agreement and shall become effective when counterparts have been signed by each party and delivered to the other party; provided that a facsimile signature or signature delivered by e-mail in a ".pdf" format data file, including any electronic signature complying with the U.S. federal ESIGN Act of 2000, e.g., www.docusign.com, www.echosign.adobe.com, etc., shall be considered due execution and shall be binding upon the signatory thereto with the same force and effect as if the signature were an original signature.

Section 9.14. Publicity. The Company shall afford the Investor and its counsel with a reasonable opportunity to review and comment upon, shall consult with the Investor and its counsel on the form and substance of, and shall give due consideration to all such comments from the Investor or its counsel on, any press release, Commission filing or any other public disclosure made by or on behalf of the Company relating to the Investor, its purchases hereunder or any aspect of the Transaction Documents or the transactions contemplated thereby, prior to the issuance, filing or public disclosure thereof. The Company shall not disclose the Investor's identity without the Investor's prior written consent unless such disclosure is required by law, Commission rule or stock exchange regulation. For the avoidance of doubt, the Company shall not be required to submit for review any such disclosure (i) contained in periodic reports filed with the Commission under the Exchange Act if it shall have previously provided the same disclosure to the Investor or its counsel for review in connection with a previous filing or (ii) any Prospectus Supplement if it contains disclosure that does not reference the Investor, its purchases hereunder or any aspect of the Transaction Documents or the transactions contemplated thereby.

Section 9.15. Severability. The provisions of this Agreement are severable and, in the event that any court of competent jurisdiction shall determine that any one or more of the provisions or part of the provisions contained in this Agreement shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision or part of a provision of this Agreement, and this Agreement shall be reformed and construed as if such invalid or illegal or unenforceable provision, or part of such provision, had never been contained herein, so that such provisions would be valid, legal and enforceable to the maximum extent possible.

Section 9.16. Further Assurances. From and after the Closing Date, upon the request of the Investor or the Company, each of the Company and the Investor shall execute and deliver such instrument, documents and other writings as may be reasonably necessary or desirable to confirm and carry out and to effectuate fully the intent and purposes of this Agreement.

[*Signature Pages Follow*]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officer as of the date first above written.

THE COMPANY:

VOLATO GROUP, INC.:

By: */s/ Christopher Ensey*
Name: Christopher Ensey
Title: Chief Executive Officer

THE INVESTOR:

DFU, LLC:

By: */s/ Adam R. Long*
Name: Adam R. Long
Title: Managing Partner

ANNEX I TO THE
COMMON STOCK PURCHASE AGREEMENT

DEFINITIONS

"***Affiliate***" means any Person that, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with a Person, as such terms are used in and construed under Rule 144. With respect to the Investor, without limitation, any Person owning, owned by, or under common ownership with the Investor, and any investment fund or managed account that is managed on a discretionary basis by the same investment manager as the Investor will be deemed to be an Affiliate.

"***Aggregate Limit***" shall have the meaning assigned to such term in Section 1.1.

"***Agreement***" shall have the meaning assigned to such term in the preamble of this Agreement.

"***Applicable Laws***" shall have the meaning assigned to such term in Section 4.13.

"***Average Daily Trading Volume***" shall mean the average trading volume of the Company's Common Stock.

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

"***Beneficial Ownership Limitation***" shall have the meaning assigned to such term in Section 2.5.

"***Bloomberg***" means Bloomberg, L.P.

"***Bring Down Opinion***" shall have the meaning assigned to such term in Section 5.15.

"***Broker-Dealer***" shall have the meaning assigned to such term in Section 5.13.

"***Bylaws***" shall have the meaning assigned to such term in Section 4.4.

"***Charter***" shall have the meaning assigned to such term in Section 3.3.

"***Closing***" shall have the meaning assigned to such term in Section 1.2

"***Closing Date***" means the date of this Agreement.

"***Closing Sale Price***" means, for the Common Stock as of any date, the last closing trade price for the Common Stock on the Trading Market (or, if the Common Stock is then listed on an Eligible Market, on such Eligible Market), as reported by Bloomberg, or, if the Trading Market (or such Eligible Market, as applicable) begins to operate on an extended hours basis and does not designate the closing trade price for the Common Stock, then the last trade price for the Common Stock prior to 4:00 p.m., New York City time, as reported by Bloomberg. All such determinations shall be appropriately adjusted for any stock splits, stock dividends, stock combinations, recapitalizations or other similar transactions during such period.

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

"***Commencement***" shall have the meaning assigned to such term in Section 2.1

"***Commencement Date***" shall have the meaning assigned to such term in Section 2.1.

"***Commencement Irrevocable Transfer Agent Instructions***" shall have the meaning assigned to such term in Section 9.1(c).

"***Commission***" means the U.S. Securities and Exchange Commission or any successor entity.

"***Commission Documents***" shall mean (1) all reports, schedules, registrations, forms, statements, information and other documents filed with or furnished to the Commission by the Company pursuant to the reporting requirements of the Exchange Act, including all material filed with or furnished to the Commission pursuant to Section 13(a), 13(c), 14 or 15(d) of the Exchange Act, and which hereafter shall be filed with or furnished to the Commission by the Company, including, without limitation, the Current Report, (2) each Registration Statement, as the same may be amended from time to time, the Prospectus contained therein and each Prospectus Supplement thereto and (3) all information contained in such filings and all documents and disclosures that have been and heretofore shall be incorporated by reference therein, that have been filed by the Company with the Commission on or after the filing date of the Company's most recent Annual Report on Form 10-K.

"***Commitment Preferred Stock***" means shares of Series B convertible preferred stock with a stated value of $15,500,000 having the rights and obligations set forth in Exhibit D hereto, issuable promptly upon execution of this Agreement pursuant to Section 2.6 and Section 9.1(b).

"***Commitment Shares***" means 3,646,974 shares of Common Stock issuable promptly upon execution of this Agreement pursuant to Section 2.6 and Section 9.1(b), and priced at the Closing Sale Price of the Company's Common Stock on the Trading Day immediately prior to execution of this Agreement.

"***Commitment Securities***" means the Commitment Shares and the Commitment Preferred Stock.

"***Common Stock***" shall have the meaning assigned to such term in the recitals of this Agreement.

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

"***Company***" shall have the meaning assigned to such term in the preamble of this Agreement.

"***Compliance Certificate***" shall have the meaning assigned to such term in Section 6.2(b).

"***Current Report***" shall have the meaning assigned to such term in Section 1.3.

"***Custodian***" shall mean any receiver, trustee, assignee, liquidator or similar official under any Bankruptcy Law.

"***Damages***" shall have the meaning assigned to such term in Section 8.1.

"***Delivery Date***" shall be the date on which the Investor receives the Put Shares as DWAC Shares in its brokerage account.

"***Dilutive Issuance***" shall have the meaning assigned to such term in Section 5.6(ii).

"***Disqualification Event***" shall have the meaning assigned to such term in Section 4.37.

"***DTC***" means The Depository Trust Company, a subsidiary of The Depository Trust & Clearing Corporation, or any successor thereto.

"***DWAC Shares***" means shares of Common Stock issued pursuant to this Agreement that are (i) issued in electronic form, (ii) freely tradable and transferable and without restriction on resale and without stop transfer instructions maintained against the transfer thereof and (iii) timely credited by the Company to the Investor's or its designated Broker-Dealer at which the account or accounts to be credited with the Securities being purchased by Investor are maintained specified DWAC account with DTC under its Fast Automated Securities Transfer (FAST) Program, or any similar program hereafter adopted by DTC performing substantially the same function.

"***EDGAR***" means the Commission's Electronic Data Gathering, Analysis and Retrieval System.

"***Effective Date***" means, with respect to the Registration Statement filed pursuant to Section 2(a) of the Registration Rights Agreement (or any post-effective amendment thereto) or any New Registration Statement filed pursuant to Section 2(c) of the Registration Rights Agreement (or any post-effective amendment thereto), as applicable, the date on which the Registration Statement (or any post-effective amendment thereto) is declared effective by the Commission.

