

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

FORM 10-Q

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the quarterly period ended March 31, 2020

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from _____ to _____

Commission file number 1-12471

THEMAVEN, INC.

(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction of
incorporation or organization)

68-0232575

(I.R.S. Employer
Identification No.)

**225 Liberty Street, 27th Floor
New York, New York**
(Address of principal executive offices)

10281
(Zip Code)

(775) 600-2765

(Registrant's telephone number, including area code)

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

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

Indicate by check mark whether the registrant: (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes No

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§ 232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company (as defined in Rule 12b-2 of the Exchange Act).

Large accelerated filer
Non-accelerated filer

Accelerated filer
Smaller reporting company
Emerging growth company

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

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes or No

As of May 5, 2021, the Registrant had 230,287,723 shares of common stock outstanding.

| | Page Number |
|--|------------------------|
| <u>PART I - FINANCIAL INFORMATION</u> | 4 |
| <u>Item 1. Condensed Consolidated Financial Statements</u> | 4 |
| <u>Item 2. Management’s Discussion and Analysis of Financial Condition and Results of Operations</u> | 27 |
| <u>Item 3. Quantitative and Qualitative Disclosures About Market Risk</u> | 32 |
| <u>Item 4. Controls and Procedures</u> | 33 |
| <u>PART II - OTHER INFORMATION</u> | 34 |
| <u>Item 1. Legal Proceedings</u> | 34 |
| <u>Item 1A. Risk Factors</u> | 34 |
| <u>Item 2. Unregistered Sales of Equity Securities and Use of Proceeds</u> | 44 |
| <u>Item 3. Defaults Upon Senior Securities</u> | 44 |
| <u>Item 4. Mine Safety Disclosures</u> | 44 |
| <u>Item 5. Other Information</u> | 44 |
| <u>Item 6. Exhibits</u> | 44 |
| <u>SIGNATURES</u> | 45 |

Forward-Looking Statements

This Quarterly Report on Form 10-Q (this “Quarterly Report”) of theMaven, Inc. (the “Company,” “we,” “our,” and “us”) contains certain forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended (the “Securities Act”), and Section 21E of the Securities Exchange Act of 1934, as amended (the “Exchange Act”). Forward-looking statements relate to future events or future performance and include, without limitation, statements concerning our business strategy, future revenues, market growth, capital requirements, product introductions, and expansion plans and the adequacy of our funding. Other statements contained in this Quarterly Report that are not historical facts are also forward-looking statements. We have tried, wherever possible, to identify forward-looking statements by terminology such as “may,” “will,” “could,” “should,” “expects,” “anticipates,” “intends,” “plans,” “believes,” “seeks,” “estimates,” and other comparable terminology.

We caution investors that any forward-looking statements presented in this Quarterly Report, or that we may make orally or in writing from time to time, are based on the beliefs of, assumptions made by, and information currently available to, us. Such statements are based on assumptions, and the actual outcome will be affected by known and unknown risks, trends, uncertainties, and factors that are beyond our control or ability to predict. Although we believe that our assumptions are reasonable, they are not guarantees of future performance, and some will inevitably prove to be incorrect. As a result, our actual future results can be expected to differ from our expectations, and those differences may be material. Accordingly, investors should use caution in relying on forward-looking statements, which are based only on known results and trends at the time they are made, to anticipate future results or trends. Other risks are detailed by us in our public filings with the Securities and Exchange Commission (the “SEC”), including in Item 1A., Risk Factors, in our Annual Report on Form 10-K for the year ended December 31, 2019. The discussion in this Quarterly Report should be read in conjunction with the condensed consolidated financial statements and notes thereto included in Item 1 of this Quarterly Report and our Annual Report on Form 10-K for the year ended December 31, 2019.

This Quarterly Report and all subsequent written and oral forward-looking statements attributable to us or any person acting on our behalf are expressly qualified in their entirety by the cautionary statements contained or referred to in this section. We do not undertake any obligation to release publicly any revisions to our forward-looking statements to reflect events or circumstances after the date of this Quarterly Report.

This Quarterly Report is being filed for the quarter ended March 31, 2020, as a late report to comply with the reporting obligations applicable to us under the Exchange Act. Unless specifically required to provide information for the quarter ended March 31, 2020, by the rules and regulations of the SEC, the discussion of our business reflects our current assets and current operations. Where the information relates to the quarter ended March 31, 2020, we have made a reasonable effort herein to make that clear. Also, to be clear, the financial information in the condensed consolidated financial statements and footnotes accompanying this Quarterly Report and the other financial information and management’s discussion and analysis about the condensed consolidated financial statements relate to the historical period for the quarter ended March 31, 2020.

PART I – FINANCIAL INFORMATION

ITEM 1. FINANCIAL INFORMATION

THEMAVEN, INC. AND SUBSIDIARIES

Index to Condensed Consolidated Financial Statements

| | PAGE |
|--|-------------|
| <u>Condensed Consolidated Balance Sheets as of March 31, 2020 and December 31, 2019</u> | 5 |
| <u>Condensed Consolidated Statements of Operations for the Quarterly Periods Ended March 31, 2020 and 2019</u> | 6 |
| <u>Condensed Consolidated Statements of Stockholders' Deficiency for the Quarterly Periods Ended March 31, 2020 and 2019</u> | 7 |
| <u>Condensed Consolidated Statements of Cash Flows for the Quarterly Periods Ended March 31, 2020 and 2019</u> | 8 |
| <u>Notes to Condensed Consolidated Financial Statements</u> | 9 |

THEMAVEN, INC. AND SUBSIDIARIES

CONDENSED CONSOLIDATED BALANCE SHEETS

| | March 31, 2020 (unaudited) | December 31, 2019 |
|--|-------------------------------|-----------------------|
| Assets | | |
| Current assets: | | |
| Cash and cash equivalents | \$ 7,536,767 | \$ 8,852,281 |
| Restricted cash | 1,000,809 | 620,809 |
| Accounts receivable, net | 15,864,202 | 16,233,955 |
| Subscription acquisition costs | 6,269,758 | 3,142,580 |
| Royalty fees, current portion | 15,000,000 | 15,000,000 |
| Prepayments and other current assets | 4,933,792 | 4,310,735 |
| Total current assets | 50,605,328 | 48,160,360 |
| Property and equipment, net | 1,337,095 | 661,277 |
| Operating lease right-of-use assets | 20,195,115 | 3,980,649 |
| Platform development, net | 6,195,873 | 5,892,719 |
| Royalty fees, net of current portion | 22,500,000 | 26,250,000 |
| Subscription acquisition costs, net of current portion | 3,394,768 | 3,417,478 |
| Acquired and other intangible assets, net | 87,289,182 | 91,404,144 |
| Other long-term assets | 1,450,768 | 1,085,287 |
| Goodwill | 16,139,377 | 16,139,377 |
| Total assets | \$ 209,107,506 | \$ 196,991,291 |
| Liabilities, mezzanine equity and stockholders' deficiency | | |
| Current liabilities: | | |
| Accounts payable | \$ 12,181,232 | \$ 9,580,186 |
| Accrued expenses and other | 12,753,010 | 16,483,201 |
| Line of credit | 5,415,914 | - |
| Unearned revenue | 49,247,892 | 32,163,087 |
| Subscription refund liability | 3,047,931 | 3,144,172 |
| Operating lease liabilities | 1,995,880 | 2,203,474 |
| Liquidated damages payable | 8,626,569 | 8,080,514 |
| Convertible debt | 805,590 | 741,197 |
| Warrant derivative liabilities | 1,504,981 | 1,644,200 |
| Embedded derivative liabilities | 11,880,000 | 13,501,000 |
| Total current liabilities | 107,458,999 | 87,541,031 |
| Unearned revenue, net of current portion | 15,519,135 | 31,179,211 |
| Operating lease liabilities, net of current portion | 19,437,035 | 2,616,132 |
| Other long-term liability | 242,310 | 242,310 |
| Officer promissory notes | 321,091 | 319,351 |
| Convertible debt, net of current portion | 13,888,853 | 12,497,765 |
| Long-term debt | 52,170,270 | 44,009,745 |
| Total liabilities | 209,037,693 | 178,405,545 |
| Commitments and contingencies (Note 12) | | |
| Mezzanine equity: | | |
| Series G redeemable and convertible preferred stock, \$0.01 par value, \$1,000 per share liquidation value and 1,800 shares designated; aggregate liquidation value: \$168,496; Series G shares issued and outstanding: 168,496; common shares issuable upon conversion: 188,791 at March 31, 2020 and December 31, 2019 | 168,496 | 168,496 |
| Series H convertible preferred stock, \$0.01 par value, \$1,000 per share liquidation value and 23,000 shares designated; aggregate liquidation value: \$19,399,250; Series H shares issued and outstanding: 19,400; common shares issuable upon conversion: 58,787,879 at March 31, 2020 and December 31, 2019 | 18,045,496 | 18,045,496 |
| Series I convertible preferred stock, \$0.01 par value, \$1,000 per share liquidation value and 25,800 shares designated; aggregate liquidation value: \$23,100,000; Series I shares issued and outstanding: 23,100; common shares issuable upon conversion: 46,200,000 at March 31, 2020 and December 31, 2019 | 19,699,742 | 19,699,742 |
| Series J convertible preferred stock, \$0.01 par value, \$1,000 per share liquidation value and 35,000 shares designated; aggregate liquidation value: \$20,000,000; Series J shares issued and outstanding: 20,000; common shares issuable upon conversion: 28,571,428 at March 31, 2020 and December 31, 2019 | 17,739,996 | 17,739,996 |
| Total mezzanine equity | 55,653,730 | 55,653,730 |
| Stockholders' deficiency: | | |
| Common stock, \$0.01 par value, authorized 1,000,000,000 shares; issued and outstanding: 37,474,736 and 37,119,117 shares at March 31, 2020 and December 31, 2019, respectively | 374,746 | 371,190 |
| Common stock to be issued | 39,383 | 39,383 |
| Additional paid-in capital | 39,819,901 | 35,562,766 |
| Accumulated deficit | (95,817,947) | (73,041,323) |
| Total stockholders' deficiency | (55,583,917) | (37,067,984) |
| Total liabilities, mezzanine equity and stockholders' deficiency | \$ 209,107,506 | \$ 196,991,291 |

THEMAVEN, INC. AND SUBSIDIARIES

CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS
(unaudited)

| | Three Months Ended March 31, | |
|---|------------------------------|-----------------------|
| | 2020 | 2019 |
| Revenue | \$ 30,412,853 | \$ 6,273,963 |
| Cost of revenue (includes amortization of developed technology and platform development for 2020 and 2019 of \$2,040,129 and \$1,324,970, respectively) | 26,738,833 | 5,652,565 |
| Gross profit | <u>3,674,020</u> | <u>621,398</u> |
| Operating expenses | | |
| Selling and marketing | 9,359,938 | 1,149,292 |
| General and administrative | 10,410,205 | 4,225,253 |
| Depreciation and amortization | 4,096,680 | 108,340 |
| Total operating expenses | <u>23,866,823</u> | <u>5,482,885</u> |
| Loss from operations | <u>(20,192,803)</u> | <u>(4,861,487)</u> |
| Other (expense) income | | |
| Change in valuation of warrant derivative liabilities | 139,219 | (375,695) |
| Change in valuation of embedded derivative liabilities | 1,621,000 | (2,383,000) |
| Interest expense | (3,799,728) | (1,301,208) |
| Interest income | 1,743 | 3,171 |
| Liquidated damages | (546,055) | (16,887) |
| Other | - | 126 |
| Total other expense | <u>(2,583,821)</u> | <u>(4,073,493)</u> |
| Loss before income taxes | <u>(22,776,624)</u> | <u>(8,934,980)</u> |
| Income taxes | - | - |
| Net loss | <u>\$ (22,776,624)</u> | <u>\$ (8,934,980)</u> |
| Basic and diluted net loss per common share | <u>\$ (0.59)</u> | <u>\$ (0.26)</u> |
| Weighted average number of common shares outstanding – basic and diluted | <u>38,643,277</u> | <u>34,837,518</u> |

See accompanying notes to condensed consolidated financial statements.

THEMAVEN, INC. AND SUBSIDIARIES

CONDENSED CONSOLIDATED STATEMENTS OF STOCKHOLDERS' DEFICIENCY
(unaudited)

Three Months Ended March 31, 2020

| | Common Stock | | Common Stock to be Issued | | Additional Paid-in Capital | Accumulated Deficit | Total Stockholders' Deficiency |
|--|-------------------|-------------------|---------------------------|------------------|----------------------------|------------------------|--------------------------------|
| | Shares | Par Value | Shares | Par Value | | | |
| Balance at January 1, 2020 | 37,119,117 | \$ 371,190 | 3,938,287 | \$ 39,383 | \$35,562,766 | \$ (73,041,323) | \$ (37,067,984) |
| Issuance of restricted stock units in connection with the acquisition of LiftIgniter | - | - | - | - | 500,000 | - | 500,000 |
| Issuance of restricted stock awards to the board of directors | 562,500 | 5,625 | - | - | (5,625) | - | - |
| Common stock withheld for taxes | (206,881) | (2,069) | - | - | (167,412) | - | (169,481) |
| Stock-based compensation | - | - | - | - | 3,930,172 | - | 3,930,172 |
| Net loss | - | - | - | - | - | (22,776,624) | (22,776,624) |
| Balance at March 31, 2020 | <u>37,474,736</u> | <u>\$ 374,746</u> | <u>3,938,287</u> | <u>\$ 39,383</u> | <u>\$39,819,901</u> | <u>\$ (95,817,947)</u> | <u>\$ (55,583,917)</u> |

Three Months Ended March 31, 2019

| | Common Stock | | Common Stock to be Issued | | Additional Paid-in Capital | Accumulated Deficit | Total Stockholders' Deficiency |
|---|-------------------|-------------------|---------------------------|------------------|----------------------------|------------------------|--------------------------------|
| | Shares | Par Value | Shares | Par Value | | | |
| Balance at January 1, 2019 | 35,768,619 | \$ 357,685 | 5,127,167 | \$ 51,272 | \$23,413,077 | \$ (34,539,954) | \$ (10,717,920) |
| Issuance of common stock in connection with the merger of Say Media | 1,188,880 | 11,889 | (1,188,880) | (11,889) | - | - | - |
| Forfeiture of restricted stock | (120,000) | (1,200) | - | - | 1,200 | - | - |
| Issuance of restricted stock awards to the board of directors | 833,333 | 8,333 | - | - | (8,333) | - | - |
| Cashless exercise of common stock options | 15,341 | 154 | - | - | (154) | - | - |
| Stock-based compensation | - | - | - | - | 1,487,575 | - | 1,487,575 |
| Net loss | - | - | - | - | - | (8,934,980) | (8,934,980) |
| Balance at March 31, 2019 | <u>37,686,173</u> | <u>\$ 376,861</u> | <u>3,938,287</u> | <u>\$ 39,383</u> | <u>\$24,893,365</u> | <u>\$ (43,474,934)</u> | <u>\$ (18,165,325)</u> |

See accompanying notes to condensed consolidated financial statements.

THEMAVEN, INC. AND SUBSIDIARIES

CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(unaudited)

| | Three Months Ended March 31, | |
|---|------------------------------|---------------------|
| | 2020 | 2019 |
| Cash flows from operating activities | | |
| Net loss | \$ (22,776,624) | \$ (8,934,980) |
| Adjustments to reconcile net loss to net cash used in operating activities: | | |
| Depreciation of property and equipment | 183,261 | 10,940 |
| Amortization of platform development and intangible assets | 5,953,548 | 1,422,370 |
| Amortization of debt discounts | 1,570,853 | 686,044 |
| Change in valuation of warrant derivative liabilities | (139,219) | 375,695 |
| Change in valuation of embedded derivative liabilities | (1,621,000) | 2,383,000 |
| Accrued interest | 2,046,893 | 405,186 |
| Liquidated damages | 546,055 | 16,887 |
| Stock-based compensation | 3,560,120 | 1,319,627 |
| Other | (213,982) | (29,911) |
| Change in operating assets and liabilities net of effect of business combination: | | |
| Accounts receivable | 621,643 | 9,573,255 |
| Factor receivables | - | (6,130,674) |
| Subscription acquisition costs | (3,104,468) | - |
| Royalty fees | 3,750,000 | - |
| Prepayments and other current assets | (623,057) | 15,930 |
| Other long-term assets | (365,481) | (62,608) |
| Accounts payable | 2,547,552 | (2,416,339) |
| Accrued expenses and other | (3,730,191) | 460,775 |
| Unearned revenue | 1,337,842 | (298,178) |
| Subscription refund liability | (96,241) | - |
| Operating lease liabilities | 398,843 | 804 |
| Net cash used in operating activities | <u>(10,153,653)</u> | <u>(1,202,177)</u> |
| Cash flows from investing activities | | |
| Purchases of property and equipment | (859,079) | (3,616) |
| Capitalized platform development | (853,926) | (434,802) |
| Payments for acquisition of business | (315,289) | - |
| Net cash used in investing activities | <u>(2,028,294)</u> | <u>(438,418)</u> |
| Cash flows from financing activities | | |
| Proceeds from delayed draw term note | 6,000,000 | - |
| Payment of debt issuance costs | - | (10,000) |
| Proceeds from 12% senior convertible debentures | - | 1,900,000 |
| Borrowings (repayments) under line of credit | 5,415,914 | (150,541) |
| Payment for taxes related to repurchase of restricted common stock | (169,481) | - |
| Repayment of officer promissory notes | - | (366,842) |
| Net cash provided by financing activities | <u>11,246,433</u> | <u>1,372,617</u> |
| Net decrease in cash, cash equivalents, and restricted cash | (935,514) | (267,978) |
| Cash, cash equivalents, and restricted cash – beginning of period | 9,473,090 | 2,527,289 |
| Cash, cash equivalents, and restricted cash – end of period | <u>\$ 8,537,576</u> | <u>\$ 2,259,311</u> |
| Supplemental disclosure of cash flow information | | |
| Cash paid for interest | \$ 181,982 | \$ 209,978 |
| Cash paid for income taxes | - | - |
| Noncash investing and financing activities | | |
| Reclassification of stock-based compensation to platform development | \$ 370,052 | \$ 167,948 |
| Debt discount on delayed draw term note | 913,865 | - |
| Restricted stock units issued in connection with acquisition of LiftIgniter | 500,000 | - |
| Assumption of liabilities in connection with acquisition of LiftIgniter | 140,381 | - |
| Discount of 12% senior convertible debentures allocated to embedded derivative liabilities | - | 1,010,000 |
| Liquidated damages liability recorded against cash proceeds for 12% senior convertible debentures | - | 79,800 |

See accompanying notes to condensed consolidated financial statements.

THEMAVEN, INC. AND SUBSIDIARIES

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (unaudited)

1. Summary of Significant Accounting Policies

Basis of Presentation

The condensed consolidated financial statements include the accounts of TheMaven, Inc. and its wholly owned subsidiaries (“Maven” or the “Company”), after eliminating all significant intercompany balances and transactions. The Company does not have any off-balance sheet arrangements.

The condensed consolidated financial statements have been prepared pursuant to the rules and regulations of the SEC. These condensed consolidated financial statements have been prepared in accordance with the United States generally accepted accounting principles (“US GAAP”) for interim financial information, the instructions to Form 10-Q and Regulation S-X. Accordingly, they do not include all of the information and notes required U.S. GAAP for complete financial statements. These condensed consolidated financial statements should be read in conjunction with the Company’s audited consolidated financial statements, which are included in Maven’s Annual Report on Form 10-K (the “Form 10-K”) for the year ended December 31, 2019, filed with the SEC on April 9, 2021.

The condensed consolidated financial statements as of March 31, 2020, and for the three months ended March 31, 2020 and 2019, are unaudited but, in management’s opinion, include all adjustments necessary for a fair presentation of the results of interim periods. All such adjustments are of a normal recurring nature. The year-end condensed consolidated balance sheet as of December 31, 2019, was derived from audited financial statements, but does not include all disclosures required by U.S. GAAP. The results of operations for interim periods are not necessarily indicative of the results to be expected for the entire fiscal year.

Liquidity

The Company performed an annual reporting period going concern assessment. Management is required to assess its ability to continue as a going concern. The condensed consolidated financial statements have been prepared assuming that the Company will continue as a going concern, which contemplates the realization of assets and the liquidation of liabilities in the normal course of business. These condensed consolidated financial statements do not include any adjustments that might be necessary if the Company is unable to continue as a going concern.

The Company has a history of recurring losses. The Company’s recurring losses from operations and net capital deficiency have been evaluated by management to determine if the significance of those conditions or events would limit its ability to meet its obligations when due. The operating loss realized for the three months ended March 31, 2020 was primarily a result of a marketing investment in customer growth, together with investments in people and technology as the Company continued to expand its operations. The operating loss realized in fiscal 2019 was primarily a result of investments in people, infrastructure for the Company’s technology platform, and operations expanding during fiscal 2019 with the acquisition of TheStreet, Inc. (“TheStreet”) and the licensing agreement for certain Sports Illustrated brands, along with continued costs based on the strategic growth plans in other verticals.

As reflected in these condensed consolidated financial statements, the Company had revenues of \$30,412,853 for the three months ended March 31, 2020, and experienced recurring net losses from operations, negative working capital, and negative operating cash flows. During the three months ended March 31, 2020, the Company incurred a net loss of \$22,776,624, utilized cash in operating activities of \$10,153,653, and as of March 31, 2020, had an accumulated deficit of \$95,817,947. The Company has financed its working capital requirements since inception through the issuance of debt and equity securities.

Additionally, as a result of the novel coronavirus (“COVID-19”) pandemic, the Company experienced a decline in traffic and advertising revenue in the first and second quarters of 2020. The Company implemented cost reduction measures in an effort to offset these declines. Since May 2020, there has been a steady recovery in the advertising market in both pricing and volume, which coupled with the return of professional and college sports yielded steady growth in revenues through the balance of 2020 and start of 2021. The Company expects a continued growth in advertising revenue back toward pre-pandemic levels, however, such growth depends on future developments, including the duration of COVID-19, future sport event advisories and restrictions, and the extent and effectiveness of containment actions taken.

Management has evaluated whether relevant conditions or events, considered in the aggregate, raise substantial doubt about the Company's ability to continue as a going concern. Substantial doubt exists when conditions and events, considered in the aggregate, indicate it is probable that a company will not be able to meet its obligations as they become due within one year after the issuance date of its financial statements. Management's assessment is based on the relevant conditions that are known or reasonably knowable as of the date these condensed consolidated financial statements were issued or were available to be issued.

Management's assessment of the Company's ability to meet its future obligations is inherently judgmental, subjective, and susceptible to change. The factors that the Company considered important in its going concern analysis, include, but are not limited to, its fiscal 2021 cash flow forecast and its fiscal 2021 operating budget. Management also considered the Company's ability to repay its obligations through future equity and the implementation of cost reduction measures in effect to offset revenue and earnings declines from COVID-19. These factors consider information including, but not limited to, the Company's financial condition, liquidity sources, obligations due within one year after the issuance date of these condensed consolidated financial statements, the funds necessary to maintain operations and financial conditions, including negative financial trends or other indicators of possible financial difficulty.

In particular, the Company's plan for the: (1) 2021 cash flow forecast, considered the use of its working capital line with FastPay (as described in Note 5) to fund changes in working capital, where the Company has available credit of approximately \$10.1 million as of the issuance date of these condensed consolidated financial statements for the three months ended March 31, 2020, and that the Company does not anticipate the need for any further borrowings that are subject to the holders approval, from its Delayed Draw Term Note (as described in Note 8) where the Company may be permitted to borrow up to an additional \$5,000,000; and (2) 2021 operating budget, considered that approximately sixty-five percent of the Company's revenue is from recurring subscriptions, generally paid in advance, and that digital subscription revenue, that accounts for approximately thirty percent of subscription revenue, grew approximately thirty percent during 2020 demonstrating the strength of its premium brand, and the plan to continue to grow its subscription revenue from its acquisition of TheStreet and the launch of premium digital subscriptions from its Sports Illustrated licensed brands.

The Company has considered both quantitative and qualitative factors as part of the assessment that are known or reasonably knowable as of the date these condensed consolidated financial statements were issued or were available to be issued and concluded that conditions and events considered in the aggregate, do not raise substantial doubt about the Company's ability to continue as a going concern for a one-year period following the financial statement issuance date.

Reclassifications

Certain prior year amounts have been reclassified to conform to the fiscal 2020 presentation with no impact to previously reported earnings.

Use of Estimates

Preparation of condensed consolidated financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the amounts reported and disclosed in the financial statements and the accompanying notes. Actual results could differ materially from these estimates. On an ongoing basis, the Company evaluates its estimates, including those related to the allowance for credit losses, fair values of financial instruments, capitalization of platform development, intangible assets and goodwill, useful lives of intangible assets and property and equipment, income taxes, fair value of assets acquired and liabilities assumed in the business acquisitions, determination of the fair value of stock-based compensation and valuation of derivatives liabilities and contingent liabilities, among others. The Company bases its estimates on assumptions, both historical and forward looking, that are believed to be reasonable, the results of which form the basis for making judgments about the carrying values of assets and liabilities.

Contract Modifications

The Company occasionally enters into amendments to previously executed contracts that constitute contract modifications. The Company assesses each of these contract modifications to determine:

- if the additional services and goods are distinct from the services and goods in the original arrangement; and
- if the amount of consideration expected for the added services or goods reflects the stand-alone selling price of those services and goods.

A contract modification meeting both criteria is accounted for as a separate contract. A contract modification not meeting both criteria is considered a change to the original contract and is accounted for on either a prospective basis as a termination of the existing contract and the creation of a new contract, or a cumulative catch-up basis (see Note 3 and Note 11).

Recently Adopted Accounting Standards

In June 2016, the FASB ASU 2016-13, *Financial Instruments – Credit Losses (Topic 326)*, which introduces a new model for recognizing credit losses for certain financial instruments, including loans, accounts receivable and debt securities. The new model requires an estimate of expected credit losses over the life of exposure to be recorded through the establishment of an allowance account, which is presented as an offset to the related financial asset. The expected credit loss is recorded upon the initial recognition of the financial asset. On January 1, 2020, the Company adopted ASU 2016-13 using the modified retrospective approach with no material impact to its condensed consolidated financial statements.

In January 2017, the FASB issued ASU 2017-04, *Intangibles – Goodwill and Other (Topic 350): Simplifying the Test for Goodwill Impairment*, which simplifies how an entity is required to test goodwill for impairment. The amendments require goodwill impairment to be measured using the difference between the carrying amount and the fair value of the reporting unit and require the loss recognized to not exceed the total amount of goodwill allocated to that reporting unit. On January 1, 2020, the Company adopted ASU 2017-04 on a prospective basis with no material impact to its condensed consolidated financial position, results of operations or cash flows.

Loss per Common Share

Basic loss per share is computed using the loss available to common stockholders over the weighted average number of common shares outstanding during the period and excludes any dilutive effects of common stock equivalent shares, such as stock options, restricted stock, and warrants. All restricted stock awards are considered outstanding but is included in the computation of basic loss per common share only when the underlying restrictions expire, the shares are no longer forfeitable, and are thus vested. All restricted stock units are included in the computation of basic loss per common share only when the underlying restrictions expire, the shares are no longer forfeitable, and are thus vested. Contingently issuable shares are included in basic loss per common share only when there are no circumstance under which those shares would not be issued. Diluted loss per common share is computed using the weighted average number of common shares outstanding and common stock equivalent shares outstanding during the period using the treasury stock method. Common stock equivalent shares are excluded from the computation if their effect is anti-dilutive.

The Company excluded the outstanding securities summarized below (capitalized terms are described herein), which entitle the holders thereof to acquire shares of the Company's common stock, from its calculation of net income loss per common share, as their effect would have been anti-dilutive.

| | As of March 31, | |
|----------------------------------|-----------------|------------|
| | 2020 | 2019 |
| Series G Preferred Stock | 188,791 | 188,791 |
| Series H Preferred Stock | 58,787,879 | 58,787,879 |
| Series I Preferred Stock | 46,200,000 | - |
| Series J Preferred Stock | 28,571,428 | - |
| Indemnity shares of common stock | 412,500 | 825,000 |
| Restricted Stock Awards | 1,991,665 | 4,214,997 |
| Financing Warrants | 2,882,055 | 3,949,018 |
| ABG Warrants | 21,989,844 | - |
| Channel Partner Warrants | 939,540 | 939,540 |
| Restricted Stock Units | 2,399,997 | 2,399,997 |
| Common Stock Awards | 8,063,811 | 9,179,013 |
| Common Equity Awards | 77,106,507 | - |
| Outside Options | 3,730,667 | 3,780,000 |
| Total | 253,264,684 | 84,264,235 |

2. Acquisitions

On March 9, 2020, the Company entered into an asset purchase agreement with Petametrics Inc., dba LiftIgniter, a Delaware corporation (“LiftIgniter”), where it purchased substantially all the assets, including the intellectual property and excluding certain accounts receivable, and assumed certain liabilities. The purchase price consisted of: (1) cash payment of \$184,087 on February 19, 2020, in connection with the repayment of all outstanding indebtedness, (2) at closing a cash payment of \$131,202, (3) collections of certain accounts receivable, (4) on the first anniversary date of the closing issuance of restricted stock units for an aggregate of up to 312,500 shares of the Company’s common stock, and (5) on the second anniversary date of the closing issuance of restricted stock units for an aggregate of up to 312,500 shares of the Company’s common stock.

The composition of the preliminary purchase price is as follows:

| | | |
|---|----|----------------|
| Cash | \$ | 315,289 |
| Indemnity restricted stock units for shares of common stock | | 500,000 |
| Total purchase consideration | \$ | <u>815,289</u> |

The preliminary purchase price allocation resulted in the following amounts being allocated to the assets acquired and liabilities assumed at the closing date of the acquisition based upon their respective fair values as summarized below:

| | | |
|----------------------|----|----------------|
| Accounts receivable | \$ | 37,908 |
| Developed technology | | 917,762 |
| Accounts payable | | (53,494) |
| Unearned revenue | | (86,887) |
| Net assets acquired | \$ | <u>815,289</u> |

The useful life for the developed technology is five years (5.0 years).

3. Balance Sheet Components

The components of certain balance sheet amounts are as follows:

Accounts Receivable – Accounts receivable are presented net of allowance for doubtful accounts. The allowance for doubtful accounts as of March 31, 2020 and December 31, 2019 was \$518,111 and \$304,129, respectively.

Subscription Acquisition Costs – Subscription acquisition costs include the incremental costs of obtaining a contract with a customer, paid to external parties, if it expects to recover those costs. The current portion of the subscription acquisition costs as of March 31, 2020 and December 31, 2019 was \$6,269,758 and \$3,142,580, respectively. The noncurrent portion of the subscription acquisition costs as of March 31, 2020 and December 31, 2019 was \$3,394,768 and \$3,417,478, respectively.

Certain contract amendments resulted in a modification to the subscription acquisition costs that will be recognized on a prospective basis in the same proportion as the revenue that has not yet been recognized (further details are provided in Note 11).

Platform Development – Platform development costs are summarized as follows:

| | As of | |
|-------------------------------|---------------------|----------------------|
| | March 31, 2020 | December 31, 2019 |
| Platform development | \$ 11,902,670 | \$ 10,678,692 |
| Less accumulated amortization | (5,706,797) | (4,785,973) |
| Net platform development | <u>\$ 6,195,873</u> | <u>\$ 5,892,719</u> |

A summary of platform development activity for the three months ended March 31, 2020 and year ended December 31, 2019 is as follows:

| | As of | |
|---|----------------------|----------------------|
| | March 31, 2020 | December 31, 2019 |
| Platform development beginning of period | \$ 10,678,692 | \$ 6,833,900 |
| Payroll-based costs capitalized during the period | 853,926 | 2,537,402 |
| Total capitalized costs | 11,532,618 | 9,371,302 |
| Stock-based compensation | 370,052 | 1,307,390 |
| Platform development end of period | <u>\$ 11,902,670</u> | <u>\$ 10,678,692</u> |

Amortization expense for the three months ended March 31, 2020 and 2019, was \$920,824 and \$587,470, respectively.

Intangible Assets – Intangible assets subject to amortization consisted of the following:

| | As of March 31, 2020 | | | As of December 31, 2019 | | |
|--|----------------------|--------------------------|---------------------|-------------------------|--------------------------|---------------------|
| | Carrying Amount | Accumulated Amortization | Net Carrying Amount | Carrying Amount | Accumulated Amortization | Net Carrying Amount |
| Developed technology | \$ 20,055,866 | \$ (5,209,664) | \$ 14,846,202 | \$ 19,138,104 | \$ (4,090,359) | \$ 15,047,745 |
| Noncompete agreement | 480,000 | (312,000) | 168,000 | 480,000 | (252,000) | 228,000 |
| Trade name | 3,328,000 | (294,395) | 3,033,605 | 3,328,000 | (224,745) | 3,103,255 |
| Subscriber relationships | 73,458,799 | (7,217,138) | 66,241,661 | 73,458,799 | (3,587,837) | 69,870,962 |
| Advertiser relationships | 2,240,000 | (154,103) | 2,085,897 | 2,240,000 | (94,635) | 2,145,365 |
| Database | 1,140,000 | (246,183) | 893,817 | 1,140,000 | (151,183) | 988,817 |
| Subtotal amortizable intangible assets | 100,702,665 | (13,433,483) | 87,269,182 | 99,784,903 | (8,400,759) | 91,384,144 |
| Website domain name | 20,000 | - | 20,000 | 20,000 | - | 20,000 |
| Total intangible assets | \$ 100,722,665 | \$ (13,433,483) | \$ 87,289,182 | \$ 99,804,903 | \$ (8,400,759) | \$ 91,404,144 |

Amortization expense for the three months ended March 31, 2020 and 2019 was \$5,032,724 and \$834,900, respectively. No impairment charges have been recorded during the three months March 31, 2020 and 2019.

