

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): December 18, 2023

Mama’s Creations, Inc.

(Exact Name of Registrant as Specified in its Charter)

Nevada	001-40597	27-0607116
(State or Other Jurisdiction of Incorporation)	(Commission File No.)	(I.R.S. Employer Identification No.)
25 Branca Road, East Rutherford, NJ		07073
(Address of Principal Executive Offices)		(Zip Code)

Registrant’s telephone number, including area code: (201) 532-1212

(Former name, 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 (see General Instruction A.2. below):

- ☐ 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
Common stock, \$0.00001 par value per share	MAMA	NASDAQ

Item 1.01 Entry into a Material Definitive Agreement.

On December 19, 2023, Mama’s Creations, Inc. (the “Company”) entered into an underwriting agreement (the “Underwriting Agreement”) with Craig-Hallum Capital Group, LLC, as the representative of the underwriters named therein (collectively, the “Underwriters”), and the selling stockholders named therein (collectively, the “Selling Stockholders”), relating to the public offering (the “Offering”) of 5,629,921 shares of the Company’s common stock, par value \$0.00001 per share (the “Common Stock”), by the Selling Shareholders, at an offering price of \$3.50 per share of Common Stock. The Offering is expected to close on December 21, 2023, subject to the satisfaction of customary closing conditions.

The Company did not sell any shares in the Offering and will not receive any of the proceeds from the sale of the shares offered by the Selling Shareholders. The Selling Shareholders will bear the costs associated with the sale of such shares, including underwriting discounts and commissions.

The Offering is being made pursuant to the Company’s registration statement on Form S-3 (File No. 333-275206), which was filed with the Securities and Exchange Commission (the “Commission”) on October 27, 2023 and declared effective by the Commission on November 13, 2023, and related prospectus supplement filed with the Commission on December 19, 2023.

The Underwriting Agreement contains customary representations, warranties, and agreements by the Company and the Selling Stockholders; customary conditions to closing; indemnification obligations of the Company, the Selling Stockholders and the Underwriters, including for liabilities under the Securities Act of 1933, as amended; other obligations of the parties; and termination provisions. Pursuant to the Underwriting Agreement, the Company agreed, subject to certain exceptions, not to offer, issue, or sell any shares of Common Stock or securities convertible into or exercisable or exchangeable for shares of Common Stock for a period of 60 days following the Offering without the prior written consent of the Underwriters. The foregoing is only a brief description of the terms of the Underwriting Agreement, does not purport to be a complete description of the rights and obligations of the parties thereunder, and is qualified in its entirety by reference to the Underwriting Agreement that is filed as Exhibit 1.1 to this Current Report on Form 8-K and incorporated by reference herein.

Item 8.01 Other Events.

On December 18, 2023, the Company announced that it had commenced the Offering, and on December 19, 2023, it issued a press release announcing the pricing of the Offering. Copies of these press releases are attached hereto as Exhibits 99.1 and 99.2 and are incorporated by reference herein.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits

Exhibit Number	Description
1.1	Underwriting Agreement dated December 19, 2023 by and among Mama’s Creations, Inc., Craig-Hallum Capital Group, LLC, and the Selling Stockholders named therein.
99.1	Press release, dated December 18, 2023.
99.2	Press release, dated December 19, 2023.
104	Cover Page Interactive Data File (embedded within the Inline XBRL document).

SIGNATURES

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

(Registrant)

Mama’s Creations, Inc.

By: /s/ Adam L. Michaels
Name: Adam L. Michaels
Title: Chief Executive Officer

Dated: December 19, 2023

5,629,921 Shares

MAMA’S CREATIONS, INC.
COMMON STOCK
PAR VALUE \$0.00001 PER SHARE

UNDERWRITING AGREEMENT

December 19, 2023

Craig-Hallum Capital Group LLC
As the Representative of the several underwriters
222 South Ninth Street, Suite 350
Minneapolis, Minnesota 55402

Ladies and Gentlemen:

The Matthew Brown 2023 Family Trust (the “**Brown Trust**”) and Karen B. Wolf (“**Ms. Wolf**” and the Brown Trust and Ms. Wolf shall each be referred to as a “**Selling Stockholder**” and together, the “**Selling Stockholders**”) propose to sell to the several Underwriters named in Schedule I hereto (the “**Underwriters**”), for whom Craig-Hallum Capital Group LLC is acting as representative to the several Underwriters (the “**Representative**”) to the Underwriters an aggregate of 5,629,921 shares (the “**Shares**,” which are comprised of up to 2,814,960 Shares held by the Brown Trust and of up to 2,814,961 Shares held by Ms. Wolf) of common stock, par value \$0.00001 per share (the “**Common Stock**”), of Mama’s Creations, Inc., a Nevada corporation (the “**Company**”).

The Company has prepared and filed with the Securities and Exchange Commission (the “**Commission**”) a registration statement on Form S-3 (File No. 333-275206) under the Securities Act of 1933, as amended (the “**Securities Act**”), and the rules and regulations (the “**Rules and Regulations**”) of the Commission thereunder relating to the Shares sold by the Selling Stockholders (including post-effective amendments) as may have been required to the date of this Underwriting Agreement (the “**Agreement**”). Such registration statement, as amended (including post-effective amendments), has been declared effective by the Commission. The registration statement, together with any amendments thereto filed prior to the date of this Agreement, including the information deemed to be a part of, or incorporated by reference into, the registration statement at the time of effectiveness pursuant to Rule 430A or Rule 430B under the Securities Act, if applicable, or at such time as the case may be, is hereinafter referred to as the “**Registration Statement**”. The prospectus, dated October 27, 2023, included in the Registration Statement relating to the Shares sold by the Selling Stockholders and the prospectus, at the time the Registration Statement first became effective is hereinafter each referred to as the “**Base Prospectus**”. If the Company files one or more registration statements pursuant to Rule 462(b) under the Securities Act (the “**Rule 462 Registration Statement**”) that relates to the Registration Statement relating to the Shares being sold by the Company, then any reference herein to the term Registration Statement shall include such Rule 462 Registration Statement.

The Company will file with the Commission pursuant to Rule 424 under the Securities Act a final prospectus supplement to the Base Prospectus relating to the offering and issuance of the Shares. The final prospectus supplement as filed with the Commission, together with the Base Prospectus, is hereinafter called the “**Final Prospectus**.” The term “**Preliminary Prospectus**” means the Base Prospectus, together with any preliminary prospectus supplement used or filed with the Commission pursuant to Rule 424 of the Rules and Regulations, in the form provided to the Underwriters by the Company for use in connection with the offering of the Shares. The Final Prospectus and any Preliminary Prospectus in the form in which they shall be filed with the Commission pursuant to Rule 424(b) under the Securities Act (including each Base Prospectus as so supplemented) is hereinafter called a “**Prospectus**.” References made herein to each Base Prospectus, any Preliminary Prospectus or to the Prospectus (or any amendment or supplement thereto) shall be deemed to refer to and include any documents filed under the Securities Exchange Act of 1934, as amended (the “**Exchange Act**”), and the Rules and Regulations thereunder, that are incorporated by reference therein. The term “**Effective Date**” shall mean each date that the Registration Statement (and any post-effective amendment) became or becomes effective.

For purposes of this Agreement, “**free writing prospectus**” has the meaning set forth in Rule 405 under the Securities Act, “**Time of Sale Prospectus**” means the Preliminary Prospectus together with the documents and pricing information referred to in Schedule II hereto, considered together as of 8:00 a.m. New York City time on the date hereof and as of the Closing Date, and “**broadly available road show**” means a “bona fide electronic road show” as defined in Rule 433(h)(5) under the Securities Act that has been made available without restriction to any person. As used herein, the terms “Registration Statement,” “Preliminary Prospectus,” “Time of Sale Prospectus” and “Prospectus” shall include the documents, if any, incorporated by reference therein.

1. *Representations and Warranties of the Company.* The Company represents and warrants to and agrees with each of the Underwriters that, as of the date hereof (unless another date is specified for the specific representations and warranties herein):

(a) The Company was at the time of filing the Registration Statement, and at the time of filing any post-effective amendment thereto, eligible to use Form S-3 under the Securities Act. The Registration Statement and any post-effective amendment thereto has become effective under the Securities Act. No stop order suspending the effectiveness of the Registration Statement or any post-effective amendment thereto has been issued under the Securities Act, no order preventing or suspending the use of any Preliminary Prospectus or the Prospectus has been issued and no proceedings for any of those purposes have been instituted or are pending or, to the Company’s knowledge, contemplated by the Commission.

(b) (i) The Registration Statement, when it became effective, did not contain and, as amended or supplemented, if applicable, will not contain, as of the date of such amendment or supplement, 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 not misleading, (ii) the Registration Statement and the Prospectus comply and, as amended or supplemented, if applicable, will comply in all material respects with the Securities Act and the applicable Rules and Regulations thereunder, (iii) the Time of Sale Prospectus does not, and at the time of the sale of the Shares in connection with the offering when the Prospectus is not yet available to prospective purchasers and at the Closing Date (as defined in Section 5), the Time of Sale Prospectus, as amended or supplemented, if applicable, will not, contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, (iv) each broadly available road show, if any, when considered together with the Time of Sale Prospectus, does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading and (v) the Prospectus, as of its date, does not contain and, as amended or supplemented, if applicable, will not contain, as of the date of such amendment or supplement, and as of the Closing Date, any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, except that the representations and warranties set forth in this paragraph do not apply to statements or omissions in any Registration Statement, the Time of Sale Prospectus, or the Prospectus based upon information relating to any Underwriter furnished to the Company in writing by such Underwriter through the Representative expressly for use therein.

(c) The Company is not an “ineligible issuer” in connection with the offering pursuant to Rules 164, 405 and 433 under the Securities Act. Any free writing prospectus that the Company is required to file pursuant to Rule 433(d) under the Securities Act has been, or will be, filed with the Commission in accordance with the requirements of the Securities Act and the applicable Rules and Regulations thereunder. Each free writing prospectus that the Company has filed, or is required to file, pursuant to Rule 433(d) under the Securities Act or that was prepared by or on behalf of or used or referred to by the Company complies or will comply in all material respects with the requirements of the Securities Act and the applicable Rules and Regulations thereunder. Except for the free writing prospectuses, if any, identified in Schedule III hereto, and electronic road shows, if any, each furnished to the Representative before first use, the Company has not prepared, used or referred to, and will not, without the Representative’s prior consent, prepare, use or refer to, any free writing prospectus.

(d) Rosenberg Rich Baker Berman, P.A. (the “**Auditors**”), who has certified certain financial statements of the Company, is an independent registered public accounting firm as required by the Securities Act and the Rules and Regulations thereunder.

(e) The Company has been duly organized, validly existing and in good standing under the laws of Nevada and the Company has all requisite power and authority to carry on its business as is currently being conducted and as described in the Time of Sale Prospectus and the Prospectus, and to own, lease and operate its properties. The Company is duly qualified to do business and is in good standing as a foreign corporation in each jurisdiction in which the nature of the business conducted by it or location of the assets or properties owned, leased or licensed by it requires such qualification, except for such jurisdictions where the failure to so qualify individually or in the aggregate would not reasonably be expected to have a material adverse effect on the assets, liabilities, properties, condition (financial or otherwise), results of operations, business or business prospects of the Company and its subsidiaries considered as a whole (“**Material Adverse Effect**”).

