

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

FORM 10-Q

(Mark One)

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

For the quarterly period ended September 30, 2020

or

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: 001-38608

Summit Wireless Technologies, Inc.

(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction of incorporation or organization)

30-1135279

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

6840 Via Del Oro, Ste. 280

San Jose, CA 95119

(Address of principal executive offices) (Zip Code)

(408) 627-4716

(Registrant's telephone number, including area code)

N/A

(Former name, former address and former fiscal year, if changed since last report)

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

Title of each class	Trading symbol(s)	Name of each exchange on which registered
Common Stock, par value \$0.0001 per share	WISA	The Nasdaq Capital Market

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. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer

Non-accelerated filer

Accelerated filer

Smaller reporting company

Emerging growth company

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

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

The number of shares of the registrant's common stock outstanding as of November 9, 2020 is 7,822,375.

SUMMIT WIRELESS TECHNOLOGIES, INC.
QUARTERLY REPORT ON FORM 10-Q
For the quarter ended September 30, 2020

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PART I: FINANCIAL INFORMATION

Item 1. Financial Statements

Summit Wireless Technologies, Inc.

Condensed Consolidated Balance Sheets
(in thousands, except share and per share data)

	<u>September 30, 2020</u>	<u>December 31, 2019</u>
	(unaudited)	(1)
Assets		
Current Assets:		
Cash and cash equivalents	\$ 9,104	\$ 298
Accounts receivable	246	108
Inventories	2,576	2,666
Prepaid expenses and other current assets	863	944
Total current assets	<u>12,789</u>	<u>4,016</u>
Property and equipment, net	125	84
Intangible assets, net	3	28
Other assets	109	94
Total assets	<u>\$ 13,026</u>	<u>\$ 4,222</u>
Liabilities, Convertible Preferred Stock and Stockholders' Equity		
Current Liabilities:		
Accounts payable	\$ 946	\$ 1,554
Accrued liabilities	939	1,146
Borrowings, current portion	71	-
Total current liabilities	<u>1,956</u>	<u>2,700</u>
Capital lease liabilities	45	-
Borrowings	776	-
Derivative liability	387	387
Warrant liability	-	24
Total liabilities	<u>3,164</u>	<u>3,111</u>
Commitments and contingencies (Note 8)		
Series A 8% Senior Convertible Preferred Stock, par value \$0.0001; 1,250,000 shares authorized; 250,000 shares issued and outstanding as of September 30, 2020 and December 31, 2019, (liquidation preference of \$1,116,000 and \$1,056,000)	<u>577</u>	<u>517</u>
Stockholders' Equity:		
Common stock, par value \$0.0001; 200,000,000 shares authorized; 7,822,375 and 1,245,238 shares issued and outstanding as of September 30, 2020 and December 31, 2019, respectively	1	-
Additional paid-in capital	206,030	188,320
Accumulated other comprehensive loss	-	(48)
Accumulated deficit	(196,746)	(187,678)
Total stockholders' equity	<u>9,285</u>	<u>594</u>
Total liabilities, convertible preferred stock and stockholders' equity	<u>\$ 13,026</u>	<u>\$ 4,222</u>

(1) The condensed consolidated balance sheet as of December 31, 2019 was derived from the audited consolidated balance sheet as of that date.

Note: Share amounts have been retroactively adjusted to reflect the impact of a 1-for-20 reverse stock split effected in April 2020, as discussed in Note 2.

The accompanying notes are an integral part of these condensed consolidated financial statements.

Summit Wireless Technologies, Inc.

Condensed Consolidated Statements of Operations
 For the three and nine months ended September 30, 2020 and 2019
 (in thousands, except share and per share data)
 (unaudited)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2020	2019	2020	2019
Revenue, net	\$ 607	\$ 419	\$ 1,366	\$ 1,236
Cost of revenue	503	387	1,187	1,124
Gross profit	104	32	179	112
Operating Expenses:				
Research and development	1,240	1,429	3,278	4,195
Sales and marketing	835	694	2,043	2,119
General and administrative	1,014	588	2,512	1,860
Total operating expenses	3,089	2,711	7,833	8,174
Loss from operations	(2,985)	(2,679)	(7,654)	(8,062)
Interest expense	(5)	-	(1,394)	-
Change in fair value of warrant liability	-	18	24	193
Change in fair value of derivative liability	-	-	-	(171)
Other expense, net	-	(47)	(41)	(50)
Loss before provision for income taxes	(2,990)	(2,708)	(9,065)	(8,090)
Provision for income taxes	-	-	3	7
Net loss	(2,990)	(2,708)	(9,068)	(8,097)
Convertible preferred stock dividend	(20)	(20)	(60)	(36)
Deemed dividend from warrant repricing	-	-	(134)	-
Net loss attributable to common stockholders	\$ (3,010)	\$ (2,728)	\$ (9,262)	\$ (8,133)
Net loss per common share - basic and diluted	\$ (0.39)	\$ (2.75)	\$ (2.15)	\$ (9.29)
Weighted average number of common shares used in computing net loss per common share	7,709,692	993,591	4,304,721	875,097

Note: Share amounts have been retroactively adjusted to reflect the impact of a 1-for-20 reverse stock split effected in April 2020, as discussed in Note 2.

The accompanying notes are an integral part of these condensed consolidated financial statements.

Summit Wireless Technologies, Inc.

Condensed Consolidated Statements of Comprehensive Loss
For the three and nine months ended September 30, 2020 and 2019
(in thousands)
(unaudited)

	<u>Three Months Ended September 30,</u>		<u>Nine Months Ended September 30,</u>	
	<u>2020</u>	<u>2019</u>	<u>2020</u>	<u>2019</u>
Net loss	\$ (2,990)	\$ (2,708)	\$ (9,068)	\$ (8,097)
Other comprehensive loss, net of tax:				
Foreign currency translation adjustment	-	-	-	(13)
Comprehensive loss	<u>\$ (2,990)</u>	<u>\$ (2,708)</u>	<u>\$ (9,068)</u>	<u>\$ (8,110)</u>

The accompanying notes are an integral part of these condensed consolidated financial statements.

Summit Wireless Technologies, Inc.

Condensed Consolidated Statements of Convertible Preferred Stock and Stockholders' Equity (Deficit)

For the three and nine months ended September 30, 2020 and 2019

(in thousands, except share data)

(unaudited)

	Convertible Preferred Stock		Common Shares		Additional Paid-in Capital	Accumulated Other Comprehensive Loss	Accumulated Deficit	Total Stockholders' Equity (Deficit)
	Shares	Amount	Shares	Amount				
Balance as of December 31, 2019	250,000	\$ 517	1,245,238	\$ -	\$ 188,320	\$ (48)	\$ (187,678)	594
Issuance of common stock and warrants, net of offering costs	-	-	91,062	-	725	-	-	725
Issuance of common stock in connection with notes payable	-	-	500	-	4	-	-	4
Issuance of warrants in connection with convertible notes payable	-	-	-	-	630	-	-	630
Convertible preferred stock dividend	-	20	-	-	(20)	-	-	(20)
Stock-based compensation	-	-	2,000	-	75	-	-	75
Restricted stock awards cancelled	-	-	(550)	-	-	-	-	-
Release of restricted common stock	-	-	353	-	-	-	-	-
Net loss	-	-	-	-	-	-	(2,680)	(2,680)
Balance as of March 31, 2020	250,000	537	1,338,603	-	189,734	(48)	(190,358)	(672)
Issuance of common stock, prefunded warrants and warrants, net of public offering costs	-	-	1,525,000	-	5,515	-	-	5,515
Proceeds from the exercise of prefunded warrants and common stock warrants	-	-	485,000	-	37	-	-	37
Issuance of common stock, net of shelf offering costs	-	-	4,315,000	1	9,957	-	-	9,958
Issuance of common stock in connection with settlements	-	-	60,250	-	135	-	-	135
Deemed dividend from warrant down-round provision	-	-	-	-	(134)	-	-	(134)
Warrant repricing	-	-	-	-	134	-	-	134
Convertible preferred stock dividend	-	20	-	-	(20)	-	-	(20)
Stock-based compensation	-	-	2,000	-	72	-	-	72
Restricted stock awards cancelled	-	-	(2,500)	-	-	-	-	-
Gain on foreign currency translation from closure of subsidiary	-	-	-	-	-	48	-	48
Net loss	-	-	-	-	-	-	(3,398)	(3,398)
Balance as of June 30, 2020	250,000	557	7,723,353	1	205,430	-	(193,756)	11,675
June 2020 shelf offering - issuance costs	-	-	-	-	(42)	-	-	(42)
Convertible preferred stock dividend	-	20	-	-	(20)	-	-	(20)
Stock-based compensation	-	-	98,669	-	662	-	-	662
Release of vested restricted common stock	-	-	353	-	-	-	-	-
Net loss	-	-	-	-	-	-	(2,990)	(2,990)
Balance as of September 30, 2020	250,000	\$ 577	7,822,375	\$ 1	\$ 206,030	\$ -	\$ (196,746)	\$ 9,285

	Convertible Preferred Stock		Common Shares		Additional Paid-in Capital	Accumulated Other Comprehensive Loss	Accumulated Deficit	Total Stockholders' Equity
	Shares	Amount	Shares	Amount				
Balance as of December 31, 2018	-	\$ -	769,890	\$ -	\$ 179,503	\$ (45)	\$ (175,640)	\$ 3,818
Release of vested restricted common stock	-	-	6,193	-	(65)	-	-	(65)
Issuance of warrants for common stock	-	-	-	-	-	-	-	-
Currency translation adjustment	-	-	-	-	-	(11)	-	(11)
Net loss	-	-	-	-	-	-	(2,565)	(2,565)
Balance as of March 31, 2019	-	-	776,083	-	179,438	(56)	(178,205)	1,177
Proceeds from issuance of preferred stock and common stock warrants, net of issuance costs	250,000	720	-	-	200	-	-	200
Fair value of derivative liability in connection with issuance of preferred stock	-	(216)	-	-	-	-	-	-
Issuance of warrants for common stock in connection with preferred stock offering	-	(43)	-	-	43	-	-	43
Accretion of preferred stock dividend	-	16	-	-	(16)	-	-	(16)
Proceeds from issuance of common stock, net of issuance costs	-	-	203,786	-	4,664	-	-	4,664
Issuance of common stock for services	-	-	8,077	-	234	-	-	234
Currency translation adjustment	-	-	-	-	-	(2)	-	(2)
Net loss	-	-	-	-	-	-	(2,824)	(2,824)
Balance as of June 30, 2019	250,000	477	987,946	-	184,563	(58)	(181,029)	3,476
Issuance of warrants for common stock for services	-	-	-	-	46	-	-	46
Accretion of preferred stock dividend	-	20	-	-	(20)	-	-	(20)
Issuance of common stock upon warrant exercise	-	-	4,176	-	67	-	-	67
Release of vested restricted common stock	-	-	20,514	-	(22)	-	-	(22)
Stock based compensation	-	-	11,000	-	10	-	-	10
Issuance of common stock for services	-	-	563	-	12	-	-	12
Change in fair value of common stock warrants upon repricing	-	-	-	-	46	-	-	46
Net loss	-	-	-	-	-	-	(2,708)	(2,708)
Balance as of September 30, 2019	250,000	\$ 497	1,024,199	\$ -	\$ 184,702	\$ (58)	\$ (183,737)	\$ 907

Note: Share amounts have been retroactively adjusted to reflect the impact of a 1-for-20 reverse stock split effected in April 2020, as discussed in Note 2.

The accompanying notes are an integral part of these condensed consolidated financial statements.

Summit Wireless Technologies, Inc.

Condensed Consolidated Statements of Cash Flows
For the nine months ended September 30, 2020 and 2019
(in thousands, except share and per share data)
(unaudited)

	Nine Months Ended September 30,	
	2020	2019
Cash flows from operating activities:		
Net loss	\$ (9,068)	\$ (8,097)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation and amortization	46	43
Stock-based compensation	809	10
Amortization of intangible asset	25	25
Amortization of debt discounts	1,389	-
Expense related to common stock issued in settlements	135	-
Change in fair value of warrant liability	(24)	(193)
Change in fair value of derivative liability	-	171
Gain on foreign currency translation from closure of subsidiary	48	296
Change in fair value of common stock warrants upon repricing	-	46
Changes in operating assets and liabilities:		
Accounts receivable	(138)	28
Inventories	90	(653)
Prepaid expenses and other assets	66	(481)
Accounts payable	(643)	164
Accrued liabilities	(234)	187
Accrued interest	-	-
Net cash used in operating activities	<u>(7,499)</u>	<u>(8,454)</u>
Cash flows from investing activities:		
Purchases of property and equipment	(15)	(31)
Net cash used in investing activities	<u>(15)</u>	<u>(31)</u>
Cash flows from financing activities:		
Proceeds from issuance of common stock, prefunded warrants and warrants, net of issuance costs	6,240	4,664
Proceeds from issuance of common stock, net of shelf offering costs	9,951	-
Proceeds from the issuance of preferred stock and common stock warrants, net of issuance costs	-	920
Proceeds from the exercise of prefunded warrants and common stock warrants, net of issuance costs	37	67
Proceeds from issuance of promissory notes	847	-
Proceeds from issuance of convertible notes payable, net of issuance costs	1,396	-
Repayment of convertible notes payable	(2,151)	-
Taxes paid related to net share settlements of equity awards	-	(87)
Net cash provided by financing activities	<u>16,320</u>	<u>5,564</u>
Effect of exchange rate changes on cash and cash equivalents	-	(13)
Net increase (decrease) in cash and cash equivalents	<u>8,806</u>	<u>(2,934)</u>
Cash and cash equivalents as of beginning of period	298	3,218
Cash and cash equivalents as of end of period	<u>\$ 9,104</u>	<u>\$ 284</u>
Supplemental disclosure of cash flow information:		
Cash paid for interest	\$ 352	\$ -
Cash paid for income taxes	<u>\$ 3</u>	<u>\$ 7</u>
Noncash Investing and Financing Activities:		
Issuance of warrants in connection with convertible notes payable	\$ 630	\$ -
Issuance of common stock in connection with convertible notes payable	\$ 4	\$ -
Issuance of warrants in connection with common stock offerings	\$ 8,354	\$ -
Issuance of common stock warrants in connection with preferred stock offering	\$ -	\$ 243
Issuance of warrants in connection with public offering	\$ -	\$ 70
Fair value of derivative liability in connection with issuance of convertible preferred stock	\$ -	\$ 216
Deemed dividend from warrant repricing	\$ (134)	\$ -
Warrant repricing	\$ 134	\$ -
Convertible preferred stock dividend	\$ 60	\$ 36
Issuance costs for shelf offering of common stock in accounts payable	\$ 35	\$ -
Property and equipment purchased through capital lease	<u>\$ 72</u>	<u>\$ -</u>

The accompanying notes are an integral part of these condensed consolidated financial statements.

SUMMIT WIRELESS TECHNOLOGIES, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

For the Nine Months Ended September 30, 2020 and 2019
(unaudited)

1. Business and Viability of Operations

Summit Wireless Technologies, Inc. (together with its subsidiaries also referred to herein as “we”, “us”, “our”, or the “Company”) was originally formed as a limited liability company in Delaware on July 23, 2010. The Company develops wireless audio semiconductors and modules for consumer electronics companies to enable mainstream consumers and audio enthusiasts to experience high quality audio.

Nasdaq Notification

On November 18, 2019, we were officially notified by The Nasdaq Capital Market, Inc. (“Nasdaq”) that we did not comply with Nasdaq Listing Rule 5550(b), which requires a minimum \$2,500,000 stockholders’ equity (the “Stockholders’ Equity Requirement”), among other continued listing criteria. We were required to submit to Nasdaq a plan to regain compliance with the Stockholders’ Equity Requirement for consideration by the Nasdaq Listing Qualifications staff (“Nasdaq Staff”) by no later than January 2, 2020. On January 2, 2020, we submitted a plan to regain compliance (the “Compliance Plan”) to the Nasdaq Staff. On March 23, 2020, the Nasdaq Staff accepted the Compliance Plan and granted us an extension period pursuant to which we must regain compliance with the Nasdaq Listing Rule 5550(b). Among other things, the terms of such extension include that the Company must complete an equity raise on or before May 18, 2020, and must publicly disclose on a Current Report on Form 8-K our prior non-compliance with Nasdaq Listing Rule 5550(b) and the terms of such equity raise enabling us to regain compliance with such rule, which Current Report on Form 8-K was filed with the SEC on April 24, 2020. Notwithstanding the terms of such extension period, if we fail to evidence compliance with Nasdaq Listing Rule 5550(b) upon the filing of our periodic report for the period ended June 30, 2020, the Nasdaq Staff will provide written notification that our common stock will be delisted from Nasdaq; however, we may appeal such delisting determination to Nasdaq’s hearing panel. On May 11, 2020, we filed a Form 8-K, stating that we believe we had regained compliance with the Stockholders’ Equity Requirement. Additionally, on August 13, 2020, we filed our quarterly report for the three months ended June 30, 2020, demonstrating stockholders’ equity of \$11.7M, which was over the minimum equity requirement for continued listing.

On March 24, 2020, we were officially notified by Nasdaq that we did not comply with Listing Rule 5605 (the “Audit Committee Rule”), which requires that the audit committee of the Company’s board of directors include at least three independent directors. In accordance with Nasdaq’s Listing Rules, we were granted a cure period in order to regain compliance with the Audit Committee Rule by (i) the earlier of (x) our next annual stockholders’ meeting or (y) February 10, 2021 or (ii) if such annual stockholders’ meeting is held before August 10, 2020, then we were required to evidence compliance with the Audit Committee Rule no later than that date.

On April 24, 2020, the Company announced that it received written notification from Nasdaq that the Company regained compliance with Nasdaq’s minimum bid price requirement of at least \$1.00 per share under Nasdaq Listing Rule 5550(a)(2) for continued listing on The Nasdaq Capital Market. The Company had previously been notified by Nasdaq on October 16, 2019, that the Company’s closing bid price per share had been below \$1.00 for a period of 30 consecutive business days and that the Company did not meet the minimum bid price requirement under Nasdaq Listing Rule 5550(a)(2). According to the notification letter, the Company had 180 days to regain compliance by meeting or exceeding the minimum bid price for a period of at least 10 consecutive trading days, but the closing bid price of the Company’s common stock did not satisfy this requirement. On April 24, 2020, however, Nasdaq notified the Company that it has determined that the closing bid price of the Company’s common stock for the 10 consecutive business days from April 9, 2020 through April 23, 2020 had been at least \$1 per share. Accordingly, the Company regained compliance with the minimum bid price requirement, and the matter is closed.

On June 24, 2020, Nasdaq notified the Company that it has determined that the Company is in compliance with the Audit Committee Rule and the matter has been closed.

SUMMIT WIRELESS TECHNOLOGIES, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

For the Nine Months Ended September 30, 2020 and 2019
(unaudited)

1. Business and Viability of Operations, continued

Liquidity and management plans

The condensed consolidated financial statements of the Company have been prepared on a going concern basis, which contemplates the realization of assets and the discharge of liabilities in the normal course of business. The Company has incurred net operating losses each year since inception. As of September 30, 2020, the Company had cash and cash equivalents of \$9.1 million, an accumulated deficit of \$196.7 million and reported net cash used in operations of \$7.5 million during the nine months ended September 30, 2020. The Company expects operating losses to continue in the foreseeable future because of additional costs and expenses related to research and development activities, plans to expand its product portfolio, and increase its market share. The Company's ability to transition to attaining profitable operations is dependent upon achieving a level of revenues adequate to support its cost structure. Based on current operating levels, the Company will need to raise additional funds by selling additional equity or incurring debt. To date, the Company has not generated significant revenues and has funded its operations primarily through sales of its common stock in public markets, sales of common and preferred units prior to its initial public offering ("IPO") and proceeds from convertible notes. The Company also obtained a loan of \$847,000, pursuant to the Paycheck Protection Program under Division A, Title I of the Coronavirus Aid, Relief, and Economic Security Act, but the use of funds from such loan, by its terms, has been limited to making payroll payments to our employees and other permitted purposes relating to the operation of our business. See Note 4 – Borrowings – Payroll Protection Program Note Agreement. Additionally, future capital requirements will depend on many factors, including the rate of revenue growth, the selling price of the Company's products, the expansion of sales and marketing activities, the timing and extent of spending on research and development efforts and the continuing market acceptance of the Company's products. These factors raise substantial doubt about the Company's ability to continue as a going concern.

Management of the Company intends to raise additional funds through the issuance of equity securities or debt. There can be no assurance that, in the event the Company requires additional financing, such financing will be available at terms acceptable to the Company, if at all. Failure to generate sufficient cash flows from operations, raise additional capital and reduce discretionary spending could have a material adverse effect on the Company's ability to achieve its intended business objectives. As a result, the substantial doubt about the Company's ability to continue as a going concern has not been alleviated. The accompanying condensed consolidated financial statements do not include any adjustments that might be necessary if the Company is unable to continue as a going concern.

2. Summary of Significant Accounting Policies

Basis of Presentation

The accompanying unaudited condensed consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America ("U.S. GAAP") for interim financial information and pursuant to Article 10 of Regulation S-X of the Securities Act of 1933, as amended ("Securities Act"). Accordingly, they do not include all of the information and notes required by U.S. GAAP for complete financial statements. These unaudited condensed consolidated financial statements include all normal and recurring adjustments that, in the opinion of management, are necessary to fairly state the Company's financial position and the results of operations and cash flows. Interim period results are not necessarily indicative of results of operations or cash flows for a full year or any subsequent interim period. The condensed consolidated balance sheet as of December 31, 2019 has been derived from audited consolidated financial statements at that date, but does not include all disclosures required by U.S. GAAP for complete financial statements.

Use of Estimates

The preparation of financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the amounts reported in the financial statements and accompanying notes. Actual results could differ from those estimates.

SUMMIT WIRELESS TECHNOLOGIES, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

For the Nine Months Ended September 30, 2020 and 2019
(unaudited)

2. Summary of Significant Accounting Policies, continued

Reclassification

Certain reclassifications have been made to prior periods' condensed consolidated financial statements to conform to the current period presentation. These reclassifications did not result in any change in previously reported net loss, total assets or stockholders' equity.

Concentration of Credit Risk and Other Risks and Uncertainties

Financial instruments that potentially subject the Company to significant concentrations of credit risk consist primarily of cash and cash equivalents and accounts receivable. Cash and cash equivalents are deposited in demand and money market accounts at one financial institution. At times, such deposits may be in excess of insured limits. The Company has not experienced any losses on its deposits of cash and cash equivalents.

The Company's accounts receivables are derived from revenue earned from customers located throughout the world. When necessary, the Company performs credit evaluations of its customers' financial condition and sometimes requires partial payment in advance of shipping. As of September 30, 2020 and December 31, 2019, there was no allowance for doubtful accounts. As of September 30, 2020, the Company had two customers accounting for 79% and 14% of accounts receivable. As of December 31, 2019, the Company had three customers accounting for 37%, 28% and 20% of accounts receivable. The Company had four customers accounting for 30%, 18%, 15% and 11% of its net revenue for the three months ended September 30, 2020. The Company had one customer accounting for 44% of its net revenue for the nine months ended September 30, 2020. The Company had three customers accounting for 56%, 20% and 17% of its net revenue for the three months ended September 30, 2019. The Company had three customers accounting for 54%, 28% and 11% of its net revenue for the nine months ended September 30, 2019.

The Company's future results of operations involve a number of risks and uncertainties. Factors that could affect the Company's future operating results and cause actual results to vary materially from expectations include, but are not limited to, rapid technological change, continued acceptance of the Company's products, competition from substitute products and larger companies, protection of proprietary technology, strategic relationships and dependence on key individuals.

The Company relies on sole-source suppliers to manufacture some of the components used in its product. The Company's manufacturers and suppliers may encounter problems during manufacturing due to a variety of reasons, any of which could delay or impede their ability to meet demand. The Company is heavily dependent on a single contractor in China for assembly and testing of its products, a single contractor in Japan for the production of its transmit semiconductor chip and a single contractor in China for the production of its receive semiconductor chip.

COVID-19

In March 2020, the World Health Organization characterized the coronavirus ("COVID-19") a pandemic, and the President of the United States declared the COVID-19 outbreak a national emergency. The rapid spread of the pandemic and the continuously evolving responses to combat it have had an increasingly negative impact on the global economy. Given the fact that our products are sold through a variety of distribution channels, we expect that our sales will experience more volatility as a result of the changing and less predictable operational needs of many customers as a result of the COVID-19 pandemic. We are aware that many companies, including many of our customers and suppliers, are reporting or predicting negative impacts from COVID-19 on future operating results. We did observe fluctuating demand for our products and technology between April and September 2020. Although we have not experienced significant supply interruptions to date, certain of our third party manufacturers or suppliers have prioritized and allocated more resources and capacity to supply raw materials to other companies engaged in the study of potential treatments or vaccinations for COVID-19. We have also restricted access to our facilities to personnel and third parties who perform critical activities that must be performed on-site and as a result, most of our personnel currently work remotely. Such remote working policies may negatively impact productivity and disrupt our business operations. In view of the rapidly changing business environment, unprecedented market volatility and heightened degree of uncertainty resulting from COVID-19, we are currently unable to fully determine its future impact on our business. We also cannot be certain how demand may shift over time, as the impacts of the COVID-19 pandemic may go through several phases of varying severity and duration. However, we are monitoring the progression of the pandemic and its potential effect on our financial position, results of operations, and cash flows.

SUMMIT WIRELESS TECHNOLOGIES, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

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2. Summary of Significant Accounting Policies, continued

Convertible Financial Instruments

The Company bifurcates conversion options and warrants from their host instruments and accounts for them as freestanding derivative financial instruments if certain criteria are met. The criteria include circumstances in which (a) the economic characteristics and risks of the embedded derivative instrument are not clearly and closely related to the economic characteristics and risks of the host contract, (b) the hybrid instrument that embodies both the embedded derivative instrument and the host contract is not measured at fair value under otherwise applicable generally accepted accounting principles with changes in fair value reported in earnings as they occur and (c) a separate instrument with the same terms as the embedded derivative instrument would be considered a derivative instrument. An exception to this rule is when the host instrument is deemed to be conventional, as that term is described under applicable U.S. GAAP.

When the Company has determined that the embedded conversion options and warrants should be bifurcated from their host instruments, discounts are recorded for the intrinsic value of conversion options embedded in the instruments based upon the differences between the fair value of the underlying common stock at the commitment date of the transaction and the effective conversion price embedded in the instrument.

Debt discounts under these arrangements are amortized to interest expense using the interest method over the earlier of the term of the related debt or their earliest date of redemption.

Warrants for Shares of Common Stock and Derivative Financial Instruments

Warrants for our shares of common stock and other derivative financial instruments are classified as equity if the contracts (1) require physical settlement or net-share settlement or (2) give the Company a choice of net-cash settlement or settlement in its own shares (physical settlement or net-share settlement). Contracts which (1) require net-cash settlement (including a requirement to net cash settle the contract if an event occurs and if that event is outside the control of the Company), (2) give the counterparty a choice of net-cash settlement or settlement in shares (physical settlement or net-share settlement), or (3) that contain reset provisions that do not qualify for the scope exception are classified as equity or liabilities. The Company assesses classification of its warrants for shares of common stock and other derivatives at each reporting date to determine whether a change in classification between equity and liabilities is required.

The issuance of the convertible notes payable generated a beneficial conversion feature ("BCF"), which arises when a debt or equity security is issued with an embedded conversion option that is beneficial to the investor or in the money at inception because the conversion option has an effective strike price that is less than the market price of the underlying stock at the commitment date. The Company recognized the BCF by allocating the intrinsic value of the conversion option, which is the number of shares of common stock available upon conversion multiplied by the difference between the effective conversion price per share and the fair value of common stock per share on the commitment date, to shares of common stock, resulting in a discount on the convertible debt.

In an equity-classified freestanding financial instrument, as of the date that a down round feature is triggered, the Company measures the fair value of the instrument without the down round feature (that is, before the strike price is reduced) and the fair value of the financial instrument with a strike price that reflects the adjustment from the down round. The incremental difference in the fair value is recorded a deemed dividend. As the Company has an accumulated deficit, the deemed dividend is recorded as a reduction of additional paid-in capital in the unaudited condensed consolidated balance sheet. The Company increases the net loss available to common stockholders by the amount of the deemed dividend.

SUMMIT WIRELESS TECHNOLOGIES, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

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(unaudited)

2. Summary of Significant Accounting Policies, continued

Revenue Recognition

Revenue consists primarily of the sale of the wireless modules. The Company applies the following five steps: (1) identify the contract with a customer, (2) identify the performance obligations in the contract, (3) determine the transaction price, (4) allocate the transaction price to the performance obligations in the contract, and (5) recognize revenue when a performance obligation is satisfied. The Company considers customer purchase orders to be the contracts with a customer. Revenues, net of expected discounts, are recognized when the performance obligations of the contract with the customer are satisfied and when control of the promised goods are transferred to the customer, typically when products, which have been determined to be the only distinct performance obligations, are shipped to the customer. Expected costs of assurance warranties and claims are recognized as expense.

Taxes assessed by a governmental authority that are both imposed on and concurrent with a specific revenue-producing transaction, that are collected by us from a customer and deposited with the relevant government authority, are excluded from revenue. Our revenue arrangements do not contain significant financing components.

Sales to certain distributors are made under arrangements which provide the distributors with price adjustments, price protection, stock rotation and other allowances under certain circumstances. The Company does not provide its customers with a contractual right of return. However, the Company accepts limited returns on a case-by-case basis. These returns, adjustments and other allowances are accounted for as variable consideration. We estimate these amounts based on the expected amount to be provided to customers and reduce revenue recognized. We believe that there will not be significant changes to our estimates of variable consideration.

If a customer pays consideration, or the Company has a right to an amount of consideration that is unconditional before we transfer a good or service to the customer, those amounts are classified as contract liabilities which are included in other current liabilities when the payment is made or it is due, whichever is earlier.

Contract Balances

We receive payments from customers based on a billing schedule as established in our contracts. Contract assets are recorded when we have a conditional right to consideration for our completed performance under the contracts. Accounts receivables are recorded when the right to this consideration becomes unconditional. We do not have any material contract assets as of September 30, 2020 or December 31, 2019.

(in thousands)

	September 30, 2020	December 31, 2019
Contract liabilities	\$ (218)	\$ (451)

During the three and nine months ended September 30, 2020, the Company recognized \$0 and \$436,000, respectively, of revenue that was included in the contract balances as of December 31, 2019.

Revenue by Geographic Area

In general, revenue disaggregated by geography (See Note 10) is aligned according to the nature and economic characteristics of our business and provides meaningful disaggregation of our results of operations. Since we operate in one segment, all financial segment and product line information can be found in the condensed consolidated financial statements.

SUMMIT WIRELESS TECHNOLOGIES, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

For the Nine Months Ended September 30, 2020 and 2019
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2. Summary of Significant Accounting Policies, continued

Comprehensive Loss

Comprehensive loss includes all changes within stockholders' equity that are not the result of transactions with stockholders. Accumulated other comprehensive loss includes the foreign currency translation adjustments arising from the consolidation of the Company's foreign subsidiary and the final closure of the subsidiary.

Foreign Currency

The financial position and results of operations of the Company's foreign operations are measured using currencies other than the U.S. dollar as their functional currencies. Accordingly, for these operations all assets and liabilities are translated into U.S. dollars at the current exchange rates as of the respective balance sheet date. Expense items are translated using the weighted average exchange rates prevailing during the period. Cumulative gains and losses from the translation of these operations' financial statements are reported as a separate component of stockholders' equity, while foreign currency transaction gains or losses, resulting from re-measuring local currency to the U.S. dollar are recorded in the condensed consolidated statement of operations in other expense, net and were not material for the three and nine months ended September 30, 2020 and 2019.

Advertising Costs

Advertising costs are charged to sales and marketing expenses as incurred. Advertising costs for the three and nine months ended September 30, 2020 were \$65,000 and \$81,000, respectively. Advertising costs for the three and nine months ended September 30, 2019 were not material.

Reverse Stock Split

On March 31, 2020, the Company held a special meeting of its stockholders, at which its stockholders approved an amendment to the Company's certificate of incorporation, as amended, to effect a reverse stock split of all of the outstanding shares of common stock at a specific ratio within a range from one-for-four to one-for-twenty, and to grant authorization to the board of directors to determine, in its sole discretion, the specific ratio and timing of the reverse stock split. On April 9, 2020, a 1-for-20 reverse stock split was effected and the condensed consolidated financial statements have been retroactively adjusted. All common stock share numbers, warrants to purchase common stock, prices and exercise prices have been retroactively adjusted to reflect the reverse stock split. The par value of the common stock and the Series A 8% Senior Convertible Preferred Stock, par value \$0.0001 per share (the "Series A Preferred Stock") outstanding and its par value were not adjusted for the reverse stock split. The common stock began trading on a split-adjusted basis on that day under the new CUSIP number 86633R 203.

Net Loss per Common Share

Basic net loss per common share is calculated by dividing the net loss attributable to common stockholders by the weighted average number of shares of common stock outstanding during the period, without consideration for potentially dilutive securities. Diluted net loss per common share is computed by dividing the net loss attributable to common stockholders by the weighted average number of shares of common stock and potentially dilutive common stock equivalents outstanding for the period determined using the treasury-stock and if-converted methods. For purposes of the diluted net loss per common share calculation, convertible preferred stock, warrants for common stock, restricted stock units and shares issuable upon the conversion of convertible notes payable are considered to be potentially dilutive securities.

For the three and nine months ended September 30, 2020, warrants to purchase 7,337,199 shares of common stock, 250,000 shares of convertible preferred stock and 98,669 shares of restricted stock have been excluded from the calculation of net loss per common share because the inclusion would be antidilutive. For the three and nine months ended September 30, 2019, warrants to purchase 8,906,955 shares of common stock, 250,000 shares of preferred stock and 241,132 shares of restricted stock have been excluded from the calculation of net loss per common share because the inclusion would be antidilutive.

SUMMIT WIRELESS TECHNOLOGIES, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

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2. Summary of Significant Accounting Policies, continued

Recently Issued and Adopted Accounting Pronouncements

In August 2018, the Financial Accounting Standards Board (“FASB”) issued Accounting Standards Update (“ASU”) 2018-13, “Fair Value Measurement (Topic 820)”. The FASB developed the amendments to Accounting Standards Codification 820 as part of its broader disclosure framework project, which aims to improve the effectiveness of disclosures in the notes to financial statements by focusing on requirements that clearly communicate the most important information to users of the financial statements. This update eliminates certain disclosure requirements for fair value measurements for all entities, requires public entities to disclose certain new information and modifies some of the existing disclosure requirements. The standard will be effective for fiscal years beginning after December 15, 2019, including interim periods within such fiscal years, with early adoption permitted. The Company adopted this guidance as of January 1, 2020 and the adoption did not have a significant impact on the condensed consolidated financial statements.

Recently Issued and Not Yet Adopted Accounting Pronouncements

In February 2016, the FASB issued ASU 2016-02, “Leases”. The objective of the update is to increase transparency and comparability among organizations by recognizing lease assets and liabilities on the balance sheet for leases with a lease term of more than 12 months. In addition, the update will require additional disclosures regarding key information about leasing arrangements. Under existing guidance, operating leases are not recorded as lease assets and lease liabilities on the balance sheet. In November 2019, the FASB decided to defer the mandatory effective date of ASU 2016-02 to fiscal years beginning after December 15, 2020 for certain entities, including private companies. As an emerging growth company, the Company is allowed to adopt accounting pronouncements at the same time as non-public business entities. As a result, we will adopt the update for our fiscal year beginning after December 15, 2020. The Company is evaluating the impact of ASU 2016-02 on its condensed consolidated financial statements.

In August 2020, the FASB issued ASU 2020-06 "Debt - Debt with Conversion and Other Options (Subtopic 470-20) and Derivatives and Hedging - Contracts in Entity's Own Equity (Subtopic 815-40): Accounting for Convertible Instruments and Contracts in an Entity's Own Equity". This ASU simplifies accounting for convertible instruments by removing major separation models required under current U.S. GAAP. Consequently, more convertible debt instruments will be reported as a single liability instrument and more convertible preferred stock as a single equity instrument with no separate accounting for embedded conversion features. The ASU removes certain settlement conditions that are required for equity contracts to qualify for the derivative scope exception, which will permit more equity contracts to qualify for the exception. The ASU also simplifies the diluted earnings per share (EPS) calculation in certain areas. As an emerging growth company, the Company is allowed to adopt the accounting pronouncement at the same time as non-public business entities. As a result, the Company will adopt the update for its fiscal year beginning after December 15, 2023. The Company is evaluating the impact of ASU 2020-06 on its condensed consolidated financial statements.

We have reviewed other recent accounting pronouncements and concluded they are either not applicable to the business, or no material effect is expected on the condensed consolidated financial statements as a result of future adoption.

3. Balance Sheet Components

Inventories (in thousands):

	September 30, 2020	December 31, 2019
Work in progress	\$ 401	\$ 301
Finished goods	2,175	2,365
Total inventories	<u>\$ 2,576</u>	<u>\$ 2,666</u>

SUMMIT WIRELESS TECHNOLOGIES, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

For the Nine Months Ended September 30, 2020 and 2019
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3. Balance Sheet Components, continued

Property and equipment, net (in thousands):

	September 30, 2020	December 31, 2019
Machinery and equipment	\$ 858	\$ 771
Tooling	11	11
Computer software	89	89
Furniture and fixtures	15	15
Leasehold improvements	11	11
	984	897
Less: Accumulated depreciation and amortization	(859)	(813)
Property and equipment, net	\$ 125	\$ 84

Depreciation and amortization expense for the three months ended September 30, 2020 and 2019 was \$17,000 and \$15,000, respectively. Depreciation and amortization expense for the nine months ended September 30, 2020 and 2019 was \$46,000 and \$43,000, respectively.

Accrued liabilities (in thousands):

	September 30, 2020	December 31, 2019
Accrued vacation	\$ 319	\$ 263
Customer advances	218	451
Accrued audit fees	139	140
Accrued compensation	157	38
Accrued rebate	33	204
Accrued other	73	50
Total accrued liabilities	\$ 939	\$ 1,146

4. Borrowings

Funding Agreement

On January 23, 2020, we entered into a funding agreement, as amended (the "Funding Agreement"), which provided for the issuance to an unaffiliated accredited investor of a convertible promissory note in the principal amount of \$111,100, reflecting a 10% original issue discount, 500 shares of our common stock and a five-year warrant exercisable for 7,936 shares of our common stock at an exercise price of \$9.80 per share in consideration for \$100,000, which was funded on January 24, 2020. Repayment of the convertible promissory note was due 45 days from execution of the Funding Agreement, or March 9, 2020, and the investor was granted a most favored nation right. On March 31, 2020, the outstanding debt owed to such investor pursuant to the Funding Agreement was fully repaid.

During the three and nine months ended September 30, 2020, the Company recognized \$0 and \$20,000, respectively, of interest expense from amortization of debt discounts related to the Funding Agreement.

SUMMIT WIRELESS TECHNOLOGIES, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

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4. Borrowings, continued

Convertible Promissory Note

On March 30, 2020, the Company completed a private placement (the “March 2020 Private Placement”) of a senior secured convertible instrument (the “March 2020 Note”) and a warrant (the “March 2020 Warrant”) to purchase 227,679 shares of common stock at an exercise price of \$6.40 per share, pursuant to which Maxim Group LLC (“Maxim”), acted as placement agent. The March 2020 Note and March 2020 Warrant were issued pursuant to a securities purchase agreement, entered into as of March 22, 2020 (the “March 2020 Purchase Agreement”) by and between the Company and an institutional investor. The March 2020 Private Placement resulted in gross proceeds of \$1,700,000, before fees and other expenses associated with the transaction, including but not limited to, an \$85,000 commitment fee payable to such investor. The net proceeds received by us in connection with the March 2020 Private Placement were used primarily for working capital, debt repayment and general corporate purposes. Additionally, the Company issue a warrant to Maxim to purchase up to an aggregate of 20,400 shares of common stock, subject to adjustment, as partial consideration for serving as placement agent in connection with the March 2020 Private Placement (the “March 2020 Maxim Warrant”).

The March 2020 Note ranked senior to the Company’s existing and future indebtedness and was secured to the extent and as provided in the security agreements entered into between the investor and each of the Company and its wholly-owned subsidiary, in connection with the March 2020 Private Placement. The March 2020 Note was convertible in whole or in part at the option of the Investor into shares of common stock at a conversion price equal to the lesser of (a) 90% of the average of the five lowest daily VWAPs during the previous twenty trading days prior to delivery to the Company of such investor’s applicable notice of conversion and (b) \$6.40, subject to certain adjustments, at any time following the earlier of (i) 60 days from execution of the March 2020 Purchase Agreement and (ii) the date on which a registration statement covering the shares of common stock underlying each of the March 2020 Note and the related warrant is declared effective by the U.S. Securities and Exchange Commission (the “SEC”); however, if the Company entered into an underwriting agreement within 45 days of the date on which the March 2020 Note was issued in connection with an underwritten offering that closes within 45 days of the execution of the Purchase Agreement, such investor may not convert the March 2020 Note prior to the 61st day after the date on which such underwriting agreement was executed.

The March 2020 Note contained full ratchet anti-dilution protection, subject to certain price limitations required by the rules and regulations of Nasdaq and certain exceptions, upon any subsequent transaction at a price lower than the conversion price then in effect and standard adjustments in the event of stock dividends, stock splits, combinations or similar events. Additionally, upon three days’ written notice to the holder after receipt of a notice of conversion, in lieu of delivering shares of common stock upon a conversion, the Company had the right to pay the investor, in cash, an amount equal to 103% of the portion of the outstanding principal amount stated in such notice of conversion. Further, at the investor’s option, the March 2020 Note was convertible into shares of common stock or redeemable for 103% of the portion of the outstanding principal amount to be converted in the event that any transaction causes the conversion price to be lower than as required by Nasdaq rules and regulations. Subject to certain exceptions, commencing on the Conversion Trigger Date (as such term is defined in the March 2020 Note) and for a nine-month period after such date, the investor could convert only up to an aggregate of \$102,000 in outstanding principal amount during any calendar month.

At any time after issuance of the March 2020 Note, the Company could repay all (but not less than all) of the outstanding principal amount of the March 2020 Note upon ten days’ written notice to the investor. If the Company exercised its right to prepay the March 2020 Note, the investor had the right, upon five days written notice to the Company after receipt of the notice of prepayment, to convert up to 33% of the principal amount of the March 2020 Note at the applicable conversion price. The investor also had the right to require the Company to repay 105% of the outstanding principal amount of the March 2020 Note in the event of a Change of Control (as defined in the March 2020 Purchase Agreement).

At any time after the closing date of the March 2020 Private Placement, in the event that the Company issued or sold any shares of common stock or common stock equivalents (as defined in the March 2020 Note), subject to certain exceptions, at an effective price lower than the conversion price then in effect or without consideration, then the conversion price would be reduced to the price per share paid for such shares of common stock or common stock equivalents.

SUMMIT WIRELESS TECHNOLOGIES, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

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4. Borrowings, continued

In connection with the March 2020 Note, the Company issued the March 2020 Warrant to the investor and the March 2020 Maxim Warrant to Maxim, respectively (see Note 6 – Convertible Preferred Stock and Stockholders’ Equity for fair value computation). The sum of the fair value of the March 2020 Warrant and the March 2020 Maxim Warrant, and the original issue discount for interest and issuance costs for the March 2020 Note were recorded as debt discounts to be amortized to interest expense over the respective term using the effective interest method. When the March 2020 Note was paid off (see paragraph below), all remaining debt discounts were recognized as interest expense in the condensed consolidated statement of operations. As a result of two adjustments in the initial conversion price, the Company modified the warrant agreements and recorded a deemed dividend of \$134,000 during the nine months ended September 30, 2020 (See Note 6 – Convertible Preferred Stock and Stockholders’ Equity.)

The March 2020 Note contained several embedded conversion features. The Company determined that there was no significant value to the embedded conversion features as the underlying events to trigger the conversion features were not likely to occur. The Company did not record any embedded conversion liability related to the March 2020 Note.

On April 29, 2020, the outstanding debt of \$2,040,000, owed to the Investor pursuant to the March 2020 Note, was fully repaid. During the three and nine months ended September 30, 2020, the Company recognized \$0 and \$1,389,000 of interest expense from the amortization of debt discounts as a result of the passage of time and the payoff of the March 2020 Note.