4. Leases

The Company's leases are primarily comprised of real estate leases for the use of office space, with certain lease arrangements that contain equipment. The Company determines whether an arrangement contains a lease at inception. Lease assets and liabilities are recognized upon commencement of the lease based on the present value of the future minimum lease payments over the lease term. The lease term includes options to extend the lease when it is reasonably certain that the Company will exercise that option. Substantially all of the leases are long-term operating leases for facilities with fixed payment terms between 1.5 and 12.8 years.

The table below presents supplemental information related to operating leases:

Three Months Ended March 31, 2020

| | |
|--|---------------|
| Operating cash flows for operating leases | \$ 639,061 |
| Noncash lease liabilities arising from obtaining operating leased assets during the period | \$ 16,617,790 |
| Weighted-average remaining lease term | 11.05 years |
| Weighted-average discount rate | 13.40% |

The Company generally utilizes its incremental borrowing rate based on information available at the commencement of the lease in determining the present value of future payments since the implicit rate for most of the Company's leases is not readily determinable.

Variable lease expense includes rental increases that are not fixed, such as those based on amounts paid to the lessor based on cost or consumption, such as maintenance and utilities.

Operating lease costs recognized for the three months ended March 31, 2020 and 2019 were \$1,037,904 and \$130,952, respectively.

Maturities of operating lease liabilities as of March 31, 2020 are summarized as follows:

| Years Ending December 31, | |
|--|-----------------------------|
| 2020 (remaining nine months of the year) | \$ 2,549,923 |
| 2021 | 3,804,853 |
| 2022 | 3,525,158 |
| 2023 | 3,528,696 |
| 2024 | 3,526,406 |
| Thereafter | 27,563,572 |
| Minimum lease payments | 44,498,608 |
| Less imputed interest | (23,065,693) |
| Present value of operating lease liabilities | <u>\$ 21,432,915</u> |
| Current portion of operating lease liabilities | <u>\$ 1,995,880</u> |
| Long-term portion of operating lease liabilities | <u>19,437,035</u> |
| Total operating lease liabilities | <u><u>\$ 21,432,915</u></u> |

Future minimum lease payments under operating leases as of December 31, 2019, were as follows:

| | <u>Total</u> | <u>Payments due by Year</u> | | | | | |
|------------------|---------------------|-----------------------------|-------------------|-------------------|-------------------|-------------------|---------------------|
| | | <u>2020</u> | <u>2021</u> | <u>2022</u> | <u>2023</u> | <u>2024</u> | <u>Thereafter</u> |
| Operating leases | <u>\$ 6,132,252</u> | <u>\$ 2,579,924</u> | <u>\$ 685,111</u> | <u>\$ 472,084</u> | <u>\$ 486,247</u> | <u>\$ 500,834</u> | <u>\$ 1,408,052</u> |

Further details as of the date these condensed consolidated financial statements were issued or were available to be issued are provided under the heading *Leases* in Note 13).

5. Line of Credit

FastPay Credit Facility – On February 27, 2020, the Company entered into a financing and security agreement with FPP Finance LLC (“FastPay”), pursuant to which FastPay extended a \$15,000,000 line of credit for working capital purposes secured by a first lien on all of the Company’s cash and accounts receivable and a second lien on all other assets. Borrowings under the facility bear interest at the LIBOR Rate plus 8.50% and have a final maturity of February 6, 2022. The balance outstanding as of March 31, 2020 was \$5,415,914. As of the date these condensed consolidated financial statements were issued or were available to be issued the balance outstanding was approximately \$4.9 million.

SallyPort Credit Facility – During November 2018, the Company entered into a factoring note agreement with Sallyport Commercial Finance, LLC (“Sallyport”) to increase working capital through accounts receivable factoring. As of December 31, 2019, Sallyport collected accounts receivable in excess of the balance outstanding under the note, therefore, the Company was due \$626,532 from Sallyport which was reflected within accounts receivable on the condensed consolidated balance sheet. Effective January 30, 2020, the Company’s factoring facility with Sallyport was closed and funds were no longer available for advance.

6. Fair Value Measurements

The Company estimates the fair value of financial instruments using available market information and valuation methodologies the Company believes to be appropriate for these purposes. Considerable judgment and a high degree of subjectivity are involved in developing these estimates and, accordingly, they are not necessarily indicative of amounts the Company would realize upon disposition.

The fair value hierarchy consists of three broad levels of inputs that may be used to measure fair value, which are described below:

- Level 1 Quoted prices (unadjusted) in active markets for identical assets or liabilities;
- Level 2 Inputs other than quoted prices included within Level 1 that are either directly or indirectly observable; and
- Level 3 Assets or liabilities for which fair value is based on valuation models with significant unobservable pricing inputs and which result in the use of management estimates.

The Company accounts for certain warrants (as described under the heading *Common Stock Warrants* in Note 9) and the embedded conversion features of the 12% senior convertible debentures (the “12% Convertible Debentures”) as derivative liabilities, which required the Company to carry such amounts on its condensed consolidated balance sheets as a liability at fair value, as adjusted at each reporting period-end.

These warrants and the embedded conversion features are classified as Level 3 within the fair-value hierarchy. Inputs to the valuation model include the Company’s publicly quoted stock price, the stock volatility, the risk-free interest rate, the remaining life of the warrants, notes and debentures, the exercise price or conversion price, and the dividend rate. The Company uses the closing stock price of its common stock over an appropriate period of time to compute stock volatility.

Warrant Derivative Liabilities

The following table presents the assumptions used for the warrant derivative liabilities under the Black-Scholes option-pricing model:

| | As of March 31, 2020 | | As of December 31, 2019 | |
|---------------------------------------|----------------------|-------------------|-------------------------|-------------------|
| | Strome Warrants | B. Riley Warrants | Strome Warrants | B. Riley Warrants |
| Expected life | 3.21 | 5.55 | 3.45 | 5.80 |
| Risk-free interest rate | 0.29% | 0.46% | 1.62% | 1.76% |
| Volatility factor | 128.74% | 129.92% | 144.54% | 127.63% |
| Dividend rate | 0% | 0% | 0% | 0% |
| Transaction date closing market price | \$ 0.77 | \$ 0.77 | \$ 0.80 | \$ 0.80 |
| Exercise price | \$ 0.50 | \$ 1.00 | \$ 0.50 | \$ 1.00 |

The following table represents the carrying amounts and change in valuation for the Company’s warrants accounted for as a derivative liability and classified within Level 3 of the fair-value hierarchy:

| | As of and Three Months Ended March 31, 2020 | | | As of and Three Months Ended March 31, 2019 | | |
|-------------------|--|---------------------|----------------------------------|--|---------------------|----------------------------------|
| | Carry Amount at Beginning of Period | Change in Valuation | Carrying Amount at End of Period | Carry Amount at Beginning of Period | Change in Valuation | Carrying Amount at End of Period |
| L2 Warrants | \$ - | \$ - | \$ - | \$ 418,214 | \$ 121,026 | \$ 539,240 |
| Strome Warrants | 1,036,687 | (110,081) | 926,606 | 587,971 | 170,144 | 758,115 |
| B. Riley Warrants | 607,513 | (29,138) | 578,375 | 358,050 | 84,525 | 442,575 |
| Total | \$ 1,644,200 | \$ (139,219) | \$ 1,504,981 | \$ 1,364,235 | \$ 375,695 | \$ 1,739,930 |

For the three months ended March 31, 2020 and 2019, the change in valuation of warrant derivative liabilities recognized as other income (expense) on the condensed consolidated statement of operations, as described in the above table, was \$139,219 and (\$375,695), respectively.

Embedded Derivative Liabilities

The carrying amount for the conversion option features, buy-in features, and default remedy features under the 12% Convertible Debentures accounted for as embedded derivative liabilities and classified within Level 3 of the fair-value hierarchy were \$11,880,000 and \$13,501,000 as of March 31, 2020 and December 31, 2019, respectively.

For the three months ended March 31, 2020 and 2019, the change in valuation of embedded derivative liabilities recognized as other income (expense) on the condensed consolidated statements of operations was \$1,621,000 and (\$2,383,000), respectively.

7. Convertible Debt

12% Convertible Debentures

During 2018 and 2019, the Company had various financings through the issuance of the 12% Convertible Debentures which were due and payable on December 31, 2020. Interest accrued at the rate of 12% per annum, payable on the earlier of conversion or December 31, 2020. The Company's obligations under the 12% Convertible Debentures are secured by a security agreement, dated as of October 18, 2018, by and among the Company and each investor thereto. The 12% Convertible Debentures were subject to the Company receiving stockholder approval to increase its authorized shares of common stock before conversion. Principal on the 12% Convertible Debentures were convertible into shares of the Company's common stock, at the option of the investor at any time prior to December 31, 2020, at either a per share conversion price of \$0.33 (with respect to the 12% Convertible Debentures issued in 2018) or \$0.40 (with respect to the 12% Convertible Debentures issued in 2019), subject to adjustment for stock splits, stock dividends and similar transactions, and certain beneficial ownership blocker provisions.

The 12% Convertible Debentures were issued and convertible into shares of the Company's common stock as follows: (1) gross proceeds of \$13,091,528 on December 12, 2018, convertible into 39,671,297 shares; (2) gross proceeds of \$1,696,000 on March 18, 2019, convertible into 4,240,000 shares; (3) gross proceeds of \$318,000 on March 27, 2019, convertible into 795,000 shares; and (4) gross proceeds of \$100,000 on April 8, 2019, convertible into 250,000 shares. Upon issuance of the various financings, the Company accounted for the embedded conversion option feature, buy-in feature, and default remedy feature as embedded derivative liabilities, which required the Company to carry such amount on its condensed consolidated balance sheets as a liability at fair value, as adjusted at each period-end (see Note 6). The Company also incurred additional debt issuance cost. The embedded derivative liabilities and debt issuance cost were treated as a debt discount and amortized over the term of the debt.

The following table summarizes the convertible debt:

| | As of March 31, 2020 | | | As of December 31, 2019 | | |
|--|--|--|----------------|--|--|----------------|
| | Principal Balance (including accrued interest) | Unamortized Discount and Debt Issuance Costs | Carrying Value | Principal Balance (including accrued interest) | Unamortized Discount and Debt Issuance Costs | Carrying Value |
| 12% Convertible Debentures, due on December 31, 2020 | \$17,633,158 | \$ (2,938,715) | \$14,694,443 | \$17,119,571 | \$ (3,880,609) | \$13,238,962 |

As of December 31, 2020, there was no longer any principal or accrued but unpaid interest outstanding under the 12% Convertible Debentures. Certain holders converted the debt into shares of the Company's common stock and certain holders were paid in cash (further details are provided under the heading *12% Convertible Debentures* in Note 13).

8. Long-term Debt

12% Second Amended Senior Secured Note

Below is a summary of the various amended and restated notes, as well as various amendments thereto, to the 12% senior secured note that was originally issued on June 10, 2019, for gross proceeds of \$20,000,000, due July 31, 2019. The transactions leading up to the 12% second amended and restated note that is outstanding as of March 31, 2020 consisted of:

- Amended and restated note issued on June 14, 2019, where the Company received gross proceeds of \$48,000,000, together with the \$20,000,000 gross proceeds received on June 10, 2019 for total gross proceeds of \$68,000,000, due June 14, 2022;
- First amendment to the amended and restated note issued on August 27, 2019, where the Company received gross proceeds of \$3,000,000;

- Second amendment to the amended and restated note issued on February 27, 2020, where the Company issued a \$3,000,000 letter of credit to the Company's landlord for leased premises; and
- Second amended and restated note issued on March 24, 2020, where the Company was permitted to enter into a 15.0% delayed draw term note, in the aggregate principal amount of \$12,000,000.

Collectively the amended and restated notes and amendments thereto are referred to as the 12% Second Amended Senior Secured Note, with all borrowings collateralized by substantially all assets of the Company. Pursuant to the 12% Second Amended Senior Secured Note, interest on amounts outstanding with respect to (i) interest that was payable on March 31, 2020 and June 30, 2020, and (ii) at the Company's option, with the consent of requisite purchasers, interest that was payable on September 30, 2020 and December 31, 2020, in lieu of the payment in cash of all or any portion of the interest due on such dates, would be payable in-kind in arrears on the last day of such applicable fiscal quarter (further details as of the date these condensed consolidated financial statements were issued or were available to be issued are provided under the heading *12% Second Amended Senior Secured Note* in Note 13).

Delayed Draw Term Note

On March 24, 2020, the Company entered into a 15% delayed draw term note (the "Delayed Draw Term Note") pursuant to the second amended and restated note purchase agreement, in the aggregate principal amount of \$12,000,000.

On March 24, 2020, the Company drew down \$6,913,865 under the Delayed Draw Term Note, and after payment of commitment and funding fees paid of \$793,109, and other of its legal fees and expenses that were incurred, the Company received net proceeds of \$6,000,000. The net proceeds were used for working capital and general corporate purposes. Additional borrowings under the Delayed Draw Term Note requested by the Company may be made at the option of the purchasers, subject to certain conditions. Up to \$8,000,000 in principal amount under the note was originally due on March 31, 2021. Interest on amounts outstanding under the note was payable in-kind in arrears on the last day of each fiscal quarter (further details as of the date these condensed consolidated financial statements were issued or were available to be issued are provided under the heading *Delayed Draw Term Note* in Note 13).

The following table summarizes the long-term debt:

| | As of March 31, 2020 | | | As of December 31, 2019 | | |
|--|--|--|---------------------|--|--|---------------------|
| | Principal Balance (including accrued interest) | Unamortized Discount and Debt Issuance Costs | Carrying Value | Principal Balance (including accrued interest) | Unamortized Discount and Debt Issuance Costs | Carrying Value |
| 12% Second Amended Senior Secured Note, as amended, due on December 31, 2022 | \$51,435,626 | \$ (5,315,279) | \$46,120,347 | \$49,921,345 | \$ (5,911,600) | \$44,009,745 |
| Delayed Draw Term Note, as amended, due on March 31, 2022 | 6,931,150 | (881,227) | 6,049,923 | - | - | - |
| Total | \$58,366,776 | \$ (6,196,506) | \$52,170,270 | \$49,921,345 | \$ (5,911,600) | \$44,009,745 |

9. Stockholders' Equity

Common Stock

The Company has the authority to issue 1,000,000,000 shares of common stock, \$0.01 par value per share (further details as of the date of these condensed consolidated financial statements were issued or were available to be issued are provided under the heading *Amendment to Certificate of Incorporation* in Note 13).

Common Stock Warrants

The Company issued warrants to purchase shares of the Company's common stock to MDB Capital Group, LLC (the "MDB Warrants"), L2 Capital, LLC (the "L2 Warrants"), Strome Mezzanine Fund LP (the "Strome Warrants"), and B. Riley Financial, Inc. (the "B. Riley Warrants") in connection with various financing transactions (collectively, the "Financing Warrants").

The Financing Warrants outstanding and exercisable as of March 31, 2020 are summarized as follows:

| | Exercise Price | Expiration Date | Outstanding | | Total Exercisable (Shares) |
|-----------------------------------|----------------|------------------|---|---|----------------------------|
| | | | Classified as Derivative Liabilities (Shares) | Classified within Stockholders' Equity (Shares) | |
| MDB Warrants | \$ 0.20 | November 4, 2021 | - | 327,490 | 327,490 |
| Strome Warrants | 0.50 | June 15, 2023 | 1,500,000 | - | 1,500,000 |
| B. Riley Warrants | 1.00 | October 18, 2025 | 875,000 | - | 875,000 |
| MDB Warrants | 1.15 | October 19, 2022 | - | 119,565 | 119,565 |
| MDB Warrants | 2.50 | October 19, 2022 | - | 60,000 | 60,000 |
| Total outstanding and exercisable | | | <u>2,375,000</u> | <u>507,055</u> | <u>2,882,055</u> |

The intrinsic value of exercisable but unexercised in-the-money stock warrants as of March 31, 2020 was \$591,669, based on a fair market value of the Company's common stock of \$0.77 per share on March 31, 2020.

10. Compensation Plans

The Company provides stock-based compensation in the form of (a) stock awards to employees and directors, comprised of restricted stock awards and restricted stock units (collectively referred to as the "Restricted Stock Awards"), (b) stock option grants to employees directors and consultants (referred to as the "Common Stock Awards") (c) stock option awards, restricted stock awards, unrestricted stock awards, and stock appreciation rights to employees, directors and consultants (collectively the "Common Equity Awards"), (d) stock option awards outside the 2016 Stock Incentive Plan and 2019 Equity Incentive Plan to certain officers, directors and employees (referred to as the "Outside Options"), (e) common stock warrants to the Company's channel partners (referred to as the "Channel Partner Warrants"), and (f) common stock warrants to ABG-SI, LLC (referred to as the "ABG Warrants").

Stock-based compensation and equity-based expense charged to operations or capitalized during the three months ended March 31, 2020 and 2019 are summarized as follows:

| | Restricted Stock Awards | Common Stock Awards | Common Equity Awards | Outside Options | Channel Partner Warrants | ABG Warrants | Totals |
|---|--|------------------------------------|-------------------------------------|----------------------------|---|-------------------------|---------------------|
| During the Three Months Ended March 31, 2020 | | | | | | | |
| Cost of revenue | \$ 37,576 | \$ 69,796 | \$ 1,009,592 | \$ 1,206 | \$ 8,039 | \$ - | \$ 1,126,209 |
| Selling and marketing | 299,215 | 35,728 | 678,279 | 55,378 | - | - | 1,068,600 |
| General and administrative | 22,920 | 171,672 | 755,247 | 55,183 | - | 360,289 | 1,365,311 |
| Total costs charged to operations | 359,711 | 277,196 | 2,443,118 | 111,767 | 8,039 | 360,289 | 3,560,120 |
| Capitalized platform development | 70,283 | 41,157 | 256,001 | 2,611 | - | - | 370,052 |
| Total stock-based compensation | <u>\$ 429,994</u> | <u>\$ 318,353</u> | <u>\$ 2,699,119</u> | <u>\$ 114,378</u> | <u>\$ 8,039</u> | <u>\$ 360,289</u> | <u>\$ 3,930,172</u> |
| During the Three Months Ended March 31, 2019 | | | | | | | |
| Cost of revenue | \$ 35,375 | \$ 20,219 | \$ - | \$ 1,129 | \$ 12,348 | \$ - | \$ 69,071 |
| Selling and marketing | 34,393 | 21,945 | - | 51,946 | - | - | 108,284 |
| General and administrative | 715,637 | 404,430 | 892 | 21,313 | - | - | 1,142,272 |
| Total costs charged to operations | 785,405 | 446,594 | 892 | 74,388 | 12,348 | - | 1,319,627 |
| Capitalized platform development | 137,956 | 29,992 | - | - | - | - | 167,948 |
| Total stock-based compensation | <u>\$ 923,361</u> | <u>476,586</u> | <u>\$ 892</u> | <u>\$ 74,388</u> | <u>\$ 12,348</u> | <u>\$ -</u> | <u>\$ 1,487,575</u> |

Unrecognized compensation expense and expected weighted-average period to be recognized related to the stock-based compensation awards and equity-based awards as of March 31, 2020 was as follows:

| | Restricted Stock Awards | Common Stock Awards | Common Equity Awards | Outside Options | Channel Partner Warrants | ABG Warrants | Totals |
|---|--|------------------------------------|-------------------------------------|----------------------------|---|-------------------------|---------------|
| Unrecognized compensation expense | \$ 1,314,792 | \$ 1,501,346 | \$ 27,525,363 | \$ 772,360 | \$ 6,100 | \$ 4,302,887 | \$ 35,422,848 |
| Expected weighted-average period expected to be recognized (in years) | 0.89 | 1.08 | 2.38 | 1.86 | 0.31 | 3.13 | 2.35 |

11. Revenue Recognition

Disaggregation of Revenue

The following table provides information about disaggregated revenue by product line, geographical market and timing of revenue recognition:

| | As of March 31, | |
|-----------------------------------|----------------------|---------------------|
| | 2020 | 2019 |
| Revenue by product line: | | |
| Advertising | \$ 11,837,984 | \$ 6,137,354 |
| Digital subscriptions | 5,537,247 | 51,913 |
| Magazine circulation | 12,537,532 | - |
| Other | 500,090 | 84,696 |
| Total | <u>\$ 30,412,853</u> | <u>\$ 6,273,963</u> |
| Revenue by geographical market: | | |
| United States | \$ 29,282,130 | \$ 6,273,963 |
| Other | 1,130,723 | - |
| Total | <u>\$ 30,412,853</u> | <u>\$ 6,273,963</u> |
| Revenue by timing of recognition: | | |
| At point in time | \$ 24,875,606 | \$ 6,222,050 |
| Over time | 5,537,247 | 51,913 |
| Total | <u>\$ 30,412,853</u> | <u>\$ 6,273,963</u> |

Contract Balances

The timing of the Company's performance under its various contracts often differs from the timing of the customer's payment, which results in the recognition of a contract asset or a contract liability. A contract asset is recognized when a good or service is transferred to a customer and the Company does not have the contractual right to bill for the related performance obligations. A contract liability is recognized when consideration is received from the customer prior to the transfer of goods or services.

The following table provides information about contract balances:

| | As of | |
|--|----------------------|----------------------|
| | March 31, 2020 | December 31, 2019 |
| Unearned revenue (short-term contract liabilities): | | |
| Digital subscriptions | 11,070,739 | \$ 8,634,939 |
| Magazine circulation | 38,177,153 | 23,528,148 |
| | <u>\$ 49,247,892</u> | <u>\$ 32,163,087</u> |
| Unearned revenue (long-term contract liabilities): | | |
| Digital subscriptions | \$ 1,244,706 | \$ 478,557 |
| Magazine circulation | 14,059,429 | 30,478,154 |
| Other | 215,000 | 222,500 |
| | <u>\$ 15,519,135</u> | <u>\$ 31,179,211</u> |

Unearned Revenue – Unearned revenue, also referred to as contract liabilities, include payments received in advance of performance under the contracts and are recognized as revenue over time. The Company records contract liabilities as unearned revenue on the consolidated balance sheets. Digital subscription and magazine circulation revenue of \$8,810,987 was recognized during the three months ended March 31, 2020 from unearned revenue at the beginning of the year.

During January and February of 2020, the Company modified certain digital and magazine subscription contracts that prospectively changed the frequency of the related issues required to be delivered on a yearly basis. The Company determined that the remaining digital content and magazines to be delivered are distinct from the digital content or magazines already provided under the original contract. As a result, the Company in effect established a new contract that included only the remaining digital content or magazines. Accordingly, the Company allocated the remaining performance obligations in the contracts as consideration from the original contract that has not yet been recognized as revenue.

12. Commitments and Contingencies

Revenue Guarantees

On a select basis, the Company has provided revenue share guarantees to certain independent publishers that transition their publishing operations from another platform to theMaven.net or maven.io. These arrangements generally guarantee the publisher a monthly amount of income for a period of 12 to 24 months from inception of the publisher contract that is the greater of (a) a fixed monthly minimum, or (b) the calculated earned revenue share. For the three months ended March 31, 2020 and 2019, the Company recognized Channel Partner guarantees of \$2,374,087 and \$1,254,992, respectively.

Claims and Litigation

From time to time, the Company may be subject to claims and litigation arising in the ordinary course of business. The Company is not currently a party to any pending or threatened legal proceedings that it believes would reasonably be expected to have a material adverse effect on the Company's business, financial condition, results of operations or cash flows.

Liquidated Damages

The following table summarizes the contingent obligations with respect to the liquidated damages as of the date these condensed consolidated financial statements were issued or were available to be issued:

| | Series I Preferred Stock | Series J Preferred Stock | Total Liquidated Damages |
|------------------------------------|-----------------------------|-----------------------------|-----------------------------|
| Registration rights damages | \$ 69,300 | \$ 300,000 | \$ 369,300 |
| Public information failure damages | 138,600 | 360,000 | 498,600 |
| Accrued interest | 20,164 | 53,458 | 73,622 |
| | <u>\$ 228,064</u> | <u>\$ 713,458</u> | <u>\$ 941,522</u> |

13. Subsequent Events

The Company performed an evaluation of subsequent events through the date of filing of these condensed consolidated financial statements with the SEC. Other than the below described subsequent events, there were no material subsequent events which affected, or could affect, the amounts or disclosures on the condensed consolidated financial statements.

Compensation Plans

On December 15, 2020, the Company entered into an amendment for certain restricted stock awards and restricted stock units. Pursuant to the amendment:

- the restricted stock awards would cease to vest and all unvested shares would be deemed unvested and forfeited, leaving an aggregate of 1,064,549 shares vested;
- the restricted stock units were modified to vest on December 31, 2020 and as of the close of business on December 31, 2020, each restricted stock unit was terminated and deemed forfeited, with no shares vesting thereunder; and
- subject to certain conditions, the Company agreed to purchase from certain key personnel the vested restricted stock awards, at a price of \$4.00 per share in 24 equal monthly installments on the second business day of each calendar month beginning on January 4, 2021.

On January 8, 2021, the board of directors (the "Board") approved an amendment to certain option awards granted under the 2019 Equity Incentive Plan (the "2019 Plan") to remove certain vesting conditions for the performance-based awards. In general, pursuant to the amendment:

- the common stock options would vest with respect to one-third of the grant when the option holder completes one year of continuous service beginning on the grant date; and
- the remaining common stock options would vest monthly over twenty-four months when the option holder completes each month of continuous service thereafter.

On February 18, 2021, the Board approved an amendment to the Company's 2019 Plan to increase the number of shares of the Company's common stock available for issuance under the 2019 Plan from 85,000,000 shares to 185,000,000 shares.

On February 18, 2021, the Board approved up to an aggregate amount of 26,200,000 stock options to be made on or before March 18, 2021 for shares of the Company's common stock to certain executive officers of the Company under the 2019 Plan. A total of 11,158,049 stock options were granted and designated as a non-qualified stock options, subject to certain terms and conditions.

On February 18, 2021, the Board approved the issuance of restricted stock units to certain executive officers of the Company under the 2019 Plan. A total of 26,048,781 restricted stock units were granted, subject to certain terms and conditions.

From April 2020 through the date these condensed consolidated financial statements were issued or were available to be issued, the Company granted common stock options, restricted stock units and restricted stock awards totaling 84,274,395 (includes 11,158,049 stock options and 26,048,781 restricted stock units issued on February 28, 2021 as described above), of which 84,207,987 remain outstanding.

12% Convertible Debentures

On December 31, 2020, certain holders converted the 12% Convertible Debentures representing an aggregate of \$18,104,949 of the then-outstanding principal and accrued but unpaid interest into 53,887,470 shares of the Company's common stock at effective conversion per-share prices ranging from \$0.33 to \$0.40. Further, the Company repaid an aggregate of \$1,130,903 of the 12% Convertible Debentures, including the then-outstanding principal and accrued interest in cash. As of December 31, 2020, there was no longer any principal or accrued but unpaid interest outstanding under the 12% Convertible Debentures. As a result of the conversion of certain 12% Convertible Debentures into shares of the Company's common stock, the Company will no longer have an embedded derivative liability related to the conversion option features, buy-in features, and default remedy features and will recognize the fair value of such amount upon conversion as additional paid-in capital. Further, with respect to the conversion of the accrued interest into shares of the Company's common stock, the Company will recognize a loss on conversion, as deemed appropriate, at the time of conversion.

12% Second Amended Senior Secured Note

On October 23, 2020, the Company entered into Amendment No. 1 to the second amended and restated note purchase agreement ("Amendment 1"), pursuant to which the maturity date of the 12% Second Amended Senior Secured Notes was changed to December 31, 2022, subject to certain acceleration conditions. Pursuant to Amendment 1, interest payable on the 12% Second Amended Senior Secured Notes on September 30, 2020, December 31, 2020, March 31, 2021, June 30, 2021, September 30, 2021, and December 31, 2021 will be payable in-kind in arrears on the last day of such fiscal quarter. Alternatively, at the option of the holder, such interest amounts originally could have been paid in shares of "Series K Convertible Preferred Stock" ("Series K Preferred Stock"); however, after December 18, 2020, the date the Series K Preferred Stock converted into shares of the Company's common stock, all such interest amounts can be paid in shares of the Company's common stock based upon the conversion rate specified for the Series K Preferred Stock (or \$0.40).

The balance outstanding under the 12% Second Amended Senior Secured Note as of the date these condensed consolidated financial statements were issued or were available to be issued was approximately \$56.3 million, which included outstanding principal of approximately \$48.8 million, payment of in-kind interest of approximately \$4.2 million that the Company was permitted to add to the aggregate outstanding principal balance, and unpaid accrued interest of approximately \$3.3 million.

Delayed Draw Term Note

On October 23, 2020, pursuant to the terms of Amendment 1, the maturity date of the Delayed Draw Term Note was changed from March 31, 2021 to March 31, 2022. Amendment 1 also provided that the holder, could originally elect, in lieu of receipt of cash for payment of all or any portion of the interest due or cash payments up to a certain conversion portion (as further described in Amendment 1) of the Delayed Draw Term Note, to receive shares of Series K Preferred Stock; however, after December 18, 2020, the date the Series K Preferred Stock converted into shares of the Company's common stock, the holder may elect, in lieu of receipt of cash for such amounts, shares of the Company's common stock based upon the conversion rate specified for the Series K Preferred Stock (or \$0.40).

As of the date these condensed consolidated financial statements were issued or were available to be issued, \$3,367,000, including \$3,295,505 of principal amount of the Delayed Draw Term Note and \$71,495 of accrued interest, had been converted into shares of our Series K Preferred Stock. The aggregate principal amount outstanding under the Delayed Draw Term Note as of the date these condensed consolidated financial statements were issued or were available to be issued was approximately \$4.3 million (including payment of in-kind interest of approximately \$0.7 million, which was added to the outstanding Delayed Draw Term Note balance).

Payroll Protection Program Loan

On April 6, 2020, the Company entered into a note agreement with JPMorgan Chase Bank, N.A. under the recently enacted Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”) administered by the U.S. Small Business Administration (“SBA”) in the principal amount of \$5,702,725 pursuant to Title 1 of the CARES Act (the “PPP Loan”).

The PPP Loan proceeds were used to pay for payroll costs, including salaries, commissions, and similar compensation, group health care benefits, and paid leaves; rent; utilities; and interest on certain other outstanding debt. The amount that will be forgiven will be calculated in part with reference to the Company’s full time headcount during the 24 week period following the funding of the PPP Loan.

The note is scheduled to mature on April 6, 2022. The interest rate on the note is a fixed rate of 0.98% per annum. To the extent that the amounts owed under the PPP Loan, or a portion of them, are not forgiven, the Company will be required to make principal and interest payments in monthly installments. The balance outstanding as of the issuance date of these condensed consolidated financial statements was \$5,702,725.

Preferred Stock

Series H Preferred Stock – Between August 14, 2020 and August 20, 2020, the Company entered into additional securities purchase agreements for the sale of “Series H Convertible Preferred Stock” (“Series H Preferred Stock”) with accredited investors, pursuant to which the Company issued 108 shares (after it rescinded the issuance of 2,145 shares that were deemed null and void and the purchase price was repaid to certain holders on October 28, 2020), at a stated value of \$1,000 per share, which shares were initially convertible into 327,273 shares of the Company’s common stock at a conversion rate equal to the stated value divided by the conversion price of \$0.33 per share, for aggregate gross proceeds of \$130,896. The proceeds were used for working capital and general corporate purposes. The number of shares issuable upon conversion of the Series H Preferred Stock will be adjusted in the event of stock splits, stock dividends, combinations of shares and similar transactions. Each Series H Preferred Stock shall vote on an as-if-converted to common stock basis, subject to beneficial ownership blocker provisions and other certain conditions.

On September 21, 2020, an investor converted 300 shares of Series H Preferred Stock into 909,090 shares of the Company’s common stock.

On October 31, 2020, the Company issued 389 shares of Series H Preferred Stock to James Heckman at the stated value of \$1,000, convertible into 1,178,787 shares of the Company’s common stock, at the option of the holder subject to certain limitations at a conversion rate equal to the stated value divided by the conversion price of \$0.33 per share. The shares of Series H Preferred Stock were issued in connection with the cancellation of promissory notes payable to Mr. Heckman in the aggregate outstanding principal amount of \$389,000.

The shares of Series H Preferred Stock were subject to limitations on conversion into shares of the Company’s common stock until the date an amendment to the Company’s Restated Certificate of Incorporation, as amended (the “Certificate of Incorporation”), was filed and accepted with the State of Delaware that increases the number of authorized shares of its common stock to at least a number permitting all the Series H Preferred Stock to be converted in full (further details are provided under the heading *Amendment to Certificate of Incorporation*).

The securities purchase agreements also included a provision that requires the Company to maintain its periodic filings with the SEC in order to satisfy the public information requirements under Rule 144(c) of the Securities Act. If the Company fails for any reason to satisfy the current public information requirement commencing from the six (6) month anniversary date of issuance of the Series H Preferred Shares, then the Company will be obligated to pay Public Information Failure Damages (as further described in Note 14 to the audited consolidated financial statements for the year ended December 31, 2019) to each holder, consisting of a cash payment equal to 1% of the amount invested as partial liquidated damages, up to a maximum of six months, subject to interest at the rate of 1% per month until paid in full.