(f) Each subsidiary of the Company has been duly organized, is validly existing as a corporation or limited liability company, as the case may be, in good standing under the laws of the jurisdiction of its incorporation, has the corporate or other organizational power and authority to own its property and to conduct its business as described in the Time of Sale Prospectus and the Prospectus, and is duly qualified to transact business and is in good standing in each jurisdiction in which the conduct of its business or its ownership or leasing of property requires such qualification, except to the extent that the failure to be so qualified or be in good standing would not reasonably be expected to have a Material Adverse Effect. All of the issued shares of capital stock or other equity interests of each subsidiary of the Company have been duly and validly authorized and issued, are fully paid and non-assessable and are owned directly by the Company free and clear of all liens, encumbrances, equities or claims.

(g) All corporate action required to be taken by the Company’s Board of Directors and stockholders to authorize the Company to enter into this Agreement and the transactions contemplated hereby has been taken or will be taken prior to the Closing Date. All action on the part of the officers of the Company necessary for the execution and delivery of this Agreement and the performance of all obligations of the Company under this Agreement to be performed as of the Closing Date. This Agreement, when executed and delivered by the Company, and assuming the due authorization, execution and delivery by the other parties thereto, as applicable, shall constitute the valid and legally binding obligation of the Company, enforceable against the Company in accordance with its terms except (i) as limited by applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance, or other laws of general application relating to or affecting the enforcement of creditors’ rights generally, (ii) as limited by laws relating to the availability of applicable equitable remedies, or (iii) to the extent the indemnification provisions contained herein may be limited by applicable federal or state securities law.

(h) As of the Closing Date, the authorized capital stock of the Company will conform to the description thereof contained in each of the Time of Sale Prospectus and the Prospectus.

(i) The shares of Common Stock (including the Shares to be sold by the Selling Stockholders) outstanding prior to the issuance of the Shares to be sold by the Company) have been duly authorized and are validly issued, fully paid and non-assessable.

(j) [Reserved]

(k) The execution and delivery by the Company of, and the performance by the Company of its obligations under, this Agreement will not contravene (i) any provision of applicable law, (ii) the certificate of incorporation or bylaws of the Company, (iii) any agreement or other instrument binding upon the Company or any of its subsidiaries that is material to the Company and its subsidiaries, taken as a whole, or (iv) any judgment, order or decree of any governmental body, agency or court having jurisdiction over the Company or any subsidiary, except in the case of clauses (i), (iii) and (iv) for such breaches, violations or contravention that would not, individually or in the aggregate, have a Material Adverse Effect. No consent, approval, authorization or order of, or qualification with, any governmental body or agency is required for the performance by the Company of its obligations under this Agreement, except (x) such as may be required by the securities or Blue Sky laws of the various states in connection with the offer and sale of the Shares, (y) the necessary filings and approvals from the Nasdaq to list the Shares, and (z) such consents and approvals as have been obtained and are in full force and effect.

(l) As to each product subject to the jurisdiction of the U.S. Food and Drug Administration (“**FDA**”) under the Federal Food, Drug and Cosmetic Act, as amended, and the regulations thereunder (“**FDCA**”) that is manufactured, packaged, labeled, tested, distributed, sold, and/or marketed by the Company or any of its Subsidiaries (each such product, a “**FDA Product**”), such FDA Product is being manufactured, packaged, labeled, tested, distributed, sold and/or marketed by the Company in compliance with all applicable requirements under FDCA and similar laws, rules and regulations relating to registration, investigational use, premarket clearance, licensure, or application approval, good manufacturing practices, good laboratory practices, good clinical practices, product listing, quotas, labeling, advertising, record keeping and filing of reports, except where the failure to be in compliance would not have a Material Adverse Effect. There is no pending, completed or, to the Company’s knowledge, threatened, action (including any lawsuit, arbitration, or legal or administrative or regulatory proceeding, charge, complaint, or investigation) against the Company or any of its subsidiaries, and none of the Company or any of its subsidiaries has received any notice, warning letter or other communication from the FDA or any other governmental entity, which (i) contests the premarket clearance, licensure, registration, or approval of, the uses of, the distribution of, the manufacturing or packaging of, the testing of, the sale of, or the labeling and promotion of any FDA Product, (ii) withdraws its approval of, requests the recall, suspension, or seizure of, or withdraws or orders the withdrawal of advertising or sales promotional materials relating to, any FDA Product, (iii) enjoins production at any facility of the Company or any of its subsidiaries, (iv) enters or proposes to enter into a consent decree of permanent injunction with the Company or any of its subsidiaries, or (v) otherwise alleges any violation of any laws, rules or regulations by the Company or any of its subsidiaries, and which, either individually or in the aggregate, would have a Material Adverse Effect. The properties, business and operations of the Company have been and are being conducted in all material respects in accordance with all applicable laws, rules and regulations of the FDA. The Company has not been informed by the FDA that the FDA will prohibit the marketing, sale, license or use in the United States of any product proposed to be developed, produced or marketed by the Company nor has the FDA expressed any concern as to approving or clearing for marketing any product being developed or proposed to be developed by the Company.

(m) There are no legal or governmental proceedings pending or, to the knowledge of the Company, threatened to which the Company or any of its subsidiaries is a party or to which any of the properties of the Company or any of its subsidiaries is subject other than proceedings accurately described in the Time of Sale Prospectus and such other proceedings that would not reasonably be expected to have a Material Adverse Effect on the ability of the Company to perform its obligations under this Agreement or consummate the transactions contemplated by the Time of Sale Prospectus or this Agreement.

(n) The Company is not, and after giving effect to the offer and sale of the Shares will not be, required to register as an “investment company” as such term is defined in the Investment Company Act of 1940, as amended.

(o) Other than the Underwriters, no person has the right to act as an underwriter or as a financial advisor to the Company in connection with the issuance and sale of the Shares and the other transactions contemplated by this Agreement, except as disclosed in the Prospectus.

(p) The Company and its subsidiaries (i) are in compliance with any and all applicable foreign, federal, state and local laws and regulations relating to the protection of human health and safety, the environment or hazardous or toxic substances or wastes, pollutants or contaminants (“**Environmental Laws**”), (ii) have received all permits, licenses or other approvals required of them under applicable Environmental Laws to conduct their respective businesses, and (iii) are in compliance with all terms and conditions of any such permit, license or approval, except for such non-compliance or such failure to receive permits, licenses or approvals as would not reasonably be expected to have a Material Adverse Effect.

(q) There are no costs or liabilities associated with Environmental Laws (including, without limitation, any capital or operating expenditures required for clean-up, closure of properties or compliance with Environmental Laws or any permit, license or approval, any related constraints on operating activities and any potential liabilities to third parties) which would, singly or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(r) Neither the Company nor any of its subsidiaries, nor any director or executive officer of the Company, nor, to the Company’s knowledge, any other employee, agent or representative of the Company or of any of its subsidiaries or affiliates, has taken or will take any action in furtherance of an offer, payment, promise to pay, or authorization or approval of the payment or giving of money, property, gifts or anything else of value, directly or indirectly, to any “government official” (including any officer or employee of a government or government-owned or controlled entity or of a public international organization, or any person acting in an official capacity for or on behalf of any of the foregoing, or any political party or party official or candidate for political office) to influence official action or secure an improper advantage; and the Company and its subsidiaries and its affiliates have conducted their businesses in compliance with applicable anti-corruption laws, including the United States Foreign Corrupt Practices Act of 1977 and the Bribery Act 2010 of the United Kingdom, and maintains policies and procedures designed to promote and achieve compliance with such laws.

(s) The operations of the Company and its subsidiaries are and have been conducted at all times in compliance with all applicable financial recordkeeping and reporting requirements, including those of the Bank Secrecy Act, as amended by Title III of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act), and the applicable anti-money laundering statutes of jurisdictions where the Company and its subsidiaries conduct business, the rules and regulations thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any governmental agency (collectively, the “**Anti-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 of its subsidiaries with respect to the Anti-Money Laundering Laws is pending or, to the knowledge of the Company, threatened.

(t) (i) Neither the Company nor any of its subsidiaries, nor any director or officer thereof, nor, to the Company’s knowledge, any other employee, agent, controlled affiliate or representative of the Company or any of its subsidiaries, is an individual or entity (“**Person**”) that is, or is owned or controlled by a Person that is:

(A) the subject of any sanctions administered or enforced by the U.S. Department of Treasury’s Office of Foreign Assets Control (“**OFAC**”) or other relevant sanctions authority in the U.S. (collectively, “**Sanctions**”), nor

(B) located, organized or resident in a country or territory that is the subject of Sanctions (including, without limitation, Iran, North Korea, Sudan and Syria).

(ii) Neither the Company nor any of its subsidiaries will, directly or indirectly, use the proceeds of the offering, or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or other Person:

(A) to fund or facilitate any activities or business of or with any Person or in any country or territory that, at the time of such funding or facilitation, is the subject of Sanctions; or

(B) in any other manner that would reasonably be expected to result in a violation of Sanctions by any Person (including any Person participating in the offering, whether as underwriter, advisor, investor or otherwise).

(iii) The Company and its subsidiaries have not, during the past five years, knowingly engaged in, are not now knowingly engaged in, and will not engage in, any dealings or transactions with any Person, or in any country or territory, that at the time of the dealing or transaction is or was the subject of Sanctions.

(u) Subsequent to the respective dates as of which information is given in the Registration Statement, the Time of Sale Prospectus and the Prospectus or as contemplated by the Registration Statement, the Time of Sale Prospectus and the Prospectus (including information incorporated by reference therein), (i) the Company and its subsidiaries have not incurred any material liability, commitment or obligation, direct or contingent except in the ordinary course of business, (ii) the Company has not entered into any transaction with any “related person” that would require disclosure pursuant to Item 404 of Regulation S-K promulgated by the Commission, (iii) the Company has not purchased any of its Common Stock or other Securities (as defined in Section 3) or entered into any agreement or arrangement providing for the purchase of any of its Common Stock or other Securities, (iv) the Company has not declared, paid or otherwise made any dividend or distribution of any kind on its Common Stock or other Securities other than dividends on its Series A Preferred Stock consistent with the terms thereof, (v) there has not been any material change in the capital stock or indebtedness of the Company and its subsidiaries, and (vi) there has not been the occurrence of any Material Adverse Effect.

(v) The Company and its subsidiaries do not own any real property. The Company and its subsidiaries have good and marketable title to all personal property owned by them which is material to the business of the Company and its subsidiaries, taken as a whole, in each case free and clear of all liens, encumbrances and defects except such as are described in the Time of Sale Prospectus or such as do not materially affect the value of such property and do not interfere with the use made of such property by the Company and its subsidiaries. Any real property held under lease by the Company and its subsidiaries are held by them under valid, subsisting and enforceable leases with such exceptions as are not material and do not materially interfere with the use made of such property and buildings by the Company and its subsidiaries, in each case except as described in the Time of Sale Prospectus.