"***Effectiveness Deadline***" shall have the meaning assigned to such term in the Registration Rights Agreement.

"***Eligible Market***" means NYSE American, the New York Stock Exchange, The Nasdaq Global Market, The Nasdaq Global Select Market, The Nasdaq Capital Market, OTCQB, OTCQX or OTCID (or any nationally recognized successor to any of the foregoing).

"***Environmental Laws***" shall have the meaning assigned to such term in Section 4.16 hereof.

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

"***Expiration Date***" means the date that is three (3) months after the date of this Agreement.

"***Exempt Issuance***" means the issuance of (a) Common Stock, options or other equity incentive awards to employees, officers, directors or vendors of the Company pursuant to any equity incentive plan duly adopted for such purpose, by the Company's Board of Directors or a majority of the members of a committee of the Board of Directors established for such purpose, (b) (1) any Securities issued to the Investor pursuant to this Agreement, (2) any securities issued upon the exercise or exchange of or conversion of any shares of Common Stock or Common Stock Equivalents held by the Investor at any time, or (3) any securities issued upon the exercise or exchange of or conversion of any Common Stock Equivalents that are issued and outstanding on the date of this Agreement, provided that such securities referred to in this clause (3) have not been amended since the date of this Agreement to increase the number of such securities or to decrease the exercise price, exchange price or conversion price of such securities, (c) securities issued pursuant to acquisitions, divestitures, licenses, partnerships, collaborations or strategic transactions approved by the Company's Board of Directors or a majority of the members of a committee of directors established for such purpose, which acquisitions, divestitures, licenses, partnerships, collaborations or strategic transactions can have a Variable Rate Transaction component, provided that any such issuance shall only be to a Person (or to the equity holders of a Person) which is, itself or through its subsidiaries, an operating company or an asset in a business synergistic with the business of the Company and shall provide to the Company additional benefits in addition to the investment of funds, but shall not include a transaction in which the Company is issuing securities primarily for the purpose of raising capital or to an entity whose primary business is investing in securities, (d) Common Stock issued by the Company by any method deemed to be an "at the market offering" as defined in Rule 415(a)(4) under the Securities Act, exclusively through a registered broker-dealer, as the Company's sales agent, pursuant to one or more written agreements between the Company and such registered broker-dealer, or (e) Common Stock issued by the Company pursuant to Section 3(a)(9) of the Securities Act.

"***FCPA***" shall have the meaning assigned to such term in Section 4.33.

"***Filed Commission Document***" shall have the meaning assigned to such term in Section 4.6.

"***Filing Deadline***" shall have the meaning assigned to such term in the Registration Rights Agreement.

"***FINRA***" means the Financial Industry Regulatory Authority.

"***Floor Price***" means $0.21, which shall in all cases be subject to applicable NYSE American requirements and shall not be less than the applicable minimum price required by NYSE American rules unless Stockholder Approval or another applicable exception has been obtained, and which shall be appropriately adjusted for any reorganization, recapitalization, stock split, reverse stock split, or other similar transactions that occur on or after the date of this Agreement.

"***Fundamental Transaction***" means that (i) the Company shall, directly or indirectly, in one or more related transactions, (1) consolidate or merge with or into (whether or not the Company is the surviving corporation) another Person, with the result that the holders of the Company's capital stock immediately prior to such consolidation or merger together beneficially own less than 50% of the outstanding voting power of the surviving or resulting corporation, or (2) sell, lease, license, assign, transfer, convey or otherwise dispose of all or substantially all of the properties or assets of the Company to another Person, or (3) take action to facilitate a purchase, tender or exchange offer by another Person that is accepted by the holders of the Company's Voting Stock representing more than 50% of the total voting power of the Company's Voting Stock (excluding any Voting Stock held by the Person or Persons making or party to, or associated or affiliated with the Persons making or party to, such purchase, tender or exchange offer), or (4) consummate a stock or share purchase agreement or other business combination (including, without limitation, a reorganization, recapitalization, spin-off or scheme of arrangement) with another Person whereby such other Person acquires Voting Stock of the Company representing more than 50% of the total voting power of the Company's Voting Stock (not including any Voting Stock held by the other Person or other Persons making or party to, or associated or affiliated with the other Persons making or party to, such stock or share purchase agreement or other business combination), or (5) reorganize, recapitalize or reclassify its Common Stock, or (ii) any "person" or "group" (as these terms are used for purposes of Sections 13(d) and 14(d) of the Exchange Act) is or shall become the "beneficial owner" (as defined in Rule 13d-3 under the Exchange Act), directly or indirectly, of Voting Stock of the Company representing more than 50% of the total voting power of the Company's Voting Stock.

"***GAAP***" shall have the meaning assigned to such term in Section 4.6(b).

"***Investment Period***" means the period commencing on the Effective Date of the Registration Statement and expiring on the date this Agreement is terminated pursuant to Article VII.

"***Investor***" shall have the meaning assigned to such term in the preamble of this Agreement.

"***Investor Expense Reimbursement***" shall have the meaning assigned to such term in Section 9.1(a).

"***Investor Party***" shall have the meaning assigned to such term in Section 8.1.

"***Investment Amount***" shall mean the dollar value equal to the amount of Put Shares referenced in the Put Notice multiplied by the Primary Put Purchase Price or Secondary Put Purchase Price (as applicable) minus any broker and transfer agent fees.

"***Issuer Covered Person***" shall have the meaning assigned to such term in Section 4.37.

"***IT Systems***" shall have the meaning assigned to such term in Section 4.36.

"***Knowledge***" means, with respect to the Company, the actual knowledge of the Company's Chief Executive Officer and President, Chief Financial Officer and Treasurer, and its General Counsel, in each case after reasonable inquiry of all officers, directors and employees of the Company and its Subsidiaries under their direct supervision who would reasonably be expected to have knowledge or information with respect to the matter in question.

"***Material Adverse Effect***" means any material adverse effect on (i) the enforceability of any Transaction Document, (ii) the results of operations, assets, business or financial condition of the Company and its Subsidiaries, taken as a whole, other than any material adverse effect that resulted primarily from (A) any change in the United States or foreign economies or securities or financial markets in general, (B) any change that generally affects the industry in which the Company and its Subsidiaries operate, (C) any change arising in connection with earthquakes, hostilities, acts of war, sabotage or terrorism or military actions or any escalation or material worsening of any such hostilities, acts of war, sabotage or terrorism or military actions existing as of the date hereof, (D) any action taken by the Investor, its Affiliates or its or their successors and assigns with respect to the transactions contemplated by this Agreement and the Registration Rights Agreement, (E) the effect of any change in applicable laws or accounting rules, or (F) any change resulting from compliance with terms of this Agreement or the Registration Rights Agreement or the consummation of the transactions contemplated by this Agreement and the Registration Rights Agreement, or (iii) the Company's ability to perform in any material respect on a timely basis its obligations under any Transaction Document to which it is a party to be performed as of the date of determination.

"***Material Agreements***" shall have the meaning assigned to such term in Section 4.17.

"***Money Laundering Laws***" shall have the meaning assigned to such term in Section 4.34.

"***New Registration Statement***" shall have the meaning assigned to such term in the Registration Rights Agreement.

"***Notice Delivery Time***" shall have the meaning assigned to such term in Section 6.3.

"***Notice of Effectiveness***" shall have the meaning assigned to such term in Section 9.1(d).

"***OFAC***" shall have the meaning assigned to such term in Section 4.35.

"***Person***" means any person or entity, whether a natural person, trustee, corporation, partnership, limited partnership, limited liability company, trust, unincorporated organization, business association, firm, joint venture, governmental agency or authority.

"***Personal Data***" shall have the meaning assigned to such term in Section 4.36.

"***Prospectus***" means the prospectus in the form included in a Registration Statement, as supplemented from time to time by any Prospectus Supplement, including the documents incorporated by reference therein.