Series J Preferred Stock – On September 4, 2020, the Company closed on an additional “Series J Convertible Preferred Stock” (“Series J Preferred Stock”) issuance with two accredited investors, pursuant to which we issued an aggregate of 10,500 shares of Series J Preferred Stock at a stated value of \$1,000 per share, initially convertible into 15,013,072 shares of our common stock at a conversion rate equal to the stated value divided by the conversion price of \$0.70, for aggregate gross proceeds of \$6,000,000, which was used for working capital and general corporate purposes. The number of shares issuable upon conversion of the Series J Preferred Stock will be adjusted in the event of stock splits, stock dividends, combinations of shares and similar transactions. Each share of Series J Convertible Preferred Stock shall vote on an as-if-converted to common stock basis, subject to certain conditions.

All of the shares of the Series J Preferred Stock converted automatically into shares of the Company’s common stock on December 18, 2020, the date the Company filed a Certificate of Amendment (the “Certificate of Amendment”) to the Certificate of Incorporation, which Certificate of Amendment increased the number of authorized shares of the Company’s common stock to at least a number that permitted all the Series J Preferred Stock, the “Series K Convertible Preferred Stock” (the “Series K Preferred Stock”), the “Series I Convertible Preferred Stock” (“Series I Preferred Stock”), and the Series H Preferred Stock, to be converted in full (further details are provided under the heading *Amendment to Certificate of Incorporation*).

Pursuant to a registration rights agreement entered into in connection with the securities purchase agreements, the Company agreed to register the shares issuable upon conversion of the Series J Preferred Stock for resale by the investors. The Company committed to file the registration statement by no later than the 30th calendar day following the date the Company files its (a) Annual Reports on Form 10-K for the fiscal year ended December 31, 2018 and December 31, 2019, (b) all its required Quarterly Reports on Form 10-Q since the quarter ended September 30, 2018, through the quarter ended September 30, 2020, and (c) any Form 8-K Reports that the Company is required to file with the SEC; but in no event later than April 30, 2021 (the “Series J Filing Date”). The Company also committed to cause the registration statement to become effective by no later than 60 days after the Series J Filing Date (or, in the event of a full review by the staff of the SEC, 120 days following the Series J Filing Date). The registration rights agreement provides for Registration Rights Damages (as further described in Note 14 to the audited consolidated financial statements for the year ended December 31, 2019) upon the occurrence of certain events up to a maximum amount of 6% of the aggregate amount invested.

The securities purchase agreements also included a provision that requires the Company to maintain its periodic filings with the SEC in order to satisfy the public information requirements under Rule 144(c) of the Securities Act. If the Company fails for any reason to satisfy the current public information commencing from the six (6) month anniversary date of issuance of the Series J Preferred Shares, then the Company will be obligated to pay Public Information Failure Damages (as further described in Note 14 to the audited consolidated financial statements for the year ended December 31, 2019) to each holder, consisting of a cash payment equal to 1% of the amount invested as partial liquidated damages, up to a maximum of six months, subject to interest at the rate of 1% per month until paid in full.

Series K Preferred Stock – On October 22, 2020, 20,000 authorized shares of the Company’s preferred stock were designated as the Series K Preferred Stock. Between October 23, 2020 and November 11, 2020, the Company closed on several securities purchase agreements with accredited investors, pursuant to which the Company issued an aggregate of 18,042 shares of Series K Preferred Stock at a stated value of \$1,000, initially convertible into 45,105,000 shares of the Company’s common stock at a conversion rate equal to the stated value divided by the conversion price of \$0.40 per share, for aggregate gross proceeds of \$18,042,000. The number of shares issuable upon conversion of the Series K Preferred Stock will be adjusted in the event of stock splits, stock dividends, combinations of shares and similar transactions. Each Series K Preferred Stock votes on an as-if-converted to common stock basis, subject to certain conditions.

In consideration for its services as placement agent, the Company paid B. Riley FBR, Inc. (“B. Riley FBR”) a cash fee of \$560,500. The Company used approximately \$3.4 million of the net proceeds from the financing to partially repay the Delayed Draw Term Note and used approximately \$2.6 million for payment on a prior investment, with the remainder of approximately \$11.5 million for working capital and general corporate purposes.

All of the shares of the Series K Preferred Stock converted automatically into shares of the Company's common stock on December 18, 2020, the date the Company filed a the Certificate of Amendment to the Certificate of Incorporation, which Certificate of Amendment increased the number of authorized shares of the Company's common stock to at least a number that permitted all the Series J Preferred Stock, the Series K Preferred Stock, the Series I Preferred Stock, and the Series H Preferred Stock, to be converted in full (further details are provided under the heading *Amendment to Certificate of Incorporation*).

Pursuant to a registration rights agreement entered into in connection with the securities purchase agreements, the Company agreed to register the shares issuable upon conversion of the Series K Preferred Stock for resale by the investors. The Company committed to file the registration statement by no later than the 30th calendar day following the date the Company files its (a) Annual Reports on Form 10-K for the fiscal year ended December 31, 2018 and December 31, 2019, (b) all its required Quarterly Reports on Form 10-Q since the quarter ended September 30, 2018, through the quarter ended September 30, 2020, and (c) any Form 8-K Reports that the Company is required to file with the SEC; provided, however, if such 30th calendar day is on or after February 12, 2021, then such 30th calendar date shall be tolled until the 30th calendar day following the date that the Company files its Annual Report on Form 10-K for the fiscal year ended December 31, 2020 (the "Series K Filing Date"). The Company also committed to cause the registration statement to become effective by no later than 90 days after the Series K Filing Date (or, in the event of a full review by the staff of the SEC, 120 days following the Series K Filing Date). The registration rights agreement provides for Registration Rights Damages (as further described in Note 14 to the audited consolidated financial statements for the year ended December 31, 2019) upon the occurrence of certain events up to a maximum amount of 6% of the aggregate amount invested.

The securities purchase agreements also included a provision that requires the Company to maintain its periodic filings with the SEC in order to satisfy the public information requirements under Rule 144(c) of the Securities Act. If the Company fails for any reason to satisfy the current public information requirement commencing from the six (6) month anniversary date of issuance of the Series K Preferred Shares, then the Company will be obligated to pay Public Information Failure Damages (as further described in Note 14 to the audited consolidated financial statements for the year ended December 31, 2019) to each holder, consisting of a cash payment equal to 1% of the amount invested as partial liquidated damages, up to a maximum of six months, subject to interest at the rate of 1% per month until paid in full.

Series L Preferred Stock – On May 4, 2021, the Special Finance & Governance Committee (the "Special Committee") of the Board of the Company adopted a Rights Agreement (i) to ensure that all stockholders of the Company receive fair and equal treatment in the event of a proposed takeover of the Company, (ii) to guard against two-tier or partial tender offers, open market accumulations, creeping stock accumulation programs and other tactics designed to gain control of the Company without paying all stockholders a fair and adequate price, including a sufficient premium for such controlling interest, (iii) to protect the Company and its stockholders from efforts to capitalize on market volatility and macroeconomic conditions to obtain control of the Company on terms that the Board determines are not in the best interests of the Company and its stockholders and (iv) to enhance the Board's ability to negotiate with a prospective acquirer.

Also on May 4, 2021, the Special Committee declared a dividend of one preferred stock purchase right (each a "Right") to be paid to the stockholders of record at the close of business on May 14, 2021 for (i) each outstanding share of the Company's common stock and (ii) each share of the Company's common stock issuable upon conversion of each share of the Company's Series H Preferred Stock. Each Right entitles the registered holder to purchase, subject to the Rights Agreement, from the Company one one-thousandth of a share of the Company's newly created Series L Junior Participating Preferred Stock, par value \$0.01 per share (the "Series L Preferred Stock"), at a price of \$4.00, subject to certain adjustments. The Series L Preferred Stock will be entitled, when, as and if declared, to a preferential per share quarterly dividend payment equal to the greater of (i) \$1.00 per share or (ii) 1,000 times the aggregate per share amount of all cash dividends, and 1,000 times the aggregate per share amount (payable in kind) of all non-cash dividends or other distributions paid to the holders of the Company's Common Stock. The Series L Preferred Stock will be entitled to 1,000 votes on all matters submitted to a vote of the stockholders of the Company. In the event of any merger, consolidation or other transaction in which shares of the Company's common stock are converted or exchanged, the Series L Preferred Stock will be entitled to receive 1,000 times the amount received per one share of the Company's common stock.

Leases

On October 30, 2020, the Company entered into a surrender agreement pursuant to which the Company effectively surrendered certain property located in New York, New York back to the landlord. Pursuant to the surrender agreement, the security deposit of \$500,000 held by the landlord and reflected within restricted cash on the condensed consolidated balance sheets was applied to the balance in arrears. In addition, the Company agreed to pay \$68,868 per month from January 1, 2021 through June 1, 2022 to satisfy the remaining outstanding balance of \$1,239,624 owed to the landlord. The landlord agreed not to charge any late fees, interest charges, or other penalties relating to the surrender of the property.

Amendment to Certificate of Incorporation

On December 18, 2020, the Company filed a Certificate of Amendment to its Certificate of Incorporation to increase the number of authorized shares of its common stock from 100,000,000 shares to 1,000,000,000 shares. As a result, as of December 18, 2020, the Company has a sufficient number of authorized but unissued shares of its common stock available for issuance required under all of its securities that are convertible into shares of its common stock.

As a result of the increase in authorized and unissued shares of the Company's common stock on December 18, 2020, all of the Series I Preferred Stock, Series J Preferred Stock (including shares issued subsequent to March 31, 2020 as described above) and Series K Preferred Stock (including shares issued subsequent to March 31, 2020 as described above), were converted into shares of the Company's common stock, accordingly, the Company will recognize a beneficial conversion feature, as deemed appropriate, at the time of conversion.

ITEM 2. MANAGEMENT’S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

The following discussion and analysis of our financial condition and results of operations for the three months ended March 31, 2020 and 2019 should be read together with our unaudited condensed consolidated financial statements and related notes included elsewhere in this Quarterly Report and in conjunction with the audited consolidated financial statements and notes thereto for the year ended December 31, 2019 included in the Company’s Annual Report on Form 10-K filed with the SEC on April 9, 2021. The following discussion contains “forward-looking statements” that reflect our future plans, estimates, beliefs and expected performance. Our actual results may differ materially from those currently anticipated and expressed in such forward-looking statements as a result of a number of factors, including those set forth above. We caution that assumptions, expectations, projections, intentions or beliefs about future events may, and often do, vary from actual results and the differences can be material. Please see “Forward-Looking Statements.”

Overview

We operate a best-in-class technology platform empowering premium publishers who impact, inform, educate and entertain. We operate the media businesses for Sports Illustrated (“Sports Illustrated”) and TheStreet, and power more than 250 independent brands including History, Maxim, and Biography. Our platform (the “Maven Platform”) provides digital publishing, distribution and monetization capabilities to our own Sports Illustrated and TheStreet media businesses as well as to the coalition of independent, professionally managed online media publishers (referred to as the “Channel Partners”). Generally, the Channel Partners are independently owned strategic partners who receive a share of revenue from the interaction with their content. They also benefit from our membership marketing and management systems to further enhance their revenue.

Our growth strategy is to continue to expand by adding new premium publishers with high quality brands and content either as independent Channel Partners or by acquiring publishers as owned and operated entities. By adding premium content brands, we will further expand the scale of the Maven Platform, improve monetization effectiveness in both advertising and subscription revenues, and enhance the attractiveness to consumers and advertisers.

Liquidity and Capital Resources

As of March 31, 2020, our principal sources of liquidity consisted of cash of approximately \$7.5 million. As of the issuance date of our accompanying condensed consolidated financial statements for the three months ended March 31, 2020, we had also raised funds from the issuance of convertible preferred stock and from loan proceeds of approximately \$26.5 million, in addition to the use of additional proceeds from our working capital facility with FastPay, all of which are discussed in greater detail below in the section entitled “Future Liquidity.”

We continued to be focused on growing our existing operations and seeking accretive and complementary strategic acquisitions as part of our growth strategy. We believed, that with additional sources of liquidity and the ability to raise additional capital or incur additional indebtedness to supplement our then internal projections, we would be able to execute our growth plan and finance our working capital requirements.

We have financed our working capital requirements since inception through issuances of equity securities and various debt financings. Our working capital deficit as of March 31, 2020 and December 31, 2019 was as follows:

| | As of | |
|-------------------------|----------------|-------------------|
| | March 31, 2020 | December 31, 2019 |
| Current assets | \$ 50,605,328 | \$ 48,160,360 |
| Current liabilities | (107,458,999) | (87,541,031) |
| Working capital deficit | (56,853,671) | (39,380,671) |

As of March 31, 2020, we had a working capital deficit of approximately \$56.9 million, as compared to approximately \$39.4 million as of December 31, 2019, consisting of approximately \$50.6 million in total current assets and approximately \$107.5 million in total current liabilities. Included in current assets as of March 31, 2020 was approximately \$1.0 million of restricted cash. Also included in our working capital deficit are non-cash current liabilities, consisting of approximately \$1.5 million of warrant derivative liabilities and approximately \$11.9 million of embedded derivative liabilities, leaving a working capital deficit that requires cash payments of approximately \$44.5 million.

| | Three Months Ended March 31, | |
|---|-------------------------------------|----------------|
| | 2020 | 2019 |
| Net cash used in operating activities | \$ (10,153,653) | \$ (1,202,177) |
| Net cash used in investing activities | (2,028,294) | (438,418) |
| Net cash provided by financing activities | 11,246,433 | 1,372,617 |
| Net decrease in cash, cash equivalents, and restricted cash | \$ (935,514) | \$ (267,978) |
| Cash, cash equivalents, and restricted cash, end of period | \$ 8,537,576 | \$ 2,259,311 |

For the three months ended March 31, 2020, net cash used in operating activities was approximately \$10.2 million, consisting primarily of: approximately \$29.1 million of cash received from customers (including payments received in advance of performance obligations), less (i) approximately \$39.0 million of cash paid for employees' salaries; fees paid to Channel Partners, suppliers, and vendors; cash paid for revenue share arrangements; and fees paid for professional services; and (ii) approximately \$0.2 million of cash paid for interest; as compared to the three months ended March 31, 2019, where net cash used in operating activities was approximately \$1.2 million, consisting primarily of: approximately \$9.4 million of cash received from customers (including payments received in advance of performance obligations); less (i) approximately \$10.4 million of cash paid for employees' salaries; fees paid to Channel Partners, suppliers, and vendors; cash paid for revenue share arrangements and fees paid to professional services; and (ii) approximately \$0.2 million of cash paid for interest.

For the three months ended March 31, 2020, net cash used in investing activities was approximately \$2.0 million, consisting primarily of: (i) approximately \$0.3 million for the acquisition of a business; (ii) approximately \$0.9 million for property and equipment; and (iii) approximately \$0.9 million for capitalized costs for our Maven Platform; as compared to the three months ended March 31, 2019, where net cash used in investing activities was approximately \$0.4 million, consisting primarily of capitalized costs for our Maven Platform.

For the three months ended March 31, 2020, net cash provided by financing activities was approximately \$11.2 million, consisting primarily of: (i) approximately \$6.0 million in net proceeds from the Delayed Draw Term Note; (ii) approximately \$5.4 million in from borrowing under our line of credit; and less (iii) approximately \$0.2 million in payments for taxes relating to repurchase of restricted shares; as compared to the three months ended March 31, 2019, where net cash provided by financing activities was approximately \$1.4 million, consisting primarily of: (i) approximately \$1.9 million in net proceeds after payment of issuance cost from issuance of Series J Preferred Stock; less (ii) approximately \$0.4 million in repayment of officer promissory notes, and (iii) approximately \$0.2 million in repayments under our line of credit.

Future Liquidity

From April 1, 2020 to the issuance date of our accompanying condensed consolidated financial statements for the three months ended March 31, 2020, we continued to incur operating losses and negative cash flow from operating and investing activities. We have raised approximately \$20.8 million in net proceeds pursuant to the sale and issuances of convertible preferred stock and approximately \$5.7 million in debt financing. Our cash balance as of the issuance date of accompanying condensed consolidated financial statements for the three months ended March 31, 2020 was approximately \$2.4 million.

The table below summarizes the additional debt financing and/or equity financings through the issuance date of our accompanying condensed consolidated financial statements:

| | Debt Financing | Equity Financings |
|---------------------------------|-----------------------|--------------------------|
| Payroll protection program loan | \$ 5,702,725 | \$ - |
| Series H Preferred Stock | - | 130,000 |
| Series J Preferred Stock | - | 6,000,000 |
| Series K Preferred Stock | - | 14,675,000 |
| Total | \$ 5,702,725 | \$ 20,805,000 |

Results of Operations

Three Months Ended March 31, 2020 and 2019

| | Three Months Ended March 31, | | 2020 versus 2019 | |
|---|-------------------------------------|----------------|-------------------------|-----------------|
| | 2020 | 2019 | \$ Change | % Change |
| Revenue | \$ 30,412,853 | \$ 6,273,963 | \$ 24,138,890 | 384.7% |
| Cost of revenue | 26,738,833 | 5,652,565 | 21,086,268 | 373.0% |
| Gross profit | 3,674,020 | 621,398 | 3,052,622 | 491.3% |
| Operating expenses | | | | |
| Selling and marketing | 9,359,938 | 1,149,292 | 8,210,646 | 714.4% |
| General and administrative | 10,410,205 | 4,225,253 | 6,184,952 | 146.4% |
| Depreciation and amortization | 4,096,680 | 108,340 | 3,988,340 | 3,681.3% |
| Total operating expenses | 23,866,823 | 5,482,885 | 18,383,938 | 335.3% |
| Loss from operations | (20,192,803) | (4,861,487) | (15,331,316) | 315.4% |
| Total other (expense) | (2,583,821) | (4,073,493) | 1,489,672 | -36.6% |
| Loss before income taxes | (22,776,624) | (8,934,980) | (13,841,644) | 154.9% |
| Income taxes | - | - | - | 0.0% |
| Net loss | \$ (22,776,624) | \$ (8,934,980) | \$ (13,841,644) | 154.9% |
| Basic and diluted net loss per common share | \$ (0.59) | \$ (0.26) | \$ (0.33) | 126.9% |
| Weighted average number of shares outstanding – basic and diluted | 38,643,277 | 34,837,518 | 3,805,759 | 10.9% |

For the three months ended March 31, 2020, the total net loss was approximately \$22.8 million. The total net loss increased by approximately \$13.8 million as compared to the three months ended March 31, 2019 which had a net loss of approximately \$8.9 million. The primary reasons for the increase in the total net loss is that our operations continued to rapidly expand during the three months ended March 31, 2020, as they did in the comparable period in 2019. In particular, during the three months ended March 31, 2020 we operated our Sports Illustrated media business that we acquired after March 31, 2019. For the three months ended March 31, 2019, we operated our legacy business and also our previously acquired businesses that included HubPages, Inc. (“HubPages”) and Say Media, Inc. (“Say Media”). The basic and diluted net loss per common share for the three months ended March 31, 2020 of \$0.59 increased from \$0.26 for the three months ended March 31, 2019, primarily because of our net loss per common share increased along with the increase of the daily weighted average shares outstanding to 38,643,277 shares from 34,837,518 shares.

Our growth strategy is principally focused on adding new publisher partners to our Maven Platform. In addition, if the right opportunity exists, we would consider also acquiring related online media, publishing and technology businesses by merger or acquisition transactions. This combined growth strategy expanded the scale of unique users interacting on our Maven Platform with increased revenues during the three months ended March 31, 2020. We expect revenues increases in subsequent periods will come from organic growth in operations, addition of more publisher partners, and mergers and acquisitions.

Revenue

The following table sets forth revenue, cost of revenue, and gross profit:

| | Three Months Ended March 31, | | | | 2020 versus 2019 | |
|-----------------|--|--------|--------------|--------|------------------|----------|
| | 2020 | | 2019 | | Change | % Change |
| | <i>(percentage reflect cost of revenue as a percentage of total revenue)</i> | | | | | |
| Revenue | \$ 30,412,853 | 100.0% | \$ 6,273,963 | 100.0% | \$ 24,138,890 | 384.7% |
| Cost of revenue | 26,738,833 | 87.9% | 5,652,565 | 90.1% | 21,086,268 | 373.0% |
| Gross profit | \$ 3,674,020 | 12.1% | \$ 621,398 | 9.9% | \$ 3,052,622 | 491.3% |

For the three months ended March 31, 2020, we had revenue of approximately \$30.4 million, as compared to revenue of approximately \$6.3 million for the three months ended March 31, 2019.

The following table sets forth revenue by product line and the corresponding percent of total revenue:

| | Three Months Ended March 31, | | | | 2020 versus 2019 | |
|-----------------------|--|--------|--------------|--------|------------------|----------|
| | 2020 | | 2019 | | Change | % Change |
| | <i>(percentages reflect product line as a percentage of total revenue)</i> | | | | | |
| Advertising | \$ 11,837,984 | 38.9% | \$ 6,137,354 | 97.8% | \$ 5,700,630 | 90.9% |
| Digital subscriptions | 5,537,247 | 18.2% | 51,913 | 0.8% | 5,485,334 | 87.4% |
| Magazine circulation | 12,537,532 | 41.2% | - | 0.0% | 12,537,532 | 199.8% |
| Other | 500,090 | 1.6% | 84,696 | 1.3% | 415,394 | 6.6% |
| Total revenue | \$ 30,412,853 | 100.0% | \$ 6,273,963 | 100.0% | \$ 24,138,890 | 384.7% |

For the three months ended March 31, 2020, the primary sources of revenue were as follows: (i) advertising of approximately \$11.8 million; (ii) digital subscriptions of approximately \$5.5 million; (iii) magazine circulation of approximately \$12.5 million; and (iv) other revenue of approximately \$0.6 million. Our advertising revenue increased by approximately \$5.7 million, due to additional revenue of approximately \$1.1 million generated by TheStreet, approximately \$5.8 million generated by our Sports Illustrated media business, and an approximate \$1.2 million decrease in our legacy business. Our digital subscriptions increased by approximately \$5.5 million, due to additional revenue of approximately \$4.4 million generated by TheStreet and approximately \$1.0 million generated by our Sports Illustrated media business. Our magazine circulation contributed approximately \$12.5 million as a result of the Sports Illustrated media business acquired during the fourth quarter of 2019.

Cost of Revenue

For the three months ended March 31, 2020 and 2019, we recognized cost of revenue of approximately \$26.7 million and \$5.7 million, respectively. The increase of approximately \$21.1 million in cost of revenue is primarily from: (i) our Channel Partner guarantees and revenue share payments of approximately \$1.3 million; (ii) payroll, stock-based compensation, and related expenses for customer support, technology maintenance, and occupancy costs of related personnel of approximately \$7.8 million; (iii) amortization of our Maven Platform of approximately \$0.7 million (which includes our Maven Platform spending and amortization related to acquired developed technology from our acquisitions); (iv) royalty fees of approximately \$3.8 million; (v) hosting, bandwidth, and software licensing fees of approximately \$0.3 million; (vi) printing, distribution, and fulfillment costs of approximately \$5.7 million; (vii) fees paid for data analytics and to other outside service providers of approximately \$0.2 million; and (viii) other costs of revenue of approximately \$2.0 million.

For the three months ended March 31, 2020, we capitalized costs related to our Maven Platform of approximately \$1.2 million, as compared to approximately \$0.6 million for the three months ended March 31, 2019. For the three months ended March 31, 2020, the capitalization of our Maven Platform consisted of: (i) approximately \$0.9 million in payroll and related expenses, including taxes and benefits; (ii) approximately \$0.4 million in stock-based compensation for related personnel, and (iii) amortization of approximately \$2.0 million.

Operating Expenses

The following table sets forth operating expenses and the corresponding percentage of total revenue:

| | Three Months Ended March 31, | | | | 2020 versus 2019 | |
|-------------------------------|---|-------|---------------------|-------|----------------------|---------------|
| | 2020 | | 2019 | | Change | % Change |
| | <i>(percentages reflect expense as a percentage of total revenue)</i> | | | | | |
| Selling and marketing | \$ 9,359,938 | 30.8% | \$ 1,149,292 | 18.3% | \$ 8,210,646 | 130.9% |
| General and administrative | 10,410,205 | 34.2% | 4,225,253 | 67.3% | 6,184,952 | 98.6% |
| Depreciation and amortization | 4,096,680 | 13.5% | 108,340 | 1.7% | 3,988,340 | 63.6% |
| Total operating expenses | <u>\$ 23,866,823</u> | | <u>\$ 5,482,885</u> | | <u>\$ 18,383,938</u> | <u>335.3%</u> |

Selling and Marketing. For the three months ended March 31, 2020, we incurred selling and marketing costs of approximately \$9.4 million, as compared to approximately \$1.1 million for the three months ended March 31, 2019. The increase in selling and marketing cost of approximately \$8.2 million is primarily from payroll of selling and marketing account management support teams, along with the related benefits and stock-based compensation of approximately \$3.1 million; office, travel, conferences and occupancy costs of approximately \$0.5 million; circulation costs of approximately \$1.0 million; advertising costs of approximately \$2.6 million; and other selling and marketing related costs of approximately \$1.0 million.

General and Administrative. For the three months ended March 31, 2020, we incurred general and administrative costs of approximately \$10.4 million from payroll and related expenses, professional services, occupancy costs, stock-based compensation of related personnel, depreciation and amortization, and other corporate expense, as compared to approximately \$4.2 million for the three months ended March 31, 2019. The increase in general and administrative expenses of approximately \$6.2 million is primarily from our increase in headcount, along with the related benefits and stock compensation of approximately \$2.7 million; professional services, including accounting, legal and insurance of approximately \$2.2 million; facilities costs of approximately \$0.5 million, and other general corporate expenses of approximately \$0.7 million.

Other (Expenses) Income

The following table sets forth other (expense) income:

| | Three Months Ended March 31, | | | | 2020 versus 2019 | |
|--|--|---------------|-----------------------|---------------|---------------------|---------------|
| | 2020 | | 2019 | | Change | % Change |
| | <i>(percentages reflect other expense (income) as a percentage of the total)</i> | | | | | |
| Change in valuation of warrant derivative liabilities | \$ 139,219 | -5.4% | \$ (375,695) | 9.2% | \$ 514,914 | -12.6% |
| Change in valuation of embedded derivative liabilities | 1,621,000 | -62.7% | (2,383,000) | 58.5% | 4,004,000 | -98.3% |
| Interest expense | (3,799,728) | 147.1% | (1,301,208) | 31.9% | (2,498,520) | 61.3% |
| Interest income | 1,743 | -0.1% | 3,171 | -0.1% | (1,428) | 0.0% |
| Liquidated damages | (546,055) | 21.1% | (16,887) | 0.4% | (529,168) | 13.0% |
| Other income | - | 0.0% | 126 | 0.0% | (126) | 0.0% |
| Total other (expense) | \$ (2,583,821) | 100.0% | \$ (4,073,493) | 100.0% | \$ 1,489,672 | -36.6% |

Change in Valuation of Warrant Derivative Liabilities. The change in valuation of warrant derivative liabilities for the three months ended March 31, 2020 was the result of the decrease in the fair value of the warrant derivative liabilities as of March 31, 2020, as compared to the change in the valuation for the three months ended March 31, 2019 where the change was from an increase in the fair value of the warrant derivative liabilities as of March 31, 2019.

Change in Valuation of Embedded Derivative Liabilities. The change in valuation of embedded derivative liabilities for the three months ended March 31, 2020 was the result of the decrease in the fair value of the embedded derivative liabilities as of March 31, 2020, as compared to the change in the valuation for the three months ended March 31, 2019 where the change was from an increase in the fair value of the embedded derivative liabilities as of March 31, 2019.

Interest Expense. We incurred interest expense of approximately \$3.8 million for the three months ended March 31, 2020, primarily from approximately \$1.6 million from amortization of debt discount on notes payable; approximately \$2.0 million of accrued interest; and approximately \$0.2 million of other interest, as compared to approximately \$1.3 million for the three months ended March 31, 2019, primarily from approximately \$0.7 million from amortization of debt discount on notes payable; approximately \$0.4 million of accrued interest; and approximately \$0.2 million of other interest.

Liquidated Damages. We recorded liquidated damages of approximately \$0.5 million for the three months ended March 31, 2020, primarily from issuance of our 12% Convertible Debentures, Series I Preferred Stock, and Series J Preferred Stock issued during 2019. The liquidated damages were recognized because we determined that: (i) registration statements covering the shares of common stock issuable upon conversion under the aforementioned instruments would not be declared effective within the requisite time frame; and (ii) that we would not be able to file our periodic reports in the requisite time frame with the SEC in order to satisfy the public information requirements under the securities purchase agreements.

Recent Disruptions to Our Operations

Beginning in March 2020, our normal business operations were disrupted by a series of events surrounding the COVID-19 pandemic and related measures to control it. To a lesser extent, these disruptions continue as of the date the condensed consolidated financial statements for the three months ended March 31, 2020 were issued. See “Item 1A, Risk Factors – Because of the effects of COVID-19 pandemic and the uncertainty about their persistence, we may need to raise more capital to continue operations.”

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURE ABOUT MARKET RISK

Not applicable to a “smaller reporting company” as defined in Item 10(f)(1) of SEC Regulation S-K.

ITEM 4. CONTROLS AND PROCEDURES

Evaluation of Disclosure Controls and Procedures

Our management is responsible for establishing and maintaining a system of disclosure controls and procedures (as defined in Rule 13a-15(e) and 15d-15(e) under the Exchange Act) that is designed to ensure that information required to be disclosed by us in the reports we file or submit under the Exchange Act is recorded, processed, summarized, and reported, within the time periods specified in the SEC's rules and forms. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed by an issuer in the reports that it files or submits under the Exchange Act is accumulated and communicated to the issuer's management, including its principal executive officer(s) and principal financial officer(s), or persons performing similar functions, as appropriate to allow timely decisions regarding required disclosure.

In accordance with Exchange Act Rules 13a-15 and 15d-15, an evaluation was completed under the supervision and with the participation of our management, including our Chief Executive Officer and Chief Financial Officer, of the effectiveness of the design and operation of our disclosure controls and procedures as of the end of the period covered by this Quarterly Report. Based on that evaluation, our management, including our Chief Executive Officer and Chief Financial Officer, concluded that our disclosure controls and procedures were not effective in providing reasonable assurance that information required to be disclosed in our reports filed or submitted under the Exchange Act was recorded, processed, summarized, and reported within the time periods specified in the SEC's rules and forms.

Changes in Internal Control over Financial Reporting

In connection with our continued monitoring and maintenance of our controls procedures as part of the implementation of Section 404 of the Sarbanes, we continue to review, test, and improve the effectiveness of our internal controls. There have not been any changes in our internal control over financial reporting (as such term is defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act) during the period ended March 31, 2020, or subject to the date we completed our evaluation, that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

PART II - OTHER INFORMATION

ITEM 1. LEGAL PROCEEDINGS

From time to time, we may be subject to claims and litigation arising in the ordinary course of business. We are not currently subject to any pending or threatened legal proceedings that we believe would reasonably be expected to have a material adverse effect on our business, financial condition, results of operations or cash flows.

ITEM 1A. RISK FACTORS

There are numerous factors that affect our business and operating results, many of which are beyond our control. The following is a description of significant factors that might cause our future results to differ materially from those currently expected. The risks described below are not the only risks we face. Additional risks and uncertainties not presently known to us or that we currently deem immaterial may also affect our business operations. If any of the following risks actually occur, our business, financial condition, results of operations, cash flows, and/or our ability to pay our debts and other liabilities could suffer. As a result, the trading price and liquidity of our securities could decline, perhaps significantly, and you could lose all or part of your investment. The risks discussed below also include forward-looking statements and our actual results may differ substantially from those discussed in these forward-looking statements. See the section entitled "Forward-Looking Statements."

RISKS RELATED TO OUR BUSINESS AND OUR FINANCIAL CONDITION

Our business operations have been and may continue to be materially and adversely affected by the outbreak of COVID-19. An outbreak of respiratory illness caused by COVID-19 emerged in late 2019 and has spread globally. In March 2020, the World Health Organization declared the outbreak of COVID-19 as a pandemic based on the rapid increase in global exposure. COVID-19 continues to spread throughout the world. Many national governments and sports authorities around the world have made the decision to postpone/cancel high attendance sports events in an effort to reduce the spread of the COVID-19 virus. In addition, many governments and businesses have limited non-essential work activity, furloughed, and/or terminated many employees and closed some operations and/or locations, all of which has had a negative impact on the economic environment.

Beginning in March 2020, as a result of the COVID-19 pandemic, our revenue and earnings began to decline largely due to the cancellation of high attendance sports events and the resulting decrease in traffic to the Maven Platform and advertising revenue. This initial decrease in revenue and earnings were partially offset by revenues generated by TheStreet, as well as some recovery of sporting events (including, in some cases, limited in-person attendance) that have generated content for the licensing and/or syndication of certain products and content under the Sports Illustrated brand (collectively, the "Sports Illustrated Licensed Brands"). Despite this perceived recovery, the future impact, or continued impact, from the COVID-19 pandemic remains uncertain.

The extent of the impact on our operational and financial performance will depend, in part, on future developments, including the duration and spread of the COVID-19 pandemic, related group gathering and sports event advisories and restrictions, and the extent and effectiveness of containment actions taken, all of which remain uncertain at the time of issuance of our accompanying consolidated financial statements.

These and other impacts of the COVID-19 pandemic, or other pandemics or epidemics, could have the effect of heightening many of the other risks described in this Quarterly Report under the "Risk Factors" section.