(w) The Company and its subsidiaries own or license, or can acquire or license on commercially reasonable terms, all material patents, patent rights, inventions, copyrights, know-how (including trade secrets and other unpatented and/or unpatentable proprietary or confidential information, systems or procedures), trademarks, service marks and trade names currently employed by them in connection with the business now operated by them, and to the knowledge of the Company, neither the Company nor any of its subsidiaries has received any notice of infringement of or conflict with asserted rights of others with respect to any of the foregoing that would result in a Material Adverse Effect if such asserted infringement or conflict were to be determined adversely against the Company.

(x) There is (i) no unfair labor practice complaint pending against the Company, nor to the Company's knowledge, threatened against it, before the National Labor Relations Board, any state or local labor relation board or any foreign labor relations board, and no grievance or arbitration proceeding arising out of or under any collective bargaining agreement is so pending against the Company or any of its subsidiaries, or, to the Company's knowledge, threatened against it, and (ii) no labor disturbance by the employees of the Company, to the Company's knowledge, is imminent, and the Company is not aware of any existing or imminent labor disturbance by the employees of any of its principal suppliers, manufacturers, customers or contractors, that would, singularly or in the aggregate, have a Material Adverse Effect. The Company is not aware that any key employee or significant group of employees of the Company plans to terminate employment with the Company.

(y) The Company and each of its subsidiaries, taken as a whole, are insured by insurers of recognized financial responsibility against such losses and risks and in such amounts as are customary in the businesses in which they are engaged; neither the Company nor any of its subsidiaries has been refused any insurance coverage sought or applied for; and neither the Company nor any of its subsidiaries has any reason to believe that it will not be able to renew its existing insurance coverage as and when such coverage expires or to obtain similar coverage from similar insurers as may be necessary to continue its business at a cost that would not have a Material Adverse Effect.

(z) The Company and its subsidiaries possess all certificates, authorizations and permits issued by the appropriate federal, state, local or foreign regulatory authorities necessary to conduct their respective businesses, except where the failure to obtain such certificates, authorizations and permits would not, individually or in the aggregate, have a Material Adverse Effect. Neither the Company nor any of its subsidiaries has received any notice of proceedings relating to the revocation or modification of any such certificate, authorization or permit which, singly or in the aggregate, if the subject of an unfavorable decision, ruling or finding, would have a Material Adverse Effect.

(aa) The Company and each of its subsidiaries maintain a system of internal accounting controls designed to provide reasonable assurance that (i) transactions are executed in accordance with management's general or specific authorizations; (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with U.S. generally accepted accounting principles ("U.S. GAAP") and to maintain asset accountability; (iii) access to assets is permitted only in accordance with management's general or specific authorization; and (iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences. Since the end of the Company's most recent audited fiscal year, (i) the Company is not aware of any material weakness in the Company's internal control over financial reporting (whether or not remediated) and (ii) there has been no change in the Company's internal control over financial reporting that has materially and adversely affected, or is reasonably likely to materially and adversely affect, the Company's internal control over financial reporting.

(bb) The Company maintains “disclosure controls and procedures” (as such term is defined in Rule 13a-15(e) under the Exchange Act) that have been designed by, or under the supervision of, the Company’s principal executive officer and principal financial officer, or persons performing similar functions, to ensure that information required to be disclosed by the Company in the reports that it files or submits under the Exchange Act is accumulated and communicated to the Company’s management, including its principal executive officer and principal financial officer, or persons performing similar functions, as appropriate to allow timely decisions regarding required disclosure.

(cc) Except as described in the Time of Sale Prospectus, the Company has not sold, issued or distributed any shares of Common Stock during the six-month period preceding the date hereof, including any sales pursuant to Rule 144A under, or Regulation D or Regulation S of, the Securities Act, other than shares issued pursuant to employee benefit plans, qualified stock option plans or other employee compensation plans or pursuant to outstanding restricted stock units, options, rights or warrants.

(dd) The Company and each of its subsidiaries have filed all federal, state, local and foreign tax returns required to be filed through the date of this Agreement or have requested extensions thereof and have paid all taxes required to be paid thereon, and no tax deficiency has been determined adversely to the Company or any of its subsidiaries which has had, nor does the Company nor any of its subsidiaries have any notice or knowledge of any tax deficiency which if determined adversely to the Company or its subsidiaries would have, a Material Adverse Effect.

(ee) The financial statements of the Company included in the Registration Statement, the Time of Sale Prospectus and the Prospectus, fairly present the consolidated financial position of the Company and its subsidiaries as of the dates indicated and the results of their operations and cash flows for the periods specified. Such financial statements have been prepared in conformity with U.S. GAAP applied on a consistent basis throughout the periods involved. The other financial information included in the Registration Statement, the Time of Sale Prospectus and the Prospectus has been derived from the accounting records of the Company and its subsidiaries and fairly presents the information shown thereby.

(ff) The Company has not distributed any prospectus or other offering material in connection with the offering and sale of the Shares other than the Time of Sale Prospectus and the roadshow or investor presentations delivered to and approved by the Representative for use in connection with the marketing of the offering of the Securities (the “**Marketing Materials**”).

(gg) The Company (i) has not alone engaged in any Testing-the-Waters Communication, and (ii) has not authorized anyone to engage in Testing-the-Waters Communications. The Company has not distributed any Written Testing-the-Waters Communications. “**Written Testing-the-Waters Communication**” means any Testing-the-Waters Communication that is a written communication within the meaning of Rule 405 under the Securities Act.

(hh) There is no contract or document required by the Securities Act or by the Rules and Regulations to be described in the Registration Statement, the Time of Sale Prospectus or in the Final Prospectus or to be incorporated by reference into or filed as an exhibit to the Registration Statement which is not so described, incorporated by reference or filed therein as required; and all descriptions of any such contracts or documents contained or incorporated by reference in the Registration Statement, the Time of Sale Prospectus and in the Final Prospectus are accurate and complete descriptions of such documents in all material respects. Other than as described in the Registration Statement, the Time of Sale Prospectus and the Final Prospectus, no such contract has been suspended or terminated for convenience or default by the Company or any of the other parties thereto, and the Company has not received notice, and the Company has no knowledge, of any such pending or threatened suspension or termination.

(ii) No relationship, direct or indirect, exists between or among the Company on the one hand, and the directors, officers, stockholders, customers or suppliers of the Company on the other hand, which is required to be described in the Registration Statement, the Time of Sale Prospectus or the Final Prospectus and which is not so described.

(jj) All transactions by the Company with officers, directors or control persons of the Company have been duly approved by the Board of Directors of the Company, or duly appointed committees thereof, if and to the extent required under applicable law.

(kk) No supplier, customer, distributor or sales agent of the Company has notified the Company that it intends to discontinue or decrease the rate of business done with the Company, except where such discontinuation or decrease would not have a Material Adverse Effect.

(ll) No person or entity has the right to require registration of shares of Common Stock or other Securities of the Company within 90 days of the date hereof because of the filing or effectiveness of the applicable Registration Statement or otherwise, except for persons and entities who have waived such right. Except as described in the Registration Statement, the Time of Sale Prospectus and the Final Prospectus, there are no persons with registration rights or similar rights to have any Securities registered by the Company or any of its subsidiaries under the Securities Act.

(mm) The Company had a reasonable basis for, and made in good faith, each “forward-looking statement” (within the meaning of Section 27A of the Securities Act or Section 21E of the Exchange Act) contained or incorporated by reference in the Registration Statement, the Time of Sale Prospectus, the Final Prospectus or the Marketing Materials.

(nn) The Company and each of its subsidiaries have materially complied, and are presently in material compliance with, its privacy policies and third-party obligations (imposed by applicable law, contract or otherwise) regarding the collection, use, transfer, storage, protection, disposal and disclosure by the Company and its subsidiaries of personally identifiable information. The Company and its subsidiaries have taken commercially reasonable steps to protect the information technology systems and data used in connection with the operation of the Company and its subsidiaries, taken as a whole. The Company and its subsidiaries have established commercially reasonable disaster recovery and security procedures for the business. To the knowledge of the Company, there has been no security breach or attack or other compromise of or relating to the Company’s information technology systems that would reasonably be expected to result in a Material Adverse Effect.

(oo) Nothing has come to the attention of the Company that has caused it to believe that the statistical or market-related data included in the Registration Statement, the Prospectus and the Time of Sale Prospectus is not based on or derived from sources that are reliable and accurate in all material respects.

(pp) Neither the Company nor its subsidiaries is (i) in violation of its respective charter or bylaws (or equivalent organizational documents), (ii) in default (or with the giving of notice or lapse of time would be in default) under any existing material obligation, agreement, covenant or condition contained in any indenture, loan agreement, mortgage, lease or other agreement or instrument to which any of them is a party or by which any of them is bound or to which any of the properties of any of them is subject, or (iii) is in violation of any material statute, law, rule, regulation, ordinance, directive, judgment, decree or order of any judicial, regulatory or other legal or governmental agency or body, foreign or domestic.

(qq) The Company has taken all necessary actions to ensure that it is in compliance with the provisions of the Sarbanes-Oxley Act, and all rules and regulations promulgated thereunder, to the extent applicable to the Company on the date hereof.

(rr) The Common Stock is registered pursuant to Section 12(b) of the Exchange Act and is approved for listing on the Nasdaq Capital Market. There is no action pending by the Company or, to the Company’s knowledge, the Nasdaq Capital Market, to delist the Common Stock from the Nasdaq Capital Market, nor has the Company received any notification that the Nasdaq Capital Market is contemplating terminating such listing. The Shares are listed on the Nasdaq Global Market. The Company is in compliance with all applicable corporate governance requirements of the Nasdaq Capital Market.

(ss) The Company and each of its subsidiaries owns or possesses adequate rights or licenses to use all material trademarks, trade names, service marks, service mark registrations, service names, patents, patent rights, copyrights, original works, inventions, licenses, approvals, governmental authorizations, trade secrets and other intellectual property rights and all applications and registrations therefor (“**Intellectual Property Rights**”) necessary to conduct their respective businesses as now conducted and as presently proposed to be conducted. None of the Company’s or its subsidiaries’ Intellectual Property Rights, which are necessary to conduct their respective businesses, have expired, terminated or been abandoned, or are expected to expire, terminate or be abandoned, within three years from the date of this Agreement. To the best knowledge of the Company, neither the Company nor any of its subsidiaries has, (i) infringed, misappropriated, diluted or violated the Intellectual Property Rights of others, except as disclosed in the Registration Statement, the Time of Sale Prospectus and the Prospectus, (ii) violated any material term or provision of any contract concerning Intellectual Property Rights, (iii) violated any material right of any person (including any right to privacy or publicity), or (iv) conducted its business in a manner that would constitute unfair competition or unfair trade practices under the laws of any jurisdiction. Except as disclosed in the Registration Statement, the Time of Sale Prospectus and the Prospectus, there is no claim, action or proceeding being made or brought, or to the knowledge of the Company or any of its subsidiaries, being threatened, against the Company or any of its subsidiaries regarding Intellectual Property Rights of others that would reasonably be expected to have a Material Adverse Effect on the Company. Except as disclosed in the Registration Statement, the Time of Sale Prospectus and the Prospectus, the Company is not aware of any facts or circumstances which might give rise to any of the foregoing infringements or claims, actions or proceedings. The Company and each of its subsidiaries have taken reasonable security measures to protect the secrecy, confidentiality and value of all trade secrets within the Intellectual Property Rights of the Company that are materially necessary to conduct their respective businesses.