"***Primary Maximum Put Amount***" shall mean ten percent (10%) of the Average Daily Trading Volume for the 10 Trading Days prior to the Put Date.

"***Primary Put Purchase Price***" shall mean the lesser of (i) the one (1) lowest traded price of the Common Stock on the Trading Market on the Delivery Date, or (ii) the average of the three (3) lowest closing sale prices of the Common Stock on the Trading Market during the Primary Put Valuation Period, as reported by Bloomberg Finance L.P. or other reputable source.

"***Primary Put***" shall mean the right of the Company to require the Investor to purchase shares of Common Stock at the Primary Put Purchase Price, subject to the terms and conditions of this Agreement.

"***Primary Put Notice***" shall mean a Put Notice for a Primary Put.

"***Primary Put Valuation Period***" shall mean the period of ten (10) consecutive Trading Days immediately preceding the Delivery Date associated with the applicable Put Notice during which the Primary Put Purchase Price of the Common Stock is valued.

"***Prospectus Supplement***" means any prospectus supplement to the Prospectus filed with the Commission from time to time pursuant to Rule 424(b) under the Securities Act, including the documents incorporated by reference therein.

"***Put Date***" shall mean any Trading Day during the Investment Period that a Put Notice is deemed delivered pursuant to Section 2.

"***Put Notice***" shall mean a written notice, substantially in the form of Annex II hereto, addressed to the Investor and setting forth the amount of Put Shares which the Company intends to require the Investor to purchase pursuant to the terms of this Agreement.

"***Put Shares***" shall mean all shares of Common Stock issued, or that the Company shall be entitled to issue, per any applicable Put Notice in accordance with the terms and conditions of this Agreement.

"***Reference Period***" shall have the meaning assigned to such term in Section 5.6(ii).

"***Reference Price***" shall have the meaning assigned to such term in Section 5.6(ii).

"***Registrable Securities***" shall have the meaning assigned to such term in the Registration Rights Agreement, and shall include the Commitment Securities.

"***Registration Rights Agreement***" shall have the meaning assigned to such term in the recitals hereof.

"***Regulation D***" shall have the meaning assigned to such term in the recitals of this Agreement.

"***Restricted Period***" shall have the meaning assigned to such term in Section 5.9.

"***Restricted Person***" shall have the meaning assigned to such term in Section 5.9.

"***Restricted Persons***" shall have the meaning assigned to such term in Section 5.9.

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

"***Sale Price***" means any trade price for a share of Common Stock executed on the Trading Market (or if the Common Stock is then traded on an Eligible Market, on such Eligible Market) between 9:30 a.m., New York City time, or such other time publicly announced by the Trading Market or such other Eligible Market, as the case may be, and ending at 4:00 p.m., New York City time, on the applicable Trading Date, as reported by Bloomberg.

"***Sanctioned Countries***" shall have the meaning assigned to such term in Section 4.35.

"***Sanctioned Country***" shall have the meaning assigned to such term in Section 4.35.

"***Sanctioned Persons***" shall have the meaning assigned to such term in Section 4.35.

"***Sanctions***" shall have the meaning assigned to such term in Section 4.35.

"***Secondary Maximum Put Amount***" shall mean the lesser of (i) such amount that equals ten percent (10%) of the Average Daily Trading Volume on the Put Date, and (ii) Six Million Dollars ($6,000,000.00).

"***Secondary Put Purchase Price***" shall mean the lesser of (i) 95% of the lowest traded price of the Common Stock on the Trading Market during the Secondary Put Valuation Period as reported by Bloomberg Finance L.P. or other reputable source, or (ii) 95% of the VWAP on the Delivery Date, or (iii) 95% of the closing bid price of the Common Stock on the Trading Market on the Delivery Date.

"***Secondary Put***" shall mean the right of the Company to require the Investor to purchase shares of Common Stock at the Secondary Put Purchase Price, subject to the terms and conditions of this Agreement.

"***Secondary Put Notice***" shall mean a Put Notice for a Secondary Put.

"***Secondary Put Valuation Period***" shall mean the period of five (5) consecutive Trading Days immediately preceding the Put Date associated with the applicable Put Notice during which the Secondary Put Purchase Price of the Common Stock is valued.

"*Securities*" means, collectively, the Shares and the Commitment Securities.

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

"***Shares***" shall mean the shares of Common Stock that are and/or may be purchased by the Investor under this Agreement pursuant to one or more Put Notices, but not including the Commitment Shares.

"***Short Sales***" shall mean "short sales" as defined in Rule 200 promulgated under Regulation SHO under the Exchange Act.

"***Stock Plan***" shall have the meaning assigned to such term in Section 4.22.

"***Subsidiary***" and "***Subsidiaries***" shall have the meanings assigned to such terms in Section 4.7.

"***Total Purchase Commitment***" shall have the meaning assigned to such term in Section 1.1.

"***Trading Day***" shall mean any day on which the Trading Market or, if the Common Stock is then listed on an Eligible Market, such Eligible Market is open for trading, including any day on which the Trading Market (or such Eligible Market, as applicable) is open for trading for a period of time less than the customary time.

"***Trading Market***" means the NYSE American (or any nationally recognized successor thereto).

"***Transaction Documents***" means, collectively, this Agreement and the exhibits hereto, the Registration Rights Agreement and each of the other agreements, documents, certificates and instruments entered into or furnished by the parties hereto in connection with the transactions contemplated hereby and thereby.

"***Transfer Agent***" means Continental Stock Transfer & Trust Company, or such other Person who is then serving as the transfer agent for the Company in respect of the Common Stock.

"***Variable Rate Transaction***" means a transaction in which the Company (i) issues or sells any equity or debt securities that are convertible into, exchangeable or exercisable for, or include the right to receive additional shares of Common Stock or Common Stock Equivalents either (A) at a conversion price, exercise price, exchange rate or other price that is based upon and/or varies with the trading prices of or quotations for the Common Stock at any time after the initial issuance of such equity or debt securities, or (B) with a conversion, exercise or exchange price that is subject to being reset at some future date after the initial issuance of such equity or debt security or upon the occurrence of specified or contingent events directly or indirectly related to the business of the Company or the market for the Common Stock (including, without limitation, any "full ratchet" or "weighted average" anti-dilution provisions, but not including any standard anti-dilution protection for any reorganization, recapitalization, non-cash dividend, stock split or other similar transaction), (ii) issues or sells any equity or debt securities, including without limitation, Common Stock or Common Stock Equivalents, either (A) at a price that is subject to being reset at some future date after the initial issuance of such debt or equity security or upon the occurrence of specified or contingent events directly or indirectly related to the business of the Company or the market for the Common Stock (other than standard anti-dilution protection for any reorganization, recapitalization, non-cash dividend, stock split or other similar transaction), or (B) that are subject to or contain any put, call, redemption, buy-back, price-reset or other similar provision or mechanism (including, without limitation, a "Black-Scholes" put or call right, other than in connection with a "fundamental transaction") that provides for the issuance of additional equity securities of the Company or the payment of cash by the Company, or (iii) enters into any agreement with any Person other than the Investor or an Affiliate of the Investor, including, but not limited to, an "equity line of credit" or "at the market offering" or other continuous offering or similar offering of Common Stock or Common Stock Equivalents, whereby the Company may sell Common Stock or Common Stock Equivalents at a future determined price.

"***Voting Stock***" means securities of any class or kind having the power to vote generally for the election of directors, managers or other voting members of the governing body of the Company or any successor thereto.

"***VWAP***" means, for the Common Stock for a specified period, the dollar volume-weighted average price for the Common Stock on the Trading Market (or, if the Common Stock is then listed on an Eligible Market, on such Eligible Market), for such period, as reported by Bloomberg through its "AQR" function. All such determinations shall be appropriately adjusted for any stock dividend, stock split, stock combination, recapitalization or other similar transaction during such period.