Because of the effects of COVID-19 pandemic and the uncertainty about their persistence, we may need to raise more capital to continue operations. At March 31, 2020, we had cash of approximately \$7.5 million. From January 1, 2020 through the issuance date of our accompany condensed consolidated financial statements, we raised aggregate net proceeds of approximately \$20.8 million through various debt and preferred stock private placements. As of the date our accompanying condensed consolidated financial statements for the three months ended March 31, 2020 were issued or were available to be issued, we had cash of approximately \$2.4 million. Please refer to Item 2, *Management's Discussion and Analysis of Financial Condition and Results of Operations*, under the section entitled "Future Liquidity," for additional information. We have seen stabilization in our markets since the spring of 2020 and believe that based on our current assessment of the impact of COVID-19, we have sufficient resources to fully fund our business operations through 12 months from the issuance date of our accompanying condensed consolidated financial statements. However, due to the uncertainty regarding the duration of the impact of COVID-19 and its effect on our financial performance and the potential that our traffic and advertising revenue becomes destabilized again, we may require additional capital. We have not had difficulties accessing the capital markets during 2020, however, due to the uncertainty surrounding COVID-19, we may experience difficulties in the future.

As market conditions present uncertainty as to our ability to secure additional capital, there can be no assurances that we will be able to secure additional financing on acceptable terms, or at all, as and when necessary to continue to conduct operations. Our future liquidity and capital requirements will depend upon numerous factors, including the success of our offerings and competing technological and market developments. We may need to raise funds through public or private financings, strategic relationships, or other arrangements. There can be no assurance that such funding, will be available on terms acceptable to us, or at all. Furthermore, any equity financing will be dilutive to existing stockholders, and debt financing, if available, may involve restrictive covenants that may limit our operating flexibility with respect to certain business matters. Strategic arrangements may require us to relinquish our rights or grant licenses to some or substantial parts of our intellectual property. If funds are raised through the issuance of equity securities, the percentage ownership of our stockholders will be reduced, stockholders may experience additional dilution in net book value per share, and such equity securities may have rights, preferences, or privileges senior to those of the holders of our existing capital stock. If adequate funds are not available on acceptable terms, we may not be able to continue operating, develop or enhance products, take advantage of future opportunities or respond to competitive pressures, any of which could have a material adverse effect on our business, operating results, and financial condition.

We have incurred losses since our inception, have yet to achieve profitable operations, and anticipate that we will continue to incur losses for the foreseeable future. We have had losses from inception, and as a result, have relied on capital funding or borrowings to fund our operations. Our accumulated deficit as of December 31, 2019 was approximately \$73.0 million. Our accumulated deficit as of March 31, 2020 was approximately \$95.8 million. The financial statements for the three months ended March 31, 2020 are the only financial statements we have issued for any periods during fiscal 2020. While we anticipate generating profits in fiscal 2021, the uncertainty surrounding the COVID-19 pandemic yields some doubt as to our ability to do so and could require us to raise additional capital. We cannot predict whether we will be able to continue to find capital to support our business plan if the negative effects of the COVID-19 pandemic continue longer than anticipated.

We identified material weaknesses in our internal control over financial reporting. If we do not adequately address these material weaknesses or if other material weaknesses or significant deficiencies in our internal control over financial reporting are discovered, our financial statements could contain material misstatements and our business, operations and stock price may be adversely affected. As disclosed under Item 4, *Controls and Procedures*, of this Quarterly Report, our management has identified material weaknesses in our internal control over financial reporting at March 31, 2020 and we expect to identify material weaknesses in our internal controls over financial reporting at December 31, 2020. We expect to have remediated our material weaknesses in our internal control over financial reporting during the quarter ending June 30, 2021, of which there can be no assurance. Under standards established by the Public Company Accounting Oversight Board, a material weakness is a deficiency, or a combination of deficiencies, in internal control over financial reporting, such that there is a reasonable possibility that a material misstatement of our financial statements will not be prevented or detected on a timely basis. Although no material misstatement of our historical financial statements was identified, the existence of these material weaknesses or significant deficiencies could result in material misstatements in our financial statements and we could be required to restate our financial statements. Further, significant costs and resources may be needed to remediate the identified material weaknesses or any other material weaknesses or internal control deficiencies. If we are unable to remediate, evaluate, and test our internal controls on a timely basis in the future, management will be unable to conclude that our internal controls are effective and our independent registered public accounting firm will be unable to express an unqualified opinion on the effectiveness of our internal controls. If we cannot produce reliable financial reports, investors may lose confidence in our financial reporting, the price of our common stock could be adversely impacted and we could be subject to sanctions or investigations by the SEC or other regulatory authorities, which could negatively impact our business, financial condition, and results of operations.

As of the date of filing this Quarterly Report, we currently lack certain internal controls over our financial reporting. While we have three independent directors serving on our Board, have added to our accounting staff, and have hired a new Chief Technology Officer, we are implementing such controls at this time. The lack of such controls makes it difficult to ensure that information required to be disclosed in our reports filed and submitted under the Exchange Act is recorded, processed, summarized, and reported as and when required.

We cannot assure you that we will be able to develop and implement the necessary internal controls over financial reporting. The absence of such internal controls may inhibit investors from purchasing our shares and may make it more difficult for us to raise debt or equity financing.

If we fail to retain current users or add new users, or if our users decrease their level of engagement with the Maven Platform, our business would be seriously harmed. The success of our business heavily depends on the size of our user base and the level of engagement of our users. Thus, our business performance will also become increasingly dependent on our ability to increase levels of user engagement in existing and new markets. We are continuously subject to a highly competitive market in order to attract and retain our users' attention. A number of factors could negatively affect user retention, growth, and engagement, including if:

- users increasingly engage with competing platforms instead of ours;
- we fail to introduce new and exciting products and services, or such products and services do not achieve a high level of market acceptance;
- we fail to accurately anticipate consumer needs, or we fail to innovate and develop new software and products that meet these needs;
- we fail to price our products competitively;
- we do not provide a compelling user experience because of the decisions we make regarding the type and frequency of advertisements that we display;
- we are unable to combat spam, bugs, malwares, viruses, hacking, or other hostile or inappropriate usage on our products;

- there are changes in user sentiment about the quality or usefulness of our existing products in the short-term, long-term, or both;
- there are increased user concerns related to privacy and information sharing, safety, or security;
- there are adverse changes in our products or services that are mandated by legislation, regulatory authorities, or legal proceedings;
- technical or other problems frustrate the user experience, particularly if those problems prevent us from delivering our products in a fast and reliable manner;
- we, our Channel Partners, or other companies in our industry are the subject of adverse media reports or other negative publicity, some of which may be inaccurate or include confidential information that we are unable to correct or retract; or
- we fail to maintain our brand image or our reputation is damaged.

Any decrease in user retention, growth, or engagement could render our products less attractive to users, advertisers, or our Channel Partners, thereby reducing our revenues from them, which may have a material and adverse impact on our business, financial condition, and results of operations. In addition, there can be no assurance that we will succeed in developing products and services that eventually become widely accepted, that we will be able to timely release products and services that are commercially viable, or that we will establish ourselves as a successful player in a new business area. Our inability to do so would have an adverse impact on our business, financial condition, and results of operations.

The market in which we participate is intensely competitive, and if we do not compete effectively, our operating results could be harmed. The digital media industry is fragmented and highly competitive. There are many players in the digital media market, many with greater name recognition and financial resources, which may give them a competitive advantage. Some of our current and potential competitors have substantially greater financial, technical, marketing, distribution, and other resources than we do. Our competitors may be able to respond more quickly and effectively than we can to new or changing opportunities, technologies, standards, customer, and user requirements and trends. In addition, our customers and strategic partners may become competitors in the future. Certain of our competitors may be able to negotiate alliances with strategic partners on more favorable terms than we are able to negotiate. Pricing pressures and increased competition generally could result in reduced sales, reduced margins, losses, or the failure of the Maven Platform to achieve or maintain more widespread market acceptance, any of which could adversely affect our revenues and operating results. With the introduction of new technologies, the evolution of the Maven Platform, and new market entrants, we expect competition to intensify in the future.

We may have difficulty managing our growth. We have added, and expect to continue to add, channel partner and end-user support capabilities, to continue software development activities, and to expand our administrative operations. In the past two years, we have entered into multiple strategic transactions. These strategic transactions, which have significantly expanded our business, have and are expected to place a significant strain on our managerial, operational, and financial resources. To manage any further growth, we will be required to improve existing, and implement new, operational, customer service, and financial systems, procedures and controls and expand, train, and manage our growing employee base. We also will be required to expand our finance, administrative, technical, and operations staff. There can be no assurance that our current and planned personnel, systems, procedures, and controls will be adequate to support our anticipated growth, that management will be able to hire, train, retain, motivate, and manage required personnel or that our management will be able to successfully identify, manage and exploit existing and potential market opportunities. If we are unable to manage growth effectively, our business could be harmed.

The strategic relationships that we may be able to develop and on which we may come to rely may not be successful. We will seek to develop strategic relationships with advertising, media, technology, and other companies to enhance the efforts of our market penetration, business development, and advertising sales revenues. These relationships are expected to, but may not, succeed. There can be no assurance that these relationships will develop and mature, or that potential competitors will not develop more substantial relationships with attractive partners. Our inability to successfully implement our strategy of building valuable strategic relationships could harm our business.

We rely heavily on our ability to collect and disclose data and metrics in order to attract new advertisers and retain existing advertisers. Any restriction, whether by law, regulation, policy, or other reason, on our ability to collect and disclose data that our advertisers find useful would impede our ability to attract and retain advertisers. Our advertising revenue could be seriously harmed by many other factors, including:

- a decrease in the number of active users of the Maven Platform;
- our inability to create new products that sustain or increase the value of our advertisements;
- our inability to increase the relevance of targeted advertisements shown to users;
- adverse legal developments relating to advertising, including changes mandated by legislation, regulation, or litigation; and
- difficulty and frustration from advertisers who may need to reformat or change their advertisements to comply with our guidelines.

The occurrence of any of these or other factors could result in a reduction in demand for advertisements, which may reduce the prices we receive for our advertisements or cause advertisers to stop advertising with us altogether, either of which would negatively affect our business, financial condition, and results of operations.

The sales and payment cycle for online advertising is long, and such sales, which have been significantly impacted by the COVID-19 pandemic, may not occur when anticipated or at all. The decision process is typically lengthy for brand advertisers and sponsors to commit to online campaigns. Some of their budgets are planned a full year in advance. The COVID-19 pandemic significantly impacted the amount and pricing of advertising throughout the media industry and it is uncertain when and to what extent advertisers will return to more normal spending levels. The decision process for such purchases, even in normal business situations, is subject to delays and aspects that are beyond our control. In addition, some advertisers and sponsors take months after the campaign runs to pay, and some may not pay at all, or require partial “make-goods” based on performance.

We are dependent on the continued services and on the performance of our key executive officers, management team, and other key personnel, the loss of which could adversely affect our business. Our future success largely depends upon the continued services of our key executive officers, management team, and other key personnel. The loss of the services of any of such key personnel could have a material adverse effect on our business, operating results, and financial condition. We depend on the continued services of our key personnel as they work closely with both our employees and our Channel Partners. Such key personnel are also responsible for our day-to-day operations. Although we have employment agreements with some of our key personnel, these are at-will employment agreements, albeit with non-competition and confidentiality provisions and other rights typically associated with employment agreements. We do not believe that any of our executive officers are planning to leave or retire in the near term; however, we cannot assure that our executive officers or members of our management team will remain with us. We also depend on our ability to identify, attract, hire, train, retain, and motivate other highly skilled technical, managerial, sales, operational, business development, and customer service personnel. Competition for such personnel is intense, and there can be no assurance that we will be able to successfully attract, assimilate, or retain sufficiently qualified personnel. The loss or limitation of the services of any of our executive officers, members of our management team, or key personnel, including our regional and country managers, or the inability to attract and retain additional qualified key personnel, could have a material adverse effect on our business, financial condition, or results of operations.

Our revenues could decrease if the Maven Platform does not continue to operate as intended. The Maven Platform performs complex functions and is vulnerable to undetected errors or unforeseen defects that could result in a failure to operate or inefficiency. There can be no assurance that errors and defects will not be found in current or new products or, if discovered, that we will be able to successfully correct them in a timely manner or at all. The occurrence of errors and defects could result in loss of or delay in revenue, loss of market share, increased development costs, diversion of development resources and injury to our reputation or damage to our efforts to expand brand awareness.

Interruptions or performance problems associated with our technology and infrastructure may adversely affect our business and operating results. Our growth will depend in part on the ability of our users and Channel Partners to access the Maven Platform at any time and within an acceptable amount of time. We believe that the Maven Platform is proprietary and we rely on the expertise of members of our engineering, operations, and software development teams for their continued performance. It is possible that the Maven Platform may experience performance problems due to a variety of factors, including infrastructure changes, introductions of new functionality, human or software errors, capacity constraints due to an overwhelming number of users accessing the Maven Platform software simultaneously, denial of service attacks, or other security related incidents. We may not be able to identify the cause or causes of any performance problems within an acceptable period of time. It may be that it will be difficult to maintain and/or improve our performance, especially during peak usage times and as the Maven Platform becomes more complex and our user traffic increases. If the Maven Platform software is unavailable or if our users are unable to access it within a reasonable amount of time or at all, our business would be negatively affected. Therefore, in the event of any of the factors described above, or certain other failures of our infrastructure, partner or user data may be permanently lost. Moreover, the partnership agreements with our Channel Partners include service level standards that obligate us to provide credits or termination rights in the event of a significant disruption in the Maven Platform. To the extent that we do not effectively address capacity constraints, upgrade our systems as needed, and continually develop our technology and network architecture to accommodate actual and anticipated changes in technology, our business and operating results may be adversely affected.

We operate our exclusive coalition of professional-managed online media channels on third party cloud platforms and data center hosting facilities. We rely on software and services licensed from, and cloud platforms provided by, third parties in order to offer our digital media services. Any errors or defects in third-party software or cloud platforms could result in errors in, or a failure of, our digital media services, which could harm our business. Any damage to, or failure of, these third-party systems generally could result in interruptions in the availability of our digital media services. As a result of this third-party reliance, we may experience the aforementioned issues, which could cause us to render credits or pay penalties, could cause our Channel Partners to terminate their contractual arrangements with us, and could adversely affect our ability to grow our audience of unique visitors, all of which could reduce our ability to generate revenue. Our business would also be harmed if our users and potential users believe our product and services offerings are unreliable. In the event of damage to, or failure of, these third-party systems, we would need to identify alternative channels for the offering of our digital media services, which would consume substantial resources and may not be effective. We are also subject to certain standard terms and conditions with Amazon Web Services and Google Cloud related to data storage purposes. These providers have broad discretion to change their terms of service and other policies with respect to us, and those changes may be unfavorable to us. Therefore, we believe that maintaining successful partnerships with Amazon Web Services, Google Cloud, and other third-party suppliers is critical to our success.

Real or perceived errors, failures, or bugs in the Maven Platform could adversely affect our operating results and growth prospects. Because the Maven Platform is complex, undetected errors, failures, vulnerabilities, or bugs may occur, especially when updates are deployed. Despite testing by us, errors, failures, vulnerabilities, or bugs may not be found in the Maven Platform until after they are deployed to our customers. We expect from time to time to discover software errors, failures, vulnerabilities, and bugs in the Maven Platform and anticipate that certain of these errors, failures, vulnerabilities, and bugs will only be discovered and remediated after deployment to our Channel Partners and used by subscribers. Real or perceived errors, failures, or bugs in our software could result in negative publicity, loss of or delay in market acceptance of the Maven Platform, loss of competitive position, or claims by our Channel Partners or subscribers for losses sustained by them. In such an event, we may be required, or may choose, for customer relations or other reasons, to expend additional resources in order to help correct the problem.

Malware, viruses, hacking attacks, and improper or illegal use of the Maven Platform could harm our business and results of operations. Malware, viruses, and hacking attacks have become more prevalent in our industry and may occur on our systems in the future. Any security breach caused by hacking, which involves efforts to gain unauthorized access to information or systems, or to cause intentional malfunctions or loss or corruption of data, software, hardware, or other computer equipment, and the inadvertent transmission of computer viruses could harm our business, financial condition and operating results. Any failure to detect such attack and maintain performance, reliability, security and availability of products and technical infrastructure to the satisfaction of our users may also seriously harm our reputation and our ability to retain existing users and attract new users.

Our information technology systems are susceptible to a growing and evolving threat of cybersecurity risk. Any substantial compromise of our data security, whether externally or internally, or misuse of agent, customer, or employee data, could cause considerable damage to our reputation, cause the public disclosure of confidential information, and result in lost sales, significant costs, and litigation, which would negatively affect our financial position and results of operations. Although we maintain policies and processes surrounding the protection of sensitive data, which we believe to be adequate, there can be no assurances that we will not be subject to such claims in the future.

If we are unable to protect our intellectual property rights, our business could suffer. Our success significantly depends on our proprietary technology. We rely on a combination of copyright, trademark and trade secret laws, employee and third-party non-disclosure and invention assignment agreements and other methods to protect our proprietary technology. However, these only afford limited protection, and unauthorized parties may attempt to copy aspects of the Maven Platform's features and functionality, or to use information that we consider proprietary or confidential. There can be no assurance that the Maven Platform will be protectable by patents, but if they are, any efforts to obtain patent protection that is not successful may harm our business in that others will be able to use our technologies. For example, previous disclosures or activities unknown at present may be uncovered in the future and adversely impact any patent rights that we may obtain. In addition, the laws of some foreign countries do not protect proprietary rights to the same extent as do the laws of the United States. There can be no assurance that the steps taken by us to protect our proprietary rights will be adequate or that third parties will not infringe or misappropriate our trademarks, copyrights, and similar proprietary rights. If we resort to legal proceedings to enforce our intellectual property rights, those proceedings could be expensive and time-consuming and could distract our management from our business operations. Our business, profitability and growth prospects could be adversely affected if we fail to receive adequate protection of our proprietary rights.

We could be required to cease certain activities and/or incur substantial costs as a result of any claim of infringement of another party's intellectual property rights. Some of our competitors, and other third parties, may own technology patents, copyrights, trademarks, trade secrets and website content, which they may use to assert claims against us. We cannot assure you that we will not become subject to claims that we have misappropriated or misused other parties' intellectual property rights. Any claim or litigation alleging that we have infringed or otherwise violated intellectual property or other rights of third parties, with or without merit, and whether or not settled out of court or determined in our favor, could be time-consuming and costly to address and resolve, and could divert the time and attention of our management and technical personnel.

The results of any intellectual property litigation to which we might become a party may require us to do one or more of the following:

- cease making, selling, offering, or using technologies or products that incorporate the challenged intellectual property;
- make substantial payments for legal fees, settlement payments, or other costs or damages;
- obtain a license, which may not be available on reasonable terms, to sell or use the relevant technology; or
- redesign technology to avoid infringement.

If we are required to make substantial payments or undertake any of the other actions noted above as a result of any intellectual property infringement claims against us, such payments or costs could have a material adverse effect upon our business and financial results.

We are subject to a variety of laws and regulations in the United States and abroad that involve matters central to our business, including privacy, data protection, and personal information, rights of publicity, content, intellectual property, advertising, marketing, distribution, data security, data retention and deletion, personal information, electronic contracts and other communications, competition, protection of minors, consumer protection, telecommunications, employee classification, product liability, taxation, economic or other trade prohibitions or sanctions, securities law compliance, and online payment services. The introduction of new products, expansion of our activities in certain jurisdictions, or other actions that we may take may subject us to additional laws, regulations, monetary penalties or other government scrutiny. In addition, foreign data protection, privacy, competition, and other laws and regulations can impose different obligations or be more restrictive than those in the United States. Many of these laws and regulations are still evolving and could be interpreted or applied in ways that could limit or harm our business, require us to make certain fundamental and potentially detrimental changes to the products and services we offer, or subject us to claims. For example, laws relating to the liability of providers of online services for activities of their users and other third-parties are currently being tested by a number of claims, including actions based on invasion of privacy and other torts, unfair competition, copyright, and trademark infringement, and other theories based on the nature and content of the materials searched, the ads posted, or the content provided by users. In addition, there have been calls by members of Congress, from both parties, to limit the scope of the current immunities and safe harbors afforded online publishers with regard to user content and communications under the federal Digital Millennium Copyright Act and the federal Communications Decency Act. Any material reduction of those protections would make us more vulnerable to third party claims arising out of user content published by our online services.

These United States federal and state and foreign laws and regulations, which in some cases can be enforced by private parties in addition to government entities, are constantly evolving and can be subject to significant change, which could adversely affect our business. As a result, the application, interpretation, and enforcement of these laws and regulations are often uncertain, particularly in the new and rapidly evolving industry in which we operate and may be interpreted and applied inconsistently from country to country and inconsistently with our current policies and practices. Any change in legislation and regulations could affect our business. For example, regulatory or legislative actions affecting the manner in which we display content to our users or obtain consent to various practices could adversely affect user growth and engagement. Such actions could affect the manner in which we provide our services or adversely affect our financial results.

Furthermore, significant penalties could be imposed on us for failure to comply with various statutes or regulations. Violations may result from:

- ambiguity in statutes;
- regulations and related court decisions;
- the discretion afforded to regulatory authorities and courts interpreting and enforcing laws;
- new regulations affecting our business; and
- changes to, or interpretations of, existing regulations affecting our business.

While we prioritize ensuring that our business and compensation model are compliant, and that any product or income related claims are truthful and non-deceptive, we cannot be certain that the Federal Trade Commission (the “FTC”) or similar regulatory body in another country will not modify or otherwise amend its guidance, laws, or regulations or interpret in a way that would render our current practices inconsistent with the same.

Our services involve the storage and transmission of digital information; therefore, cybersecurity incidents, including those caused by unintentional errors and those intentionally caused by third parties, may expose us to a risk of loss, unauthorized disclosure or other misuse of this information, litigation liability and regulatory exposure, reputational harm and increased security costs. We and our third-party service providers experience cyber-attacks of varying degrees on a regular basis. We expect to incur significant costs in ongoing efforts to detect and prevent cybersecurity-related incidents and these costs may increase in the event of an actual or perceived data breach or other cybersecurity incident. The COVID-19 pandemic has increased opportunities for cyber-criminals and the risk of potential cybersecurity incidents, as more companies and individuals work online. We cannot ensure that our efforts to prevent cybersecurity incidents will succeed. An actual or perceived breach of our cybersecurity could impact the market perception of the effectiveness of our cybersecurity controls. If our users or business partners, including our Channel Partners, are harmed by such an incident, they could lose trust and confidence in us, decrease their use of our services or stop using them in entirety. We could also incur significant legal and financial exposure, including legal claims, higher transaction fees and regulatory fines and penalties, which in turn could have a material and adverse effect on our business, reputation and operating results. While our insurance policies include liability coverage for certain of these types of matters, a significant cybersecurity incident could subject us to liability or other damages that exceed our insurance coverage.

Prior employers of our employees may assert violations of past employment arrangements. Our employees are highly experienced, having worked in our industry for many years. Prior employers may try to assert that our employees are breaching restrictive covenants and other limitations imposed by past employment arrangements. We believe that all of our employees are free to work for us in their various capacities and have not breached past employment arrangements. Notwithstanding our care in our employment practices, a prior employer may assert a claim. Such claims will be costly to contest, highly disruptive to our work environment, and may be detrimental to our operations.

Our products may require availability of components or known technology from third parties and their non-availability can impede our growth. We license/buy certain technology integral to our products from third parties, including open-source and commercially available software. Our inability to acquire and maintain any third-party product licenses or integrate the related third-party products into our products in compliance with license arrangements, could result in delays in product development until equivalent products can be identified, licensed, and integrated. We also expect to require new licenses in the future as our business grows and technology evolves. We cannot provide assurance that these licenses will continue to be available to us on commercially reasonable terms, if at all.

Government regulations may increase our costs of doing business. The adoption or modification of laws or regulations relating to online media, communities, commerce, security and privacy could harm our business, operating results and financial condition by increasing our costs and administrative burdens. It may take years to determine whether and how existing laws such as those governing intellectual property, privacy, security, libel, consumer protection, and taxation apply. Laws and regulations directly applicable to Internet activities are becoming more diverse and prevalent in all global markets. We must comply with regulations in the United States, as well as any other regulations adopted by other countries where we may do business. The growth and development of Internet content, commerce and communities may prompt calls for more stringent consumer protection laws, privacy laws and data protection laws, both in the United States and abroad, as well as new laws governing the taxation of these activities. Compliance with any newly adopted laws may prove difficult for us and may harm our business, operating results, and financial condition.

We may face lawsuits or incur liabilities in the future in connection with our businesses. In the future, we may face lawsuits or incur liabilities in connection with our businesses. For example, we could face claims relating to information that is published or made available on the Maven Platform. In particular, the nature of our business exposes us to claims related to defamation, intellectual property rights and rights of publicity and privacy. We might not be able to monitor or edit a significant portion of the content that appears on the Maven Platform. This risk is enhanced in certain jurisdictions outside the United States where our protection from liability for third-party actions may be unclear and where we may be less protected under local laws than we are in the United States. We could also face fines or orders restricting or blocking our services in particular geographies as a result of content hosted on our services. If any of these events occur, our business could be seriously harmed.

RISKS RELATED TO AN INVESTMENT IN OUR SECURITIES

There may be no liquid market for our common stock. We provide no assurances of any kind or nature whatsoever that an active market for our common stock will ever develop. There has been no sustained activity in the market for our common stock. Investors should understand that there may be no alternative exit strategy for them to recover or liquidate their investments in our common stock. Accordingly, investors must be prepared to bear the entire economic risk of an investment in us for an indefinite period of time. Even if an active trading market develops over time, we cannot predict how liquid that market might become. Our common stock is quoted on the OTC Markets Group, Inc.'s (the "OTCM") Pink Open Market (the "OTC Pink"). Trading in stock quoted on over-the-counter markets is often thin and characterized by wide fluctuations in trading prices, due to many factors that may have little to do with our operations or business prospects. The trading price of our common stock is likely to be highly volatile and could be subject to wide fluctuations in price in response to various factors, some of which are beyond our control. These factors include:

- Quarterly variations in our results of operations or those of our competitors;
- Announcements by us or our competitors of acquisitions, new products and services, significant contracts, commercial relationships, or capital commitments;
- Disruption or substantive changes to our operations, including the impact of the COVID-19 pandemic;
- Variations in our sales and earnings from period to period;
- Commencement of, or our involvement in, litigation;
- Any major change in our board or management;
- Changes in governmental regulations or in the status of our regulatory approvals; and
- General market conditions and other factors, including factors unrelated to our own operating performance.

We are subject to the reporting requirements of the United States securities laws, which will require expenditure of capital and other resources, and may divert management's attention. We are a public reporting company subject to the information and reporting requirements of the Exchange Act, the Sarbanes-Oxley Act ("Sarbanes"), and other applicable securities rules and regulations. Complying with these rules and regulations have caused us and will continue to cause us to incur additional legal and financial compliance costs, make some activities more difficult, be time-consuming or costly, and continue to increase demand on our systems and resources. The Exchange Act requires, among other things, that we file annual, quarterly and current reports with respect to our business and operating results. We are not current in our SEC filings and the cost of completing historical filings in addition to maintaining current financial reporting has been, and will continue to be, a financial burden for us. If we fail to or are unable to comply with Sarbanes, we will not be able to obtain independent accountant certifications that Sarbanes requires publicly traded companies to obtain. Further, by complying with public disclosure requirements, our business and financial condition are more visible, which we believe may result in the likelihood of increased threatened or actual litigation, including by competitors and other third parties. Compliance with these additional requirements may also divert management's attention from operating our business. Any of these may adversely affect our operating results.

We may not be able to attract the attention of major brokerage firms or securities analysts in our efforts to raise capital. In due course, we plan to seek to have our common stock quoted on a national securities exchange in the United States. There can be no assurance that we will be able to garner a quote for our common stock on an exchange. Even if we are successful in doing so, security analysts and major brokerage houses may not provide coverage of us. We may also not be able to attract any brokerage houses to conduct secondary offerings with respect to our securities.

Because we are subject to the "penny stock" rules and regulations, the level of trading activity in our common stock is limited, and our stockholders may have difficulties selling their shares. SEC regulations define penny stocks to be any non-exchange equity security that has a market price of less than \$5.00 per share, subject to certain exemptions. The regulations of the SEC promulgated under the Exchange Act require additional disclosure relating to the market for penny stocks in connection with trades in any stock defined as a penny stock. Unless an exception is available, those regulations require the broker-dealer to deliver, prior to any transaction involving a penny stock, a standardized risk disclosure schedule prepared by the SEC, to provide the customer with current bid and offer quotations for the penny stock, the compensation of the broker-dealer and its salesperson in the transaction, monthly account statements showing the market value of each penny stock held in the purchaser's account, to make a special written determination that the penny stock is a suitable investment for the purchaser and receive the purchaser's written agreement to the transaction. These disclosure requirements may have the effect of reducing the level of trading activity, if any, in the secondary market for a stock that becomes subject to the penny stock rules. Consequently, these penny stock rules may affect the ability of broker-dealers to trade our securities. We believe that the penny stock rules discourage market investor interest in and limit the marketability of our common stock. There can be no assurance that our common stock will qualify for exemption from the penny stock rules. In any event, even if our common stock were exempt from the penny stock rules, we would remain subject to Section 15(b)(6) of the Exchange Act, which gives the SEC the authority to restrict any person from participating in a distribution of penny stock, if the SEC finds that such a restriction would be in the public interest.

In addition to the "penny stock" rules promulgated by the SEC, the Financial Industry Regulatory Authority ("FINRA") has adopted rules that require that in recommending an investment to a customer, a broker-dealer must have reasonable grounds for believing that the investment is suitable for that customer. Prior to recommending speculative low-priced securities to their non-institutional customers, broker-dealers must make reasonable efforts to obtain information about the customer's financial status, tax status, investment objectives, and other information. Under interpretations of these rules, FINRA believes that there is a high probability that speculative low-priced securities will not be suitable for at least some customers. FINRA requirements make it more difficult for broker-dealers to recommend that their customers buy our common stock, which may limit your ability to buy and sell our common stock.

ITEM 2. UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS

None.

ITEM 3. DEFAULTS UPON SENIOR SECURITIES

None.

ITEM 4. MINE SAFETY DISCLOSURES

Not applicable.

ITEM 5. OTHER INFORMATION

None.

ITEM 6. EXHIBITS

The following documents are filed as part of this Quarterly Report:

| Exhibit Number | Description of Document |
|----------------|--|
| 10.1 | Second Amended and Restated Note Purchase Agreement, dated as March 24, 2020, by and among the Company, Maven Coalition, Inc., TheStreet, Inc., Maven Media Brands, LLC, the agent and the purchaser, which was filed as an exhibit to our Current Report on Form 8-K filed on March 30, 2020. |
| 10.2 | Form of 15% Delayed Draw Term Note, issued on March 24, 2020, which was filed as an exhibit to our Current Report on Form 8-K filed on March 30, 2020. |
| 10.3 | Sublease, dated January 14, 2020, by and between Saks & Company LLC and Maven Coalition, Inc., which was filed as an exhibit to our Annual Report on Form 10-K, filed on April 9, 2021. |
| 10.4 | Standard Form of Condominium Apartment Lease, dated February 10, 2020, by and between Strawberry Holdings, Inc. and the Company, which was filed as an exhibit to our Annual Report on Form 10-K filed on January 8, 2021. |
| 10.5 | Asset Purchase Agreement, dated March 9, 2020, by and among Maven Coalition, Inc., Petametrics Inc., doing business as LiftIgniter, and the Company, which was filed as an exhibit to our Annual Report on Form 10-K filed on January 8, 2021. |
| 10.6+ | Director Agreement, effective January 1, 2020, by and between the Company and Joshua Jacobs, which was filed as an exhibit to our Annual Report on Form 10-K filed on January 8, 2021. |
| 10.7+ | Executive Employment Agreement, dated January 16, 2020, by and between the Company and William C. Sornsini, Jr., which was filed as an exhibit to our Annual Report on Form 10-K filed on January 8, 2021. |
| 10.8* | Financing and Security Agreement, dated February 24, 2020, by and among Maven Coalition, Inc., theMaven, Inc., Maven Media Brands, LLC, TheStreet, Inc., and FPP Finance LLC. |
| 10.9* | First Amendment to Financing and Security Agreement, dated March 24, 2020, by and among Maven Coalition, Inc., theMaven, Inc., Maven Media Brands, LLC, TheStreet, Inc., and FPP Finance LLC. |
| 10.10* | Intercreditor Agreement, dated February 24, 2020, by and between FPP Finance LLC and BRF Finance Co., LLC. |
| 10.11* | Amendment No. 1 to Intercreditor Agreement, dated March 24, 2020, by and between FPP Finance LLC and BRF Finance Co., LLC. |
| 10.12+ | 2020 Outside Director Compensation Policy, adopted as of January 1, 2020, which was filed as exhibit 10.113 to our Annual Report on Form 10-K filed on April 9, 2021. |
| 10.13+ | Amended & Restated Executive Employment Agreement, dated January 1, 2020, by and between Maven Coalition, Inc. and Andrew Kraft, which was filed as exhibit 10.115 to our Annual Report on Form 10-K filed on April 9, 2021. |
| 10.14+ | First Amendment to theMaven, Inc.'s 2019 Equity Incentive Plan, dated March 16, 2020, which was filed as exhibit 10.141 to our Annual Report on Form 10-K filed on April 9, 2021. |
| 31.1* | Chief Executive Officer's Certification Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002. |
| 31.2* | Chief Financial Officer's Certification Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002. |
| 32.1* | Chief Executive Officer's Certification Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002. |
| 32.2* | Chief Financial Officer's Certification Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002. |
| 101.INS** | XBRL Instance Document |

101.SCH** XBRL Taxonomy Extension Schema Document

101.CAL** XBRL Taxonomy Extension Calculation Linkbase Document

101.LAB** XBRL Taxonomy Extension Label Linkbase Document

101.PRE** XBRL Taxonomy Extension Presentation Linkbase Document

101.DEF** XBRL Taxonomy Extension Definition Linkbase Document

* Filed herewith.