(tt) To the knowledge of the Company, no third party is infringing, violating or misappropriating any Company owned Intellectual Property Rights, and there is no claim pending or proceeding regarding any such actual or alleged infringement, misappropriation or other violation of any Company owned Intellectual Property Rights.

(uu) All former and current employees, contractors and consultants of the Company who have contributed to the creation or development of the Company owned Intellectual Property Rights have executed a valid and enforceable agreement containing an irrevocable assignment to the Company of all of their ownership and other rights therein, including to any invention, improvement or discovery.

(vv) The Company has not distributed, incorporated or otherwise used any “Open Source Code” (also known as “free software” (as defined by the Free Software Foundation) or “open source software” (as defined by the Open Source Initiative) or has not otherwise distributed publicly software under terms that permit modification and redistribution of such software) in a manner that would require that any of the proprietary software owned by the Company or included in a Company product or service: (i) be made available or distributed in source code form; (ii) be licensed for the purpose of making derivative works; (iii) be licensed under terms that allow reverse engineering, reverse assembly or disassembly of any kind; or (iv) be redistributable at no charge. The Company is in compliance with the terms and conditions of all licenses for free or Open Source Code.

(ww) The Company and its subsidiaries’ information technology assets and equipment, computers, systems, networks, hardware, software, websites, applications and databases (collectively, “**IT Systems**”) are adequate for, and operate and perform in all material respects as required in connection with the operation of the business of the Company and its subsidiaries as currently conducted, free and clear of all material bugs, errors, defects, Trojan horses, time bombs, malware and other corruptants. The Company and its subsidiaries have implemented and maintained commercially reasonable controls, policies, procedures, and safeguards to maintain and protect their material confidential information and the integrity, continuous operation, redundancy and security of all IT Systems and data (including all personal, personally identifiable, sensitive, confidential or regulated data (“**Personal Data**”) used in connection with their businesses, and there have been no breaches, violations, outages or unauthorized uses of or accesses to same, except for those that have been remedied without material cost or liability or the duty to notify any other person, nor any incidents under internal review or investigations relating to the same. The Company and its subsidiaries are presently in material compliance with all applicable laws or statutes and all judgments, orders, rules and regulations of any court or arbitrator or governmental or regulatory authority, internal policies and contractual obligations relating to the privacy and security of IT Systems and Personal Data and to the protection of such IT Systems and Personal Data from unauthorized use, access, misappropriation or modification.

(xx) The Company and each of its subsidiaries has fulfilled its obligations, if any, under the minimum funding standards of Section 302 of the U.S. Employee Retirement Income Security Act of 1974 (“**ERISA**”) and the regulations and published interpretations thereunder with respect to each “plan” as defined in Section 3(3) of ERISA and such regulations and published interpretations in which their respective employees are eligible to participate and each such plan is in compliance with the presently applicable provisions of ERISA and such regulations and published interpretations. No “Reportable Event” (as defined in ERISA) has occurred with respect to any “Pension Plan” (as defined in ERISA) for which the Company could have any liability.

(yy) Neither the execution, delivery and performance of this Agreement by the Company nor the consummation of any of the transactions contemplated hereby, will give rise to a right to terminate or accelerate the due date of any payment due under, or conflict with or result in the breach of any term or provision of, or constitute a default (or an event which with notice or lapse of time or both would constitute a default) under, or require any consent or waiver under, or result in the execution or imposition of any lien, charge or encumbrance upon any properties or assets of the Company or its subsidiaries pursuant to the terms of, any bond, debenture, note, indenture, mortgage, deed of trust or other agreement or instrument to which the Company or any of its subsidiaries is a party or by which either the Company or any of its subsidiaries or any of their properties or businesses is bound, or any franchise, license, permit, judgment, decree, order, statute, rule or regulation applicable to the Company or any of its subsidiaries or violate any provision of the certificate or articles of incorporation or bylaws of the Company or any of its subsidiaries, except for such consents or waivers which have already been obtained and are in full force and effect.

2. Representations and Warranties of the Selling Stockholders. Each Selling Stockholder, separately and not jointly, represents and warrants to and agrees with each of the Underwriters that:

(a) This Agreement has been duly authorized, executed and delivered by or on behalf of such Selling Stockholder.

(b) The execution and delivery by such Selling Stockholder of, and the performance by such Selling Stockholder of its obligations under, this Agreement, will not contravene (i) any provision of applicable law, (ii) the certificate of incorporation, by-laws or other comparable governing or constituent documents, if any, of such Selling Stockholder, (iii) any agreement or other instrument binding upon such Selling Stockholder or (iv) any judgment, order or decree of any governmental body, agency or court having jurisdiction over such Selling Stockholder, except in the case of clauses (i), (iii) and (iv) as would not, individually or in the aggregate, have a material adverse effect on the ability of such Selling Stockholder to consummate the transactions contemplated by this Agreement, and no consent, approval, authorization or order of, or qualification with, any governmental body or agency is required for the performance by such Selling Stockholder of its obligations under this Agreement, except such as have been obtained and made under the Securities Act, such as may be required by the Exchange Act or may be required by the securities or Blue Sky laws of the various states or foreign jurisdictions in connection with the offer and sale of the Shares.

(c) Such Selling Stockholder has, and on the Closing Date will have, valid title to, or a valid “security entitlement” within the meaning of Section 8-501 of the New York Uniform Commercial Code in respect of, the Shares to be sold by such Selling Stockholder free and clear of all security interests, claims, liens, equities or other encumbrances and the legal right and power, and all authorization and approval required by law, to enter into this Agreement, and to sell, transfer and deliver the Shares to be sold by such Selling Stockholder or a security entitlement in respect of such Shares.

(d) [Reserved]

(e) Upon payment for the Shares to be sold by such Selling Stockholder pursuant to this Agreement, delivery of such Shares, as directed by the Underwriters, to Cede & Co. (“**Cede**”) or such other nominee as may be designated by the Depository Trust Company (“**DTC**”), registration of such Shares in the name of Cede or such other nominee and the crediting of such Shares on the books of DTC to securities accounts of the Underwriters (assuming that neither DTC nor any such Underwriter has notice of any adverse claim (within the meaning of Section 8-105 of the New York Uniform Commercial Code (the “**UCC**”)) to such Shares), (A) DTC shall be a “protected purchaser” of such Shares within the meaning of Section 8-303 of the UCC, (B) under Section 8-501 of the UCC, the Underwriters will acquire a valid security entitlement in respect of such Shares and (C) no action based on any “adverse claim”, within the meaning of Section 8-102 of the UCC, to such Shares may be successfully asserted against the Underwriters with respect to such security entitlement; for purposes of this representation, such Selling Stockholder may assume that when such payment, delivery and crediting occur, (x) such Shares will have been registered in the name of Cede or another nominee designated by DTC, in each case on the Company’s share registry in accordance with its certificate of incorporation, bylaws and applicable law, (y) DTC will be registered as a “clearing corporation” within the meaning of Section 8-102 of the UCC and (z) appropriate entries to the accounts of the several Underwriters on the records of DTC will have been made pursuant to the UCC.

(f) [Reserved]

(g) (i) The Registration Statement, when it became effective, did not contain and, as amended or supplemented, if applicable, will not contain, as of the date of such amendment or supplement, 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 not misleading, (ii) the Time of Sale Prospectus does not, and at the time of each sale of the Shares in connection with the offering when the Prospectus is not yet available to prospective purchasers at the Closing Date, the Time of Sale Prospectus, as then amended or supplemented by the Company, if applicable, will not, contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, (iii) each broadly available road show, if any, when considered together with the Time of Sale Prospectus, does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading and (iv) the Prospectus, as of its date, does not contain and, as amended or supplemented, if applicable, will not contain, as of its date, at the Closing Date, any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, *provided* that the representations and warranties set forth in this paragraph 2(g) do not apply to statements or omissions in the Registration Statement, the Time of Sale Prospectus or the Prospectus based upon information relating to any Underwriter furnished to the Company in writing by such Underwriter through the Representative expressly for use therein and are limited in all respects to statements or omissions made in reliance upon and in conformity with information relating to such Selling Stockholder furnished to the Company in writing by such Selling Stockholder expressly for use in the Registration Statement, the Time of Sale Prospectus, the Prospectus or any amendments or supplements thereto, it being understood and agreed that the only information furnished by such Selling Stockholder consists of the name of such Selling Stockholder, the number of offered shares, the address and other information with respect to such Selling Stockholder (excluding percentages) which appear in the Registration Statement, Time of Sale Prospectus, and the Prospectus in the table (and corresponding footnotes) under the caption “Selling Stockholder” (with respect to the Selling Stockholder, the “**Selling Stockholder Information**”).

(h) (i) Such Selling Stockholder, or, to the knowledge of such Selling Stockholder, any director, officer, employee, agent, controlled affiliate or representative of such Selling Stockholder, is a Person that is, or is owned or controlled by one or more Persons that are:

(A) the subject of any Sanctions, or

(B) located, organized or resident in a country or territory that is the subject of Sanctions.

(ii) Such Selling Stockholder will not, directly or indirectly, use the proceeds of the offering, or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or other Person:

(A) to fund or facilitate any activities or business of or with any Person or in any country or territory that, at the time of such funding or facilitation, is the subject of Sanctions; or

(B) in any other manner that will result in a violation of Sanctions by any Person (including any Person participating in the offering, whether as underwriter, advisor, investor or otherwise).

3. *Agreements to Sell and Purchase.* Each Selling Stockholder, severally and not jointly, hereby agrees to sell to the several Underwriters, and each Underwriter, upon the basis of the representations and warranties herein contained, but subject to the conditions hereinafter stated, agrees, severally and not jointly, to purchase from such Selling Stockholder at \$3.50 a Share (the “**Purchase Price**”) the number of Shares (subject to such adjustments to eliminate fractional shares as the Representative may determine) that bears the same proportion to the number of Shares to be sold by such Selling Stockholder as set forth in Schedule I hereto under the column titled “Number of Shares To Be Purchased” opposite the name of such Underwriter.