Exhibit 10.2

REGISTRATION RIGHTS AGREEMENT

THIS REGISTRATION RIGHTS AGREEMENT (this "Agreement"), dated as of October 8, 2026 (the "Execution Date"), is entered into by and between Volato Group, Inc., a Delaware corporation (the "Company"), and DFU, LLC, a Delaware limited liability company (the "Buyer"). Capitalized terms used herein and not otherwise defined herein shall have the respective meanings set forth in the Common Stock Purchase Agreement, dated as of the date hereof, by and between the parties hereto (as amended, restated, supplemented or otherwise modified from time to time, the "Purchase Agreement").

WHEREAS:

A. The Company and the Buyer have entered into the Purchase Agreement, pursuant to which the Company may, at its sole election and subject to the terms, conditions and limitations set forth therein, issue and sell to the Buyer, from time to time, up to $1,000,000,000 of the Company's common stock, par value $0.0001 per share (the "Common Stock"), subject to any applicable 19.99% exchange cap, stockholder approval requirement, authorized share limitation, required Trading Market approval or review, existing contractual restriction and other limitations set forth in the Purchase Agreement; and

B. To induce the Buyer to enter into the Purchase Agreement, the Company has agreed to provide certain registration rights under the Securities Act of 1933, as amended, and the rules and regulations thereunder, or any similar successor statute (collectively, the "Securities Act"), and applicable state securities laws.

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

1. DEFINITIONS.

Capitalized terms used herein and not otherwise defined herein shall have the respective meanings set forth in the Purchase Agreement. As used in this Agreement, the following terms shall have the following meanings:

a. "Investor" means the Buyer, any transferee or assignee thereof to whom the Buyer assigns its rights under this Agreement in accordance with Section 9 and who agrees to become bound by the provisions of this Agreement, and any transferee or assignee thereof to whom a transferee or assignee assigns its rights under this Agreement in accordance with Section 9 and who agrees to become bound by the provisions of this Agreement.

b. "Person" means any individual or entity including but not limited to any corporation, a limited liability company, an association, a partnership, an organization, a business, an individual, a governmental or political subdivision thereof or a governmental agency.

c. "Register," "registered," and "registration" refer to a registration effected by preparing and filing one or more Registration Statements of the Company in compliance with the Securities Act and pursuant to Rule 415 under the Securities Act or any successor rule providing for offering securities on a continuous basis ("Rule 415"), and the declaration or ordering of effectiveness of such Registration Statement(s) by the United States Securities and Exchange Commission (the "SEC").

d. "Registrable Commitment Shares" means (i) the 3,646,974 shares of Common Stock issued by the Company to the Investor as Commitment Shares pursuant to the Purchase Agreement and (ii) upon and following receipt of Stockholder Approval, in addition to the shares referred to in clause (i), the 56,528,082 shares of Common Stock issuable upon conversion of the Commitment Preferred Stock issued pursuant to the Purchase Agreement.

e. "Registrable Securities" means all of (i) the Shares, (ii) the Registrable Commitment Shares, if any, to the extent earned and issued or issuable pursuant to the Purchase Agreement and (iii) any securities of the Company issued or issuable with respect to such Shares or Registrable Commitment Shares, including, without limitation, (1) as a result of any stock split, stock dividend, recapitalization, exchange or similar event or otherwise and (2) shares of capital stock of the Company into which the Common Stock are converted or exchanged and shares of a successor entity into which the Common Stock are converted or exchanged, in each case until such time as such securities cease to be Registrable Securities pursuant hereto.

f. "Registration Statement" means one or more registration statements of the Company covering only the resale of the Registrable Securities, including, for the avoidance of doubt, any New Registration Statement (as defined below).

2. REGISTRATION.

a. Mandatory Registration. The Company shall, as promptly as practicable following the Closing and in any event on or before the date that is forty-five (45) days following the date hereof (the "Filing Deadline"), file with the SEC an initial Registration Statement on Form S-3 (or, if Form S-3 is not then available to the Company, on Form S-1 or such other form as may then be available to the Company) covering only the resale by the Investor of the maximum number of Registrable Securities, including Registrable Securities issuable under the full $1,000,000,000 facility, as the Company determines in good faith may be registered and issued in compliance with the Company's certificate of incorporation, authorized share capacity, the rules of the Trading Market (including NYSE American rules, if applicable), any applicable 19.99% exchange cap, any required stockholder approval, any required exchange approval or review, applicable law and any existing contractual restrictions, so as to permit the resale of such Registrable Securities by the Investor under Rule 415 under the Securities Act at then-prevailing market prices (and not fixed prices), as mutually determined by both the Company and the Investor in consultation with their respective legal counsel; provided, however, the Company may delay filing or suspend the use of any Registration Statement if the Company determines upon advice of legal counsel that, in order for the Registration Statement to not contain a material misstatement or omission, an amendment thereto would be needed, or if the Board of Directors, upon advice of legal counsel, reasonably believes that such filing or use would require premature disclosure of information that could materially adversely affect the Company; provided, however, that in the event the Investor owns Shares or Registrable Commitment Shares at the time of any such suspension of use of the Registration Statement, the Company shall use commercially reasonable efforts to make such Registration Statement available for the resale of such securities by the Investor as soon as practicable thereafter. The initial Registration Statement shall register only Registrable Securities. The Investor and its counsel shall have a reasonable opportunity to review and comment upon such Registration Statement and any amendment or supplement to such Registration Statement and any related prospectus prior to its filing with the SEC, and the Company shall give due consideration to all such comments. The Investor acknowledges that it will be identified in the initial Registration Statement (and in any New Registration Statement) as an underwriter within the meaning of Section 2(a)(11) of the Securities Act to the extent required by SEC rules or staff position, and the Investor shall furnish all information reasonably requested by the Company for inclusion therein. The Company shall use its commercially reasonable efforts to have the Registration Statement and any amendment declared effective by the SEC at the earliest practicable date (the "Effectiveness Deadline"). The Company shall use commercially reasonable efforts to keep the Registration Statement effective pursuant to Rule 415 promulgated under the Securities Act and available for the resale by the Investor of all of the Registrable Securities covered thereby at all times until the date on which the Investor shall have resold all the Registrable Securities covered thereby and no shares of Common Stock remain issuable under the Purchase Agreement (the "Registration Period"). The effective Registration Statement (including any amendments or supplements thereto and prospectuses contained therein) shall not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein, or necessary to make the statements therein, in light of the circumstances in which they were made, not misleading. Any time-based requirements set forth in this Agreement shall be extended to the next Business Day if the applicable time falls on a weekend or federal holiday.

b. Rule 424 Prospectus. The Company shall, as required by applicable securities regulations, from time to time file with the SEC, pursuant to Rule 424 promulgated under the Securities Act, the prospectus and prospectus supplements, if any, to be used in connection with sales of the Registrable Securities under the Registration Statement. The Investor and its counsel shall have a reasonable opportunity to review and comment upon such prospectus prior to its filing with the SEC, and the Company shall give due consideration to all such comments. The Investor shall use its commercially reasonable efforts to comment upon such prospectus within one (1) Business Day from the date the Investor receives the substantially final pre-filing version of such prospectus.

c. Sufficient Number of Shares Registered. In the event the number of shares of Common Stock available under the Registration Statement is insufficient to cover all of the Registrable Securities, the Company may, at the Company's or any successor or combined company's discretion, amend the Registration Statement or file a new Registration Statement (a "New Registration Statement") to cover additional Registrable Securities, subject in each case to the limitations set forth in Section 2(a), board approval, stockholder approval if required, Trading Market review or approval, SEC review, availability of authorized shares, existing contractual restrictions and the Company's financing strategy. The Company shall use its commercially reasonable efforts to cause any such amendment and/or New Registration Statement that it elects to file to become effective as soon as reasonably practicable following the filing thereof.

d. Offering. If the staff of the SEC (the "Staff") or the SEC seeks to characterize any offering pursuant to a Registration Statement filed pursuant to this Agreement as constituting an offering of securities that does not permit such Registration Statement to become effective and be used for resales by the Investor under Rule 415 at then-prevailing market prices (and not fixed prices), or if after the filing of the initial Registration Statement with the SEC pursuant to Section 2(a), the Company is otherwise required by the Staff or the SEC to reduce the number of Registrable Securities included in such initial Registration Statement, then the Company shall reduce the number of Registrable Securities to be included in such initial Registration Statement (after consulting with the Investor and its legal counsel as to the specific Registrable Securities to be removed therefrom) until such time as the Staff and the SEC shall so permit such Registration Statement to become effective and be used as aforesaid. In the event of any reduction in Registrable Securities pursuant to this paragraph, the Company may file one or more New Registration Statements in accordance with Section 2(c) to the extent the Company elects to do so and such filing is permitted by applicable law, SEC or Staff requirements, Trading Market requirements, the Company's authorized share capacity and any required stockholder approval. Notwithstanding any provision herein or in the Purchase Agreement to the contrary, the Company's obligations to register the Registrable Securities (and any related conditions to the Investor's obligations) shall be qualified as necessary to comport with any requirement of the SEC or the Staff as addressed in this Section 2(d).