Payroll Protection Program Note Agreement

On May 3, 2020, we received a loan (the “PPP Loan”) from Wells Fargo Bank, National Association in the aggregate amount of \$847,000, pursuant to the Paycheck Protection Program (the “PPP”) under Division A, Title I of the Coronavirus Aid, Relief, and Economic Security Act, which was enacted on March 27, 2020. The PPP Loan was funded on May 7, 2020. The PPP Loan, which is in the form of a PPP promissory note and agreement, dated May 3, 2020 (the “PPP Note Agreement”), matures on May 3, 2022 and bears interest at a rate of 1.00% per annum. Pursuant to a change in guidance by the U.S. Small Business Administration, the initial monthly payment date of the PPP Note Agreement was deferred from November 1, 2020 to August 18, 2021. The PPP Loan may be prepaid by us at any time prior to maturity with no prepayment penalties. We have used and intend to continue to use the PPP Loan amount for payroll costs, costs used to continue group health care benefits, rent, and utilities. Under the terms of the PPP Note Agreement, certain amounts of the PPP Loan may be forgiven if they are used for qualifying expenses, as described in the PPP Note Agreement.

5. Fair Value Measurements

The Company measures the fair value of financial instruments using a fair value hierarchy that prioritizes the inputs to valuation techniques used to measure fair value into three broad levels. Each level of input has different levels of subjectivity and difficulty involved in determining fair value.

- Level 1 – Inputs used to measure fair value are unadjusted quoted prices that are available in active markets for the identical assets or liabilities as of the reporting date. Therefore, determining fair value for Level 1 investments generally does not require significant judgment, and the estimation is not difficult.
- Level 2 – Pricing is provided by third-party sources of market information obtained through investment advisors. The Company does not adjust for or apply any additional assumptions or estimates to the pricing information received from its advisors.
- Level 3 – Inputs used to measure fair value are unobservable inputs that are supported by little or no market activity and reflect the use of significant management judgment. These values are generally determined using pricing models for which the assumptions utilize management’s estimates of market participant assumptions. The determination of fair value for Level 3 instruments involves the most management judgment and subjectivity.

SUMMIT WIRELESS TECHNOLOGIES, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

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5. Fair Value Measurements, continued

The Company's financial assets and liabilities that are measured at fair value on a recurring basis as of September 30, 2020 and December 31, 2019 by level within the fair value hierarchy, are as follows:

(in thousands)

	September 30, 2020		
	Quoted prices in active markets	Significant other observable inputs	Significant unobservable inputs
	(Level 1)	(Level 2)	(Level 3)
Liabilities:			
Derivative liability	\$ -	\$ -	\$ 387

(in thousands)

	December 31, 2019		
	Quoted prices in active markets	Significant other observable inputs	Significant unobservable inputs
	(Level 1)	(Level 2)	(Level 3)
Liabilities:			
Derivative liability	\$ -	\$ -	\$ 387
Warrant liability	\$ -	\$ -	\$ 24

There were no transfers between Level 1, 2 or 3 during the three and nine months ended September 30, 2020 or September 30, 2019.

Warrant Liability

The following table includes a summary of changes in fair value of the Company's warrant liability measured at fair value using significant unobservable inputs (Level 3) for the three and nine months ended September 30, 2020 and 2019:

	For the three months ended		For the nine months ended	
	September 30, 2020	September 30, 2019	September 30, 2020	September 30, 2019
Beginning balance	\$ -	\$ 39	\$ 24	\$ 210
Additions	-	-	-	4
Change in fair value	-	(18)	(24)	(193)
Ending balance	\$ -	\$ 21	\$ -	\$ 21

The changes in fair value of the warrant liability are recorded in change in fair value of warrant liability in the condensed consolidated statements of operations.

SUMMIT WIRELESS TECHNOLOGIES, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

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5. Fair Value Measurements, continued

A summary of the weighted average significant unobservable inputs (Level 3 inputs) used in measuring the Company's warrant liability that is categorized within Level 3 of the fair value hierarchy as of September 30, 2020 and December 31, 2019 is as follows:

	As of	
	September 30, 2020	December 31, 2019
Common Stock Price	\$ 1.90	\$ 12.20
Term (Years)	2.51	3.26
Volatility	66%	62%
Risk-free rate of interest	0.15%	1.62%
Dividend Yield	0.0%	0.0%

Derivative Liability

The following table includes a summary of changes in fair value of the Company's derivative liability measured at fair value using significant unobservable inputs (Level 3) for the three and nine months ended September 30, 2020 and 2019:

(in thousands)	For the three months ended		For the nine months ended	
	September 30, 2020	September 30, 2019	September 30, 2020	September 30, 2019
Beginning balance	\$ 387	\$ 387	\$ 387	\$ -
Additions	-	-	-	216
Change in fair value	-	-	-	171
Ending balance	<u>\$ 387</u>	<u>\$ 387</u>	<u>\$ 387</u>	<u>\$ 387</u>

As of September 30, 2020, the Company measured the fair value of the derivative by estimating the fair value of the Series A Preferred Stock as if conversion occurred on September 30, 2020. The Company calculated value of the conversion feature using the Fixed Conversion Price of the Series A Preferred Stock, as adjusted to 95% of the volume weighted average price of the common stock for the previous ten trading days and the specified floor price of \$30.00. There was no change in the fair value of the derivative liability for the nine months ended September 30, 2020 because the volume weighted average price of the common stock was below the specified floor price.

6. Convertible Preferred Stock and Stockholders' Equity

Series A 8% Senior Convertible Preferred Stock

On April 18, 2019, we entered into a Securities Purchase Agreement, dated as of April 18, 2019, with Lisa Walsh (the "Preferred SPA"), pursuant to which we issued 250,000 shares of our Series A Preferred Stock to Ms. Walsh, which shares have a stated value of \$4.00, grant holders the same voting rights as holders of our shares of common stock, and are convertible into shares of our common stock at price of \$80.00 per share, subject to a floor price of \$30.00 and to adjustment under our Certificate of Designations of the Preferences, Rights and Limitations of the Series A Preferred Stock, in consideration for \$1,000,000 (the "Initial Tranche"). The Series A Preferred Stock may be issued in tranches of at least \$500,000 and in an aggregate of up to \$5 million. In connection with the Initial Tranche, the Company also issued to Ms. Walsh a warrant to purchase 12,756 shares of our common stock.

The Series A Preferred Stock contains an embedded conversion feature that the Company has determined is a derivative requiring bifurcation. The fair value of the derivative liability at the issuance of the Series A Preferred Stock was \$216,000, which was recorded as a derivative liability with the offset recorded as a discount to the Series A Preferred Stock. (See Note 5 – Fair Value Measurements for the fair value computation.).

SUMMIT WIRELESS TECHNOLOGIES, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

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6. Convertible Preferred Stock and Stockholders' Equity, continued

The authorized, issued and outstanding shares of Series A Preferred Stock and liquidation preferences as of September 30, 2020, were as follows:

	Number of Shares Authorized	Number of Shares Issued and Outstanding	Proceeds Net of Issuance Costs	Conversion Price per Share	Liquidation Preference
Series A 8 % Senior Convertible Preferred Stock	1,250,000	250,000	\$ 920,000	\$ 80.00	\$ 1,116,000

The Series A Preferred Stock rights, privileges and preferences are as follows:

Dividends — The holders of the Series A Preferred Stock are entitled to receive cumulative dividends at the rate per share of 8% per annum, payable on conversion. The form of the dividend payment on the Series A Preferred Stock will be determined based on the legal availability of funds for the payment and the satisfaction of the Equity Conditions (as defined in the Certificate of Designations) for the 5 consecutive trading days immediately prior to the payment date. The form of the payment, depending on the priority, may be made in cash or shares of common stock at the Company's option. If funds are not available and the Equity Conditions have not been met, the dividends will accrue to the next payment date or accrete to the stated value. The Company accrued dividends of \$20,000 and \$60,000 for the three and nine months ended September 30, 2020, respectively.

Liquidation Rights — In the event of any liquidation, dissolution, or winding-up of the Company, each holder of Series A Preferred Stock is entitled to receive an amount equal to the stated value, plus accrued and unpaid dividends and any other fees or liquidated damages before any distribution will be made to holders of junior securities. If assets are insufficient for such payment, then the entire assets will be distributed only to the holders of the Series A Preferred Stock. A fundamental or change of control transaction is not deemed a liquidation.

Conversion — Each share of Series A Preferred Stock is convertible at the option of the holder into the number of shares of common stock (subject to adjustment for certain events, including dilutive issuances, stock splits, and reclassifications) determined by multiplying such number by the ratio of the stated value (\$4.00) by a conversion price, which price was originally equal to \$4.00 (the "Fixed Conversion Price") and has been adjusted to \$80.00 in connection with the 1-for-20 reverse stock split (see Note 2 – Summary of Significant Accounting Policies). However, if the closing price of the common stock is less than the Fixed Conversion Price, then the Fixed Conversion Price may be reduced to equal 95% of the lowest volume weighted average price of the common stock for the previous 10 trading days, which price shall not be less than \$30.00. Notwithstanding the foregoing, unless the Company obtains stockholder approval pursuant to the rules and regulations of The NASDAQ Capital Market, the Company cannot issue shares of common stock upon conversion of the Series A Preferred Stock in the event that such issuance exceeds 19.99% of the issued and outstanding shares of the Company's common stock as of April 18, 2019 or if such conversion is considered a "change of control" under NASDAQ rules and regulations.

Voting Rights — Each holder has the right to one vote for each share of common stock into which such preferred stock could be converted. So long as any shares of Series A Preferred Stock are outstanding, the Company shall not, without first obtaining the approval of more than 67% of the holders of Series A Preferred Stock then outstanding, voting together as a separate class (a) alter or amend the Certificate of Designations or alter or change adversely the powers, rights or preferences of the Series A Preferred Stock, including amending the Company's certificate of incorporation or other charter documents in any manner adversely affecting the holders of the Series A Preferred Stock; (b) authorize or create any class of stock ranking as to dividends, redemption or distribution of assets upon a liquidation senior to, or otherwise pari passu with, the Series A Preferred Stock; (c) increase the total number of authorized shares of Series A Preferred Stock; or (d) enter into any agreement with respect to any of the foregoing.

SUMMIT WIRELESS TECHNOLOGIES, INC.

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6. Convertible Preferred Stock and Stockholders' Equity, continued

Redemption — The Series A Preferred Stock is not mandatorily redeemable as it does not have a set redemption date or a date after which the shares may be redeemed by the holders. However, if a Triggering Event (as defined in the Certificate of Designations) occurs, then each holder will receive 120% of the aggregate stated value, plus all accrued and unpaid dividends and any other fees or liquidated damages. Additionally, upon such an event, the dividend rate of the Series A Preferred Stock increases to 18% per annum. A Triggering Event is defined as any (1) default on credit obligations; (2) default on payment of certain Series A Preferred Stock payments or a default under the Certificate of Designations and any related transaction document entered into in connection with the issuance of the Series A Preferred Stock; (3) bankruptcy of the Company; (4) ineligibility for listing of the Company's common stock on a trading market; (5) change of control or fundamental transaction entered into by the Company, or other transaction entered into by the Company where more than 51% of the Company's assets are sold; (6) failure of the Company to perform certain regulatory reporting; (7) failure to timely deliver certificates representing shares of common stock upon conversion of the shares of Series A Preferred Stock; (8) failure of the Company to maintain a sufficient number of reserved shares pursuant to the Preferred SPA; and (9) judgment is entered or filed against the Company or its subsidiaries in excess of an aggregate of \$100,000 or the Company or any of its subsidiaries experiences a loss of property in excess of an aggregate of \$100,000. The Company has elected not to adjust the carrying values of the Series A Preferred Stock to the liquidation preferences of such shares because it is uncertain whether or when an event would occur that would obligate the Company to pay the liquidation preferences to holders of shares and at the balance sheet date, these circumstances were not probable. Subsequent adjustments to the carrying values of the liquidation preferences will be made only when it becomes probable that such a liquidation event will occur.

Rights Upon a Subsequent Financing — So long as holders of shares of Series A Preferred Stock hold such shares with an aggregate stated value equal to or exceeding \$250,000, upon any issuance of shares of our common stock, common stock equivalents (as defined in the Preferred SPA), conventional debt or a combination of such securities and/or debt (a "Subsequent Financing"), unless the proposed terms of a Subsequent Financing shall have first been delivered to such holders in reasonable detail and such holders have first been granted the option to purchase such securities pursuant to such terms, such holders have the right to purchase all, and no less than all, of the securities offered to investors in a Subsequent Financing on the same terms, conditions and price provided for in the Subsequent Financing. In addition, so long as holders of shares of Series A Preferred Stock hold such shares with an aggregate stated value equal to or exceeding \$500,000, if we effect a Subsequent Financing, such holders have a right to tender shares of Series A Preferred Stock for the securities offered pursuant to a Subsequent Financing.

Subsequent Equity Sales — In the event that we or any of our subsidiaries issue additional shares of common stock and/or common stock equivalents in connection with a financing pursuant to which the effective price per share for such securities is less than the then conversion price of the Series A Preferred Stock, then subject to certain exceptions set forth in the Certificate of Designations, such conversion price will be reduced to such the effective price of such issued securities.

Common Stock

On January 30, 2018, the Company's board of directors approved the establishment of the Company's 2018 Long-Term Stock Incentive Plan (the "LTIP") and termination of its Carve-Out Plan (the "Plan"). Under the LTIP, the aggregate maximum number of shares of common stock (including shares underlying options) that may be issued under the LTIP pursuant to awards of Restricted Shares or Options will be limited to 15% of the outstanding shares of common stock, which calculation shall be made on the first trading day of each new fiscal year; provided that, in any year no more than 8% of the common stock or derivative securitization with common stock underlying 8% of the common stock may be issued in any fiscal year. Thereafter, the 15% evergreen provision governs the LTIP. For fiscal year 2020, up to 99,619 shares of common stock are available for participants under the LTIP.

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6. Convertible Preferred Stock and Stockholders' Equity, continued

In connection with the termination of the Plan, on January 31, 2018, the Company issued to its employees and directors 64,224 and 7,656 shares of restricted common stock ("January 2018 Restricted Stock Grant"), respectively. Such shares of restricted common stock were granted outside the LTIP's first year share availability pool, are fully vested, and were released to the employees and directors in three tranches at the rate of 33.4%, 33.3% and 33.3% on September 1, 2018, March 1, 2019 and September 1, 2019, respectively. In the event an employee voluntarily resigns, the release dates of the shares will be extended such that only 16.5% of the shares are released every six months, until 100% are released. In the event that a director voluntarily resigns, each of the release dates will be extended six months.

For the three and nine months ended September 30, 2020, 353 and 706 shares of restricted stock were released with an intrinsic value of approximately \$1,000 and \$3,000, respectively. As of September 30, 2020, there were 352 shares of restricted stock remaining under the January 2018 Restricted Stock Grant to be released to a terminated employee in one tranche over the next 5 months.

On January 4, 2019, the Company awarded 20,000 deferred shares to Michael Howse, a member of the Company's board of directors, in connection with a Deferred Shares Agreement under the LTIP. The shares vest immediately prior to a significant change in ownership, defined as a Fundamental Transaction in the agreement. In light of this performance vesting condition, the Company has not recorded any stock compensation expense for the issuance of these shares during the three and nine months ended September 30, 2020 and 2019, respectively.

On September 9, 2019, the Company issued 7,500 shares of restricted common stock to George Oliva, the Company's new Chief Financial Officer, as an inducement grant. Such shares were issued outside the Company's LTIP. The Company will record stock compensation expense over the four-year vest period.

A summary of activity related to restricted stock awards for the nine months ended September 30, 2020 is presented below:

Stock Awards	Shares	Weighted-Average Grant Date Fair Value
Non-vested as of January 1, 2020	47,146	\$ 19.56
Granted	102,669	\$ 2.41
Vested	(48,096)	\$ 18.48
Forfeited	(3,050)	\$ 19.00
Non-vested as of September 30, 2020	98,669	\$ 2.26

As of September 30, 2020, the unamortized compensation costs related to the unvested restricted stock awards was approximately \$210,000 which is to be amortized on a straight-line basis over a weighted-average period of approximately 2.9 years.

SUMMIT WIRELESS TECHNOLOGIES, INC.

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6. Convertible Preferred Stock and Stockholders' Equity, continued

February 2020 Private Placement

On February 28, 2020, the Company completed a private placement (the "February 2020 Private Placement") of 91,062 units (the "Units"), each unit consisting of (i) one (1) share of common stock and (ii) a warrant to purchase 0.50 of a share of common stock (the "February 2020 Warrants"), at a price per Unit of \$9.17. The Units were issued pursuant to a Unit Purchase Agreement, dated February 4, 2020, and a subscription agreement, dated February 28, 2020 by and among the Company and the purchasers' signatory thereto. In connection with the February 2020 Private Placement, we paid Alexander Capital, L.P. ("Alexander") cash fees of \$83,000 and issued to Alexander a warrant to purchase 4,553 shares of common stock (the "February 2020 Alexander Warrant"). Such warrant is exercisable at a per share price of \$8.80 and is exercisable at any time during the five-year period commencing on the date of issuance. The February 2020 Private Placement, which was priced above market, resulted in gross proceeds of \$835,000 before fees and other expenses associated with the transaction. We used the net proceeds of approximately \$725,000 from the offering for working capital purposes and increasing stockholders' equity in order to comply with Nasdaq Listing Rule 5550(b) and for general corporate purposes.

The February 2020 Warrants are exercisable to purchase up to an aggregate of 45,534 shares of common stock commencing on the date of issuance at an exercise price of \$9.80 per share, subject to adjustment upon stock splits, reverse stock splits, and similar capital changes. The February 2020 Warrants are exercisable immediately and will expire on the close of business on February 28, 2025. The exercise of the February 2020 Warrants are subject to beneficial ownership limitations such that each holder of such February 2020 Warrant may exercise it to the extent that such exercise would result in such holder being the beneficial owner in excess of 4.99% (or, upon election of such holder, 9.99%), which beneficial ownership limitation may be increased or decreased up to 9.99% upon notice to us, provided that any increase in such limitation will not be effective until 61 days following notice to us.

The grant date fair value of February 2020 Warrants was \$103,000, which was recorded within stockholders' equity as a cost of issuance and an increase to additional paid-in capital on the accompanying condensed consolidated balance sheet. The fair value of such warrants was determined using the Black-Scholes Model based on the following weighted average assumptions: common stock price on date of grant of \$6.00; expected dividend yield of 0.0%; expected volatility of 59.0%; risk-free interest rate of 0.89% and expected life of 5 years.

The fair value of the February 2020 Alexander Warrant at issuance was \$11,000. The fair value of such warrant was estimated using the Black-Scholes Model based on the following weighted average assumptions: common share price on date of grant \$6.00, expected dividend yield 0%, expected volatility 59%, risk-free interest rate 0.89% and expected life of 5 years. The fair value was recorded within stockholders' equity as a cost of issuance and an increase to additional paid-in capital on the accompanying condensed consolidated balance sheet.

On April 23, 2020, the Company closed an underwritten public offering of 1,525,000 shares of its common stock, pre-funded common stock purchase warrants to purchase up to an aggregate of 475,000 shares of common stock, and common stock purchase warrants to purchase up to an aggregate of 2,000,000 shares of the Company's common stock (the "April 2020 Public Offering"). Each share of common stock or pre-funded common stock purchase warrant was sold together with one common stock purchase warrant to purchase one share of common stock at a combined price to the public of \$3.25 per share and common stock purchase warrant (or \$3.24 per pre-funded common stock purchase warrant and common stock purchase warrant). Gross proceeds before deducting underwriting discounts, commissions and other offering expenses were approximately \$6.5 million. In addition, the Company granted to Maxim a 45-day option to purchase up to an additional 300,000 shares of common stock and/or common stock purchase warrants to purchase up to an aggregate of 300,000 shares of common stock, at the public offering price, less discounts and commissions, of which Maxim has partially exercised its option to purchase additional common stock purchase warrants to purchase up to an aggregate of 229,100 shares of common stock. Each common stock purchase warrant is immediately exercisable for one share of common stock at an exercise price of \$3.25 per share and will expire five years from issuance. The Company also issued a warrant to Maxim to purchase up to 100,000 shares of common stock in connection with the April 2020 Public Offering (the "April 2020 Maxim Warrant"). Such warrant has an exercise price of \$3.90 per share and is fully vested but not exercisable until October 18, 2020.

SUMMIT WIRELESS TECHNOLOGIES, INC.

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6. Convertible Preferred Stock and Stockholders' Equity, continued

On May 14, 2020, we entered into a settlement agreement with Alexander (the "Alexander Settlement Agreement"), pursuant to which, in consideration for Alexander releasing us from all claims against us arising out of that certain engagement agreement, dated February 6, 2020, that we entered into with Alexander (the "Alexander Engagement Agreement"), other than indemnification for certain third-party claims, we agreed to (i) pay Alexander a one-time cash payment of \$125,000 and (ii) issue to Alexander 50,000 shares of our common stock (the "Alexander Settlement Shares") which had a value of approximately \$111,000. We also released Alexander from the same type of claims against Alexander, other than indemnification for certain third-party claims. In connection with the Alexander Settlement Agreement, on May 14, 2020, we also entered into a leak-out agreement with Alexander (the "Alexander Leak-Out Agreement"), pursuant to which Alexander shall not dispose of more than 5,000 shares of common stock in any trading day, commencing on the date of such agreement and ending on the date on which Alexander no longer holds any Alexander Settlement Shares.

On May 18, 2020, we registered for resale, pursuant to a prospectus supplement to our shelf registration statement, an aggregate of 60,250 shares of common stock, 50,000 of which shares were the Alexander Settlement Shares, and the remaining 10,250 of such shares which were issued to one of the Company's vendors pursuant to the Settlement Letter, dated May 12, 2020, by and between us and such vendor.

On June 4, 2020, we entered into a securities purchase agreement (the "June 4th Purchase Agreement") with several accredited investors providing for the issuance of (i) 2,275,000 shares of the Company's common stock and (ii) warrants, with a term of 5.5 years, to purchase an aggregate of up to 2,275,000 shares of common stock at an exercise price of \$2.55 per share, subject to customary adjustments thereunder, which warrants were immediately exercisable upon issuance and on a cashless basis if such warrants have not been registered on or before six months after the date of issuance. Pursuant to the June 4th Purchase Agreement, the investors purchased all of the securities sold thereby for an aggregate purchase price of \$5,801,000. Pursuant to the June 4th Purchase Agreement, an aggregate of 2,275,000 shares of common stock were issued to the investors in a registered direct offering pursuant to a prospectus supplement to the Company's currently effective registration statement on Form S-3, which was declared effective on September 6, 2019. The Company filed the prospectus supplement on June 5, 2020. Maxim acted as the placement agent. The warrants were issued to the investors in a concurrent private placement transaction pursuant to an exemption from the registration requirements of the Securities Act provided in Section 4(a)(2) of the Securities Act and/or Regulation D promulgated thereunder. The Company paid Maxim a fee of approximately \$464,000, which was equal to 8% of the aggregate purchase price paid by investors placed by Maxim and certain expenses. The June 4th Purchase Agreement contains customary representations, warranties and agreements of the Company and the investors and customary indemnification rights and obligations of the parties thereto. The offering of the securities pursuant to the June 4th Purchase Agreement was closed on June 8, 2020. The Company will use the net proceeds from this Offering for working capital, capital expenditures, product development, and other general corporate purposes, including investments in sales and marketing in the United States and internationally.

On June 9, 2020, we entered into a securities purchase agreement (the "June 9th Purchase Agreement") with several accredited investors providing for the issuance of (i) 2,040,000 shares of the Company's common stock and (ii) warrants, with a term of 5.5 years, to purchase an aggregate of up to 2,040,000 shares of common stock at an exercise price of \$2.61 per share, subject to customary adjustments thereunder, which warrants were immediately exercisable upon issuance and on a cashless basis if the Warrants have not been registered on or before six months after the date of issuance. Pursuant to the June 9th Purchase Agreement, the investors purchased all of the securities sold thereby for an aggregate purchase price of \$5,324,000. Pursuant to the June 9th Purchase Agreement, an aggregate of 2,040,000 shares of common stock were issued to the investors in a registered direct offering, pursuant to a prospectus supplement to the Company's currently effective registration statement on Form S-3, which was declared effective on September 6, 2019. The Company filed the prospectus supplement on June 10, 2020. Maxim acted as the placement agent. The warrants were issued to the investors in a concurrent private placement transaction pursuant to an exemption from the registration requirements of the Securities Act provided in Section 4(a)(2) of the Securities Act and/or Regulation D promulgated thereunder. The Company paid Maxim a fee of approximately \$426,000, which was equal to 8% of the aggregate purchase price paid by investors placed by Maxim and certain expenses. The June 9th Purchase Agreement contains customary representations, warranties and agreements of the Company and the investors and customary indemnification rights and obligations of the parties thereto. The offering of the securities pursuant to the June 9th Purchase Agreement was closed on June 11, 2020. The Company will use the net proceeds from this Offering for working capital, capital expenditures, product development, and other general corporate purposes, including investments in sales and marketing in the United States and internationally.

SUMMIT WIRELESS TECHNOLOGIES, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

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6. Convertible Preferred Stock and Stockholders' Equity, continued

Equity Transactions in the three months ended September 30, 2020

2020 Stock Incentive Plan

On July 27, 2020, the board of directors adopted the Company's 2020 Stock Incentive Plan (the "2020 Plan") and the reservation of an aggregate of 650,000 shares of the Company's common stock authorized for issuance under the 2020 Plan, the adoption of which remains subject to stockholder approval. The 2020 Plan authorizes the grant of equity-based compensation to the Company's senior managers, employees, directors, consultants, professionals and service providers in the form of stock options, restricted stock and restricted stock units. On July 27, 2020, the Company also granted, subject to stockholder approval, an aggregate of 614,824 restricted stock units to senior managers, employees, directors, consultants. Each of the awards are scheduled to vest on the first, second, and third anniversaries of August 15, 2020, so long as such award recipient remains in service of the Company on each such anniversary. Each restricted stock unit represents the right to receive one share of the Company's common stock under the 2020 Plan. Notwithstanding the grants of such awards, the 2020 Plan will terminate if the Company does not obtain stockholder approval on or before July 27, 2021, and shares of common stock may not be issued pursuant to restricted stock units until the Company's stockholders approve the 2020 Plan and such awards granted. If stockholder approval of the 2020 Plan is not obtained within such period, such restricted stock units will automatically expire and terminate. The Company has not recorded stock based compensation for such grants as shareholder approval has not occurred. (See Note 11 – Subsequent Events - Annual Meeting.)

Acceleration of Vesting of Restricted Stock

In addition, on July 27, 2020, the Company fully accelerated the vesting terms of 39,429 outstanding shares of restricted common stock that had been previously awarded under the LTIP and 7,500 outstanding shares of restricted common stock that had been previously awarded outside the LTIP to Mr. Oliva as an inducement grant, such that all such stock awards are considered fully vested as of July 27, 2020. In connection with the acceleration of such vesting terms, the Company recorded a stock based compensation charge of \$649,000 and recorded a bonus expense of \$57,000, as the Company paid the payroll taxes imposed on the holders of such awards.

Warrants for Shares of Common Stock

The Company has issued warrants to purchase shares of common stock to employees and consultants as compensation for services rendered, as well as in conjunction with the purchase of shares of common stock in equity and debt transactions. No such warrants were issued during the three months ended September 30, 2020.

In connection with the March 2020 Note, the Company issued the March 2020 Note to the investor and the March 2020 Maxim Warrant to Maxim to purchase shares of common stock of 227,679 and 20,400, respectively (see Note 4 – Borrowings) at an exercise price of \$6.40. The grant date fair value of such warrants was \$625,000, which was recorded as debt discount with the offset recorded to additional paid-in capital on the condensed consolidated balance sheets. The fair value of such warrants was determined using the Black-Scholes Model based on the following weighted average assumptions: common stock price on date of grant of \$5.40; expected dividend yield of 0.0%; expected volatility of 61.0%; risk-free interest rate of 0.38% and expected life of 5 years.

Such warrant issued to the investor contained an adjustment provision such that if the Company issues or sells any shares of common stock or common stock equivalents (as defined in the March 2020 Note), subject to certain exceptions, at an effective price lower than the conversion price, then in effect, the conversion price shall be reduced to the price per share paid for such shares of common stock or common stock equivalents. The common stock and common stock equivalents issued by the Company in the April 2020 Public Offering were issued at price per share of \$3.25, which was lower than the conversion price then in effect. Additionally, the Alexander Settlement Shares, issued to Alexander under the Alexander Settlement Agreement, on May 14, 2020, were issued at a price per share which was lower than the conversion price then in effect. The Company modified the exercise price of the March 2020 Warrant as a result of each of these transactions and calculated the incremental fair value related to these modifications. The resulting deemed dividend from these down round adjustments was \$134,000, and this is included as an offset to additional paid-in capital in the accompanying condensed consolidated balance sheets.

SUMMIT WIRELESS TECHNOLOGIES, INC.

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For the Nine Months Ended September 30, 2020 and 2019

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6. Convertible Preferred Stock and Stockholders' Equity, continued

Warrants for Shares of Common Stock, continued

Concurrent with the April 2020 Public Offering, the Company issued prefunded warrants of \$475,000 at an exercise price of \$0.01 per share. These warrants were exercised immediately upon the closing of the transactions for proceeds of \$4,750 and the investors received 475,000 shares of common stock.

Additionally, as a result of the April 2020 Public Offering, the Company issued warrants to purchase shares of common stock to the common stock investors, prefunded warrants investors, and Maxim of 1,525,000, 475,000 and 291,000, respectively. The warrants have an exercise price of \$3.25 per share and are fully vested. The grant date fair value of those warrants was \$2,606,000, which was recorded within stockholders' equity as a cost of issuance and an increase to additional paid-in capital on the accompanying condensed consolidated balance sheet. The fair value of the warrants was determined using the Black-Scholes Model based on the following weighted average assumptions: common stock price on date of grant of \$2.50; expected dividend yield of 0.0%; expected volatility of 64.0%; risk-free interest rate of 0.37% and expected life of 5 years.

The Company also issued the April 2020 Maxim Warrant to purchase up to 100,000 shares of common stock to Maxim in connection with the April 2020 Public Offering. Such warrant has an exercise price of \$3.90 per share and is fully vested but not exercisable until October 18, 2020. The fair value of such warrant at issuance was \$106,000. The fair value of the warrant was estimated using the Black-Scholes Model based on the following weighted average assumptions: common share price on date of grant \$2.50, expected dividend yield 0%, expected volatility 64%, risk-free interest rate 0.37% and expected life of 5 years. The fair value was recorded within stockholders' equity as a cost of issuance and an increase to additional paid-in capital on the accompanying condensed consolidated balance sheet.

In connection with the offering pursuant to the June 4th Purchase Agreement, the Company issued the June 4th Warrants to the investors to purchase up to an aggregate of 2,275,000 shares of common stock. Such warrants have an exercise price of \$2.55 per share and are fully vested. The grant date fair value of those warrants was \$3,153,000, which was recorded within stockholders' equity as a cost of issuance and an increase to additional paid-in capital on the accompanying condensed consolidated balance sheet. The fair value of such warrants was determined using the Black-Scholes Model based on the following weighted average assumptions: common stock price on date of grant of \$2.52; expected dividend yield of 0.0%; expected volatility of 64.0%; risk-free interest rate of 0.45% and expected life of 5.5 years.

In connection with the offering pursuant to the June 8th Purchase Agreement, the Company issued the June 8th Warrants to the investors to purchase up to an aggregate of 2,040,000 shares of common stock. Such warrants have an exercise price of \$2.61 per share and are fully vested. The grant date fair value of those warrants was \$2,375,000, which was recorded within stockholders' equity as a cost of issuance and an increase to additional paid-in capital on the accompanying condensed consolidated balance sheet. The fair value of such warrants was determined using the Black-Scholes Model based on the following weighted average assumptions: common stock price on date of grant of \$2.25; expected dividend yield of 0.0%; expected volatility of 64.0%; risk-free interest rate of 0.32% and expected life of 5.5 years.

SUMMIT WIRELESS TECHNOLOGIES, INC.

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6. Convertible Preferred Stock and Stockholders' Equity, continued

Information regarding warrants for common stock outstanding and exercisable as of September 30, 2020 is as follows:

Exercise Price	Warrants Outstanding as of September 30, 2020	Remaining Life (years)	Warrants Exercisable as of September 30, 2020
\$2.32 - \$3.90	6,861,779	5.09	6,761,779
\$6.40 - \$9.80	78,423	4.41	78,423
\$15.80 - \$17.50	93,562	2.01	89,812
\$24.80 - \$99.00	230,571	1.25	230,571
\$108 - \$207.00	72,864	1.85	72,864
\$5.86	<u>7,337,199</u>	4.80	<u>7,233,449</u>

Warrants exercisable as of September 30, 2020 excludes warrants to purchase 3,750 shares of common stock issued to Alexander, which are fully vested, but are exercisable after October 16, 2020, and 100,000 shares of common stock issued to Maxim, which are fully vested, but are exercisable after October 18, 2020. Additionally, warrants to purchase 20,722 shares of common stock which are shown above with a price of \$15.80 are Pre-Funded Warrants under which the holder must only pay \$0.20 per share to complete the exercise.

7. Income Taxes

The Company recorded a provision for income taxes of \$3,000 for the nine months ended September 30, 2020 and \$7,000 for the nine months ended September 30, 2019. The provision for income taxes recorded for the nine months ended September 30, 2020 and 2019 primarily relates to state income tax expense.

The Company's effective tax rate was (0.03)% for the nine months ended September 30, 2020 and was (0.09)% for the nine months ended September 30, 2019. The difference between the effective tax rate and the federal statutory tax rate for the nine months ended September 30, 2020 and 2019 primarily relates to the valuation allowance on the Company's deferred tax assets.

For interim periods, the Company estimates its annual effective income tax rate and applies the estimated rate to the year-to-date income or loss before income taxes. The Company also computes the tax provision or benefit related to items reported separately and recognizes the items net of their related tax effect in the interim periods in which they occur. The Company also recognizes the effect of changes in enacted tax laws or rates in the interim periods in which the changes occur.

As of September 30, 2020 and December 31, 2019, the Company retains a full valuation allowance on its deferred tax assets. The realization of the Company's deferred tax assets depends primarily on its ability to generate taxable income in future periods. The amount of deferred tax assets considered realizable in future periods may change as management continues to reassess the underlying factors it uses in estimating future taxable income.

The provision for income taxes for the nine months ended September 30, 2020 and 2019 was calculated on a jurisdiction basis.

On March 27, 2020, the Coronavirus Aid, Relief and Economic Security ("CARES") Act was signed into law. The CARES Act includes provisions relating to refundable payroll tax credits, deferment of the employer portion of certain payroll taxes, net operating loss carryback periods, alternative minimum tax credit refunds, modifications to the net interest deduction limitations and technical corrections to tax depreciation methods for qualified improvement property. The Company analyzed the provisions of the CARES Act and determined there was no effect on its provision for the current period and will continue to evaluate the impact, if any, the CARES Act may have on the Company's condensed consolidated financial statements and disclosures.

SUMMIT WIRELESS TECHNOLOGIES, INC.

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7. **Income Taxes**, continued

On June 29, 2020, California Governor Gavin Newsom signed Assembly Bill 85 ("AB 85") into law as part of the California 2020 Budget Act, which temporarily suspends the use of California net operating losses and imposes a cap on the amount of business incentive tax credits that companies can utilize against their net income for tax years 2020, 2021, and 2022. We analyzed the provisions of AB 85 and determined there was no impact on our provision for income taxes for the current period and will continue to evaluate the impact, if any, AB 85 may have on the Company's condensed consolidated financial statements and disclosures.

8. **Commitments and Contingencies**

Operating Leases

The Company rents its Beaverton, Oregon office under an operating lease, which is set to expire October 31, 2020. Under the terms of the lease, the Company is responsible for taxes, insurance and maintenance expense. The Company recognizes rent expense on a straight-line basis over the lease period. Rent expense for the three months ended September 30, 2020 and 2019 was \$87,000 and \$93,000, respectively. Rent expense for the nine months ended September 30, 2020 and 2019 was \$288,000 and \$282,000, respectively. Future annual minimum lease payments under the non-cancelable operating lease as of September 30, 2020 is \$30,000 for the year ending December 31, 2020.

On August 18, 2020, the Company signed an operating lease that begins November 1, 2020, to rent office space in Beaverton Oregon, to replace the lease that expires on October 31, 2020. The lease expires on January 31, 2024. The following are the annual minimum lease payments for the four years ending December 31, 2021 through December 31, 2024: \$163,000, \$153,000, \$173,000, and \$15,000.

Capital Leases

During August 2020, the Company entered in to a lease agreement for equipment under a capital lease with a term of 36 months. The equipment under the lease is collateral for the agreement and is included within property and equipment, net on the condensed consolidated balance sheets. Future minimum lease commitments for the capital lease as of September 30, 2020 are as follows:

(in thousands)

Payments due in:	
Year ending December 31, 2020 (remaining)	\$ 6
Year ending December 31, 2021	26
Year ending December 31, 2022	26
Year ending December 31, 2023	15
Total minimum lease payments	73
Less: Amounts representing interest	(5)
Present value of capital lease obligations	68
Less: Current portion of capital lease obligations	23
Capital lease liabilities	<u>\$ 45</u>

Obligations under the capital lease are included in accrued liabilities and capital lease liabilities on the condensed consolidated balance sheets.

SUMMIT WIRELESS TECHNOLOGIES, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

For the Nine Months Ended September 30, 2020 and 2019

(unaudited)

8. Commitments and Contingencies, continued

Contingencies

In the normal course of business, the Company may become involved in legal proceedings. The Company will accrue a liability for such matters when it is probable that a liability has been incurred and the amount can be reasonably estimated. When only a range of a possible loss can be established, the most probable amount in the range is accrued. If no amount within this range is a better estimate than any other amount within the range, the minimum amount in the range is accrued. The accrual for a litigation loss contingency might include, for example, estimates of potential damages, outside legal fees and other directly related costs expected to be incurred.

On April 3, 2020, we received a letter (the "April 3rd Alexander Counsel Letter") from counsel for Alexander alleging that we were in apparent breach of the Alexander Engagement Agreement, which appointed Alexander as our exclusive placement agent and financial advisor, due to our consummation of the March 2020 Private Placement, in which Maxim acted as placement agent. Such letter also claimed that due to such alleged breach, and in accordance with the terms of the Alexander Engagement Agreement, we owed Alexander an aggregate of \$170,000 and warrants to purchase up to 22,768 shares of common stock in connection with the March 2020 Private Placement. The April 3rd Alexander Counsel Letter further stated that Alexander would be willing to forego any claim to the issuance of warrants to it and to settle the dispute in consideration of our payment of \$170,000 (the "Alexander Settlement Offer").

By letter dated April 7, 2020, we responded to the April 3rd Alexander Counsel Letter and disputed Alexander's claims. On April 10, 2020, we received a second letter (the "April 10th Alexander Counsel Letter"), from Alexander's counsel, responding to our April 7th letter and which disputed all of our arguments relating to the termination of the Alexander Engagement Agreement; (ii) appeared to withdraw the Alexander Settlement Offer; and (iii) referred to the engagement of Maxim as underwriter in connection with the April 2020 Public Offering, claimed that such engagement is a further breach of the Alexander Engagement Agreement and states that Alexander believes that it would be entitled to seek further damages for breach. Additionally, there was language in the April 10th Alexander Counsel Letter stating that if we had engaged Maxim prior to closing a financing on February 28, 2020 in which Alexander was placement agent, without disclosing our prior engagement of Maxim to investors in that financing, that this would raise additional issues. Finally, Alexander demanded that we cease the April 2020 Public Offering immediately and that if we proceeded with such offering, it would seek to be compensated as if it had acted as underwriter in such offering. On April 16, 2020, we received a third letter from Alexander's counsel that Alexander intended to file an action in connection with such claims.

On May 14, 2020, we entered into a settlement agreement with Alexander (the "Alexander Settlement Agreement"), pursuant to which, in consideration for Alexander releasing us from all claims against us arising out of that certain engagement agreement, dated February 6, 2020, that we entered into with Alexander (the "Alexander Engagement Agreement"), other than indemnification for certain third-party claims, we agreed to (i) pay Alexander a one-time cash payment of \$125,000 and (ii) issue to Alexander 50,000 shares of our common stock (the "Alexander Settlement Shares") which had a value of approximately \$111,000. We also released Alexander from the same type of claims against Alexander, other than indemnification for certain third-party claims. In connection with the Alexander Settlement Agreement, on May 14, 2020, we also entered into a leak-out agreement with Alexander (the "Alexander Leak-Out Agreement"), pursuant to which Alexander was not permitted to dispose of more than 5,000 shares of common stock in any trading day, commencing on the date of such agreement and ending on the date on which Alexander no longer holds any Alexander Settlement Shares.

Upon signing the Alexander Settlement Agreement, the Company recorded a charge of \$236,000 to general and administrative expense in the nine months ended on September 30, 2020.

The Company's management does not believe that any such matters, individually or in the aggregate, will have a materially adverse effect on the Company's condensed consolidated financial statements.

SUMMIT WIRELESS TECHNOLOGIES, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

For the Nine Months Ended September 30, 2020 and 2019

(unaudited)

9. Related Parties

Jonathan Gazdak

Mr. Gazdak is Managing Director – Head of Investment Banking for Alexander, an investment banking firm based in New York. Mr. Gazdak has been a member of the board of directors since June 2015. Alexander has acted as the lead investment bank in a number of the Company's private financings and as an underwriter for the Company's IPO. As of September 30, 2020 and December 31, 2019, Mr. Gazdak owned less than 1% of the outstanding shares of the Company's common stock.

On October 7, 2019, Mr. Gazdak entered into a Warrant Amendment Agreement with the Company. Mr. Gazdak exercised original warrants for a total of 157 shares of common stock and the Company received proceeds of \$2,510. On November 6, 2019, Mr. Gazdak entered into a Settlement Agreement with the Company, pursuant to which the Company issued Mr. Gazdak 23 additional shares of common stock. In connection with the Company's entry in the Warrant Amendment Agreements, Alexander was paid a cash fee of \$51,374.

On April 4, 2019, the Company signed another engagement letter with Alexander, pursuant to which Alexander earned a fee of \$80,000, in connection with the Company's issuance of the initial tranche of the Series A Preferred Stock, and the Company agreed to issue Alexander a warrant to purchase 2,041 shares of common stock. Such warrant is exercisable at a per share price of \$43.60 and is exercisable at any time during the five-year period commencing 180 days from the effective date of the issuance of such common stock, which period shall not exceed five years from such effective date.

On April 17, 2019, the Company entered into an underwriting agreement with Alexander in connection with an offering by the Company of 203,787 shares of common stock, pursuant to which Alexander was paid cash fees of \$406,554 as well as a non-accountable expense allowance of \$54,207 and reimbursements of \$100,000 and pursuant to which the Company issued to Alexander a warrant to purchase up to 6,114 shares of common stock. Such warrant is exercisable at a per share price of \$33.20 and is exercisable at any time during the five-year period commencing 180 days from the effective date of the issuance of such common stock, which period shall not exceed five years from such effective date.

On October 16, 2019, the Company entered into another underwriting agreement with Alexander, in connection with an offering by the Company of up to an aggregate of 125,000 shares of common stock, pursuant to which Alexander was paid cash fees of \$131,250 as well as a non-accountable expense allowance of \$17,500 and reimbursements of \$43,750 and pursuant to which the Company issued a warrant to Alexander to purchase up to 3,750 shares of common stock. Such warrant is exercisable at a per share price of \$17.50 and is exercisable at any time during the five-year period commencing one year from the effective date of the issuance of such stock, which period shall not exceed five years from such effective date.

On February 6, 2020, the Company entered into another placement agency agreement with Alexander Capital, in connection with an offering by the Company of up to an aggregate of \$835,000 of the Company's securities, pursuant to which Alexander was paid cash fees of \$83,000 and pursuant to which the Company issued to Alexander a warrant to purchase up to 4,553 shares of common stock. Such warrant is exercisable at a per share price of \$8.80 and is exercisable at any time during the five-year period commencing on the date of issuance.

The Company also entered into the Alexander Settlement Agreement with Alexander on May 14, 2020.

SUMMIT WIRELESS TECHNOLOGIES, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

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9. Related Parties, continued

Brian Herr

Mr. Herr is Chief Investment Officer and Co-Head of Structured Credit and Asset Finance, for the Medalist Partners platform (f/k/a Candlewood Structured Strategy Funds), serves as a partner and co-portfolio manager for each of the Medalist Partners Harvest Master Fund, Ltd. and Medalist Partners Opportunity Master Fund A, LP (collectively, the “Medalist Funds”), and is a former director of the Company who resigned from the board of directors effective February 10, 2020.