The Company hereby agrees that it will not, during the period ending 60 days after the date of the Prospectus (the “**Restricted Period**”), without the prior written consent of the Representative (which consent may be withheld in the Representative’s sole discretion) (i) directly or indirectly, sell, offer to sell, contract to sell, grant any option for the sale, grant any security interest in, pledge, hypothecate or otherwise dispose of or enter into any transaction which is designed to, or could be expected to, result in the disposition (whether by actual disposition or effective economic disposition due to delivery of Common Stock or securities convertible into, exchangeable, or exercisable for shares of Common Stock (“**Securities**”), in cash settlement or otherwise, by the Company (or any person in privity with the Company) (collectively, a “**Disposition**”), (ii) without limiting the restrictions set forth in clause (i), engage in any hedging or other transaction which is designed to or reasonably expected to lead to or result in a Disposition of shares of Common Stock or other Securities during the Restricted Period, even if such shares of Common Stock or other Securities would be disposed of by a person or entity other than the Company, or (iii) file any registration statement with the Commission relating to the offering of any shares of Common Stock or other Securities, except for a registration statement on Form S-8 relating to the registration of shares of Common Stock issuable pursuant to the Company’s equity incentive plans described in the Time of Sale Prospectus and in effect on the date of this Agreement.

The restrictions contained in the preceding paragraph shall not apply to (i) the Shares to be sold hereunder; (ii) the issuance of Common Stock or other Securities, the issuance of any dividends on convertible securities outstanding on the date hereof pursuant to the terms of such securities or upon the exercise of any equity awards issued pursuant to the Company’s equity incentive plans described in the Time of Sale Prospectus and in effect on the date of this Agreement, or the exercise of warrants or the conversion of convertible securities issued by the Company that are outstanding on the date hereof (or issued after the date hereof as PIK dividends on convertible securities that are outstanding on the date hereof) (iii) the grant of any equity awards by the Company to employees, officers, directors, advisors or consultants of the Company pursuant to equity incentive plans described in the Time of Sale Prospectus and in effect on the date hereof; (iv) the filing by the Company of a registration statement on Form S-8 with the Commission in respect of any shares of Common Stock or other Securities issued under or the grant of any equity award pursuant to an equity incentive plan described in the Time of Sale Prospectus and in effect on the date hereof; or (v) securities issued pursuant to acquisitions or strategic transactions approved by a majority of the disinterested directors of the Company, provided that such securities are issued as “restricted securities” (as defined in Rule 144) and carry no registration rights that require or permit the filing of any registration statement in connection therewith within 60 days following the date of the Prospectus, and 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 owner of an asset in a business synergistic with the business of the Company and shall provide to the Company additional benefits in addition to the investment of funds, but shall not include a transaction in which the Company is issuing securities primarily for the purpose of raising capital or to an entity whose primary business is investing in securities.

4. *Terms of Public Offering.* The Selling Stockholders are advised by the Representative that the Underwriters propose to make a public offering of their respective portions of the Shares. The Selling Stockholders are further advised by the Representative that the Shares are to be offered to the public initially at \$3.50 a Share (the “**Public Offering Price**”).

5. *Payment and Delivery.* Payment for the Shares to be sold by each Selling Stockholder shall be made to such Selling Stockholder in Federal or other funds immediately available in New York City against delivery of such Shares for the respective accounts of the several Underwriters on December 21, 2023. The date of such payment is hereinafter referred to as the “**Closing Date**.”

The Shares shall be registered in such names and in such denominations as the Representative shall request in writing not later than one full business day prior to the Closing Date. The Shares shall be delivered to the Representative on the Closing Date, for the respective accounts of the several Underwriters. If the Representative so elects, delivery of the Shares may be made by credit through full fast transfer to the accounts at DTC designated by the Representative.

6. *Conditions to the Underwriters’ Obligations.* The several obligations of the Underwriters to purchase the Shares hereunder are subject to the following conditions:

(a) The Registration Statement, including any Rule 462(b) Registration Statement, is effective and, at the Closing Date, no stop order suspending the effectiveness of any Registration Statement or any post-effective amendment thereto has been issued under the Securities Act, no order preventing or suspending the use of any Preliminary Prospectus or Prospectus has been issued and no proceedings for any of those purposes have been instituted or are pending or, to the Company’s knowledge, contemplated; and the Company has complied with each request (if any) from the Commission for additional information to the reasonable satisfaction of Faegre and EGS (each as defined below).

(b) The Representative shall not have reasonably determined, and advised the Company, that the Registration Statement, the Time of Sale Prospectus, any Prospectus, the Final Prospectus, or any amendment thereof or supplement thereto, or any Issuer Free Writing Prospectus, contains an untrue statement of fact which, in the reasonable opinion of the Representative, is material, or omits to state a fact which, in the reasonable opinion of the Representative, is material and is required to be stated therein or necessary to make the statements therein not misleading.

(c) The Underwriters shall have received on the Closing Date a certificate, dated the Closing Date and signed on behalf of the Company by the Chief Executive Officer and Chief Accounting Officer of the Company, to the effect (i) set forth in Section 6(b) above, (ii) that the representations and warranties of the Company contained in this Agreement are true and correct in all material respects (except for such representations and warranties qualified by materiality, which representations and warranties shall be true and correct in all respects) on and as of the Closing Date, (iii) that the Company has complied with all of the agreements and satisfied all of the conditions on its part to be performed or satisfied hereunder on or before the Closing Date, and (iv) no stop order suspending the effectiveness of any Registration Statement under the Securities Act has been issued, no order preventing or suspending the use of any Preliminary Prospectus or the Prospectus has been issued and no proceedings for any of those purposes have been instituted or are pending or, to their knowledge, contemplated.

(d) The Underwriters shall have received on the Closing Date an opinion and a negative assurance letter of Faegre Drinker Biddle & Reath LLP (“**Faegre**”), counsel for the Company, dated the Closing Date, in form and substance reasonably satisfactory to the Representative.

(e) The Underwriters shall have received on the Closing Date an opinion of Ellenoff Grossman & Schole LLP (“**EGS**”), counsel for the Underwriters, dated the Closing Date, in form and substance reasonably satisfactory to the Representative.

(f) The Underwriters shall have received, on each of the date hereof and the Closing Date, a letter dated the date hereof or the Closing Date, as the case may be, in form and substance reasonably satisfactory to the Underwriters, from the Auditors, containing statements and information of the type ordinarily included in accountants’ “comfort letters” to underwriters with respect to the financial statements and certain financial information contained in the Registration Statement, the Time of Sale Prospectus and the Prospectus; *provided* that the letter delivered on the Closing Date shall use a “cut-off date” not earlier than the date hereof.

(g) The Underwriters shall have received on the Closing Date a certificate, dated the Closing Date and signed on behalf of the Company by the Chief Accounting Officer with respect to certain financial data contained in the Time of Sale Prospectus and the Prospectus, providing “management comfort” with respect to such information, in form and substance reasonably satisfactory to the Underwriters.

(h) The Underwriters shall have received on the Closing Date a certificate, dated the Closing Date and signed on behalf of the Company by the Secretary, certifying (i) that each copy of the Company's certificate of incorporation and bylaws attached to the Secretary's Certificate is true, correct and complete, has not been modified and is in full force and effect; (ii) that a true, correct and complete copy of each of the resolutions of the Company's board of directors and the resolutions of the pricing committee of the Company's board of directors relating to the approval of the offering is attached to the Secretary's Certificate and such resolutions are in full force and effect and have not been modified; (iii) as to the incumbency of the officers of the Company; and (iv) as to the good standing of the Company from the Secretary of State of the State of Delaware.

(i) The lock-up agreements, each substantially in the form of Exhibit A hereto, between the Representative and each of the persons listed on Schedule IV hereto, relating to Dispositions of shares of Common Stock and other Securities, delivered to the Representative on or before the date hereof, shall be in full force and effect on the Closing Date.

(j) Such other documents as the Representative may reasonably request with respect to the good standing of the Company, the due authorization and issuance of the Shares to be sold on the Closing Date, and other matters related to the issuance of the Shares shall have been furnished to the Representative.

If any condition specified in this Section 6 shall not have been fulfilled when and as required to be fulfilled, this Agreement may be terminated by the Representative by notice to the Company at any time at or prior to the Closing Date, and such termination shall be without liability of any party to any other party, except that Section 8, Section 11 and Section 13 shall survive any such termination and remain in full force and effect.

7. Covenants of the Company. The Company covenants with each Underwriter as follows:

(a) To prepare the Final Prospectus in a form approved by the Representative and to timely file such Final Prospectus pursuant to Rule 424(b) under the Securities Act.

(b) During the period beginning on the date hereof and ending on the later of the Closing Date or such date as determined by the Representative the Final Prospectus is no longer required by law to be delivered in connection with sales by an underwriter or dealer (the "**Prospectus Delivery Period**"), prior to amending or supplementing the Registration Statement, including any Rule 462 Registration Statement, the Time of Sale Prospectus or the Final Prospectus, the Company shall furnish to the Representative for review and comment a copy of each such proposed amendment or supplement, and the Company shall not file any such proposed amendment or supplement to which the Representative reasonably objects.

(c) To furnish to the Representative on the business day next succeeding the date of this Agreement and during the period mentioned in Section 7(g) or 7(h) below, as many copies of the Time of Sale Prospectus, the Prospectus and any supplements and amendments thereto or to the Registration Statement as the Representative may reasonably request.

(d) Before amending or supplementing any Registration Statement, the Time of Sale Prospectus or the Prospectus, to furnish to the Representative a copy of each such proposed amendment or supplement and to not file any such proposed amendment or supplement to which the Representative reasonably object, and to file with the Commission within the applicable period specified in Rule 424(b) under the Securities Act any prospectus (including the Prospectus) required to be filed pursuant to such Rule.

(e) To furnish to the Representative a copy of each proposed free writing prospectus to be prepared by or on behalf of, used by, or referred to by the Company and not to use or refer to any proposed free writing prospectus to which the Representative reasonably object.

(f) Not to take any action that would result in an Underwriter or the Company being required to file with the Commission pursuant to Rule 433(d) under the Securities Act a free writing prospectus prepared by or on behalf of the Underwriter that the Underwriter otherwise would not have been required to file thereunder.

(g) If the Time of Sale Prospectus is being used to solicit offers to buy the Shares at a time when the Prospectus is not yet available to prospective purchasers and any event shall occur or condition exist as a result of which, in the opinion of counsel for the Underwriters, it is necessary or appropriate to amend or supplement the Time of Sale Prospectus in order to make the statements therein, in the light of the circumstances, not misleading, or if any event shall occur or condition exist as a result of which the Time of Sale Prospectus conflicts with the information contained in the Registration Statement then on file, or if it is necessary or appropriate to amend or supplement the Time of Sale Prospectus to comply with applicable law, then the Company shall, at its own expense, immediately prepare, file with the Commission and furnish to the Underwriters and to any dealer upon request, either amendments or supplements to the Time of Sale Prospectus so that the statements in the Time of Sale Prospectus as so amended or supplemented will not, in the light of the circumstances when the Time of Sale Prospectus is delivered to a prospective purchaser, be misleading, or so that the Time of Sale Prospectus, as amended or supplemented, will no longer conflict with the Registration Statement, or so that the Time of Sale Prospectus, as amended or supplemented, will comply with applicable law.