3. RELATED OBLIGATIONS.

With respect to the Registration Statement and whenever any Registrable Securities are to be registered pursuant to Section 2, including on any New Registration Statement, the Company shall use its commercially reasonable efforts to effect the registration of the Registrable Securities in accordance with the intended method of disposition thereof and, pursuant thereto, the Company shall have the following obligations:

a. The Company shall prepare and file with the SEC such amendments (including post-effective amendments) and supplements to any Registration Statement and the prospectus used in connection with such Registration Statement, which prospectus is to be filed pursuant to Rule 424 promulgated under the Securities Act, as may be necessary to keep the Registration Statement or any New Registration Statement effective at all times during the Registration Period, and, during such period, comply with the applicable provisions of the Securities Act with respect to the disposition of all Registrable Securities of the Company covered by the Registration Statement or any New Registration Statement until such time as all of such Registrable Securities shall have been disposed of in accordance with the intended methods of disposition by the seller or sellers thereof as set forth in such Registration Statement.

b. The Company shall permit the Investor to review and comment upon the Registration Statement or any New Registration Statement and all amendments and supplements thereto at least two (2) Business Days prior to filing such Registration Statement or New Registration Statement with the SEC, and not file any such document in a form to which the Investor reasonably objects in writing. The Investor shall use its reasonable best efforts to comment upon the Registration Statement or any New Registration Statement and any amendments or supplements thereto within one (1) Business Day from the date the Investor receives the substantially final version thereof. The Company shall furnish to the Investor, without charge, any correspondence from the SEC or the Staff to the Company or its representatives relating to the Registration Statement or any New Registration Statement.

c. Upon request of the Investor, the Company shall furnish to the Investor, (i) promptly after the same is prepared and filed with the SEC, at least one copy of any Registration Statement and any amendment(s) thereto, including financial statements and schedules, all documents incorporated therein by reference and all exhibits, (ii) upon the effectiveness of any Registration Statement, a copy of the prospectus included in such Registration Statement and all amendments and supplements thereto (or such other number of copies as the Investor may reasonably request) and (iii) such other documents, including copies of any preliminary or final prospectus, as the Investor may reasonably request from time to time in order to facilitate the disposition of the Registrable Securities owned by the Investor. For the avoidance of doubt, any filing available to the Investor via the SEC's live EDGAR system shall be deemed "furnished to the Investor" or "delivered to the Investor" hereunder.

d. The Company shall use commercially reasonable efforts to (i) register and qualify the Registrable Securities covered by any Registration Statement under such other securities or "blue sky" laws of such jurisdictions in the United States as the Investor reasonably requests, (ii) prepare and file in those jurisdictions, such amendments (including post-effective amendments) and supplements to such registrations and qualifications as may be necessary to maintain the effectiveness thereof during the Registration Period, (iii) take such other actions as may be necessary to maintain such registrations and qualifications in effect at all times during the Registration Period, and (iv) take all other actions reasonably necessary or advisable to qualify the Registrable Securities for sale in such jurisdictions; provided, however, that the Company shall not be required in connection therewith or as a condition thereto to (x) qualify to do business in any jurisdiction where it would not otherwise be required to qualify but for this Section 3(d), (y) subject itself to taxation in any such jurisdiction, or (z) file a general consent to service of process in any such jurisdiction. The Company shall promptly notify the Investor who holds Registrable Securities of the receipt by the Company of any notification with respect to the suspension of the registration or qualification of any of the Registrable Securities for sale under the securities or "blue sky" laws of any jurisdiction in the United States or its receipt of written notice of the initiation or threatening of any proceeding for such purpose. Notwithstanding anything in this Agreement to the contrary, the Company shall not be obligated to register or qualify the Registrable Securities under "blue sky" laws in any state which applies merit review.

e. As promptly as reasonably practicable after becoming aware of any event or fact, the result of which makes a material fact included in any Registration Statement, as then in effect, or any prospectus included therein untrue or results in the omission of a material fact required to be stated therein or necessary in order to make the statements then made therein (in the case of any prospectus, in light of the circumstances under which they were made) not misleading, the Company shall notify the Investor in writing of the happening of such event or existence of such facts and promptly prepare a supplement or amendment to such Registration Statement to correct such untrue statement or omission, and deliver a copy of such supplement or amendment to the Investor. The Company shall also promptly notify the Investor in writing (i) when a prospectus or any prospectus supplement or post-effective amendment has been filed, and when any Registration Statement or any post-effective amendment has become effective (notification of such effectiveness shall be delivered to the Investor by email or facsimile on the same day of such effectiveness or by overnight mail), (ii) of any request by the SEC for amendments or supplements to any Registration Statement or related prospectus or related information, and (iii) of the Company's reasonable determination that a post-effective amendment to any Registration Statement would be appropriate.

f. The Company shall use its commercially reasonable efforts to prevent the issuance of any stop order or other suspension of effectiveness of any Registration Statement, or the suspension of the qualification of any Registrable Securities for sale in any jurisdiction and, if such an order or suspension is issued, to obtain the withdrawal of such order or suspension at the earliest possible moment and to notify the Investor of the issuance of such order and the resolution thereof or its receipt of actual notice of the initiation or threat of any proceeding for such purpose.

g. The Company shall (i) cause all the Registrable Securities to be listed on the applicable Trading Market if the listing of such Registrable Securities is then permitted under the rules of such Trading Market, or (ii) secure designation and quotation of all the Registrable Securities on a Trading Market. The Company shall pay all fees and expenses in connection with satisfying its obligation under this Section 3(g).

h. The Company shall cooperate with the Investor to facilitate the timely issuance of the Registrable Securities to be offered pursuant to any Registration Statement, it being agreed that such Registrable Securities shall be issued as DWAC Shares and in such denominations or amounts as the Investor may reasonably request and registered in such names as the Investor may request. "DWAC Shares" means shares of Common Stock that are (i) issued in electronic form, (ii) the resale of which is registered under an effective registration statement and (iii) timely credited, once a DWAC notice is received, by the Company to the Investor's or its designee's specified Deposit/Withdrawal at Custodian (DWAC) account with DTC under its Fast Automated Securities Transfer (FAST) Program, or any similar program hereafter adopted by DTC performing substantially the same function.

i. The Company shall at all times provide a transfer agent and registrar with respect to its Common Stock.

j. If reasonably requested in writing by the Investor, the Company shall: (i) as soon as practicable after receipt of written notice from the Investor, incorporate in a prospectus supplement or post-effective amendment such information as the Investor reasonably believes should be included therein relating to the sale and distribution of Registrable Securities, including, without limitation, information with respect to the number of Registrable Securities being sold, the purchase price being paid therefor and any other terms of the offering of the Registrable Securities; (ii) make all required filings of such prospectus supplement or post-effective amendment as soon as practicable upon notification of the matters to be incorporated in such prospectus supplement or post-effective amendment; and (iii) supplement or make amendments to any Registration Statement or New Registration Statement.