On October 8, 2019, each of the Medalist Funds entered into a Warrant Amendment Agreement with the Company. In connection with and prior to the Warrant Amendment Agreement that each of the Medalist Funds entered into, the Company also executed Amendment No. 1 to the Series F Warrants held by each of the Medalist Funds (the “Series F Warrant Amendment”), pursuant to which each such Series F Warrant was further amended to add, among other things, fundamental transaction and subsequent rights offerings provisions as well as a 9.99% beneficial ownership limitation (the “Beneficial Ownership Limitation”).

Pursuant to Warrant Amendment Agreements that were entered into with each of the Medalist Funds, with respect to the Series F Warrants and Series G Warrants, if the exercise of an original warrant at the Reduced Exercise Price (as such term is defined in the Warrant Amendment Agreements) would cause each of the Medalist Funds to exceed the Beneficial Ownership Limitation, in lieu of receiving such number of shares of common stock in excess of the Beneficial Ownership Limitation, the Company will only issue such number of shares of common stock to each of the Medalist Funds as would not cause each of the Medalist Funds to exceed the maximum number of shares of common stock permitted under the Beneficial Ownership Limitation, and each of the Medalist Funds shall be issued, at an exercise price equal to the Reduced Exercise Price less \$15.80 per share, pre-funded common stock purchase warrants covering such number of shares of common stock as would otherwise have been in excess of the Beneficial Ownership Limitation. In connection with such exercises, the Medalist Funds were issued pre-funded common stock purchase warrants to purchase an aggregate of 20,719 shares of common stock. The Company received aggregate gross proceeds of approximately \$327,000 in connection with the purchase of such pre-funded common stock purchase warrants.

On November 4, 2019, the Company entered into a Settlement Agreement with the Medalist Funds, pursuant to which the Company agreed to pay the Medalist Funds an aggregate of \$47,223, in cash, in order to compensate the Medalist Funds for the difference between the Amended Exercise Price (as such term is defined in such Settlement Agreement) and the lower priced shares of common stock that were offered to investors in connection with the Company’s October 2019 registered direct offering pursuant to which it issued 125,000 shares of common stock to certain institutional investors at an offering price of \$14.00 per share. In addition, pursuant to such Settlement Agreement, the Company and the Medalist Funds agreed to extend the date by which the Company would file a registration statement on Form S-3 to register all of the Resale Shares from November 4, 2019 to November 18, 2019.

On February 6, 2020, Mr. Herr notified the Company of his decision to resign from the Company’s board of directors effective February 10, 2020. Mr. Herr resigned to focus on managing the Medalist Funds and not due to any disagreement between the Company and Mr. Herr, or any matter related to the Company’s operations, policies or practices. As of September 30, 2020 the Medalist Funds owned less than 5% of the outstanding shares of the Company’s common stock. As of December 31, 2019, the Medalist Funds owned 8.3% of the outstanding shares of the Company’s common stock.

SUMMIT WIRELESS TECHNOLOGIES, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

For the Nine Months Ended September 30, 2020 and 2019
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9. Related Parties, continued

Helge Kristensen

Mr. Kristensen has served as a member of the Company's board of directors since 2010. Mr. Kristensen serves as vice president of Hansong Technology, an original device manufacturer of audio products based in China, president of Platin Gate Technology (Nanjing) Co. Ltd, a company with focus on service-branding in lifestyle products as well as pro line products based in China and co-founder and director of Inizio Capital, an investment company based in the Cayman Islands.

For the three months ended September 30, 2020 and 2019, Hansong Technology purchased modules from the Company of approximately \$137,000 and \$44,000, respectively, and made no material payments to the Company during that period. For the three months ended September 30, 2020 and 2019, Hansong Technology sold speaker products to the Company of approximately \$8,000 and \$9,000, respectively, and the Company made payments to Hansong Technology of approximately \$38,000 and \$9,000, respectively. For the nine months ended September 30, 2020 and 2019, Hansong Technology purchased modules from the Company of approximately \$155,000 and \$47,000, respectively, and made payments to the Company of approximately \$1,000 and \$6,000, respectively. For the nine months ended September 30, 2020 and 2019, Hansong Technology sold speaker products to the Company of approximately \$8,000 and \$13,000, respectively, and the Company made payments to Hansong Technology of approximately \$67,000 and \$44,000, respectively. As of September 30, 2020 and December 31, 2019, Mr. Kristensen and affiliates owned less than 1% of the outstanding shares of the Company's common stock.

10. Segment Information

The Company operates in one business segment, wireless audio products. Our chief decision-maker, the President and Chief Executive Officer, evaluates our performance based on company-wide consolidated results.

Net revenue from customers is designated based on the geographic region to which the product is delivered. Net revenue by geographic region for the three and nine months ended September 30, 2020 and 2019 was as follows:

(in thousands)	For the three months ended		For the nine months ended	
	September 30,		September 30,	
	2020	2019	2020	2019
United States	\$ 75	\$ -	\$ 167	\$ 3
Europe	100	94	169	381
Asia Pacific	432	325	1,030	852
Total	<u>\$ 607</u>	<u>\$ 419</u>	<u>\$ 1,366</u>	<u>\$ 1,236</u>

Substantially all of our long-lived assets are located in the United States.

SUMMIT WIRELESS TECHNOLOGIES, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

For the Nine Months Ended September 30, 2020 and 2019

(unaudited)

11. Subsequent Events

Annual Meeting

On October 20, 2020, the Company held the 2020 Annual Meeting of Stockholders and approved the adoption of the Company's 2020 Incentive Stock Plan and the reservation of an aggregate of 650,000 shares of the Company's common stock. In connection with the approval, the Company issued 614,824 restricted stock units to employees, directors and consultants.

February 2020 Private Placement Settlement

On November 9, 2020, in order to resolve a dispute between certain investors (the "Holders") and the Company regarding certain registration rights in connection with the February 2020 Private Placement, the Company entered into a settlement and release agreement with each of the Holders (the "Settlement Agreement"), pursuant to which (i) the Company and the Holders agreed to amend the original warrants issued in February 2020 (the "Original Warrants") to provide for the purchase of one additional share of common stock for each share of common stock available under the Original Warrants, (ii) the Company and the Holders agreed to amend the Original Warrants to reduce the exercise price to \$2.55, and (iii) the Company agreed to issue an additional 236,375 shares of common stock and 236,369 common stock purchase warrants to purchase up to 236,369 shares of common stock. As consideration for the foregoing, the Holders agreed to release any and all claims they may have against the Company, including, but not limited to, claims arising in connection with any securities held by the Holders.

Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations.

Cautionary Notice Regarding Forward Looking Statements

The information contained in Item 2 contains 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"). Actual results may materially differ from those projected in the forward-looking statements as a result of certain risks and uncertainties set forth in this report. Although management believes that the assumptions made and expectations reflected in the forward-looking statements are reasonable, there is no assurance that the underlying assumptions will, in fact, prove to be correct or that actual results will not be different from expectations expressed in this report.

This filing contains a number of forward-looking statements which reflect management's current views and expectations with respect to our business, strategies, products, future results and events, and financial performance. All statements made in this filing other than statements of historical fact, including statements addressing operating performance, events, or developments which management expects or anticipates will or may occur in the future, and also including statements related to distributor channels, volume growth, revenues, profitability, new products, adequacy of funds from operations, statements expressing general optimism about future operating results, and non-historical information, are forward looking statements. In particular, the words "believe," "expect," "intend," "anticipate," "estimate," "may," variations of such words, and similar expressions identify forward-looking statements, but are not the exclusive means of identifying such statements, and their absence does not mean that the statement is not forward-looking. These forward-looking statements are subject to certain risks and uncertainties, including those discussed below. Our actual results, performance or achievements could differ materially from historical results as well as those expressed in, anticipated, or implied by these forward-looking statements. We do not undertake any obligation to revise these forward-looking statements to reflect any future events or circumstances.

Readers should not place undue reliance on these forward-looking statements, which are based on management's current expectations and projections about future events, are not guarantees of future performance, are subject to risks, uncertainties and assumptions (including those described below), and apply only as of the date of this filing. Our actual results, performance or achievements could differ materially from the results expressed in, or implied by, these forward-looking statements.

Reverse Stock Split

On April 8, 2020, the Company announced that its board of directors had approved a 1-for-20 reverse split (the "Reverse Stock Split") of its common stock that became effective on April 9, 2020. The common stock began trading on a split-adjusted basis on that day under the new CUSIP number 86633R 203. All common stock share numbers, warrants to purchase common stock, prices and exercise prices have been retroactively adjusted to reflect the Reverse Stock Split. The par value of the common stock and the Series A Preferred Stock outstanding and its par value were not adjusted for the Reverse Stock Split.

Overview

We were formed as Summit Semiconductor, LLC, a Delaware limited liability company, on July 23, 2010. We converted to a Delaware corporation, effective December 31, 2017, at which time we changed our name to Summit Semiconductor, Inc. Effective as of September 11, 2018, we changed our name to Summit Wireless Technologies, Inc. We run our operations through Summit Wireless Technologies, Inc., as well as through our wholly-owned subsidiary, WiSA, LLC, a Delaware limited liability company. The address of our corporate headquarters is 6840 Via Del Oro, Ste. 280, San Jose, CA 95119. Our website address is www.summitwireless.com. The information contained in or accessible through our website is not part of this report and is intended for informational purposes only.

We are an early stage technology company and our primary business focus is to enable mainstream consumers and audio enthusiasts to experience high quality audio. We intend to continue selling our semiconductors and wireless modules to consumer electronics companies while also increasing our focus on implementing a software licensing business segment.

We believe that the future of audio technology is in wireless devices and that we are well positioned to deliver best-in-class immersive wireless sound technology for intelligent devices and next generation home entertainment systems. We currently sell modules which wirelessly transmit and receive audio directly to speakers, and which are also fully certified and compatible with the Wireless Speaker and Audio ("WiSA") Association's current compliance test specification, which tests the interoperability of products that offer wireless, interference free, uncompressed high-definition audio. Additionally, we plan to license our proprietary software technology to other companies enabling Wi-Fi based smart devices to support immersive wireless audio.

Our marketing strategy focuses on, what we believe, are three key wireless audio technology needs: interoperability, immersive audio quality, and lower signal latency.

1. **Interoperability:** As part of the effort to grow the wireless multichannel home audio segment, we are a founding member of the WiSA Association, an association dedicated to providing industry leadership and consumer choice through interoperability testing between brands. Products developed to the WiSA standard work seamlessly together and eliminate complicated setups common to traditional wired audio systems.
2. **Immersive Audio Quality:** We currently sell custom semiconductor chips and wireless modules to a growing list of major consumer electronics brands. Our current wireless module technology transmits wireless audio to each speaker at Blu-ray quality (uncompressed 24-bit audio up to 96 kHz sample rates). To our knowledge, our custom chip and module technology is the only technology available today that can stream up to eight (8) separate wireless audio channels for an immersive wireless surround sound experience.
3. **Lower Latency:** Our technology delivers wireless audio channels with low latency, critical for removing lip-sync issues between audio and video sources.

We believe that a growing adoption of wireless audio technology in support of video by leading brands will revolutionize the way that people experience media content through their mobile devices, televisions (“TVs”), game consoles, personal computers (“PCs”), soundbars and smart speakers. We believe that our proprietary software, for which patent applications have been submitted, will provide similar functionality and quality and allow us to embed our software into smart devices with Wi-Fi. A prototype version of our software technology has been demonstrated to select customers (pursuant to confidentiality agreements) at the 2020 Consumer Electronics Show in Las Vegas, Nevada. We believe that our software based-solution, which other brands can integrate into their devices, will (i) reduce integration costs for mass market use, (ii) leverage widely accepted Wi-Fi connectivity, (iii) provide a low power consumption option to allow for use in battery powered devices, and (iv) provide compatibility with popular consumer electronic operating systems.

On January 23, 2020, we entered into a funding agreement, as amended (the “Funding Agreement”), which provided for the issuance to an unaffiliated accredited investor of a convertible promissory note in the principal amount of \$111,100, reflecting a 10% original issue discount, 500 shares of our common stock and a five-year warrant exercisable for 7,936 shares of our common stock at an exercise price of \$9.80 per share in consideration for \$100,000, which was funded on January 24, 2020. Additionally, pursuant to the Funding Agreement, such investor was granted a most favored nation right. In March 2020, the outstanding debt owed to such investor pursuant to the Funding Agreement has been fully repaid.

On February 28, 2020, we completed a private placement (the “February 2020 Private Placement”) of 91,062 units, each unit consisting of (i) one (1) share of common stock and (ii) a warrant to purchase 0.50 of a share of common stock, at a price per unit of \$9.17. The units were issued pursuant to a Unit Purchase Agreement, dated February 4, 2020, and a subscription agreement, dated February 28, 2020 by and among us and the purchasers’ signatory thereto. In connection with the February 2020 Private Placement, we paid Alexander Capital, L.P. (“Alexander”) cash fees of \$83,000 and issued to Alexander a warrant to purchase 4,553 shares of common stock. Such warrant is exercisable at a per share price of \$8.80 and is exercisable at any time during the five-year period commencing on the date of issuance. The February 2020 Private Placement, which was priced above market, resulted in gross proceeds of \$835,000 before fees and other expenses associated with the transaction. We used the net proceeds of approximately \$725,000 from the offering for working capital purposes and increasing stockholders’ equity in order to comply with Nasdaq Listing Rule 5550(b) and for general corporate purposes. The warrants issued to the investors are exercisable to purchase up to an aggregate of 45,534 shares of common stock commencing on the date of issuance at an exercise price of \$9.80 per share, subject to adjustment upon stock splits, reverse stock splits, and similar capital changes. Such warrants are exercisable immediately and will expire on the close of business on February 28, 2025. The exercise of such warrants are subject to beneficial ownership limitations such that each holder of a warrant may exercise it to the extent that such exercise would result in such holder being the beneficial owner in excess of 4.99% (or, upon election of such holder, 9.99%), which beneficial ownership limitation may be increased or decreased up to 9.99% upon notice to us, provided that any increase in such limitation will not be effective until 61 days following notice to us.

On March 30, 2020, we completed a private placement (the “March 2020 Private Placement”) of a senior secured convertible promissory note and a warrant to purchase 227,679 shares of common stock at an exercise price of \$6.40 per share, pursuant to which Maxim Group LLC (“Maxim”) acted as placement agent. Such note and warrant were issued pursuant to a securities purchase agreement, entered into as of March 22, 2020 (the “March 2020 Purchase Agreement”) by and between us and an institutional. The March 2020 Private Placement resulted in gross proceeds of \$1,700,000, before fees and other expenses associated with the transaction, including but not limited to, an \$85,000 commitment fee payable to the investor. The net proceeds received by us in connection with the March 2020 Private Placement were used primarily for working capital, debt repayment and general corporate purposes. Additionally, we agreed to issue to Maxim a warrant to purchase up to an aggregate of 20,400 shares of common stock, subject to adjustment, as partial consideration for serving as placement agent in connection with the March 2020 Private Placement. On April 29, 2020, the outstanding debt of \$2,040,000, owed to the investor pursuant to the note, was fully repaid.

On April 23, 2020, the Company announced that it closed an underwritten public offering of 1,525,000 shares of its common stock, pre-funded common stock purchase warrants to purchase up to an aggregate of 475,000 shares of common stock, and common stock purchase warrants to purchase up to an aggregate of 2,000,000 shares of the Company's common stock. Each share of common stock or pre-funded common stock purchase warrant was sold together with one common stock purchase warrant to purchase one share of common stock at a combined price to the public of \$3.25 per share and common stock purchase warrant (or \$3.24 per pre-funded common stock purchase warrant and common stock purchase warrant). Gross proceeds before deducting underwriting discounts, commissions and other offering expenses were approximately \$6.5 million. In addition, the Company granted to Maxim a 45-day option to purchase up to an additional 300,000 shares of common stock and/or common stock purchase warrants to purchase up to an aggregate of 300,000 shares of common stock, at the public offering price, less discounts and commissions, of which Maxim partially exercised its option to purchase additional common stock purchase warrants to purchase up to an aggregate of 229,100 shares of common stock. Each common stock purchase warrant is immediately exercisable for one share of common stock at an exercise price of \$3.25 per share and will expire five years from issuance.

On April 24, 2020, the Company announced that it has received written notification from Nasdaq that the Company has regained compliance with Nasdaq's minimum bid price requirement of at least \$1.00 per share under Nasdaq Listing Rule 5550(a)(2) for continued listing on The Nasdaq Capital Market. The Company had previously been notified by Nasdaq on October 16, 2019, that the Company's closing bid price per share had been below \$1.00 for a period of 30 consecutive business days and that the Company did not meet the minimum bid price requirement under Nasdaq Listing Rule 5550(a)(2). According to the notification letter, the Company had 180 days to regain compliance by meeting or exceeding the minimum bid price for a period of at least 10 consecutive trading days, but the closing bid price of the Company's common stock did not satisfy this requirement. On April 24, 2020, however, Nasdaq notified the Company that it has determined that the closing bid price of the Company's common stock for the 10 consecutive business days from April 9, 2020 through April 23, 2020 had been at least \$1 per share. Accordingly, the Company has regained compliance with the minimum bid price requirement, and the matter is closed.

On May 3, 2020, we received a loan (the "PPP Loan") from Wells Fargo Bank, National Association in the aggregate amount of \$847,000, pursuant to the Paycheck Protection Program (the "PPP") under Division A, Title I of the Coronavirus Aid, Relief, and Economic Security Act, which was enacted on March 27, 2020. The PPP Loan was funded on May 7, 2020. The PPP Loan, which is in the form of a PPP promissory note and agreement, dated May 3, 2020 (the "PPP Note Agreement"), matures on May 3, 2022 and bears interest at a rate of 1.00% per annum. Pursuant to a change in guidance by the U.S. Small Business Administration, the initial monthly payment date of the PPP Note Agreement was deferred from November 1, 2020 to August 18, 2021. The PPP Loan may be prepaid by us at any time prior to maturity with no prepayment penalties. We have used and intend to continue to use the PPP Loan amount for payroll costs, costs used to continue group health care benefits, rent, and utilities. Under the terms of the PPP Note Agreement, certain amounts of the PPP Loan may be forgiven if they are used for qualifying expenses, as described in the PPP Note Agreement.

On May 14, 2020, we entered into a settlement agreement with Alexander (the "Alexander Settlement Agreement"), pursuant to which, in consideration for Alexander releasing us from all claims against us arising out of that certain engagement agreement, dated February 6, 2020, that we entered into with Alexander (the "Alexander Engagement Agreement"), other than indemnification for certain third-party claims, we agreed to (i) pay Alexander a one-time cash payment of \$125,000 and (ii) issue to Alexander 50,000 shares of our common stock (the "Alexander Settlement Shares") which had a value of approximately \$111,000. We also released Alexander from the same type of claims against Alexander, other than indemnification for certain third-party claims. In connection with the Alexander Settlement Agreement, on May 14, 2020, we also entered into a leak-out agreement with Alexander (the "Alexander Leak-Out Agreement"), pursuant to which Alexander was not permitted to dispose of more than 5,000 shares of common stock in any trading day, commencing on the date of such agreement and ending on the date on which Alexander no longer holds any Alexander Settlement Shares.

On May 18, 2020, we registered for resale, pursuant to a prospectus supplement to our shelf registration statement, an aggregate of 60,250 shares of common stock, 50,000 of which shares were the Alexander Settlement Shares, and the remaining 10,250 of such shares (the "Vendor Payment Shares") were issued to the Managing Partner of DFC Advisory Services, LLC d/b/a Tailwinds Research Group ("Vendor") pursuant to the Settlement Letter, dated May 12, 2020, by and between us and Vendor (the "Vendor Settlement Letter") and the letter, dated May 17, 2020, executed by the Vendor, the Managing Partner and us, pursuant to which the Vendor assigned its right to the Vendor Payment Shares to the Managing Partner (the "Vendor Assignment Letter", and collectively with the Vendor Settlement Letter, the "Vendor Settlement Letters"). The Vendor Payment Shares were issued on May 14, 2020, and (i) the Alexander Settlement Shares were issued to Alexander as partial payment of the amounts payable to Alexander under the terms of the Alexander Settlement Agreement and (ii) the Vendor Payment Shares were issued lieu of a cash payment owed to Vendor pursuant to the Vendor Settlement Letters. No cash proceeds were received by the Company from the issuance of the Alexander Settlement Shares or the Vendor Payment Shares, but (i) payment of a portion of the amount payable by us to Alexander under the terms of the Alexander Settlement Agreement was satisfied by the issuance of the Alexander Settlement Shares in addition to a one-time cash payment by the Company of \$125,000 thereunder and (ii) outstanding accounts payable owed by the Company to Vendor in connection with the Vendor Settlement Letters were fully satisfied upon issuance of Vendor Payment Shares. We paid all of the expenses incurred in connection with the registration of the Shares.

On June 4, 2020, we entered into a securities purchase agreement (the “June 4th Purchase Agreement”) with several accredited investors providing for the issuance of (i) 2,275,000 shares of the Company’s common stock and (ii) warrants, with a term of 5.5 years, to purchase an aggregate of up to 2,275,000 shares of common stock at an exercise price of \$2.55 per share, subject to customary adjustments thereunder, which warrants were immediately exercisable upon issuance and on a cashless basis if such warrants have not been registered on or before six months after the date of issuance. Pursuant to the June 4th Purchase Agreement, the investors purchased all of the securities sold thereby for an aggregate purchase price of \$5,801,000. Pursuant to the June 4th Purchase Agreement, an aggregate of 2,275,000 shares of common stock were issued to the investors in a registered direct offering pursuant to a prospectus supplement to the Company’s currently effective registration statement on Form S-3, which was declared effective on September 6, 2019. The Company filed the prospectus supplement on June 5, 2020. Maxim acted as the placement agent. The warrants were issued to the investors in a concurrent private placement transaction pursuant to an exemption from the registration requirements of the Securities Act provided in Section 4(a)(2) of the Securities Act and/or Regulation D promulgated thereunder. The Company paid Maxim a fee of approximately \$464,000, which was equal to 8% of the aggregate purchase price paid by investors placed by Maxim and certain expenses. The June 4th Purchase Agreement contains customary representations, warranties and agreements of the Company and the investors and customary indemnification rights and obligations of the parties thereto. The offering of the securities pursuant to the June 4th Purchase Agreement was closed on June 8, 2020. The Company will use the net proceeds from this Offering for working capital, capital expenditures, product development, and other general corporate purposes, including investments in sales and marketing in the United States and internationally.

On June 9, 2020, we entered into a securities purchase agreement (the “June 9th Purchase Agreement”) with several accredited investors providing for the issuance of (i) 2,040,000 shares of the Company’s common stock and (ii) warrants, with a term of 5.5 years, to purchase an aggregate of up to 2,040,000 shares of common stock at an exercise price of \$2.61 per share, subject to customary adjustments thereunder, which warrants were immediately exercisable upon issuance and on a cashless basis if the Warrants have not been registered on or before six months after the date of issuance. Pursuant to the June 9th Purchase Agreement, the investors purchased all of the securities sold thereby for an aggregate purchase price of \$5,324,000. Pursuant to the June 9th Purchase Agreement, an aggregate of 2,040,000 shares of common stock were issued to the investors in a registered direct offering, pursuant to a prospectus supplement to the Company’s currently effective registration statement on Form S-3, which was declared effective on September 6, 2019. The Company filed the prospectus supplement on June 10, 2020. Maxim acted as the placement agent. The warrants were issued to the investors in a concurrent private placement transaction pursuant to an exemption from the registration requirements of the Securities Act provided in Section 4(a)(2) of the Securities Act and/or Regulation D promulgated thereunder. The Company paid the Maxim a fee of approximately \$426,000, which was equal to 8% of the aggregate purchase price paid by investors placed by Maxim and certain expenses. The June 9th Purchase Agreement contains customary representations, warranties and agreements of the Company and the investors and customary indemnification rights and obligations of the parties thereto. The offering of the securities pursuant to the June 9th Purchase Agreement was closed on June 11, 2020. The Company will use the net proceeds from this Offering for working capital, capital expenditures, product development, and other general corporate purposes, including investments in sales and marketing in the United States and internationally.

On June 19, 2020, Sam Runco notified the Company of his decision to resign from the Company’s board of directors (the “Board”), effective June 19, 2020. Mr. Runco served on the Nominating and Corporate Governance Committee of the Board. Mr. Runco did not resign due to any disagreement between the Company and Mr. Runco, or any matter related to the Company’s operations, policies or practices. On June 22, 2020, the Board, pursuant to its powers under the Company’s bylaws, appointed Sriram Peruvemba as a member of the Board to replace Mr. Runco, effective June 22, 2020. Mr. Peruvemba serves as a director until the next annual meeting of the Company’s stockholders, at which time he will stand for election until the annual meeting of the Company’s stockholders following his election, or his earlier resignation, retirement, or other termination of service.

Potential Impacts of the Novel Coronavirus (“COVID-19”) on Our Business and Operations

The COVID-19 pandemic represents a fluid situation that presents a wide range of potential impacts of varying durations for different global geographies, including locations where we have offices, employees, customers, vendors and other suppliers and business partners.

Like most US-based businesses, the COVID-19 pandemic and efforts to mitigate the same began to have impacts on our business in March 2020. By that time, much of our first fiscal quarter was completed. During our second fiscal quarter, we observed decreased demand from certain of our customers due to the temporary closure by many retailers. Our third fiscal quarter saw increased customer demand as retailers reopened. However, another closure by retailers could impact customer demand in the future.

Given the fact that our products are sold through a variety of distribution channels, we expect that our sales will experience more volatility as a result of the changing and less predictable operational needs of many customers as a result of the COVID-19 pandemic. We are aware that many companies, including many of our suppliers and customers, are reporting or predicting negative impacts from COVID-19 on future operating results. Although we observed fluctuating demand for our products and technology between April and September 2020, we are unable to accurately predict the ultimate impact that the COVID-19 pandemic will have on our business, operations, financial condition, financial results or prospects. We also cannot be certain how demand may shift over time, as the impacts of the COVID-19 pandemic may go through several phases of varying severity and duration.

In light of broader macro-economic risks and already known impacts on certain industries that use our products and services, we have taken and are taking targeted steps to lower our operating expenses because of the COVID-19 pandemic. We continue to monitor the impacts of COVID-19 on our operations closely and this situation could change based on a significant number of factors that are not entirely within our control and are discussed in this and other sections of this quarterly report on Form 10-Q. We do not expect there to be material changes to our assets on our balance sheet or our ability to timely account for those assets. Further, in connection with the preparation of this quarterly report on Form 10-Q and the interim financial statements contained herein, we reviewed the potential impacts of the COVID-19 pandemic on intangible assets and have determined there to be no material impact at this time. We have also reviewed the potential impacts on future risks to the business as it relates to collections, returns and other business-related items.

To date, travel restrictions and border closures have not materially impacted our ability to obtain inventory or manufacture or deliver products or services to customers. However, if such restrictions become more severe, they could negatively impact those activities in a way that would harm our business over the long term. Travel restrictions impacting people can restrain our ability to assist our customers and distributors as well as impact our ability to develop new distribution channels, but at present we do not expect these restrictions on personal travel to be material to our business operations or financial results. We have taken steps to restrain and monitor our operating expenses and therefore we do not expect any such impacts to materially change the relationship between costs and revenues.

Like most companies, we have taken a range of actions with respect to how we operate to assure that we comply with government restrictions and guidelines as well as best practices to protect the health and well-being of our employees and our ability to continue operating our business effectively. To date, we have been able to operate our business effectively using these measures and to maintain all internal controls. We also have not experienced challenges in maintaining business continuity and do not expect to incur material expenditures to do so. However, the impacts of COVID-19 and efforts to mitigate the same have remained unpredictable and it remains possible that challenges may arise in the future.

The actions that we have taken so far during the pandemic include, but are not limited to:

- requiring all employees who can work from home to work from home;
- increasing our IT networking capability to best assure that employees can work effectively outside the office;
- for employees who must perform essential functions in one of our offices:
 - having employees maintain a distance of at least six feet from other employees whenever possible;
 - having employees stay segregated from other employees in the office with whom they require no interaction; and
 - requiring employees to wear masks while they are in the office whenever possible.

If business interruptions resulting from COVID-19 were to be prolonged or expanded in scope, our business, financial condition, results of operations and cash flows would be negatively impacted. We will continue to actively monitor this situation and will implement actions necessary to maintain business continuity.

Comparison of the Three and Nine Months Ended September 30, 2020 and 2019

Revenue

Revenue for the three months ended September 30, 2020 was \$607,000, an increase of \$188,000 or 45%, compared to the same period of 2019. The increase was primarily due to increased volumes.

Revenue for the nine months ended September 30, 2020 was \$1,366,000, an increase of \$130,000, or 11%, compared to the same period of 2019. The increase was primarily due to increased volumes associated with new customer design wins which offset the decreased sales volume earlier in the year associated with the Covid-19 purchasing slowdown in the second quarter of 2020.

Cost of Revenue and Operating Expenses

Cost of Revenue

Cost of revenue for the three months ended September 30, 2020 was \$503,000 an increase of \$116,000 or 30% compared to the revenue for the three months ended September 30, 2019 of \$387,000. The increase was primarily attributable to the direct material costs associated with higher sales volumes.

Cost of revenue for the nine months ended September 30, 2020 was \$1,187,000 an increase of \$63,000 or 6%, compared to the revenue for the nine months ended September 30, 2019 of \$1,124,000. The increase was primarily attributable to the direct material costs associated with higher sales volumes.

Research and Development

Research and development expenses for the three months ended September 30, 2020 were \$1,240,000, a decrease of \$189,000 or 13%, compared to the research and development expenses for the three months ended September 30, 2019 of \$1,429,000. The decrease in research and development expenses is primarily related to decreased salary and benefit expenses of \$112,000 as well as decreased consulting and direct material usage of \$134,000 and \$74,000, respectively, partially offset by increased stock compensation of \$134,000.

Research and development expenses for the nine months ended September 30, 2020 were \$3,278,000, a decrease of \$917,000 or 22%, compared to the research and development expenses for the nine months ended September 30, 2019 of \$4,195,000. The decrease in research and development expenses is primarily related to decreased salary and benefit expenses of \$396,000, reduced consulting fees, direct materials, travel expenses and recruiting fees of \$538,000, \$82,000, \$36,000 and \$29,000, respectively, partially offset by increased stock compensation of \$166,000.

Sales and Marketing

Sales and marketing expenses for the three months ended September 30, 2020 were \$835,000, an increase of \$141,000 or 20%, compared to the sales and marketing expenses for the three months ended September 30, 2019 of \$694,000. The increase in sales and marketing expenses is primarily related to increased stock compensation and advertising of \$162,000 and \$65,000, respectively, offset partially by reduced consulting fees and public relation charges of \$26,000 and \$33,000, respectively.

Sales and marketing expenses for the nine months ended September 30, 2020 were \$2,043,000, a decrease of \$76,000 or 4%, compared to the sales and marketing expenses for the nine months ended September 30, 2019 of \$2,119,000. The decrease in sales and marketing expenses is primarily related to reduced consulting fees of approximately \$218,000, which includes \$22,000 of decreased stock compensation charges, decreased travel and public relation charges of \$75,000 and \$89,000, respectively, offset partially by increased advertising, product management fees and employee stock compensation charges of \$80,000, \$35,000 and \$197,000, respectively.

General and Administrative

General and administrative expenses for the three months ended September 30, 2020 were \$1,014,000, an increase of \$426,000 or 72%, compared to the general and administrative expenses for the three months ended September 30, 2019 of \$588,000. The increase in general and administrative expenses is primarily related to increased salary and benefit expenses of \$70,000, as the Company added a senior financial executive in September 2019, increased stock compensation and legal expenses of \$324,000 and \$85,000, respectively, offset partially by decreased investor relations and travel expenses of \$23,000 and \$16,000, respectively.

General and administrative expenses for the nine months ended September 30, 2020 were \$2,512,000, an increase of \$652,000 or 35%, compared to the general and administrative expenses for the nine months ended September 30, 2019 of \$1,860,000. The increase in general and administrative expenses is primarily related to increased salary and benefit expenses of \$149,000, as the Company added a senior financial executive in September 2019, increased stock compensation and legal expenses of \$397,000 and \$223,000, respectively, and a contingency accrual of \$237,000 related to the Alexander settlement discussed in Note 8 – Contingencies. The increase was partially offset by decreased investor relations and travel expenses of \$336,000 and \$46,000, respectively.

Interest Expense

Interest expense for the three months ended September 30, 2020 was \$5,000, an increase of \$5,000, compared to the interest expense for the three months ended September 30, 2019 of \$0. Interest expense is primarily related to interest accrued on the PPP Loan.

Interest expense for the nine months ended September 30, 2020 was \$1,394,000, an increase of \$1,394,000 compared to the interest expense for the nine months ended September 30, 2019 of \$0. Interest expense for the nine months ended September 30, 2020 was primarily due to the full amortization of debt discounts associated with the convertible debt that the Company incurred in March 2020, as such convertible debt was fully repaid in April 2020. No interest expense was booked in the nine months ended September 30, 2019, as the Company had no outstanding debt.

Change in Fair Value of Warrant Liability

Change in fair value of warrant liability for the three months ended September 30, 2020 was \$0, compared to a gain of \$18,000 due to the change in fair value of warrant liability for the three months ended September 30, 2019. The gain for the three months ended September 30, 2019 is due to the decrease in our common stock price during the period.

Change in fair value of warrant liability for the nine months ended September 30, 2020 resulted in a gain of \$24,000, compared to a gain of \$193,000 due to the change in fair value of warrant liability for the nine months ended September 30, 2019. The gains for the nine months ended September 30, 2020 and 2019 is due to the decrease in our common stock price during both the respective periods.

Change in Fair Value of Derivative Liability

There was no change in fair value of derivative liability for the three months ended September 30, 2020 and 2019.

Change in fair value of derivative liability for the nine months ended September 30, 2020 was \$0, compared to an expense of \$171,000 for the nine months ended September 30, 2019. The \$171,000 expense recorded in the nine months ended September 30, 2019 was related to the change in fair value of the embedded conversion feature included in the Company's Series A Preferred Stock as of September 30, 2019.

Liquidity and Capital Resources

Cash and cash equivalents as of September 30, 2020 were \$9,104,000, compared to \$298,000 as of December 31, 2019. The increase in cash and cash equivalents during the nine months ended September 30, 2020 was directly related to the issuance of common stock, prefunded warrants and related warrants whereby the Company raised net proceeds of \$16,191,000, the issuance of convertible notes, under which the Company raised net proceeds of \$1,396,000 and the issuance of a note payable, under which the Company raised \$847,000. The cash provided by these financing activities was offset by the use of cash to fund operations and repayment of convertible notes payable totaling \$2,151,000.

We incurred a net loss of \$9,068,000 for the nine months ended September 30, 2020 and used net cash in operating activities of \$7,499,000. For the nine months ended September 30, 2019, we incurred a net loss of \$8,097,000 and used net cash in operating activities of \$8,454,000. Excluding non-cash adjustments, the primary reasons for the use of net cash from operating activities during the nine months ended September 30, 2020 is related to the decrease in accounts payable and accrued liabilities of \$643,000 and \$234,000, respectively, compared to the increase in inventories and prepaid expenses and other assets of \$653,000 and \$481,000, respectively, during the nine months ended September 30, 2019.

We are an early stage company and have generated losses from operations since inception. In order to execute our long-term strategic plan to further develop and fully commercialize our core products, we will need to raise additional funds, through public or private equity offerings, debt financings, or other means. These conditions raise substantial doubt about our ability to continue as a going concern.

Off-Balance Sheet Arrangements

We have no off-balance sheet arrangements.

Item 3. Quantitative and Qualitative Disclosures About Market Risk.

As a smaller reporting company, as defined in Rule 12b-2 of the Exchange Act, we are not required to provide the information required by this Item.

Item 4. Controls and Procedures.

Evaluation of Disclosure Controls and Procedures

We maintain disclosure controls and procedures that are designed to ensure that material information required to be disclosed in our periodic reports filed under the Exchange Act is recorded, processed, summarized, and reported within the time periods specified in the SEC's rules and forms and to ensure that such information is accumulated and communicated to our management, including our Chief Executive Officer and Chief Financial Officer as appropriate, to allow timely decisions regarding required disclosure. Under the supervision and with the participation of our management, including our Chief Executive Officer and Chief Financial Officer, we conducted an evaluation of our disclosure controls and procedures. Based on the foregoing evaluation, our management concluded that, as of September 30, 2020, our disclosure controls and procedures were not effective to provide reasonable assurance that the information required to be disclosed by us in reports that 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, and is accumulated and communicated to our management, including our Chief Executive Officer and Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosure. Our management, including our Chief Executive Officer (Principal Executive Officer) and Chief Financial Officer (Principal Financial Officer), does not expect that our disclosure controls and procedures will prevent all errors and all fraud. A control system, no matter how well conceived and operated, can provide only reasonable, not absolute, assurance that the objectives of the control system are met. Further, the design of a control system must reflect the fact that there are resource constraints and the benefits of controls must be considered relative to their costs. Because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that all control issues and instances of fraud, if any, within our Company have been detected. These inherent limitations include, but are not limited to, the realities that judgments in decision-making can be faulty and that breakdowns can occur because of simple error or mistake. Additionally, controls can be circumvented by the individual acts of some persons, by collusion of two or more people, or by management override of the control. The design of any system of controls also is based in part upon certain assumptions about the likelihood of future events and there can be no assurance that any design will succeed in achieving its stated goals under all potential future conditions.

Changes in Internal Controls

There were no changes in the Company's internal control over financial reporting that occurred during the three months ended September 30, 2020 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 involved in various claims and legal actions arising in the ordinary course of our business. There is no action, suit, proceeding, inquiry or investigation before or by any court, public board, government agency, self-regulatory organization or body pending or, to the knowledge of the executive officers of our company or any of our subsidiaries, threatened against or affecting our company, or any of our subsidiaries in which an adverse decision could have a material adverse effect upon our business, operating results, or financial condition.

Item 1A. Risk Factors

As a smaller reporting company, we are not required to provide the information required by this Item.

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds

On July 27, 2020, the board of directors (the "Board") of the Company adopted its 2020 Stock Incentive Plan (the "2020 Plan") and the reservation of an aggregate of 650,000 shares of the Company's common stock, par value \$0.0001 per share ("Common Stock"), authorized for issuance under the 2020 Plan. The 2020 Plan authorizes the grant of equity-based compensation to the Company's senior managers, employees, directors, consultants, professionals and service providers in the form of stock options, restricted stock and restricted stock units (each, an "RSU" and collectively, the "RSUs"). The 2020 Plan was approved by the Company's shareholder on October 20, 2020.

On July 27, 2020, the Company granted an aggregate of 237,824 RSUs under the 2020 Plan (collectively the "2020 RSU Grants") to the following executives officers of the Company: (i) to Brett Moyer, the Company's President, Chief Executive Officer and Chairman of the Board, 145,000 RSUs; (ii) to George Oliva, the Company's Chief Financial Officer, 61,824 RSUs; and (iii) to Gary Williams, the Company's Chief Accounting Officer and VP of Finance, 31,000 RSUs. Each of the 2020 RSU Grants are scheduled to vest on the first, second, and third anniversaries of August 15, 2020, so long as such executive officer remains in service of the Company on each such anniversary. Each RSU represents the right to receive one share of Common Stock under the 2020 Plan. The 2020 RSU Grants were issued in reliance on the exemption from registration pursuant to Rule 701 under the Securities Act.

Item 3. Defaults Upon Senior Securities

None.

Item 4. Mine Safety Disclosures

Not applicable.

Item 5. Other Information

As previously disclosed in the Current Report on the Form 8-K filed on March 3, 2020 with the SEC, on February 28, 2020, the Company issued to certain investors (the "Holders") units (the "Units"), which consisted of an aggregate of (i) 1,821,030 shares ("Original Shares") of the Company's common stock, par value \$0.0001 per share (the "Common Stock") (or 91,062 Original Shares after giving effect to the Company's one-for-twenty reverse stock split, effective on April 9, 2020 (the "Reverse Split")), and (ii) warrants to purchase an aggregate of 910,509 shares of Common Stock ("Original Warrants") (or 45,534 Original Warrants after giving effect to the Reverse Split), which Units were issued to the Holders at a price per Unit of \$0.4585 (or \$9.17 per Unit after giving effect to the Reverse Split) pursuant to certain Unit Purchase Agreement, dated February 4, 2020 and certain Subscription Agreement, dated February 28, 2020 by and among the Company and the Holders (collectively with other related transaction documents, the "Original Agreements").

On November 9, 2020, in order to resolve a dispute between the Holders and the Company regarding certain registration rights in connection with the Original Agreements, the Company entered into a Settlement Agreement with each of the Holders, pursuant to which (i) the Company and the Holders agreed to amend the Original Warrants (the “Amended Warrants”) to provide for the purchase of one additional share of Common Stock for each share of Common Stock available under the Original Warrants, (ii) the Company and the Holders agreed to amend the Original Warrants to reduce the exercise price to \$2.55, and (iii) the Company agreed to issue an additional 236,375 shares of Common Stock and 236,369 common stock purchase warrants to purchase up to 236,369 shares of Common Stock. As consideration for the foregoing, the Holders agreed to release any and all claims they may have against the Company, including, but not limited to, claims arising in connection with any Original Shares, Original Warrants, and Amended Warrants held by the Holders.

In connection with the Settlement Agreement, on November 9, 2020, the Company also entered into (i) a registration rights agreement with the Holders, pursuant to which the Company agreed within 45 days of the date of the Settlement Agreement to file with the SEC a registration statement on Form S-3 (or other applicable registration statement under the Securities Act of 1933, as amended) covering the resale of all the Additional Warrant Shares, the Settlement Shares and the Settlement Warrant Shares; and (ii) a leak-out agreement with each Holder (the “Leak-Out Agreement”), pursuant to which each Holder is not permitted to sell more than 10% of the number of shares of Common Stock held by such Holder in any trading day, commencing on November 9, 2020 (the date of the Leak-Out Agreement) and ending on the date on which each of such Holder no longer holds any Settlement Shares.

Item 6. Exhibits

Exhibit Number	Description
4.1	Form of Amendment to Common Stock Purchase Warrant
4.2	Form of Common Stock Purchase Warrant
10.1	Form of Settlement and Release Agreement, dated November 9, 2020, by and among the Company and each Holder
10.2	Form of Registration Rights Agreement, dated November 9, 2020, by and among the Company and the Holders
10.3	Form of Leak-Out Agreement, dated November 9, 2020, by and between the Company and each Holder
10.4	Lease Agreement by and between Portland 2 LLC and the Company, dated August 18, 2020.
31.1	Certification of Principal Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
31.2	Certification of Principal Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
32.1	Certification of Principal Executive Officer Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
32.2	Certification of Principal Financial Officer Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
101.INS	XBRL Instance Document
101.SCH	XBRL Schema Document
101.CAL	XBRL Calculation Linkbase Document
101.DEF	XBRL Definition Linkbase Document
101.LAB	XBRL Label Linkbase Document
101.PRE	XBRL Presentation Linkbase Document

In accordance with SEC Release 33-8238, Exhibits 32.1 and 32.2 are being furnished and not filed.

SIGNATURES

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

Summit Wireless Technologies, Inc.

Date: November 10, 2020

By: /s/ Brett Moyer
Brett Moyer
Chief Executive Officer
(Duly Authorized Officer and Principal Executive Officer)

Date: November 10, 2020

By: /s/ George Oliva
George Oliva
Principal Financial Officer
(Duly Authorized Officer and Principal Financial Officer)

SUMMIT WIRELESS TECHNOLOGIES, INC.

AMENDMENT TO COMMON STOCK PURCHASE WARRANT

THIS AMENDMENT TO COMMON STOCK PURCHASE WARRANT OF SUMMIT WIRELESS TECHNOLOGIES, INC. ("Warrant Amendment") is dated November __, 2020 ("Effective Date"). All share amounts and references to the Exercise Price in this Warrant Amendment give effect to a 1-for-20 reverse stock split of the Company's shares of Common Stock, which was effective on April 9, 2020. All initially capitalized terms not otherwise defined herein shall have the meanings given to those terms in the Original Warrant (defined hereafter).

WHEREAS, Summit Wireless Technologies, Inc. (the "Company") issued to _____ (the "Holder") a common stock purchase warrant, with an original issue date of May 5, 2020, a copy of which is annexed hereto as Exhibit A (the "Original Warrant"), to purchase up to _____ shares of the Company's Common Stock (the "Warrant Shares"); and

WHEREAS, pursuant to the terms and conditions of a Settlement Agreement and Release between the Company and the Holder, dated November __, 2020 (the "Settlement Agreement"), the Company has agreed to amend the Original Warrant in connection with the settlement of certain disputes among the Company, the Holder and certain other holders of similar warrants of the Company, and in consideration for the Holder's releasing the Company from certain claims, all as more specifically provided in the Settlement Agreement;

NOW THEREFORE, in consideration for the mutual promises contained herein, and for the good and valuable consideration recited herein, the receipt and sufficiency of which is hereby acknowledged, the Company and the Holder hereby agree to amend the Original Warrant as follows:

1. Increase in the Number of Warrant Shares. As of the date of this Amendment, the number of Warrant Shares available for exercise under the Original Warrant shall be increased from _____ shares of Common Stock to _____ shares of Common Stock. Thereafter the number of Warrant Shares shall be subject to all applicable adjustments as provided under the provisions of the Original Warrant, as amended.