(h) If, during such period after the first date of the public offering of the Shares as in the opinion of counsel for the Underwriters, the Prospectus (or in lieu thereof the notice referred to in Rule 173(a) of the Securities Act) is required by law to be delivered in connection with sales by an Underwriter or dealer, any event shall occur or condition exist as a result of which it is necessary to amend or supplement the Prospectus in order to make the statements therein, in the light of the circumstances when the Prospectus (or in lieu thereof the notice referred to in Rule 173(a) of the Securities Act) is delivered to a purchaser, not misleading, or if, in the opinion of counsel for the Underwriters, it is necessary to amend or supplement the Prospectus to comply with the Securities Act, then the Company shall, at its own expense, immediately prepare, file with the Commission and furnish to the Underwriters and to any dealers (whose names and addresses the Representative will furnish to the Company) to which Shares may have been sold by the Representative on behalf of the Underwriters and to any other dealers upon request, either amendments or supplements to the Prospectus so that the statements in the Prospectus as so amended or supplemented will not, in the light of the circumstances when the Prospectus (or in lieu thereof the notice referred to in Rule 173(a) of the Securities Act) is delivered to a purchaser, be misleading or so that the Prospectus, as amended or supplemented, will comply with the Securities Act.

(i) To qualify the Shares for offer and sale under the securities or Blue Sky laws of such jurisdictions to the extent required by applicable law.

(j) To make generally available to the Company's security holders and to the Representative as soon as practicable an earnings statement (which need not be audited) covering a period of at least twelve months beginning with the first fiscal quarter of the Company occurring after the date of this Agreement which shall satisfy the provisions of Section 11(a) of the Securities Act and the Rules and Regulations thereunder.

(k) If any Selling Stockholder is not a U.S. person for U.S. federal income tax purposes, the Company will deliver to each Underwriter (or its agent), on or before the Closing Date, (i) a certificate with respect to the Company's status as a "United States real property holding corporation," dated not more than thirty (30) days prior to the Closing Date, as described in Treasury Regulations Sections 1.897-2(h) and 1.1445-2(e)(3), and (ii) proof of delivery to the IRS of the required notice, as described in Treasury Regulations 1.897-2(h)(2).

(l) To furnish to the Underwriters and counsel to the Underwriters copies of the Registration Statement, each Prospectus, any Issuer Free Writing Prospectus, and all amendments and supplements to such documents, in each case as soon as available and in such quantities as the Underwriters may from time to time reasonably request.

(m) During the Prospectus Delivery Period, the Company has not taken, directly or indirectly, any action that is designed to or that has constituted or that would reasonably be expected to cause or result in the stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of the Shares.

(n) The Company will use its best efforts to maintain the listing of the Common Stock (including without limitation the Shares) on the Nasdaq Global Market.

8. Reserved.

9. *Expenses.* Except as specifically described in this Section 9, whether or not the transactions contemplated in this Agreement are consummated or this Agreement is terminated, the Selling Stockholders¹ agree to pay or cause to be paid all expenses incident to the negotiation and preparation of this Agreement, the offer and sale of the Shares pursuant to this Agreement, and the performance of its obligations under this Agreement, including: (i) the fees and expenses of the Company (including of the Company's counsel and the Company's accountants) incurred in connection with the registration, offer, sale, and delivery of the Shares under the Securities Act, including the fees or expenses in connection with the preparation and filing of the Registration Statement, any Preliminary Prospectus, the Time of Sale Prospectus, the Prospectus, any free writing prospectus prepared by or on behalf of, used by, or referred to by the Company, and any amendments and supplements to any of the foregoing, and all costs associated with printing, mailing and delivering any of the foregoing, (ii) all costs and expenses related to the issuance, transfer and delivery of the Shares to the Underwriters, including any transfer or other taxes payable thereon, (iii) the cost of preparing any Blue Sky memorandum in connection with the offer and sale of the Shares under state securities laws and all expenses in connection with the qualification of the Shares for offer and sale under state securities laws as provided in Section 7(i) hereof, including filing fees and the reasonable fees and disbursements of counsel for the Underwriters in connection with such qualification and in connection with the Blue Sky memorandum, (iv) [Reserved], (v) the cost of printing stock certificates representing the Shares, if applicable, (vi) the costs and charges of any transfer agent, registrar or depository, (vii) the costs and expenses of the Company relating to investor presentations on any "road show" undertaken in connection with the marketing of the offering of the Shares, including, without limitation, expenses associated with the preparation or dissemination of any electronic road show, the production of the road show, fees and expenses of any consultants engaged in connection with the road show, and travel and lodging expenses of officers, employees and consultants of the Company, to the extent applicable; (viii) the payment for or reimbursement of the costs and expenses of the Underwriters incurred in connection with any of the foregoing including, without limitation, (A) the fees and disbursements of counsel for the Underwriters, and (B) the travel and lodging expenses of the representatives and officers of the Company and any such consultants associated with the road show undertaken in connection with the marketing of the offering of the Shares; *provided* that the aggregate amount of out-of-pocket costs and expenses required to be paid or reimbursed by the Selling Shareholders pursuant to this clause (viii) shall not exceed \$75,000 in the aggregate (including any advance amounts previously paid by the Company).

¹ NTD: The selling stockholders have an expense agreement with the company and have agreed to pay or reimburse all expenses.

The provisions of this Section shall not supersede or otherwise affect any agreement that the Sellers may otherwise have for the allocation of such expenses among themselves.

10. *Covenants of the Underwriters.* Each Underwriter severally covenants with the Company not to take any action that would result in the Company being required to file with the Commission under Rule 433(d) a free writing prospectus prepared by or on behalf of such Underwriter that otherwise would not be required to be filed by the Company thereunder, but for the action of the Underwriter.

11. *Indemnity and Contribution.*

(a) The Company agrees to indemnify and hold harmless each Underwriter, its officers and employees and each person, if any, who controls any Underwriter within the meaning of either Section 15 of the Securities Act or Section 20 of the Exchange Act and each affiliate of any Underwriter within the meaning of Rule 405 under the Securities Act from and against any and all losses, claims, damages and liabilities, joint or several (including, without limitation, any reasonable investigation, legal or other expenses incurred in connection with, and any amount paid in settlement of, any action, suit or proceeding or any claim asserted) to which they, or any of them, may become subject under the Securities Act, the Exchange Act or other Federal or state law or regulation, at common law or otherwise, insofar as such losses, claims, damages or liabilities arise out of or are based upon (i) any untrue statement or alleged untrue statement of a material fact contained in the Registration Statement or any amendment thereto or arise out of or are based upon any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, or any untrue statement or alleged untrue statement of a material fact contained in the Preliminary Prospectus, Time of Sale Prospectus, any issuer free writing prospectus (as defined in Rule 433(h) under the Securities Act), any Company information that the Company has filed, or is required to file, pursuant to Rule 433(d) under the Securities Act, any road show, as defined in Rule 433(h) under the Securities Act (a “**road show**”), or the Prospectus, or any amendment thereof or supplement thereto, or arise out of or are based upon by any omission or alleged omission to state in any of the foregoing a material fact required to be stated therein or necessary to make the statements therein not misleading, (ii) in whole or in part, any inaccuracy or breach of any representations or warranties of the Company contemplated in this Agreement or (iii) in whole or in part, any failure of the Company to perform its obligations hereunder or under applicable law; provided, however, that such indemnity shall not inure to the benefit of any Underwriter (or any person controlling such Underwriter) on account of any losses, claims, damages or liabilities arising from or are based upon any such untrue statement or omission or alleged untrue statement or omission based upon information relating to any Underwriter furnished to the Company in writing by such Underwriter through the Representative expressly for use therein.

(b) Each Selling Stockholder, separately and not jointly, agrees to indemnify and hold harmless each Underwriter, each person, if any, who controls any Underwriter within the meaning of either Section 15 of the Securities Act or Section 20 of the Exchange Act and each affiliate of any Underwriter within the meaning of Rule 405 under the Securities Act, from and against any and all losses, claims, damages and liabilities (including, without limitation, any legal or other expenses reasonably incurred in connection with defending or investigating any such action or claim) caused by any untrue statement or alleged untrue statement of a material fact contained in the Registration Statement or any amendment thereof, any preliminary prospectus, the Time of Sale Prospectus or any amendment or supplement thereto, any issuer free writing prospectus as defined in Rule 433(h) under the Securities Act or any Company information that the Company has filed, or is required to file, pursuant to Rule 433(d) under the Securities Act, or caused by any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, but only to the extent such losses, claims, damages or liabilities are caused by any untrue statement or omission or alleged untrue statement or omission made in reliance on and in conformity with such Selling Stockholder's Selling Stockholder Information; and provided, further, that the aggregate liability of the Selling Stockholder pursuant to this subsection (b) shall be limited to an amount equal to the aggregate Public Offering Price, less underwriting discounts and commissions (but before payment of expenses), of the Shares sold by such Selling Stockholder under this Agreement (the "**Selling Stockholder Proceeds**").

(c) Each Underwriter agrees, severally and not jointly, to indemnify and hold harmless the Company, the Selling Stockholders, the directors of the Company, the officers of the Company who sign the Registration Statement and each person, if any, who controls the Company or any Selling Stockholder within the meaning of either Section 15 of the Securities Act or Section 20 of the Exchange Act from and against any and all losses, claims, damages and liabilities (including, without limitation, any legal or other expenses reasonably incurred in connection with defending or investigating any such action or claim) arising out of or are based upon an untrue statement or alleged untrue statement of a material fact contained in any offering materials, including but not limited to, (i) the Registration Statement or any amendment thereto, (ii) any Preliminary Prospectus, or any amendment or supplement thereto, (iii) the Time of Sale Prospectus, or any amendment or supplement thereto, (iv) any issuer free writing prospectus (as defined in Rule 433(h) under the Securities Act), (v) any road show, or (vi) the Prospectus, or any amendment or supplement thereto, or caused by any omission or alleged omission to state in any of the foregoing a material fact required to be stated therein or necessary to make the statements therein not misleading, but, in each case, only with reference to information relating to such Underwriter furnished to the Company in writing by such Underwriter through the Representative expressly for use in the applicable document or filing; provided, however, that the obligation of each Underwriter to indemnify the Company (including any controlling person, director or officer thereof) shall be limited to the amount of the underwriting discount and commissions applicable to the Shares purchased by such Underwriter hereunder.