k. The Company shall use its commercially reasonable efforts to cause the Registrable Securities covered by any Registration Statement to be registered with or approved by such other governmental agencies or authorities in the United States as may be necessary to consummate the disposition of such Registrable Securities.

l. Within one (1) Business Day after any Registration Statement which includes the Registrable Securities is declared effective by the SEC, the Company shall deliver, and shall direct legal counsel for the Company to deliver, to the Transfer Agent (with copies to the Investor) written confirmation that such Registration Statement has been declared effective by the SEC. Thereafter, if requested by the Investor at any time, the Company shall direct its counsel to deliver to the Investor a written confirmation whether or not the effectiveness of such Registration Statement has lapsed at any time for any reason (including, without limitation, the issuance of a stop order) and whether or not the Registration Statement is current and available to the Investor for sale of all of the Registrable Securities.

m. Notwithstanding anything to the contrary in Section 3(e), at any time after the applicable Registration Statement has been declared effective by the SEC, the Company may delay the disclosure of material non-public information concerning the Company, the disclosure of which at the time is not, in the good faith opinion of the Board of Directors of the Company and its counsel, in the best interest of the Company and not, in the opinion of counsel to the Company, otherwise required (a "Grace Period"); provided, that the Company shall promptly (i) notify the Investor in writing of the existence of the event or circumstance giving rise to a Grace Period (provided that the Company shall not disclose the content of any material non-public information to the Investor) and the date on which the Grace Period will begin, and (ii) notify the Investor in writing of the date on which the Grace Period ends; and, provided further, that (A) no Grace Period shall exceed ten (10) consecutive days, (B) during any 365-day period, such Grace Periods shall not exceed an aggregate of twenty-five (25) days and (C) the first day of any Grace Period shall be at least five (5) Trading Days after the last day of any prior Grace Period (a Grace Period that satisfies all of the requirements of this Section 3(m) being referred to as an "Allowable Grace Period"). For purposes of determining the length of a Grace Period above, the Grace Period shall begin on and include the date the Investor receives the notice referred to in clause (i) and shall end on and include the later of the date the Investor receives the notice referred to in clause (ii) and the date referred to in such notice. The provisions of Section 3(e) hereof shall not be applicable during the period of any Allowable Grace Period. Upon expiration of the Grace Period, the Company shall again be bound by the provisions of Section 3(e) with respect to the information giving rise thereto unless such material non-public information or other event or circumstance is no longer applicable.

n. The Company shall take such other reasonable actions necessary to expedite and facilitate disposition by the Investor of Registrable Securities pursuant to any Registration Statement.

4. OBLIGATIONS OF THE INVESTOR.

a. The Company shall notify the Investor in writing of the information the Company reasonably requires from the Investor in connection with any Registration Statement hereunder. The Investor shall promptly furnish to the Company such information regarding itself, the Registrable Securities held by it and the intended method of disposition of the Registrable Securities held by it as shall be reasonably required to effect the registration of such Registrable Securities and shall execute such documents in connection with such registration as the Company may reasonably request.

b. The Investor agrees to cooperate with the Company as reasonably requested by the Company in connection with the preparation and filing of any Registration Statement hereunder and any amendments and supplements thereof.

c. The Investor agrees that, upon receipt of any written notice from the Company of the happening of any event or existence of facts of the kind described in Section 3(f), the first sentence of Section 3(e) or Section 3(m), the Investor will immediately discontinue disposition of Registrable Securities pursuant to any Registration Statement covering such Registrable Securities until the Investor's receipt of (i) notice regarding the resolution or withdrawal of the stop order or suspension as contemplated by Section 3(f), (ii) the supplemented or amended prospectus as contemplated by the first sentence of Section 3(e), (iii) notice that no supplement or amendment is required or (iv) notice that the Allowable Grace Period has ended, as applicable. Notwithstanding anything to the contrary, the Company shall direct the Transfer Agent to promptly deliver shares of Common Stock without any restrictive legend in accordance with the terms of the Purchase Agreement in connection with any sale of Registrable Securities with respect to which the Investor has entered into a contract for sale prior to the Investor's receipt of such written notice from the Company and for which the Investor has not yet settled.

5. EXPENSES OF REGISTRATION.

All reasonable expenses of the Company, other than sales or brokerage commissions, incurred in connection with registrations, filings or qualifications pursuant to Sections 2 and 3, including, without limitation, all registration, listing and qualification fees, printers and accounting fees, and fees and disbursements of counsel for the Company, shall be paid by the Company.

6. INDEMNIFICATION.

a. To the fullest extent permitted by law, the Company will, and hereby does, indemnify, hold harmless and defend the Investor, each Person, if any, who controls the Investor, the members, the directors, officers, partners, employees, agents, representatives of the Investor and each Person, if any, who controls the Investor within the meaning of Section 20 of the Securities Exchange Act of 1934, as amended (the "Exchange Act") (each, an "Indemnified Person"), against any losses, claims, damages, liabilities, judgments, fines, penalties, charges, costs, reasonable attorneys' fees, amounts paid in settlement (such settlement with the consent of the Company, and such consent not to be unreasonably withheld) or reasonable expenses, joint or several, (collectively, "Claims") incurred in investigating, preparing or defending any action, claim, suit, inquiry, proceeding, investigation or appeal taken from the foregoing by or before any court or governmental, administrative or other regulatory agency, body or the SEC, whether pending or threatened, whether or not an indemnified party is or may be a party thereto ("Indemnified Damages"), to which any of them may become subject insofar as such Claims (or actions or proceedings, whether commenced or threatened, in respect thereof) arise out of or are based upon: (i) any untrue statement or alleged untrue statement of a material fact in the Registration Statement, any New Registration Statement or any post-effective amendment thereto or in any filing made by the Company in connection with the qualification of the offering under the securities or other "blue sky" laws of any jurisdiction in which Registrable Securities are offered ("Blue Sky Filing"), or the omission or alleged omission to state a material fact required to be stated therein or necessary to make the statements therein not misleading, (ii) any untrue statement or alleged untrue statement of a material fact contained in the final prospectus (as amended or supplemented, if the Company files any amendment thereof or supplement thereto with the SEC) or the omission or alleged omission to state therein any material fact necessary to make the statements made therein, in light of the circumstances under which the statements therein were made, not misleading, (iii) any violation or alleged violation by the Company of the Securities Act, the Exchange Act, any other law, including, without limitation, any state securities law, or any rule or regulation thereunder relating to the offer or sale of the Registrable Securities pursuant to the Registration Statement or any New Registration Statement or (iv) any material violation by the Company of this Agreement (the matters in the foregoing clauses (i) through (iv) being, collectively, "Violations"). The Company shall reimburse each Indemnified Person promptly as such expenses are incurred and are due and payable, for any reasonable and documented legal fees or other reasonable expenses incurred by them in connection with investigating or defending any such Claim. Notwithstanding anything to the contrary contained herein, the indemnification agreement contained in this Section 6(a): (i) shall not apply to a Claim by an Indemnified Person arising out of or based upon a Violation which occurs in reliance upon and in conformity with information about or relating to the Investor or its sale of Registrable Securities furnished in writing to the Company by such Indemnified Person expressly for use in connection with the preparation of the Registration Statement, any New Registration Statement or any such amendment thereof or supplement thereto or prospectus contained therein, if such Registration Statement, New Registration Statement or amendment thereof or supplement thereof or prospectus contained therein was timely made available by the Company pursuant to Section 3(c) or Section 3(e); (ii) with respect to any superseded prospectus, shall not inure to the benefit of any such Person from whom the Person asserting any such Claim purchased the Registrable Securities that are the subject thereof (or to the benefit of any Person controlling such Person) if the untrue statement or omission of material fact contained in the superseded prospectus was corrected in the revised prospectus, as then amended or supplemented, if such revised prospectus was timely made available by the Company pursuant to Section 3(c) or Section 3(e), and the Indemnified Person was promptly advised in writing not to use the incorrect prospectus prior to the use giving rise to a violation and such Indemnified Person, notwithstanding such advice, used it; (iii) shall not be available to the extent such Claim is based on a failure of the Investor to deliver or to cause to be delivered the prospectus made available by the Company, if such prospectus was timely made available by the Company pursuant to Section 3(c) or Section 3(e); and (iv) shall not apply to amounts paid in settlement of any Claim if such settlement is effected without the prior written consent of the Company, which consent shall not be unreasonably withheld. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of the Indemnified Person and shall survive the transfer of the Registrable Securities by the Investor pursuant to Section 9.