** In accordance with Regulation S-T, the XBRL related information on Exhibit No. 101 to this Quarterly Report on Form 10-Q shall be deemed "furnished" herewith but not "filed".

SIGNATURES

In accordance with 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 thereunto duly authorized.

TheMaven, Inc.

Date: May 7, 2021

By: */s/ ROSS LEVINSOHN*

Ross Levinsohn
Chief Executive Officer
(Principal Executive Officer)

Date: May 7, 2021

By: */s/ DOUGLAS B. SMITH*

Douglas B. Smith
Chief Financial Officer
(Principal Financial and Accounting Officer)



FINANCING AND SECURITY AGREEMENT

INTRODUCTION

This Financing and Security Agreement ("Agreement") is made and entered into on {{_es_signer_date}} by and among MAVEN COALITION, INC. ("Administrative Borrower"), THEMAVEN, INC. ("Parent"), MAVEN MEDIA BRANDS, LLC ("Media Brands"), THESTREET, INC. ("TheStreet" and together with Administrative Borrower, Parent and Coalition, on a joint and several basis, "Borrower", and any reference to "Borrower" hereunder shall be deemed a reference to each of the foregoing Borrowers), and FPP FINANCE LLC ("Lender"). Lender has agreed, in accordance with the terms herein, to make Advances against the Face Amount of certain of Borrower's Accounts, provided that Borrower agrees to the provisions of this Agreement.

GENERAL RATES AND FEES

The items referenced below are subject to and defined within the provisions of this Agreement:

- (a) **Maximum Line Amount:** Fifteen Million Dollars (\$15,000,000)
- (b) **Advance Rate:** 80% of gross value of Invoices
- (c) **Minimum Invoice Size:** Five thousand dollars (\$5,000)
- (d) **Initial Financing Fee:** A flat fee equal to 1/12 multiplied by the Facility Rate, based on the net amount Advanced with respect to any Invoice for a Financed Account (or the net amount Advanced for Advances not tied to any Invoice), for the initial 30-day period
- (e) **Additional Financing Fee:** A monthly rate equivalent to 1/12 multiplied by the Facility Rate, prorated daily on the net amount Advanced outstanding with respect to any Invoice for a Financed Account (or the net amount Advanced outstanding for Advances not tied to any Invoice), commencing on day 31. For the purposes of this Agreement, "Facility Rate" means the sum of: (x) the LIBOR Rate plus (y) 8.50% per annum.
- (f) **Misdirected Payment Fee:** Repayment of all Advances must be paid by the Account Debtor directly to Lender. In the event an Account Debtor fails to pay Lender directly, Lender will provide Borrower a grace period of five (5) business days to notify Lender of any Misdirected Payment and to forward the full amount of the Misdirected Payment to Lender otherwise Borrower may be assessed a Misdirected Payment Fee equaling 20% of the amount of such payment.
- (g) **Concentration Limit:** The percentage of any debt from a single Account Debtor over the total amount outstanding from Borrower's Financed Accounts must remain below 25%. In the event the percentage exceeds the foregoing limit, Lender may exercise its right not to finance more Accounts of said Account Debtor.
- (h) **Diligence Fee:** \$50,000. Lender acknowledges prior receipt of such Diligence Fee.
- (i) **Wire Fee:** An amount equal to Thirty-Five Dollars (\$35.00) to cover fees and costs associated with incoming and outgoing wire transfers to/from the Lockbox or as between Lender/Borrower.
- (j) **Termination:** Subject to a fee equal to 2% of the Maximum Line Amount (the "Early Termination Fee") with respect to any termination of this Agreement prior to the Maturity Date, Borrower may terminate this Agreement at any time upon 60 days prior written notice to Lender whereupon this Agreement shall terminate upon successful repayment of all outstanding Obligations.
- (k) **Minimum Utilization:** Beginning on the 31st day after the date hereof, Borrower shall at all times utilize at least 10% of the Maximum Line Amount. The Financing Fees otherwise set forth herein shall be adjusted to reflect such minimum utilization.
- (l) **Maturity Date:** All Obligations hereunder shall be immediately due and payable on February 6, 2022 (the "Maturity Date").

SIGNATURES

By their signatures below, the parties represent they have read, understand and agree to be bound by the Financing and Security Agreement, including the Standard Terms and Conditions referenced herein.

BORROWER AND LENDER have executed this Agreement through their authorized officers as of the date set forth above.

"ADMINISTRATIVE BORROWER" and "BORROWER"
 MAVEN COALITION, INC.
 {{_es_signer_signatureblock}}

"LENDER"
 FPP FINANCE LLC
 {{_es_sender_signatureblock}}

Name: Douglas B. Smith
 Title: Chief Financial Officer

Name: Secil Baysal
 Title: Chief Operating Officer

"BORROWER" and "PARENT"
THEMAVEN, INC.
{{_es_signer_signatureblock}}

Name: Douglas B. Smith
Title: Chief Financial Officer

"BORROWER"
MAVEN MEDIA BRANDS, LLC
{{_es_signer_signatureblock}}

Name: Douglas B. Smith
Title: Chief Financial Officer

"BORROWER"
THESTREET, INC.
{{_es_signer_signatureblock}}

Name: Douglas B. Smith
Title: Chief Financial Officer

Contact Information:
TheMaven, Inc.
1500 4th Ave Suite 200
Seattle, WA 98101
Ph: 775-600-2765
e-mail: ap@maven.io

Banking Information:
Bank: Wells Fargo
Address: 1827 15th Avenue West,
Suite A-2, Seattle, WA 98119
ABA or Swift #: 121000248
Account #: 7833317030

Contact Information:
FPP Finance LLC
8201 Beverly Blvd, Suite 600
Los Angeles, CA 90048
Ph: (310) 651-9201
e-mail: legal@gofastpay.com





FINANCING AND SECURITY AGREEMENT STANDARD TERMS AND CONDITIONS

1. **Financing; Billing.**

1.1. **Financing**

1.1.1. Borrower shall offer its Accounts to Lender for financing in accordance with the terms and provisions of this Agreement.

1.1.2. Each Account submitted by Borrower for an Advance shall be accompanied by such documentation supporting and evidencing the Account.

1.1.3. Lender may decline to make an Advance for any Account which will cause the unpaid balance of outstanding Obligations to exceed the Maximum Line Amount.

1.1.4. Accounts submitted to Lender for financing must exceed Minimum Invoice Size as stated within the *General Rates and Fees*, except as otherwise agreed by both parties in an Authenticated Record.

1.1.5. Lender shall extend Advance amount with respect to any Financed Account, less any amounts due to Lender from Borrower, including, without limitation, any amounts due under Sections 2.1 and 3.1 hereof, to Borrower within five (5) business days of the Finance Date.

1.1.6. Upon or prior to execution of this Agreement, Borrower shall pay the Diligence Fee, which fee shall be fully earned at such time.

1.1.7. All Advances made hereunder are at the absolute sole discretion of the Lender.

1.1.8. All outstanding Obligations must be repaid by Borrower to Lender on the Maturity Date.

1.2. **Redirection of Payments.** All Account Debtors will be instructed to make payments to Lender.

2. **Reserve Account.**

2.1. Borrower shall pay to Lender on demand the amount of any Reserve Shortfall.

2.2. Upon request of the Borrower, Lender shall pay to Borrower any amount by which the Reserve Account exceeds the Required Reserve, unless reserve is necessary to cover other Obligations of the Borrower.

2.3. Lender may charge the Reserve Account with any Obligation.

2.4. Lender may pay any amounts due Borrower hereunder by a credit to the Reserve Account.

2.5. Lender may retain the Reserve Account until Complete Termination.

3. **Exposed Payments.**

3.1. Upon termination of this Agreement Borrower shall pay to Lender (or Lender may retain), to hold in a non-segregated non-interest bearing account, the amount of all Exposed Payments (the "Preference Reserve").

3.2. Lender may charge the Preference Reserve with the amount of any Exposed Payments that Lender pays to the bankruptcy estate, receivership estate, assignee for benefit of creditors, creditor body or representative of any of the foregoing of the Payor that made the Exposed Payment or on whose behalf such Exposed Payment was made, on account of a claim asserted under Sections 547, 548, 549 or 550 of the Bankruptcy Code or any equivalent type state or federal law, rule or regulation.

3.3. Lender shall refund to Borrower from time to time that balance of the Preference Reserve for which a claim under Sections 547, 548, 549 or 550 of the Bankruptcy Code or any equivalent type state or federal law, rule or regulation can no longer be asserted against the Exposed Payments due to the passage of the statute of limitations, settlement with the bankruptcy estate, receivership estate, assignee for benefit of creditors, creditor body or representative of any of the foregoing.

4. **Authorization for Financing.** Subject to the terms and conditions of this Agreement, Lender is authorized to finance Accounts upon telephonic,

facsimile or other instructions received from anyone purporting to be an officer, employee or representative of Borrower.

5. **Fees and Expenses.** Borrower shall pay to Lender:

5.1. **Financing Fee.** The Initial Financing Fee and Additional Financing Fee shall be due on the date on which a Financed Account is Closed. Financing Fees and interest hereunder are subject to upward adjustment in accordance with Section 12.8 herein and also shall include the additional Default Rate on the Obligations, at Lender's sole election, upon the occurrence and continuance of an Event of Default.

5.2. **Misdirected Payment Fee.** Any Misdirected Payment Fee immediately upon its accrual.

5.3. **Out-of-pocket Expenses.** The out-of-pocket expenses directly incurred by Lender in the administration of this Agreement such as wire transfer fees ("Wire Fee"), postage and audit fees. Borrower shall not be required to pay for more than four audits per twelve-month period.

6. **Refunding of Accounts.** Lender may require that Borrower refund, by payment of the then unpaid Face Amount thereof, together with any unpaid fees relating to the Financed Account on demand, or, at Lender's option, by Lender's charge to the Reserve Account:

6.1. Any Financed Account, the payment of which has been disputed by the Payor or the Account Debtor obligated thereon, Lender being under no obligation to determine the bona fide nature of such dispute;

6.2. Any Financed Account regarding which Borrower has breached any representation or warranty as set forth in the Section 14.

6.3. Any Financed Account owing from an Account Debtor or Payor which (a) in Lender's reasonable credit judgment has become insolvent or (b) has indicated an inability or unwillingness to pay the Financed Account when due;

6.4. All Financed Accounts upon the occurrence of an Event of Default, or upon the termination date of this Agreement; and

6.5. Any Financed Account that remains unpaid beyond the Late Payment Date.

7. **Security Interest.**

7.1. As collateral securing the Obligations, Borrower (for the avoidance of doubt, each Borrower and Administrative Borrower) grants to Lender a continuing first priority security interest in the Collateral.

8. **Clearance Days.** For all purposes under this Agreement, Clearance Days will be added to the date on which Lender receives any payment if such payment is received other than by wire directly to the Lockbox.

9. **Authorization to Lender.**

9.1. **Authorization:** Borrower explicitly authorizes and grants to Lender the ability for Lender (acting through any of its employees, attorneys or agents) at any time, at its option but without obligation, with or without notice to Borrower, and at Borrower's sole expense, to do any or all of the following, in Borrower's name or otherwise until all of the Obligations have been paid in full:

9.1.1. Receive, take, endorse, assign, deliver, accept and deposit, in the name of Lender or Borrower, any and all proceeds of any Collateral securing the Obligations or the proceeds thereof;

9.1.2. Take or bring, in the name of Lender or Borrower, all steps, actions, suits or proceedings deemed by Lender necessary or desirable to effect collection of or other realization upon Lender's Accounts;

9.1.3. With respect to any of the following established or issued for the benefit of Borrower, either individually or as a member of a class or group, file any claim under (a) any bond or (b) under any trust fund;

9.1.4. Pay any sums necessary to discharge any lien or encumbrance which is senior to Lender's security interest in any assets of Borrower, which sums shall be included as Obligations hereunder, and in connection with which sums the Late Charge shall accrue and shall be due and payable;

9.1.5. File in the name of Borrower or Lender or both: (a) Mechanic's lien or related notices, or (b) Claims under any payment bond, in connection with goods or services sold by Borrower in connection with the improvement of realty;

9.1.6. Notify any Payor obligated with respect to any Account, that the underlying Account has been assigned to Lender by Borrower and that payment thereof is to be made to the order of and directly and solely to Lender;

9.1.7. Communicate directly with Borrower's Payors to verify the amount and validity of any Account created by Borrower;

9.1.8. After an Event of Default: (a) Change the address for delivery of mail to Lender and to receive and open mail addressed to Borrower; (b) Extend the time of payment of, compromise or settle for cash, credit, return merchandise, and upon any terms or conditions, any and all Accounts and discharge or release any Account Debtor or other obligor (including filing of any public record releasing any lien granted to Borrower by such Account Debtor), without affecting any of the Obligations;

9.1.9 Any and all sums paid and any and all costs, expenses, liabilities, obligations and legal fees incurred by Lender with respect to the foregoing shall be added to and become part of the Obligations. In no event shall Lender's rights under the foregoing authorization or any of Lender's other rights under this Agreement be deemed to indicate that Lender in control of the business, management of properties of Borrower;

9.1.10. File any initial financing statements and amendments thereto that: (a) Indicate the collateral as all assets of the Borrower or words of similar effect, regardless of whether any particular asset comprised in the collateral falls within the scope of Article 9 of the UCC, or as being of an equal or lesser scope or with greater detail; (b) Contain any other information required by part 5 of Article 9 of the UCC for the sufficiency or filing office acceptance of any financing statement or amendment, including (i) whether the Borrower is an organization, the type of organization, and any organization identification number issued to the Borrower and, (ii) in the case of a financing statement filed as a fixture filing or indicating collateral to be as-extracted collateral or timber to be cut, a sufficient description of real property to which the collateral relates; and (c) Contain a notification that the Borrower has granted a negative pledge to the Lender, and that any subsequent lienor may be tortuously interfering with Lender's rights;

9.1.11. Advises third parties that any notification of Borrower's Account Debtors will interfere with Lender's collection rights; and

9.1.12. File any Correction Statement in the name of Borrower under Section 9-518 of the Uniform Commercial Code that Lender reasonably deems necessary to preserve its rights hereunder.

9.2. Borrower authorizes Lender to accept, endorse and deposit on behalf of Borrower any checks tendered by an account debtor "in full payment" of its obligation to Borrower. Borrower shall not assert against Lender any claim arising therefrom, irrespective of whether such action by Lender effects an accord and satisfaction of Borrower's claims, under §3-311 of the Uniform Commercial Code, or otherwise.

9.3. Borrower grants Lender a non-exclusive license to use any data collected in connection with the administration of this Agreement or Lender's credit portfolio provided that no personally identifiable information is disclosed to the public.

10. ACH Authorization.

10.1. In order to satisfy any of the Obligations, Borrower authorizes Lender to initiate electronic debit or credit entries through the ACH system to any deposit account maintained by Borrower. Lender shall provide Borrower with advance notice of its intention to initiate electronic debit entries of Borrower's deposit account through the ACH system. Such notice may be provided

electronically. If an ACH debit request is not honored by the financial institution, for any reason, Borrower agrees to immediately pay, in the form of a check, money order or cash, such sums as are necessary to bring the balance then due hereunder current, and Borrower will be subject to such fees or charges for non-payment, as if Client had delivered a NSF check or made no payment to Lender.

10.2. Borrower is not required to sign this Authorization as a condition to obtaining any extension of credit from Lender. This Authorization is made at Borrower's request to aid its ability to timely pay amounts due Lender.

10.3 Lender shall be permitted to disseminate a form of "tombstone" and other related marketing materials or press releases publicly disclosing the transaction subject to this Agreement.

11. Electronic Transactions Authorization. The Parties agree that all business between one another shall be conducted by electronic means and adopt the provisions of the California Uniform Electronic Transactions Act (UETA) as set forth in California Civil Code, Division 3, Part 2, Title 2.5, Sections 1633.1 – 1633.17, inclusive. Each document that is subject to or provided in furtherance of this Agreement, all documents provided in furtherance thereof, as amended, modified or supplemented from time to time that a party has sent to the other by electronic means or the Borrower has clicked to approve to adopt this Agreement or Borrower submits through the Online Reporting System shall be intended as and constitute an original and deemed to contain a valid signature for all purposes acknowledging and consenting to the terms of the agreement applicable thereto. In furtherance of the above, the Borrower hereby authorizes Lender to regard the Borrower's printed name or electronic approval for any document, agreement, assignment schedules or invoices as the equivalent of a manual signature by one of the Borrower's authorized officers or agents. The Borrower's failure to promptly deliver to Lender any schedule, report, statement, writing or other information ("Record") required by this Agreement or any document related hereto shall not affect, diminish, modify or otherwise limit Lender's security interests in the Collateral. Lender may rely upon, and assume the authenticity of, any such electronic approval, and any material applicable to such approval as the duly confirmed, authorized and approved signature of the Borrower by the person approving same, shall constitute an "authenticated" record for all purposes (including, without limitation, the Uniform Commercial Code) and shall satisfy the requirements of any applicable statute of frauds. Borrower is not required to agree to conduct business pursuant to the UETA and the Advances being granted in furtherance of this Agreement are not conditioned upon Borrower agreeing to conduct business in accordance with the UETA. Borrower may terminate this Electronic Transactions Authorization by providing Lender with not less than ten (10) days written notice as provided in Section 35.1, below. Thereafter, Borrower shall incur and be responsible to pay Lender a "Manual Reporting Fee" for any Record when submitted to Lender.

12. Covenants By Borrower.

12.1. After written notice by Lender to Borrower, and automatically, without notice, after an Event of Default, Borrower shall not, without the prior written consent of Lender in each instance, (a) grant any extension of time for payment of any of its Accounts, (b) compromise or settle any of its Accounts for less than the full amount thereof, (c) release in whole or in part any Payor, or (d) grant any credits, discounts, allowances, deductions, return authorizations or the like with respect to any of the Accounts.

12.2. Lender or its designee shall have access, during reasonable business hours (if prior to an Event of Default) and at any time (if on or after an Event of Default at Borrower's sole expense), to all premises where Collateral is located for the purposes of inspecting (and removing, if after the occurrence of an Event of Default) any of the Collateral, including Borrower's books and records, and Borrower shall permit Lender or its designee to make copies of such books and records or extracts therefrom as Lender may request. Upon the occurrence and continuance of an Event of Default (and at Borrower's sole expense), Lender may use any of Borrower's personnel,

equipment, including computer equipment, programs, printed output and computer readable media, supplies and premises for the collection of accounts and realization on other Collateral as Lender, in its sole discretion, deems appropriate. Borrower hereby irrevocably authorizes all accountants and third parties to disclose and deliver to Lender at Borrower's expense all financial information, books and records, work papers, management reports and other information in their possession relating to Borrower.

12.3. Before sending any Invoice to an Account Debtor, Borrower shall mark same with a notice of assignment as may be required by Lender.

12.4. Borrower shall pay when due all payroll and other taxes, and shall provide proof thereof to Lender in such form as Lender shall reasonably require.

12.5. Borrower shall not: (a) create, incur, assume or permit to exist, any lien upon or with respect to any assets in which Lender now or hereafter holds as a security interest; or (b) incur any indebtedness for borrowed money (provided that the payment of interest by the non-cash capitalization thereof or the accretion of principal in lieu of the payment of cash interest shall not be deemed to constitute the incurrence of indebtedness for purposes of this Section 12.5), in the case of clause (a) or clause (b), other than as set forth on Schedule 12.5 attached hereto. With respect to indebtedness not otherwise prohibited by the above-referenced clause (b), Borrower may refinance such indebtedness so long as each of the following conditions are met: (1) the principal amount of such refinancing indebtedness shall not exceed the sum of the principal amount of the indebtedness being refinanced plus any costs and expenses incurred in connection with such refinancing, including any premium or penalties in respect thereof; (2) the applicable lenders or providers of such refinancing indebtedness enter into a subordination or intercreditor agreement with Lender, in form and substance acceptable to Lender in its sole discretion; and (3) with respect to liens not prohibited by the above-referenced clause (a) that secures any debt described in the above-referenced clause (b) that is being refinanced as permitted herein, liens securing such refinancing indebtedness; provided that (x) the priority of such new liens relative to the liens securing the Obligations shall not be more senior than the liens securing the debt being refinanced; and (y) the new liens shall not extend to additional assets except to the extent that the liens under the indebtedness being refinanced would have extended to such assets under the terms of the indebtedness being refinanced in accordance with the terms thereof at the time of such refinancing.

12.6. Notwithstanding Borrower's obligation to pay the Misdirected Payment Fee, Borrower shall pay to Lender on the next banking day following the date of receipt by Borrower, the amount of any payment on account of a Financed Account.

12.7. Avoidance Claims

12.7.1. Borrower shall indemnify Lender from any loss (including defense costs, expenses and legal fees) arising out of the assertion, defense, or judgment or otherwise of any Avoidance Claim, and shall pay to Lender on demand the amount thereof.

12.7.2. Borrower shall notify Lender within two business days after Borrower becomes aware of the assertion of an Avoidance Claim.

12.7.3. This provision shall survive termination of this Agreement.

12.8. **Minimum Utilization.** Borrower shall at all times cause the outstanding Advances hereunder to be equal or greater than the amount set forth in the *General Rates and Fees*; any violation of the foregoing covenant shall cause the Financing Fees owed hereunder by Borrower to be equal to the fees that would have accrued had Borrower not violated this clause.

12.9. **No ACH Debit Block.** Borrower shall at all times maintain each of its deposit accounts in a manner that allows Lender to utilize the ACH authorization set forth in Section 10 or otherwise herein. Borrower shall not use any ACH debit block or any other service or functionality that prevents Lender from initiating and completing electronic debit or credit entries through the ACH system to any deposit account maintained by Borrower.

12.10. **Disposal of Assets or Change of Control.** Other than Permitted Dispositions, Borrower shall not convey, sell, lease, license, assign, transfer,

or otherwise dispose any of its assets in a manner not in the ordinary-course-of-business. Borrower shall also notify Lender promptly, and in any event at least thirty (30) days prior to the date of any transaction that results or would result in a Change of Control.

12.11 Reporting Requirements.

(a) Within 30 days after the last day of each calendar month, Borrower shall provide Lender with consolidated and consolidating company-prepared financial statements in reasonable detail and prepared in accordance with U.S. generally accepted accounting principles ("GAAP"), which shall include financial results of Parent's subsidiaries.

(b) Within 180 days after the last day of each calendar year, Borrower shall provide Lender with consolidated and consolidating financial statements audited by an independent certified public accountant firm of nationally recognized standing or otherwise reasonably acceptable to Lender, in reasonable detail and prepared in accordance with GAAP, together with a certificate of Borrower's chief financial officer stating that such financial statements have been prepared in accordance with GAAP, fairly represent Borrower's financial position and the results of its operations, and whether or not such officer has knowledge of the occurrence of any default or Event of Default and, if so, stating in reasonable detail the facts with respect thereto.

(c) Concurrently when required to be provided to BRF Agent pursuant to the BRF Loan Documents, copies of all reporting given or required to be given to BRF Agent or any purchaser under the BRF Loan Documents, including but not limited to any applicable compliance certificates.

(d) Borrower shall promptly provide to Lender any other material reports, records, or information as Lender may reasonably request.

12.12. **BRF Loan Documents Payments.** Borrower shall not make any payment on account of the BRF Loan Documents prohibited to be received by BRF Agent or the lenders party thereto pursuant to the Intercreditor Agreement; provided, however, that this provision shall not prohibit all or a portion of the obligations under the BRF Loan Documents being converted into and/or exchanged for capital stock or other equity interests in Parent and shall not apply to any reimbursements of reasonable out-of-pocket and documented expenses due to BRF Agent in its capacity as agent under the BRF Loan Documents.

12.13. **Joinder of New Subsidiaries.** If Parent forms, creates, or acquires any new direct or indirect subsidiary, Borrower shall promptly (but in any event within 30 days of such formation or acquisition) cause such subsidiary to enter into documentation necessary to join such new subsidiary as a secured co-borrower to this Agreement (as deemed by Lender in its sole discretion) and also promptly cause or conduct whatever actions necessary (but in any event within 30 days of such formation or acquisition) to subject such new subsidiary's assets to Lender's perfected lien (as deemed by Lender in its sole discretion).

13. **Account Disputes.** Borrower shall notify Lender promptly of and, if requested by Lender, will settle all disputes concerning any Financed Account, at Borrower's sole cost and expense. Lender may, but is not required to, attempt to settle, compromise, or litigate (collectively, "Resolve") the dispute upon such terms, as Lender in its sole discretion deem advisable, for Borrower's account and risk and at Borrower's sole expense. Upon the occurrence of an Event of Default, Lender may Resolve such issues with respect to any Account of Borrower.

14. **Representation and Warranties.** Borrower represents and warrants that:

14.1. **Existence and Power.** If Borrower is a partnership, limited liability company, or corporation, Borrower is and will continue to be duly authorized, validly existing and in good standing under the laws of the jurisdiction of its organization until all of the Obligations have been paid in full. Borrower is and will continue to be qualified and licensed in all jurisdictions in which the nature of the business transacted by it, or the ownership or leasing of its property, make such qualification of licensing necessary, and Borrower has and will

continue to have all requisite power and authority to carry on its business as it is now, or may hereafter be, conducted.

14.2. **Authority.** Borrower is, and will continue to be, duly empowered and authorized to enter into, and grant security interests in its property, pursuant to and perform its obligations under, this Agreement, and all other instruments and transactions contemplated hereby or relating hereto. The execution, delivery and performance by Borrower of this Agreement, and all other instruments and transactions contemplated hereby or relating hereto, have been duly and validly authorized, are enforceable against the Borrower in accordance with their terms, and do not and will not violate any law or any provision of, nor be grounds for acceleration under, any agreement, indenture, note or instrument which is binding upon Borrower, or any of its property, including without limitation, Borrower's Operating Agreement, Partnership Agreement, Articles of Incorporation, By-Laws and any Shareholder Agreements (as applicable).

14.3. **Name; Trade Names and Styles.** Borrower has set forth above Borrower's absolutely true and correct name. Listed below in Schedule 14.3 is each prior true name of Borrower and each fictitious name, trade name and trade style by which Borrower has been, or is now known, or has previously transacted, or now transacts business, as aforementioned noted, in the past five (5) years. Borrower shall provide Lender with thirty (30) days advance written notice before changing its legal name or doing business under any other name, fictitious name, trade name, or trade style. Borrower has complied, and will hereafter comply, with all laws relating to the conduct of business under, the ownership of property in, and the renewal or continuation of the right to use, a corporate, fictitious or trade name or trade style.

14.4 **Place and Nature of Business; Location of Collateral.** Borrower does not engage in any Restricted Industry. Borrower's books and records including, but not limited to, the books and records relating to Borrower's Accounts, are and will be kept and maintained at Borrower's Address unless and until Lender otherwise consents in writing. In addition to Borrower's Address, Borrower has places of Business and Collateral located only at the following locations, as aforementioned noted. Borrower will provide Lender with at least thirty (30) days advance written notice in the event Borrower moves the Collateral, or obtains, opens or maintains any new or additional place(s) for the conduct of Borrower's business or the location of any Collateral, or closes any existing place of business.

14.5 **Title to Collateral; Liens.** Borrower is now, and will at all times hereafter be, the true, lawful and sole owner of all the Collateral, except for the security interest granted to Lender and the security interest granted pursuant to the BRF Loan Documents, the Collateral now is and will hereafter remain, free and clear of any and all liens, charges, security interests, encumbrances and adverse claims. Except as expressly provided to the contrary in this Section, Lender now has, and will hereafter continue to have, a fully perfected and enforceable first priority security interest in all of the Collateral (subject to the security interest granted to the BRF Agent under the BRF Loan Documents to the extent set forth in the Intercreditor Agreement), and Borrower will at all times defend Lender and the Collateral against all claims and demands of others.

14.6. Each and every Financed Account sold and assigned to Lender shall, on the date the assignment is made and thereafter, comply with all of the following representations, warranties and covenants: (a) each Financed Account represents an undisputed bona fide existing unconditional obligation of the Account Debtor created by the sale, delivery, and acceptance of goods or the rendition of services in the ordinary course of Borrower's business; (b) each Financed Account is owned by Borrower free and clear of any and all deductions, disputes, liens, security interests and encumbrances; (c) the Account Debtor has received and accepted the goods sold and services rendered which created the Financed Account and the invoice therefor and will pay the same without any dispute; (d) no Account Debtor on any Financed Account is a shareholder, director, partner or agent of Borrower, or is a person or entity controlling, controlled by or under common control with Borrower, or is engaged in a Restricted Industry; (e) no Financed Account is owed by an

Account Debtor to whom Borrower is or may become liable in connection with goods sold or services rendered by the Account Debtor to Borrower or any other transaction or dealing between the Account Debtor and Borrower; and (f) each Financed Account arises from a contractual agreement that is governed by the law of a state of the United States of America or such other jurisdiction as approved by Lender in writing. Immediately upon discovery by Borrower that any of the foregoing representations, warranties, or covenants are or have become untrue with respect to any Financed Account, Borrower shall immediately give written notice thereof to Lender.

14.7. Borrower has not received notice or otherwise learned of actual or imminent bankruptcy, insolvency, or material impairment of the financial condition of any applicable Account Debtor regarding Financed Accounts.

14.8 **Intellectual Property.** Except as disclosed on Schedule 14.8 attached hereto, Borrower does not have any registered patents, copyrights, trademarks, or material licenses to use trademarks, patents and copyrights of others (excluding off-the-shelf or shrinkwrap licenses).

15. **Indemnification.** Borrower agrees to indemnify Lender against and save Lender harmless from any and all manner of suits, claims, liabilities, demands and expenses (including reasonable legal fees and collection costs) resulting from or arising out of this Agreement, whether directly or indirectly, including the transactions or relationships contemplated hereby (including the enforcement of this Agreement), and any failure by Borrower to perform or observe its obligations under this Agreement.

16. **Disclaimer of Liability.** In no event will Lender be liable to Borrower for any lost profits, lost savings or other consequential, incidental or special damages resulting from or arising out of or in connection with this Agreement, the transactions or relationships contemplated hereby or Lender's performance or failure to perform hereunder, even if Lender has been advised of the possibility of such damages.

17. **Default.**

17.1. **Events of Default.** The occurrence of any one of more of the following shall constitute an Event of Default hereunder: (a) Borrower fails to pay or perform any Obligation as and when due; (b) there shall be commenced by or against Borrower any voluntary or involuntary case under the United States Bankruptcy Code, or any assignment for the benefit of creditors, or appointment of a receiver or custodian for any of its assets, or Borrower makes or sends notice of a bulk transfer; (c) Borrower or any guarantor of the Obligations shall become insolvent in that its debts are greater than the fair value of its assets, or Borrower is generally not paying its debts as they become due or is left with unreasonably small capital; (d) any lien, garnishment, attachment, execution or the like is issued against or attaches to the Borrower, the Financed Accounts, or the Collateral; (e) Borrower shall breach any covenant, agreement, warranty, or representation set forth herein; (f) Borrower delivers any document, financial statement, schedule or report to Lender which is false or incorrect in any material respect; (g) Lender, at any time, acting in good faith and in a commercially reasonable manner, deems itself insecure with respect to the prospect of repayment or performance of the Obligations; (h) any present or future guarantor of the Obligations revokes, terminates or fails to perform any of the terms of any guaranty, endorsement or other agreement of such party in favor of Lender or any affiliate of Lender or shall notify Lender of its intention to rescind, modify, terminate or revoke any guaranty of the Obligations, or any such guaranty shall cease to be in full force and effect for any reason whatever; (i) the occurrence and continuance of any Default or Event of Default under any BRF Loan Document; or (j) the occurrence and continuance of any Default or Event of Default under any Subordinated Convertible Loan Document.

17.2. **Waiver of Notice.** LENDER'S FAILURE TO CHARGE OR ACCRUE INTEREST OR FEES AT ANY "DEFAULT" OR "PAST DUE" RATE SHALL NOT BE DEEMED A WAIVER BY LENDER OF ITS CLAIM THERETO.

17.2.1. The failure of Lender at any time or times hereafter to require Borrower strictly to comply with any of the provisions, warranties, terms or conditions of this Agreement or any other present or future instrument or agreement between Borrower and Lender shall not waive or diminish any right of Lender thereafter to demand and receive strict compliance therewith and with any other provision warranty, term and condition; and any waiver of any default shall not waive or affect any other default, whether prior or subsequent thereto and whether of the same or of a different type. None of the provisions, warranties, terms or conditions of this Agreement or other instrument or agreement now or hereafter executed by Borrower and delivered to Lender shall be deemed to have been waived by any act or knowledge of Lender or its agents or employees, but only by a specific written waiver signed by an officer of Lender and delivered to Borrower. Borrower waives any and all notices or demands which Borrower might be entitled to receive with respect to this Agreement, or any other agreement by virtue of any applicable law. Borrower hereby waives demand, protest, notice of protest and notice of default or dishonor, notice of payment and nonpayment, release, compromise, settlement, extension or renewal of any commercial paper, instrument, Account, general intangible, document or guaranty at any time held by Lender on which Borrower is or may in any way be liable, and notice of any action taken by Lender unless expressly required by this Agreement. Borrower hereby ratifies and confirms whatever Lender may do pursuant to this Agreement and agrees that Lender shall not be liable for the safekeeping of the Collateral or any loss or damage thereto, or diminution in value thereof, from any cause whatsoever, any act or omission of any carrier, warehouseman, bailee, forwarding agent or other person, or any act of commission or any omission by Lender or its officers, employees, agents, or attorneys, or any of its or their errors of judgment or mistakes of fact or of law.