(d) In case any proceeding (including any governmental investigation) shall be instituted involving any person in respect of which indemnity may be sought pursuant to Section 11(a) or 11(b), such person (the “**indemnified party**”) shall promptly notify the person against whom such indemnity may be sought (the “**indemnifying party**”) in writing and the indemnifying party, upon request of the indemnified party, shall retain counsel reasonably satisfactory to the indemnified party to represent the indemnified party and any others the indemnifying party may designate in such proceeding and shall pay the reasonably incurred fees and disbursements of such counsel related to such proceeding, provided, however, that the failure to notify the indemnifying party shall not relieve such indemnifying party from any liability it may have under this Section 11. In any such proceeding, any indemnified party shall have the right to retain its own counsel, but the fees and expenses of such counsel shall be at the expense of such indemnified party unless (i) the indemnifying party and the indemnified party shall have mutually agreed to the retention of such counsel or (ii) the named parties to any such proceeding (including any impleaded parties) include both the indemnifying party and the indemnified party and representation of both parties by the same counsel would be inappropriate due to actual or potential differing interests between them. It is understood that the indemnifying party shall not, in respect of the legal expenses of any indemnified party in connection with any proceeding or related proceedings in the same jurisdiction, be liable for (i) the fees and expenses of more than one separate firm (in addition to any local counsel) for all Underwriters and all persons, if any, who control any Underwriter within the meaning of either Section 15 of the Securities Act or Section 20 of the Exchange Act or who are “affiliates” of any Underwriter (within the meaning of Rule 405 under the Securities Act), (ii) the fees and expenses of more than one separate firm (in addition to any local counsel) for the Company, its directors, its officers who sign the Registration Statement and each person, if any, who controls the Company within the meaning of either such Section, and (iii) the fees and expenses of more than one firm (in addition to any local counsel) for the Selling Stockholders and all persons, if any, who control the Selling Stockholders within the meaning of either such Section, and that all such fees and expenses shall be reimbursed as they are incurred. In the case of any such separate firm for the Underwriters and such control persons and affiliates of any Underwriters, such firm shall be designated in writing by the Representative. In the case of any such separate firm for the Company, and such directors, officers and control persons of the Company, such firm shall be designated in writing by the Company. In the case of any such separate firm for each Selling Stockholder and such control persons of such Selling Stockholder, such firm shall be designated in writing by such Selling Stockholder, and that all such fees and expenses shall be reimbursed as they are incurred. In the case of any such separate firm for the Underwriters and such control persons and affiliates of any Underwriters, such firm shall be designated in writing by the Representative. In the case of any such separate firm for the Company, and such directors, officers and control persons of the Company, such firm shall be designated in writing by the Company. The indemnifying party shall not be liable for any settlement of any proceeding effected without its written consent, but if settled with such consent or if there be a final judgment for the plaintiff, the indemnifying party agrees to indemnify the indemnified party from and against any loss or liability by reason of such settlement or judgment. Notwithstanding the foregoing sentence, if at any time an indemnified party shall have reasonably requested an indemnifying party to reimburse the indemnified party for fees and expenses of counsel as contemplated by the second and third sentences of this paragraph, the indemnifying party agrees that it shall be liable for any settlement of any proceeding effected without its written consent if (i) such settlement is entered into more than 60 days after receipt by such indemnifying party of the aforesaid request and (ii) such indemnifying party shall not have reimbursed the indemnified party in accordance with such request prior to the date of such settlement. No indemnifying party shall, without the prior written consent of the indemnified party, effect any settlement of any pending or threatened proceeding in respect of which any indemnified party is or could have been a party and indemnity could have been sought hereunder by such indemnified party, unless such settlement (i) includes an unconditional release of such indemnified party from all liability on claims that are the subject matter of such proceeding and (ii) does not include a statement as to or an admission of fault, culpability or a failure to act, by or on behalf of any indemnified party.

(e) To the extent the indemnification provided for in Section 11(a), 11(b) or 11(c) is unavailable to an indemnified party or insufficient in respect of any losses, claims, damages or liabilities referred to therein, then each indemnifying party under such paragraph, in lieu of indemnifying such indemnified party thereunder, shall contribute to the amount paid or payable by such indemnified party as a result of such losses, claims, damages or liabilities (i) in such proportion as is appropriate to reflect the relative benefits received by the indemnifying party or parties on the one hand and the indemnified party or parties on the other hand from the offering of the Shares or (ii) if the allocation provided by clause 11(e)(i) above is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause 11(e)(i) above but also the relative fault of the indemnifying party or parties on the one hand and of the indemnified party or parties on the other hand in connection with the statements or omissions that resulted in such losses, claims, damages or liabilities, as well as any other relevant equitable considerations. The relative benefits received by the Sellers on the one hand and the Underwriters on the other hand in connection with the offering of the Shares shall be deemed to be in the same respective proportions as the net proceeds from the offering of the Shares (after deducting underwriting discounts and commissions but before deducting expenses) received by each Seller and the total underwriting discounts and commissions received by the Underwriters, in each case as set forth in the table on the cover of the Prospectus, bear to the aggregate Public Offering Price of the Shares. The relative fault of the Company, the Selling Stockholders and the Underwriters shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Company, each Selling Stockholder or by the Underwriters and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission. The Underwriters' respective obligations to contribute pursuant to this Section 11 are several in proportion to the respective number of Shares they have purchased hereunder, and not joint. The liability of the Selling Stockholders under the contribution agreement contained in this paragraph shall be limited to an amount equal to the Selling Stockholder Proceeds.

(f) The Sellers and the Underwriters agree that it would not be just or equitable if contribution pursuant to this Section 11 were determined by *pro rata* allocation (even if the Underwriters were treated as one entity for such purpose) or by any other method of allocation that does not take account of the equitable considerations referred to in Section 11(e). The amount paid or payable by an indemnified party as a result of the losses, claims, damages and liabilities referred to in Section 11(e) shall be deemed to include, subject to the limitations set forth above, any legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending any such action or claim. Notwithstanding the provisions of this Section 11, (i) no Underwriter shall be required to contribute any amount in excess of the amount by which the total price at which the Shares underwritten by it and distributed to the public were offered to the public exceeds the amount of any damages that such Underwriter has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission and (ii) the Selling Stockholder shall not be required to contribute an amount in excess of the amount by which the Selling Stockholder Proceeds exceed the amount of any damages that such Selling Stockholder has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. The remedies provided for in this Section 11 are not exclusive and shall not limit any rights or remedies which may otherwise be available to any indemnified party at law or in equity.

(g) The indemnity and contribution provisions contained in this Section 11 and the representations, warranties and other statements of the Company and the Selling Stockholder contained in this Agreement shall remain operative and in full force and effect regardless of (i) any termination of this Agreement, (ii) any investigation made by or on behalf of any Underwriter, any person controlling any Underwriter or any affiliate of any Underwriter, any Selling Stockholder or any person controlling the Selling Stockholder, or by or on behalf of the Company, its officers or directors or any person controlling the Company and (iii) acceptance of and payment for any of the Shares.

(h) Notwithstanding anything to the contrary in this Agreement, the aggregate liability of the Selling Stockholder under the indemnity and contribution agreements contained in this Section 11 or otherwise pursuant to this Agreement shall not exceed the Selling Stockholder Proceeds.

12. *Termination.* The Underwriters may terminate this Agreement by notice given by the Representative to the Company, if after the execution and delivery of this Agreement and prior to the Closing Date (i) trading generally shall have been suspended or materially limited on, or by, as the case may be, any of the New York Stock Exchange, the NYSE American, or the Nasdaq Stock Market, (ii) trading of any securities of the Company shall have been suspended on any securities exchange or in any over the counter market, (iii) a material disruption in securities settlement, payment or clearance services in the United States shall have occurred, (iv) any moratorium on commercial banking activities shall have been declared by Federal or New York State authorities, or (v) there shall have occurred any outbreak or escalation of hostilities, or any change in financial markets or any calamity or crisis that, in the Representative's reasonable sole judgment, is material and adverse and which, singly or together with any other event specified in this Section 12, makes it, in your reasonable sole discretion, impracticable or inadvisable to proceed with the offer, sale or delivery of the Shares on the terms and in the manner contemplated in the Time of Sale Prospectus or the Prospectus.

13. *Representations and Agreements to Survive Delivery.* All representations, warranties, and agreements contained herein or in certificates delivered pursuant hereto, including, but not limited to, the agreements of the several Underwriters, the Selling Stockholders and the Company contained in Section 9 and Section 11 hereof, shall remain operative and in full force and effect regardless of any investigation made by or on behalf of the several Underwriters or any controlling person thereof, or the Company or any of its officers, directors, or controlling persons, and shall survive delivery of, and payment for, the Shares to and by the Underwriters hereunder.

14. *Effectiveness; Defaulting Underwriters.* This Agreement shall become effective upon the execution and delivery hereof by the parties hereto.

If, on the Closing Date, any one or more of the Underwriters shall fail or refuse to purchase Shares that it has or they have agreed to purchase hereunder on such date, and the aggregate number of Shares which such defaulting Underwriter or Underwriters agreed but failed or refused to purchase is not more than 10% of the aggregate number of the Shares to be purchased on such date, the other Underwriters shall be obligated severally in the proportions that the number of Shares set forth opposite their respective names in Schedule I bears to the aggregate number of Shares set forth opposite the names of all such non-defaulting Underwriters, or in such other proportions as the Representative may specify, to purchase the Shares which such defaulting Underwriter or Underwriters agreed but failed or refused to purchase on such date; provided that in no event shall the number of Shares that any Underwriter has agreed to purchase pursuant to this Agreement be increased pursuant to this Section 14 by an amount in excess of 10% of such number of Shares without the written consent of such Underwriter. If, on the Closing Date, any Underwriter or Underwriters shall fail or refuse to purchase Shares and the aggregate number of Shares with respect to which such default occurs is more than 10% of the aggregate number of Shares to be purchased on such date, and arrangements satisfactory to the Representative, the Company and the Selling Stockholder for the purchase of such Shares are not made within 36 hours after such default, this Agreement shall terminate without liability on the part of any non-defaulting Underwriter, the Company or the Selling Stockholders. In any such case either Representative or the relevant Seller shall have the right to postpone the Closing Date, but in no event for longer than seven days, in order that the required changes, if any, in the Registration Statement, in the Time of Sale Prospectus, in the Prospectus or in any other documents or arrangements may be effected.

If this Agreement shall be terminated by the Underwriters, or any of them, because of any failure or refusal on the part of the Company or any Selling Stockholder to comply with the terms or to fulfill any of the conditions of this Agreement, or if for any reason the Company or any Selling Stockholder shall be unable to perform its obligations under this Agreement (other than by reason of a default by the Underwriters or the occurrence of any of the events described in Section 12(i), (iii), (iv) or (v)), the Selling Stockholders will reimburse the Underwriters or such Underwriters as have so terminated this Agreement with respect to themselves, severally, for all out-of-pocket expenses (including the fees and disbursements of their counsel) reasonably incurred by such Underwriters in connection with this Agreement or the offering contemplated hereunder but subject to the maximum amount set forth in Section 9.

15. Entire Agreement.

(a) This Agreement represents the entire agreement between the Company and the Selling Stockholders, on the one hand, and the Underwriters, on the other hand, with respect to the preparation of any Preliminary Prospectus, the Time of Sale Prospectus, the Prospectus, the conduct of the offering, and the purchase and sale of the Shares.

(b) The Company and the Selling Stockholders acknowledge that in connection with the offer of the Shares: (i) the Underwriters have acted at arm's length, are not agents of, and owe no fiduciary duties to, the Company, the Selling Stockholders or any other person, (ii) the Underwriters owe the Company and the Selling Stockholders only those duties and obligations set forth in this Agreement and (iii) the Underwriters may have interests that differ from those of the Company and the Selling Stockholders. The Company and the Selling Stockholders each waive to the fullest extent permitted by applicable law any claims it may have against the Underwriters arising from an alleged breach of fiduciary duty in connection with the offer and sale of the Shares.