b. In connection with the Registration Statement or any New Registration Statement or prospectus, the Investor agrees to indemnify, hold harmless and defend, to the same extent and in the same manner as is set forth in Section 6(a), the Company, each of its directors, each of its officers who signs the Registration Statement or any New Registration Statement, each Person, if any, who controls the Company within the meaning of Section 20 of the Exchange Act (collectively and together with an Indemnified Person, an "Indemnified Party"), against any Claim or Indemnified Damages to which any of them may become subject, under the Securities Act, the Exchange Act or otherwise, insofar as such Claim or Indemnified Damages arise out of or are based upon any Violation, in each case to the extent, and only to the extent, that such Violation occurs in reliance upon and in conformity with written information about the Investor or its offer and sale of Registrable Securities furnished to the Company by the Investor expressly for use in connection with such Registration Statement or prospectus or any New Registration Statement or from the failure of the Investor to deliver or cause to be delivered the prospectus made available by the Company, if such prospectus was timely made available by the Company pursuant to Section 3(c) or Section 3(e); and, subject to Section 6(d), the Investor will reimburse any legal or other expenses reasonably incurred (and documented) by such Indemnified Party in connection with investigating or defending any such Claim; provided, however, that the indemnity agreement contained in this Section 6(b) and the agreement with respect to contribution contained in Section 7 shall not apply to amounts paid in settlement of any Claim if such settlement is effected without the prior written consent of the Investor, which consent shall not be unreasonably withheld; provided, further, however, that the Investor shall be liable under this Section 6(b) for only that amount of a Claim or Indemnified Damages as does not exceed the net proceeds to the Investor as a result of the sale of Registrable Securities pursuant to such Registration Statement. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of such Indemnified Party and shall survive the transfer of the Registrable Securities by the Investor pursuant to Section 9.

c. Promptly after receipt by an Indemnified Person or Indemnified Party under this Section 6 of notice of the commencement of any action or proceeding (including any governmental action or proceeding) involving a Claim, such Indemnified Person or Indemnified Party shall, if a Claim in respect thereof is to be made against any indemnifying party under this Section 6, deliver to the indemnifying party a written notice of the commencement thereof, and the indemnifying party shall have the right to participate in, and, to the extent the indemnifying party so desires, jointly with any other indemnifying party similarly noticed, to assume control of the defense thereof with counsel mutually satisfactory to the indemnifying party and the Indemnified Person or the Indemnified Party, as the case may be; provided, however, that an Indemnified Person or Indemnified Party shall have the right to retain its own separate counsel comprised of one attorney or law firm with the reasonable and documented fees and expenses to be paid by the indemnifying party, if, in the reasonable opinion of counsel to the Indemnified Person or Indemnified Party, the representation by such counsel of the Indemnified Person or Indemnified Party and the indemnifying party would be inappropriate due to actual or potential differing interests between such Indemnified Person or Indemnified Party and any other party represented by such counsel in such proceeding. The Indemnified Party or Indemnified Person shall cooperate fully with the indemnifying party in connection with any negotiation or defense of any such action or claim by the indemnifying party and shall furnish to the indemnifying party all information reasonably available to the Indemnified Party or Indemnified Person which relates to such action or claim. The indemnifying party shall keep the Indemnified Party or Indemnified Person fully apprised at all times as to the status of the defense or any settlement negotiations with respect thereto. No indemnifying party shall be liable for any settlement of any action, claim or proceeding effected without its written consent, provided, however, that the indemnifying party shall not unreasonably withhold, delay or condition its consent. No indemnifying party shall, without the consent of the Indemnified Party or Indemnified Person, consent to entry of any judgment or enter into any settlement or other compromise which does not include as an unconditional term thereof the giving by the claimant or plaintiff to such Indemnified Party or Indemnified Person of a release from all liability in respect to such claim or litigation. Following indemnification as provided for hereunder, the indemnifying party shall be subrogated to all rights of the Indemnified Party or Indemnified Person with respect to all third parties, firms or corporations relating to the matter for which indemnification has been made. The failure to deliver written notice to the indemnifying party within a reasonable time of the commencement of any such action shall not relieve such indemnifying party of any liability to the Indemnified Person or Indemnified Party under this Section 6, except to the extent that the indemnifying party is prejudiced in its ability to defend such action.

d. The indemnification required by this Section 6 shall be made by periodic payments of the amount thereof during the course of the investigation or defense, as and when bills are received or Indemnified Damages are incurred. Any Person receiving a payment pursuant to this Section 6 that is later determined (via definitive adjudication) not to be entitled to such payment shall return such payment to the person making it.

e. The indemnity agreements contained herein shall be in addition to (i) any cause of action or similar right of the Indemnified Party or Indemnified Person against the indemnifying party or others, and (ii) any liabilities the indemnifying party may be subject to pursuant to applicable law.

7. CONTRIBUTION.

To the extent any indemnification by an indemnifying party is prohibited or limited by law, the indemnifying party agrees to make the maximum contribution with respect to any amounts for which it would otherwise be liable under Section 6 to the fullest extent permitted by law; provided, however, that: (i) no seller of Registrable Securities guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any seller of Registrable Securities who was not guilty of fraudulent misrepresentation; and (ii) contribution by any seller of Registrable Securities shall be limited in amount to the net amount of proceeds received by such seller from the sale of such Registrable Securities.

8. REPORTS AND DISCLOSURE UNDER THE SECURITIES ACT.

With a view to making available to the Investor the benefits of Rule 144 promulgated under the Securities Act or any other similar rule or regulation of the SEC that may at any time permit the Investor to sell securities of the Company to the public without registration ("Rule 144"), the Company agrees, at the Company's sole expense, for as long as the Investor owns Registrable Securities, to use commercially reasonable efforts to:

a. make and keep public information available, as those terms are understood and defined in Rule 144 (with the failure of the Company for any reason to satisfy the requirements of Rule 144(c)(1), referred to as a "Current Public Information Failure");

b. file with the SEC all reports and other documents required of the Company under the Securities Act and the Exchange Act so long as the Company remains subject to such requirements and the filing of such reports and other documents is required for the applicable provisions of Rule 144;

c. furnish to the Investor so long as the Investor owns Registrable Securities, promptly upon request (i) a written statement by the Company that it has complied with the reporting and/or disclosure provisions of Rule 144(c) with a confirmation that no Current Public Information Failure has occurred, the Securities Act and the Exchange Act, (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 to permit the Investor to sell such securities pursuant to Rule 144 without registration; and

d. take such additional action as is reasonably requested by the Investor to enable the Investor to sell the Registrable Securities pursuant to Rule 144, including, without limitation, delivering all such legal opinions, consents, certificates, resolutions and instructions to the Transfer Agent as may be reasonably requested from time to time by the Investor and otherwise reasonably cooperate with the Investor and the Investor's broker to effect such sale of securities pursuant to Rule 144; provided, however, the Investor shall provide such documents as may be reasonably required by the Transfer Agent in connection therewith, including any written representations or certifications of the Investor or its broker (which shall not include any opinion of the Investor's counsel) that may be required by the Transfer Agent in connection therewith.