17.3. Effect of Default.

17.3.1. Upon the occurrence of any Event of Default, in addition to any rights Lender has under this Agreement or applicable law, Lender may immediately terminate this Agreement, at which time all Obligations shall immediately become due and payable without notice.

17.3.2. The Late Charge shall accrue and is payable on demand on any Obligation not paid when due.

18. Remedies.

18.1 **Generally.** Upon the occurrence of any Event of Default, and at any time thereafter, Lender, at its option, and without notice or demand of any kind (all of which are hereby expressly waived by Borrower) may do any one or more of the following: (a) Cease advancing money or extending credit to or for the benefit of Borrower under this Agreement, and any other document or agreement; (b) Accelerate and declare all or any part of the Obligations to be immediately due, payable, and performable, notwithstanding any deferred or installment payments allowed by any instrument evidencing or relating to any Obligation as well as charging the Default Rate on the Obligations above and in addition to any applicable rate hereunder; (c) Take possession of any or all of the Collateral wherever it may be found, and for that purpose Borrower hereby authorizes Lender without judicial process to enter onto any of the Borrower's premises without hindrance to search for, take possession of, keep, store, or remove any of the Collateral and remain on such premises or cause a custodian to remain thereon in exclusive control thereof without charge for so long as Lender deems necessary in order to complete the enforcement of its rights under this Agreement or any other agreement; provided, however, that should Lender seek to take possession of any or all of the Collateral by Court process or through a receiver, Borrower hereby irrevocably waives: (i) any bond and any surety or security relating thereto required by any statute, court rule or otherwise as an incident to such possession; (ii) any demand for possession prior to the commencement of any suit or action to recover possession thereof; and (iii) any requirement that Lender retain possession of and not dispose of any such Collateral until after trial or final judgment; (d) Require Borrower to assemble any or all of the Collateral and make it available to Lender at a place or places to be designated

by Lender which is reasonably convenient to Lender and Borrower, and to remove the Collateral to such locations as Lender may deem advisable; (e) Place a receiver in exclusive control of Borrower's business and/or any or all of the Collateral, in order to assist Lender in enforcing its rights and remedies; (f) Sell, reclaim, lease or otherwise dispose of all or any portion of the Collateral in its condition at the time Lender obtains possession or after further manufacturing, processing or repair; at any one or more public and/or private sale(s) (including execution sales); in lots or in bulk; for cash, exchange for other property or on credit; and to adjourn any such sale from time to time without notice other than oral announcement at the time scheduled for sale. Lender shall have the right to conduct such disposition on Borrower's premises without charge for such time or times as Lender deems fit, or on Lender's premises, or elsewhere and the Collateral need not be located at the place of disposition. Lender may directly or through any affiliated company purchase or lease any Collateral at any such public disposition and, if permissible under applicable law, at any private disposition. Any sale or other disposition of Collateral shall not relieve Borrower of any liability Borrower may have if any Collateral is defective as to title or physical condition at the time of sale; (g) Demand payment of, and collect any Accounts, Instruments, Chattel Paper, Supporting Obligations and General Intangibles comprising part or all of the Collateral; or (h) Demand and receive possession of any of Borrower's federal and state income tax returns and the books, records and accounts utilized in the preparation thereof or referring thereto. Any and all legal fees, expenses, costs, liabilities and obligations incurred by Lender with respect to the foregoing shall be added to and become part of the Obligations and shall be due on demand.

18.2 **Application of Proceeds.** The proceeds received by Lender from the disposition of or collection of any of the Collateral shall be applied to such extent and in such manner as Lender shall determine in its sole discretion. If any deficiency shall arise, Borrower shall remain liable to Lender therefore. In the event that, as a result of the disposition of any of the Collateral, Lender directly or indirectly enters into a credit transaction with any third party, Lender shall have the option, exercisable at any time, in its sole discretion, of either reducing the Obligations by the principal amount of such credit transaction or deferring the reduction thereof until the actual receipt by Lender of cash therefore from such third party.

18.3 **Online Access.** Upon an Event of Default, all of Borrower's rights and access to any online internet services that Lender makes available to Borrower shall be provisional pending Borrower's curing of all such Events of Default. During such period of time, Lender may limit or terminate Borrower's access to online services. Borrower acknowledges that the information Lender makes available to Borrower through online internet access, both before and after an Event of Default, constitutes and satisfies any duty to respond to a request for accounting or request regarding a statement of account that is referenced in the Uniform Commercial Code as enacted in the State of California.

18.4 **Standards of Commercial Reasonableness.** After an Event of Default, the parties acknowledge that it shall be presumed commercially reasonable and Lender shall have no duty to undertake to collect any Account, including those in which Lender receives information from an Account Debtor that a dispute exists. Furthermore, in the event Lender undertakes to collect or enforce an obligation of an Account Debtor or any other person obligated on the Collateral and ascertains that the possibility of collection is outweighed by the likely costs and expenses that will be incurred, Lender may at any such time cease any further collection efforts and such action shall be considered commercially reasonable. Before Borrower may, under any circumstances, seek to hold Lender responsible for taking any commercially unreasonable action, Borrower shall first notify Lender in writing, of all of the reasons why Borrower believes Lender has acted in any commercially unreasonable manner and advise Lender of the action that Borrower believes Lender should take.

18.5 **Remedies Cumulative.** In addition to the rights and remedies set forth in this Agreement, Lender shall have all other rights and remedies

accorded a secured party under the Uniform Commercial Code as enacted in California and under any and all other applicable laws and in any other instrument or agreement now or hereafter entered into between Lender and Borrower and all of such rights and remedies are cumulative and none is exclusive. Exercise or partial exercise by Lender of one or more of its rights or remedies shall not be deemed an election, nor bar Lender from subsequent exercise or partial exercise of any other rights or remedies. The failure or delay of Lender to exercise any rights or remedies shall not operate as a waiver thereof, but all rights and remedies shall continue in full force and effect until all of the Obligations have been fully paid and performed.

19. Account Stated. Lender shall render to Borrower a statement setting forth the transactions arising hereunder. Each statement shall be considered correct and binding upon Borrower as an account stated, except to the extent that Lender receives, within sixty (60) days after the mailing of such statement, written notice from Borrower of any specific exceptions by Borrower to that statement, and then it shall be binding against Borrower as to any items to which it has not objected.

20. Amendment and Waiver. Only a writing signed by all parties hereto may amend this Agreement. No failure or delay in exercising any right hereunder shall impair any such right that Lender may have, nor shall any waiver by Lender hereunder be deemed a waiver of any default or breach subsequently occurring. Lender's rights and remedies herein are cumulative and not exclusive of each other or of any rights or remedies that Lender would otherwise have.

21. Termination: Effective Date.

21.1. Subject to the Early Termination Fee, this Agreement will be effective on the date it is signed by the Parties, shall continue for the Term, and shall be automatically extended for successive Terms unless Borrower shall provide 60 days prior written notice to Lender of its intention to terminate whereupon this Agreement shall terminate on the date set forth in said notice (an "Early Termination Date") upon successful repayment of all outstanding Obligations.

21.2. Lender may terminate this Agreement and demand immediate payment of all outstanding Obligations at any time and for any reason.

22. No Lien Termination without Release. In recognition of the Lender's right to have its legal fees and other expenses incurred in connection with this Agreement secured by the Collateral, notwithstanding payment in full of all Obligations by Borrower, Lender shall not be required to record any terminations or satisfactions of any of Lender's liens on the Collateral unless and until Complete Termination has occurred. Borrower understands that this provision constitutes a waiver of its rights under §9-513 of the UCC.

23. Conflict. Unless otherwise expressly stated in any other agreement between Lender and Borrower, if a conflict exists between the provisions of this Agreement and the provisions of such other agreement, the provisions of this Agreement shall control.

24. Severability. In the event any one or more of the provisions contained in this Agreement is held to be invalid, illegal or unenforceable in any respect, then such provision shall be ineffective only to the extent of such prohibition or invalidity, and the validity, legality, and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby.

25. Enforcement. This Agreement and all agreements relating to the subject matter hereof is the product of negotiation and preparation by and among each party and its respective attorneys, and shall be construed accordingly.

26. Relationship of Parties. The relationship of the parties hereto shall be that of Borrower and Lender of Accounts, and Lender shall not be a fiduciary of the Borrower, although Borrower may be a fiduciary of the Lender.

27. Legal Fees. Borrower agrees to reimburse Lender on demand for:

27.1. The actual amount of all costs and expenses, including legal fees, which Lender has incurred or may incur in;

27.1.1. Negotiating, preparing, or administering this Agreement and any documents prepared in connection herewith; Any way arising out of or in connection with this Agreement, and whether or not arising out of a dispute which does not involve Lender;

27.1.2. Protecting, preserving or enforcing any lien, security or other right granted by Borrower to Lender or arising under applicable law, whether or not suit is brought, including but not limited to the defense of any Avoidance Claims or the defense of Lender's lien priority;

27.2. The actual costs, including photocopying (which, if performed by Lender's employees, shall be at the rate of \$.10/page), travel, and legal fees and expenses incurred in complying with any subpoena or other legal process in any way relating to Borrower. This provision shall survive termination of this Agreement; and

27.3. The actual amount of all costs and expenses, including legal fees, which Lender may incur in enforcing this Agreement and any documents prepared in connection herewith, or in connection with any federal or state insolvency proceeding commenced by or against Borrower, including but not limited to those (a) arising out of the automatic stay, (b) seeking dismissal or conversion of the bankruptcy proceeding, (c) opposing confirmation of Borrower's plan thereunder, or (d) validating Lender's security interest or lien priority with respect to the Collateral.

28. Entire Agreement. No promises of any kind have been made by Lender or any third party to induce Borrower to execute this Agreement. No course of dealing, course of performance or trade usage, and no parole evidence of any nature, shall be used to supplement or modify any terms of this Agreement.

29. Choice of Law. This Agreement and all transactions contemplated hereunder and/or evidenced hereby shall be governed by, construed under, and enforced in accordance with the internal laws of the Chosen State.

30. Jury Trial Waiver. EACH OF THE PARTIES HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY), THE OBLIGATIONS OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY OR THE PARTIES ACTIONS IN THE NEGOTIATION, ADMINISTRATION, OR ENFORCEMENT HEREOF OR THEREOF. THE PARTIES EACH ACKNOWLEDGE THAT SUCH WAIVER IS MADE WITH FULL KNOWLEDGE AND UNDERSTANDING OF THE NATURE OF THE RIGHTS AND BENEFITS WAIVED HEREBY, AND WITH THE BENEFIT OF ADVICE OF COUNSEL OF ITS CHOOSING. THE PARTIES EACH ACKNOWLEDGE THAT THIS WAIVER IS A MATERIAL INDUCEMENT TO ENTER INTO A BUSINESS RELATIONSHIP THAT EACH HAS ALREADY RELIED ON THE WAIVER IN ENTERING INTO THIS AGREEMENT AND THAT EACH WILL CONTINUE TO RELY ON THE WAIVER IN THEIR RELATED FUTURE DEALINGS.

IN THE EVENT THAT ANY PARTY HERETO ELECTS TO BRING ANY ACTION OR PROCEEDING IN THE STATE OF CALIFORNIA, RELATING TO THIS AGREEMENT OR ANY OF THE OBLIGATIONS, THE PARTIES AGREE THAT SUCH ACTION OR PROCEEDING SHALL BE TRIED SOLELY THROUGH A JUDICIAL REFEREE AS PROVIDED IN CALIFORNIA CODE OF CIVIL PROCEDURE SECTIONS 638 THROUGH 645.1. THE PARTIES FURTHER AGREE TO THE APPOINTMENT OF JAMS AS THE

REFEREE APPOINTMENT TO CONDUCT THE TRIAL AND SUCH RELATED PROCEEDINGS. THE PARTIES AGREE THAT THE FILING OF ANY PRE-TRIAL MOTION OR ANY PRE-TRIAL PROVISIONAL REMEDY SHALL NOT OPERATE AS A WAIVER OF EACH PARTY'S RIGHT TO TRIAL SOLELY THROUGH A JUDICIAL REFEREE. THE PARTIES ACKNOWLEDGE THAT THE JUDICIAL REFEREE WILL LIKELY CHARGE FEES AND COSTS OVER AND ABOVE THOSE NORMALLY CHARGED BY A COURT. THE PARTIES AGREE TO INITIALLY EVENLY SPLIT THE FEES AND COSTS OF SUCH REFEREE BETWEEN THE PARTIES, SUBJECT TO SUCH FURTHER RULINGS BY THE REFEREE.

31. **Venue; Jurisdiction.** Any suit, action or proceeding arising hereunder, or the interpretation, performance or breach hereof, shall, if Lender so elects, be instituted in any court sitting in the Chosen State, in the city in which Lender's chief executive office is located, or if none, any court sitting in the Chosen State (the "Acceptable Forums"). Borrower agrees that the Acceptable Forums are convenient to it, and submits to the jurisdiction of the Acceptable Forums and waives any and all objections to jurisdiction or venue. Should such proceeding be initiated in any other forum, Borrower waives any right to oppose any motion or application made by Lender to transfer such proceeding to an Acceptable Forum.

32. **Service of Process.** Borrower agrees that Lender may effect service of process upon Borrower by regular mail at the address set forth herein or at such other address as may be reflected in the records of Lender, or at the option of Lender by service upon Borrower's agent for the service of process.

33. **Assignment.** Lender may assign its rights and delegate its duties hereunder. Upon such assignment, Borrower shall be deemed to have attorned to such assignee and shall owe the same obligations to such assignee and shall accept performance hereunder by such assignee as if such assignee were Lender.

34. **Counterparts.** This Agreement may be signed in any number of counterparts, each of which shall be an original, with the same effect as if all signatures were upon the same instrument. Delivery of an executed counterpart of the signature page to this Agreement by facsimile shall be effective as delivery of a manually executed counterpart of this Agreement, and any party delivering such an executed counterpart of the signature page to this Agreement by facsimile to any other party shall thereafter also promptly deliver a manually executed counterpart of this Agreement to such other party, provided that the failure to deliver such manually executed counterpart shall not affect the validity, enforceability, or binding effect of this Agreement.

35. Notice, Administrative Borrower, and Joint and Several Liability of Each Borrower.

35.1. All notices required to be given to any party other than Lender shall be deemed given upon the first to occur of (a) a deposit thereof in a receptacle under the control of the United States Postal Service, (b) transmittal by electronic means to a receiver under the control of such party, or (c) actual receipt by such party or an employee or agent of such party. All notices to Lender shall be deemed given upon actual receipt by a responsible officer of Lender.

35.2. For the purposes hereof, notices hereunder shall be sent to the addresses set forth as Contact Addresses on the face page hereof, or to such other addresses as each such party may in writing hereafter indicate.

35.3 Administrative Borrower and Confidentiality.

(a) Each Borrower hereunder hereby irrevocably appoints Administrative Borrower as the agent and attorney-in-fact for each such party which appointment shall remain in full force and effect unless and until Lender shall have received prior written notice signed by each Borrower that such appointment has been revoked and that another specified Borrower has been appointed Administrative Borrower. Each Borrower hereby irrevocably

appoints and authorizes the Administrative Borrower: (i) to provide Lender with all notices under this Agreement and the other Loan Documents (and any notice or instruction provided by Administrative Borrower shall be deemed to be given by each Borrower hereunder and shall bind each Borrower), (ii) to enter into any amendments to this Agreement on behalf of each Borrower, (iii) to receive notices and instructions from Lender (and any notice or instruction provided by Lender to the Administrative Borrower in accordance with the terms hereof shall be deemed to have been given to each Borrower), and (iv) to take such action as the Administrative Borrower deems appropriate on its behalf to obtain credit hereunder and to exercise such other powers as are reasonably incidental thereto to carry out the purposes of this Agreement. It is understood that the handling of the loan account and Collateral in a combined fashion, as more fully set forth herein, is done solely as an accommodation to each Borrower in order to utilize the collective borrowing powers of Borrower in the most efficient and economical manner and at their request, and that Lender shall not incur liability to any Borrower as a result hereof. Each Borrower expects to derive benefit, directly or indirectly, from the handling of the loan account and the Collateral in a combined fashion since the successful operation of each Borrower is dependent on the continued successful performance of the integrated group. To induce the Lender to do so, and in consideration thereof, each Borrower hereby jointly and severally agrees to indemnify Lender and hold Lender harmless against any and all liability, expense, loss or claim of damage or injury, made against Lender by any Borrower or by any third party whatsoever, arising from or incurred by reason of (A) the handling of the loan account and Collateral of each Borrower as herein provided, or (B) Lender relying on any instructions of the Administrative Borrower.

(b) Each of Lender and Borrower agrees that certain proprietary information ("Confidential Information") regarding the other party (the "Disclosing Party") shall be treated by such party (the "Receiving Party") in a confidential manner, and shall not be disclosed by the Receiving Party, except: (i) to attorneys for and other advisors, accountants, auditors, and consultants to the Receiving Party and to employees, directors and officers of any member of the Receiving Party on a "need to know" basis in connection with this Agreement and the transactions contemplated hereby and on a confidential basis, (ii) to subsidiaries and affiliates of the Receiving Party, provided that any such subsidiary or affiliate shall have agreed to receive such information hereunder subject to the terms of this Section 35, (iii) as may be required by regulatory authorities so long as such authorities are informed of the confidential nature of such information, (iv) as may be required by statute, decision, or judicial or administrative order, rule, or regulation, (v) as may be agreed to in advance in writing by the Disclosing Party, (vi) as requested or required by any governmental authority pursuant to any subpoena or other legal process, (vii) any information that is or becomes generally available to the public (other than as a result of the Receiving Party's violation of this Section 35), (viii) in connection with any assignment, participation or pledge of Lender's interest under this Agreement, provided that prior to receipt of Confidential Information any such assignee, participant, or pledgee shall have agreed in writing to receive such Confidential Information either subject to the terms of this Section 35 or pursuant to confidentiality requirements similar to those contained in this Section 35 (and such person may disclose such Confidential Information to persons employed or engaged by them as described in clause (i) above), (ix) in connection with any litigation or other adversary proceeding involving parties hereto which such litigation or adversary proceeding involves claims related to the rights or duties of such parties under this Agreement or the other Loan Documents, and (x) in connection with, and to the extent reasonably necessary for, the exercise of any secured creditor remedy by Lender under this Agreement or under any other Loan Document. Notwithstanding the foregoing or anything else herein, Borrower shall not disclose, disseminate, or attach this Agreement in any public filing (including but not limited to public 10K, 10Q, 8-K or other securities filings); provided, Borrower shall be permitted to disclose summarized commercial terms set forth in this Agreement.

35.4 Joint and Several Liability of Each Borrower. Each Borrower is accepting joint and several liability hereunder and under the other Loan Documents in consideration of the financial accommodations to be provided by Lender under this Agreement, for the mutual benefit, directly and indirectly, of each Borrower and in consideration of the undertakings of the other Borrowers to accept joint and several liability for the Obligations. Each Borrower, jointly and severally, hereby irrevocably and unconditionally accepts, not merely as a surety but also as a co-debtor, joint and several liability with the other Borrowers, with respect to the payment and performance of all of the Obligations (including any Obligations arising under this Section 35.4), it being the intention of the parties hereto that all the Obligations shall be the joint and several obligations of each Borrower without preferences or distinction among them. If and to the extent that any Borrower shall fail to make any payment with respect to any of the Obligations as and when due or to perform any of the Obligations in accordance with the terms thereof, then in each such event the other Borrower or Borrowers will make such payment with respect to, or perform, such Obligation until such time as all of the Obligations are paid in full. The Obligations of each Borrower under the provisions of this Section 35.4 constitute the absolute and unconditional, full recourse Obligations of each Borrower enforceable against each Borrower to the full extent of its properties and assets, irrespective of the validity, regularity or enforceability of the provisions of this Agreement (other than this Section 35.4) or any other circumstances whatsoever.

36. Definitions and Index to Definitions. The following terms used within this Agreement shall have the following meaning. All capitalized terms not defined within this Agreement shall have the meaning set forth in the Uniform Commercial Code:

- (a) "Additional Financing Fee" – As stated within the *General Rates and Fees*, or 30 days based on a 30 day month and 360 day year if unstated.
- (b) "Advance" – The funding of all or any portion of the Face Amount of Account prior to collection.
- (c) "Advance Rate" – As stated in the *General Rates and Fees*.
- (d) "Avoidance Claim" – Any claim that any lien or payment received by Lender is avoidable under the Bankruptcy Code, any other debtor relief statute, including fraudulent conveyance claims, or through receivership, assignment for the benefit of creditors or any equivalent type payment recovery laws, rules or regulations intended to benefit creditors.
- (e) "BRF Agent" – BRF Finance Co., LLC.
- (f) "BRF Loan Agreement" – that certain Amended and Restated Note Purchase Agreement dated as of June 14, 2019 by and among Parent, the guarantors from time to time party thereto, each of the Purchasers from time to time party thereto, and BRF Agent, on behalf of itself and such purchasers, as amended from time to time.
- (g) "BRF Loan Documents" – the BRF Loan Agreement and any "Note Documents" as defined therein as of the date hereof, in each case as amended, restated or otherwise modified from time to time in accordance with the Intercreditor Agreement.
- (h) "Change of Control" – means the person or entity constituting the majority ultimate beneficial owner of the voting equity interests of Borrower (or having the ability to elect a majority of the board of directors of Borrower) as of the date hereof no longer constituting the majority ultimate beneficial owner of the voting equity interests of Borrower (or having the ability to elect a majority of the board of directors of Borrower).
- (i) "Chosen State" – California.
- (j) "Clearance Days" – None.
- (k) "Closed" – A Financed Account is closed upon receipt of full payment by Lender from a Payor or from the Borrower (including its being charged to the Reserve Account).
- (l) "Collateral" – All of Borrower's now owned and hereafter acquired personal property including, without limitation, all Accounts, Chattel Paper, Deposit Accounts, Inventory, Equipment, Instruments, Investment Property,

Documents, Letter of Credit Rights, Commercial Tort Claims, General Intangibles, and all proceeds of each of the foregoing.

- (m) "Complete Termination" – Complete Termination occurs upon satisfaction of the following conditions: (1) Payment in full of all Obligations of Borrower to Lender; (2) If Lender has issued or caused to be issued guarantees, promises, or letters of credit on behalf of Borrower, acknowledgement from any beneficiaries thereof that Lender or any other issuer has no outstanding direct or contingent liability therein; and (3) Borrower has executed and delivered to Lender a general release in the form required by Lender and complied with Section 21.1.
- (n) "Concentration Limit" – As stated within the *General Rates and Fees*, or 25% of the entire amount outstanding from Borrower. The concentration limit refers to the percentage any debt from a single debtor has over the total amount outstanding from Borrower's Financed Accounts.
- (o) "Default Rate" – the lesser of: (1) 1% per month on the gross amount of Invoices and (2) the highest default rate permitted by applicable law; the foregoing Default Rate is in addition to any standard rate accruing hereunder.
- (p) "Early Termination Date" – see Section 21.1 hereof.
- (q) "Early Termination Fee" – As stated in the *General Rates and Fees*.
- (r) "Eligible Account" – An Account that is acceptable for financing hereunder as determined by Lender in the exercise of its reasonable sole credit or business judgment.
- (s) "Events of Default" – See Section 17.1.
- (t) "Exposed Payments" – Payments received by Lender from or for the account of a Payor that has become subject to a bankruptcy proceeding, to the extent such payments cleared the Payor's deposit account within ninety (90) days of the commencement of said bankruptcy case.
- (u) "Face Amount" – the amount invoiced on an Account at the time of the applicable Advance.
- (v) "Facility Rate" – if applicable, as set forth in the *General Rates and Fees*.
- (w) "Financed Accounts" – Accounts for which a corresponding Advance has been made hereunder which have not been Closed.
- (x) "Financing Fee(s)" – Refers to the Initial Financing Fee or Additional Financing Fee and means the Percentage in the amount aforementioned multiplied by the Face Amount of a Financed Account, for each Financing Fee Period or portion thereof, that any portion thereof remains unpaid, computed from the end of the Initial Fee Period to and including the date on which a Financed Account is Closed.
- (y) "Initial Financing Fee" – The first 30 days after the Purchase Price is paid to Borrower or credited by Lender to Borrower's Reserve Account based on a 30 day month and 360 day year unless explicitly overridden within the *General Rates and Fees*.
- (z) "Intellectual Property" – all intellectual and similar property, including inventions, designs, patents, copyrights, trademarks, service marks, trade names, trade secrets, confidential or proprietary information, customer lists, know-how, software and databases; all embodiments or fixations thereof and all related documentation, applications, registrations and franchises; all licenses or other rights to use any of the foregoing; and all books and records relating to the foregoing.
- (aa) "Intercreditor Agreement" – that certain Intercreditor Agreement dated on or around the date hereof between Lender and BRF Agent, on behalf of itself and each purchaser under the BRF Loan Documents, and acknowledged in writing by Borrower.
- (bb) "Invoice" – The document that evidences or is intended to evidence an Account. Where the context so requires, reference to an Invoice shall be deemed to refer to the Account, Eligible Account or Financed Account to which it relates.
- (cc) "Late Charge" – None.
- (dd) "Late Payment Date" – Ninety (90) days from the original invoice date.
- (ee) "LIBOR Rate" – means, for any calendar month, the greater of: (a) two and one half percent (2.50%) per annum, and (b) the three (3) month U.S. LIBOR rate per annum as reported on Reuters Screen LIBOR01 page (or any successor page) two (2) Business Days prior to the commencement of such

calendar month (and, if any such rate is below zero, the LIBOR Rate shall be deemed to be zero), which determination shall be made by Lender and shall be conclusive in the absence of demonstrable error. In the event the LIBOR Rate is unavailable for any reason, Lender may use a replacement index as determined by Lender in its sole discretion.

(ff) "Liquidity" - cash held in a Deposit Account subject to a deposit account control agreement in favor of Lender.

(gg) "Loan Document" - this Agreement, the Intercreditor Agreement, the Subordination Agreement, and any other document related thereto.

(hh) "Maturity Date" - As stated in the *General Rates and Fees*.

(ii) "Misdirected Payment Fee" - Unless otherwise stated in the *General Rates and Fees*, 20% of the amount of any payment (but in no event less than \$1,000) on account of a Financed Account which has been received by Borrower and not delivered in kind to Lender on the next business day following the date of receipt by Borrower, or 30% of the amount of any such payment which has been received by Borrower as a result of any action taken by Borrower to cause such payment to be made to Borrower.

(jj) "Obligations" - All present and future obligations owing by Borrower to Lender whether arising hereunder or otherwise, and whether arising before, during or after the commencement of any Bankruptcy Case in which Borrower is a Debtor. Without limiting the generality hereof, Borrower acknowledges and agrees that the term "Obligations" shall include, all ledger debt of Borrower, which shall mean and include all indebtedness of Borrower now or hereafter owing to a third party, which Lender has heretofore or hereafter purchases from such third party, acquires by way of assignment, or in which Lender has heretofore or hereafter acquires a security interest, whether as a result of Lender financing the accounts receivable of such third party or otherwise. Borrower acknowledges that Lender will be relying upon this provision in financing the accounts receivable of such third parties (consisting of indebtedness and obligations now or hereafter due from Borrower to such third parties), as well as in permitting Account Debtors to incur other indebtedness due to Borrower, but nothing herein shall constitute a commitment of any kind by Lender to factor or finance the accounts receivable of any third party to the extent they represent amounts owing by Borrower to such third parties.

(kk) "Parties" - Borrower and Lender.

(ll) "Payor" - An Account Debtor or other obligor on an Account, or entity making payment thereon for the account of such party.

(mm) "Refunded" - An Account has been refunded when Borrower has paid to Lender the then unpaid Face Amount.

(nn) "Permitted Dispositions" - any of the following: (i) the sale, abandonment, or other dispositions of Equipment that is substantially worn, damaged, or obsolete or no longer used or useful in the ordinary course of business; (ii) dispositions from any individual Borrower to another Borrower; and (iii) dispositions of cash and cash equivalents in the ordinary course of business not in violation of this Agreement.

(oo) "Required Reserve Amount" - The Reserve Percentage multiplied by the unpaid balance of Financed Accounts.

(pp) "Reserve Account" - A bookkeeping account on the books of the Lender representing the portion of the Face Amount of the Financed Account which has not been paid by Lender to Borrower, maintained by Lender to ensure Borrower's performance with the provisions hereof.

(qq) "Reserve Percentage" - 100% less the Advance Rate. The Reserve Percentage may be increased or decreased at any time in Lender's sole discretion.

(rr) "Reserve Shortfall" - The amount by which the Reserve Account is less than the Required Reserve Amount.

(ss) "Restricted Industry" - any of the following industries: adult entertainment, firearm or ammunition sales or manufacturing, or gambling.

(tt) "Subordinated Convertible Loan Document" - means (a) Secured Subordinated Convertible Debenture issued on December 12, 2018 between B. Riley FBR, Inc. and Borrower, (b) Secured Subordinated Convertible Debenture issued on December 12, 2018 between BRC Partners Opportunity Fund, LP and Borrower, (c) Secured Convertible Debenture issued on December 12, 2018 between Dialectic Antithesis Partners LP and Borrower, and (d) any other loan document related thereto.

(uu) "Term" - A period of time beginning on the date hereof and ending on the earlier of: (1) the Maturity Date and (2) termination of this Agreement in accordance with the terms hereof, including but not limited to Section 21 and the *General Rates and Fees*.

(vv) "UCC" - The Uniform Commercial Code as adopted in the Chosen State.

[SIGNATURES AGREEING TO THE STANDARD TERMS AND CONDITIONS APPEAR ON THE FIRST PAGE]

FIRST AMENDMENT TO FINANCING AND SECURITY AGREEMENT

This **FIRST AMENDMENT TO FINANCING AND SECURITY AGREEMENT** (this "Amendment") is made and entered into as of March 24, 2020, by and among MAVEN COALITION, INC., a Delaware corporation, THEMAVEN, INC., a Delaware corporation, MAVEN MEDIA BRANDS, LLC, a Delaware limited liability company, THESTREET, INC., a Delaware corporation (collectively, "Borrowers"), and FPP FINANCE LLC ("Lender").

WHEREAS, pursuant to that certain Financing and Security Agreement, made and entered into on February 6, 2020, by and among Borrowers and Lender (as amended, restated, supplemented or otherwise modified from time to time, the "FSA"), Lender has extended credit to Borrowers upon the terms and subject to the conditions set forth therein; capitalized terms used herein without definition shall have the respective meanings assigned to such terms in the FSA; and

WHEREAS, Borrowers have requested that Lender amend the FSA in order to permit Borrowers and the other Note Parties (as defined the BRF Loan Agreement) to amend and restate the BRF Loan Agreement in order to, among other things, allow for the incurrence by Borrowers and such other Note Parties of up to \$12 million in additional secured indebtedness thereunder, which additional secured indebtedness shall constitute Non-ABL Creditor Obligations as defined in and subject to the Intercreditor Agreement.

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

I. AMENDMENTS TO FSA ON THE FIRST AMENDMENT EFFECTIVE DATE:

Effective as of the First Amendment Effective Date, the FSA is amended as follows:

(1) **Definitions.** The definition of "BRF Loan Agreement" in Section 36 of the Financing and Security Agreement is amended by replacing such definition in its entirety with the following:

(f) "BRF Loan Agreement" means that certain Amended and Restated Note Purchase Agreement, dated as of June 14, 2019, as amended by that certain First Amendment to Amended and Restated Note Purchase Agreement, dated as of August 27, 2019, and by that certain Second Amendment to Amended and Restated Note Purchase Agreement, dated as of February 27, 2020, as amended and restated by that certain Second Amended and Restated Note Purchase Agreement, dated as of March 24, 2020 (the "Second A&R Note Purchase Agreement"), in each case, by and among Parent, the guarantors from time to time party thereto, each of the purchasers from time to time party thereto, and BRF Agent, on behalf of itself and such purchasers, as may be amended, restated, supplemented or otherwise modified from time to time.

(2) **Schedules.** Schedule 12.5 to the FSA is supplemented by adding the following at the end of the first row to said schedule as follows:

| <u>Name of Loan Document</u> | <u>Date of Issuance/Document</u> | <u>Holder of Permitted Indebtedness</u> | <u>Maximum Principal Amount</u> |
|-------------------------------------|--|---|---|
| Second A&R Note Purchase Agreement. | March 24, 2020; the initial borrowing will occur on the effective date of the Second A&R Note Purchase Agreement; one or more additional borrowings may be incurred from time to time thereafter | BRF Finance Co., LLC and each person who becomes a purchaser under the BRF Loan Agreement | Up \$12,000,000.00 in additional principal amount in the aggregate plus any interest paid in kind by adding such amount to the outstanding principal amount of the indebtedness. \$49,921,344.21 in principal amount plus interest paid in kind by adding such amount to the outstanding principal amount of the indebtedness, is outstanding under the Second A&R Note Purchase Agreement upon the amendment and restatement of the A&R Note Purchase Agreement thereby before giving effect to any additional borrowings described below on or after effective date of the Second A&R Note Purchase Agreement. |

(3) **Section 21.2.** Section 21.2 of the Financing and Security Agreement is hereby amended by adding the following proviso to the end of such existing section: “; provided, for the avoidance of doubt, the Early Termination Fee shall be due and payable by Borrower to Lender in connection with any election by Lender under this Section 21.2 on or after December 31, 2020 up to and including January 31, 2021.”