16. *Counterparts.* This Agreement may be signed in two or more counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument.

17. *Applicable Law.* This Agreement shall be governed by and construed in accordance with the internal laws of the State of New York, without regard to the conflict of laws principles thereof.

18. *Persons Entitled to Benefit of Agreement.* This Agreement shall inure to the benefit of the Underwriters, the Company and each Selling Stockholder and their respective successors and assigns and, to the extent expressed herein, for the benefit of the controlling persons of the Underwriters, the Company or each Selling Stockholder, and officers and directors of the Company and each Selling Stockholder. Nothing in this Agreement is intended or shall be construed to give to any other person, firm or corporation any legal or equitable remedy or claim under or in respect of this Agreement or any provision herein contained. The term “successors and assigns” as herein used shall not include any purchaser, as such purchaser, of any of the Shares from the Underwriter.

19. *USA Patriot Act.* In accordance with the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)), the Underwriters are required to obtain, verify and record information that identifies their respective clients, including the Company, which information may include the name and address of their respective clients, as well as other information that will allow the Underwriters to properly identify their respective clients.

20. *Headings.* The headings of the sections of this Agreement have been inserted for convenience of reference only and shall not be deemed a part of this Agreement.

21. *Notices.* Any and all notices or other communications or deliveries required or permitted to be provided hereunder shall be in writing and shall be deemed given and effective on the earliest of: (a) the time of transmission, if such notice or communication is delivered via e-mail attachment at the email address set forth on the signature pages attached hereto at or prior to 5:30 p.m. (New York City time) on a Trading Day, (b) the next Trading Day after the time of transmission, if such notice or communication is delivered via e-mail attachment at the e-mail address as set forth on the signature pages attached hereto on a day that is not a Trading Day or later than 5:30 p.m. (New York City time) on any Trading Day, (c) the second (2nd) Trading Day following the date of mailing, if sent by U.S. nationally recognized overnight courier service or (d) upon actual receipt by the party to whom such notice is required to be given. The address for such notices and communications shall be as set forth on the signature pages attached hereto.

[Remainder of Page Intentionally Left Blank; Signature Pages Follow]

Very truly yours,

MAMA’S CREATIONS, INC.

By: /s/ Adam Michaels
Name: Adam Michaels
Title: Chairman and Chief Executive Officer

Address for Notice:
Mama’s Creations, Inc.
25 Branca Road
East Rutherford, NJ 07073
Email: agruber@mamascreations.com
Attention: Anthony Gruber

Copy to (which copy shall not constitute notice hereunder):

Faegre Drinker Biddle & Reath LLP
2200 Wells Fargo Center
90 S. Seventh Street
Minneapolis, MN 55402
Email: jonathan.zimmerman@faegredrinker.com
Attention: Jonathan Zimmerman

[Signature Page to MAMA Underwriting Agreement]

The Selling Stockholders:
MATTHEW BROWN 2023 FAMILY TRUST

By: /s/ Karen Wolf
Name: Karen Wolf, Trustee

KAREN WOLF

By: /s/ Karen Wolf
Name: Karen Wolf

Address for Notice:
454 Tillou Rd.
South Orange, NJ 07079
Email: kbwolf2@gmail.com
Attention: Karen Wolf

Copy to (which copy shall not constitute notice hereunder)

Lowenstein Sandler LLP
One Lowenstein Drive
Roseland, NJ 07068
Email: Dgoret@lowenstein.com and Jogrady@lowenstein.com
Attention: David Goret and James O’Grady

[Signature Page to MAMA Underwriting Agreement]

Acting severally on behalf of itself and the
several Underwriters named in Schedule I
hereto.

CRAIG-HALLUM CAPITAL GROUP LLC

By: _____
Name:
Title:

Address for Notice:
Craig-Hallum Capital Group LLC
222 South Ninth Street, Suite 350
Minneapolis, MN 55402
Email:
Attention:

Copy to (which copy shall not constitute notice hereunder):

Ellenoff Grossman & Schole LLP
1345 Avenue of the Americas
New York, New York 10105
Email: cphillips@egslp.com
Attention: Charles E. Phillips

[Signature Page to MAMA Underwriting Agreement]

SCHEDULE I

Underwriter	Number of Shares to be Purchased
Craig-Hallum Capital Group LLC	4,503,937
Roth Capital Partners, LLC	1,125,984
Total:	5,629,921

Schedule I

SCHEDULE II

Time of Sale Prospectus

- 1. Preliminary Prospectus filed on October 27, 2023
- 2. The following orally communicated pricing information:
 - Stockholder Shares offered by the Selling Stockholders: 5,629,921
 - Price to Public: \$3.50 per share
 - Underwriting discounts and commissions: \$0.105 per share

SCHEDULE III

Free Writing Prospectuses

None.

Schedule III

SCHEDULE IV

List of Persons and Entities Subject to Lock-Up

- 1. Adam Michaels
- 2. Anthony Gruber
- 3. Steven Burns
- 4. Alfred D’Agostino
- 5. Thomas Tomo
- 6. Dean Janeway
- 7. Meghan Henson
- 8. Shirley Romig
- 9. Lynn Blake
- 10. The Matthew Brown 2023 Family Trust
- 11. Karen Wolf

Mama’s Creations, Inc. Announces Proposed Public Offering of Common Stock by Selling Stockholders

EAST RUTHERFORD, NJ, December 18, 2023 — Mama’s Creations, Inc. (Nasdaq: MAMA) (“Mama’s Creations” or the “Company”), a leading national marketer and manufacturer of fresh Deli prepared foods, today announced that a proposed underwritten public offering of 5,629,921 shares of common stock of the Company by certain selling stockholders affiliated with Matthew Brown and Karen Wolf (the “Selling Stockholders”) has commenced. The Company is not selling any shares in the offering and will not receive any of the proceeds from the sale of the shares being offered by the Selling Stockholders. The Selling Stockholders will bear the costs associated with the sale of such shares, including underwriting discounts and commissions.

Craig-Hallum is acting as sole book running manager and Roth Capital Partners, LLC is acting as co-manager for this offering.

A registration statement on Form S-3 relating to the public offering of the shares of common stock described above was filed with the Securities and Exchange Commission (“SEC”) and was declared effective on November 13, 2023. The proposed offering will be made only by means of a prospectus and a prospectus supplement. A copy of the preliminary prospectus supplement describing the terms of the offering will be filed with the SEC and will form a part of the effective registration statement. Copies of the preliminary prospectus supplement and the accompanying prospectus relating to the offering may be obtained, when available, from Craig-Hallum Capital Group LLC, Attention: Equity Capital Markets, 222 South 9th Street, Suite 350, Minneapolis, Minnesota 55402, by telephone at (612) 334-6300, or by email at prospectus@chlm.com; or Roth Capital Partners, LLC, 888 San Clemente Drive, Suite 400, Newport Beach, CA 92660, (800) 678-9147; or at the SEC’s website at <http://www.sec.gov>.

This press release shall not constitute an offer to sell, or a solicitation of an offer to buy, nor shall there be any sale of these securities in any state or jurisdiction in which such an offer, solicitation, or sale would be unlawful prior to registration or qualification under the securities laws of any such state or jurisdiction.

About Mama’s Creations, Inc.

Mama’s Creations, Inc. (NASDAQ: MAMA) is a leading marketer and manufacturer of fresh deli prepared foods, found in over 8,000 grocery, mass, club and convenience stores nationally. The Company’s broad product portfolio, born from MamaMancini’s rich history in Italian foods, now consists of a variety of high quality, fresh, clean and easy to prepare foods to address the needs of both our consumers and retailers. Our vision is to become a one-stop-shop deli solutions platform, leveraging vertical integration and a diverse family of brands to offer a wide array of prepared foods to meet the changing demands of the modern consumer. For more information, please visit <https://mamascreations.com>.

Forward-Looking Statements

This press release may contain “forward-looking statements” within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934 and the Private Securities Litigation Reform Act of 1995, regarding the Company, which may include, but are not limited to, statements with respect to the proposed public offering, the satisfaction of customary closing conditions, and other statement that are predictive in nature. The offering is subject to market and other conditions and there can be no assurance as to whether or when the offering may be completed or as to the actual size or terms of the offering. “Forward-looking statements” describe future expectations, plans, results, or strategies and are generally preceded by words such as “may,” “future,” “plan” or “planned,” “will” or “should,” “expected,” “anticipates,” “draft,” “eventually” or “projected.” You are cautioned that such statements are subject to a multitude of risks and uncertainties that could cause future circumstances, events, or results to differ materially from those projected in the forward-looking statements, including the risks that actual results may differ materially from those projected in the forward-looking statements as a result of various factors, and other risks identified in the Company’s 10-K for the fiscal year ended January 31, 2023, the 10-Q for the quarter ended October 31, 2023 and other filings made by the Company with the Securities and Exchange Commission.

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Mama’s Creations, Inc. Announces Pricing of the Public Secondary Offering of Common Stock by Selling Stockholders

EAST RUTHERFORD, NJ, December 19, 2023 — Mama’s Creations, Inc. (Nasdaq: MAMA) (“Mama’s Creations” or the “Company”), a leading national marketer and manufacturer of fresh Deli prepared foods, today announced the pricing of the previously announced underwritten public offering of 5,629,921 shares of common stock of the Company by certain selling stockholders affiliated with Matthew Brown and Karen Wolf (the “Selling Stockholders”) at a price to the public of \$3.50 per share. The Company is not selling any shares in the offering and will not receive any of the proceeds from the sale of the shares being offered by the Selling Stockholders. The Selling Stockholders will bear the costs associated with the sale of such shares, including underwriting discounts and commissions. The offering is expected to close on or about December 21, 2023, subject to customary closing conditions.

Craig-Hallum is acting as sole book running manager and Roth Capital Partners is acting as co-manager for this offering.

A registration statement on Form S-3 relating to the public offering of the shares of common stock described above was filed with the Securities and Exchange Commission (“SEC”) and was declared effective on November 13, 2023. A preliminary prospectus describing the terms of the offering has been filed with the SEC and is available on the SEC’s website at www.sec.gov. Copies of the final prospectus supplement and the accompanying prospectus describing the terms of the offering will be filed with the SEC and will form a part of the effective registration statement. Copies of the preliminary prospectus supplement and the accompanying prospectus relating to the offering may be obtained, when available, from Craig-Hallum Capital Group LLC, Attention: Equity Capital Markets, 222 South 9th Street, Suite 350, Minneapolis, Minnesota 55402, by telephone at (612) 334-6300, or by email at prospectus@chlm.com; or Roth Capital Partners, LLC, 888 San Clemente Drive, Suite 400, Newport Beach, CA 92660, (800) 678-9147; or at the SEC’s website at <http://www.sec.gov>.

This press release shall not constitute an offer to sell, or a solicitation of an offer to buy, nor shall there be any sale of these securities in any state or jurisdiction in which such an offer, solicitation, or sale would be unlawful prior to registration or qualification under the securities laws of any such state or jurisdiction.

About Mama’s Creations, Inc.

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