2. Reduction in the Exercise Price. As of the date of this Amendment, the Exercise Price of the Original Warrant is reduced to **\$2.55** per share. Thereafter the Exercise Price shall be subject to all applicable adjustments as provided under the provisions of the Original Warrant, as amended.

3. Registration Rights. The additional _____ Warrant Shares becoming available for exercise pursuant to the Original Warrant, as amended, shall be entitled to the registration rights provided pursuant to the terms and conditions of the Registration Rights Agreement (as such term is defined in the Settlement Agreement).

4 . Ratifications: Inconsistent Provisions. Except as otherwise expressly provided herein, the Original Warrant, is, and shall continue to be, in full force and effect and is hereby ratified and confirmed in all respects, except that on and after the Effective Date, all references in the Original Warrant to “this Warrant”, “hereto”, “hereof”, “hereunder” or words of like import referring to the Original Warrant shall mean the Original Warrant as amended by this Amendment. Notwithstanding the foregoing to the contrary, to the extent that there is any inconsistency between the provisions of the Original Warrant and this Amendment, the provisions of this Amendment shall control and be binding.

5 . Counterparts. This Warrant Amendment may be executed in any number of counterparts, all of which will constitute one and the same instrument and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other party. Facsimile or other electronic transmission of any signed original document shall be deemed the same as delivery of an original.

Signature Page Follows

IN WITNESS WHEREOF, the Company has caused this Warrant Amendment to be executed as of the date first written above by its officer thereunto duly authorized.

SUMMIT WIRELESS TECHNOLOGIES, INC.

By: _____
Name: Brett Moyer
Title: Chief Executive Officer

Acknowledged and Accepted as of
the date first written above:

Name of Holder

By: _____
Name:
Title:

[Signature Page to Summit Warrant Amendment]

NEITHER THIS SECURITY NOR THE SECURITIES FOR WHICH THIS SECURITY IS EXERCISABLE HAVE BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION OR THE SECURITIES COMMISSION OF ANY STATE IN RELIANCE UPON AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND, ACCORDINGLY, MAY NOT BE OFFERED OR SOLD EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR PURSUANT TO AN AVAILABLE EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS AS EVIDENCED BY A LEGAL OPINION OF COUNSEL TO THE TRANSFEROR TO SUCH EFFECT, THE SUBSTANCE OF WHICH SHALL BE REASONABLY ACCEPTABLE TO THE COMPANY. THIS SECURITY AND THE SECURITIES ISSUABLE UPON EXERCISE OF THIS SECURITY MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT WITH A REGISTERED BROKER-DEALER OR OTHER LOAN WITH A FINANCIAL INSTITUTION THAT IS AN "ACCREDITED INVESTOR" AS DEFINED IN RULE 501(a) UNDER THE SECURITIES ACT OR OTHER LOAN SECURED BY SUCH SECURITIES.

COMMON STOCK PURCHASE WARRANT

SUMMIT WIRELESS TECHNOLOGIES, INC.

Warrant Shares:

Initial Exercise Date: November __, 2020

THIS COMMON STOCK PURCHASE WARRANT (the "Warrant") certifies that, for value received, _____ or its assigns (the "Holder") is entitled, upon the terms and subject to the limitations on exercise and the conditions hereinafter set forth, at any time on or after the date hereof (the "Initial Exercise Date") and on or prior to the close of business on November __, 2025 (the "Termination Date") but not thereafter, to subscribe for and purchase from Summit Wireless Technologies, Inc., a Delaware corporation (the "Company"), up to _____ shares (as subject to adjustment hereunder, the "Warrant Shares") of Common Stock. The purchase price of one share of Common Stock under this Warrant shall be equal to the Exercise Price, as defined in Section 2(b).

This Warrant is being issued to the Holder, pursuant to the terms and conditions of a Settlement Agreement and Release between the Company and the Holder, dated October [29], 2020, in connection with the settlement of certain disputes between the Company and the Holder relating to the sale of units of the Company to the Holder, pursuant to (i) that certain Unit Purchase Agreement, dated February 4, 2020 (the "Purchase Agreement"), and (ii) that certain Subscription Agreement, dated February 28, 2020.

Section 1. Definitions. Capitalized terms used and not otherwise defined herein shall have the meanings set forth in the Purchase Agreement.

Section 2. Exercise.

a) Exercise of the purchase rights represented by this Warrant may be made, in whole or in part, at any time or times on or after the Initial Exercise Date and on or before the Termination Date by delivery to the Company (or such other office or agency of the Company as it may designate by notice in writing to the registered Holder at the address of the Holder appearing on the books of the Company) of a duly executed facsimile copy of the Notice of Exercise Form annexed hereto. Within five (5) Trading Days following the date of exercise as aforesaid, the Holder shall deliver the aggregate Exercise Price for the shares specified in the applicable Notice of Exercise by wire transfer or cashier's check drawn on a United States bank. Notwithstanding anything herein to the contrary, the Holder shall not be required to physically surrender this Warrant to the Company until the Holder has purchased all of the Warrant Shares available hereunder and the Warrant has been exercised in full, in which case, the Holder shall surrender this Warrant to the Company for cancellation within three (3) Trading Days of the date the final Notice of Exercise is delivered to the Company. Partial exercises of this Warrant resulting in purchases of a portion of the total number of Warrant Shares available hereunder shall have the effect of lowering the outstanding number of Warrant Shares purchasable hereunder in an amount equal to the applicable number of Warrant Shares purchased. The Holder and the Company shall maintain records showing the number of Warrant Shares purchased and the date of such purchases. The Company shall deliver any objection to any Notice of Exercise Form within one (1) Business Day of receipt of such notice. **The Holder and any assignee, by acceptance of this Warrant, acknowledge and agree that, by reason of the provisions of this paragraph, following the purchase of a portion of the Warrant Shares hereunder, the number of Warrant Shares available for purchase hereunder at any given time may be less than the amount stated on the face hereof.**

b) Exercise Price. The exercise price per share of the Common Stock under this Warrant shall be **\$2.55**, subject to adjustment hereunder (the "Exercise Price").

c) Mechanics of Exercise.

i. Delivery of Certificates Upon Exercise. Certificates for shares purchased hereunder shall be transmitted by the Transfer Agent to the Holder by crediting the account of the Holder's prime broker with The Depository Trust Company through its Deposit or Withdrawal at Custodian system ("DWAC") if the Company is then a participant in such system and there is an effective registration statement permitting the issuance of the Warrant Shares to or resale of the Warrant Shares by the Holder or otherwise by physical delivery to the address specified by the Holder in the Notice of Exercise by the date that is five (5) Trading Days after the latest of (A) the delivery to the Company of the Notice of Exercise, (B) surrender of this Warrant (if required) and (C) payment of the aggregate Exercise Price as set forth above (such date, the "Warrant Share Delivery Date"). The Warrant Shares shall be deemed to have been issued, and Holder or any other person so designated to be named therein shall be deemed to have become a holder of record of such shares for all purposes, as of the date the Warrant has been exercised, with payment to the Company of the Exercise Price and all taxes required to be paid by the Holder, if any, pursuant to Section 2(c)(vi) prior to the issuance of such shares, having been paid. If the Company fails for any reason to deliver to the Holder certificates evidencing the Warrant Shares subject to a Notice of Exercise by the Warrant Share Delivery Date, the Company shall pay to the Holder, in cash, as liquidated damages and not as a penalty, for each \$1,000 of Warrant Shares subject to such exercise (based on the VWAP (as defined below) of the Common Stock on the date of the applicable Notice of Exercise), \$10 per Trading Day (increasing to \$20 per Trading Day on the fifth Trading Day after such liquidated damages begin to accrue) for each Trading Day after such Warrant Share Delivery Date until such certificates are delivered. "VWAP" means, as of any particular date: (a) the volume weighted average of the closing sales prices of the Common Stock for such day on all domestic securities exchanges on which the Common Stock may at the time be listed; (b) if there have been no sales of the Common Stock on any such exchange on any such day, the average of the highest bid and lowest asked prices for the Common Stock on all such exchanges at the end of such day; (c) if on any such day the Common Stock is not listed on a domestic securities exchange, the closing sales price of the Common Stock as quoted on the OTCQB tier of the OTC Markets Group, Inc. or similar quotation system or association for such day; or (d) if there have been no sales of the Common Stock on the OTCQB tier of the OTC Markets Group, Inc. or similar quotation system or association on such day, the average of the highest bid and lowest asked prices for the Common Stock quoted on the OTCQB tier of the OTC Markets Group, Inc. or similar quotation system or association at the end of such day; in each case, averaged over twenty (20) consecutive Trading Days ending on the Trading Day immediately prior to the day as of which "VWAP" is being determined. If at any time the Common Stock is not listed on any domestic securities exchange or quoted on the OTCQB tier of the OTC Markets Group, Inc. or similar quotation system or association, the "VWAP" of the Common Stock shall be the fair market value per share as determined jointly by the Board of Directors acting in good faith.

ii. Delivery of New Warrants Upon Exercise. If this Warrant shall have been exercised in part, the Company shall, at the request of a Holder and upon surrender of this Warrant certificate, at the time of delivery of the certificate or certificates representing Warrant Shares, deliver to the Holder a new Warrant evidencing the rights of the Holder to purchase the unpurchased Warrant Shares called for by this Warrant, which new Warrant shall in all other respects be identical with this Warrant.

iii. Rescission Rights. If the Company fails to cause the Transfer Agent to transmit to the Holder a certificate or the certificates representing the Warrant Shares pursuant to Section 2(c)(i) by the Warrant Share Delivery Date, then the Holder will have the right to rescind such exercise.

iv. Compensation for Buy-In on Failure to Timely Deliver Certificates Upon Exercise. In addition to any other rights available to the Holder, if the Company fails to cause the Transfer Agent to transmit to the Holder a certificate or the certificates representing the Warrant Shares pursuant to an exercise on or before the Warrant Share Delivery Date, and if after such date the Holder is required by its broker to purchase (in an open market transaction or otherwise) or the Holder's brokerage firm otherwise purchases, shares of Common Stock to deliver in satisfaction of a sale by the Holder of the Warrant Shares which the Holder anticipated receiving upon such exercise (a "Buy-In"), then the Company shall (A) pay in cash to the Holder the amount, if any, by which (x) the Holder's total purchase price (including brokerage commissions, if any) for the shares of Common Stock so purchased exceeds (y) the amount obtained by multiplying (1) the number of Warrant Shares that the Company was required to deliver to the Holder in connection with the exercise at issue times (2) the price at which the sell order giving rise to such purchase obligation was executed, and (B) at the option of the Holder, either reinstate the portion of the Warrant and equivalent number of Warrant Shares for which such exercise was not honored (in which case such exercise shall be deemed rescinded) or deliver to the Holder the number of shares of Common Stock that would have been issued had the Company timely complied with its exercise and delivery obligations hereunder. For example, if the Holder purchases Common Stock having a total purchase price of \$11,000 to cover a Buy-In with respect to an attempted exercise of shares of Common Stock with an aggregate sale price giving rise to such purchase obligation of \$10,000, under clause (A) of the immediately preceding sentence the Company shall be required to pay the Holder \$1,000. The Holder shall provide the Company written notice indicating the amounts payable to the Holder in respect of the Buy-In and, upon request of the Company, evidence of the amount of such loss. Nothing herein shall limit a Holder's right to pursue any other remedies available to it hereunder, at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief with respect to the Company's failure to timely deliver certificates representing shares of Common Stock upon exercise of the Warrant as required pursuant to the terms hereof.

v. No Fractional Shares or Scrip. No fractional shares or scrip representing fractional shares shall be issued upon the exercise of this Warrant. As to any fraction of a share which the Holder would otherwise be entitled to purchase upon such exercise, the Company shall, at its election, either pay a cash adjustment in respect of such final fraction in an amount equal to such fraction multiplied by the Exercise Price or round up to the next whole share.

vi. Charges, Taxes and Expenses. Issuance of certificates for Warrant Shares shall be made without charge to the Holder for any issue or transfer tax or other incidental expense in respect of the issuance of such certificate, all of which taxes and expenses shall be paid by the Company, and such certificates shall be issued in the name of the Holder or in such name or names as may be directed by the Holder; provided, however, that in the event certificates for Warrant Shares are to be issued in a name other than the name of the Holder, this Warrant when surrendered for exercise shall be accompanied by the Assignment Form attached hereto duly executed by the Holder and the Company may require, as a condition thereto, the payment of a sum sufficient to reimburse it for any transfer tax incidental thereto. The Company shall pay all Transfer Agent fees required for same-day processing of any Notice of Exercise.

vii. Closing of Books. The Company will not close its stockholder books or records in any manner which prevents the timely exercise of this Warrant, pursuant to the terms hereof.

d) Holder's Exercise Limitations. The Company shall not affect any exercise of this Warrant, and a Holder shall not have the right to exercise any portion of this Warrant, pursuant to Section 2 or otherwise, to the extent that after giving effect to such issuance after exercise as set forth on the applicable Notice of Exercise, the Holder (together with the Holder's Affiliates, and any other Persons acting as a group together with the Holder or any of the Holder's Affiliates), would beneficially own in excess of the Beneficial Ownership Limitation (as defined below). For purposes of the foregoing sentence, the number of shares of Common Stock beneficially owned by the Holder and its Affiliates shall include the number of shares of Common Stock issuable upon exercise of this Warrant with respect to which such determination is being made, but shall exclude the number of shares of Common Stock which would be issuable upon (i) exercise of the remaining, nonexercised portion of this Warrant beneficially owned by the Holder or any of its Affiliates and (ii) exercise or conversion of the unexercised or nonconverted portion of any other securities of the Company (including, without limitation, any other Common Stock Equivalents) subject to a limitation on conversion or exercise analogous to the limitation contained herein beneficially owned by the Holder or any of its Affiliates. Except as set forth in the preceding sentence, for purposes of this Section 2(d), beneficial ownership shall be calculated in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder, it being acknowledged by the Holder that the Company is not representing to the Holder that such calculation is in compliance with Section 13(d) of the Exchange Act and the Holder is solely responsible for any schedules required to be filed in accordance therewith. To the extent that the limitation contained in this Section 2(d) applies, the determination of whether this Warrant is exercisable (in relation to other securities owned by the Holder together with any Affiliates) and of which portion of this Warrant is exercisable shall be in the sole discretion of the Holder, and the submission of a Notice of Exercise shall be deemed to be the Holder's determination of whether this Warrant is exercisable (in relation to other securities owned by the Holder together with any Affiliates) and of which portion of this Warrant is exercisable, in each case subject to the Beneficial Ownership Limitation, and the Company shall have no obligation to verify or confirm the accuracy of such determination. In addition, a determination as to any group status as contemplated above shall be determined in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder. For purposes of this Section 2(d), in determining the number of outstanding shares of Common Stock, a Holder may rely on the number of outstanding shares of Common Stock as reflected in (A) the Company's most recent periodic or annual report filed with the Commission, as the case may be, (B) a more recent public announcement by the Company or (C) a more recent written notice by the Company or the Transfer Agent setting forth the number of shares of Common Stock outstanding. Upon the written or oral request of a Holder, the Company shall within two Trading Days confirm orally and in writing to the Holder the number of shares of Common Stock then outstanding. In any case, the number of outstanding shares of Common Stock shall be determined after giving effect to the conversion or exercise of securities of the Company, including this Warrant, by the Holder or its Affiliates since the date as of which such number of outstanding shares of Common Stock was reported. The "Beneficial Ownership Limitation" shall be 4.99% of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock issuable upon exercise of this Warrant. The Holder, upon not less than 61 days' prior notice to the Company, may increase or decrease the Beneficial Ownership Limitation provisions of this Section 2(d), provided that the Beneficial Ownership Limitation in no event exceeds 9.99% of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock upon exercise of this Warrant held by the Holder and the provisions of this Section 2(d) shall continue to apply. Any such increase or decrease will not be effective until the 61st day after such notice is delivered to the Company. The provisions of this paragraph shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this Section 2(d) to correct this paragraph (or any portion hereof) which may be defective or inconsistent with the intended Beneficial Ownership Limitation herein contained or to make changes or supplements necessary or desirable to properly give effect to such limitation. The limitations contained in this paragraph shall apply to a successor holder of this Warrant.

Section 3. Certain Adjustments.

a) Stock Dividends and Splits. If the Company, at any time while this Warrant is outstanding: (i) pays a stock dividend or otherwise makes a distribution or distributions on shares of its Common Stock or any other equity or equity equivalent securities payable in shares of Common Stock (which, for avoidance of doubt, shall not include any shares of Common Stock issued by the Company upon exercise of this Warrant), (ii) subdivides outstanding shares of Common Stock into a larger number of shares, (iii) combines (including by way of reverse stock split) outstanding shares of Common Stock into a smaller number of shares, or (iv) issues by reclassification of shares of the Common Stock any shares of capital stock of the Company, then in each case the Exercise Price shall be multiplied by a fraction of which the numerator shall be the number of shares of Common Stock (excluding treasury shares, if any) outstanding immediately before such event and of which the denominator shall be the number of shares of Common Stock outstanding immediately after such event, and the number of shares issuable upon exercise of this Warrant shall be proportionately adjusted such that the aggregate Exercise Price of this Warrant shall remain unchanged. Any adjustment made pursuant to this Section 3(a) shall become effective immediately after the record date for the determination of stockholders entitled to receive such dividend or distribution and shall become effective immediately after the effective date in the case of a subdivision, combination or re-classification.

b) Fundamental Transaction. If, at any time while this Warrant is outstanding, (i) the Company, directly or indirectly, in one or more related transactions effects any merger or consolidation of the Company with or into another Person, (ii) the Company, directly or indirectly, effects any sale, lease, license, assignment, transfer, conveyance or other disposition of all or substantially all of its assets in one or a series of related transactions, (iii) any, direct or indirect, purchase offer, tender offer or exchange offer (whether by the Company or another Person) is completed pursuant to which holders of Common Stock are permitted to sell, tender or exchange their shares for other securities, cash or property and has been accepted by the holders of 50% or more of the outstanding Common Stock, (iv) the Company, directly or indirectly, in one or more related transactions effects any reclassification, reorganization or recapitalization of the Common Stock or any compulsory share exchange pursuant to which the Common Stock is effectively converted into or exchanged for other securities, cash or property, or (v) the Company, directly or indirectly, in one or more related transactions consummates a stock or share purchase agreement or other business combination (including, without limitation, a reorganization, recapitalization, spin-off or scheme of arrangement) with another Person or group of Persons whereby such other Person or group acquires more than 50% of the outstanding shares of Common Stock (not including any shares of Common Stock held by the other Person or other Persons making or party to, or associated or affiliated with the other Persons making or party to, such stock or share purchase agreement or other business combination) (each a "Fundamental Transaction"), then, upon any subsequent exercise of this Warrant, the Holder shall have the right to receive, for each Warrant Share that would have been issuable upon such exercise immediately prior to the occurrence of such Fundamental Transaction, at the option of the Holder (without regard to any limitation in Section 2(d) on the exercise of this Warrant), the number of shares of capital stock of the successor or acquiring corporation or of the Company, if it is the surviving corporation, and any additional consideration (the "Alternate Consideration") receivable as a result of such Fundamental Transaction by a holder of the number of shares of Common Stock for which this Warrant is exercisable immediately prior to such Fundamental Transaction (without regard to any limitation in Section 2(d) on the exercise of this Warrant). For purposes of any such exercise, the determination of the Exercise Price shall be appropriately adjusted to apply to such Alternate Consideration based on the amount of Alternate Consideration issuable in respect of one share of Common Stock in such Fundamental Transaction, and the Company shall apportion the Exercise Price among the Alternate Consideration in a reasonable manner reflecting the relative value of any different components of the Alternate Consideration. If holders of Common Stock are given any choice as to the securities, cash or property to be received in a Fundamental Transaction, then the Holder shall be given the same choice as to the Alternate Consideration it receives upon any exercise of this Warrant following such Fundamental Transaction. The Company shall cause any successor entity in a Fundamental Transaction in which the Company is not the survivor (the "Successor Entity") to assume in writing all of the obligations of the Company under this Warrant and the other Transaction Documents in accordance with the provisions of this Section 3(b) pursuant to written agreements in form and substance reasonably satisfactory to the Holder and approved by the Holder (without unreasonable delay) prior to such Fundamental Transaction and shall, at the option of the Holder, deliver to the Holder in exchange for this Warrant a security of the Successor Entity evidenced by a written instrument substantially similar in form and substance to this Warrant which is exercisable for a corresponding number of shares of capital stock of such Successor Entity (or its parent entity) equivalent to the shares of Common Stock acquirable and receivable upon exercise of this Warrant (without regard to any limitations on the exercise of this Warrant) prior to such Fundamental Transaction, and with an exercise price which applies the exercise price hereunder to such shares of capital stock (but taking into account the relative value of the shares of Common Stock pursuant to such Fundamental Transaction and the value of such shares of capital stock, such number of shares of capital stock and such exercise price being for the purpose of protecting the economic value of this Warrant immediately prior to the consummation of such Fundamental Transaction), and which is reasonably satisfactory in form and substance to the Holder. Upon the occurrence of any such Fundamental Transaction, the Successor Entity shall succeed to, and be substituted for (so that from and after the date of such Fundamental Transaction, the provisions of this Warrant and the other Transaction Documents referring to the "Company" shall refer instead to the Successor Entity), and may exercise every right and power of the Company and shall assume all of the obligations of the Company under this Warrant and the other Transaction Documents with the same effect as if such Successor Entity had been named as the Company herein.

c) Calculations. All calculations under this Section 3 shall be made to the nearest cent or the nearest 1/100th of a share, as the case may be. For purposes of this Section 3, the number of shares of Common Stock deemed to be issued and outstanding as of a given date shall be the sum of the number of shares of Common Stock (excluding treasury shares, if any) issued and outstanding.

d) Notice to Holder.

i. Adjustment to Exercise Price. Whenever the Exercise Price is adjusted pursuant to any provision of this Section 3, the Company shall promptly mail to the Holder a notice setting forth the Exercise Price after such adjustment and any resulting adjustment to the number of Warrant Shares and setting forth a brief statement of the facts requiring such adjustment.

ii. Notice to Allow Exercise by Holder. If (A) the Company shall declare a dividend (or any other distribution in whatever form) on the Common Stock, (B) the Company shall declare a special nonrecurring cash dividend on or a redemption of the Common Stock, (C) the Company shall authorize the granting to all holders of the Common Stock rights or warrants to subscribe for or purchase any shares of capital stock of any class or of any rights, (D) the approval of any stockholders of the Company shall be required in connection with any reclassification of the Common Stock, any consolidation or merger to which the Company is a party, any sale or transfer of all or substantially all of the assets of the Company, or any compulsory share exchange whereby the Common Stock is converted into other securities, cash or property, or (E) the Company shall authorize the voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Company, then, in each case, the Company shall cause to be mailed to the Holder at its last address as it shall appear upon the Warrant Register of the Company, at least 20 calendar days prior to the applicable record or effective date hereinafter specified, a notice stating (x) the date on which a record is to be taken for the purpose of such dividend, distribution, redemption, rights or warrants, or if a record is not to be taken, the date as of which the holders of the Common Stock of record to be entitled to such dividend, distributions, redemption, rights or warrants are to be determined or (y) the date on which such reclassification, consolidation, merger, sale, transfer or share exchange is expected to become effective or close, and the date as of which it is expected that holders of the Common Stock of record shall be entitled to exchange their shares of the Common Stock for securities, cash or other property deliverable upon such reclassification, consolidation, merger, sale, transfer or share exchange; provided that the failure to mail such notice or any defect therein or in the mailing thereof shall not affect the validity of the corporate action required to be specified in such notice. To the extent that any notice provided hereunder constitutes, or contains, material, non-public information regarding the Company or any of the Subsidiaries, the Company shall simultaneously file such notice with the Commission pursuant to a Current Report on Form 8-K if the Company is then subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act. The Holder shall remain entitled to exercise this Warrant during the period commencing on the date of such notice to the effective date of the event triggering such notice except as may otherwise be expressly set forth herein.

Section 4. Transfer of Warrant.

a) Transferability. This Warrant and all rights hereunder (including, without limitation, any registration rights) are transferable, in whole or in part, upon surrender of this Warrant at the principal office of the Company or its designated agent, together with a written assignment of this Warrant substantially in the form attached hereto duly executed by the Holder or its agent or attorney and funds sufficient to pay any transfer taxes payable upon the making of such transfer. Upon such surrender and, if required, such payment, the Company shall execute and deliver a new Warrant or Warrants in the name of the assignee or assignees, as applicable, and in the denomination or denominations specified in such instrument of assignment, and shall issue to the assignor a new Warrant evidencing the portion of this Warrant not so assigned, and this Warrant shall promptly be cancelled. The Warrant, if properly assigned in accordance herewith, may be exercised by a new holder for the purchase of Warrant Shares without having a new Warrant issued.

b) New Warrants. This Warrant may be divided or combined with other Warrants upon presentation hereof at the aforesaid office of the Company, together with a written notice specifying the names and denominations in which new Warrants are to be issued, signed by the Holder or its agent or attorney. Subject to compliance with Section 4(a), as to any transfer which may be involved in such division or combination, the Company shall execute and deliver a new Warrant or Warrants in exchange for the Warrant or Warrants to be divided or combined in accordance with such notice. All Warrants issued on transfers or exchanges shall be dated the initial issuance date of this Warrant and shall be identical with this Warrant except as to the number of Warrant Shares issuable pursuant thereto.

c) Warrant Register. The Company shall register this Warrant, upon records to be maintained by the Company for that purpose (the "Warrant Register"), in the name of the record Holder hereof from time to time. The Company may deem and treat the registered Holder of this Warrant as the absolute owner hereof for the purpose of any exercise hereof or any distribution to the Holder, and for all other purposes, absent actual notice to the contrary.

Section 5. Miscellaneous.

a) No Rights as Stockholder Until Exercise. This Warrant does not entitle the Holder to any voting rights, dividends or other rights as a stockholder of the Company prior to the exercise hereof as set forth in Section 2(c)(i).

b) Loss, Theft, Destruction or Mutilation of Warrant. The Company covenants that upon receipt by the Company of evidence reasonably satisfactory to it of the loss, theft, destruction or mutilation of this Warrant or any stock certificate relating to the Warrant Shares, and in case of loss, theft or destruction, of indemnity or security reasonably satisfactory to it (which, in the case of the Warrant, shall not include the posting of any bond), and upon surrender and cancellation of such Warrant or stock certificate, if mutilated, the Company will make and deliver a new Warrant or stock certificate of like tenor and dated as of such cancellation, in lieu of such Warrant or stock certificate.

c) Saturdays, Sundays, Holidays, etc. If the last or appointed day for the taking of any action or the expiration of any right required or granted herein shall not be a Business Day, then, such action may be taken or such right may be exercised on the next succeeding Business Day.

d) Authorized Shares.

The Company covenants that, during the period the Warrant is outstanding, it will reserve from its authorized and unissued Common Stock a sufficient number of shares to provide for the issuance of the Warrant Shares upon the exercise of any purchase rights under this Warrant. The Company further covenants that its issuance of this Warrant shall constitute full authority to its officers who are charged with the duty of executing stock certificates to execute and issue the necessary certificates for the Warrant Shares upon the exercise of the purchase rights under this Warrant. The Company will take all such reasonable action as may be necessary to assure that such Warrant Shares may be issued as provided herein without violation of any applicable law or regulation, or of any requirements of the Trading Market upon which the Common Stock may be listed. The Company covenants that all Warrant Shares which may be issued upon the exercise of the purchase rights represented by this Warrant will, upon exercise of the purchase rights represented by this Warrant and payment for such Warrant Shares in accordance herewith, be duly authorized, validly issued, fully paid and nonassessable and free from all taxes, liens and charges created by the Company in respect of the issue thereof (other than taxes in respect of any transfer occurring contemporaneously with such issue).

Except and to the extent as waived or consented to by the Holder, the Company shall not by any action, including, without limitation, amending its certificate of incorporation or through any reorganization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Warrant, but will at all times in good faith assist in the carrying out of all such terms and in the taking of all such actions as may be necessary or appropriate to protect the rights of the Holder as set forth in this Warrant against impairment. Without limiting the generality of the foregoing, the Company will (i) not increase the par value of any Warrant Shares above the amount payable therefor upon such exercise immediately prior to such increase in par value, (ii) take all such action as may be necessary or appropriate in order that the Company may validly and legally issue fully paid and nonassessable Warrant Shares upon the exercise of this Warrant and (iii) use commercially reasonable efforts to obtain all such authorizations, exemptions or consents from any public regulatory body having jurisdiction thereof, as may be, necessary to enable the Company to perform its obligations under this Warrant.

Before taking any action which would result in an adjustment in the number of Warrant Shares for which this Warrant is exercisable or in the Exercise Price, the Company shall obtain all such authorizations or exemptions thereof, or consents thereto, as may be necessary from any public regulatory body or bodies having jurisdiction thereof.

e) Jurisdiction. All questions concerning the construction, validity, enforcement and interpretation of this Warrant shall be determined in accordance with the provisions of the Purchase Agreement.

f) Restrictions. The Holder acknowledges that the Warrant Shares acquired upon the exercise of this Warrant, if not registered, will have restrictions upon resale imposed by state and federal securities laws.

g) Nonwaiver and Expenses. No course of dealing or any delay or failure to exercise any right hereunder on the part of Holder shall operate as a waiver of such right or otherwise prejudice the Holder's rights, powers or remedies. Without limiting any other provision of this Warrant or the Purchase Agreement, if the Company willfully and knowingly fails to comply with any provision of this Warrant, which results in any material damages to the Holder, the Company shall pay to the Holder such amounts as shall be sufficient to cover any costs and expenses including, but not limited to, reasonable attorneys' fees, including those of appellate proceedings, incurred by the Holder in collecting any amounts due pursuant hereto or in otherwise enforcing any of its rights, powers or remedies hereunder.

h) Notices. Any notice, request or other document required or permitted to be given or delivered to the Holder by the Company shall be delivered in accordance with the notice provisions of the Purchase Agreement.

i) Limitation of Liability. No provision hereof, in the absence of any affirmative action by the Holder to exercise this Warrant to purchase Warrant Shares, and no enumeration herein of the rights or privileges of the Holder, shall give rise to any liability of the Holder for the purchase price of any Common Stock or as a stockholder of the Company, whether such liability is asserted by the Company or by creditors of the Company.

j) Remedies. The Holder, in addition to being entitled to exercise all rights granted by law, including recovery of damages, will be entitled to specific performance of its rights under this Warrant. The Company agrees that monetary damages would not be adequate compensation for any loss incurred by reason of a breach by it of the provisions of this Warrant and hereby agrees to waive and not to assert the defense in any action for specific performance that a remedy at law would be adequate.

k) Successors and Assigns. Subject to applicable securities laws, this Warrant and the rights and obligations evidenced hereby shall inure to the benefit of and be binding upon the successors and permitted assigns of the Company and the successors and permitted assigns of Holder. The provisions of this Warrant are intended to be for the benefit of any Holder from time to time of this Warrant and shall be enforceable by the Holder or holder of Warrant Shares.

l) Amendment. This Warrant may be modified or amended or the provisions hereof waived with the written consent of the Company and holders holding Warrants to acquire 67% of the Warrant Shares issuable pursuant to the Warrants that were issued under the Purchase Agreement.

m) Severability. Wherever possible, each provision of this Warrant shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Warrant shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions or the remaining provisions of this Warrant.

n) Headings. The headings used in this Warrant are for the convenience of reference only and shall not, for any purpose, be deemed a part of this Warrant.

(Signature Page Follows)

IN WITNESS WHEREOF, the Company has caused this Warrant to be executed by its officer thereunto duly authorized as of the date first above indicated.

SUMMIT WIRELESS TECHNOLOGIES, INC.

By: _____
Name: Brett Moyer
Title: Chief Executive Officer

NOTICE OF EXERCISE

TO: SUMMIT WIRELESS TECHNOLOGIES, INC.

(1) The undersigned hereby elects to purchase _____ Warrant Shares of the Company pursuant to the terms of the attached Warrant (only if exercised in full), and tenders herewith payment of the exercise price in full, together with all applicable transfer taxes, if any.

(2) Payment shall take the form of lawful money of the United States.

(3) Please issue a certificate or certificates representing said Warrant Shares in the name of the undersigned or in such other name as is specified below:

The Warrant Shares shall be delivered to the following DWAC Account Number or by physical delivery of a certificate to:

[SIGNATURE OF HOLDER]

Name of Investing Entity: _____

Signature of Authorized Signatory of Investing Entity: _____

Name of Authorized Signatory: _____

Title of Authorized Signatory: _____

Date: _____

ASSIGNMENT FORM

(To assign the foregoing warrant, execute this form and supply required information. Do not use this form to exercise the warrant.)

FOR VALUE RECEIVED, [] all of or [] shares of the foregoing Warrant and all rights evidenced thereby are hereby assigned to

_____ whose address is

Dated: _____, _____

Holder's Signature: _____

Holder's Address: _____

Signature Guaranteed: _____

NOTE: The signature to this Assignment Form must correspond with the name as it appears on the face of the Warrant, without alteration or enlargement or any change whatsoever, and must be guaranteed by a bank or trust company. Officers of corporations and those acting in a fiduciary or other representative capacity should file proper evidence of authority to assign the foregoing Warrant.

SUMMIT WIRELESS TECHNOLOGIES, INC.

SETTLEMENT AGREEMENT AND RELEASE

This Confidential Settlement Agreement and Release (the "Settlement Agreement") is made by and between the stockholder executing the signature page to this Agreement (the "Securityholder"), on the one hand, and Summit Wireless Technology, Inc. (the "Company") on the other hand. The Securityholder and the Company are each referred to as a "Party" and are collectively referred to as the "Parties."

WHEREAS, the Securityholder purchased units of the Company ("Units"), pursuant to (i) a Unit Purchase Agreement, dated February 4, 2020 and (ii) a Subscription Agreement executed and entered into on February 28, 2020 (the "Subscription Agreement"), in connection with which Alexander Capital LLP served as placement agent ("Alexander Capital"), which Units were comprised of shares of the Company's common stock, par value \$0.0001 per share (the "Common Stock") and common stock purchase warrants to purchase shares of Common Stock (the "Warrants"); and

WHEREAS, Alexander Capital has advised the Company of certain potential claims, on behalf of the Securityholder and the other investors that purchased Units under the terms of the Subscription Agreement (the "Investors"), against that the Company as to its alleged failure to timely register the shares of Common Stock and the shares issuable upon exercise of the Warrants (the "Claims"), which alleged failure may have resulted in damages to the Securityholder and the other Investors; and

WHEREAS, the Company denies any liability relating to the Claims and maintains a number of affirmative defenses thereto; and

WHEREAS, the Company and the Investors have reached an agreement to settle their disputes relating to the Claims and desire to reduce said agreement to writing; and

WHEREAS, after the execution of the Subscription Agreement and the sale of the Units to the Securityholder, effective as of April 9, 2020, the Company effected a reverse stock split of its shares of Common Stock so that all shares of Common Stock issued to the Securityholder and the number of shares exercisable pursuant to the Securityholder's Warrant were reduced to 1/20 of the number of shares of Common Stock set forth under the Subscription Agreement and the Securityholder's Warrant and the exercise price of the Securityholder's Warrant was proportionately increased, and all share amounts and the exercise prices set forth herein give effect to such reverse stock split;

NOW THEREFORE, in consideration for the mutual promises contained herein, and for the good and valuable consideration recited herein, the receipt and sufficiency of which is hereby acknowledged, the Securityholder and the Company agree as follows:

1. Amendment to Securityholder's Warrant. As consideration for the Release provided by the Securityholder, as provided in Section 4 hereafter, the Company agrees to execute, enter into and deliver to the Securityholder, the Warrant Amendment with the Securityholder, in the form of Exhibit A annexed hereto (the "Warrant Amendment"), pursuant to which the Warrant issued to the Securityholder, dated as of May 5, 2020, shall be amended to (a) to increase the number of shares of Common Stock available for exercise under the Securityholder's Warrant to the number of shares set forth on the signature page to this Settlement Agreement and (b) to reduce the current exercise price of the Securityholder's Warrant from \$9.80 per share to \$2.55 per share. In addition, the additional shares of Common Stock available for exercise under the Securityholder's Warrant shall be entitled to the registration rights set forth in a Registration Rights Agreement, in the form of Exhibit B annexed hereto (the "Registration Rights Agreement"). The Warrant Amendment shall be delivered to Alexander Capital for delivery to the Securityholder.

2. Settlement Shares. As additional consideration for the Release provided by the Securityholder, as provided in Section 4 hereafter, within five (5) business days after the execution and delivery of this Settlement Agreement by both Parties, the Company shall issue to the Securityholder such number of additional shares of Common Stock, as set forth on the signature page to this Settlement Agreement (the "Settlement Shares"), which Settlement Shares shall be entitled to the registration rights set forth in the Registration Rights Agreement. Sale of the Settlement Shares shall be subject to the restrictions set forth in a Leak-Out Agreement, in the form of Exhibit C annexed hereto. The Settlement Shares shall be transferred into the Securityholder's possession according to the instructions provided by Alexander Capital.

3. Settlement Warrant. As further consideration for the Release provided by the Securityholder, as provided in Section 4 hereafter, within five (5) business days after the execution and delivery of this Settlement Agreement by both Parties, the Company shall issue to the Securityholder an additional common stock purchase warrant, in the form of Exhibit D annexed hereto (the "Settlement Warrant") to purchase up to such number of shares of Common Stock, as set forth on the signature page to this Settlement Agreement (the "Settlement Warrant Shares"). The Settlement Warrant Shares shall be entitled to the registration rights set forth in the Registration Rights Agreement. The Settlement Warrant shall be delivered to Alexander Capital for delivery to the Securityholder.

4. General Release of the Company. In exchange for the consideration detailed in Sections 1, 2 and 3 above, the Securityholder for itself, its administrators, representatives, successors and assigns (the "Securityholder Releasers") agrees to release any and all claims it may have against the Company and its predecessors and successors in interest, affiliates, representatives, subsidiaries, parents, divisions, claims managers, heirs, assigns, insurers, re-insurers, shareholders, creditors, liquidators, administrators, executors, former and present directors and officers, all employees, principals, agents or registered representatives ("Company's Related Persons and Entities") from any and all manner of action and actions, cause and causes of action, suits, proceedings, arbitrations, claims, grievances, debts, sums of money, claims for attorney fees, interest, expenses and costs, covenants, contracts, controversies, agreements, promises, damages, losses, and demands of any nature whatsoever, known or unknown, suspected or unsuspected, in law or in equity, civil or criminal, vested or contingent, which the Securityholder ever had or now has or asserts against the Company and/or Company's Related Persons and Entities, for, upon, or by reason of any matter, cause, or thing whatsoever from the beginning of the world to the date hereof, except for any and all obligations of the Company under this Settlement Agreement and the other agreements that are exhibits hereto (the "Securityholder Released Claims").

5. Default. It is a material breach of this Settlement Agreement for the obligations described in Sections 1, 2 and 3 above, to not be completed how and when due, subject to the Securityholder's compliance with its obligations set forth in this Settlement Agreement including, without limitation, the restrictions set forth in the Leak-Out Agreement. If the Company is in material breach of this Settlement Agreement, by failing to meet those obligations, or in any other manner, the Securityholder is explicitly permitted to seek damages for such a breach. Either Party is entitled to costs or fees incurred by the other Party in the event of its material breach.

6. Fees. Each Party shall be responsible for their own attorneys' fees and costs, in connection with the preparation and negotiation of this Settlement Agreement and the other agreements that are exhibits hereto.

7. Non-Disparagement. Each Party shall refrain from disparaging the other Party in public or private comment or writing. Further, no Party shall disparage any employee, director, or independent contractor working for the other Party. Notwithstanding the foregoing, the Company and the Securityholder will respond accurately and fully to any question, inquiry or request for information as may be required by legal process, law, or regulation. Violation of this clause shall be a material breach of this Settlement Agreement

8. Representations, Warranties and Covenants of Securityholder. The Securityholder hereby represents, warrants, covenants and agrees as follows:

(a) No Assignment of Claims. Neither the Securityholder, nor any other Securityholder Releasor, nor anyone acting on any of their behalves, has ever sold, assigned, transferred, conveyed or otherwise disposed of all or any part of the Securityholder Released Claims released thereby hereunder, whether known or unknown.

(b) No Proceedings Initiated. Neither the Securityholder, nor any other Securityholder Releasor, nor any individual or entity related to any of them, nor anyone acting on any of their behalves, has filed or initiated any charge or claim, relating to any of the Securityholder Released Claims, against the Company or any of the Company's Related Persons and Entities in any administrative or judicial proceeding.

(c) No Voluntary Assistance. Provided that the Company is in material compliance with the terms of this Settlement Agreement, neither the Securityholder, nor any other Securityholder Releasor, nor any individual or entity related to any of them, will voluntarily assist, support, or cooperate with, directly or indirectly, any entity or person alleging or pursuing any claim, administrative charge, or cause of action, relating to any of the Securityholder Released Claims, against the Company or any of or any of Company's Related Persons and Entities hereunder, including, without limitation, by providing testimony or other information, audio or video recordings, or documents, other than as legally required.

(d) Covenant Not-to-Sue. Provided that the Company is in material compliance with the terms of this Agreement, the Securityholder, for itself and the other Securityholder Releasers, hereby covenants and agrees not to file, initiate or pursue a lawsuit against the Company or any of the Company's Related Persons and Entities, with respect to any of the Securityholder Released Claims, and will not ask any other person or entity to initiate such a lawsuit on its or their behalves.

(e) No Admission. The releases granted by the Securityholder hereunder shall not be construed as an admission by the Company or any of Company's Related Persons and Entities of any liability, or any acts of wrongdoing, or the violation of any federal, state or local law, ordinance, regulation or custom, nor shall it be considered as evidence of any such alleged liability, wrongdoing, or violation of any federal, state or local law, ordinance, regulation or custom.

(f) Investigation. Each Securityholder Releaser acknowledges and agrees that it has made an acceptable investigation of the facts pertaining to this settlement, this Settlement Agreement, and the matters pertaining hereto and thereto. Each Securityholder Releaser further acknowledges and agrees that no Party to this Settlement Agreement has made representations outside of those contained in this Settlement Agreement, and each Securityholder Releaser expressly agrees and represents that it has not relied on any representation outside of this Settlement Agreement.

9. General Representations and Warranties.

(a) Securityholder. The Securityholder hereby represents and warrants to the Company as follows: (i) the Securityholder, if an entity, is duly organized, validly existing, and in good standing and has all requisite power and authority to carry on its business as presently conducted and as proposed to be conducted; (ii) the individual signing this Settlement Agreement, on behalf of the Securityholder, is an individual with capacity to enter into this Agreement on the Securityholder's behalf; (iii) all action required to be taken by the Securityholder in order to authorize its entrance into this Settlement Agreement has been taken as of the date hereof, and the person signing this Agreement on behalf of the Securityholder, is duly authorized to do so; (iv) this Settlement Agreement has been, or when executed and delivered, will be, duly and validly executed and delivered by the Securityholder and will constitute valid and legally binding obligations of the Securityholder, enforceable against the Securityholder in accordance with its terms, subject to (A) any applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and similar laws of general applicability affecting creditors' rights generally and (B) general principles of equity, whether considered in a proceeding at law or in equity; and (v) the Securityholder has conferred with legal counsel of its choosing as to the significance and legal effect of this Settlement Agreement.

(b) Company. The Company hereby represents and warrants to the Securityholder as follows: (i) the Company is duly organized, validly existing, and in good standing and has all requisite power and authority to carry on its business as presently conducted and as proposed to be conducted; (ii) the individual signing this Settlement Agreement, on behalf of the Company, is an individual with capacity to enter into this Agreement on the Company's behalf; (iii) all action required to be taken by the Company in order to authorize its entrance into this Settlement Agreement has been taken as of the date hereof, and the person signing this Agreement on behalf of the Company, is duly authorized to do so; (iv) this Settlement Agreement has been, or when executed and delivered, will be, duly and validly executed and delivered by the Company and will constitute valid and legally binding obligations of the Company, enforceable against the Company in accordance with its terms, subject to (A) any applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and similar laws of general applicability affecting creditors' rights generally and (B) general principles of equity, whether considered in a proceeding at law or in equity; and (v) the Company has conferred with legal counsel of its choosing as to the significance and legal effect of this Settlement Agreement.