II. CONDITIONS TO EFFECTIVENESS:

This Amendment shall become effective as of the first date upon which each of the following conditions is satisfied (the “Amendment Effective Date”):

(1) **Documents.** Borrowers shall have delivered or caused to be delivered the following documents in form and substance reasonably satisfactory to Lender (and, as applicable, duly executed and dated the Amendment Effective Date or an earlier date satisfactory to Lender):

- (a) Amendment. This Amendment.
 - (b) Amendment to Intercreditor Agreement. The Amendment No. 1 to Intercreditor Agreement.
 - (c) Second A&R Note Purchase Agreement. The Second A&R Note Purchase
-

Agreement, an execution copy of which is attached hereto as Exhibit A.

(2) **Representations and Warranties.** The representations and warranties of each Borrower set forth in the FSA and the other Loan Documents to which such Borrower is a party shall be true and correct in all material respects (or in all respects with respect to any representation or warranty which by its terms is limited as to materiality, in each case, after giving effect to such qualification) on and as of Amendment Effective Date.

(3) **No Default.** Both before and after giving effect to this Amendment and the transactions contemplated thereby, no event shall have occurred or be continuing or would result from the amendments contemplated hereby that would constitute an Event of Default or a default under the FSA or the other Loan Documents.

(4) **Fees and Expenses.** Borrowers shall have paid all documented or invoiced fees, costs and expenses due and payable by Borrowers on or prior to the Amendment Effective Date under the FSA and the other Loan Documents.

III. MISCELLANEOUS:

(1) **Consent.** By this Amendment, Lender hereby consents to the transactions contemplated by the Second A&R Note Purchase Agreement, including the additional Non-ABL Creditor Obligations incurred pursuant thereto.

(2) **Ratification, Etc.** Except as expressly amended hereby, the FSA and the other Loan Documents are hereby ratified and confirmed in all respects and shall continue in full force and effect. This Amendment and the FSA shall hereafter be read and construed together as a single document, and all references in the FSA or any other Loan Document shall hereafter refer to the FSA as amended by this Amendment.

(3) **Reaffirmation.** Each Borrower hereby (a) ratifies and reaffirms all of its payment and performance obligations, contingent or otherwise, under FSA and any other Loan Document to which it is a party and (b) ratifies and reaffirms its grant of security interests and liens and confirms and agrees that such security interests and liens shall continue in full force and effect and ranks as continuing security for the payment and discharge of the obligations secured thereunder, including, without limitation, all of the Obligations.

(4) **No Waiver.** Nothing contained in this Amendment shall be deemed to (a) constitute a waiver of any default or Event of Default that may hereafter occur or heretofore have occurred and be continuing, (b) except as a result of the amendments expressly set forth in Section I of this Amendment, otherwise modify any provision of the FSA or any other Loan Document, or (c) give rise to any defenses or counterclaims to Lender's right to compel payment of the Obligations when due or to otherwise enforce its rights and remedies under the FSA and the other Loan Documents.

(5) **Governing Law.** THIS AMENDMENT SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE STATE OF CALIFORNIA.

(6) **Counterparts; Effectiveness.** This Amendment may be executed via facsimile or other electronic method of transmission in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all of which counterparts together shall constitute one and the same instrument.

[Signature Pages Follow]

IN WITNESS WHEREOF, each of the undersigned has duly executed this First Amendment to Financing and Security Agreement as of the date first above written.

BORROWERS:

MAVEN COALITION, INC.

By: /s/ Douglas B. Smith

Name: Douglas B. Smith

Title: Chief Financial Officer

THEMAVEN, INC.

By: /s/ Douglas B. Smith

Name: Douglas B. Smith

Title: Chief Financial Officer

MAVEN MEDIA BRANDS, LLC

By: /s/ Douglas B. Smith

Name: Douglas B. Smith

Title: Chief Financial Officer

THESTREET, INC.

By: /s/ Douglas B. Smith

Name: Douglas B. Smith

Title: Chief Financial Officer

[Signature Page – First Amendment to Financing and Security Agreement]

LENDER:

FPP FINANCE LLC

By: /s/ Secil Baysal

Name: Secil Baysal

Title: President

[Signature Page – First Amendment to Financing and Security Agreement]

INTERCREDITOR AGREEMENT

This INTERCREDITOR AGREEMENT (this “Agreement”) is dated as of February 24, 2020 by and between FPP FINANCE LLC (“FastPay”) and BRP FINANCE CO., LLC, on behalf of itself and as agent for the Purchasers under the Non-ABL Creditor Agreement (“Non-ABL Creditor”).

WHEREAS, THEMAVEN, INC. (“Parent”), MAVEN MEDIA BRANDS, LLC (“Administrative Borrower”), MAVEN COALITION, INC. (“Maven Coalition”), THESTREET, INC. (“TheStreet”, and together with Parent, Administrative Borrower, Maven Coalition collectively, “Borrower”), and FastPay are parties to the FastPay Financing Agreement (as defined below), pursuant to which FastPay has agreed to make advances to and provide other financial accommodations for the benefit of Borrower on the terms and conditions set forth therein;

WHEREAS, Borrower has granted to FastPay a lien on, and security interest in, the Collateral (as defined below) of Borrower to secure the FastPay Obligations (as defined below), and Non-ABL Creditor has acknowledged and consented to such lien and security interest;

WHEREAS, Parent and Non-ABL Creditor are parties to the Non-ABL Creditor Agreement (as defined below), pursuant to which Non-ABL Creditor has agreed to make an extension of credit to Parent on the terms and conditions set forth therein;

WHEREAS, pursuant to the Non-ABL Creditor Agreement, Borrower has granted to Non-ABL Creditor a lien on, and security interest in, the Collateral of Borrower to secure the Non-ABL Creditor Obligations (as defined below), all as more particularly described in the Non-ABL Creditor Agreement, and FastPay has acknowledged and consented to such lien and security interest;

WHEREAS, it is a condition to the extensions of credit under the FastPay Financing Agreement that FastPay and Non-ABL Creditor execute and deliver this Agreement;

WHEREAS, pursuant to the Non-ABL Creditor Documents, Non-ABL Creditor was appointed by the Purchasers to act as the collateral agent in connection with the Collateral, pursuant to which Non-ABL Creditor is authorized to take all necessary action to preserve the Collateral, including entering into this Agreement on behalf and for the benefit of the Purchasers.

NOW, THEREFORE, in consideration of the foregoing and the covenants and agreements contained herein, and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, each of FastPay and Non-ABL Creditor hereby agrees as follows:

ARTICLE I

Definitions

SECTION 1.01. UCC. All initially capitalized terms used but not defined in this Agreement and that are defined in the UCC as in effect in the State of California shall have the meanings specified therein.

SECTION 1.02. Other Defined Terms. As used in this Agreement, the following terms have the following respective meanings:

“Affiliate” means, with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, controls or is controlled by or is under common control with the Person specified. For purposes of this definition, a Person shall be deemed to “control” or be “controlled by” a Person if such Person possesses, directly or indirectly, power to direct or cause the direction of the management or policies of such Person whether through ownership of equity interests, by contract or otherwise.

“Agreement” means this Intercreditor Agreement, as amended, restated, renewed, extended, supplemented or otherwise modified from time to time.

“Bankruptcy Code” means Title 11 of the United States Code entitled “Bankruptcy,” as now and hereafter in effect, or any successor statute.

“Bankruptcy Law” means the Bankruptcy Code and any similar federal, state or foreign law for the relief of debtors.

“Business Day” means a day other than a Saturday, Sunday or other day on which commercial banks in Los Angeles, California are authorized or required by law to remain closed.

“Class” refers to either (a) FastPay, FastPay Financing Agreement, FastPay Documents, or FastPay Obligations, on the one hand, or (b) Non-ABL Creditor, Non-ABL Creditor Agreement, Non-ABL Creditor Documents, or Non-ABL Creditor Obligations, on the other hand.

“Collateral” means all of the assets of Borrower, whether real, personal or mixed, upon which Liens have been created under and in accordance with the terms of the FastPay Documents and the Non-ABL Creditor Documents.

“DIP Financing” has the meaning assigned to such term in Section 6.02.

“Discharge” means, with respect to the Obligations of any Class, subject to Section 4.05:

(a) payment in full in cash of the principal of and interest (including any Post-Petition Amounts in the nature of interest) on all Obligations of such Class;

(b) payment in full in cash of all other Obligations of such Class that are due and payable or otherwise accrued and owing at or prior to the time such principal and interest are paid (including any Post- Petition Amounts in the nature of fees, costs, expenses and other amounts);

(c) termination or expiration of all commitments, if any, to extend credit that would give rise to Obligations of such Class;

(d) termination or cash collateralization of all letters of credit the reimbursement or payment obligations in respect of which constitute Obligations of such Class (any such cash collateralization to be in an amount and manner reasonably satisfactory to such Class, but in no event shall such amount be greater than 105% of the aggregate undrawn face amount of such letters of credit); and

(e) adequate provision has been made for any contingent or unliquidated Obligations of such Class related to claims, causes of action, or liabilities that have been asserted or threatened against the Secured Parties holding such Obligations or that otherwise can be reasonably identified by such Secured Parties based on the then-known facts and circumstances.

“Discharge of Senior Obligations” means, with respect to any Collateral, the Discharge of Obligations constituting Senior Obligations with respect to such Collateral.

“Enforcement Action” means any action under applicable law:

(a) to foreclose, execute or levy on, collect on, take possession of or control of, or sell or otherwise realize upon (judicially or non-judicially) or to lease, license or otherwise dispose of (whether publicly or privately), any Collateral or otherwise to exercise or enforce remedial rights with respect to Collateral under the FastPay Documents or the Non-ABL Creditor Documents, as applicable, or any other applicable agreement, document or instrument pertaining thereto (including, without limitation, by way of setoff, noticing of any public or private sale or other disposition pursuant to the UCC or other applicable law, notification of account debtors, notification of depository banks under deposit account control agreements or exercise of rights under landlord consents, if applicable);

(b) to solicit bids from third parties to conduct the liquidation or disposition of any Collateral or to engage or retain sales brokers, marketing agents, investment bankers, accountants, appraisers, auctioneers or other third parties for the purposes of valuing, marketing, promoting and selling any Collateral;

(c) to receive a transfer of Collateral in satisfaction of any indebtedness or other obligation secured thereby; or

(d) to otherwise enforce any security interest or exercise any other default right or remedy, as a secured creditor or otherwise, pertaining to the Collateral at law, in equity or pursuant to the FastPay Documents or the Non-ABL Creditor Documents, as applicable, or any other applicable agreement, document or instrument pertaining thereto; provided that “Enforcement Action” shall not include the commencement of, or joinder in filing of a petition for commencement of, an Insolvency Proceeding.

“FastPay Documents” means the FastPay Financing Agreement and all other loan documents entered into between Borrower and FastPay or its affiliates in connection therewith.

“FastPay Financing Agreement” means that certain Financing and Security Agreement dated February 6, 2020 among Borrower and FastPay, as amended from time to time (including following the commencement of any Insolvency Proceeding).

“FastPay Liens” means Liens on the Collateral securing the FastPay Obligations, including all such Liens created under the FastPay Documents, now or hereafter held by or on behalf of FastPay or its Affiliates or any agent or trustee therefor, whether or not created following the commencement of any Insolvency Proceeding.

“FastPay Obligations” means all “Obligations” under and as defined in any of the FastPay Documents, and includes all Cash Collateral Usage and DIP Financings. The term “FastPay Obligations” shall include all obligations, liabilities and indebtedness of every kind, nature and description owing by Borrower to FastPay or its Affiliates in connection with the FastPay Documents, including principal, interest, charges, fees, premiums, indemnities and expenses and all Post-Petition Amounts in respect of the foregoing.

“FastPay Priority Collateral” means any and all of the following that constitutes Collateral: (a) all cash, Accounts, Deposit Accounts (other than Deposit Accounts solely holding other Non-ABL Creditor Priority Collateral or the Proceeds thereof), and related Records; (b) all Proceeds, including insurance Proceeds, of the foregoing and all collateral security and guarantees and other credit support given by any Person with respect to any of the foregoing; and (c) all books and records relating to the foregoing; provided, FastPay Priority Collateral shall not include the identifiable Proceeds arising from the sale, lease, license, transfer or other disposition of any Non-ABL Creditor Priority Collateral, including (without limitation) any Proceeds (including, but not limited to, royalties) from the license or other disposition of any Intellectual Property.

“Insolvency Proceeding” means (a) any voluntary or involuntary case or proceeding under the Bankruptcy Code with respect to Borrower; (b) any other voluntary or involuntary insolvency, reorganization or bankruptcy case or proceeding, or any receivership, liquidation, reorganization or other similar case or proceeding with respect to Borrower or with respect to a material portion of the assets of Borrower; (c) any liquidation, dissolution, reorganization or winding up of Borrower, whether voluntary or involuntary and whether or not involving insolvency or bankruptcy; or (d) any assignment for the benefit of creditors or any other marshaling of assets and liabilities of Borrower.

“Intellectual Property” means all intellectual and similar property of every kind and nature now owned, licensed or hereafter acquired by Borrower, including inventions, designs, patents, copyrights, licenses, trademarks, domain names, trade secrets, confidential or proprietary technical and business information, know how, show how or other data or information, software, databases, all other proprietary information and all embodiments or fixations thereof and related documentation and registrations and all additions, improvements and accessions to, and books and records describing or used in connection with, any of the foregoing.

“Junior Secured Party” means, as to any Collateral, the Secured Parties with subordinate Liens or no Liens on such Collateral.

“Lien” means any lien, mortgage, pledge, assignment, security interest, charge or encumbrance of any kind (including any agreement to give any of the foregoing, any conditional sale or other title retention agreement, and any lease in the nature thereof) and any option, trust, UCC financing statement or other preferential arrangement having the practical effect of any of the foregoing.

“Liquidity” means cash held in a Deposit Account subject to a deposit account control agreement in favor of FastPay.

“Non-ABL Creditor Agreement” means that certain Amended and Restated Note Purchase Agreement dated as of June 14, 2019 by and among Parent, the guarantors from time to time party thereto, each of the Purchasers from time to time party thereto, and Non-ABL Creditor, as amended from time to time (including following the commencement of any Insolvency Proceeding).

“Non-ABL Creditor Documents” means the Non-ABL Creditor Agreement and all other “Note Documents” as defined therein.

“Non-ABL Creditor Liens” means Liens on the Collateral securing the Non-ABL Creditor Obligations, including all such Liens created under the Non-ABL Creditor Documents, now or hereafter held by or on behalf of Non-ABL Creditor or any agent or trustee therefor, whether or not created following the commencement of any Insolvency Proceeding.

“Non-ABL Creditor Obligations” means all “Obligations” under and as defined in the Non-ABL Creditor Agreement. The term “Term Obligations” shall include all obligations, liabilities and indebtedness of every kind, nature and description owing by Borrower to Non-ABL Creditor in connection with the Non-ABL Creditor Documents, including principal, interest, charges, fees, premiums, indemnities and expenses and any Post-Petition Amounts in respect of the foregoing.

“Non-ABL Creditor Priority Collateral” means any Collateral that does not constitute FastPay Priority Collateral, including (without limitation) all Equipment, Fixtures, Real Property, General Intangibles, Inventory, Investment Property and Intellectual Property, and all Proceeds, including insurance Proceeds, of the foregoing and all collateral security and guarantees and other credit support given by any Person with respect to any of the foregoing, and all books and records relating to the foregoing.

“Obligations” means all FastPay Obligations and all Non-ABL Creditor Obligations.

“Person” means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, governmental authority or other entity.

“Post-Petition Amounts” means, with respect to any Obligations, all interest, fees, costs, expenses and other amounts, that would accrue and become due after commencement of any Insolvency Proceeding but for commencement of such Insolvency Proceeding, whether or not such amounts are allowed or allowable, in whole or in part, in any such Insolvency Proceeding.

“Purchase Event” means, with respect to the FastPay Obligations, the occurrence of any of the following: (a) an acceleration of the FastPay Obligations in accordance with the terms of the FastPay Documents; (b) a payment default in respect of FastPay Obligations under the FastPay Documents that has not been cured or waived in accordance with the terms thereof within 30 days of the occurrence thereof; (c) the commencement of any Insolvency Proceeding; or (d) the taking of any Enforcement Action by any lender under the FastPay Documents.

“Recovery” has the meaning set forth in Section 6.06.

“Secured Parties” means FastPay and Non-ABL Creditor.

“Senior Obligations” means, as to any Obligations, either the FastPay Obligations or the Non-ABL Creditor Obligations, as applicable to the relevant Senior Priority Collateral.

“Senior Priority Collateral” means (a) with respect to FastPay, the FastPay Priority Collateral and (b) with respect to Non-ABL Creditor, the Non-ABL Creditor Priority Collateral.

“Senior Secured Parties” means, as to any Collateral, the Secured Parties with Senior Liens on such Collateral.

“Transaction Documents” means the FastPay Documents and the Non-ABL Creditor Documents.

“UCC” means the Uniform Commercial Code (or any similar or equivalent legislation) as in effect in any applicable jurisdiction.

SECTION 1.03. Terms Generally. The definitions of terms in this Agreement shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation”. The word “will” has the same meaning and effect as the word “shall”. The words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all real and personal, tangible and intangible assets and properties, including cash, securities, accounts and contract rights. The word “law” shall be construed as referring to all statutes, rules, regulations, codes and other laws (including official rulings and interpretations thereunder having the force of law or with which affected persons customarily comply) of all governmental authorities. Unless the context requires otherwise, (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended (subject to any restrictions on such amendments set forth herein); (b) any reference herein to any Person shall be construed to include such Person’s permitted successors and assigns; (c) the words “herein”, “hereof” and “hereunder”, and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof; and (d) all references herein to Articles and Sections shall be construed to refer to Articles and Sections of this Agreement.

ARTICLE II

LIEN MATTERS

SECTION 2.01. Acknowledgment of Liens. FastPay hereby agrees and acknowledges that Non-ABL Creditor has been granted a Lien upon the Non-ABL Creditor Priority Collateral to secure the Non-ABL Creditor Obligations. Non-ABL Creditor agrees and acknowledges that FastPay has been granted a Lien upon the FastPay Priority Collateral to secure the FastPay Obligations.

SECTION 2.02. Relative Lien Priorities and Limited Debt Subordination.

(a) Notwithstanding the order or time of attachment, or the order, time, or manner of perfection, or the order or time of filing or recordation of any document or instrument, or other method of perfecting any Lien in any of the Collateral, and notwithstanding any conflicting terms or conditions that may be contained in any of the Transaction Documents:

(i) the FastPay Liens in the FastPay Priority Collateral, regardless of how acquired, whether by grant, possession, statute, operation of law, subrogation or otherwise shall be senior in all respects and shall have priority over any rights of Non-ABL Creditor in the FastPay Priority Collateral; and

(ii) the Non-ABL Creditor Liens in the Non-ABL Creditor Priority Collateral, regardless of how acquired, whether by grant, possession, statute, operation of law, subrogation or otherwise be senior in all respects and shall have priority over any rights of FastPay in the Non-ABL Creditor Priority Collateral;

(b) It is understood by the parties hereto that the provisions of this Agreement are intended solely to govern the respective Lien priorities as among the Secured Parties and shall not impose upon the Secured Parties any obligations in respect of the disposition of any Collateral (or any Proceeds thereof) that would conflict with prior perfected Liens or any claims thereon in favor of any Person that is not a Secured Party.

(c) Except as set forth in clause (d) below, nothing set forth in this Agreement is intended to constitute a debt subordination, and each Secured Party expressly acknowledges that the Non-ABL Creditor Obligations are not subordinated in right of payment to the FastPay Obligations and the FastPay Obligations are not subordinated in right of payment to the Non-ABL Creditor Obligations.

(d) Notwithstanding clause (c) above, Borrower shall not pay, and Non-ABL Creditor shall not receive, scheduled principal or interest payments, prepayments, or any other payments on account of the Non-ABL Creditor Obligations unless immediately prior and subsequent to any such payment, Parent has Liquidity of at least \$2,000,000; provided, each of: (x) mandatory prepayments as set forth in Sections 2.4 (A)(1) (so long as such proceeds are not the proceeds of FastPay Priority Collateral) or 2.4 (A)(6) of the Non-ABL Creditor Agreement as of the date hereof; (y) non-interest or principal-related fees under the Non-ABL Creditor Documents as of the date hereof; and (z) indemnification obligations or out-of-pocket expense reimbursements owed by Borrower under the Non-ABL Creditor Agreement as of the date hereof, in each case, shall not be subject to the foregoing test. The preceding sentence shall not limit the right of the Non-ABL Creditor to take Enforcement Actions with respect to its Senior Priority Collateral, to otherwise exercise its rights and remedies under the Non-ABL Creditor Documents or applicable law or to receive payments from the proceeds of its Senior Priority Collateral, in each instance following the occurrence and continuance of an event of default in respect of the Non-ABL Creditor Obligations. Any amounts paid to Non-ABL Creditor or any Purchaser under the Non-ABL Creditor Agreement in contravention of this clause (d) shall be held in trust and promptly remitted to FastPay for application toward the FastPay Obligations. Nothing herein shall restrict Borrower or Non-ABL Creditor's right, as applicable, to: (1) convert the Non-ABL Creditor Obligations into equity interests of Borrower or (2) accrue non cash payment-in-kind interest with respect to the Non-ABL Creditor Obligations.

SECTION 2.03. Prohibition on Certain Contests. Each Secured Party agrees that none of them will (and hereby waives any right to) contest or support any other Person in contesting, in any proceeding (including any Insolvency Proceeding): (a) the perfection, priority, validity or enforceability of any FastPay Lien or any Non-ABL Creditor Lien; (b) the validity or enforceability of any FastPay Obligations or any Non-ABL Creditor Obligations; or (c) the enforceability of this Agreement. Nothing in this Agreement shall be construed to prevent or impair the right of any Secured Party to enforce this Agreement or to bring any motion or take any other action in any proceeding (including any Insolvency Proceeding) to establish the correct mathematical calculation of any Obligations.

SECTION 2.04. Similar Liens. Each Secured Party agrees to cooperate in order to determine, upon any reasonable request by the other Secured Party, the specific assets included in the Collateral, the steps taken to perfect the respective Liens thereon, and the identity of the respective parties obligated under the Transaction Documents.

SECTION 2.05. No Additional Liens or Credit Support. Whether or not any Insolvency Proceeding has commenced, each Secured Party agrees it shall not accept (a) any additional Lien under any loan document on any asset of Borrower to secure any Obligations unless Borrower has granted or concurrently grants (or offered to grant with a reasonable opportunity for such Lien to be accepted) a corresponding Lien on such asset to secure Obligations of the other Class, or (b) any additional credit support, guaranty, or supporting obligation in respect of its Obligations unless the same or substantially similar credit support, guaranty, or supporting obligation is given (or offered with a reasonable opportunity to be accepted) with respect to the Obligations of the other Class; provided that the refusal of any Secured Party to accept a Lien on any property of Borrower or any such credit support, guaranty, or supporting obligation shall not prohibit the taking of a Lien on such property or the acceptance of any such credit support, guaranty, or supporting obligation by the other Secured Party. Without limiting any other rights and remedies available to the Secured Parties, any Lien, credit support, guaranty, or supporting obligation held by any Secured Party in breach of the foregoing provisions shall, without the need for any further consent of any other Person and notwithstanding anything to the contrary in any Transaction Document (x) be held and be deemed to be held for the benefit of both Secured Parties as security for their respective Obligations, or (y) be released.

ARTICLE III

Enforcement

SECTION 3.01. Exercise of Remedies.

Until the Discharge of Senior Obligations with respect to any Collateral has occurred, each Junior Secured Party agrees that it will not take or receive any Senior Priority Collateral of the other Class or any Proceeds of any such Collateral in connection with any Enforcement Action with respect to such Collateral.

Subject to Section 3.02, each Junior Secured Party:

(i) agrees that no Junior Secured Party will take any action that (A) could reasonably be expected, in any material respect, to restrain, hinder, limit, delay for any material period or otherwise interfere with (1) any exercise of remedies with respect to the Senior Priority Collateral of the other Class or (2) the realization of the full value of such Senior Priority Collateral by the Senior Secured Party with respect thereto or (B) otherwise would be prohibited hereunder, including any disposition of any such Collateral, whether by foreclosure or otherwise, provided that a Junior Secured Party may commence Enforcement Actions in respect of Senior Priority Collateral, subject to the terms of this Agreement, after the passage of 180 days from the date of delivery of a notice in writing by a Junior Secured Party to a Senior Secured Party of (x) the occurrence of an event of default under the Obligations owed to such Junior Secured Party, and (y) the Junior Secured Party's intention to take Enforcement Actions against the Senior Priority Collateral, provided, further, however, notwithstanding anything herein to the contrary, until the Discharge of Senior Obligations shall have occurred, no Junior Secured Party will exercise any rights or remedies with respect to any Senior Priority Collateral if, notwithstanding the expiration of the period referenced above, the Senior Secured Party shall have commenced and be diligently pursuing in good faith the exercise of any of their rights or remedies with respect to a material portion of the Senior Priority Collateral. Any Proceeds received by a Junior Secured Party from Enforcement Actions shall be turned over to the Senior Secured Party for application pursuant to Section 4.02;

(ii) waives any and all rights to object to the manner in which any Senior Secured Party seeks to enforce or collect any of its Senior Obligations or to enforce or realize on its Senior Liens on any Collateral undertaken in accordance with this Agreement, regardless of whether any action or failure to act by or on behalf of such Senior Secured Party is adverse to the interests of any Junior Secured Party with respect to such Collateral; and

(iii) acknowledges and agrees that no covenant, agreement or restriction contained in any Junior Document shall be deemed to restrict in any way the rights and remedies of the Senior Secured Parties with respect to any Collateral subject to their Senior Liens as set forth in this Agreement and the Senior Transaction Documents with respect thereto.

(b) Except as otherwise specifically set forth herein, the Secured Party of any Class may exercise rights and remedies available to them as unsecured creditors of Borrower in accordance with the terms of the Transaction Documents of such Class and applicable law; provided that in the event any Secured Party becomes a judgment Lien creditor in respect of any Collateral as a result of its enforcement of its rights as an unsecured creditor with respect to any of its Obligations, such judgment Lien shall be subject to the terms of this Agreement, including the relative Lien priorities set forth in Section 2.01.

(c) Nothing in this Agreement shall prohibit the receipt by any Secured Party of any Class of the required or permitted payments of interest, principal and other amounts owed in respect of Obligations of such Class so long as such receipt is not the direct or indirect result of the exercise by any Junior Secured Party of any Enforcement Action against the Senior Priority Collateral of the Agent or any Secured Party of the other Class in contravention of this Agreement. Nothing in this Agreement shall be construed to impair or otherwise adversely affect any rights or remedies any Senior Secured Party may have with respect to its Senior Priority Collateral.

SECTION 3.02. Sharing of Information. Subject to confidentiality restrictions imposed by law, contract, or agreement, if any Secured Party takes actual possession of any documentation of Borrower (whether such documentation is in the form of a writing or is stored in any data equipment or data record in the physical possession of such Secured Party), then upon request of either Secured Party (the "requesting Secured Party") and reasonable advance notice, the other Secured Party (the "responding Secured Party") will permit the requesting Secured Party or its representative to inspect and copy such documentation if and to the extent the requesting Secured Party certifies to the responding Secured Party that:

(a) such documentation contains or may contain information necessary or useful, in the good faith opinion of the requesting Secured Party, to the enforcement of requesting Secured Party's Liens upon its Senior Collateral; and

(b) such requesting Secured Party is entitled to receive and use such information as against the Borrower or its suppliers, customers, and contracts and under applicable law, and, in doing so, will comply with all obligations imposed by law or contract in respect of the disclosure or use of such information.

SECTION 3.03. Actions Upon Breach. If any Junior Secured Party, in contravention of the terms of this Agreement, in any way takes, attempts to or threatens to take or participate in any Enforcement Action with respect to the Senior Priority Collateral of the other Class, or fails to take any action required by this Agreement, the Senior Secured Party or Borrower may obtain relief against such Junior Secured Party by injunction, specific performance and/or other appropriate equitable relief, it being understood and agreed by each Secured Party that (a) the Borrower's or Senior Secured Parties' damages from such actions may at that time be difficult to ascertain and may be irreparable, and (b) each Junior Secured Party waives any defense that the Borrower and/or the Senior Secured Parties cannot demonstrate damage and/or be made whole by the awarding of damages.

ARTICLE IV

Payments

SECTION 4.01. Prohibited Payments. FastPay has advised Non-ABL Creditor, and NonABL Creditor hereby acknowledges, that Non-ABL Creditor may not accept the prepayment of any of the Non-ABL Creditor Obligations by Borrower to the extent prohibited by Section 2.02(d).

SECTION 4.02. Application of Proceeds. So long as the Discharge of Senior Obligations with respect to any Collateral has not occurred, whether or not any Insolvency Proceeding has commenced, any Collateral or Proceeds thereof received in connection with the sale or other disposition of, or collection on, such Collateral upon the exercise of remedies in connection with any Collateral, including any Enforcement Action, shall be applied to the Discharge of Senior Obligations with respect to such Collateral in such order as specified in the relevant Senior Documents or as otherwise determined by the Senior Secured Parties or as a court of competent jurisdiction may otherwise direct. All payments received by any Secured Party of any Class may be applied, reversed and reapplied, in whole or in part, to such part of the Obligations of such Class as shall be provided in the applicable Transaction Documents of such Class.

SECTION 4.03. Payments Over. So long as the Discharge of Senior Obligations with respect to any Collateral has not occurred, whether or not any Insolvency Proceeding has commenced, if any Junior Secured Party receives with actual knowledge (without any duty to make inquiry or otherwise investigate the source of the Collateral or Proceeds) any Collateral subject to any Senior Lien or any Proceeds of any such Collateral, the same shall be segregated and held in trust and forthwith paid over to the Senior Secured Party in the same form as received, with any necessary endorsements, or as a court of competent jurisdiction may otherwise direct. Such Senior Secured Party is hereby authorized to make any such endorsements as agent for each such Junior Secured Party (such authorization being coupled with an interest and irrevocable until the Discharge of Senior Obligations with respect to such Collateral has occurred).

SECTION 4.04. Insurance and Condemnation Proceeds. Proceeds of the Collateral include insurance proceeds and condemnation Proceeds, and therefore, notwithstanding anything to the contrary set forth in the Transaction Documents, the priorities set forth in this Agreement govern the ultimate disposition of insurance proceeds and condemnation Proceeds. The Senior Secured Party with respect to any Collateral shall have the sole and exclusive right, as against the other Secured Parties, to adjust settlement of insurance claims in the event of any covered loss, theft or destruction of such Collateral (or business interruption). All proceeds of such insurance or any condemnation Proceeds shall inure to the Senior Secured Party's claim with respect to such Collateral, and the other Secured Parties shall cooperate (if necessary) in a reasonable manner in effectuating the payment of such insurance proceeds or condemnation Proceeds to the Senior Secured Party. In the event that the Senior Secured Party with respect to any Collateral, in its sole discretion or pursuant to agreement with Borrower, permits Borrower to utilize the proceeds of insurance or any condemnation Proceeds to replace any Collateral, the consent of the Senior Secured Party thereto shall be deemed to include the consent of the other Secured Parties.

SECTION 4.05. Subrogation. To the extent that any Junior Secured Party makes a payment to the Senior Secured Party under this Article IV, no such payment may be deemed to be a payment or distribution by or on behalf of Borrower to or on account of the Junior Obligations and the Junior Secured Party will be subrogated to the rights of the Senior Secured Party; provided, however, that until the Discharge of the Senior Obligations, no Junior Secured Party may assert, enforce, or exercise against any Person any right of subrogation it may have obtained as a result of any such payment.

SECTION 4.06. FastPay Lockboxes. Non-ABL Creditor acknowledges that Borrower, in accordance with the FastPay Documents, is (or may be) required from time to time to direct collections on, or other Proceeds from, FastPay Priority Collateral to a lockbox or deposit accounts maintained by FastPay or Borrower. Notwithstanding anything to the contrary set forth herein or in any Transaction Document, FastPay has no duty, responsibility or obligation to Non-ABL Creditor with respect to such lockboxes or deposit accounts, including to pay over to Non-ABL Creditor any payment items received into any such lockbox or funds on deposit in such deposit account at any time absent FastPay's fraudulent conduct, willful misconduct, gross negligence or its actual knowledge of the receipt of Non-ABL Creditor Priority Collateral or Proceeds (with no duty of inquiry or to investigate the source of the Proceeds).

ARTICLE V

Other Agreements

SECTION 5.01. Releases.

(a) If, in connection with:

(i) an Enforcement Action by a Senior Secured Party with respect to its Senior Priority Collateral; or

(ii) any asset sale, lease, exchange, transfer or other disposition of any Senior Priority Collateral permitted under the terms of the applicable Senior Transaction Documents (a "Senior Disposition"); the Senior Secured Party, for itself or on behalf of any of its applicable claimholders, releases any of its Liens on any part of its Senior Priority Collateral, then the Liens, if any, of the Junior Secured Party, for itself or for the benefit of applicable claimholders, on such Senior Priority Collateral shall be automatically, unconditionally and simultaneously released; provided, however, the foregoing release shall not occur without the consent of the Junior Secured Party (x) in the case of a foregoing Enforcement Action, as to any Collateral the net proceeds of the disposition of which will not be applied to repay (and, to the extent applicable, to reduce permanently commitments with respect to) the Senior Obligations, or (y), in the case of a Senior Disposition, if the Senior Disposition is prohibited by any provision of the Junior Transaction Documents other than solely as the result of the existence of a default or an event of default under the Junior Transaction Documents.