The Company agrees that damages may be an inadequate remedy for any breach of the terms and provisions of this Section 8 and that the Investor shall, whether or not it is pursuing any remedies at law, be entitled to seek equitable relief in the form of preliminary or permanent injunctions, without having to post any bond or other security, upon any breach or threatened breach of any such terms or provisions.

9. ASSIGNMENT OF REGISTRATION RIGHTS.

The Company shall not assign this Agreement or any rights or obligations hereunder without the prior written consent of the Investor; provided, however, that any transaction, whether by merger, reorganization, restructuring, consolidation, financing or otherwise, including but not limited to any Fundamental Transaction (as defined in the Purchase Agreement), shall not be deemed an assignment and shall not require the consent of the Investor. The Investor may assign its rights under this Agreement without the prior written consent of the Company to any Affiliate of the Investor or to any transferee or assignee of Registrable Securities, provided that such assignee agrees in writing to be bound by the terms and conditions of this Agreement; any other assignment by the Investor shall require the prior written consent of the Company, not to be unreasonably withheld, conditioned or delayed.

10. AMENDMENT OF REGISTRATION RIGHTS.

This Agreement may not be (i) amended other than by a written instrument signed by both parties hereto or (ii) waived other than in a written instrument signed by the party against whom enforcement of such waiver is sought. Failure of any party to exercise any right or remedy under this Agreement or otherwise, or delay by a party in exercising such right or remedy, shall not operate as a waiver thereof.

11. MISCELLANEOUS.

a. A Person is deemed to be a holder of Registrable Securities whenever such Person owns or is deemed to own of record such Registrable Securities. If the Company receives conflicting instructions, notices or elections from two or more Persons with respect to the same Registrable Securities, the Company shall act upon the basis of instructions, notice or election received from the registered owner of such Registrable Securities as set forth on the books and records of the Transfer Agent.

b. Any notices, consents or other communications required or permitted to be given under the terms of this Agreement must be in writing and will be deemed to have been delivered: (i) upon receipt when delivered personally; (ii) upon receipt when sent by email (provided confirmation of transmission is mechanically or electronically generated and kept on file by the sending party); or (iii) one Business Day after deposit with a nationally recognized overnight delivery service, in each case properly addressed to the party to receive the same. The addresses for such communications shall be:

If to the Company:

Volato Group, Inc.
954 Airport Road Suite 124
Chamblee, GA 30341
Attention: Chief Executive Officer
E-mail: chris.ensey@aligned.co

With a copy to (which shall not constitute notice or service of process):

Dykema Gossett PLLC
111 E. Kilbourn Avenue, Suite 1050
Milwaukee, WI 53202
Attention: Kate Bechen
E-mail: kbechen@dykema.com

If to the Investor:

DFU, LLC
E-mail:
Attention: Adam R. Long

With a copy to (which shall not constitute notice or service of process):

Honigman LLP
2290 First National Building
660 Woodward Avenue
Detroit, MI482267
Attention: Michael J. Rosenberg and N. Danny Shulman.
Email: MRosenberg@honigman.com and NShulman@honigman.com

If to the Transfer Agent:

Continental Stock Transfer & Trust Company, 1 State Street, 30th Floor, New York, NY 10004
Attention: _____
Email: _____

or at such other address and/or email address and/or to the attention of such other Person as the recipient party has specified by written notice given to each other party three (3) Business Days prior to the effectiveness of such change. Written confirmation of receipt (A) given by the recipient of such notice, consent or other communication, (B) mechanically or electronically generated by the sender's email account containing the time, date, and recipient email address, as applicable or (C) provided by a nationally recognized overnight delivery service, shall be rebuttable evidence of personal service, or receipt from a nationally recognized overnight delivery service in accordance with clause (i), (ii) or (iii) above, respectively.

c. This Agreement, and all claims or cause of action (whether in contract, tort or statute) that may be based upon, arise out of or relate to this Agreement, or the negotiation, execution or performance of this Agreement (including any claim or cause of action based upon, arising out of or related to any representation or warranty made in or in connection with this Agreement or as an inducement to enter into this Agreement) shall be governed by and construed and enforced in accordance with the internal laws of the State of Delaware without regard to conflict of law principles that would result in the application of any law other than the law of the State of Delaware. The parties (a) hereby irrevocably and unconditionally submit to the exclusive jurisdiction of (I) the state courts of Delaware and (II) the United States District Court in the City and County of Wilmington, New Castle County for the purpose of any suit, action or other proceeding arising out of or based upon this Agreement, (b) agree not to commence any suit, action or other proceeding arising out of or based upon this Agreement except in the state courts of Delaware or the United States District Court in the City and County of Wilmington, New Castle County, and (c) hereby waive, and agree not to assert, by way of motion, as a defense, or otherwise, in any such suit, action or proceeding, any claim that it is not subject personally to the jurisdiction of the above-named courts, that its property is exempt or immune from attachment or execution, that the suit, action or proceeding is brought in an inconvenient forum, that the venue of the suit, action or proceeding is improper or that this Agreement or the subject matter hereof may not be enforced in or by such court. **EACH PARTY HEREBY WAIVES ITS RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS AGREEMENT, THE OTHER TRANSACTION DOCUMENTS, THE SECURITIES OR THE SUBJECT MATTER HEREOF OR THEREOF. THE SCOPE OF THIS WAIVER IS INTENDED TO BE ALL-ENCOMPASSING OF ANY AND ALL DISPUTES THAT MAY BE FILED IN ANY COURT AND THAT RELATE TO THE SUBJECT MATTER OF THIS TRANSACTION, INCLUDING, WITHOUT LIMITATION, CONTRACT CLAIMS, TORT CLAIMS (INCLUDING NEGLIGENCE), BREACH OF DUTY CLAIMS, AND ALL OTHER COMMON LAW AND STATUTORY CLAIMS. THIS SECTION HAS BEEN FULLY DISCUSSED BY EACH OF THE PARTIES HERETO AND THESE PROVISIONS WILL NOT BE SUBJECT TO ANY EXCEPTIONS. EACH PARTY HERETO HEREBY FURTHER WARRANTS AND REPRESENTS THAT SUCH PARTY HAS REVIEWED THIS WAIVER WITH ITS LEGAL COUNSEL, AND THAT SUCH PARTY KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL**.

d. This Agreement and the Purchase Agreement constitute the entire agreement among the parties hereto with respect to the subject matter hereof and thereof. There are no restrictions, promises, warranties or undertakings among the parties hereto, other than those set forth or referred to herein and therein. This Agreement and the Purchase Agreement supersede all prior agreements and understandings among the parties hereto with respect to the subject matter hereof and thereof.

e. This Agreement is intended for the benefit of the parties hereto and, subject to the requirements of Section 9, their successors and permitted assigns and, except as set forth in Section 6 with respect to those Persons entitled to indemnity thereunder, is not for the benefit of, nor may any provision hereof be enforced by, any other Person.

f. The headings in this Agreement are for convenience of reference only and shall not limit or otherwise affect the meaning hereof.

g. This Agreement may be executed in two or more identical counterparts, all of which shall be considered one and the same agreement and shall become effective when counterparts have been signed by each party and delivered to the other party; provided that a facsimile signature or signature delivered by e-mail in a ".pdf" format data file, including any electronic signature complying with the U.S. federal ESIGN Act of 2000, e.g., www.docusign.com, www.echosign.adobe.com, etc., shall be considered due execution and shall be binding upon the signatory thereto with the same force and effect as if the signature were an original signature.

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

i. The language used in this Agreement will be deemed to be the language chosen by the parties to express their mutual intent and no rules of strict construction will be applied against any party. The term "or" shall not be exclusive.

* * * * * *

IN WITNESS WHEREOF, the parties have caused this Registration Rights Agreement to be duly executed as of the Execution Date.

THE COMPANY:

VOLATO GROUP, INC.

By: */s/ Christopher Ensey*
Name: Christopher Ensey
Title: Chief Executive Officer

INVESTOR:

DFU, LLC

By: */s/ Adam R. Long*
Name: Adam R. Long
Title: Managing Partner