(c) Each Party covenants and agrees that all representations and warranties made thereby herein shall be true and correct on the date of this Settlement Agreement.

10. Integration. This Settlement Agreement contains all agreements, covenants, representations and warranties, express or implied, oral or written, of the Parties hereto concerning the subject matter hereof. No other agreements, covenants, representations, or warranties, express or implied, oral or written, have been made by any Party hereto to any other Party concerning the subject matter hereof. All prior and contemporaneous conversations, negotiations, possible and alleged agreements, representations, covenants, and warranties concerning the subject matter hereof are merged and integrated herein.

11. Modification and Waiver. This Settlement Agreement may not be modified, amended, or terminated except by an instrument in writing, signed by each of the Parties affected thereby. No failure to exercise and no delay in exercising any right, remedy, or power under this Settlement Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, remedy, or power under this agreement preclude any other or further exercise thereof, or the exercise of any other right, remedy, or power provided herein, or by law or in equity.

12. No Admissions. This Settlement Agreement represents the compromise of disputed claims and causes of action and there is no admission of liability by any Party hereto, liability being expressly denied.

13. Construction. In signing this Settlement Agreement, the Parties have relied wholly upon their own judgment and advice of their own counsel and have not been influenced to any extent whatsoever in making this Settlement Agreement by any representations or statements made by any other Party hereto. The Parties have jointly drafted this Settlement Agreement and no Party shall be entitled to the benefit of any rule of law that states that in the event of an ambiguity the document shall be interpreted against the interests of the drafting Party. The Parties each acknowledge that they have read this Settlement Agreement, that they are relying solely upon the contents of this Settlement Agreement, and are not relying upon any other oral or written representations, warranties, or inducements whatsoever as an inducement to enter into this Settlement Agreement, other than those referenced herein, and acknowledge that no oral or written, express or implied representations, warranties, or covenants have been made which are not referenced in this Settlement Agreement.

14. Severability. If for any reason any provision of this Settlement Agreement is determined to be invalid or unenforceable, the remaining provisions of this Settlement Agreement nevertheless shall be construed, performed, and enforced as if the invalidated or unenforceable provision had not been included in the Settlement Agreement's text. In the event that any term hereof is found or deemed to be illegal or otherwise invalid or unenforceable, the other terms shall stand, and the Parties may attempt to negotiate a valid new provision concerning the same subject matter.

15. Choice of Law; Venue. This Settlement Agreement is to be interpreted and construed in accordance with the laws of the State of New York without reference to any choice of law provisions of that State. Any disputes regarding this Settlement Agreement or the interpretation thereof shall be litigated exclusively within the federal or state courts located in New York County, New York, and the Parties waive any objection to such jurisdiction and venue as it relates to a dispute regarding this Settlement Agreement or the interpretation thereof.

16. Confidentiality. The Parties acknowledge that confidentiality and nondisclosure are material considerations for the Parties entering into this Settlement Agreement. As such, the provisions of this Settlement Agreement shall be held in strictest confidence by the Parties and shall not be publicized or disclosed in any manner whatsoever, including but not limited to, the print or broadcast media, any public network such as the Internet, any other outbound data program such as computer generated mail, reports, faxes, or any source likely to result in publication or computerized access. Notwithstanding the prohibition in the preceding sentence: (a) the Parties may disclose this Settlement Agreement in confidence to their respective attorneys, accountants, auditors, tax preparers, and financial advisors; (b) the Parties may disclose this Settlement Agreement as necessary to fulfill standard or legally required corporate reporting or disclosure requirements; (c) the Parties may disclose this Settlement Agreement upon request from any government entity, regulatory organization, or court of law; and (d) the Parties may disclose this Settlement Agreement insofar as such disclosure may be necessary to enforce its terms or as otherwise required by law. Nothing contained in this Section 16 shall prevent either Party from stating that the Parties have “amicably resolved all differences,” provided, however, that in so doing, the Parties shall not disclose the fact or amount of any payments made or to be made hereunder and shall not disclose any other terms of this Settlement Agreement or the settlement described herein. Notwithstanding the foregoing, neither Party shall disclose any information, the disclosure of which would be prohibited by law. Additionally, each Party shall continue to comply with all obligations of confidentiality and the treatment of material non-public information, which obligations shall survive the termination of this Settlement Agreement. Notwithstanding anything to the contrary set forth in this Settlement Agreement, the Parties understand that this Settlement Agreement does not restrict either of them from initiating communications directly with, or responding to, any inquiry from, or providing testimony before, the SEC, FINRA, any other self-regulatory organization or any other state or federal regulatory authority, regarding this Settlement Agreement or its underlying facts or circumstances.

17. Notices: Method of Delivery. Written notice under this Agreement must be delivered personally or by email to the persons identified in this Section 17. Notice may also be given by (a) certified mail (postage prepaid, return receipt requested), (b) by personal delivery, (c) by any reputable and commercially available overnight delivery service or (d) by email and shall be deemed given (i) within five (5) days after deposited in the U.S. mail by certified mail (postage prepaid, return receipt requested), (ii) when delivered personally, (iii) one (1) day after deposited with a reputable overnight delivery service, or (iv) upon receipt by the sending party of confirmation of receipt of an email notice. Any notices permitted or required under this Agreement shall be sent in the manner set forth in this Section 17, addressed to the following:

If to the Securityholder, to the address set forth on the signature page to this Settlement Agreement.

If to the Company

Summit Wireless Technologies, Inc.
6840 Via Del Oro, Suite 280
San Jose, CA 95119
Attention: Brett Moyer, CEO
Email: bmoyer@summitwireless.com

Copies of all notices to the Company (which shall not constitute notice under this Agreement) should be sent to:

Sullivan & Worcester LLP
1633 Broadway
New York, NY 10019
Attention: David E. Danovitch, Esq.
Email: ddanovitch@sullivanlaw.com

Or to such other address as provided by one Party to the other Party, in writing, pursuant to the provisions of this Section 17.

18. Counterparts. If this Settlement Agreement is executed in facsimile or electronic counterparts (such as a pdf file), then each counterpart shall be deemed an original, and all counterparts so executed shall constitute one agreement binding on all of the Parties hereto, notwithstanding that all of the Parties are not a signatory to the same counterpart.

19. Headings. Paragraph headings are included for convenience only and do not affect the substantive provisions in this Settlement Agreement.

20. Representations of Knowledge, Authority, and Volition. The Parties have read the foregoing Settlement Agreement and know the contents thereof. The undersigned signing on behalf of the Company represents that he/she is authorized to execute this Settlement Agreement on behalf of the other person(s) or entity(ies) for whom he/she executes this Settlement Agreement. The undersigned signing on behalf of the Securityholder represents that he/she is authorized to execute this Settlement Agreement on behalf of the other person(s) or entity(ies) for whom he/she executes this Settlement Agreement, as applicable.

EACH OF THE UNDERSIGNED REPRESENTS THAT THEY HAVE SIGNED THIS SETTLEMENT AGREEMENT AS THEIR OWN FREE ACT AND DEED, HAVING HAD SUFFICIENT TIME TO REVIEW AND TO CONSULT WITH COUNSEL BEFORE SIGNING.

Signature Page Follows

IN WITNESS WHEREOF, the Parties hereto have caused this Settlement Agreement and Release to be executed as of the dates set forth below.

Dated: November __, 2020

Summit Wireless Technologies, Inc.

By: _____

Name: Brett Moyer
Title: Chief Executive Officer

[Summit Signature Page to Settlement and Release Agreement]

Total Shares Available Under Warrant after Amendment:

Number of Settlement Shares:

Number of Settlement Warrant Shares:

If the Securityholder is an INDIVIDUAL, and if Units were purchased as JOINT TENANTS, as TENANTS IN COMMON, or as COMMUNITY PROPERTY:

Securityholder:

Print Name

Social Security Number

Signature

Date

Mailing Address

Co-Securityholder (if applicable):

Print Name

Social Security Number

Signature

Date

Address (if different from above)

By executing this Settlement Agreement, the above Securityholder also agrees to all of the terms and conditions of the Registration Rights Agreement, the form of which is annexed hereto as Exhibit B, and is deemed to have executed the Registration Rights Agreement.

Total Shares Available Under Warrant after Amendment:

Number of Settlement Shares:

Number of Settlement Warrant Shares:

If the Securityholder is a PARTNERSHIP, CORPORATION, LIMITED LIABILITY COMPANY or TRUST:

Name of Partnership, Corporation, Limited Liability
Company or Trust

Federal Taxpayer Identification Number

Signature

Date

Print Name

Business Address

Title

By executing this Settlement Agreement, the above Securityholder also agrees to all of the terms and conditions of the Registration Rights Agreement, the form of which is annexed hereto as Exhibit B, and is deemed to have executed the Registration Rights Agreement.

EXHIBIT A

Warrant Amendment

Attached

EXHIBIT B

Form of Registration Rights Agreement

Attached

EXHIBIT C

Form of Leak-Out Agreement

Attached

EXHIBIT D

Form of Settlement Warrant

Attached

REGISTRATION RIGHTS AGREEMENT

This Registration Rights Agreement (this "Agreement") is made and entered into as of November __, 2020 among Summit Wireless Technologies, Inc., a Delaware corporation (the "Company"), and each of the several securityholders signatory hereto (each such securityholder, a "Securityholder" and, collectively, the "Securityholders").

WHEREAS, in connection with those certain Settlement Agreements and Release, dated November __, 2020, by the Company and each Securityholder (each a "Settlement Agreement" and collectively, the "Settlement Agreements"), the Company has agreed to issue to the Securityholders (i) an aggregate amount of 236,375 shares (the "Settlement Shares"); (ii) common stock purchase warrants (the "Settlement Warrants") to purchase up to an aggregate of 236,369 shares of Common Stock at an exercise price of \$2.55 per share (the "Settlement Warrant Shares") and (iii) the right to purchase an aggregate of up to an additional 45,534 shares of Common Stock pursuant to amendments (the "Warrant Amendments") to the common stock purchase warrants issued to the Securityholders in February 2020 (the "Original Warrants"), at an exercise price of \$2.55 per share (the "Additional Warrant Shares"); and

WHEREAS, pursuant to the provisions of the Settlement Agreement and the other Transaction Documents, the Company has agreed to grant the Securityholders certain rights with respect to registration of Registrable Securities (as defined below) under the Securities Act pursuant to the terms of this Agreement.

NOW, THEREFORE, the Company and each Securityholder hereby agree as follows:

1. Definitions.

As used in this Agreement, the following terms shall have the following meanings:

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

"Additional Warrant Shares" shall have the meaning set forth in the recitals.

"Advice" shall have the meaning set forth in Section 6(d).

"Alexander Capital" means Alexander Capital LLP.

"Business Day" means any day except any Saturday, any Sunday, any day which is a federal legal holiday in the United States or any day on which banking institutions in the State of New York are authorized or required by law or other governmental action to close.

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

"Common Stock" shall have the meaning set forth in the recitals.

"Cut-Off Date" shall have the meaning set forth in Section 2(a).

"Effectiveness Date" means, with respect to the Initial Registration Statement required to be filed hereunder, the 12th calendar day following the Filing Date and with respect to any additional Registration Statements which may be required pursuant to Section 2(c) or Section 3(c), the 90th calendar day following the date on which an additional Registration Statement is required to be filed hereunder; provided, however, that in the event the Company is notified by the Commission that one or more of the above Registration Statements will not be reviewed or is no longer subject to further review and comments, the Effectiveness Date as to such Registration Statement shall be the 10th calendar day following the date on which the Company is so notified if such date precedes the dates otherwise required above (unless the Company is required to update its financial statements prior to requesting acceleration of such Registration Statement, which will require the Company to file an amendment to such Registration Statement, in which case the Company shall file any necessary amendment to such Registration Statement and request effectiveness thereof as soon as reasonably practicable and in no event later than the 60th calendar day following the Filing Date); provided, further, if such Effectiveness Date falls on a day that is not a Trading Day, then the Effectiveness Date shall be the next succeeding Trading Day.

“Effectiveness Period” shall have the meaning set forth in Section 2(a).

“Event” shall have the meaning set forth in Section 2(d).

“Event Date” shall have the meaning set forth in Section 2(d).

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

“Filing Date” means, with respect to the Initial Registration Statement required hereunder, the 4th calendar day following the execution of the Transaction Documents by the Securityholders and the Company and, with respect to any additional Registration Statements which may be required pursuant to Section 2(c) or Section 3(c), the earliest practical date on which the Company is permitted by SEC Guidance to file such additional Registration Statement related to the Registrable Securities.

“Holder” or “Holders” means the holder or holders, as the case may be, from time to time of Registrable Securities.

“Indemnified Party” shall have the meaning set forth in Section 5(c).

“Indemnifying Party” shall have the meaning set forth in Section 5(c).

“Initial Registration Statement” means the initial Registration Statement filed pursuant to this Agreement.

“Leak-Out Agreements” means the Leak-Out Agreements, each dated October [29], 2020, between each Holder and the Company.

“Losses” shall have the meaning set forth in Section 5(a).

“Original Warrants” shall have the meaning set forth in the recitals.

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

“Plan of Distribution” shall have the meaning set forth in Section 2(a).

“Prospectus” means the prospectus included in a Registration Statement (including, without limitation, a prospectus that includes any information previously omitted from a prospectus filed as part of an effective registration statement in reliance upon Rule 430A promulgated by the Commission pursuant to the Securities Act), as amended or supplemented by any prospectus supplement, with respect to the terms of the offering of any portion of the Registrable Securities covered by a Registration Statement, and all other amendments and supplements to the Prospectus, including post-effective amendments, and all material incorporated by reference or deemed to be incorporated by reference in such Prospectus.

“Registrable Securities” means, as of any date of determination, (a) all of the Additional Warrant Shares then issuable upon Original Warrants, as amended (assuming on such date the Original Warrants, as amended, are exercised in full without regard to any exercise limitations therein), (b) all of the Settlement Shares, (c) all of the Settlement Warrant Shares then issuable upon exercise of the Settlement Warrants (assuming on such date the Settlement Warrants are exercised in full without regard to any exercise limitations therein), (d) any additional shares of Common Stock issuable in connection with any anti-dilution provisions in the Original Warrants, as amended, and the Settlement Warrants (without giving effect to any limitations on exercise set forth therein), and (e) any securities issued or then issuable upon any stock split, dividend or other distribution, recapitalization or similar event with respect to the foregoing; provided, however, that any such Registrable Securities shall cease to be Registrable Securities (and the Company shall not be required to maintain the effectiveness of any, or file another, Registration Statement hereunder with respect thereto) for so long as (a) a Registration Statement with respect to the sale of such Registrable Securities is declared effective by the Commission under the Securities Act and such Registrable Securities have been disposed of by the Holder in accordance with such effective Registration Statement, (b) such Registrable Securities have been previously sold in accordance with Rule 144, or (c) such securities become eligible for resale without volume or manner-of-sale restrictions and without the requirement for the Company to be in compliance with the current public information requirement under Rule 144, as determined by counsel to the Company pursuant to a written opinion letter to such effect, addressed, delivered and acceptable to the Transfer Agent and the affected Holders (assuming that such securities, any securities upon the exercise, conversion or exchange of or as a dividend upon which such securities were issued, or any securities issuable upon the exercise, conversion or exchange of, or as a dividend upon such securities, were at no time held by any Affiliate of the Company), as reasonably determined by the Company, upon the advice of counsel to the Company. For the avoidance of doubt, any such Registrable Securities shall cease to be Registrable Securities after the Cut-Off Date.

“Registration Statement” means any registration statement required to be filed hereunder pursuant to Section 2(a) and any additional registration statements contemplated by Section 2(c) or Section 3(c), including (in each case) the Prospectus, amendments and supplements to any such registration statement or Prospectus, including pre- and post-effective amendments, all exhibits thereto, and all material incorporated by reference or deemed to be incorporated by reference in any such registration statement.

“Rule 415” means Rule 415 promulgated by the Commission pursuant to the Securities Act, as such Rule may be amended or interpreted from time to time, or any similar rule or regulation hereafter adopted by the Commission having substantially the same purpose and effect as such Rule.

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

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

“Selling Stockholder Questionnaire” shall have the meaning set forth in Section 3(a).

“SEC Guidance” means (i) any publicly-available written or oral guidance of the Commission staff, or any comments, requirements or requests of the Commission staff and (ii) the Securities Act.

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

“Securityholder” and “Securityholders” shall have the meanings set forth in the recitals.

“Settlement Agreement” and “Settle Agreements” shall have the meanings set forth in the recitals.

“Settlement Shares” shall have the meaning set forth in the recitals.

“Settlement Warrants” shall have the meaning set forth in the recitals.

“Settlement Warrant Shares” shall have the meaning set forth in the recitals.

“Subsidiary” means any direct or indirect subsidiary of the Company formed or acquired after the date hereof.

“Trading Day” means a day on which the principal Trading Market is open for trading; provided, that in the event that the Common Stock is not listed or quoted for trading on a Trading Market on the date in question, then Trading Day shall mean a Business Day.

“Trading Market” means any of the following markets or exchanges on which the Common Stock is listed or quoted for trading on the date in question: the NYSE MKT, the Nasdaq Capital Market, the Nasdaq Global Market, the Nasdaq Global Select Market, the New York Stock Exchange, the OTC Bulletin Board, the OTC QB Marketplace or the OTC QX Marketplace (or any successors to any of the foregoing).

“Transaction Documents” means the Settlement Agreements, the Warrant Amendments, the Settlement Warrants, this Agreement and the Lock-Up Agreements.

“Transfer Agent” means a transfer agent for the Company’s Common Stock and any successor transfer agent of the Company.

“Warrant Amendments” shall have the meaning set forth in the recitals.

2. Shelf Registration.

(a) On or prior to each Filing Date, the Company shall prepare and file with the Commission a Registration Statement covering the resale of all of the Registrable Securities that are not then registered on an effective Registration Statement for an offering to be made on a continuous basis pursuant to Rule 415. Each Registration Statement filed hereunder shall be on Form S-3 (except if the Company is not then eligible to register for resale the Registrable Securities on Form S-3, in which case such registration shall be on another appropriate form in accordance herewith, subject to the provisions of Section 2(e)) and shall contain (unless otherwise directed by at least 51% in interest of the Holders) substantially the “Plan of Distribution” attached hereto as Annex A. Subject to the terms of this Agreement, the Company shall use its reasonable best efforts to cause a Registration Statement filed under this Agreement (including, without limitation, under Section 3(c)) to be declared effective under the Securities Act as promptly as possible after the filing thereof, but in any event no later than the applicable Effectiveness Date, and shall use its reasonable best efforts to keep such Registration Statement continuously effective under the Securities Act until the first to occur of: (A) the date that is one (1) year from the date the Registration Statement is declared effective by the Commission (the “Cut-Off Date”) and (B) the date that all Registrable Securities covered by such Registration Statement (i) have been sold, thereunder or pursuant to Rule 144, or (ii) may be sold without volume or manner-of-sale restrictions pursuant to Rule 144 and without the requirement for the Company to be in compliance with the current public information requirement under Rule 144, as determined by the counsel to the Company pursuant to a written opinion letter which shall be obtained at the company’s expense, to such effect, addressed, delivered and acceptable to the Transfer Agent and the affected Holders (assuming that such securities, any securities upon the exercise, conversion or exchange of or as a dividend upon which such securities were issued, or any securities issuable upon the exercise, conversion or exchange of, or as a dividend upon such securities, were at no time held by any Affiliate of the Company) (the “Effectiveness Period”). The Company shall telephonically request effectiveness of a Registration Statement as of 5:00 p.m. Eastern Time on a Trading Day. The Company shall immediately notify the Holders via facsimile or by e-mail of the effectiveness of a Registration Statement on the same Trading Day that the Company telephonically confirms effectiveness with the Commission, which shall be the date requested for effectiveness of such Registration Statement. The Company shall, by 9:30 a.m. Eastern Time on the Trading Day after the effective date of such Registration Statement, file a final Prospectus with the Commission as required by Rule 424. Failure to so notify the Holder within one (1) Trading Day of such notification of effectiveness or failure to file a final Prospectus as foresaid shall be deemed an Event under Section 2(d).

(b) Notwithstanding the registration obligations set forth in Section 2(a), if the Commission informs the Company that all of the Registrable Securities cannot, as a result of the application of Rule 415, be registered for resale as a secondary offering on a single registration statement, the Company agrees to promptly inform each of the Holders thereof and use its commercially reasonable efforts to file amendments to the Initial Registration Statement as required by the Commission, covering the maximum number of Registrable Securities permitted to be registered by the Commission, on Form S-3 or such other form available to register for resale the Registrable Securities as a secondary offering, subject to the provisions of Section 2(e); provided, however, that prior to filing such amendment, the Company shall be obligated to use diligent efforts to advocate with the Commission for the registration of all of the Registrable Securities in accordance with the SEC Guidance, including without limitation, Compliance and Disclosure Interpretation 612.09.

(c) Notwithstanding any other provision of this Agreement and subject to the payment of liquidated damages pursuant to Section 2(d), if the Commission or any SEC Guidance sets forth a limitation on the number of Registrable Securities permitted to be registered on a particular Registration Statement as a secondary offering (and notwithstanding that the Company used diligent efforts to advocate with the Commission for the registration of all or a greater portion of Registrable Securities), unless otherwise directed in writing by a Holder as to its Registrable Securities, the number of Registrable Securities to be registered on such Registration Statement will be reduced as follows:

- (i) First, the Company shall reduce or eliminate any securities to be included by any Person other than a Holder;
- (ii) Second, the Company shall reduce Registrable Securities represented by Additional Warrant Shares and Settlement Warrant Shares (applied to the Holders on a pro rata basis based on the total number of unregistered Additional Warrant Shares and Settlement Warrant Shares, in the aggregate, held by such Holders, collectively); and
- (iii) Third, the Company shall reduce Registrable Securities represented by the Settlement Shares (applied, in the case that some Settlement Shares may be registered, to the Holders on a pro rata basis based on the total number of unregistered Settlement Shares held by such Holders).

In the event of a cutback hereunder, the Company shall give the Holder at least five (5) Trading Days prior written notice along with the calculations as to such Holder's allotment. In the event the Company amends the Initial Registration Statement in accordance with the foregoing, the Company will use its reasonable best efforts to file with the Commission, as promptly as allowed by the Commission or SEC Guidance provided to the Company or to registrants of securities in general, one or more registration statements on Form S-3 or such other form available to register for resale those Registrable Securities that were not registered for resale on the Initial Registration Statement, as amended.

(d) If: (i) the Initial Registration Statement is not filed on or prior to its Filing Date (if the Company files the Initial Registration Statement without affording the Holders the opportunity to review and comment on the same as required by Section 3(a) herein, the Company shall be deemed to have not satisfied this clause (i)), or (ii) the Company fails to file with the Commission a request for acceleration of a Registration Statement in accordance with Rule 461 promulgated by the Commission pursuant to the Securities Act, within five Trading Days of the date that the Company is notified (orally or in writing, whichever is earlier) by the Commission that such Registration Statement will not be "reviewed" or will not be subject to further review, or (iii) prior to the effective date of a Registration Statement, the Company fails to file a pre-effective amendment and otherwise respond in writing to comments made by the Commission in respect of such Registration Statement within thirty (30) calendar days after the receipt of comments by or notice from the Commission that such amendment is required in order for such Registration Statement to be declared effective, or (iv) a Registration Statement registering for resale all of the Registrable Securities is not declared effective by the Commission by the Effectiveness Date of the Initial Registration Statement, or (v) after the effective date of a Registration Statement, such Registration Statement ceases for any reason to remain continuously effective as to all Registrable Securities included in such Registration Statement, or the Holders are otherwise not permitted to utilize the Prospectus therein to resell such Registrable Securities, for more than ten (10) consecutive calendar days or more than an aggregate of fifteen (15) calendar days (which need not be consecutive calendar days) during any 12-month period (any such failure or breach being referred to as an "Event"), and for purposes of clauses (i) and (iv), the date on which such Event occurs, and for purpose of clause (ii) the date on which such five (5) Trading Day period is exceeded, and for purpose of clause (iii) the date which such thirty (30) calendar day period is exceeded, and for purpose of clause (v) the date on which such ten (10) or fifteen (15) calendar day period, as applicable, is exceeded being referred to as an "Event Date"), then, in addition to any other rights the Holders may have hereunder or under applicable law, on each such Event Date and on each thirty (30) calendar day anniversary of each such Event Date (if the applicable Event shall not have been cured by such date) until the applicable Event is cured, the Company shall pay to each Holder an amount in cash, as partial liquidated damages and not as a penalty, equal to 1.0% of the aggregate purchase price paid by such Holder pursuant to the Subscription Agreement; provided, however, that the Company shall not be required to make any payments pursuant to this Section 2(d) if an Event occurred at such time that all Registrable Securities are eligible for resale pursuant to Rule 144 (without volume restrictions or current public information requirements) promulgated by the Commission pursuant to the Securities Act; provided, further, that the Company shall not be required to make any payments pursuant to this Section 2(d) with respect to any Registrable Securities the Company is unable to register due to limits imposed by the Commission's interpretation of Rule 415 under the Securities Act. The parties agree that the maximum aggregate liquidated damages payable to a Holder under this Agreement shall be 6.0% of the aggregate subscription amount paid by such Holder pursuant to the Subscription Agreement. If the Company fails to pay any partial liquidated damages pursuant to this Section in full within seven (7) days after the date payable, the Company will pay interest thereon at a rate of 18% per annum (or such lesser maximum amount that is permitted to be paid by applicable law) to the Holder, accruing daily from the date such partial liquidated damages are due until such amounts, plus all such interest thereon, are paid in full. The partial liquidated damages pursuant to the terms hereof shall apply on a daily pro rata basis for any portion of a thirty (30) calendar day period prior to the cure of an Event.

(e) If Form S-3 is not available for the registration of the resale of Registrable Securities hereunder, the Company shall (i) register the resale of the Registrable Securities on another appropriate form and (ii) undertake to register the Registrable Securities on Form S-3 as soon as such form is available, provided that the Company shall maintain the effectiveness of the Registration Statement then in effect until such time as a Registration Statement on Form S-3 covering the Registrable Securities has been declared effective by the Commission.

3. Registration Procedures.

In connection with the Company's registration obligations hereunder, the Company shall:

(a) Not less than one (1) Trading Day prior to the filing of each Registration Statement and not less than one (1) Trading Day prior to the filing of any related Prospectus or any amendment or supplement thereto (including any document that would be incorporated or deemed to be incorporated therein by reference), the Company shall (i) furnish to Alexander Capital, as representative of the Holders, copies of all such documents proposed to be filed, which documents (other than those incorporated or deemed to be incorporated by reference) will be subject to the review of such Holders, and (ii) cause its officers and directors, counsel and independent registered public accountants to respond to such inquiries as shall be necessary, in the reasonable opinion of respective counsel to each Holder, to conduct a reasonable investigation within the meaning of the Securities Act. Notwithstanding the above, the Company shall not be obligated to provide the Alexander Capital or the Holders advance copies of any universal shelf registration statement registering securities in addition to those required hereunder, or any Prospectus prepared thereto. The Company shall not file a Registration Statement or any such Prospectus or any amendments or supplements thereto to which the Holders of 67% or more of the Registrable Securities shall reasonably object in good faith, provided that, the Company is notified of such objection in writing no later than five (5) Trading Days after Alexander Capital has been so furnished copies of a Registration Statement or one (1) Trading Day after Alexander Capital has been so furnished copies of any related Prospectus or amendments or supplements thereto. Each Holder agrees to furnish to the Company a completed questionnaire in the form attached to the Subscription Agreement (a "Selling Stockholder Questionnaire") on a date that is not less than two (2) Trading Days prior to the Filing Date or by the end of the fourth (th) Trading Day following the date on which Alexander Capital, as representative of the Holders, receives draft materials in accordance with this Section.

(b) (i) Prepare and file with the Commission such amendments, including post-effective amendments, to a Registration Statement and the Prospectus used in connection therewith as may be necessary to keep a Registration Statement continuously effective as to the applicable Registrable Securities for the Effectiveness Period and prepare and file with the Commission such additional Registration Statements in order to register for resale under the Securities Act all of the Registrable Securities, (ii) cause the related Prospectus to be amended or supplemented by any required Prospectus supplement (subject to the terms of this Agreement), and, as so supplemented or amended, to be filed pursuant to Rule 424, (iii) respond as promptly as reasonably possible to any comments received from the Commission with respect to a Registration Statement or any amendment thereto and provide as promptly as reasonably possible to the Holders true and complete copies of all correspondence from and to the Commission relating to a Registration Statement (provided that, the Company shall excise any information contained therein which would constitute material non-public information regarding the Company or any of its Subsidiaries), and (iv) comply in all material respects with the applicable provisions of the Securities Act and the Exchange Act with respect to the disposition of all Registrable Securities covered by a Registration Statement during the applicable period in accordance (subject to the terms of this Agreement) with the intended methods of disposition by the Holders thereof set forth in such Registration Statement as so amended or in such Prospectus as so supplemented.

(c) If during the Effectiveness Period, the number of Registrable Securities at any time exceeds 100% of the number of shares of Common Stock then registered in a Registration Statement, then the Company shall file as soon as reasonably practicable, but in any case, prior to the applicable Filing Date, an additional Registration Statement covering the resale by the Holders of not less than the number of such Registrable Securities.

(d) Notify the Holders of Registrable Securities to be sold (which notice shall, pursuant to clauses (iii) through (vi) hereof, be accompanied by an instruction to suspend the use of the Prospectus until the requisite changes have been made) as promptly as reasonably possible (and, in the case of (i)(A) below, not less than one (1) Trading Day prior to such filing) and (if requested by any such Person) confirm such notice in writing no later than one (1) Trading Day following the day (i)(A) when a Prospectus or any Prospectus supplement or post-effective amendment to a Registration Statement is proposed to be filed, (B) when the Commission notifies the Company whether there will be a "review" of such Registration Statement and whenever the Commission comments in writing on such Registration Statement, and (C) with respect to a Registration Statement or any post-effective amendment, when the same has become effective, (ii) of any request by the Commission or any other federal or state governmental authority for amendments or supplements to a Registration Statement or Prospectus or for additional information, (iii) of the issuance by the Commission or any other federal or state governmental authority of any stop order suspending the effectiveness of a Registration Statement covering any or all of the Registrable Securities or the initiation of any Proceedings for that purpose, (iv) of the receipt by the Company of any notification with respect to the suspension of the qualification or exemption from qualification of any of the Registrable Securities for sale in any jurisdiction, or the initiation or threatening of any Proceeding for such purpose, (v) of the occurrence of any event or passage of time that makes the financial statements included in a Registration Statement ineligible for inclusion therein or any statement made in a Registration Statement or Prospectus or any document incorporated or deemed to be incorporated therein by reference untrue in any material respect or that requires any revisions to a Registration Statement, Prospectus or other documents so that, in the case of a Registration Statement or the Prospectus, as the case may be, it will not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, and (vi) of the occurrence or existence of any pending corporate development with respect to the Company that the Company believes may be material and that, in the determination of the Company, makes it not in the best interest of the Company to allow continued availability of a Registration Statement or Prospectus, provided, however, in no event shall any such notice contain any information which would constitute material, non-public information regarding the Company or any of its Subsidiaries.

(e) Use its reasonable best efforts to avoid the issuance of, or, if issued, obtain the withdrawal of (i) any order stopping or suspending the effectiveness of a Registration Statement, or (ii) any suspension of the qualification (or exemption from qualification) of any of the Registrable Securities for sale in any jurisdiction, at the earliest practicable moment.

(f) Furnish to Alexander Capital, as representative of the Holders, without charge, at least one conformed copy of each such Registration Statement and each amendment thereto, including financial statements and schedules, all documents incorporated or deemed to be incorporated therein by reference to the extent requested by such Person, and all exhibits to the extent requested by such Person (including those previously furnished or incorporated by reference) promptly after the filing of such documents with the Commission; provided, that any such item which is available on the EDGAR system (or successor thereto) need not be furnished in physical form.

(g) Subject to the terms of this Agreement, the Company hereby consents to the use of such Prospectus and each amendment or supplement thereto by each of the selling Holders in connection with the offering and sale of the Registrable Securities covered by such Prospectus and any amendment or supplement thereto, except after the giving of any notice pursuant to Section 3(d).

(h) The Company shall cooperate with any broker-dealer through which a Holder proposes to resell its Registrable Securities in effecting a filing with the FINRA Corporate Financing Department pursuant to FINRA Rule 5110, as requested by any such Holder, and the Company shall pay the filing fee required by such filing within two (2) Business Days of request therefor.

(i) Prior to any resale of Registrable Securities by a Holder, use its commercially reasonable efforts to register or qualify or cooperate with the selling Holders in connection with the registration or qualification (or exemption from the registration or qualification) of such Registrable Securities for the resale by the Holder under the securities or Blue Sky laws of such jurisdictions within the United States as any Holder reasonably requests in writing, to keep each registration or qualification (or exemption therefrom) effective during the Effectiveness Period and to do any and all other acts or things reasonably necessary to enable the disposition in such jurisdictions of the Registrable Securities covered by each Registration Statement; provided, that, the Company shall not be required to qualify generally to do business in any jurisdiction where it is not then so qualified, subject the Company to any material tax in any such jurisdiction where it is not then so subject or file a general consent to service of process in any such jurisdiction.

(j) If requested by a Holder, cooperate with such Holder to facilitate the timely preparation and delivery of certificates representing Registrable Securities to be delivered to a transferee pursuant to a Registration Statement, which certificates shall be free, to the extent permitted by the Purchase Agreement and applicable law, of all restrictive legends, and to enable such Registrable Securities to be in such denominations and registered in such names as any such Holder may request.

(k) Upon the occurrence of any event contemplated by Section 3(d), as promptly as reasonably possible under the circumstances taking into account the Company's good faith assessment of any adverse consequences to the Company and its stockholders of the premature disclosure of such event, prepare a supplement or amendment, including a post-effective amendment, to a Registration Statement or a supplement to the related Prospectus or any document incorporated or deemed to be incorporated therein by reference, and file any other required document so that, as thereafter delivered, neither a Registration Statement nor such Prospectus will contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. If the Company notifies the Holders in accordance with clauses (iii) through (vi) of Section 3(d) above to suspend the use of any Prospectus until the requisite changes to such Prospectus have been made, then the Holders shall suspend use of such Prospectus. The Company will use its reasonable best efforts to ensure that the use of the Prospectus may be resumed as promptly as is practicable. The Company shall be entitled to exercise its right under this Section 3(k) to suspend the availability of a Registration Statement and Prospectus, subject to the payment of partial liquidated damages otherwise required pursuant to Section 2(d), for a period not to exceed 60 calendar days (which need not be consecutive days) in any 12-month period.

(l) Comply with all applicable rules and regulations of the Commission.

(m) The Company shall use its reasonable best efforts to maintain eligibility for use of Form S-3 (or any successor form thereto) for the registration of the resale of Registrable Securities.

(n) The Company may require each selling Holder to furnish to the Company a certified statement as to the number of shares of Common Stock beneficially owned by such Holder and, if required by the Commission, the natural persons thereof that have voting and dispositive control over the shares. During any periods that the Company is unable to meet its obligations hereunder with respect to the registration of the Registrable Securities solely because any Holder fails to furnish such information within three Trading Days of the Company's request, any liquidated damages that are accruing at such time as to such Holder only shall be tolled and any Event that may otherwise occur solely because of such delay shall be suspended as to such Holder only, until such information is delivered to the Company.

4. Registration Expenses. All fees and expenses incident to the performance of or compliance with, this Agreement by the Company shall be borne by the Company whether or not any Registrable Securities are sold pursuant to a Registration Statement. The fees and expenses referred to in the foregoing sentence shall include, without limitation, (i) all registration and filing fees (including, without limitation, fees and expenses of the Company's counsel and independent registered public accountants) (A) with respect to filings made with the Commission, (B) with respect to filings required to be made with any Trading Market on which the Common Stock is then listed for trading, (C) in compliance with applicable state securities or Blue Sky laws reasonably agreed to by the Company in writing (including, without limitation, fees and disbursements of counsel for the Company in connection with Blue Sky qualifications or exemptions of the Registrable Securities) and (D) if not previously paid by the Company, with respect to any filing that may be required to be made by any broker through which a Holder intends to make sales of Registrable Securities with FINRA pursuant to FINRA Rule 5110, so long as the broker is receiving no more than a customary brokerage commission in connection with such sale, (ii) printing expenses (including, without limitation, expenses of printing certificates for Registrable Securities), (iii) messenger, telephone and delivery expenses, (iv) fees and disbursements of counsel for the Company, (v) Securities Act liability insurance, if the Company so desires such insurance, and (vi) fees and expenses of all other Persons retained by the Company in connection with the consummation of the transactions contemplated by this Agreement. In addition, the Company shall be responsible for all of its internal expenses incurred in connection with the consummation of the transactions contemplated by this Agreement (including, without limitation, all salaries and expenses of its officers and employees performing legal or accounting duties), the expense of any annual audit and the fees and expenses incurred in connection with the listing of the Registrable Securities on any securities exchange as required hereunder. Notwithstanding the foregoing, the Company shall be responsible for the legal fees or other costs of the Holders (including the reasonable counsel fees of Alexander Capital, as representative of the Holders; provided, however, that any such counsel fees of Alexander Capital shall not exceed \$10,000 in the aggregate and any related expenses shall not exceed \$10,000 in the aggregate) incurred in connection with the transactions contemplated hereby.

5. Indemnification.

(a) Indemnification by the Company. The Company shall, notwithstanding any termination of this Agreement, indemnify and hold harmless each Holder, the officers, directors, members, partners, agents, brokers (including brokers who offer and sell Registrable Securities as principal as a result of a pledge or any failure to perform under a margin call of Common Stock), investment advisors and employees (and any other Persons with a functionally equivalent role of a Person holding such titles, notwithstanding a lack of such title or any other title) of each of them, each Person who controls any such Holder (within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act) and the officers, directors, members, stockholders, partners, agents and employees (and any other Persons with a functionally equivalent role of a Person holding such titles, notwithstanding a lack of such title or any other title) of each such controlling Person, to the fullest extent permitted by applicable law, from and against any and all losses, claims, damages, liabilities, costs (including, without limitation, reasonable attorneys' fees) and expenses (collectively, "Losses"), as incurred, arising out of or relating to (1) any untrue or alleged untrue statement of a material fact contained in a Registration Statement, any Prospectus or any form of prospectus or in any amendment or supplement thereto or in any preliminary prospectus, or arising out of or relating to any omission or alleged omission of a material fact required to be stated therein or necessary to make the statements therein (in the case of any Prospectus or supplement thereto, in light of the circumstances under which they were made) not misleading or (2) any violation or alleged violation by the Company of the Securities Act, the Exchange Act or any state securities law, or any rule or regulation thereunder, in connection with the performance of its obligations under this Agreement, except to the extent, but only to the extent, that (i) such untrue statements or omissions are based solely upon information regarding such Holder furnished in writing to the Company by such Holder expressly for use therein, or to the extent that such information relates to such Holder or such Holder's proposed method of distribution of Registrable Securities and was reviewed and expressly approved in writing by such Holder expressly for use in a Registration Statement, such Prospectus or in any amendment or supplement thereto (it being understood that the Holder has approved Annex A hereto for this purpose) or (ii) in the case of an occurrence of an event of the type specified in Section 3(d)(iii)-(vi), the use by such Holder of an outdated, defective or otherwise unavailable Prospectus after the Company has notified such Holder in writing that the Prospectus is outdated, defective or otherwise unavailable for use by such Holder and prior to the receipt by such Holder of the Advice contemplated in Section 6(d), but only if and to the extent that following the receipt of the Advice the misstatement or omission giving rise to such Loss would have been corrected. The Company shall notify the Holders promptly of the institution, threat or assertion of any Proceeding arising from or in connection with the transactions contemplated by this Agreement of which the Company is aware. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of such indemnified person and shall survive the transfer of any Registrable Securities by any of the Holders in accordance with Section 6(h).

(b) Indemnification by Holders. Each Holder shall, severally and not jointly, indemnify and hold harmless the Company, its directors, officers, agents and employees, each Person who controls the Company (within the meaning of Section 15 of the Securities Act and Section 20 of the Exchange Act), and the directors, officers, agents or employees of such controlling Persons (and any other Persons with a functionally equivalent role of a Person holding such titles, notwithstanding a lack of such title or any other title), to the fullest extent permitted by applicable law, from and against all Losses, as incurred, to the extent arising out of or based solely upon: (x) such Holder's failure to comply with any applicable prospectus delivery requirements of the Securities Act or the plan of distribution in any Registration Statement through no fault of the Company or (y) any untrue or alleged untrue statement of a material fact contained in any Registration Statement, any Prospectus, or in any amendment or supplement thereto or in any preliminary prospectus, or arising out of or relating to any omission or alleged omission of a material fact required to be stated therein or necessary to make the statements therein (in the case of any Prospectus or supplement thereto, in light of the circumstances under which they were made) not misleading (i) to the extent, but only to the extent, that such untrue statement or omission is contained in any information so furnished in writing by such Holder to the Company expressly for inclusion in such Registration Statement or such Prospectus or (ii) to the extent, but only to the extent, that such information relates to such Holder's proposed method of distribution of Registrable Securities and was reviewed and expressly approved in writing by such Holder expressly for use in a Registration Statement (it being understood that the Holder has approved Annex A hereto for this purpose), such Prospectus or in any amendment or supplement thereto or (iii) in the case of an occurrence of an event of the type specified in Section 3(d)(iii)-(vi), to the extent, but only to the extent, related to the use by such Holder of an outdated, defective or otherwise unavailable Prospectus after the Company has notified such Holder in writing that the Prospectus is outdated, defective or otherwise unavailable for use by such Holder and prior to the receipt by such Holder of the Advice contemplated in Section 6(d), but only if and to the extent that following the receipt of the Advice the misstatement or omission giving rise to such Loss would have been corrected. In no event shall the liability of any selling Holder under this Section 5(b) be greater in amount than the dollar amount of the net proceeds actually received by such Holder upon the sale of the Registrable Securities giving rise to such indemnification obligation.

(c) Conduct of Indemnification Proceedings. If any Proceeding shall be brought or asserted against any Person entitled to indemnity hereunder (an "Indemnified Party"), such Indemnified Party shall promptly notify the Person from whom indemnity is sought (the "Indemnifying Party") in writing, and the Indemnifying Party shall have the right to assume the defense thereof, including the employment of counsel reasonably satisfactory to the Indemnified Party and the payment of all fees and expenses incurred in connection with defense thereof; provided, that, the failure of any Indemnified Party to give such notice shall not relieve the Indemnifying Party of its obligations or liabilities pursuant to this Agreement, except (and only) to the extent that it shall be finally determined by a court of competent jurisdiction (which determination is not subject to appeal or further review) that such failure shall have materially and adversely prejudiced the Indemnifying Party.

An Indemnified Party shall have the right to employ separate counsel in any such Proceeding and to participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of such Indemnified Party or Parties unless: (1) the Indemnifying Party has agreed in writing to pay such fees and expenses, (2) the Indemnifying Party shall have failed promptly to assume the defense of such Proceeding and to employ counsel reasonably satisfactory to such Indemnified Party in any such Proceeding, or (3) the named parties to any such Proceeding (including any impleaded parties) include both such Indemnified Party and the Indemnifying Party, and counsel to the Indemnified Party shall reasonably believe that a material conflict of interest is likely to exist if the same counsel were to represent such Indemnified Party and the Indemnifying Party (in which case, if such Indemnified Party notifies the Indemnifying Party in writing that it elects to employ separate counsel at the expense of the Indemnifying Party, the Indemnifying Party shall not have the right to assume the defense thereof and the reasonable fees and expenses of no more than one separate counsel shall be at the expense of the Indemnifying Party). The Indemnifying Party shall not be liable for any settlement of any such Proceeding effected without its written consent, which consent shall not be unreasonably withheld or delayed. No Indemnifying Party shall, without the prior written consent of the Indemnified Party, effect any settlement of any pending Proceeding in respect of which any Indemnified Party is a party, unless such settlement includes an unconditional release of such Indemnified Party from all liability on claims that are the subject matter of such Proceeding.

Subject to the terms of this Agreement, all reasonable fees and expenses of the Indemnified Party (including reasonable fees and expenses to the extent incurred in connection with investigating or preparing to defend such Proceeding in a manner not inconsistent with this Section) shall be paid to the Indemnified Party, as incurred, within ten Trading Days of written notice thereof to the Indemnifying Party; provided, that, the Indemnified Party shall promptly reimburse the Indemnifying Party for that portion of such fees and expenses applicable to such actions for which such Indemnified Party is finally determined by a court of competent jurisdiction (which determination is not subject to appeal or further review) not to be entitled to indemnification hereunder.