(b) Until the Discharge of Senior Obligations with respect to any Collateral has occurred, the Junior Secured Party, hereby irrevocably constitutes and appoints the Senior Secured Party and any officer or agent of the Senior Secured Party, with full power of substitution, as its true and lawful attorney-in-fact with full power and authority in the name, place and stead of the Junior Secured Parties or in such Senior Secured Party's own name, from time to time in Senior Secured Party's discretion to the extent the Junior Secured Party fails to do so after written request therefor, for the purpose of carrying out the terms of this Section 5.01, to take any and all action and to execute any and all documents and instruments that may be necessary or appropriate to accomplish the purposes of this Section 5.01, including any endorsements or other instruments of transfer or release.

SECTION 5.02. Amendments to Transaction Documents.

(a) Each of the FastPay Documents may be amended in accordance with the terms thereof without affecting the Lien subordinations or other provisions of this Agreement.

(b) Each of the Non-ABL Creditor Documents may be amended in accordance with the terms thereof without affecting the Lien subordinations or other provisions of this Agreement.

ARTICLE VI

Insolvency Proceedings

SECTION 6.01. Effectiveness in Insolvency Proceedings. This Agreement is a "subordination agreement" within the meaning of Section 510(a) of the Bankruptcy Code and will continue in full force and effect during any Insolvency Proceeding, including after the filing of any petition by or against Borrower under the Bankruptcy Code and all converted or succeeding cases in respect thereof. All references herein to Borrower shall be deemed to apply to Borrower as debtor-in-possession and to any trustee for Borrower's estate.

SECTION 6.02. Cash Collateral and DIP Financing.

(a) If any Borrower shall be subject to any Insolvency Proceeding at any time prior to the Discharge of the FastPay Obligations, and FastPay shall seek to provide any Borrower with, or consent to a third party providing, any financing under Section 364 of the Bankruptcy Code (each, a "DIP Financing") or consent to any order for the use of cash collateral constituting FastPay Priority Collateral (or, after the Discharge of the Non-ABL Creditor Obligations, constituting Collateral) under Section 363 of the Bankruptcy Code, with such DIP Financing to be secured by all or any portion of the Collateral (including assets that, but for the application of Section 552 of the Bankruptcy Code would be Collateral), then the Non-ABL Creditor agrees that it will raise no objection and will not support any objection to such DIP Financing or use of cash collateral or to the Liens securing the same on the grounds of a failure to provide "adequate protection" for the Liens of the Non-ABL Creditor securing the Non-ABL Obligations or on any other grounds (and will not request any adequate protection solely as a result of such DIP Financing or use of cash collateral that is FastPay Priority Collateral (or, after the Discharge of Non-ABL Creditor Obligations, that is Collateral)), so long as (i) the Non-ABL Creditor retains its Lien on the Collateral to secure the Non-ABL Creditor Obligations (including Proceeds thereof arising after the commencement of any Insolvency Proceeding) and such Liens have the same priority as existed prior to the commencement of any Insolvency Proceeding and any Lien on the Non-ABL Creditor Priority Collateral securing such DIP Financing furnished by FastPay or consented to by FastPay is junior and subordinate to the Lien of the Non-ABL Creditor on the Non-ABL Creditor Priority Collateral, and (ii) all Liens on FastPay Priority Collateral securing any such DIP Financing furnished by or consented to by FastPay shall be senior to or on a parity with the Liens of FastPay securing the FastPay Obligations on FastPay Priority Collateral. The foregoing provisions of this Section 6.02(a) shall not prevent the Non-ABL Creditor from objecting to any provision in any DIP Financing or use of any cash collateral relating to any provision or content of a plan of reorganization, liquidation or other plan of similar effect under any Bankruptcy Laws or expressly requiring the liquidation, sale or disposition of any portion of the Non-ABL Creditor Priority Collateral. Non-ABL Creditor agrees that it shall not, directly or indirectly, provide, offer to provide, or support any DIP Financing or use of cash collateral secured by a Lien on the FastPay Priority Collateral senior to or pari passu with the Liens securing (x) the FastPay Obligations or (y) any DIP Financing provided by or consented to by the FastPay, unless in each case approved by FastPay.

(b) If any Borrower shall be subject to any Insolvency Proceeding at any time prior to the Discharge of the Non-ABL Creditor Obligations, and the Non-ABL Creditor shall seek to provide any Borrower with, or consent to a third party providing, any DIP Financing, with such DIP Financing to be secured by all or any portion of the Collateral (including assets that, but for the application of Section 552 of the Bankruptcy Code would be Collateral), then FastPay agrees that it will raise no objection and will not support any objection to such DIP Financing or to the Liens securing the same on the grounds of a failure to provide "adequate protection" for the Liens of FastPay securing the FastPay Obligations or on any other grounds (and will not request any adequate protection solely as a result of such DIP Financing), so long as (i) FastPay retains its Lien on the Collateral to secure the FastPay Obligations (in each case including Proceeds thereof arising after the commencement of any Insolvency Proceeding) and such Liens have the same priority as existed prior to the commencement of any Insolvency Proceeding and any Lien on FastPay Priority Collateral securing such DIP Financing furnished by the Non-ABL Creditor is junior and subordinate to the Lien of FastPay on the FastPay Priority Collateral, and (ii) all Liens on the Non-ABL Creditor Priority Collateral securing any such DIP Financing furnished by or consented to by the Non-ABL Creditor shall be senior to or on a parity with the Liens of the Non-ABL Creditor securing the Non-ABL Creditor Obligations on the Non-ABL Creditor Priority Collateral. The foregoing provisions of this Section 6.02(b) shall not prevent FastPay from objecting to any provision in any DIP Financing or use of any cash collateral relating to any provision or content of a plan of reorganization, liquidation or other plan of similar effect under any Bankruptcy Laws or expressly requiring the liquidation, sale or disposition of any portion of the FastPay Priority Collateral. FastPay agrees that it shall not, directly or indirectly, provide, offer to provide, or support any DIP Financing or use of cash collateral secured by a Lien on the Non-ABL Creditor Priority Collateral senior to or pari passu with the Liens securing (x) the Non-ABL Creditor Obligations or (y) any DIP Financing provided by or consented to by the Non-ABL Creditor, unless in each case approved by Non-ABL Creditor.

(c) All Liens granted to FastPay or the Non-ABL Creditor in any Insolvency Proceeding, whether as adequate protection or otherwise, are intended by the parties hereto to be and shall be deemed to be subject to the Lien priority and the other terms and conditions of this Agreement.

SECTION 6.03. Adequate Protection.

(a) No Junior Secured Party shall contest (or support any other Person in contesting) (i) any request by any Senior Secured Party for adequate protection with respect to such Senior Secured Party's Senior Liens on any Collateral; or (ii) any objection by any Senior Secured Party to any motion, relief, action or proceeding based on such Senior Secured Party claiming a lack of adequate protection with respect to such Senior Secured Party's Senior Liens on any Collateral.

(b) Nothing herein shall limit the rights of any Secured Party to seek adequate protection with respect to its rights in its Senior Priority Collateral in any Insolvency Proceeding (including adequate protection in the form of a cash payment, periodic cash payments or otherwise).

SECTION 6.04. Relief from the Automatic Stay. Until the Discharge of Senior Obligations with respect to any Collateral has occurred, no Junior Secured Party with respect to such Collateral shall seek (or support any other Person in seeking) relief from the automatic stay or any other stay in any Insolvency Proceeding in respect of such Collateral without the prior written consent of the Senior Secured Party with respect to such Collateral. No Junior Secured Party shall oppose (or support any other Person opposing) any motion of any Senior Secured Party seeking relief from the automatic stay or any other stay in any Insolvency Proceeding in respect of such Senior Secured Party's Senior Priority Collateral.

SECTION 6.05. 363 Sales. No Junior Secured Party shall object to or oppose (or support any other Person in objecting to or opposing) any sale or other disposition of all or any part of the Collateral free and clear of Liens or other claims of the Junior Secured Parties under Section 363 of the Bankruptcy Code or any other provision of the Bankruptcy Code or any other applicable law so long as: (a) the Senior Secured Party has consented to such sale or disposition; (b) the Proceeds thereof are applied in the manner provided approved by the U.S. Bankruptcy Court; and (c) such sale has been approved by the U.S. Bankruptcy Court presiding over the Insolvency Proceeding pursuant to which such sale is authorized after an opportunity for notice and a hearing has been provided to the Junior Secured Party regarding the procedures for such sale and the criteria for acceptance of any bids; provided that (i) the Junior Secured Party may raise any objections to any such sale or other disposition to the extent that such objection could be raised by another creditor of the debtor(s) whose claims are not secured by any Liens on any property of Borrower, and (ii) to the extent that such objections are not based on the Junior Secured Party's status as a secured creditor, including any objections based on rights afforded by Sections 363(e) and (f) of the Bankruptcy Code or any comparable provision of any Bankruptcy Law.

SECTION 6.06. Avoidance Issues. If any Secured Party is required in any Insolvency Proceeding or otherwise to turn over or otherwise pay to the estate of Borrower any amount paid in respect of any Obligations (a "Recovery"), then such Secured Party shall be entitled to a reinstatement of the applicable Obligations with respect to all such recovered amounts. If this Agreement shall have been terminated prior to such Recovery, this Agreement shall be reinstated in full force and effect, and such prior termination shall not diminish, release, discharge, impair or otherwise affect the obligations of the parties hereto from such date of reinstatement.

SECTION 6.07. Post-Petition Interest.

(a) Non-ABL Creditor shall not oppose or seek to challenge any claim by FastPay for allowance in any Insolvency Proceeding of FastPay Obligations consisting of Post-Petition Amounts to the extent of the value of the Liens of FastPay on the FastPay Priority Collateral, without regard to the existence of the Liens of Non-ABL Creditor on the FastPay Priority Collateral.

(b) FastPay shall not oppose or seek to challenge any claim by Non-ABL Creditor for allowance in any Insolvency Proceeding of Non-ABL Creditor Obligations consisting of Post-Petition Amounts to the extent of the value of the Liens of Non-ABL Creditor on the Non-ABL Creditor Priority Collateral, without regard to the existence of the Liens of FastPay on the Non-ABL Creditor Priority Collateral.

SECTION 6.08. Waiver. Except as otherwise expressly contemplated by the other provisions of this Agreement, each Secured Party hereby waives any claim it may hereafter have against any Secured Party of the other Class arising out of (a) the election by any Secured Party of such other Class of the application of Section 1111(b)(2) of the Bankruptcy Code and (b) any Cash Collateral Usage or DIP Financing (and any related grant of a security interest) effectuated (or granted) in accordance with Section 6.02.

SECTION 6.09. Separate Grants of Security and Separate Classification. Each Secured Party acknowledges and agrees that (a) the grants of Liens pursuant to the FastPay Documents and the Non-ABL Creditor Documents constitute separate and distinct grants of Liens; and (b) because of, among other things, their differing rights in the Collateral, the FastPay Obligations and the Non-ABL Creditor Obligations are fundamentally different from one another and must be separately classified in any plan of reorganization proposed or adopted in an Insolvency Proceeding.

SECTION 6.10. No Priming. Upon and after the commencement of any Insolvency Proceeding under the Bankruptcy Code: (a) until the Discharge of the Non-ABL Creditor Obligations, FastPay shall not support any application for, or consent to, any arrangement that would result in FastPay obtaining a FastPay Lien on any Non-ABL Creditor Priority Collateral that is senior to or pari passu with the Non-ABL Creditor Liens thereon; (ii) until the Discharge of the FastPay Obligations, Non-ABL Creditor shall not support any application for, or consent to, any arrangement that would result in Non-ABL Creditor obtaining an Non-ABL Creditor Lien on any FastPay Priority Collateral that is senior to or pari passu with the FastPay Liens thereon.

SECTION 6.11. Voting. No Secured Party shall be required to vote to approve any plan of reorganization with respect to Borrower for any reason and may vote to accept or reject any such plan in any Insolvency Proceeding in its sole discretion (or refrain from voting).

SECTION 6.12. Reorganization Securities. If, in any Insolvency Proceeding, debt obligations of any reorganized Borrower secured by Liens upon any assets of Borrower are distributed pursuant to a plan of reorganization, on account of both the FastPay Obligations and the Non-ABL Creditor Obligations, then, to the extent the debt obligations distributed on account of the FastPay Obligations and the Non-ABL Creditor Obligations are secured by Liens upon the same assets, the provisions of this Agreement will survive the distribution of such debt obligations pursuant to such plan and will apply with like effect to the Liens securing such debt obligations.

ARTICLE VII

PURCHASE RIGHT

SECTION 7.01. FastPay Obligations Purchase Right of Non-ABL Creditor. Without prejudice to the enforcement of any remedies of any Secured Party, whether under the Transaction Documents or otherwise, the Secured Party of each Class agrees that, in the event a Purchase Event shall have occurred with respect to the FastPay Obligations, the Non-ABL Creditor shall have the option, subject to the applicable assignment provisions in the FastPay Documents as in effect on the date hereof, to purchase for cash the entire aggregate amount of the FastPay Obligations (including unfunded commitments under the FastPay Documents, if any, that are in effect) at par plus accrued but unpaid interest, fees and expenses (including, for the avoidance of doubt, any prepayment penalty or premium), without warranty or representation (except for representations as to the outstanding balance of the FastPay Obligations, the current form of the FastPay Documents and as to the FastPay Obligations not having been assigned or encumbered) or recourse, on a pro rata basis from FastPay. Such option may be exercised at any time following a Purchase Event by delivery of written notice from Non-ABL Creditor to FastPay, which notice shall be irrevocable. Following exercise of such option in accordance with the terms of this Section, the Secured Parties shall cooperate in consummating promptly thereafter such purchase using the applicable assignment forms set forth in the FastPay Documents or as otherwise agreed by FastPay and Non-ABL Creditor.

ARTICLE VIII

RELIANCE; WAIVERS; ETC.

SECTION 8.01. Reliance.

(a) FastPay acknowledges that it has, independently and without reliance on NonABL Creditor, and based on documents and information deemed by it appropriate, made its own credit analysis and decision to enter into the FastPay Documents and be bound by the terms of this Agreement and agrees that it will continue to make its own credit decision in taking or not taking any action under the FastPay Documents or this Agreement.

(b) Non-ABL Creditor acknowledges that it has, independently and without reliance on FastPay, and based on documents and information deemed by it appropriate, made its own credit analysis and decision to enter into the Non-ABL Creditor Documents and be bound by the terms of this Agreement and agrees that it will continue to make its own credit decision in taking or not taking any action under the Non-ABL Creditor Documents or this Agreement.

SECTION 8.02. No Warranties or Liability.

(a) FastPay acknowledges and agrees that Non-ABL Creditor has made no express or implied representation or warranty, including with respect to the execution, validity, legality, completeness, collectibility or enforceability of any Non-ABL Creditor Document, the ownership of any Collateral or the perfection or priority of any Liens thereon. Except as otherwise provided herein, NonABL Creditor will be entitled to manage and supervise its respective loans and extensions of credit under the Non-ABL Creditor Documents in accordance with law and as they may otherwise, in its sole discretion, deem appropriate.

(b) Non-ABL Creditor acknowledges and agrees that FastPay has made no express or implied representation or warranty, including with respect to the execution, validity, legality, completeness, collectibility or enforceability of any FastPay Document, the ownership of any Collateral or the perfection or priority of any Liens thereon. Except as otherwise provided herein, FastPay will be entitled to manage and supervise its respective loans and extensions of credit under the applicable FastPay Documents in accordance with law and as it may otherwise, in its sole discretion, deem appropriate.

(c) Non-ABL Creditor shall have no duty to FastPay, and FastPay shall have no duty to Non-ABL Creditor, to act or refrain from acting in a manner that allows, or results in, the occurrence or continuance of an event of default or default under any agreements with Borrower (including any Transaction Documents), regardless of any knowledge thereof that they may have or be charged with.

SECTION 8.03. No Waiver of Relative Lien Priorities.

(a) No right of Secured Party of any Class to enforce any provision of this Agreement or any Transaction Document of such Class shall at any time in any way be prejudiced or impaired by any act or failure to act on the part of Borrower or, by any act or failure to act by any Secured Party, or by any noncompliance by any Person with the terms, provisions and covenants of this Agreement or any Transaction Document, regardless of any knowledge thereof that any Secured Party may have or be otherwise charged with.

(b) Without in any way limiting the generality of clause (a) above (but subject to the rights of Borrower under the Transaction Documents), the Secured Party of any Class may, at any time and from time to time in accordance with the Transaction Documents of such Class and applicable law, without the consent of, or notice to, or incurring any liability to, the Secured Party of the other Class and without impairing or releasing the relative Lien priorities and other benefits provided in this Agreement (even if any right of subrogation or other right or remedy of the Secured Party of such other Class is affected, impaired or extinguished thereby) do any one or more of the following:

(i) change the time, manner or place of payment of, or amend any other term of, any Obligation of such first Class (including any increase in or extension of any such Obligations, without any restriction as to the tenor or terms of any such increase or extension); amend any guarantee thereof, any other liability of Borrower, any liability incurred directly or indirectly in respect thereof or any of their Senior Liens; refinance any of their Obligations; or otherwise amend any Transaction Document of such first Class;

(ii) sell, exchange, release, surrender, realize upon or enforce, or otherwise deal in any manner and in any order with, any Collateral subject to their Senior Liens or any liability of Borrower to the Secured Party of such first Class, or any liability incurred directly or indirectly in respect thereof;

(iii) settle or compromise any Obligation of such first Class or any other liability of Borrower or any security therefor or any liability incurred directly or indirectly in respect thereof and, subject to Article IV, apply any sums by whomsoever paid and however realized to any liability (including any Obligation of such first Class) in any manner or order; and

(iv) exercise, or delay in or refrain from exercising, any right or remedy against Borrower or any other Person, elect any remedy and otherwise deal freely with Borrower or any Collateral subject to their Senior Liens and any liability incurred directly or indirectly in respect thereof.

(c) Except as otherwise provided herein, each Secured Party agrees that the Secured Party of the other Class shall have no liability to such Secured Party, and hereby waives any claim against the Secured Party of such other Class arising out of any and all actions that the Secured Party of such other Class may take or permit or omit to take with respect to:

(i) the Transaction Documents of such other Class (other than as provided in this Agreement);

(ii) the collection of the Obligations of such other Class (other than in violation of the express provisions of this Agreement); or

(iii) the foreclosure upon, or sale, liquidation or other disposition of, any Collateral subject to the Senior Liens of the Secured Party of such other Class.

Each Secured Party agrees that the Secured Party of the other Class has no duty to such Secured Party in respect of the maintenance or preservation of any Collateral subject to the Senior Liens of the Secured Party of such other Class or otherwise.

(d) Until the Discharge of Obligations of such other Class, each Secured Party agrees not to assert and hereby waives, to the fullest extent permitted by law, any right to demand, request, plead or otherwise assert or otherwise claim the benefit of, any marshaling, appraisal, valuation or other similar right that may otherwise be available under applicable law with respect to any Collateral subject to any Senior Lien of the Secured Party of the other Class or any other similar rights a junior secured creditor may have under applicable law.

SECTION 8.04. Obligations Unconditional. All rights, interests, agreements and obligations of each Secured Party hereunder shall remain in full force and effect irrespective of:

(a) any lack of validity or enforceability of any Transaction Document;

(b) except as otherwise expressly set forth in this Agreement, any change in the time, manner or place of payment of, or in any other terms of, all or any Obligations of any Class, or any amendment, including any increase in the amount of the obligations thereunder, whether in writing or by course of conduct or otherwise, of the terms of any Transaction Document;

(c) except as otherwise expressly set forth in this Agreement, any exchange of any security interest in any Collateral or any other collateral, or any amendment, whether in writing or by course of conduct or otherwise, of all or any Obligations of any Class or any guarantee thereof;

(d) the commencement of any Insolvency Proceeding; or

(e) any other circumstances that otherwise might constitute a defense available to, or a discharge of Borrower in respect of any Secured Party or any Obligation.

ARTICLE IX

Miscellaneous

SECTION 9.01. Conflicts. In the event of any express conflict between the provisions of this Agreement and the provisions of any Transaction Document, the provisions of this Agreement shall govern and control.

SECTION 9.02. Effectiveness; Continuing Nature of this Agreement; Severability. This Agreement shall become effective when executed and delivered by the parties hereto. This is a continuing agreement of Lien subordination, and the Secured Party of any Class may continue, at any time and without notice to the Secured Party of the other Class, to extend credit and other financial accommodations and lend monies to or for the benefit of Borrower constituting their Obligations in reliance hereon. Each Secured Party hereby waives any right it may have under applicable law to revoke this Agreement or any of the provisions of this Agreement. The terms of this Agreement shall survive, and shall continue in full force and effect, in any Insolvency Proceeding. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall not invalidate the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. All references to Borrower shall include Borrower as debtor and debtor-in-possession and any receiver or trustee for Borrower, as the case may be, in any Insolvency Proceeding.

SECTION 9.03. Amendments; Waivers. No amendment, modification or waiver of any of the provisions of this Agreement shall be effective unless the same shall be in writing and signed on behalf of each party hereto or its authorized agent and each waiver, if any, shall be a waiver only with respect to the specific matter involved and shall in no way impair the rights of the parties making such waiver or the obligations of the other parties to such party in any other respect or at any other time.

SECTION 9.04. Information Concerning Financial Condition of Borrowers. Each Secured Party acknowledges that none of the Secured Parties shall be responsible for keeping any other Secured Party informed of (a) the financial condition of Borrower (b) any other circumstances bearing upon the risk of nonpayment of the Obligations of any Class. No Secured Party of any Class shall have any duty to advise any Secured Party of the other Class of information known to it regarding such condition or any such circumstances or otherwise. In the event the Secured Party of any Class, in its sole discretion, undertakes at any time or from time to time to provide any such information to the Secured Party of the other Class, it shall be under no obligation:

- (i) to make any express or implied representation or warranty, including with respect to the accuracy, completeness, truthfulness or validity of any such information so provided;
- (ii) to provide any additional information or to provide any such information on any subsequent occasion;
- (iii) to undertake any investigation; or
- (iv) to disclose any information, which pursuant to accepted or reasonable commercial finance practices, such party wishes to maintain confidential or is otherwise required to maintain confidential.

SECTION 9.05. Applicable Law. THIS AGREEMENT SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE STATE OF CALIFORNIA.

SECTION 9.06. WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT NOT PROHIBITED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT. EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

SECTION 9.07. Jurisdiction; Consent to Service of Process.

(a) Each party hereto hereby irrevocably and unconditionally submits, for itself and its property, to the nonexclusive jurisdiction of any California court or federal court of the United States of America sitting in Los Angeles County, and any appellate court from any thereof, in any action or proceeding arising out of or relating to this Agreement, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in California or, to the extent permitted by law, in such federal court. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement shall affect any right that any party hereto may otherwise have to bring any action or proceeding relating to this Agreement in the courts of any jurisdiction.

(b) Each party hereto hereby irrevocably and unconditionally waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement in any California or federal court located in Los Angeles County, California. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(c) Each party to this Agreement irrevocably consents to service of process in the manner provided for notices in Section 8.10. Nothing in this Agreement will affect the right of any party to this Agreement to serve process in any other manner permitted by law.

SECTION 9.08. Notices. All notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile, addressed to the recipients at their addresses set forth below, or, as to each party, at such other address as may be designated by such party in a written notice to all of the other parties. All notices and other communications given to any party hereto in accordance with the provisions of this Agreement shall be deemed to have been given on the date of receipt.

If to FastPay:

FPP Finance LLC
8201 Beverly Blvd., Suite 600
Los Angeles, California 90048
Attn: Legal Department

If to Non-ABL Creditor:

BRF Finance Co., LLC
299 Park Avenue, 21st Floor
New York, NY 10171
Attn: Daniel Shribman, President

SECTION 9.09. Further Assurances. Each Secured Party agrees that it will take such further action and will execute and deliver such additional documents and instruments (in recordable form, if requested) as any Secured Party may reasonably request to effectuate the terms of and the relative Lien priorities contemplated by this Agreement.

SECTION 9.10. Binding on Successors and Assigns. This Agreement shall be binding upon each Secured Party and their respective successors and assigns. Each Secured Party shall cause any applicable assignee of the FastPay Obligations or Non-ABL Creditor Obligations, as applicable, to execute a joinder to this Agreement as a condition of any such assignment.

SECTION 9.11. Specific Performance. Each Secured Party may demand specific performance of this Agreement. Each Secured Party hereby irrevocably waives any defense based on the adequacy of a remedy at law and any other defense that might be asserted to bar the remedy of specific performance in any action that may be brought by any other Secured Party.

SECTION 9.12. Headings. Article and Section headings in this Agreement are included herein for convenience of reference only and shall not constitute a part of this Agreement for any other purpose or be given any substantive effect.

SECTION 9.13. Counterparts. This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. Delivery of an executed counterpart of a signature page of this Agreement or any document or instrument delivered in connection herewith by facsimile or other electronic transmission shall be effective as delivery of a manually executed counterpart of this Agreement or such other document or instrument, as applicable.

SECTION 9.14. Authorization. By its signature, each Person executing this Agreement on behalf of a party hereto represents and warrants to the other parties hereto that it is duly authorized to execute this Agreement.

SECTION 9.15. Non-ABL Creditor as Agent for Non-ABL Lenders. Non-ABL Creditor agrees, represents, and warrants that: (a) it has the authority to bind and does so bind each "Purchaser" under the Non-ABL Creditor Agreement and (b) it acts as the agent and collateral agent for each "Purchaser" under the Non-ABL Creditor Agreement in connection with the Transaction Documents. Non-ABL Creditor agrees and acknowledges that each reference herein to "Non-ABL Creditor" shall be deemed a reference to "Non-ABL Creditor as agent on behalf of each Purchaser under the Non-ABL Creditor Agreement".

SECTION 9.16. No Third Party Beneficiaries. This Agreement and the rights and benefits hereof shall inure to the benefit of each of the parties hereto and its respective successors and assigns, including each Secured Party. No other Person, including Borrower, any debtor-in-possession, or any trustee in any Insolvency Proceeding, shall have or be entitled to assert rights or benefits hereunder.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the date first above written.

FPP FINANCE LLC,

By: /s/ Secil Baysal

Name: Secil Baysal

Title: President

BRF FINANCE CO., LLC, on behalf of itself and each "Purchaser" under
the Non-ABL Creditor Agreement

By: /s/ Bryant R. Riley

Name: Bryant R. Riley

Title: Chief Executive Officer

[Signature Page – Intercreditor Agreement]

AMENDMENT NO. 1 TO INTERCREDITOR AGREEMENT

This AMENDMENT NO. 1 TO INTERCREDITOR AGREEMENT (this "Amendment") is dated as of March 24, 2020, by and between FPP FINANCE LLC ("FastPay") and BR F FINANCE CO., LLC, on behalf of itself and as agent for the Purchasers under the Non-ABL Creditor Agreement ("Non-ABL Creditor"). All defined terms used but not defined herein shall have the meaning ascribed to such term in the Intercreditor Agreement (as defined below).

WHEREAS, FastPay and Non-ABL Creditor entered into an Intercreditor Agreement dated as of February 24, 2020 (the "Intercreditor Agreement"); and

WHEREAS, the parties wish to amend the Intercreditor Agreement to clarify that the NonABL Creditor Agreement is being amended and restated for the second time.

NOW, THEREFORE, in consideration of the foregoing and the covenants and agreements contained herein, and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, each of FastPay and Non-ABL Creditor hereby agrees as follows:

1. Section 1.02 of the Intercreditor Agreement is hereby amended by deleting the definition of "Non-ABL Creditor Agreement" therein and replacing such definition with the following:

"Non-ABL Creditor Agreement" means that certain Second Amended and Restated Note Purchase Agreement dated on or around March 24, 2020 by and among Parent, the guarantors from time to time party thereto, each of the Purchasers from time to time party thereto, and Non-ABL Creditor, as amended from time to time (including following the commencement of any Insolvency Proceeding).

Except as expressly set forth above, all of the terms and conditions of the Intercreditor Agreement shall continue in full force and effect after the execution of this Amendment and shall not be in any way changed, modified or superseded by the terms set forth herein.

This Amendment may be executed in two or more counterparts and by facsimile or ".pdf" signature or otherwise, and each of such counterparts shall be deemed an original and all of such counterparts together shall constitute one and the same agreement.

[remainder of page intentionally blank]

IN WITNESS WHEREOF, the parties hereto have duly executed this Amendment as of the date first above written.

FPP FINANCE LLC

By: /s/ Secil Baysal

Name: Secil Baysal

Title: President

BRF FINANCE CO., LLC, on behalf of itself and each "Purchaser" under
the Non-ABL Creditor Agreement

By: /s/ Daniel Shribman

Name: Daniel Shribman

Title: CIO

Acknowledged and agreed:

THEMAVEN, INC.
MAVEN MEDIA BRANDS, LLC
MAVEN COALITION, INC.
THESTREET, INC.

By: /s/ Douglas B. Smith

Name: Douglas B. Smith

Title: CFO

[acknowledgment to Amendment to Intercreditor Agreement]

**Certification of Chief Executive Officer
Pursuant to Rule 13a-14(a) under the Securities Exchange Act of 1934**

I, Ross Levinsohn, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of theMaven, Inc. for the three months ended March 31, 2020 (collectively, this “Report”);
2. Based on my knowledge, this Report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this Report;
3. Based on my knowledge, the financial statements, and other financial information included in this Report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this Report;
4. The registrant’s other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this Report is being prepared;
 - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) Evaluated the effectiveness of the registrant’s disclosure controls and procedures and presented in this Report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this Report based on such evaluation; and
 - d) Disclosed in this Report any change in the registrant’s internal control over financial reporting that occurred during the Company’s most recent fiscal quarter (the registrant’s fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant’s internal control over financial reporting; and
5. The registrant’s other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant’s auditors and the audit committee of the registrant’s board of directors (or persons performing the equivalent functions):
 - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant’s ability to record, process, summarize and report financial information; and
 - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant’s internal control over financial reporting.

Date: May 7, 2021

/s/ Ross Levinsohn

Ross Levinsohn
Chief Executive Officer

**Certification of Chief Executive Officer
Pursuant to Rule 13a-14(a) under the Securities Exchange Act of 1934**

I, Douglas Smith, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of theMaven, Inc. for the three months ended March 31, 2020 (collectively, this “Report”);
2. Based on my knowledge, this Report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this Report;
3. Based on my knowledge, the financial statements, and other financial information included in this Report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this Report;
4. The registrant’s other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this Report is being prepared;
 - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) Evaluated the effectiveness of the registrant’s disclosure controls and procedures and presented in this Report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this Report based on such evaluation; and
 - d) Disclosed in this Report any change in the registrant’s internal control over financial reporting that occurred during the Company’s most recent fiscal quarter (the registrant’s fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant’s internal control over financial reporting; and
5. The registrant’s other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant’s auditors and the audit committee of the registrant’s board of directors (or persons performing the equivalent functions):
 - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant’s ability to record, process, summarize and report financial information; and
 - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant’s internal control over financial reporting.

Date: May 7, 2021

/s/ Douglas B. Smith

Douglas B. Smith
Chief Financial Officer

**Certification of Chief Executive Officer
Pursuant to Section 1350 of Chapter 63 of Title 18 of the United States Code**

Pursuant to U.S.C. Section 1350, as created by Section 906 of the Sarbanes-Oxley Act of 2002, the undersigned Chief Executive Officer of theMaven, Inc. (the "Company") does hereby certify, to the best of such officer's knowledge, that:

1. This Quarterly Report on Form 10-Q of the Company for the three months ended March 31, 2020 (the "Report"), fully complies with the requirements of Section 13(a) or Section 15(d), as applicable, of the Securities Exchange Act of 1934, as amended; and
2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: May 7, 2021

By: /s/ Ross Levinsohn

Ross Levinsohn
Chief Executive Officer

The certifications set forth above are being furnished as an exhibit solely pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, and shall not be deemed to be "filed" for purposes of Section 18 of the Securities Exchange Act of 1934, as amended, nor shall they be deemed incorporated by reference in any filing under the Securities Act of 1933, as amended.

A signed original of this written statement required by Section 906, or other document authenticating, acknowledging or otherwise adopting the signature that appears in typed form within the electronic version of this written statement required by Section 906, has been provided to theMaven, Inc. and will be retained by theMaven, Inc. and furnished to the Securities and Exchange Commission or its staff upon request.

Certification of Chief Financial Officer
Pursuant to Section 1350 of Chapter 63 of Title 18 of the United States Code

Pursuant to U.S.C. Section 1350, as created by Section 906 of the Sarbanes-Oxley Act of 2002, the undersigned Chief Financial Officer of theMaven, Inc. (the "Company") does hereby certify, to the best of such officer's knowledge, that:

1. This Quarterly Report on Form 10-Q of the Company for the three months ended March 31, 2020 (the "Report"), fully complies with the requirements of Section 13(a) or Section 15(d), as applicable, of the Securities Exchange Act of 1934, as amended; and
2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: May 7, 2021

By: /s/ Douglas B. Smith

Douglas B. Smith
Chief Financial Officer

The certifications set forth above are being furnished as an exhibit solely pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, and shall not be deemed to be "filed" for purposes of Section 18 of the Securities Exchange Act of 1934, as amended, nor shall they be deemed incorporated by reference in any filing under the Securities Act of 1933, as amended.

A signed original of this written statement required by Section 906, or other document authenticating, acknowledging or otherwise adopting the signature that appears in typed form within the electronic version of this written statement required by Section 906, has been provided to theMaven, Inc. and will be retained by theMaven, Inc. and furnished to the Securities and Exchange Commission or its staff upon request.