(d) Contribution. If the indemnification under Section 5(a) or 5(b) is unavailable to an Indemnified Party or insufficient to hold an Indemnified Party harmless for any Losses, then each Indemnifying Party shall contribute to the amount paid or payable by such Indemnified Party, in such proportion as is appropriate to reflect the relative fault of the Indemnifying Party and Indemnified Party in connection with the actions, statements or omissions that resulted in such Losses as well as any other relevant equitable considerations. The relative fault of such Indemnifying Party and Indemnified Party shall be determined by reference to, among other things, whether any action in question, including any untrue or alleged untrue statement of a material fact or omission or alleged omission of a material fact, has been taken or made by, or relates to information supplied by, such Indemnifying Party or Indemnified Party, and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such action, statement or omission. The amount paid or payable by a party as a result of any Losses shall be deemed to include, subject to the limitations set forth in this Agreement, any reasonable attorneys' or other fees or expenses incurred by such party in connection with any Proceeding to the extent such party would have been indemnified for such fees or expenses if the indemnification provided for in this Section was available to such party in accordance with its terms.

The parties hereto agree that it would not be just and equitable if contribution pursuant to this Section 5(d) were determined by pro rata allocation or by any other method of allocation that does not take into account the equitable considerations referred to in the immediately preceding paragraph. Notwithstanding the provisions of this Section 5(d), no Holder shall be required to contribute pursuant to this Section 5(d), in the aggregate, any amount in excess of the amount by which the net proceeds actually received by such Holder from the sale of the Registrable Securities subject to the Proceeding exceeds the amount of any damages that such Holder has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission.

The indemnity and contribution agreements contained in this Section are in addition to any liability that the Indemnifying Parties may have to the Indemnified Parties.

6. Miscellaneous.

(a) Remedies. In the event of a breach by the Company or by a Holder of any of their respective obligations under this Agreement, each Holder or the Company, as the case may be, in addition to being entitled to exercise all rights granted by law and under this Agreement, including recovery of damages, shall be entitled to specific performance of its rights under this Agreement. Each of the Company and each Holder agrees that monetary damages would not provide adequate compensation for any losses incurred by reason of a breach by it of any of the provisions of this Agreement and hereby further agrees that, in the event of any action for specific performance in respect of such breach, it shall not assert or shall waive the defense that a remedy at law would be adequate.

(b) No Piggyback on Registrations; Prohibition on Filing Other Registration Statements Neither the Company nor any of its security holders (other than the Holders in such capacity pursuant hereto) may include securities of the Company in any Registration Statements other than the Registrable Securities. The Company shall not file any other registration statements (other than any registration statement on Form S-1 or Form S-3 for an underwritten public offering of any of the Company's securities (an "Underwritten Offering")) until all Registrable Securities are registered pursuant to a Registration Statement that is declared effective by the Commission, provided that this Section 6(b) shall not prohibit the Company from filing amendments to registration statements filed prior to the date of this Agreement.

(c) Compliance. Each Holder covenants and agrees that it will comply with the prospectus delivery requirements of the Securities Act as applicable to it (unless an exemption therefrom is available) in connection with sales of Registrable Securities pursuant to a Registration Statement.

(d) Discontinued Disposition. By its acquisition of Registrable Securities, each Holder agrees that, upon receipt of a notice from the Company of the occurrence of any event of the kind described in Section 3(d)(iii) through (vi), such Holder will forthwith discontinue disposition of such Registrable Securities under a Registration Statement until it is advised in writing (the "Advice") by the Company that the use of the applicable Prospectus (as it may have been supplemented or amended) may be resumed. The Company will use its reasonable best efforts to ensure that the use of the Prospectus may be resumed as promptly as is practicable. The Company agrees and acknowledges that any periods during which the Holder is required to discontinue the disposition of the Registrable Securities hereunder shall be subject to the provisions of Section 2(d).

(e) Piggy-Back Registrations. If, at any time during the Effectiveness Period, there is not an effective Registration Statement covering all of the Registrable Securities and the Company shall determine to prepare and file with the Commission a registration statement, other than with respect to an Underwritten Offering, relating to an offering for its own account or the account of others under the Securities Act of any of its equity securities, other than on Form S-4 or Form S-8 (each as promulgated under the Securities Act) or their then equivalents relating to equity securities to be issued solely in connection with any acquisition of any entity or business or equity securities issuable in connection with the Company's stock option or other employee benefit plans, then the Company shall deliver to each Holder a written notice of such determination and, if within fifteen days after the date of the delivery of such notice, any such Holder shall so request in writing, the Company shall include in such registration statement all or any part of such Registrable Securities such Holder requests to be registered; provided, however, that the Company shall not be required to register any Registrable Securities pursuant to this Section 6(e) that are eligible for resale pursuant to Rule 144 (without volume restrictions or current public information requirements) promulgated by the Commission pursuant to the Securities Act or that are the subject of a then effective Registration Statement.

(f) Amendments and Waivers. The provisions of this Agreement, including the provisions of this sentence, may not be amended, modified or supplemented, and waivers or consents to departures from the provisions hereof may not be given, unless the same shall be in writing and signed by the Company and the Holders of 67% or more of the then outstanding Registrable Securities (for purposes of clarification, this includes any Registrable Securities issuable upon exercise or conversion of any Security). If a Registration Statement does not register all of the Registrable Securities pursuant to a waiver or amendment done in compliance with the previous sentence, then the number of Registrable Securities to be registered for each Holder shall be reduced pro rata among all Holders and each Holder shall have the right to designate which of its Registrable Securities shall be omitted from such Registration Statement. Notwithstanding the foregoing, a waiver or consent to depart from the provisions hereof with respect to a matter that relates exclusively to the rights of a Holder or some Holders and that does not directly or indirectly affect the rights of other Holders may be given only by such Holder or Holders of all of the Registrable Securities to which such waiver or consent relates; provided, however, that the provisions of this sentence may not be amended, modified, or supplemented except in accordance with the provisions of the first sentence of this Section 6(f). No consideration shall be offered or paid to any Person to amend or consent to a waiver or modification of any provision of this Agreement unless the same consideration also is offered to all of the parties to this Agreement.

(g) Notices. Any and all notices or other communications or deliveries required or permitted to be provided hereunder shall be delivered as set forth in the Purchase Agreement.

(h) Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the successors and permitted assigns of each of the parties and shall inure to the benefit of each Holder. The Company may not assign (except by merger) its rights or obligations hereunder without the prior written consent of all of the Holders of the then outstanding Registrable Securities. Each Holder may assign their respective rights hereunder in the manner and to the Persons as permitted under Section 5.7 of the Purchase Agreement.

(i) No Inconsistent Agreements. Neither the Company nor any of its Subsidiaries has entered, as of the date hereof, nor shall the Company or any of its Subsidiaries, on or after the date of this Agreement, enter into any agreement with respect to its securities, that would have the effect of impairing the rights granted to the Holders in this Agreement or otherwise conflicts with the provisions hereof. Neither the Company nor any of its Subsidiaries has previously entered into any agreement granting any registration rights with respect to any of its securities to any Person that have not been satisfied in full.

(j) Execution and Counterparts. This Agreement may be executed in two or more counterparts, all of which when taken together shall be considered one and the same agreement and shall become effective when counterparts have been signed by each party and delivered to the other party, it being understood that both parties need not sign the same counterpart. In the event that any signature is delivered by facsimile transmission or by e-mail delivery of a “.pdf” format data file, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or “.pdf” signature page were an original thereof.

(k) Governing Law. All questions concerning the construction, validity, enforcement and interpretation of this Agreement shall be determined in accordance with the provisions of the Settlement Agreement.

(l) Cumulative Remedies. The remedies provided herein are cumulative and not exclusive of any other remedies provided by law.

(m) Severability. If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction to be invalid, illegal, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions set forth herein shall remain in full force and effect and shall in no way be affected, impaired or invalidated, and the parties hereto shall use their commercially reasonable efforts to find and employ an alternative means to achieve the same or substantially the same result as that contemplated by such term, provision, covenant or restriction. It is hereby stipulated and declared to be the intention of the parties that they would have executed the remaining terms, provisions, covenants and restrictions without including any of such that may be hereafter declared invalid, illegal, void or unenforceable.

(n) Headings. The headings in this Agreement are for convenience only, do not constitute a part of the Agreement and shall not be deemed to limit or affect any of the provisions hereof.

(o) Independent Nature of Holders' Obligations and Rights. The obligations of each Holder hereunder are several and not joint with the obligations of any other Holder hereunder, and no Holder shall be responsible in any way for the performance of the obligations of any other Holder hereunder. Nothing contained herein or in any other agreement or document delivered at any closing, and no action taken by any Holder pursuant hereto or thereto, shall be deemed to constitute the Holders as a partnership, an association, a joint venture or any other kind of group or entity, or create a presumption that the Holders are in any way acting in concert or as a group or entity with respect to such obligations or the transactions contemplated by this Agreement or any other matters, and the Company acknowledges that the Holders are not acting in concert or as a group, and the Company shall not assert any such claim, with respect to such obligations or transactions. Each Holder shall be entitled to protect and enforce its rights, including without limitation the rights arising out of this Agreement, and it shall not be necessary for any other Holder to be joined as an additional party in any proceeding for such purpose. The use of a single agreement with respect to the obligations of the Company contained was solely in the control of the Company, not the action or decision of any Holder, and was done solely for the convenience of the Company and not because it was required or requested to do so by any Holder. It is expressly understood and agreed that each provision contained in this Agreement is between the Company and a Holder, solely, and not between the Company and the Holders collectively and not between and among Holders.

(Signature Pages Follow)

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

**SUMMIT WIRELESS TECHNOLOGIES, INC., A
DELAWARE CORPORATION**

By: _____
Name: Brett Moyer
Title: Chief Executive Officer

[SIGNATURE PAGE OF SECURITYHOLDERS FOLLOWS]

SIGNATURE PAGE OF SECURITYHOLDERS TO SUMMIT WIRELESS TECHNOLOGIES, INC. REGISTRATION RIGHTS AGREEMENT

Securityholders:

Each of the Securityholders have executed a Settlement Agreement with the Company which provides, among other things, that by executing the Subscription Agreement each Investor is deemed to have executed this REGISTRATION RIGHTS AGREEMENT.

Plan of Distribution

Each selling stockholder (the "Selling Stockholders") of the securities of Summit Wireless Technologies, Inc., a Delaware corporation (the "Company"), and any of their pledgees, assignees and successors-in-interest may, from time to time, sell any or all of their Company securities covered hereby on the Nasdaq Capital Market or any other stock exchange, market or trading facility on which such securities are traded or in private transactions. These sales may be at fixed or negotiated prices. A Selling Stockholder may use any one or more of the following methods when selling securities:

- ordinary brokerage transactions and transactions in which the broker-dealer solicits purchasers;
- block trades in which the broker-dealer will attempt to sell the securities as agent but may position and resell a portion of the block as principal to facilitate the transaction;
- purchases by a broker-dealer as principal and resale by the broker-dealer for its account;
- an exchange distribution in accordance with the rules of the applicable exchange;
- privately negotiated transactions;
- settlement of short sales entered into after the effective date of the registration statement of which this prospectus is a part;
- in transactions through broker-dealers that agree with the Selling Stockholders to sell a specified number of such securities at a stipulated price per security;
- through the writing or settlement of options or other hedging transactions, whether through an options exchange or otherwise;
- a combination of any such methods of sale; or
- any other method permitted pursuant to applicable law.

The Selling Stockholders may also sell securities under Rule 144 under the Securities Act of 1933, as amended (the "Securities Act"), if available, rather than under this prospectus.

Broker-dealers engaged by the Selling Stockholders may arrange for other brokers-dealers to participate in sales. Broker-dealers may receive commissions or discounts from the Selling Stockholders (or, if any broker-dealer acts as agent for the purchaser of securities, from the purchaser) in amounts to be negotiated, but, except as set forth in a supplement to this Prospectus, in the case of an agency transaction not in excess of a customary brokerage commission in compliance with FINRA Rule 2440; and in the case of a principal transaction a markup or markdown in compliance with FINRA IM-2440.

In connection with the sale of the securities or interests therein, the Selling Stockholders may enter into hedging transactions with broker-dealers or other financial institutions, which may in turn engage in short sales of the securities in the course of hedging the positions they assume. The Selling Stockholders may also sell securities short and deliver these securities to close out their short positions, or loan or pledge the securities to broker-dealers that in turn may sell these securities. The Selling Stockholders may also enter into option or other transactions with broker-dealers or other financial institutions or create one or more derivative securities which require the delivery to such broker-dealer or other financial institution of securities offered by this prospectus, which securities such broker-dealer or other financial institution may resell pursuant to this prospectus (as supplemented or amended to reflect such transaction).

The Selling Stockholders and any broker-dealers or agents that are involved in selling the securities may be deemed to be “underwriters” within the meaning of the Securities Act in connection with such sales. In such event, any commissions received by such broker-dealers or agents and any profit on the resale of the securities purchased by them may be deemed to be underwriting commissions or discounts under the Securities Act. Each Selling Stockholder has informed the Company that it does not have any written or oral agreement or understanding, directly or indirectly, with any person to distribute the securities. In no event shall any broker-dealer receive fees, commissions and markups which, in the aggregate, would exceed eight percent (8%).

The Company is required to pay certain fees and expenses incurred by the Company incident to the registration of the securities. The Company has agreed to indemnify the Selling Stockholders against certain losses, claims, damages and liabilities, including liabilities under the Securities Act.

Because Selling Stockholders may be deemed to be “underwriters” within the meaning of the Securities Act, they will be subject to the prospectus delivery requirements of the Securities Act including Rule 172 thereunder. In addition, any securities covered by this prospectus which qualify for sale pursuant to Rule 144 under the Securities Act may be sold under Rule 144 rather than under this prospectus. The Selling Stockholders have advised us that there is no underwriter or coordinating broker acting in connection with the proposed sale of the resale securities by the Selling Stockholders.

We agreed to keep this prospectus effective until the earliest of (i) one (1) year from the date the Registration Statement is declared effective by the Commission, (ii) the date on which the securities may be resold by the Selling Stockholders without registration and without regard to any volume or manner-of-sale limitations by reason of Rule 144, without the requirement for the Company to be in compliance with the current public information under Rule 144 under the Securities Act or any other rule of similar effect or (iii) the date on which all of the securities have been sold pursuant to this prospectus or Rule 144 under the Securities Act or any other rule of similar effect. The resale securities will be sold only through registered or licensed brokers or dealers if required under applicable state securities laws. In addition, in certain states, the resale securities covered hereby may not be sold unless they have been registered or qualified for sale in the applicable state or an exemption from the registration or qualification requirement is available and is complied with.

Under applicable rules and regulations under the Exchange Act, any person engaged in the distribution of the resale securities may not simultaneously engage in market making activities with respect to the common stock for the applicable restricted period, as defined in Regulation M, prior to the commencement of the distribution. In addition, the Selling Stockholders will be subject to applicable provisions of the Exchange Act and the rules and regulations thereunder, including Regulation M, which may limit the timing of purchases and sales of securities of the common stock by the Selling Stockholders or any other person. We will make copies of this prospectus available to the Selling Stockholders and have informed them of the need to deliver a copy of this prospectus to each purchaser at or prior to the time of the sale (including by compliance with Rule 172 under the Securities Act).

LEAK-OUT AGREEMENT

November __, 2020

This agreement (the "**Leak-Out Agreement**") is being delivered to you in connection with an understanding by and among Summit Wireless Technologies, Inc., a Delaware corporation (the "**Company**"), and the undersigned stockholder of the Company (the "**Holder**").

Reference is hereby made to that certain Settlement Agreement and Release, executed and delivered by the Company and Holder on October [29], 2020 (the "**Settlement Agreement**"), pursuant to which the Company agreed to issue to Holder (a) the Settlement Shares, (b) the Settlement Warrant exercisable for the Settlement Warrant Shares and (c) the Additional Warrant Shares available for exercise under the Original Warrant, pursuant to an amendment to the Original Warrant, all as consideration for the release set forth in the Settlement Agreement. Capitalized terms not defined herein shall have the meaning as set forth in the Settlement Agreement.

The Holder agrees solely with the Company that, subject to any other contemporaneously executed leak-out or lock-up agreement that may be executed between or among the Holder and the Company in proximity to this Leak-Out Agreement (collectively, the "**Other Leak-Out Agreements**") regarding the Holder's trading with terms that are no less restrictive than the terms contained herein, following the date hereof (such date, the "**Effective Date**") until the date that the Holder no longer holds any of the Settlement Shares (the "**Restricted Period**"), neither the Holder, nor any affiliate, representative, subsidiary, parent, partner, officer, employee, agent, attorney or any heirs or successors to any of the foregoing ("**Affiliate**") of the Holder which (x) had or has knowledge of the transactions contemplated by the Settlement Agreement, or (y) has or shares discretion relating to the Holder's investments or trading or information concerning the Holder's investments, including in respect of the Settlement Shares (together, the "**Holder's Trading Affiliates**"), collectively, shall sell dispose or otherwise transfer, directly or indirectly, (including, without limitation, any sales, short sales, swaps or any derivative transactions that would be equivalent to any sales or short positions) during the Restricted Period, shares of Common Stock in an amount more than, during any Trading Day during the Restricted Period, 10% of the number of shares of Common Stock held by the Holder in any Trading Day. For the purposes hereof, "**Trading Day**" means a day on which the Common Stock is traded on the Nasdaq Capital Market, the NYSE American, the Nasdaq Global Market, the Nasdaq Global Select Market, the New York Stock Exchange or any successors of any of the foregoing, as applicable.

Notwithstanding anything herein to the contrary, during the Restricted Period, none of Holder's Trading Affiliates shall be prevented from executing unsolicited transactions of Common Stock nor shall they be prevented from fulfilling any obligation to any customer or client as required by state or federal securities laws or any regulations of any body, including but not limited to FINRA and the SEC. Further, no transaction covered by this paragraph shall be applied toward the foregoing 10% of the number of shares of Common Stock held by the Holder in any Trading Day limit.

Notwithstanding anything herein to the contrary, during the Restricted Period, the Holder may, directly or indirectly, sell or transfer all, or any part, of the Settlement Shares to any Person (an "**Assignee**") in a transaction which does not need to be reported on the Nasdaq consolidated tape, without complying with (or otherwise limited by) the restrictions set forth in this Leak-Out Agreement; provided, that as a condition to any such sale or transfer an authorized signatory of the Company and such Assignee duly execute and deliver a leak-out agreement in the form of this Leak-Out Agreement (an "**Assignee Agreement**", and each such transfer a "**Permitted Transfer**") and, subsequent to a Permitted Transfer, sales of the Holder and the Holder's Trading Affiliates and all Assignees (other than any such sales that constitute Permitted Transfers) shall be aggregated for all purposes of this Leak-Out Agreement and all Assignee Agreements.

Any notices, consents, waivers or other communications required or permitted to be given under the terms of this Leak-Out Agreement must be in writing and shall be given in accordance with the terms of the Settlement Agreement.

This Leak-Out Agreement and the Settlement Agreement, together, constitutes the entire agreement among the parties hereto with respect to the subject matter hereof and supersedes all prior negotiations, letters and understandings relating to the subject matter hereof and are fully binding on the parties hereto.

This Leak-Out Agreement may be executed simultaneously in any number of counterparts. Each counterpart shall be deemed to be an original, and all such counterparts shall constitute one and the same instrument. This Leak-Out Agreement may be executed and accepted by facsimile or PDF signature and any such signature shall be of the same force and effect as an original signature.

The terms of this Leak-Out Agreement shall be binding upon and shall inure to the benefit of each of the parties hereto and their respective successors and assigns.

This Leak-Out Agreement may not be amended or modified except in writing signed by each of the parties hereto.

All questions concerning the construction, validity, enforcement and interpretation of this Leak-Out Agreement shall be governed by the applicable provisions of the Settlement Agreement.

Signature Page Follows

Each party hereto acknowledges that, in view of the uniqueness of the transactions contemplated by this Leak-Out Agreement, the other party or parties hereto will not have an adequate remedy at law for money damages in the event that this Leak-Out Agreement has not been performed in accordance with its terms, and therefore agrees that such other party or parties shall be entitled to seek specific enforcement of the terms hereof in addition to any other remedy it may seek, at law or in equity.

Sincerely,

SUMMIT WIRELESS TECHNOLOGIES, INC.

By: _____
Name: Brett Moyer
Title: Chief Executive Officer

Agreed to and Acknowledged:
“HOLDER”

By: _____
Name:
Title:

[Signature Page to Summit Lock-Up Agreement]

LEASE AGREEMENT

BETWEEN

PORTLAND 2 LLC, a Delaware limited liability company ("Landlord")

AND

**SUMMIT WIRELESS TECHNOLOGIES, INC.,
a Delaware corporation
("Tenant")**

**WATERSIDE BUILDING B
CORNELL OAKS CORPORATE CENTER
15268 NW GREENBRIER PARKWAY
BEAVERTON, OREGON**

LEASE AGREEMENT

THIS LEASE AGREEMENT (the "Lease") is made and entered into as of August 18, 2020, by and between **PORTLAND 2, LLC**, a Delaware limited liability company ("**Landlord**") and **SUMMIT WIRELESS TECHNOLOGIES, INC.**, a Delaware limited liability company ("**Tenant**").

1. Basic Lease Information.

1.01 "**Building**" shall mean the building located at 15250 – 15272 NW Greenbrier Parkway, Beaverton, Oregon, and commonly known as the **Waterside Building B**. "**Rentable Square Footage of the Building**" is deemed to be 33,153 rentable square feet. The Building is part of the "**Property**" commonly referred to as **Waterside** that contains 126,662 rentable square feet of space. The **Property** is part of the "**Project**" commonly known as **Cornell Oaks Corporate Center**, which contains 704,472 rentable square feet of space. The Building and the Project are depicted on **Exhibit A** attached hereto.

1.02 "**Premises**" shall mean space on the first (1st) floor of the Building, comprised of 10,800 rentable square feet identified as Suite 15268 depicted on **Exhibit B** attached hereto. Landlord and Tenant agree that "**Rentable Square Footage of the Premises**" is deemed to be 10,800 rentable square feet. Landlord and Tenant stipulate and agree that the Rentable Square Footage of the Project, Rentable Square Footage of the Building, and Rentable Square Footage of the Premises are correct.

1.03 "**Commencement Date**" shall mean the date that is the later of (a) November 1, 2020 and (b) the date upon which the Tenant Improvements (as defined in Exhibit C) are Substantially Completed. For purposes of this Lease, "Substantial Completion" (or its grammatical variations) shall mean that the Tenant Improvements have been completed in accordance with (a) the provisions of this Lease applicable thereto, (b) the plans and specifications for such work, and (c) all applicable Laws, except for details of construction, decoration and mechanical adjustments, if any, the noncompletion of which do not materially interfere with Tenant's use of the Premises, or which, in accordance with good construction practice, should be completed after the completion of other work to be performed in the Premises. For purposes of this Lease, a "Tenant Delay" means any act or omission of Tenant or its agents, employees, vendors or contractors that actually delays Substantial Completion of the Tenant Improvements, including, without limitation, the following: (a) Tenant's failure to furnish information or approvals within any time period specified in this Lease, including the failure to prepare or approve preliminary or final plans by any applicable due date; (b) Tenant's selection of equipment or materials that have long lead times after first being informed by Landlord that the selection may result in a delay and being afforded reasonable opportunity to substitute equipment or materials before such event constitutes a Tenant Delay; (c) changes requested or made by Tenant to the final approved Plans; (d) the performance of work in the Premises by Tenant or Tenant's contractor(s) during the performance of the Tenant Improvements. In the event that a Tenant Delay occurs, then Landlord and Tenant agree that Substantial Completion of Tenant Improvements shall be deemed to be the date that Substantial Completion would have occurred without Tenant Delays.

Commencing 45 days prior to the Commencement Date and through the Commencement Date (the **'Early Occupancy Period'**), Tenant shall have the right to enter upon the Premises to install Tenant's computer equipment, phone and cabling, furniture and other related equipment. During the Early Occupancy Period, Tenant shall enter, access and use the Premises subject to the construction and installation of the Tenant Improvements and all of the terms and provisions of the Lease, except that during such period Tenant shall not be required to pay rent including any Base Rent or Operating Expenses. Landlord shall have no obligation for or any responsibility for any damages caused by Tenant therefrom.

1.04 **"Expiration Date"** shall mean the last day of the calendar month that is thirty-nine (39) months after the Commencement Date. In no event shall the Expiration Date be later than January 31, 2024 except if Commencement is later than November 1, 2020 due to Tenant Delay.

1.05 **"Term"** shall mean the period commencing on the Commencement Date and ending on the Expiration Date, unless terminated early in accordance with this Lease.

1.06 **"Permitted Use"** shall mean general office use, and related warehouse uses, for wireless audio consumer products

1.07 **"Base Rent"**:

<u>Term/Period</u>	<u>Monthly Base Rent per Square Foot</u>	<u>Base Rent Per Annum</u>	<u>Monthly Base Rent</u>
Months 1-2	\$0.00	\$0.00	\$0.00
Months 3 – 12	\$1.25	\$162,000.00	\$13,500.00
Months 13 – 24	\$1.29	\$166,860.00	\$13,905.00
Month 25	\$0.00	\$0.00	\$0.00
Months 26 – 36	\$1.33	\$171,865.80	\$14,322.15
Months 37 – 39	\$1.37	\$177,021.77	\$14,751.81

1.08 **"Tenant's Proportionate Share of the Building"** shall be computed by dividing the Rentable Square Footage of the Premises by the Rentable Square Footage of the Building and, as of the date of this Lease, shall be **32.57%**. **"Tenant's Proportionate share of the Porperty"** shall be computed by dividing the Rentable Square Footage of the Premises by the Rentable Square Footage of the Property and, as of the date of this lease shall be **8.53%****"Tenant's Proportionate Share of Project"** shall be computed by dividing the Rentable Square Footage of the Premises by the Rentable Square Footage of the Project and, as of the date of this Lease, shall be **1.53%**.

1.09 Estimated Initial Monthly Operating Expenses: The estimated Operating Expenses for calendar year 2020 are \$0.44 per rentable square foot (or \$4,752.00 per month). This information is not a representation or warranty of Landlord concerning such Operating Expenses during the Term of this Lease. In no event shall the monthly Operating Expenses charged to Tenant during calendar year 2020 exceed \$0.44 per rentable square foot. Annual Controllable Operating Expense increases shall be capped at five (5) percent. As used herein, the term "Controllable Operating Expenses" shall mean all Operating Costs other than insurance premiums, utility charges, governmentally mandated charges (including sales tax), the cost of snow or ice removal, security services, and other Operating Costs beyond reasonable control of Landlord. Tenant's liability for non-Controllable Operating Expenses in any given calendar year during the Term shall not be similarly limited.

1.10 "Building Business Hours": 7 am to 6 pm on Monday through Friday, except Holidays; 9 am to 1 pm on Saturdays, except Holidays. "Holidays" means all days observed as legal holidays by either the State of Oregon, the Federal Government or the labor unions servicing the Building, or as designated by Landlord that are commonly recognized by other office buildings in the area where the Building is located.

1.11 **"Security Deposit":** \$29,503.62

1.12 **"Guarantor":** N/A

1.13 **"Brokers":** Tenant's broker: Brian Wise of Hume Myers Tenant Counsel, LLC; Landlord's broker: Newmark Knight Frank.

1.14 **Parking Spaces:** Four (4) spaces per 1,000 square feet of the Premises, which spaces shall be used in common with other tenants of the Project.

1.15 **Tenant's Billing Address:** Summit Wireless Technologies, Inc (Attn: George Oliva), 6840 Via Del Oro, Suite 280, San Jose, CA 95119

1.16 **Landlord's Remittance Address:** Portland 2 LLC c/o Jones Lang LaSalle, 15455 NW Greenbrier Pkwy., Suite 245, Beaverton, Oregon 97006

1.17 **Addresses for Notices:**

If to Landlord:

with a copy to:

If to Tenant: Summit Wireless Technologies, Inc.
Attn: George Oliva
6840 Via Del Oro, Suite 280
San Jose, CA 95119

All capitalized terms used without definition in the text of this Lease are as defined in this Section 1 (Basic Lease Information).

2. Lease Grant

Landlord hereby leases the Premises to Tenant, and Tenant hereby leases the Premises from Landlord, on and subject to the terms and conditions of this Lease. "Property" shall mean the Building and the parcel of land owned by Landlord on which the Building, the parking facilities and other improvements, if any, serving the Building are located. If the Project is part of a larger complex of structures, the term "Property" may include the entire complex as set forth in Section 1.01, where appropriate in Landlord's reasonable discretion.

3. Possession.

3.01 Subject to Landlord's obligation to perform the Tenant Improvements, the Premises are accepted by Tenant in "as is" condition and configuration without any representations or warranties by Landlord. Landlord shall not be liable for a failure to deliver possession of the Premises due to the holdover of a prior tenant, a casualty or Force Majeure, provided, however Landlord shall use commercially reasonable efforts to obtain possession of the Premises. The Commencement Date and Expiration Date for the Premises, in such event, shall be postponed until the date Landlord delivers possession of the Premises to Tenant free from occupancy by any party.

3.02 Promptly after the determination of the Commencement Date, Landlord and Tenant shall enter into a Commencement Date Letter substantially in the form attached as **Exhibit D**. Tenant's failure to execute and return the Commencement Letter shall in no way affect the Commencement Date or Expiration Date under this Lease.

4. Rent.

4.01 Tenant shall pay Landlord, without any setoff or deduction, all Base Rent and Additional Rent due for the Term (collectively referred to as "Rent"). "Additional Rent" means all sums (exclusive of Base Rent) that Tenant is required to pay Landlord under this Lease. Tenant shall pay and be liable for all rental, sales and use taxes (but excluding income taxes), if any, imposed upon or measured by Rent. Recurring monthly charges of Base Rent and Additional Rent shall be due and payable in advance on the first day of each calendar month without notice or demand. All other items of Rent shall be due and payable by Tenant on or before 10 days after billing by Landlord. Rent shall be made payable to the entity, and sent to the address, Landlord designates and shall be made by good and sufficient check or by wire transfer pursuant to an account designated by Landlord upon request or by other means acceptable to Landlord. Rent for any partial month during the Term shall be prorated. Tenant's covenant to pay Rent is independent of every other covenant in this Lease.

4.02 Tenant shall pay Landlord an administration fee equal to 5% of all past due Rent, provided that Tenant shall be entitled to a grace period of 5 business days for the first late payment of Rent during each calendar year of the Term of this Lease. In addition, past due Rent shall accrue interest at 15% per annum but not more than the maximum amount permitted by applicable Law. Landlord's acceptance of less than the correct amount of Rent shall be considered a payment on account of the earliest Rent due. No endorsement or statement on a check or letter accompanying payment shall be considered an accord and satisfaction.

4.03 So long as Tenant is not in default under this Lease beyond any applicable notice and cure period, Tenant shall not be obligated to pay Base Rent for the initial two (2) month(s) of the Term following the Commencement Date together with the twenty- fifth (25th) month following the Commencement Date; provided, that the prorated amount based on percent of lease completed of such abated Rent shall be immediately due and payable in the event of a Default by Tenant that is not cured in the designated period. Upon execution and delivery of this Lease, Tenant shall pay to Landlord the installment of \$47,755.62 representing the Security Deposit and the Base Rent and estimated initial monthly operating expenses for the first paid month of the Term after the Commencement Date.

4.04 Commencing as of the Commencement Date, Tenant shall pay Tenant's Proportionate Share of Operating Expenses in accordance with **Exhibit E** of this Lease.

5. Compliance with Laws; Use.

5.01 The Premises shall be used for the Permitted Use and for no other use whatsoever. Tenant shall comply with all Laws regarding the operation of Tenant's business and the use, condition, configuration and occupancy of the Premises. Tenant shall promptly provide Landlord with copies of any notices it receives regarding an alleged violation of Law. Landlord makes no representations to Tenant that the conduct of Tenant's business in the Premises will be in compliance with Law. As used in this Lease, "**Law(s)**" means all present and future statutes, codes, ordinances, orders, rules and regulations of any municipal or governmental entity whether in effect now or later, including, without limitation, the Americans with Disabilities Act and regulations promulgated thereunder and the provisions of other leases with other tenants of the Building.

5.02 Tenant shall, at its sole cost and expense, promptly comply with any Laws that relate to (a) the Base Building (as defined herein), but only to the extent such obligations are triggered by Tenant's use of the Premises, other than for general office use, or Alterations or improvements in the Premises performed or requested by Tenant or (b) the Premises. As used in this Lease, "**Base Building**" shall include the structural portions of the Building, the public restrooms and the mechanical, electrical and plumbing systems and equipment located in the internal core of the Building on the floor or floors on which the Premises are located.

5.03 Tenant shall comply with the Rules and Regulations attached as **Exhibit G** and such other reasonable rules and regulations adopted by Landlord from time to time, including rules and regulations for the performance of Alterations.

5.04 As used in this Lease, "**Hazardous Materials**" will mean any substance commonly referred to, or defined in any Law, as a hazardous material or hazardous substance (or other similar term), including but not be limited to, chemicals, solvents, petroleum products, flammable materials, explosives, asbestos, urea formaldehyde, PCB's, chlorofluorocarbons, freon or radioactive materials. Tenant will not cause or permit any Hazardous Materials to be brought upon, kept, stored, discharged, released or used in, under or about any portion of the Property by Tenant, Tenant Related Parties (as defined herein) or their agents without the prior written consent of Landlord, which consent may be withheld or conditioned in Landlord's sole discretion; provided, Tenant may bring into the Premises small amounts of Hazardous Materials (such as cleaning products and copy toner) which are readily available to Tenant by unregulated retail purchase if the same are necessary in Tenant's normal business operations. If Tenant or any Tenant Related Party brings any Hazardous Materials to the Premises or Property, with or without the prior written consent of Landlord (without waiver of the requirement of prior written consent), and in executing this Lease Tenant acknowledges and agrees that by its direct or indirect involvement in the introduction of any Hazardous Materials to the Premises or Property, with or without the consent of the Landlord, that Tenant accepts full and complete responsibility for such Hazardous Materials and henceforth on will be considered the "Responsible Party" as defined by any applicable governmental authority and/or Law. Further, Tenant shall: (a) use such Hazardous Material only as is reasonably necessary to Tenant's business, in small, properly labeled quantities; (b) handle, use, keep, store, and dispose of such Hazardous Material using the highest accepted industry standards and in compliance with all applicable Laws; (c) maintain at all times with Landlord a copy of the most current MSDS sheet for each such Hazardous Material; and (d) comply with such other rules and requirements Landlord may from time to time impose, or with any definition of Hazardous Materials or Law as it may be implemented or modified during or after the term of this Lease. Upon expiration or earlier termination of this Lease, Tenant will, at Tenant's sole cost and expense, cause all Hazardous Materials brought to the Premises or the Property by Tenant, to be removed from the Property in compliance with any and all applicable Laws.

5.05 If Tenant violates the provisions of this Section, or performs any act or omission which contaminates or expands the scope of contamination of the Premises, the Property, or any part thereof, the underlying groundwater, or any property adjacent to the Property, or violates or allegedly violates any applicable Law, then Tenant will promptly, at Tenant's expense, take all investigatory and/or remedial action (collectively called "**Remediation**"), as directed or required by any governmental authority that is necessary to fully clean up, remove and dispose of such Hazardous Materials and any contamination so caused and shall do so in compliance with any applicable Laws. Tenant will also repair any damage to the Premises and any other affected portion(s) of the Property caused by such contamination and Remediation.

5.06 Tenant shall immediately provide to Landlord written notice of any investigation or claim arising out of the use by Tenant or any Tenant Entity of Hazardous Materials at the Property or the violation of any provision of this Section, or alleged violation of any Law and shall keep Landlord fully advised regarding the same. Tenant shall provide to Landlord all reports regarding the use of Hazardous Materials by Tenant at the Property and any incidents regarding the same, regardless of whether any such documentation is considered by Tenant to be confidential. Landlord retains the right to participate in any Remediation and/or legal actions affecting the Property involving Hazardous Materials arising from Tenant's actual or alleged violation of any provision of this Section or Law.

5.07 Tenant will indemnify, protect, defend and forever hold Landlord, its lenders and ground lessor, if any, Landlord Related Parties (as defined herein) the Premises, the Property, or any portion thereof, harmless from any and all damages, causes of action, fines, losses, liabilities, judgments, penalties, claims, and other costs, including, but not limited to, any Landlord Related Parties' costs incurred during its participation in any Remediation and/or legal actions as specified in this Section, arising out of any failure of Tenant or Tenant Related Party to observe any covenants of this Section. All provisions of this Section shall survive the expiration of this Lease and any termination of this Lease or of Tenant's right of possession.

6. Utilities.

6.01 Landlord shall redistribute or furnish electrical energy to or for the use of Tenant in the Premises for the operation of lighting fixtures and the electrical receptacles in the Premises in a manner that is generally consistent with the Permitted Use.

6.02 If either the quantity or character of electrical service is changed by the public utility or other company supplying electrical service to the Property or is no longer available or suitable for Tenant's requirements (collectively, an "**Electrical Service Event**"), such Electrical Service Event shall not (a) constitute an actual or constructive eviction, in whole or in part, or entitle Tenant to any abatement or diminution of Base Rent, or (b) relieve Tenant from any of its obligations under this Lease, or (c) impose any liability upon Landlord or its agents by reason of inconvenience or annoyance to Tenant, injury to or interruption of Tenant's business or otherwise.

6.03 Landlord shall have the option of installing sub-meters at Landlord's expense to measure Tenant's consumption of electrical energy. Tenant shall obtain and pay for electrical energy and gas to or for the use of Tenant in the Premises by direct application, and arrangement with, the public utility serving the Building.

6.04 Tenant's use of electrical service shall not exceed the amounts which, in Landlord's reasonable judgment, are consistent with the Permitted Use in the Project, if greater. Tenant shall not make, or perform or permit the making or performing of, any alterations to wiring installations or other electrical facilities in or serving the Premises without the prior written consent of Landlord in each instance.

6.05 Landlord shall not be liable in any way to Tenant for any failure or defect in the supply or character of electric energy furnished to the Premises by reason of any requirement, act or omission of the public utility serving the Property with electricity or for any other reason not directly attributable to Landlord, provided, however, that in such instance, Landlord shall use commercially reasonable efforts to cause the electricity to be restored as soon as practicable thereafter.

7. Building Services.

7.01 Landlord agrees to furnish to the Premises during Building Business Hours (specified in the Basic Lease Information), the following services and utilities subject to the rules and regulations of the Building prescribed from time to time: (a) water for use in the Base Building lavatories and break room in the Premises; (b) customary heat and air conditioning ("**HVAC**") required in Landlord's judgment for the use and occupation of the Premises during Building Business Hours, although Tenant shall have the right to receive HVAC service during hours other than Building Business Hours and (c) access to the Building and Premises for Tenant and its employees 24 hours per day/7 days per week, subject to the terms of this Lease and such protective services or monitoring systems, if any, as Landlord may reasonably impose, including, without limitation, sign-in procedures and/or presentation of identification cards.

7.02 Landlord shall provide Tenant with the Parking Spaces on the terms of the Lease. The current allocation of unreserved parking spaces to Tenant is set forth in the Basic Lease Information. All parking will comply with the terms and conditions of this Lease and applicable Rules and Regulations. The parking privileges granted to Tenant are personal to Tenant. Tenant shall not assign or sublet parking privileges other than in connection with an approved or permitted assignment of this Lease or permitted sublease. Parking Spaces shall be free of charge.

7.03 Landlord agrees, at Landlord's sole cost, to (a) install Building standard signage identifying Tenant at the entryway to the Premises at Landlord's sole cost, and (b) provide Tenant, with a listing identifying Tenant in the directory for the Building. Any requests to change the initial signage and directory listing shall be at the Tenant's sole cost. Tenant shall have the right to install signage at its expense on the existing building monument sign with Landlord's reasonable approval and consistent with Project standards and applicable signage code.

7.04 Landlord shall have access to all air-cooling, fan, ventilating and machine rooms and electrical closets and all other mechanical installations of Landlord (collectively, the "**Mechanical Areas**"), and Tenant shall not construct partitions or other obstructions which may unreasonably interfere with Landlord's access thereto or the moving of Landlord's equipment to and from the Mechanical Areas. Tenant shall not enter the Mechanical Areas or tamper with, adjust, or otherwise affect the Mechanical Areas or install any supplementary or auxiliary HVAC equipment to serve the Premises without Landlord's prior consent in each instance. Landlord shall not be responsible if the normal operation of the Building System providing HVAC to the Premises (the "**HVAC System**") shall fail to provide cooled or heated air by reason of (a) any machinery or equipment installed by or on behalf of Tenant, which shall have an electrical load in excess of the average electrical load set forth in this Lease, or (b) any rearrangement of partitioning or other Alterations made or performed by or on behalf of Tenant. Tenant at all times shall cooperate fully with Landlord and shall abide by the Building Rules and Regulations which Landlord may reasonably prescribe for the proper functioning and protection of the HVAC System.

8. Leasehold Improvements.

All improvements in and to the Premises, including any Alterations (collectively, "**Leasehold Improvements**") shall remain upon the Premises at the end of the Term without compensation to Tenant, provided that Tenant, at its expense, in compliance with all applicable Laws, shall (a) close up any slab penetrations in the Premises and (b) remove Tenant installed Cable (as defined in this Lease), gas/tank lines and any Alterations that, in Landlord's reasonable judgment, are of a nature that would require removal and repair costs that are materially in excess of the removal and repair costs associated with standard office improvements (such other items collectively are referred to as "**Required Removables**"). Tenant shall not be required to remove any of the improvements described in Exhibit C. Required Removables shall include, without limitation, internal stairways, raised floors, personal baths and showers, supplemental HVAC units and equipment (however not including HVAC installed for the server room in the Premises), vaults, rolling file systems and structural alterations and modifications. The Tenant installed Cable and Required Removables shall be removed by Tenant within 10 days of the Expiration Date. At least 30 days prior to commencing the removal of any Cable or Required Removables or the closing of any slab penetrations, Tenant shall notify Landlord of its intention to remove such Cable or Required Removables or effect such closings, and provide to Landlord, for its approval, structural or other drawings describing the proposed removal, and if Landlord notifies Tenant within such 30 day period, Tenant shall not remove such Cable and/or Required Removables and/or close such slab penetrations, and the Cable and/or Required Removables not so removed shall become the property of Landlord upon the Expiration Date or sooner termination of the Term. Tenant shall repair damage caused by the installation or removal of any Cable or Required Removables. If Tenant fails to perform its obligations in a timely manner, Landlord may perform such work at Tenant's expense.

9. Repairs and Alterations.

9.01 Tenant shall periodically inspect the Premises to identify any conditions that are dangerous or in need of maintenance or repair and shall promptly provide Landlord with notice of any such conditions. Tenant shall, at its sole cost and expense, perform all maintenance and repairs to the Premises that are not Landlord's express responsibility under this Lease, and keep the Premises in good condition and repair, reasonable wear and tear excepted. Tenant's repair and maintenance obligations include, without limitation, repairs to: (a) floor coverings; (b) interior partitions; (c) doors; (d) the interior side of demising walls; (e) electronic, fiber, phone and data cabling and related equipment that is installed by or for the exclusive benefit of Tenant (collectively, "**Cable**"); (f) supplemental air conditioning units, kitchens, including hot water heaters, plumbing, and similar facilities exclusively serving Tenant; and (g) Alterations. Subject to the terms of Section 15 below, to the extent Landlord is not reimbursed by insurance proceeds, Tenant shall reimburse Landlord for the cost of repairing damage to the Building caused by the acts of Tenant, Tenant Related Parties and their respective contractors and vendors. If Tenant fails to commence and diligently proceed with any repairs to the Premises for more than 15 days after notice from Landlord (although notice shall not be required in an emergency), Landlord may make the repairs, and Tenant shall pay the reasonable cost of the repairs, together with an administrative charge in an amount equal to 3% of the cost of the repairs.

9.02 Landlord shall keep and maintain in good repair and working order and perform maintenance upon the: (a) structural elements of the Building including exterior walls; (b) foundation of the Building; (c) roof of the Building and (d) the Building HVAC, electrical and plumbing systems located outside of the Premises that serve the Premises.

9.03 Tenant shall not make alterations, repairs, additions or improvements or install any Cable (collectively referred to as "**Alterations**") without first obtaining the written consent of Landlord in each instance. However, Landlord's consent shall not be required for any Alteration that satisfies all of the following criteria (a "**Cosmetic Alteration**"), although prior written notice to Landlord shall be required: (a) is of a cosmetic nature such as painting, wallpapering, hanging pictures and installing carpeting; (b) is not visible from the exterior of the Premises or Building; (c) will not affect the Base Building; (d) does not require work to be performed inside the walls or above the ceiling of the Premises; and (e) the costs thereof do not exceed \$5,000.00, in the aggregate, within any 12 month period. Cosmetic Alterations shall be subject to all the other provisions of this Section 9.03. Landlord will not unreasonably withhold its consent to Alterations so long as such Alterations (i) are non-structural and do not affect the Building Systems, (ii) with respect only to fire and life safety systems are performed only by Landlord's designated contractors or with respect to mechanical, engineering, electrical plumbing and HVAC by contractors approved by Landlord to perform such Alterations, (iii) affect only the Premises and are not visible from outside of the Premises or the Building, (iv) do not affect the certificate of occupancy issued for the Building or the Premises, (v) are reasonably consistent with the design, construction and equipment of the Building, and (vi) do not adversely affect (other than to a *de minimis* extent) any Building System or service furnished by Landlord in connection with the operation of the Building.

9.04 Except for Cosmetic Alterations, prior to starting any Alterations, Tenant shall furnish to Landlord (a) plans and specifications, (b) names of contractors reasonably acceptable to Landlord (provided that Landlord may designate specific contractors with respect to Base Building), (c) required permits and approvals, (d) evidence of contractors and subcontractors insurance in amounts reasonably required by Landlord and naming Landlord as an additional insured, and (e) any security for performance in amounts reasonably required by Landlord.

9.05 Alterations shall be constructed in a good and workmanlike manner using materials of a quality reasonably approved by Landlord (except for Cosmetic Alterations which shall not require Landlord's approval). Tenant shall reimburse Landlord for any reasonable out-of-pocket costs and expenses incurred by Landlord or by any third-party on behalf of Landlord in connection with Landlord's review of any plans specifications for any Alterations. In addition, Tenant shall pay Landlord a fee for Landlord's oversight and coordination of any Alterations (except for Cosmetic Alterations) equal to 5% of the cost of the Alterations. Upon completion, except for any Cosmetic Alterations, Tenant shall furnish to Landlord "as-built" plans for all Alterations, completion affidavits and full and final waivers of lien, and certificates of final approval for such Alterations required by any governmental authority.

10. Landlord's Access.

10.01 Landlord may enter the Premises to inspect, show or clean the Premises or to perform or facilitate the performance of repairs, alterations or additions to the Premises or any portion of the Building. Except in emergencies or to provide Building services, Landlord shall provide Tenant with reasonable prior verbal notice of entry and shall use reasonable efforts to minimize any interference with Tenant's use of the Premises. If reasonably necessary, Landlord may temporarily close all or a portion of the Premises to perform repairs and alterations. However, except in emergencies, Landlord will not close the Premises if the work can reasonably be completed on weekends and after Building Business Hours. Entry by Landlord shall not constitute a constructive eviction or entitle Tenant to an abatement or reduction of Rent.

10.02 Landlord has the right at any time to (a) change the name, number or designation by which the Building is commonly known, or (b) alter the Building to change the arrangement or location of entrances or passageways, doors and doorways, and corridors, elevators, stairs, toilets, or other public parts of the Building and/or Property without any such acts constituting an actual or constructive eviction and without incurring any liability to Tenant, so long as such changes do not deny Tenant reasonable access to the Premises. Without limiting the generality of the foregoing, Landlord shall have the right to erect and maintain sidewalk bridges and/or scaffolding on or about the Premises and/or the Building. Landlord shall use reasonable efforts to minimize interference with Tenant's use and occupancy of the Premises during the making of such changes or alterations, provided that Landlord shall have no obligation to employ contractors or labor at overtime or other premium pay rates or to incur any other overtime costs or additional expenses whatsoever.

11. Assignment and Subletting.

11.01 Tenant shall not assign, sublease, transfer, mortgage, pledge, encumber or otherwise transfer any interest in this Lease or allow any third party to use any portion of the Premises (collectively or individually, a "**Transfer**") without the prior written consent of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed if Landlord does not exercise its recapture rights under Section 11.02. If the entities which directly or indirectly control the voting shares/rights of Tenant change at any time, such change of ownership or control shall constitute a Transfer, unless Tenant is an entity whose outstanding stock is listed on a recognized securities exchange. Any Transfer in violation of this Section shall, at Landlord's option, be deemed a Default by Tenant as described in Section 18, and shall be voidable by Landlord. In no event shall any Transfer, release or relieve Tenant from any obligation under this Lease, and Tenant shall remain primarily liable for the performance of the tenant's obligations under this Lease, as amended from time to time.

11.02 Tenant shall provide Landlord with financial statements for the proposed transferee, a fully executed copy of the proposed assignment, sublease or other Transfer documentation and such other information as Landlord may reasonably request. Within 21 days after receipt of the required information and documentation, Landlord shall either (a) consent to the Transfer by execution of a consent agreement in a form reasonably designated by Landlord; (b) reasonably refuse to consent to the Transfer in writing; or (c) in the event of an assignment of this Lease or subletting of more than 50% of the Premises for more than 75% of the remaining Term (excluding unexercised options), recapture the portion of the Premises that Tenant is proposing to Transfer. If Landlord exercises its right to recapture, this Lease shall automatically be amended (or terminated if the entire Premises is being assigned or sublet) to delete the applicable portion of the Premises effective on the proposed effective date of the Transfer, although Landlord may require Tenant to execute a reasonable amendment or other document reflecting such reduction or termination. Tenant shall pay for all of Landlord's out of pocket legal costs incurred in connection with Landlord's review of any requested Transfer not to exceed \$2,500.00.

11.03 Tenant shall pay Landlord 50% of (a) all rent which Tenant receives as a result of a Transfer less (b) the Rent payable to Landlord for the portion of the Premises and Term covered by the Transfer. Tenant shall pay Landlord for Landlord's share of the excess within 30 days after Tenant's receipt of the excess. Tenant may deduct from the excess, amortized on a straight-line basis over the remaining Term of the Lease, all reasonable and customary expenses directly incurred by Tenant attributable to the Transfer. If and for so long as Tenant is in Default, Landlord may require that all sublease payments be made directly to Landlord, in which case Tenant shall receive a credit against Rent in the amount of Tenant's share of payments received by Landlord.

12. Liens.

Tenant shall not permit mechanics' or other liens to be placed upon the Property, Premises or Tenant's leasehold interest in connection with any work or service done or purportedly done by or for the benefit of Tenant or its transferees. Tenant shall give Landlord notice at least 15 days prior to the commencement of any work in the Premises to afford Landlord the opportunity, where applicable, to post and record notices of non-responsibility provided that any request for consent to the Alteration in respect of such work shall constitute such notice. Tenant, within 30 days of notice from Landlord, shall fully discharge any lien by settlement, by bonding or by insuring over the lien in the manner prescribed by the applicable Law and shall provide evidence satisfactory to Landlord that such lien has been removed or bonded within such 30-day period. Tenant's failure to cure same shall be deemed a Default under this Lease and, in addition to any other remedies available to Landlord as a result of such Default by Tenant, Landlord, at its option, may bond, insure over or otherwise discharge the lien. Tenant shall reimburse Landlord for any amount paid by Landlord, including, without limitation, reasonable attorneys' fees.

13. Indemnity and Waiver of Claims.

Except to the extent caused by the gross negligence or willful misconduct of Landlord or any Landlord Related Parties, Tenant shall indemnify, defend and hold Landlord and Landlord Related Parties harmless against and from all liabilities, obligations, damages, penalties, claims, actions, costs, charges and expenses, including, without limitation, reasonable attorneys' fees and other professional fees (if and to the extent permitted by Law) (collectively referred to as "**Losses**"), which may be imposed upon, incurred by or asserted against Landlord or any of the Landlord Related Parties by any third party and arising out of or in connection with any damage or injury occurring in the Premises or any wrongful acts or omissions (including violations of Law) of Tenant, the Tenant Related Parties or any of Tenant's transferees, contractors or licensees. Except to the extent caused by the negligence or willful misconduct of Tenant or any Tenant Related Parties, Landlord shall indemnify, defend and hold Tenant, its trustees, members, principals, beneficiaries, partners, officers, directors, employees and agents ("**Tenant Related Parties**") harmless against and from all Losses which may be imposed upon, incurred by or asserted against Tenant or any of the Tenant Related Parties by any third party and arising out of or in connection with the wrongful acts or omissions (including violations of Law) of Landlord or the Landlord Related Parties. Tenant hereby waives all claims against and releases Landlord and its trustees, members, principals, beneficiaries, partners, officers, shareholders, directors, employees, contractors, licensees, invitees, servants, agents, representatives and Mortgagees (the "**Landlord Related Parties**") from all claims for any injury to or death of persons, damage to property or business loss in any manner related to (a) Force Majeure, (b) acts of third parties, (c) the bursting or leaking of any tank, water closet, drain or other pipe, unknown fire, explosion, falling plaster, steam, gas, electricity, electrical or electronic emanations or disturbance, water, rain, snow or leaks from any part of the Building or from the pipes or caused by dampness, vandalism, malicious mischief, (d) the inadequacy or failure of any security or protective services, personnel or equipment, or (e) any matter not within the reasonable control of Landlord.

14. Insurance.

14.01 Tenant shall maintain the following insurance ("**Tenant's Insurance**"): (a) Commercial General Liability Insurance applicable to the Premises and its appurtenances providing, on an occurrence basis, a minimum combined single limit of \$2,000,000.00; (b) Property/Business Interruption Insurance written on an All Risk or Special Cause of Loss Form, including sprinkler leakage, at replacement cost value and with a replacement cost endorsement covering all of Tenant's business and trade fixtures, equipment, movable partitions, furniture, merchandise and other personal property within the Premises ("**Tenant's Property**") and any Leasehold Improvements performed by or for the benefit of Tenant; (c) Workers' Compensation Insurance in amounts required by Law; and (d) Employers Liability Coverage of at least \$1,000,000.00 per occurrence. Any company writing Tenant's Insurance shall have an A.M. Best rating of not less than A-VIII. All Commercial General Liability Insurance policies shall name as additional insureds Landlord (or its successors and assignees), the managing agent for the Building (or any successor) and their respective members, principals, beneficiaries, partners, officers, directors, employees, and agents, and other designees of Landlord and its successors as the interest of such designees shall appear and shall be primary and noncontributory to any insurance which may be carried by Landlord. In addition, Landlord shall be named as a loss payee with respect to Property Insurance on the Leasehold Improvements. All policies of Tenant's Insurance shall contain endorsements that the insurer(s) shall give Landlord and its designees at least thirty (30) days' advance written notice of any cancellation, termination, material change or lapse of insurance. Tenant shall provide Landlord with a certificate of insurance evidencing Tenant's Insurance prior to the earlier to occur of the Commencement Date or the date Tenant is provided with possession of the Premises, and thereafter as necessary to assure that Landlord always has current certificates evidencing Tenant's Insurance and the Additional Insured Endorsement CG 20 11 11 85 or its equivalent is required to be provided as soon as it is available. Landlord shall maintain so called All Risk property insurance on the Building at replacement cost value as reasonably estimated by Landlord and liability insurance applicable to the Building, together with such other insurance coverage as Landlord, in its reasonable judgment, may elect to maintain.

14.02 Tenant will not do or permit anything to be done within or about the Premises or the Property which will increase the existing rate of any insurance on any portion of the Property or cause the cancellation of any insurance policy covering any portion of the Property (including, without limitation, any liability coverage). Tenant will, at its sole cost and expense, comply with any requirements of any insurer of Landlord. Tenant agrees to maintain policies of insurance described in this Section. Landlord reserves the right, from time to time, to require additional coverage (including, flood insurance, if the Premises is located in a flood hazard zone), and/or to require higher amounts of coverage.

15. Subrogation.

Landlord and Tenant hereby waive and shall cause their respective property insurance carriers to waive any and all rights of recovery, claims, actions or causes of action against the other for any loss or damage with respect to Tenant's Property, Leasehold Improvements, the Building, the Premises, or any contents thereof, including rights, claims, actions and causes of action based on negligence, which loss or damage is (or would have been, had the insurance required by this Lease been carried) covered by insurance. For the purposes of this waiver, any deductible with respect to a party's insurance shall be deemed covered by and recoverable by such party under valid and collectable policies of insurance.

16. Casualty Damage.

16.01 Tenant shall give prompt notice to Landlord if all or any portion of the Premises becomes untenable by fire or other casualty to the Premises (collectively a "Casualty"). In the event of such Casualty, Landlord, by notice to Tenant within 60 days after the date of such Casualty, shall have the right to terminate this Lease if: (1) the Premises have been materially damaged and there is less than one (1) year of the Term remaining on the date of the Casualty; (2) any Mortgagee requires that the insurance proceeds be applied to the payment of the mortgage debt; or (3) a material uninsured loss to the Building or Premises occurs. If this Lease is so terminated, (a) the Term shall expire upon the date set forth in Landlord's notice, which shall not be less than 30 days after such notice is given, and Tenant shall vacate the Premises and surrender the same to Landlord no later than the date set forth in the notice, (b) Tenant's liability for Rent shall cease as of the date of the damage, (c) any prepaid Rent for any period after the date of the damage shall be refunded by Landlord to Tenant, and (d) Landlord shall be entitled to collect all insurance proceeds of policies held by Landlord or Tenant providing coverage for Alterations and other improvements to the Premises. Landlord shall retain such proceeds from Tenant's insurance only to the extent that Landlord performed or paid for such Alterations and improvements, whether by contribution, offset or otherwise, and the balance of such proceeds, if any, shall be paid to Tenant.

16.02 If this Lease is not terminated, Landlord shall promptly and diligently, subject to reasonable delays for insurance adjustment or other matters beyond Landlord's reasonable control, restore the Premises and common areas. Such restoration shall be to substantially the same condition that existed prior to the Casualty, except for modifications required by Law or any other modifications to the common areas deemed desirable by Landlord. Upon notice from Landlord, Tenant shall assign or endorse over to Landlord (or to any party designated by Landlord) all property insurance proceeds payable to Tenant under Tenant's Insurance with respect to any Leasehold Improvements performed by or for the benefit of Tenant; provided if the estimated cost to repair such Leasehold Improvements exceeds the amount of insurance proceeds received by Landlord from Tenant's insurance carrier, the excess cost of such repairs shall be paid by Tenant to Landlord prior to Landlord's commencement of repairs. In effort to reduce excess costs incurred, Tenant shall hold the right to reduce or otherwise change the scope of the Leasehold Improvements subject to Landlord's reasonable approval. Within 15 days of demand, Tenant shall also pay Landlord for any additional excess costs that are determined during the performance of the repairs. In no event shall Landlord be required to spend more for the restoration than the proceeds received by Landlord. Landlord shall not be liable for any inconvenience or annoyance to Tenant or injury to the business of Tenant occasioned by damage by fire or other casualty or the repair thereof. Landlord will not carry insurance of any kind on Tenant's Property, and shall not be obligated to restore or repair any damage to Tenant's Property or any Required Removables. Provided that Tenant is not in Default, during any period of time that all or a material portion of the Premises is rendered untenantable as a result of a Casualty, the Rent shall abate for the portion of the Premises that is untenantable and not used by Tenant. Landlord shall have the right to adapt the restoration of the Premises as contemplated by this Section 16.02 to comply with applicable Laws that are then in effect.

16.03 In addition to Landlord's rights under Section 16.01, if the Premises are totally damaged or are rendered wholly untenantable, or if the Building is so damaged that in Landlord's opinion, substantial alteration, demolition, or reconstruction of the Building is required (whether or not the Premises are so damaged or rendered untenantable), then in either of such events, Landlord may, not later than 60 days following the date of the damage, give Tenant a notice terminating this Lease. If this Lease is so terminated, (a) the Term shall expire upon the date set forth in Landlord's notice, which shall not be less than 30 days after such notice is given, and Tenant shall vacate the Premises and surrender the same to Landlord no later than the date set forth in the notice, (b) Tenant's liability for Rent shall cease as of the date of the damage, (c) any prepaid Rent for any period after the date of the damage shall be refunded by Landlord to Tenant, and (d) Landlord shall be entitled to collect all insurance proceeds of policies held by Landlord or Tenant providing coverage for Alterations and other improvements to the Premises. Landlord shall retain such proceeds from Tenant's insurance only to the extent that Landlord performed or paid for such Alterations and improvements, whether by contribution, offset or otherwise, and the balance of such proceeds, if any, shall be paid to Tenant.

16.04 Notwithstanding anything set forth to the contrary in this Section 16, in the event a Casualty to the Premises and/or Building renders the Premises untenable during the final year of the Term and Tenant's inability to use the Premises is reasonably expected to continue until at least the earlier of the (a) Expiration Date, or (b) the 180th day after the date when such Casualty occurs, then either Landlord or Tenant may terminate this Lease by notice to the other party within 30 days after the occurrence of such Casualty and this Lease shall expire on the 30th day after the date of such notice.

17. Condemnation.

Either party may terminate this Lease if any material part of the Premises is taken or condemned for any public or quasi-public use under Law, by eminent domain or private purchase in lieu thereof (a "**Taking**"). Landlord shall also have the right to terminate this Lease if there is a Taking of any portion of the Building or Property which would have a material adverse effect on Landlord's ability to profitably operate the remainder of the Building. The terminating party shall provide written notice of termination to the other party within 45 days after it first receives notice of the Taking. The termination shall be effective as of the effective date of any order granting possession to, or vesting legal title in, the condemning authority. If this Lease is not terminated, Base Rent and Tenant's Pro Rata Share shall be appropriately adjusted to account for any reduction in the square footage of the Building or Premises. All compensation awarded for a Taking shall be the property of Landlord. The right to receive compensation or proceeds are expressly waived by Tenant, however, Tenant may file a separate claim for Tenant's Property and Tenant's reasonable relocation expenses, provided the filing of the claim does not diminish the amount of Landlord's award. If only a part of the Premises is subject to a Taking and this Lease is not terminated, Landlord, with reasonable diligence, will restore the remaining portion of the Premises as nearly as practicable to the condition immediately prior to the Taking.

18. Events of Default.

In addition to any other default specifically described in this Lease, each of the following occurrences shall be a "**Default**": (a) Tenant's failure to pay any portion of Rent within ten (10) days after it was due ("**Monetary Default**"), however not more than one time per calendar year Landlord shall be required to provide Tenant a written notice of Tenant's failure to pay any portion of Rent with Tenant then having seven (7) days from date of notice to cure; (b) Tenant's failure (other than a Monetary Default) to comply with any term, provision, condition or covenant of this Lease, if the failure is not cured within 10 days after written notice to Tenant provided, however, if Tenant's failure to comply cannot reasonably be cured within 10 days, Tenant shall be allowed additional time (not to exceed 30 days) as is reasonably necessary to cure the failure so long as Tenant begins the cure within 10 days and diligently pursues the cure to completion; (c) Tenant or any Guarantor becomes insolvent, makes a transfer in fraud of creditors, makes an assignment for the benefit of creditors, admits in writing its inability to pay its debts when due or forfeits or loses its right to conduct business; (d) Tenant's interest in this Lease shall pass to any third party, whether by operation of Law or otherwise, except as expressly permitted under Section 11; (e) Tenant does not take possession of all or any portion of the Premises; (f) Tenant is in default beyond any notice and cure period under any other lease or agreement with Landlord at the Building or Property, or (g) if Landlord applies or retains any portion of the Security Deposit, and Tenant fails to deposit with Landlord the amount so applied or retained by Landlord, or to provide Landlord with a replacement Letter of Credit, if applicable, within five (5) days after notice by Landlord to Tenant stating the amount applied or retained. If Landlord provides Tenant with notice of Tenant's failure to comply with any specific provision of this Lease on two (2) separate occasions during any 12-month period, Tenant's subsequent violation of such provision shall, at Landlord's option, be an incurable Default by Tenant. All notices sent under this Section shall be in satisfaction of, and not in addition to, notice required by Law.

19. Remedies.

19.01 Upon Default, Landlord shall have the right to pursue any one or more of the following remedies:

(a) Landlord may serve a written ten (10) day notice of cancellation of this Lease upon Tenant, and upon the expiration of the ten (10) days, this Lease and the Term shall end and expire as fully and completely as if the expiration of the ten (10) day period set forth in the notice was the Expiration Date stated herein, and Tenant shall then quit and surrender the Premises to Landlord, but Tenant shall remain liable for damages as provided in this Section 19. If Tenant fails to surrender the Premises, Landlord, in compliance with Law, may enter upon and take possession of the Premises and remove Tenant, Tenant's Property and any party occupying the Premises. Tenant shall pay Landlord, on demand, all past due Rent and other losses and damages Landlord suffers as a result of Tenant's Default, including, without limitation, all Costs of Reletting and any deficiency that may arise from reletting or the failure to relet the Premises. "**Costs of Reletting**" shall include all reasonable costs and standard expenses incurred by Landlord in reletting or attempting to relet the Premises, including, legal fees, brokerage commissions, and the value of other concessions or allowances granted to a new tenant so long as the new tenant term commences prior to the Expiration Date.

(b) Terminate Tenant's right to possession of the Premises and, in compliance with Law, remove Tenant, Tenant's Property and any parties occupying the Premises. Landlord may (but shall not be obligated to) relet all or any part of the Premises, without notice to Tenant, for such period of time and on such terms and conditions (which may include concessions, free rent and work allowances) as Landlord in its absolute discretion shall determine. Landlord may collect and receive all rents and other income from the reletting. Tenant shall pay Landlord on demand all past due Rent, all Costs of Reletting and any deficiency arising from the reletting or failure to relet the Premises. The re-entry or taking of possession of the Premises shall not be construed as an election by Landlord to terminate this Lease.

19.02 In lieu of calculating damages under Section 19.01, Landlord may elect to receive as damages the sum of (a) all Rent accrued through the date of termination of this Lease or Tenant's right to possession, and (b) an amount equal to the total Rent that Tenant would have been required to pay for the remainder of the Term discounted to present value at a discount rate equal to the sum of the then current "prime rate," as announced in The Wall Street Journal, plus two percent (2%) minus the then present fair rental value of the Premises for the remainder of the Term, similarly discounted, after deducting all anticipated Costs of Reletting.

19.03 If Tenant is in Default of any of its non-monetary obligations under the Lease, Landlord shall have the right to perform such obligations. Tenant shall reimburse Landlord for the cost of such performance upon demand together with an administrative charge equal to 10% of the cost of the work performed by Landlord. The repossession or re-entering of all or any part of the Premises shall not relieve Tenant of its liabilities and obligations under this Lease. No right or remedy of Landlord shall be exclusive of any other right or remedy. Each right and remedy shall be cumulative and in addition to any other right and remedy now or subsequently available to Landlord at Law or in equity.

20. Limitation of Liability.

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS LEASE, THE LIABILITY OF LANDLORD (AND OF ANY SUCCESSOR LANDLORD) SHALL BE LIMITED TO LANDLORD'S (AND ANY SUCCESSOR TO LANDLORD) INTEREST IN THE PROPERTY. TENANT SHALL LOOK SOLELY TO LANDLORD'S INTEREST IN THE PROPERTY FOR THE RECOVERY OF ANY JUDGMENT OR AWARD AGAINST LANDLORD OR ANY LANDLORD RELATED PARTY. NEITHER LANDLORD NOR ANY LANDLORD RELATED PARTY SHALL BE PERSONALLY LIABLE FOR ANY JUDGMENT OR DEFICIENCY, AND IN NO EVENT SHALL LANDLORD OR ANY LANDLORD RELATED PARTY BE LIABLE TO TENANT FOR ANY LOST PROFIT, DAMAGE TO OR LOSS OF BUSINESS OR ANY FORM OF SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGE. BEFORE FILING SUIT FOR AN ALLEGED DEFAULT BY LANDLORD, TENANT SHALL GIVE LANDLORD AND THE MORTGAGEE(S) WHOM TENANT HAS BEEN NOTIFIED HOLD MORTGAGES, NOTICE AND REASONABLE TIME TO CURE THE ALLEGED DEFAULT.

21. Reduction or Relocation of the Premises.

21.01 Landlord shall have the right, upon not less than 30 days' notice to Tenant, to recapture a portion or portions of the Premises, solely for the purpose of (a) installing additional elevator(s) in the Building, together with such space as may be required for lobbies and other common areas, (b) improving the Base Building, or (c) constructing public corridors to create access to rentable space now existing or to be constructed in the future on the floor on which the Premises are located (any or all of the foregoing work, "**Building Improvements**"). The amount of such recaptured space which may be taken by Landlord pursuant to this Section 21.01 shall be limited to such space as is reasonably and actually required for the proper installation, access and operation of such Building Improvements. Tenant shall provide Landlord with access to the Premises to perform the work to install and maintain the Building Improvements, including the right to take all necessary materials and equipment into the Premises, without the same constituting an eviction, and Tenant shall not be entitled to any abatement of Rent while such work is in progress or any damages by reason of loss or interruption of business or otherwise unless the Landlord work exceeds thirty (30) days in which case Tenant's Rent shall be reduced by the proportionate area of the Premises impacted, inaccessible or unusable due to noise. Landlord shall use reasonable efforts to minimize interference with Tenant's access to and use and occupancy of the Premises in making any Building Improvements; provided, however, that Landlord shall have no obligation to employ contractors or labor at overtime or other premium pay rates or to incur any other overtime costs or additional expenses whatsoever. Promptly following the completion of any Building Improvements, Landlord shall make such repairs to and restoration of the Premises as may be reasonably required as a direct result thereof. Upon the date set forth for such recapture in Landlord's notice described above, the Lease shall be deemed automatically amended by the deletion of such recaptured space from the Premises, Base Rent and Additional Rent shall be reduced in the proportion which the area of the part of the Premises so recaptured bears to the total area of the Premises immediately prior thereto, and Tenant shall promptly vacate and surrender such portion of the Premises to Landlord, and except as otherwise specifically set forth in this Section 21.01, the terms and conditions of this Lease shall not be modified by reason of any such Building Improvements or the maintenance thereof.

22. Security Deposit.

22.01 Tenant shall deposit the Security Deposit with Landlord upon the execution of this Lease in cash as security for the faithful performance and observance by Tenant of the terms, covenants and conditions of this Lease, including the surrender of possession of the Premises to Landlord as herein provided. Landlord shall not be required to pay Tenant any interest on the Security Deposit and shall be permitted to commingle the Security Deposit with other deposits and funds being held by Landlord.

22.02 If Tenant Defaults, beyond applicable notice and cure periods, in the payment or performance of any the terms, covenants or conditions of this Lease, including the payment of Rent, Landlord may use, apply or retain the whole or any part of the cash Security Deposit to the extent required for the payment of any Rent or any other sum as to which Tenant is in Default, including (a) any sum which Landlord may expend or may be required to expend by reason of Tenant's Default, and (b) any damages to which Landlord is entitled pursuant to this Lease or applicable Laws, whether such damages accrue before or after summary proceedings or other reentry by Landlord. If Landlord uses, applies or retains any part of the Security Deposit, Tenant, upon demand, shall deposit with Landlord the amount so applied or retained so that Landlord shall have the full Security Deposit on hand at all times during the Term. If Tenant shall fully and faithfully comply with all of the terms, covenants and conditions of this Lease, the Security Deposit (or so much thereof as remains) shall be returned to Tenant no later than 45 days following the Expiration Date and after delivery of possession of the Premises to Landlord in the manner required by this Lease. Tenant expressly agrees that Tenant shall have no right to apply any portion of the Security Deposit against any of Tenant's obligations to pay Rent hereunder.

22.03 Upon a sale of the Building or the Property or a leasing of the Building, or any financing of Landlord's interest therein, Landlord shall have the right to transfer the cash Security Deposit to the vendee, Tenant or Mortgagee. Tenant shall look solely to the new landlord or Mortgagee for the return of such cash Security Deposit, and the provisions of this Section shall apply to every transfer or assignment made of the Security Deposit to a new landlord. Tenant will not assign or encumber, or attempt to assign or encumber, the cash Security Deposit, and neither Landlord nor its successors or assigns shall be bound by any such actual or attempted assignment or encumbrance.

22.04 The cash Security Deposit, if any, shall not be deemed an advance Rent deposit or an advance payment of any other kind, or a measure or limitation of Landlord's damages or constitute a bar or defense to any of the Landlord's other remedies under this Lease or at Law or in equity upon Tenant's Default.

23. Holding Over.

If Tenant fails to surrender all or any part of the Premises at the expiration or termination of this Lease, occupancy of the Premises after expiration or termination shall be that of a tenancy at sufferance. Tenant's occupancy shall be subject to all the terms and provisions of this Lease, and Tenant shall pay an amount (on a per month basis without reduction for partial months during the holdover) equal to (a) 125% of the sum of the Base Rent due for the period immediately preceding the holdover, and (b) be liable to Landlord for (i) any payment or rent concession which Landlord may be required to make to any tenant obtained by Landlord for all or any part of the Premises (a "**New Tenant**") in order to induce such New Tenant not to terminate its lease by reason of the holding-over by Tenant, and (ii) the loss of the benefit of the bargain if any New Tenant shall terminate its lease by reason of the holding-over by Tenant; and (c) indemnify Landlord against all claims for damages by any New Tenant. No holdover by Tenant or payment by Tenant after the expiration or termination of this Lease shall be construed to extend the Term or prevent Landlord from immediate recovery of possession of the Premises by summary proceedings or otherwise.

24. Subordination to Mortgages; Estoppel Certificate.

24.01 Tenant accepts this Lease subject and subordinate to any mortgage(s), deed(s) of trust, ground lease(s) or other lien(s) now or subsequently arising upon the Premises, the Building or the Property, and to renewals, modifications, refinancings and extensions thereof (collectively referred to as a "**Mortgage**"). The party having the benefit of a Mortgage shall be referred to as a "**Mortgagee**". This clause shall be self-operative, but upon request from a Mortgagee, Tenant shall execute a commercially reasonable subordination agreement in favor of the Mortgagee. As an alternative, a Mortgagee shall have the right at any time to subordinate its Mortgage to this Lease. Upon the request of Landlord or any Mortgagee, Tenant shall attorn to any successor to Landlord's interest in this Lease.

If a Mortgagee or any other person shall succeed to the rights of Landlord under this Lease, whether through possession or foreclosure action, or the delivery of a new lease or deed, then at the request of the successor landlord and upon such successor landlord's written agreement to accept Tenant's attornment and to recognize Tenant's interest under this Lease, Tenant shall be deemed to have attorned to and recognized such successor landlord as Landlord under this Lease. The provisions of this Section are self-operative and require no further instruments to give effect hereto. Tenant shall, within 10 days after written request, execute and deliver any instrument that such successor landlord may reasonably request (a) evidencing such attornment, (b) setting forth the terms and conditions of Tenant's tenancy, and (c) containing such other terms and conditions as may be required by such Mortgagee or Landlord, provided such terms and conditions do not increase the Rent, materially increase Tenant's non-Rent obligations or materially and adversely affect Tenant's rights under this Lease. Upon such attornment, this Lease shall continue in full force and effect as a direct lease between such successor landlord and Tenant upon all of the terms, conditions and covenants set forth in this Lease except that such successor landlord shall not be liable for or bound by any: (i) payment of an installment of Rent which may have been made more than 30 days before the due date of such installment, (ii) act or omission or default of Landlord under the Lease, (iii) credits, claims, setoffs or defenses which Tenant may have against Landlord, (iv) obligation to make any payment to Tenant which was required to be made prior to the time such successor landlord succeeded to Landlord's interest, (v) any obligation to perform any work or to make improvements to the Premises except for (A) repairs and maintenance required to be made by Landlord under this Lease, and (B) repairs to the Premises as a result of damage by fire or other casualty, or partial condemnation, pursuant to the provisions of this Lease, but only to the extent that such repairs can reasonably be made from the net proceeds of any insurance or condemnation awards actually made available to such successor landlord; or (vi) bound by any modification, amendment or renewal of this Lease made without the consent of any Mortgagee of whom Tenant has been given notice, or (vii) obligated to return any security deposit (if any) not actually received by any successor landlord or Mortgagee.

24.02 Tenant shall within 10 days after receipt of a written request from the Landlord, execute and deliver a commercially reasonable estoppel certificate to those parties as are reasonably requested by Landlord, including a Mortgagee or prospective purchaser of the Building and/or Property. Without limitation, such estoppel certificate may include a certification as to the status of this Lease, the existence of any defaults, and the amount of Rent that is due and payable.

25. Option to Renew.

25.01 Provided that (a) this Lease shall be in full force and effect as of the date of the Renewal Notice and as of the Expiration Date; (b) Tenant is not in Default under this Lease beyond any applicable cure period, (c) Tenant shall be in actual occupancy of the entire Premises (subject, however, to vacancy due to casualty or condemnation), then Tenant originally herein named shall have one (1) option to extend the Term of this Lease for the entire Premises for a period of three (3) years (the "**Renewal Term**") commencing on the day after the Expiration Date. Such option shall be exercisable by written notice (the "**Renewal Notice**") to Landlord given not less than nine (9) months prior to, but not earlier than 18 months prior to, the Expiration Date. The Renewal Term shall commence on the day after the Expiration Date (the "**Renewal Term Commencement Date**") and shall expire on the third (3rd) anniversary of the Expiration Date. The Renewal Term shall constitute an extension of the initial Term of this Lease and shall be upon all of the same terms and conditions as the initial Term, except that (i) there shall be no further option to renew the Term of this Lease during the Renewal Term, and (ii) the Base Rent for the Renewal Term shall be payable at a rate per annum equal to the greater of (A) the Prevailing Market Rate (as defined herein) and (B) the Base Rent paid by Tenant immediately prior to the Expiration Date. During the Renewal Term, all Additional Rent that Tenant is obligated to pay under this Lease during the initial Term hereof for Operating Expenses shall continue without interruption, it being the intention of the parties hereto that the Renewal Term shall be deemed a part of and continuation of the initial Term of this Lease. If Tenant shall duly and timely give the Renewal Notice, then not later than 21 days after the date of such Renewal Notice, Landlord shall respond to Tenant's Renewal Notice with a notice to Tenant of Landlord's calculation of the Prevailing Market Rate. As used in this Lease, "**Prevailing Market Rate**" shall mean the arm's length fair market annual rental rate per rentable square foot under leases and renewal and expansion amendments entered into on or about the date on which the Prevailing Market Rate is being determined hereunder for space comparable to the Premises in the Building and buildings comparable to the Building in the Beaverton, Oregon area as of the date the Renewal Term is to commence, taking into account the specific provisions of this Lease which will remain constant, and may, if applicable, include parking charges. The determination of the Prevailing Market Rate shall take into account any material economic differences between the terms of this Lease and any comparison lease or amendment, such as rent abatements, construction costs and other concessions and the manner, if any, in which the landlord under any such lease is reimbursed for operating expenses and taxes.

25.02 If Tenant shall dispute Landlord's determination of the Prevailing Market Rate, pursuant to Section 25.01, Tenant shall give notice to Landlord of such dispute within 10 days of Tenant's receipt of Landlord's notice of Landlord's calculation of the Prevailing Market Rate, with the Tenant's notice stating that Tenant will either, a) remove its Renewal Notice and have no further obligation to extend the Lease, or b) the parties shall proceed to arbitration and such dispute shall be determined by a single arbitrator appointed in accordance with the American Arbitration Association Real Estate Valuation Arbitration Proceeding Rules. The arbitrator shall be impartial and shall have not less than then 10 years' experience in a calling related to the leasing of commercial office space in office buildings comparable to the Building, and the fees of the arbitrator shall be shared equally by Landlord and Tenant. Within 15 days following the appointment of the arbitrator, Landlord and Tenant shall attend a hearing before the arbitrator at which each party shall submit a report setting forth its determination of the Prevailing Market Rate of the Premises as of the commencement of the Renewal Term, together with such evidence as each such party shall deem relevant. If either party fails to submit its determination, then the arbitrator shall select the determination that was submitted. The arbitrator shall, within 30 days following such hearing and submission of evidence, render his or her decision by selecting the determination of fair market value submitted by either Landlord or Tenant which, in the judgment of the arbitrator, most nearly reflects the Prevailing Market Rate of the Premises for the Renewal Term. The arbitrator shall have no power or authority to select any Prevailing Market Rate other than a Prevailing Market Rate submitted by Landlord or Tenant, and the decision of the arbitrator shall be final and binding upon Landlord and Tenant. If the Prevailing Market Rate shall not have been determined by the Renewal Term Commencement Date, Tenant shall pay Base Rent in the amount equal to Landlord's determination of the Prevailing Market Rate submitted to Tenant pursuant to Section 25.01 until the Prevailing Market Rate shall have been determined by the arbitrator. Upon any such determination, the Base Rent for the Premises shall be retroactively adjusted to the Renewal Term Commencement Date between the parties.

25.03 Upon request by Landlord or Tenant following the Renewal Term Commencement Date, Landlord and Tenant will mutually execute, acknowledge and deliver an amendment to this Lease setting forth the Base Rent for the Renewal Term, the Renewal Term Commencement Date, and the Expiration Date, as extended. The failure of either party to execute and deliver such an amendment shall not affect the rights or the parties under this Lease. If Tenant shall duly and timely exercise Tenant's right to the Renewal Term pursuant to the terms hereof, all of the applicable references in this Lease to the Term shall be deemed to include the Renewal Term.

25.04 It is an express condition of the Renewal Option granted to Tenant pursuant to the terms of this Section 25 that time shall be of the essence with respect to Tenant's giving of the Renewal Notice within the period above provided.

25.05 The Renewal Option shall automatically terminate and become null, void and of no force and effect upon the earlier to occur of (a) the expiration or termination of this Lease by Landlord or pursuant to Law, (b) the termination or surrender of Tenant's right to possession of the Premises or any portion thereof, or (c) the failure of Tenant to timely and properly exercise the Renewal Option. The Renewal Option is personal to Tenant herein named, and under no circumstances whatsoever shall any assignee or any sublessee have any right to exercise the Renewal Option granted herein.

26. Notice.

Except as otherwise expressly provided in this Lease, any consents, notices, demands, requests, approvals or other communications given under this Lease shall be in writing and delivered by hand or sent by certified mail with return receipt requested, or sent by overnight or same day courier service at the party's respective addresses set forth in the Basic Lease Information. Each notice shall be deemed to have been received on the earlier to occur of actual delivery or the date that is five (5) business days after notice is deposited in the U.S. mail in the manner described above. Either party may, at any time, change its address (other than to a post office box address) by giving the other party written notice of the new address.

27. Surrender of Premises.

At the expiration or termination of this Lease or Tenant's right of possession, Tenant shall remove Tenant's Property from the Premises, and quit and surrender the Premises to Landlord, vacant, broom clean, and in good order, condition and repair, ordinary wear and tear and damage which Landlord is obligated to repair hereunder excepted. If Tenant fails to remove any of Tenant's Property, Landlord may deem all or any part of Tenant's Property to be abandoned and, at Tenant's sole cost and expense, shall be entitled (but not obligated) to remove, sell or dispose of Tenant's Property without notice or compensation to Tenant. Landlord shall not be responsible for the value, preservation or safekeeping of Tenant's Property. Tenant shall pay Landlord, upon demand, the expenses and storage charges incurred.

28. Confidentiality.

Tenant shall keep the provisions of this Lease confidential, and shall instruct its agents, employees, attorneys and consultants to keep such provisions confidential, but the foregoing shall not restrict Tenant's right to disclose such provisions as reasonably required in connection with the conduct of its business to attorneys, accountants and other professionals. Tenant agrees that it shall not issue any press release with respect to or otherwise publicize this Lease, and Tenant shall require its agents and consultants to similarly refrain from publicizing the terms hereof.

29. First Right of Refusal to Expand.

29.01 During the Term following the Commencement Date, Landlord shall notify Tenant in writing (“**Available Premises Notice**”) if any office premises located adjacent to the Premises on the first floor (“**Expansion Premises**”) becomes available for rent. For a period of fifteen (15) days following Tenant’s receipt of the Available Premises Notice, Tenant shall have the right (“**First Right of Refusal**”) to lease the Expansion Premises by providing Landlord with written notice (“**Election Notice**”). The failure of Tenant to deliver the Election Notice to Landlord within such time period shall be deemed Tenant’s waiver of its First Right of Refusal and Landlord shall be free to lease the Expansion Premises to any other party. If Tenant elects to exercise its First Right of Refusal, the Expansion Premises shall be deemed to be leased under all the terms and conditions of this Lease and shall constitute a portion of the “Premises” for all purposes, and the term of Tenant’s lease of the Expansion Premises shall be coterminous with the term of this Lease with respect to the original Premises. The date that is the sooner to occur of the day that the Expansion Premises is ready for occupancy or the day that Tenant takes occupancy of the Expansion Premises, is hereinafter referred to as the “Occupancy Date”. Landlord and Tenant shall execute an amendment to this Lease evidencing the lease of the Expansion Premises in a form provided by Landlord.

29.02 The Base Rent for the Expansion Premises shall be the then current Base Rent which Tenant is obligated to pay for the original Premises, on a per square foot of rentable area basis, and shall be subject to increase at the same times and in the same manner as Base Rent is adjusted pursuant to this Lease. If Tenant exercises its option to extend the term of this Lease as provided in Section 25, the Base Rent for the Expansion Premises shall be the same as the Base Rent for the Premises, on a per square foot of rentable area basis, during such extended term. Tenant’s obligation to pay Base Rent and other rent respecting the Expansion Premises shall commence on the Occupancy Date.

29.03 As a condition to Tenant’s right to expand into the Expansion Premises, Tenant shall continue, as of the time of the exercise of the option, and at the time Tenant takes possession of such Expansion Premises, Tenant shall not be in default under this Lease, beyond any applicable cure period.

As of the Occupancy Date, the Tenant’s Proportionate Share used for purposes of calculating Operating Expenses shall be increased in order to reflect the addition of the Expansion Premises to the Premises

30. Miscellaneous.

30.01 This Lease shall be interpreted and enforced in accordance with the Laws of the State of Oregon.

30.02 Landlord and Tenant hereby irrevocably consent to the jurisdiction and proper venue of the State and County where the Property is located.

30.03 If any term or provision of this Lease shall to any extent be void or unenforceable, the remainder of this Lease shall not be affected.

30.04 If there is more than one Tenant or if Tenant is comprised of more than one party or entity, the obligations imposed upon Tenant shall be joint and several obligations of all the parties and entities, and requests or demands from any one person or entity comprising Tenant shall be deemed to have been made by all such persons or entities. Notices to any one person or entity shall be deemed to have been given to all persons and entities.

30.05 Tenant represents and warrants to Landlord that each individual executing this Lease on behalf of Tenant is authorized to do so on behalf of Tenant and that Tenant is not, and the entities or individuals constituting Tenant or which may own or control Tenant or which may be owned or controlled by Tenant are not, (a) in violation of any laws relating to terrorism or money laundering, or (b) among the individuals or entities identified on any list compiled pursuant to Executive Order 13224 for the purpose of identifying suspected terrorists or on the most current list published by the U.S. Treasury Department Office of Foreign Assets Control at its official website <http://www.treas.gov/ofac/tllsdn.pdf> or any replacement website or other replacement official publication of such list.

30.06 If either party institutes a suit against the other for violation of or to enforce any covenant, term or condition of this Lease, the prevailing party shall be entitled to reimbursement of all of its costs and expenses, including, without limitation, reasonable attorneys' fees incurred before and in connection with trial, arbitration and on appeal.

30.07 Landlord and Tenant hereby waive any right to trial by jury in any proceeding based upon a breach of this Lease. No failure by either party to declare a default immediately upon its occurrence, nor any delay by either party in taking action for a default, nor Landlord's acceptance of Rent with knowledge of a default by Tenant, shall constitute a waiver of the default, nor shall it constitute an estoppel.

30.08 Whenever a period of time is prescribed for the taking of an action by Landlord, the period of time for the performance of such action shall be extended by the number of days that the performance is actually delayed due to strikes, acts of God, disease, virus, pandemic, government rules and regulations, shortages of labor or materials, war, terrorist acts, civil disturbances and other causes beyond the reasonable control of Landlord ("**Force Majeure**").

30.09 Landlord shall have the right to transfer and assign, in whole or in part, all of its rights and obligations under this Lease and in the Building and Property. Upon transfer Landlord shall be released from any further obligations hereunder and Tenant agrees to look solely to the successor in interest of Landlord for the performance of such obligations, provided that, any successor pursuant to a voluntary, third party transfer (but not as part of an involuntary transfer resulting from a foreclosure or deed in lieu thereof) shall have assumed Landlord's obligations under this Lease.

30.10 Landlord has delivered a copy of this Lease to Tenant for Tenant's review only and the delivery of it does not constitute an offer to Tenant or an option.

30.11 Tenant represents that it has dealt directly with, and only with, Brokers as brokers in connection with this Lease. Tenant shall indemnify and hold Landlord and the Landlord Related Parties harmless from all claims of any brokers, other than Brokers, claiming to have represented Tenant in connection with this Lease. Landlord shall indemnify and hold Tenant and the Tenant Related Parties harmless from all claims of any brokers claiming to have represented Landlord in connection with this Lease. Landlord agrees to pay a brokerage commission to Broker in accordance with the terms of a separate written commission agreement to be entered into by and between Landlord and Broker.

30.12 Tenant may peacefully have, hold and enjoy the Premises, subject to the terms of this Lease, provided Tenant pays the Rent and fully performs all of its covenants and agreements. This covenant shall be binding upon Landlord and its successors only during its or their respective periods of ownership of the Building.

30.13 This Lease does not grant any rights to light or air over or about the Building. Landlord excepts and reserves exclusively to itself any and all rights not specifically granted to Tenant under this Lease.

30.14 This Lease constitutes the entire agreement between the parties and supersedes all prior agreements and understandings related to the Premises, including all lease proposals, letters of intent and other documents. Neither party is relying upon any warranty, statement or representation not contained in this Lease. This Lease may be modified only by a written agreement signed by an authorized representative of Landlord and Tenant.

30.15 Tenant hereby waives irrevocably any rights that Tenant may have in connection with any zoning lot merger or transfer of development rights with respect to the Property which would cause the Premises to be merged with or unmerged from any other zoning lot.

30.16 SUPPRESSION OF CORRUPT PRACTICE

30.16.1 The group of which we (Landlord) form a part is committed to conducting business in an ethical manner and expects all its employees and parties with which it has a contractual relationship to conduct themselves with high ethical standards and to comply with applicable laws for the suppression of corrupt practices ("Anti-Corruption Laws").

30.16.2 Tenant represents and warrants that, to the best of its knowledge, neither Tenant nor any person who (by reference to all relevant circumstances) performs services or acts for or on behalf of Tenant in any capacity (including, without limitation, employees, agents, related corporations and subcontractors) ("Representatives") has contravened, or procured or encouraged third parties (including, to avoid any doubt, the employees of or any person acting on our behalf) to contravene, any Anti-Corruption Laws in connection with this Lease.

30.16.3 Tenant must immediately notify Landlord if any person employed by Tenant or acting on Tenant's behalf or any of Tenant's Representatives, has contravened or attempted to contravene any Anti-Corruption Laws in connection with this Lease, and must take adequate steps to protect the interest of both Landlord and Tenant. All such notices to us should be sent to the Head of Group Internal Audit of CapitaLand Limited at the following email address: Whistleblowing.ACChair@capitaland.com.

30.16.4 Landlord shall have the right to terminate this Lease forthwith if Tenant or any of Tenant's Representatives has contravened or attempted to contravene any Anti-Corruption Laws, whether in connection with this Lease or otherwise. Such termination shall not affect Landlord's other rights and remedies whether under this Lease or otherwise.

[No Further Text on this Page; Signature Page Follows]

Landlord and Tenant have executed this Lease as of the day and year first above written.

LANDLORD:

PORTLAND 2 LLC,
a Delaware limited liability company

By: /s/ Rein Gabrielsen
Name: Rein Gabrielsen
Title: Senior Asset Manager

TENANT:

SUMMIT WIRELESS TECHNOLOGIES, INC.,
a Delaware corporation

By: /s/ George Oliva
Name: George Oliva
Title: CFO

EXHIBIT A

DEPICTION OF BUILDING AND PROJECT

All areas, dimensions and locations are approximate, and any physical conditions indicated may not exist as shown.

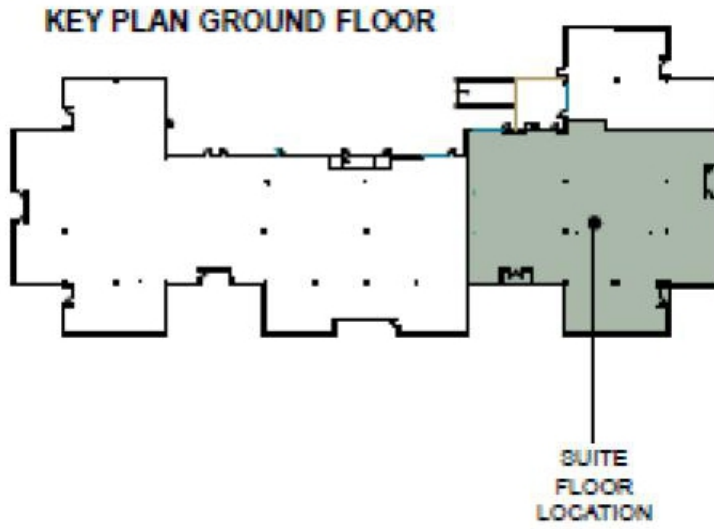
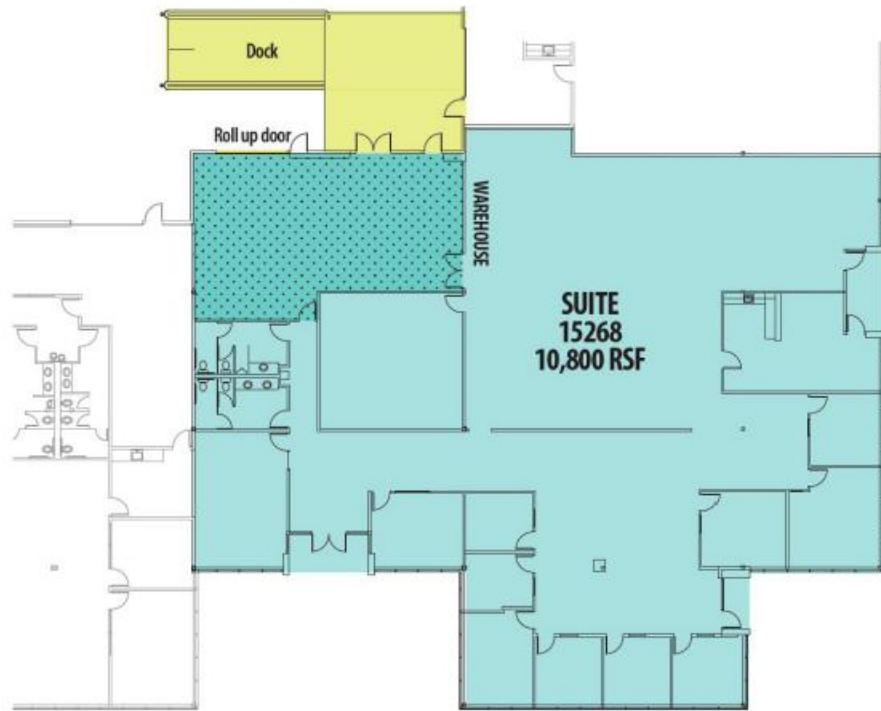


EXHIBIT B

FLOOR PLAN OF THE PREMISES
Comment – update plan with final version



Waterside - Building B

EXHIBIT C

TENANT IMPROVEMENT AGREEMENT

This Exhibit is attached to and made a part of the Lease by and between **PORTLAND 2 LLC**, a Delaware limited liability company ("**Landlord**") and **SUMMIT WIRELESS TECHNOLOGIES, INC.**, a Delaware limited liability company ("**Tenant**") for space in the Building located at 15250 NW Greenbrier Parkway, Suite 15268, Beaverton, Oregon. Capitalized terms not otherwise defined in this **Exhibit C** shall have the meaning given to such terms in the Lease of which this **Exhibit C** is a part.

1. Landlord shall provide certain improvements in the Premises in accordance with this Exhibit. Landlord shall complete the improvement as soon as possible using standard commercial practices. Landlord shall pay up to One Hundred Eighty Nine Thousand Dollars (\$189,000.00) (the "**TI Allowance**") towards the cost of designing and constructing the Tenant Improvements (defined in Section 2 below) pursuant to the terms of this Exhibit. All costs in connection with the design and construction of the improvements in the Premises in excess of the TI Allowance (the "**Excess**") shall be paid for by Tenant to Landlord in advance of commencement of such work. Any amount charged for Tenant Improvements which is not covered by the TI Allowance will be paid by Tenant to Landlord upon presentation of invoice from Landlord. Tenant shall provide advance written approval of any Tenant Improvement work that will result in Excess expenses that are to be paid for by Tenant. Up to \$70,200 of the total TI Allowance may be used for the payment of any soft costs, including, but not limited to purchase and installation of signage, cabling, computer, telephone or other equipment, or purchase, installation or moving of Tenant's furniture. Landlord and Tenant shall mutually agree for Landlord to pay an approved costs under the \$70,200 directly or Tenant shall pay and then seek reimbursement from Landlord which Landlord shall pay within no more than 30 days from the date of Landlord receives proof of payment by Tenant. Throughout the process of design and construction of the Tenant improvements, Ed Green, VP of Operations ("**Tenant's Construction Representative**") shall be available for onsite and telephone consultations and decisions as necessary. Tenant's Construction Representative shall have the authority to bind Tenant as to all matters relating to the tenant improvements.

2. Landlord shall construct the initial tenant improvements in the Premises pursuant to the plans attached hereto as **Schedule 1** (the "**Plans**"). The improvements to be performed by Landlord in accordance with the Plans are hereinafter referred to as the "**Tenant Improvements**". It is agreed that construction of the Tenant Improvements will be completed at Landlord's sole cost and expense (subject to the terms of Section 1) using Building standard methods, materials and finishes. Landlord shall charge a fee to Tenant for overhead and supervision of the construction of the Tenant Improvements of five percent (5%) of the cost for said improvements. Landlord's fee shall be deducted from the TI Allowance. Tenant shall make no changes or modifications to the Plans or submit any change orders without the prior written approval of Landlord and otherwise in accordance with this **Exhibit C**. Tenant may request two (2) revisions to the Plans. Promptly upon completion of the revisions, Landlord shall notify Tenant in writing of the increased cost of the Tenant Improvements, if any, resulting from such revisions to the Plans. Tenant, within one business day, shall notify Landlord in writing whether it desires to proceed with such revisions. In the absence of such written authorization, Landlord shall have the option to continue work on the Premises disregarding the requested revision. Tenant shall be responsible for any delay in completion of the Tenant Improvements resulting from any revision to the Plans. If such revisions result in an increase in the cost of the Tenant Improvements, such increased costs, plus any applicable state sales or use tax thereon, shall be payable by Tenant upon demand. Notwithstanding anything herein to the contrary, all revisions to the Plans shall be subject to the approval of Landlord.

3. Landlord shall enter into a direct contract for the Tenant Improvements with Commercial Contractors, Inc. or another contractor mutually agreed to by Landlord and Tenant. In addition, Landlord shall have the right to select and/or approve of any subcontractors used in connection with the Tenant Improvements. Landlord's supervision or performance of any work for or on behalf of Tenant shall not be deemed a representation by Landlord that such Plans or the revisions thereto comply with applicable insurance requirements and Laws, or that the improvements constructed in accordance with the Plans and any revisions thereto will be adequate for Tenant's use, it being agreed that Tenant shall be responsible for all elements of the design of the Plans and any changes thereto (including, without limitation, compliance with law, functionality of design, the structural integrity of the design, the configuration of the Premises and the placement of Tenant's furniture, appliances and equipment). Accordingly, notwithstanding Landlord's review and approval of the Plans, Landlord shall have no responsibility or liability whatsoever for any errors or omissions contained in the Plans, or to verify dimensions or conditions, or for the quality, design or compliance with applicable Laws of any improvements described therein or constructed in the Premises, and Tenant hereby waives all claims against Landlord relating to, or arising out of the construction of, the Tenant Improvements.

4. If any work is to be performed on the Premises by Tenant or Tenant's contractor or agents, (a) such work shall proceed upon Landlord's written approval of Tenant's contractor, public liability and property damage insurance carried by Tenant's contractor, and detailed plans and specifications for such work shall be at Tenant's sole cost and expense, and shall further be subject to the provisions of Article 9 of the Lease, (b) all work by Tenant or Tenant's contractor or agents shall be scheduled through Landlord, (c) Tenant or Tenant's contractor or agents shall arrange for necessary utility, hoisting and elevator service with Landlord's contractor and shall pay all charges for such services, and (d) all work shall be done in conformity with a valid building permit when required, a copy of which shall be furnished to Landlord before such work is commenced, and in any case, all such work shall be performed in accordance with all applicable Laws. Notwithstanding any failure by Landlord to object to any such work, Landlord shall have no responsibility for Tenant's failure to comply with all applicable Laws. If required by Landlord or any lender of Landlord, all work by Tenant or Tenant's contractor or agents shall be done with union labor in accordance with all union labor agreements applicable to the trades being employed. Tenant's entry to the Premises for any purpose, including, without limitation, inspection or performance of construction by Tenant's contractor or agents shall be subject to the terms of the Lease. Tenant shall promptly reimburse Landlord upon demand for any reasonable expense actually incurred by the Landlord by reason of faulty work done by Tenant or its contractors or by reason of any delays caused by such work, or by reason of inadequate clean-up.

5. Tenant's entry into the Premises for any purpose, including without limitation inspection or performance of work by Tenant's contractor, prior to the Commencement Date, shall be subject to all the terms and conditions of the Lease, including without limitation the provisions of the Lease relating to the maintenance of insurance, but excluding the provisions of the Lease relating to the payment of rent. Tenant's entry shall mean entry by Tenant, its officers, contractors, licensees, agents, servants, employees, guests, invitees, or visitors.

6. Tenant's contractor shall store any materials only in the Premises or in such other space as may be designated by Landlord or its contractor from time to time. All trash and surplus construction materials shall also be stored within the Premises and shall be promptly removed from the Property.

7. Tenant shall indemnify and hold harmless Landlord from and against any and all claims, losses, liabilities, and expenses (including without limitation attorneys' fees) arising out of or in any way related to the activities of Tenant's contractors (and any subcontractors) in the Premises or the on the Property. Without limiting the generality of the foregoing, Tenant shall promptly reimburse Landlord upon demand for any extra expense incurred by the Landlord as a result of faulty work done by Tenant or its contractors, any delays caused by such work, or inadequate clean-up.

8. Without limiting the "as-is" provisions of the Lease, Tenant accepts the Premises in its "as-is" condition and acknowledges that Landlord has no obligation to make any changes or improvements to the Premises or to pay any costs expended or to be expended in connection with any such changes or improvements, other than the Tenant Improvements specified in Sections 1 and 2 of this **Exhibit C**.

9. This **Exhibit C** shall not be deemed applicable to any additional space added to the Premises at any time or from time to time, whether by any options under the Lease or otherwise, or to any portion of the original Premises or any additions to the Premises in the event of a renewal or extension of the original Term of the Lease, whether by any options under the Lease or otherwise, unless expressly so provided in the Lease or any amendment or supplement to the Lease.

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SCHEDULE 1 TO EXHIBIT C

APPROVED PLANS

Building systems, doors (including rollup doors), existing electrical, window blinds, plumbing and fixtures to be delivered in good condition and working order. Ceiling tiles to be repaired or replaced if necessary due to damage or stains. Light fixtures and vents to be clean and with uniform bulb type/color.

Server Room: Construct server/IT room as shown, louvered door and dedicated cooling.

Electrical: Server room electrical requirements (there's a panel in the room):

- (4) new dedicated 30A electrical outlets located near server racks
- (1) new dedicated 30A electrical outlet located near the patch panel racks
- Keep existing quad outlets along wall

Electrical: Office electrical outlets to be in good condition and working order. Additional electrical as required to serve Tenant furniture layout. Tenant to approve final outlet locations.

Flooring:

- Add carpet in cubicle area (open area by break room)
- Clean/shampoo existing carpet in office area
- Clean existing VCT in kitchen, bathrooms and engineering lab/room. Replace kitchen flooring if necessary due to new cabinetry installation
- Concrete floor in manufacturing area – clean, fill any cracks & add top seal

Break Room: Replace kitchen cabinetry, counters, dishwasher and fixtures.

Walls / Paint: Repair any wall damage. Paint premises. Tenant to select color(s) from standard options (similar to existing acceptable). Create access to the man door next to the warehouse rollup door for Tenant use.

Bathroom fixtures and counters: Tenant willing to retain if in good condition and working order. Thorough cleaning of fixtures required. Fixtures may be replaced if TI Allowance will cover.

Tenant to select finishes from Building standards.

Landlord to update key setting on exterior doors and provide keys.

Tenant shall be responsible for installing at its expense any additional security system with Landlord's reasonable approval as further defined in Exhibit G.

Tenant to install its phone and data cabling and related equipment at its expense subject to Landlord's reasonable approval.

Tenant holds the right to expand the above list of improvements in this Schedule 1 so as to utilize the total TI Allowance subject to the terms and process defined in Exhibit C subject to Landlord's reasonable approval.

Landlord shall address and mitigate the noise issue from the transformer(s) in the warehouse area with the TI Allowance covering no more than \$5,737 of the necessary costs.

EXHIBIT D

COMMENCEMENT DATE LETTER

Date

Tenant
Address

Re: Commencement Date Letter with respect to that certain Lease dated as of the [] day of [], by and between [], a [], as Landlord, and [], a [], as Tenant, for [] rentable square feet on the [] floor of the Building located at []

Dear []

In accordance with the terms and conditions of the above referenced Lease, Tenant accepts possession of the Premises and agrees:

The Commencement Date of the Lease is:

The Expiration Date of the Lease is:

Please acknowledge your acceptance of possession and agreement to the terms set forth above by signing all 3 counterparts of this Commencement Date Letter in the space provided and returning 2 fully executed counterparts to my attention. Tenant's failure to execute and return this letter, or to provide written objection to the statements contained in this letter, within 30 days after the date of this letter shall be deemed an approval by Tenant of the statements contained herein.

Sincerely,

Landlord

Agreed and Accepted.

Tenant: _____
By: _____
Name: _____
Title: _____
Date: _____

EXHIBIT E

EXPENSES AND TAXES

1. **Operating Expenses.** Tenant shall pay Tenant's Proportionate Share of the total amount of Operating Expenses (defined below) for each calendar year (or portion thereof) during the Term.

1.01 "**Operating Expenses**" as used in the Lease shall include all costs and expenses related to the ownership, management, operation, maintenance, replacement, improvement and repair of the Premises, Building, Project and/or Property, or any part thereof, incurred by Landlord including but not limited to: (a) Property supplies, materials, labor, equipment, and tools; (b) Utility and Service Costs (as further described in Section 1.03 below), security, janitorial, trash removal, and all applicable service and maintenance agreements; (c) Property related legal, accounting, and consulting fees, costs and expenses; (d) Insurance Premiums for all policies deemed necessary by Landlord and/or its lenders, and all deductible amounts under such policies (as further described in Section 1.04 below); (e) costs and expenses of operating, maintaining, and repairing the Property, including but not limited to all interior areas and also driving, parking, loading, and other paved or unpaved areas (including but not limited to, resurfacing and striping and any snow and ice removal Landlord elects to conduct), landscaped areas (including but not limited to, tree trimming), building exteriors (including but not limited to, painting and roof work), signs and directories, and lighting; (f) capital improvements and replacements (not to include financing costs and interest charges); (g) compensation (including but not limited to, any payroll taxes, worker's compensation for employees, and customary employee benefits) of all persons, including independent contractors, who perform duties, or render services on behalf of, or in connection with the Property, or any part thereof, including but not limited to, Property operations, maintenance, repair, and rehabilitation; (h) Property management fees and the cost of providing space used by the Property manager and (i) Real Property Taxes.

1.02 "**Real Property Taxes**" shall include any fee, license fee, tax, levy, charge, or assessment (hereinafter individually and/or collectively referred to as "**Tax**") imposed by any authority having the direct or indirect power to tax and where such Tax is imposed against the Property, or any part thereof, or Landlord in connection with its ownership or operation of the Property, including but not limited to: (a) any Tax on rent or Tax against Landlord's business of leasing the Property; (b) any Tax by any authority for services or maintenance provided to the Property, or any part thereof, including but not limited to, fire protection, streets, sidewalks, and utilities; (c) any Tax on real estate or personal property levied with respect to the Property, or any part thereof, and any fixtures and equipment and other property used in connection with the Property; (d) any Tax based upon a reassessment of the Property due to a change in ownership or transfer of all or part of Landlord's interest in the Property; and, (e) any Tax replacing, substituting for, or in addition to any Tax previously included in this definition. Real Property Taxes do not include Landlord's federal or state net income taxes. Real Property Taxes shall include the cost of contests of Real Property Taxes.

1.03 "**Utility and Service Costs**" shall include all Landlord incurred utility and service costs and expenses including but not limited to costs related to water and plumbing, electricity, gas, lighting, steam, sewer, waste disposal, and HVAC, and all costs related to plumbing, mechanical, electrical, elevator, HVAC, and other systems. Costs for HVAC equipment installed during the Term to serve the Building or Premises shall be capitalized based on the estimated useful life of the new HVAC unit(s).

1.04 “**Insurance Premiums**” shall include all insurance premiums for all insurance policies maintained by Landlord from time to time related to the Property.

1.05 Throughout the Term, Tenant will pay as Additional Rent its Proportionate Share of the total Operating Expenses for each calendar year (or portion thereof). Estimated payments shall be made monthly on or before the first day of each calendar month. Tenant’s Proportionate Share will be prorated for partial months. All Operating Expenses will be adjusted to reflect 95% occupancy during any calendar year in which the Project is not fully occupied.

1.06 Tenant’s Proportionate Share of Operating Expenses shall be determined and paid as follows:

(a) Tenant’s Operating Expense estimates: As soon as is practical following the end of each calendar year, Landlord will provide Tenant with a determination of: (a) Tenant’s annual share of estimated Operating Expenses for the then current calendar year; (b) Tenant’s monthly Operating Expense estimate for the then current year; and, (c) Tenant’s retroactive estimate correction billing (for the period of January 1st through the date immediately prior to the commencement date of Tenant’s new monthly Operating Expense estimate) for the difference between Tenant’s new and previously billed monthly Operating Expense estimates for the then current year.

(b) Tenant’s Proportionate Share of actual annual Operating Expenses: Each year, Landlord will provide Tenant with a determination containing reasonable line item detail reflecting the total Operating Expenses for the previous calendar year. If the total of Tenant’s Operating Expense estimates billed for the previous calendar year is less than Tenant’s Proportionate Share of the actual Operating Expenses, the determination will indicate the payment amount and date due. Monthly Operating Expense estimates are due on the 1st of each month and shall commence in the month specified by Landlord. Tenant’s retroactive estimate correction, and actual annual Operating Expense charges, if any, shall be due, in full, on the date(s) specified by Landlord.

2. Unless Landlord otherwise elects, Tenant shall pay each Operating Expense in accordance with Tenant’s Proportionate Share of the Building or Tenant’s Proportionate Share of the Project or the Property, whichever is designated by Landlord. Landlord shall have the right to make allocations (“**Allocations**”) to Tenant of any one or more Operating Expenses on a different basis. Landlord shall have the right to make any such Allocations in any reasonable manner (including use of estimates). For example, if Landlord deems it reasonable to do so, Landlord shall have the right to elect at any time and from time to time (a) to make any Allocation of one or more Operating Expenses based upon Tenant’s Proportionate Share of the Building and to make other Allocations on Tenant’s Proportionate Share of the Project or the Building, (b) to make Allocations of certain Operating Expense items among less than all Tenants and/or other than based upon the respective square footages of the tenants, (c) to make different Allocations for different Operating Expenses, and/or (d) to alter an Allocation or the method of determining an Allocation from time to time. In no event shall Landlord be liable to Tenant based upon any incorrect or disputed Allocation nor shall Tenant have any right to terminate the Lease by reason of any such Allocation.

3. Tenant, within 60 days after receiving Landlord's determination of Operating Expenses, may give Landlord written notice ("**Review Notice**") that Tenant intends to review Landlord's records of the Operating Expenses (excluding Real Property Taxes) for the calendar year to which the statement applies. Within a reasonable time after receipt of the Review Notice, Landlord shall make all pertinent records available for inspection that are reasonably necessary for Tenant to conduct its review. If any records are maintained at a location other than the management office for the Building, Tenant may either inspect the records at such other location or pay for the reasonable cost of copying and shipping the records. If Tenant retains an agent to review Landlord's records, the agent must be with a CPA firm licensed to do business in the state where the Property is located. Tenant shall be solely responsible for all costs, expenses and fees incurred for the audit. Within 90 days after the records are made available to Tenant, Tenant shall have the right to give Landlord written notice (an "**Objection Notice**") stating in reasonable detail any objection to Landlord's statement of Operating Expenses for that year. If Tenant fails to give Landlord an Objection Notice within the 90-day period or fails to provide Landlord with a Review Notice within the 60-day period described above, Tenant shall be deemed to have approved Landlord's determination of Operating Expenses and shall be barred from raising any claims regarding Operating Expenses for that year. If Tenant provides Landlord with a timely Objection Notice, Landlord and Tenant shall work together in good faith to resolve any issues raised in Tenant's Objection Notice. If Landlord and Tenant determine that Operating Expenses for the calendar year are less than reported, Landlord shall provide Tenant with a credit against the next installment of Tenant's Proportionate Share of Operating Expenses in the amount of the overpayment by Tenant. Likewise, if Landlord and Tenant determine that Operating Expenses for the calendar year are greater than reported, Tenant shall pay Landlord the amount of any underpayment within 30 days. The records obtained by Tenant shall be treated as confidential. In no event shall Tenant be permitted to examine Landlord's records or to dispute any statement of Operating Expenses unless Tenant has paid and continues to pay all Rent when due.

EXHIBIT F

Deleted

EXHIBIT G

RULES AND REGULATIONS

Landlord reserves the right to make such other and reasonable rules and regulations as in its judgment may from time to time be needed for safety and security, for care and cleanliness of the Building and the Project and for the preservation of good order therein. Tenant agrees to abide by all such Rules and Regulations herein stated and any additional rules and regulations which are adopted.

Driveways, sidewalks, halls, passages, exits, entrances, elevators, escalators and stairways shall not be obstructed by tenants or used by tenants for any purpose other than for ingress to and egress from their respective premises. The driveways, sidewalks, halls, passages, exits, entrances, elevators and stairways are not for the use of the general public and Landlord shall in all cases retain the right to control and prevent access thereto by all persons whose presence, in the judgment of Landlord, shall be prejudicial to the safety, character, reputation and interests of the Building, the Property and its tenants, provided that nothing herein contained shall be construed to prevent such access to persons with whom any tenant normally deals in the ordinary course of such tenant's business unless such persons are engaged in illegal activities. No tenant, and no employees or invitees of any tenant, shall go upon the roof of any Building, except as authorized by Landlord.

No signs, advertisements or notices shall be painted or affixed to windows, doors or other parts of the Building, except those of such color, size, style and in such places as are first approved in writing by Landlord. All tenant identification and suite numbers at the entrance to the Premises shall be installed by Landlord, at Tenant's cost and expense, using the standard graphics for the Building. Landlord shall have the right to remove any such sign, placard, banner, picture, name, advertisement, or notice without notice to and at the expense of Tenant, which were installed or displayed in violation of this rule. All approved signs or lettering on doors and walls shall be printed, painted, affixed or inscribed at the expense of Tenant by a person or vendor approved by Landlord and shall be removed by Tenant at the time of vacancy at Tenant's expense. Except in connection with the hanging of lightweight pictures and wall decorations, no nails, hooks or screws shall be inserted into any part of the Premises or Building except by the Building maintenance personnel without Landlord's prior approval.

The directory of the Building or Property, if any, will be provided exclusively for the display of the name and location of tenants only and Landlord reserves the right to charge for the use thereof and to exclude any other names therefrom.

No curtains, draperies, blinds, shutters, shades, screens or other coverings, awnings, hangings or decorations shall be attached to, hung or placed in, or used in connection with, any window or door on the Premises without the prior written consent of Landlord. In any event with the prior written consent of Landlord, all such items shall be installed inboard of Landlord's standard window covering and shall in no way be visible from the exterior of the Building. All electrical ceiling fixtures hung in offices or spaces along the perimeter of the Building must be fluorescent or of a quality, type, design, and bulb color approved by Landlord. No articles shall be placed or kept on the window sills to be visible from the exterior of the Building. No articles shall be placed against glass partitions or doors which Landlord considers unsightly from outside Tenant's Premises.

Each tenant shall be responsible for all persons for whom it allows to enter the Building or the Property and shall be liable to Landlord for all acts of such persons. Landlord and its agents shall not be liable for damages for any error concerning the admission to, or exclusion from, the Building or the Property of any person. During the continuance of any invasion, mob, riot, public excitement or other circumstance rendering such action advisable in Landlord's opinion, Landlord reserves the right (but shall not be obligated) to prevent access to the Building and the Property during the continuance of that event by any means it considers appropriate for the safety of tenants and protection of the Building, property in the Building and the Property.

Tenant shall not alter any lock or access device or install a new or additional lock or access device or bolt on any door of its Premises, without the prior written consent of Landlord. If Landlord shall give its consent, Tenant shall in each case furnish Landlord with a key for any such lock. Tenant, upon the termination of its tenancy, shall deliver to Landlord the keys for all doors which have been furnished to Tenant, and in the event of loss of any keys so furnished, shall pay Landlord therefor.

The restrooms, toilets, urinals, wash bowls and other apparatus shall not be used for any purpose other than that for which they were constructed, and no foreign substance of any kind whatsoever shall be thrown into them. The expense of any breakage, stoppage, or damage resulting from violation of this rule shall be borne by the tenant who, or whose employees or invitees, shall have caused the breakage, stoppage, or damage.

Tenant shall not use or keep in or on the Premises, the Building or the Property any kerosene, gasoline, or inflammable or combustible fluid or material except in strict accordance with the terms of the Lease. Tenant shall not use, keep or permit to be used or kept in its Premises any foul or noxious gas or substance. Tenant shall not allow the Premises to be occupied or used in a manner offensive or objectionable to Landlord or other occupants of the Building by reason of noise, odors and/or vibrations or interfere in any way with other tenants or those having business therein. No animals, except those assisting handicapped persons, shall be brought onto the Property or kept in or about the Premises.

Except with the prior written consent of Landlord, Tenant shall not sell, or permit the sale, at retail, of newspapers, magazines, periodicals, theater tickets or any other goods or merchandise in or on the Premises, nor shall Tenant carry on, or permit or allow any employee or other person to carry on, the business of stenography, typewriting or any similar business in or from the Premises for the service or accommodation of occupants of any other portion of the Building, or the business of a public barber shop, beauty parlor, nor shall the Premises be used for any illegal, improper, immoral or objectionable purpose, or any business or activity other than that specifically provided for in such Tenant's Lease. Tenant shall not accept hairstyling, barbering, shoeshine, nail, massage or similar services in the Premises or common areas except as authorized by Landlord.

If Tenant requires telegraphic, telephonic, telecommunications, data processing, burglar alarm or similar services, it shall first obtain, and comply with, Landlord's instructions in their installation. The cost of purchasing, installation and maintenance of such services shall be borne solely by Tenant. Landlord will direct electricians as to where and how telephone, telegraph and electrical wires are to be introduced or installed. No boring or cutting for wires will be allowed without the prior written consent of Landlord. The location of burglar alarms, telephones, call boxes and other office equipment affixed to the Premises shall be subject to the prior written approval of Landlord.

Tenant shall not install any radio or television antenna, satellite dish, loudspeaker or any other device on the exterior walls or the roof of the Building, without Landlord's consent. Tenant shall not interfere with radio or television broadcasting or reception from or in the Building, the Property or elsewhere.

Tenant shall not lay linoleum, tile, carpet or any other floor covering so that the same shall be affixed to the floor of its Premises in any manner except as approved in writing by Landlord. Tenant shall not place a load upon any floor of its Premises which exceeds the load per square foot which such floor was designed to carry or which is allowed by law.

Tenant shall not operate or permit to be operated a coin or token operated vending machine or similar device (including, without limitation, telephones, lockers, toilets, scales, amusement devices and machines for sale of beverages, foods, candy, cigarettes and other goods), except for machines for the exclusive use of Tenant's employees and invitees. Bicycles and other vehicles are not permitted inside the Building or on the walkways outside the Building, except in areas designated by Landlord.

Business machines and mechanical equipment belonging to Tenant which cause noise or vibration that may be transmitted to the structure of the Building or to any space therein to such a degree as to be objectionable to Landlord or to any tenants in the Building shall be placed and maintained by Tenant, at Tenant's expense, on vibration eliminators or other devices sufficient to eliminate noise or vibration. The persons employed to move such equipment in or out of the Building must be acceptable to Landlord. Tenant shall not install, operate or maintain in the Premises or in any other area of the Building, electrical equipment that would overload the electrical system beyond its capacity for proper, efficient and safe operation as determined solely by Landlord. Tenant shall not furnish cooling or heating to the Premises, including, without limitation, the use of electric or gas heating devices, without Landlord's prior written consent. Tenant shall not use more than its proportionate share of telephone lines and other telecommunication facilities available to service the Building.

Each tenant shall store all its trash and garbage within the interior of the Premises or as otherwise directed by Landlord from time to time. Tenant shall not place in the trash boxes or receptacles any personal trash or any material that may not or cannot be disposed of in the ordinary and customary manner of removing and disposing of trash and garbage in the city, without violation of any law or ordinance governing such disposal.

Canvassing, soliciting, distribution of handbills or any other written material and peddling in the Building and the Property are prohibited and each tenant shall cooperate to prevent the same. No tenant shall make room-to-room solicitation of business from other tenants in the Building or the Property, without the written consent of Landlord.

Landlord shall have the right, exercisable without notice and without liability to any tenant, to change the name and address of the Building and the Property. Without the prior written consent of Landlord, Tenant shall not use the name of the Building, Project or the Property or any photograph or other likeness of the Building, Project or the Property in connection with, or in promoting or advertising, Tenant's business except that Tenant may include the Building's, Project's or Property's name in Tenant's address.

Landlord may from time to time adopt systems and procedures for the security and safety of the Building and Property, its occupants, entry, use and contents. Tenant, its agents, employees, contractors, guests and invitees shall comply with Landlord's systems and procedures. Tenant shall comply with all safety, fire protection and evacuation procedures and regulations established by any governmental agency. Tenant assumes any and all responsibility for protecting its Premises from theft, robbery and pilferage, which includes keeping doors locked and other means of entry to the Premises closed.

No Tenant is allowed to unload, unpack, pack or in any way manipulate any products, materials or goods in the common areas of the Property including the parking and driveway areas of the Property. Movement in or out of the Building of furniture or office equipment, or dispatch or receipt by Tenant of merchandise or materials requiring the use of elevators, stairways, lobby areas or loading dock areas, shall be restricted to hours reasonably designated by Landlord. Tenant shall obtain Landlord's prior approval by providing a detailed listing of the activity, which approval shall not be unreasonably withheld. If approved by Landlord, the activity shall be under the supervision of Landlord and performed in the manner required by Landlord. Tenant shall assume all risk for damage to articles moved and injury to any persons resulting from the activity. If equipment, property, or personnel of Landlord or of any other party is damaged or injured as a result of or in connection with the activity, Tenant shall be solely liable for any resulting damage, loss or injury. Tenant shall not make deliveries to or from the Premises in a manner that might interfere with the use by any other tenant of its premises or of the common areas, any pedestrian use, or any use which is inconsistent with good business practice.

Smoking of any kind is strictly prohibited, at all times, at any location on the Property, except in the designated smoking area which is located at the OUTSIDE PERIMETER OF THE BUILDING ONLY. Landlord may relocate the designated smoking area at its sole discretion, at any time during the Term of this Lease.

Tenant shall be responsible for the observance of all of the foregoing Rules and Regulations and the Parking Rules and Regulations set forth below by Tenant's employees, agents, clients, customers, invitees and guests. These Rules and Regulations are in addition to, and shall not be construed to in any way modify, alter or amend, in whole or in part, the terms, covenants, agreements and conditions of any lease of any premises in the Property. Landlord may waive any one or more of these Rules and Regulations for the benefit of any particular tenant or tenants, but no such waiver by Landlord shall be construed as a waiver of such Rules and Regulations in favor of any other tenant or tenants, nor prevent Landlord from thereafter enforcing any such Rules and Regulations against any or all tenants of the Building.

PARKING RULES AND REGULATIONS

1. Cars must be parked entirely within painted stall lines.
 2. All directional signs and arrows must be observed.
 3. All posted speed limits for the parking areas shall be observed. If no speed limit is posted for an area, the speed limit shall be five (5) miles per hour.
 4. Parking is prohibited:
 - (a) in areas not striped for parking;
 - (b) in aisles;
 - (c) where "no parking" signs are posted;
 - (d) on ramps;
 - (e) in cross hatched areas; and
 - (f) in such other areas as may be designated by Landlord.
 5. Handicap and visitor stalls shall be used only by handicapped persons or visitors, as applicable.
 6. Parking stickers or any other device or form of identification supplied by Landlord from time to time (if any) shall remain the property of Landlord. Such parking identification device must be displayed as requested and may not be mutilated in any manner. The serial number of the parking identification device may not be obliterated. Devices are not transferable, and any device may not be obliterated. Devices are not transferable and any device in possession of any unauthorized holder will be void. There will be a replacement charge payable by the parker and such parker's appropriate tenant equal to the amount posted from time to time by Landlord for loss of any magnetic parking card or any parking sticker.
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7. Every parker is required to park and lock his or her own car. All responsibility for damage to cars or persons is assumed by the parker.
 8. Loss or theft of parking identification devices must be reported to Landlord, and a report of such loss or theft must be filed by the parker at that time. Any parking identification devices reported lost or stolen found on any unauthorized car will be confiscated and the illegal holder will be subject to prosecution. Lost or stolen devices found by the parker must be reported to Landlord immediately to avoid confusion.
 9. Parking spaces are for the express purpose of parking one automobile per space. Washing, waxing, cleaning, or servicing of any vehicle by the parker and/or such person's agents is prohibited. The parking areas shall not be used for overnight or other storage for vehicles of any type.
 10. Landlord reserves the right to refuse the issuance of parking identification or access devices to any tenant and/or such tenant's employees, agents, visitors or representatives who willfully refuse to comply with the Parking Rules and Regulations and/or all applicable governmental ordinances, laws, or agreements.
 11. Tenant shall acquaint its employees, agents, visitors or representatives with the Parking Rules and Regulations, as they may be in effect from time to time.
 12. Any monthly rental for parking shall be paid one month in advance prior to the first day of such month. Failure to do so will automatically cancel parking privileges, and a charge of the prevailing daily rate will be due. No deductions or allowances from the monthly rental for parking will be made for days a parker does not use the parking facilities.
 13. Each parker shall pay a reasonable deposit for any parking card issued to such a person. Such deposit shall be paid at the time the parking card is issued and shall be forfeited if the parking card is lost. Such deposit shall be returned without interest, at the time such person ceases to utilize the parking facilities, upon surrender of the parking card. A reasonable replacement charge shall be paid to replace a lost card and an amount in excess of the initial deposit may be charged as the replacement fee.
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14. Vehicles parked in public parking areas will be no larger than full-sized passenger automobiles or standard pick-up trucks. Landlord reserves the right, without notice to Tenant, to tow away at Tenant's sole cost and expense any vehicles parked in any parking area for any continuous period of 24 hours or more, or earlier if Landlord, in its sole discretion, determines such parking to be a hazard or inconvenience to other tenants or Landlord, or violates any rules or regulations or posted notices related to parking. Landlord shall not be responsible for enforcing Tenant's parking rights against third parties. From time to time, Landlord reserves the right, upon written notice to Tenant, to change the location, the availability and nature of parking spaces, establish reasonable time limits on parking, and, on an equitable basis, to assign specific spaces with or without charge to Tenant as Additional Rent.

15. Tenant shall at all times comply with all applicable Laws (as defined in the Lease) respecting the use of the parking facility serving the Building.

16. **LANDLORD SHALL NOT BE LIABLE FOR ANY LOSS, INJURY OR DAMAGE TO PERSONS USING THE PARKING FACILITY OR AUTOMOBILES OR OTHER PROPERTY THEREIN, IT BEING AGREED THAT, TO THE FULLEST EXTENT PERMITTED BY LAW, THE USE OF THE SPACES SHALL BE AT THE SOLE RISK OF TENANT AND ITS EMPLOYEES. WITHOUT LIMITING THE FOREGOING, TENANT HEREBY VOLUNTARILY RELEASES, DISCHARGES, WAIVES AND RELINQUISHES ANY AND ALL ACTIONS OR CAUSES OF ACTION FOR PERSONAL INJURY OR PROPERTY DAMAGE OCCURRING TO TENANT ARISING AS A RESULT OF PARKING IN THE PARKING FACILITY, OR ANY ACTIVITIES INCIDENTAL THERETO, WHEREVER OR HOWEVER THE SAME MAY OCCUR, AND FURTHER AGREES THAT TENANT WILL NOT PROSECUTE ANY CLAIM FOR PERSONAL INJURY OR PROPERTY DAMAGE AGAINST LANDLORD OR ANY OF THE LANDLORD RELATED PARTIES FOR ANY SAID CAUSES OF ACTION. IN ALL EVENTS, TENANT AGREES TO LOOK FIRST TO ITS INSURANCE CARRIER AND TO REQUIRE THAT TENANT'S EMPLOYEES LOOK FIRST TO THEIR RESPECTIVE INSURANCE CARRIERS FOR PAYMENT OF ANY LOSSES SUSTAINED IN CONNECTION WITH ANY USE OF THE PARKING FACILITY. TENANT HEREBY WAIVES ON BEHALF OF ITS INSURANCE CARRIERS ALL RIGHTS OF SUBROGATION AGAINST LANDLORD OR LANDLORD RELATED PARTIES.**

17. Landlord hereby reserves the right to enter into a management agreement or lease with another entity for the operation of the Parking Facility ("Operator"). In such event, Tenant, upon request of Landlord, shall enter into a parking agreement upon substantially the same terms hereunder with the Operator and pay the Operator the monthly charge established hereunder (if any), and Landlord shall have no liability for claims arising through acts or omissions of the Operator. It is understood and agreed that the identity of the Operator may change from time to time during the Term. In connection therewith, any parking lease or agreement entered into between Tenant and any Operator shall be freely assignable by such Operator or any successors thereto.

18. If Tenant defaults with respect to the same term or condition under these Parking Rules and Regulations more than 3 times during any 12-month period, and Landlord notifies Tenant thereof promptly after each such default, the next default of such term or condition during the succeeding 12-month period, shall, at Landlord's election, constitute an incurable default and permit the Landlord to cancel the Tenant's parking privileges. Such cancellation right shall be cumulative and in addition to any other rights or remedies available to Landlord at law or equity, or provided under the Lease (all of which rights and remedies under the Lease are hereby incorporated herein, as though fully set forth). Any default by Tenant under these Parking Rules and Regulations shall be a default under the Lease.

**CERTIFICATION
PURSUANT TO SECTION 302 OF
THE SARBANES-OXLEY ACT OF 2002**

I, Brett Moyer, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Summit Wireless Technologies, Inc. (the “registrant”):
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 13-a13a-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 registrant’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: November 10, 2020

/s/ Brett Moyer

Name: Brett Moyer

Title: Chief Executive Officer

(Principal Executive Officer)

**CERTIFICATION
PURSUANT TO SECTION 302 OF
THE SARBANES-OXLEY ACT OF 2002**

I, George Oliva, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Summit Wireless Technologies, Inc. (the “registrant”):
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 13-a13a-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 registrant’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: November 10, 2020

/s/ George Oliva

Name: George Oliva
Title: Chief Financial Officer
(Principal Financial Officer)

**CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Quarterly Report on Form 10-Q of Summit Wireless Technologies, Inc. (the "Company") for the period ended September 30, 2020 (the "Report"), I, Brett Moyer, Chief Executive Officer of the Company, hereby certify pursuant to 18 U.S.C. Section 1350, as adopted pursuant to section 906 of the Sarbanes-Oxley Act of 2002, that:

1. The Report fully complies with the requirements of Section 13(a) or 15(d), as applicable, of the Securities Exchange Act of 1934; 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: November 10, 2020

/s/ Brett Moyer

Name: Brett Moyer

Title: Chief Executive Officer
(Principal Executive Officer)

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 has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.

**CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Quarterly Report on Form 10-Q of Summit Wireless Technologies, Inc. (the "Company") for the period ended September 30, 2020 (the "Report"), I, George Oliva, Chief Financial Officer of the Company, hereby certify pursuant to 18 U.S.C. Section 1350, as adopted pursuant to section 906 of the Sarbanes-Oxley Act of 2002, that:

1. The Report fully complies with the requirements of Section 13(a) or 15(d), as applicable, of the Securities Exchange Act of 1934; 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: November 10, 2020

/s/ George Oliva

Name: George Oliva

Title: Chief Financial Officer

(Principal Financial Officer)

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 has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.
